



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 9, 1996

Kent Campbell
Judith Pedersen Campbell
PO Box 724
Arco, ID 83213

Re: Diversion of Water to Ditch near Munsey Canal Heading

Dear Waterusers:

The Department was advised last week by the watermaster's office and the Big Lost Irrigation District that water was being diverted to a ditch which had not been used for a number of years and located near the Munsey Canal. We were further advised that the water is being delivered to you and that you own water rights which are appurtenant to land serviced by the ditch. Neither the watermaster or the Irrigation District identified the water rights which you own and are diverting to the ditch.

Our office has researched all water rights under your name and find that you are listed as the current water right holder of record for water right nos. 34-00264 and 34-00265. The source of water under both rights is the Big Lost River. The Department's recommendations of these rights in the Snake River Basin Adjudication (SRBA) list the Munsey Canal as the point of diversion and conveyance system for these rights. There is no recommendation about delivery of these rights to any point of diversion or ditch other than the Munsey Canal.

We wish to notify you that the watermaster of Water District 34 and IDWR is distributing water rights in the Big Lost River pursuant to a court order by Fifth District Court and SRBA Judge Daniel Hurlbutt. This order provides for interim administration of water rights using the SRBA Basin 34 Director's Report. Delivery of water is also guided by IDWR Administrative Rules and Regulations Governing Distribution of Water in Water District 34, Big Lost River Basin. Rule 035.03 of these administrative rules requires that a measuring device be installed and maintained at the water user's expense, at all points of diversion.

Since the above referenced water rights list only the Munsey Canal as the point of diversion to which the rights should be delivered, there is an issue that the delivery of these rights to the smaller ditch is an unauthorized diversion. We wish to advise you that a water right transfer may be required to formally change the point of diversion from the Munsey Canal to the smaller ditch. You should also be aware that the water district and IDWR may have additional authority to cut off


delivery of water to the smaller ditch for failure to install and maintain a measuring device.

Finally, we wish to raise an additional concern about the irrigated place of use serviced by the ditch and described under your water rights. Some of the lands described under your water rights are located west of the Munsey Canal. It is our understanding that the ditch which you are currently using is east of the Munsey Canal. Our concern is whether you may be using water on lands not covered by your water rights or that you may be diverting water from both the Munsey Canal and the smaller ditch in excess of your water rights. Due to this concern, we ask that you contact the Department's regional office in Idaho Falls and the watermaster, Doug Rosenkrance, as soon as possible regarding your irrigated place of use under the Munsey Canal and the smaller ditch.

We hope that you consider our concerns and notify us as to whether we are overlooking any water rights or facts. Please understand we are providing you the opportunity to respond before taking other action. You should also be aware that water use and certain diversions in the Arco area, as well as the Department's and Water District's actions in delivery of water in this area has been the subject of recent and past scrutiny.

You must contact the Department about these matters on or before August 19. Please be aware that failure to respond to the Department may result in the Department issuing an order requiring you to cease and desist diverting water from a point of diversion other than the Munsey Canal. We look forward to your response.

Sincerely,



Tim Luke

cc: Doug Rosenkrance, Watermaster
Don Scarr, BLRID
Howard Jones, Eastern Region



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PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 9, 1996

Eldon Jacobsen
3711 Winding Creek Rd.
Sacramento, CA 95864

Re: Diversion of Ground Water to Island Canal near Arco
Water Right No. 34-07052, Diversion Exceeding Water Right

Dear Mr. Jacobsen:

The Department was advised several weeks ago by the watermaster's office that water was being diverted from a well owned by you. This well injects water to the Island Canal and is re-diverted downstream. It is our understanding that the well has not been used for a number of years. A review of water right records indicate that you are the owner of the above referenced water right which authorizes diversion of 6.0 cfs of ground water to be injected to the Island Canal. The 6.0 cfs rate of diversion is the rate for which the water right was licensed. This flow rate was also recommended for the right in the Snake River Basin Adjudication (SRBA) Director's Report.

The water district office has made measurements of your well discharge and reports that the diversion rate is 7.0 cfs. This rate of diversion exceeds the authorized flow rate under your water right.

