



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

February 25, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RANDY MCAFFEE
3721 ANTELOPE RD
MOORE, ID 83255

Re: Your request to remove Watermaster of Water District No. 34

Dear Mr. McAfee:

On October 7, 2004, you wrote a letter to the Director of the Idaho Department of Water Resources (IDWR), requesting that the Director remove Bob Duke "from office immediately." The letter was interpreted as a request for removal of the Watermaster under Idaho Code § 42-605(9). You sent your letter shortly after a field visit by Steve Burrell of IDWR at which you and Bob Duke were present.

Following receipt of your letter, IDWR corresponded with you and the watermaster. In the letter sent to the watermaster, IDWR enclosed a copy of your letters asserting wrongdoing, and asked Bob Duke to respond to the assertions. On November 5, 2004, Bob Duke responded. A copy of his response is forwarded with this letter.

Bob Duke's letter explains his actions before and after the field visit on October 6, 2004. Mr. Duke admitted fault in the distribution of water, and explained corrections to deliveries following Steve Burrell's field visit. Finally, Mr. Duke stated that he would not be seeking the watermaster position in 2005.

Idaho Code Section 42-605(9) requires that, upon receiving a petition for removal of a watermaster, IDWR must investigate the water deliveries by the watermaster and conduct a hearing. Steve Burrell's field visit and Mr. Duke's response are a part of the investigation. IDWR decided not to immediately hold a hearing because: (1) based on Mr. Duke's response, the immediate complaint had been remedied, (2) the petition was received very near the end of the irrigation season: (3) year-end accounting for the 2004 irrigation season needed to be prepared by Mr. Duke; and (4) Mr. Duke stated he would not seek reelection as the watermaster in 2005.

Recently, I talked to Bob Duke and other water users in Water District 34 about the selection of a watermaster at the upcoming annual meeting for Water District 34, Big Lost River. Bob Duke and other water users informed me that Mr. Duke might again be a candidate for watermaster. Because the annual meeting is scheduled on March 7, 2005, there is not sufficient

Randy McAfee
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time between now and the annual meeting to conduct a meaningful hearing. The water users should be spared uncertainty about the eligibility about Bob Duke to serve if he is reelected.

Because a hearing has not been held and a determination has not been made regarding your petition, IDWR will continue to hold the petition until after the annual meeting of the water district. If Bob Duke is re-elected as watermaster, IDWR will continue to monitor the diversions of water on Antelope Creek and other activities of the watermaster as part of IDWR's investigatory responsibilities. At any point during the irrigation season, you may renew your request for removal, and IDWR will conduct a hearing. IDWR feels strongly that water rights should be delivered to the holders of the rights in priority, according to the partial decrees issued by the Snake River Basin Adjudication Court. In every water district, however, watermasters sometimes deliver water in a manner that IDWR later determines was not appropriate. These water delivery mistakes are not by themselves, cause for removal of a watermaster. Only when a watermaster understands how water should be delivered, and refuses, fails, or is unable to deliver the water as instructed should the Director remove a watermaster that has been duly elected by the water users.

I would be happy to visit with you further about this letter.

Sincerely,



Gary Spackman

Enclosure

Cc: Bob Duke
Water District 34 Advisory Committee
Norman K. Sowards
Eastern Region