

WD 74 file



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

CECIL D. ANDRUS
GOVERNOR

April 14, 1994 KEITH HIGGINSON
DIRECTOR

Shirley Hoy
Lemhi County Treasurer
206 Courthouse Dr.
Salmon, ID 83467

Re: Lemhi Irrigation District

Dear Ms. Hoy:

In response to your inquiry about the Lemhi Irrigation District and Water District 74, Lemhi River, I have attached a copy of a letter dated December 16, 1991 from the Director of the Department of Water Resources, Keith Higginson, to Alberta Wiederrick, Lemhi County Clerk. Also attached is a copy of Ms. Wiederrick's 1991 letter which contains the same inquiry which you have recently made to the Department.

I believe that Mr. Higginson's letter sufficiently addresses your questions regarding the status of the irrigation district. I concur with Mr. Higginson's questioning of the need for the irrigation district and that he has no authority to dissolve the district. You will also note that Mr. Higginson states that the water district/watermaster authority under Water District 74 and pursuant to Chapter 6, Title 42, Idaho Code, is the appropriate mechanism to control water delivery rather than the irrigation district because the water rights are held by the individual water users rather than the irrigation district.

In response to your other question about the Lemhi water rights decree, I would like to confirm that all of the state water rights in the Lemhi River Basin, including both tributaries and non-tributaries of the Lemhi River, are included in the decree book which you described to me. That decree also contains some provisions about water distribution and water districts. Item number three under Conclusions of Law, identifies a number of separate water districts which are administered independently of the Lemhi River. Water District 74 is limited to the main Lemhi River and all other tributaries not identified under item 3 of the Conclusions of Law.

If you or others have further questions concerning this matter, please call me at this office or contact our regional office in Idaho Falls.

Sincerely,
Tim Luke

Tim Luke
Hydrologist, Water Allocations

cc: Eastern Region



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DEPARTMENT OF WATER RESOURCES

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CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 16, 1991

Alberta Wiederrick
Lemhi County Clerk
206 Courthouse Drive
Salmon, ID 83467

RE: LEMHI IRRIGATION DISTRICT

Dear Ms. Wiederrick:

I have reviewed your letter dated December 6, 1991, which inquired of the status of the Lemhi Irrigation district and its function with respect to Water District 74, the Lemhi River and tributaries.

The statutes which provide for the formation and functioning of an irrigation district are different than the statutes to create a water district. The creation and function of a water district is under authority vested in my office but the formation and functioning of an irrigation district is not.

A review of department files shows that the Lemhi Irrigation District was formed in the mid 1960's and is the last of 141 irrigation districts of record to be formed in Idaho. A stated purpose in the by-laws of the Lemhi Irrigation District was to compile a comprehensive list of water rights diverted from the Lemhi River and its tributaries and to seek a consent decree from the district court. In the late 1960's, the irrigation district asked this department to undertake the activity of determining the water rights in the basin and make a recommendation of water rights to the district court. As you know, the department did undertake the activity and the district court did subsequently issue a decree of water rights in the Lemhi River drainage.

Upon completion of the adjudication, Water District 74, Lemhi River and tributaries was created by order of this department. The watermaster has authority under Chapter 6, Title 42, Idaho Code, to distribute water to the right holders from the river. The water district/water master authority is the appropriate mechanism to control water delivery rather than an irrigation district because the water rights are held by the individual water users rather than the district.

Most irrigation districts own water rights or conveyance works or both and assess members for water delivery, for improvements to the distribution system and for operation and maintenance of the distribution system. To my knowledge, the Lemhi Irrigation District does not own either water rights or any conveyance systems. In addition, the district does not include all of the water users or irrigated land within the Lemhi River drainage. For these reasons, I question the need for continuation of the irrigation district but I do not have the authority to dissolve it. The members of the irrigation district may want to assess the need for continuation of the district.

Please feel free to contact this office if you have additional questions or if we can provide additional information.

Sincerely,


R. KEITH HIGGINSON
Director

c: IDWR - E. Region
Bob Thomas

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DEC 09 1991

CLERK OF THE DISTRICT COURT
EX-OFFICIO AUDITOR AND RECORDER
206 COURTHOUSE DRIVE
SALMON, IDAHO 83467

Department of Water Resources

ALBERTA WIEDERRICK, CLERK

PHONE: 208-756-2815

FAX: 208-756-4673

December 6, 1991

To: R. Keith Higginson
Department of Water Resources
Statehouse Mail
Boise, Idaho 83720

From: Alberta Wiederrick
Lemhi County Clerk

Re: Lemhi Irrigation District

Bob Thomas, of the Lemhi Irrigation District contacted me on December 4, 1991 concerning putting a levy on the tax notices for the Lemhi Irrigation District. They levied in 1976, 77 and 78 a rate of a little over twenty five cents an acre. It was my understanding when Water District 74, Lemhi River, was formed that the Lemhi Irrigation District would be phased out.

Would you please advise me on this matter?

Very truly yours,



Alberta Wiederrick
Lemhi County Clerk

cc: Alan Dornfest
Idaho State Tax Commission