



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

February 22, 2008

Loy Pehrson, Chairman
Water District 34 Advisory Committee
Route 1, Box 48
Darlington, ID 83255

VIA FACSIMILE: (208) 588-3380

Re: Annual Minimum Charge

Dear Mr. Pehrson:

This letter confirms our telephone discussion of February 21 and 22, 2008, regarding the use of an annual minimum charge for water users in Water District 34. As related in our conversation, the use of a minimum charge is governed by Idaho Code § 42-612(4) which provides that, "water users may at the annual meeting by resolution provide for an annual minimum charge not to exceed fifty dollars (\$50.00) per water user for watermaster services." The provision further provides that, "The minimum charge is applicable whenever the prorated charge against any ditch, canal company, irrigation district or other water user is less than the minimum charge."

As I read this statutory provision, Water District 34 water users may by resolution at the annual meeting provide for an annual minimum charge or assessment not to exceed fifty dollars (\$50) per water user for watermaster services. This is not an extra charge assessed to water users, but is rather a minimum charge. As the statute states, the minimum charge is applicable, or charged, only when the normal prorated charge for district expenses against any water user is less than the amount of the minimum charge set by the resolution of the water users. For example, if the district's minimum charge was set at thirty five dollars (\$35) and the normal prorated assessment for a water user was twenty dollars (\$20), the assessment charged for that water user would be the minimum charge of thirty five dollars (\$35).

Under Idaho Code § 42-605(4), the full dollar amount paid by a water user must be used in determining the number of votes a water user is entitled to when voting is based on "the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed." The dollar amount paid pursuant to a minimum charge must be treated for voting purposes as any other assessment amount paid to provide for the district's operating budget.

Sincerely,

A handwritten signature in cursive script, reading "Phillip J. Rassier".

Phillip J. Rassier
Deputy Attorney General