



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

MARCH 27, 2008

MICHAEL HUMPHREYS
72 ABBOTT RD
WELLESLEY, MA 02481

RE: MEASUREMENT AND CONTROL OF DIVERSIONS IN WATER DIST. NO. 170

Dear Mr. Humphreys:

This letter is written following our phone conversations yesterday and your email of February 15, 2008, to which you attached plans for measurement devices proposed to be installed on four diversions in Water District no. 170. In your email, you also requested an extension of time to install these devices. Furthermore, you indicated that you are leasing property from Mr. Dale Mizer and will be coordinating the effort to measure and control his diversions. This letter documents and approves your plans to measure and control your diversions and grants your request for an extension of time to complete the installations.

According to IDWR records, water rights owned or controlled by either you or Mr. Mizer are authorized to divert from ten locations for which measurement and control are required. Each of the ten locations is described below, along with a summary of your proposed plans for measurement and control.

Champion Creek Number 3 (CHC3) – This is the lowest diversion on Champion Creek and is used to divert water rights owned by Mr. Dale Mizer and leased to you. This diversion is equipped with a lockable steel head gate that meets IDWR requirements for control. You have indicated that you intend to install a pre-fabricated flume with a capacity of 3.5 cubic feet per second. This approach to measurement is acceptable to IDWR provided the device is installed in accordance with the manufacturer's specifications.

Champion Creek Number 5 (CHC5) – This diversion is the second diversion from the mouth of Champion Creek and diverts water to irrigate lands to the south of Champion Creek. During our telephone conversation, you had indicated that you plan to consolidate this diversion with Champion Creek Number 6, but you are uncertain when that consolidation would occur. In the meantime, you have indicated this diversion would be measured with a pre-fabricated ramped flume. This approach to measurement is acceptable to IDWR provided the device is installed in accordance with the manufacturer's specifications, and provided the device has a capacity sufficient to divert the amount of water authorized under existing water rights.

Champion Creek Number 4/7 (CHC4/7) – This is the third diversion from the mouth of Champion Creek and diverts water to irrigate lands to the north of Champion Creek. This diversion is currently equipped with a steel head gate that meets IDWR requirements for control. You have proposed to install a ramped flume designed by Brian Hamilton of the U.S. Bureau of Reclamation. The proposed plan is acceptable to IDWR.

Champion Creek Number 6 (CHC6) – This is the upper diversion that is used to irrigate lands to the south of Champion Creek. Water rights diverted from this location are held in the name of The Humphreys Trust. This diversion is currently equipped with a steel head gate that meets IDWR requirements for control. You have proposed to install a ramped flume designed by Brian Hamilton of the U.S. Bureau of Reclamation. The proposed plan is acceptable to IDWR.

Champion Creek Number 7 (CHC7) – This diversion is the uppermost diversion on Champion Creek. This diversion has been abandoned. The lands formerly irrigated by CH7 are now irrigated by water diverted under the same water rights at CH4/7. Although this diversion has been abandoned, it remains on the water rights as a legal point of diversion. As such, measurement and control is not required for this diversion at this time, but if this diversion is brought back into service, it must be equipped with suitable measurement and control structures prior to diverting water.

Fourth of July Creek Number 3 (FJC3) – This diversion is the third and uppermost diversion on the creek. This diversion is currently equipped with a steel head gate that meets IDWR requirements for control. You have proposed to install a ramped flume designed by Brian Hamilton of the U.S. Bureau of Reclamation. The proposed plan is acceptable to IDWR.

Fisher Creek Number 4 (FC4) – A portion of the water diverted from Fourth of July Creek at FJC3 is injected into a tributary of Fisher Creek and is ultimately rediverted at Fisher Creek Number 2. The water rights that authorize this use contain a condition limiting the amount of water available for rediversion at FC2 to the amount measured at the point of injection (FC4). Therefore, in order to administer these water rights, the amount of water injected into Fisher Creek must be measured. During our telephone conversation, you indicated that you plan to install a pre-fabricated flume at the point where the water diverted under these rights is rediverted from the FJC3 ditch, rather than at the point where the water is injected into Fisher Creek. This approach to measurement is acceptable to IDWR provided the device is installed in accordance with the manufacturer's specifications, and provided the device has a capacity sufficient to measure the amount of water authorized under existing water rights. The location is acceptable based on the current understanding that the tributary stream to Fisher Creek is a gaining reach, and that the amount available for rediversion under these rights at FC2 is limited to the amount diverted from the FJC3 ditch.