We wish to notify you that the watermaster of Water District 34 and IDWR is distributing water rights in the Big Lost River pursuant to a court order by Fifth District Court and SRBA Judge Daniel Hurlbutt. This order provides for interim administration of water rights using the SRBA Basin 34 Director's Report. Delivery of water is also guided by IDWR Administrative Rules and Regulations Governing Distribution of Water in Water District 34, Big Lost River Basin. Rule 035.03(b) of these administrative rules states:

if the certified system capacity exceeds the diversion rate of the water right for the ground water use, the water user shall ... limit the system capacity to no more than the diversion rate of the water right .

We request at this time that you limit the rate of diversion from your well to the 6.0 cfs rate of diversion authorized under your right. This must be done within 48 hours of receiving this letter or no latter than August 16. Please contact Water District 34 watermaster Doug Rosenkrance at 208-588-3137 to

coordinate adjusting and re-measurement of the well. You must also notify the watermaster if there are any physical characteristics of your system which would prohibit any adjustment of the diversion. It was our understanding that the well could be valved or throttled to accommodate the lower diversion rate.

We hope that you consider this matter promptly and notify this office or the watermaster as to whether we are overlooking any water rights or facts. You should be aware that water use and certain diversions in the Arco area, as well as the Department's and Water District's actions in delivery of water in this area has been the subject of recent and past scrutiny.

We look forward to your cooperation with this matter.

Sincerely,



Tim Luke

cc: Doug Rosenkrance
Don Scarr, BLRID
Howard Jones, Eastern Region



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August 9, 1996

PHILIP E. BATT
GOVERNOR

Kent Campbell
Judith Pedersen Campbell
PO Box 724
Arco, ID 83213

KARL J. DREHER
DIRECTOR

Re: Diversion of Water to Ditch near Munsey Canal Heading & Your
Correspondence of August 13, 1996. Water Rights 34-00264 & 34-
00265

Dear Mr. & Mrs. Campbell:


Thank you for your prompt response to my letter of August 9. I
have reviewed your correspondence of August 13 and have a little
better understanding of the circumstances regarding your water
use and point of diversions.

Based on review of your letter, it is our opinion that you have
changed or added a point of diversion to the above referenced
water rights. Any change in the point of diversion, or addition
of a point of diversion to any water right requires approval of
an Application for Transfer of Water Right. Enclosed with this
letter is a transfer application and instructions.

I suggest that you file the transfer application as soon as
possible. Our regional office in Idaho Falls can assist you with
filing the transfer.

I have recommended to the Department and Water District 34
watermaster that no action be taken for the remainder of this
year to limit or change your point of diversion back to the
Munsey Ditch. Your natural flow rights will be regulated in the
normal manner according to priority dates. However, you are
hereby notified that the above rights will not be delivered from
the river to your private ditch in 1997 until you have obtained
an approved water right transfer and a measuring device has been
installed. The measuring device must be a standard measuring
device which is acceptable to the watermaster and the Department.

Sincerely,


Tim Luke

cc: Doug Rosenkrance, Watermaster
Don Scarr, BLRID
Howard Jones, Eastern Region



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Tim

August 20, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Patrick Brown
Hepworth, Lezamiz & Hohnhorst
PO Box 389
Twin Falls, ID 83706

Re: Request for Delivery of Water Rights 34-00182, 34-00381A, 34-02379F

Dear Mr. Brown:

I have received your facsimile letter dated August 19, 1996 requesting delivery of the above referenced water rights. I have been asked to provide you with a response

As you may know, the watermaster of Water District 34 and IDWR is distributing water rights in the Big Lost River Basin pursuant to the Permanent Order For Interim Administration in Reporting Area 1 (Basin 34) by Fifth District Court and SRBA Judge Daniel C. Hurlbutt, Jr., dated December 20, 1995. This order provides for interim administration of water rights using the SRBA Basin 34 Director's Report. That order states:

Interim Administration in Reporting Area 1 (Basin 34) shall continue on the basis that the respective rights and priorities of claimants in this area shall be administered as they were reported in the director's report.

The rights which you have requested to be delivered are not included in the SRBA Basin 34 Director's Report and therefore can not be delivered at this time. The Department will not direct Water District 34 watermaster Doug Rosenkrance to deliver these rights at this time.

Please contact this office if you have further questions regarding the above water rights.

Respectfully,

Norman C. Young
Norman C. Young

cc: Doug Rosenkrance, Watermaster
Eastern Region