Fisher Creek Number 2 (FC2) – Water injected into Fisher Creek at FC4 is rediverted at Fisher Creek Number 2. This diversion is currently equipped with a wooden control structure. This control structure may be sufficient to meet IDWR standards. However, please note that this control structure may need to be improved if it is not capable of entirely shutting off the flow of water to the ditch, or is not capable of being locked at any position. For measurement, you have proposed to install a ramped flume designed by Brian Hamilton of the U.S. Bureau of Reclamation. The proposed plan is acceptable to IDWR as long as the flume is installed between the control structure and the first split in the ditch. The first split in the ditch is the concrete structure on the north side of Fisher Creek Road.

Salmon River Number 42 (S42) – This diversion from the Salmon River is shared with a number of other users. I have been in correspondence with Mr. Hans Carstensen regarding this diversion. The diversion is equipped with a lockable steel head gate that meets IDWR requirements for control. IDWR has approved plans submitted by Mr. Carstensen for a ramped flume designed by Mr. Hamilton of the U.S. Bureau of Reclamation.

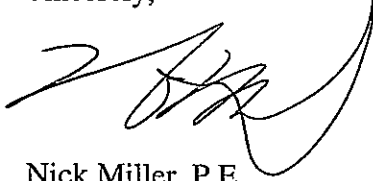
Warm Creek Number 1 (WM1) – Water rights owned by Mr. Dale Mizer are diverted at this location. You have indicated that you lease this property from Mr. Mizer and that you intend to install a pre-fabricated flume with a capacity of 3.5 cubic feet per second. This approach to measurement is acceptable to IDWR provided the device is installed in the canal downstream of the fish screen and in accordance with the manufacturer's specifications.

You have indicated that many of the diversions listed above are situated on lands owned or controlled by the United States Forest Service (USFS) and that a special use permit must be issued by the USFS prior to construction of the control and measurement structures. You have expressed doubt that the permits will be issued before the start of the irrigation season and have requested an extension of time to bring all of these diversions into compliance. Given that six of the nine diversions requiring work are situated on USFS lands, IDWR is willing to allow an extension of time for compliance for all nine diversions. This extension is given based on the recognition that the majority of the diversions cannot be constructed until the USFS permits are issued, and that there is an economic and scheduling benefit to you to construct all nine projects at the same time. Therefore, the nine diversions (those listed above, excluding the abandoned diversion CH7) must be brought into compliance with the measurement and control requirements in WD170 as soon as practical, but no later than the start of the 2009 irrigation season. Note that the WD170 Watermaster will be performing periodic measurements on these diversions during the 2008 irrigation season to ensure water is being delivered in accordance with the elements of the water rights.

Mr. Michael Humphreys
March 27, 2008
Page 4 of 4

If you have any further questions, please feel free to contact me by phone at (208)-287-4956, or by email at Nick.Miller@IDWR.Idaho.Gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Miller', with a large, sweeping flourish at the end.

Nick Miller, P.E.
Staff Engineer,
Water Distribution Section, IDWR

c:

THE ANDREW & LINDA LAWLER FAMILY TRUST – 2691 BAYSHORE DR NEWPORT BEACH, CA 92663
DALE MIZER PO BOX 728, HAILEY, ID 83333
HANS CARSTENSEN – P.O. BOX 4846, POCATELLO, ID 83205
PAT BRADY – P.O. BOX 2585, IDAHO FALLS, ID 83403-2585

S:\Correspondence\2008\2008 HGMD Correspondence\Basin 71\032708Humphreys.doc