



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
 Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
 Governor

KARL J. DREHER
 Director

May 25, 2004

Ross Goddard
 PO Box 11
 Tendoy, ID 83468

Re: Your Correspondence Dated May 10, 2004, Requesting Installation of Measuring Devices on the L-32 Ditch

Dear Mr. Goddard,

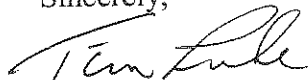
I have reviewed the above referenced letter that you sent to Bob Foster, Idaho Department of Water Resources (IDWR) Salmon Field Office. Your letter states that you "...would like to request measuring devices on all water being used in the L-32 ditch". You further state that, "If this does not solve the problem than I would like to request that the water users appoint a lateral manager to monitor this problem."

I assume from your letter that there is no current organization or organized entity that is responsible for management of water on the L-32 ditch. Management of water on the ditch is not the responsibility of IDWR or Water District 74. If there is no organization on the ditch, then the users may form a ditch company or a lateral water users association. A lateral association may be formed pursuant to Chapter 13, Title 42, Idaho Code. Section 42-1301 requires that a lateral association hold an annual meet prior to the last Monday of March of each year. If a later association does not exist or users have not held an annual meeting as provided by law, then the Director of IDWR, pursuant to Section 42-1308, "may appoint and fix the compensation of a lateral manager upon the petition of a water user alleging that water is not being apportioned and distributed properly among the users from the ditch or lateral and that the rights of the water user are being injured thereby." Section 42-1308 further provides that upon receipt of such a petition, the Director shall provide written notice of the petition to the all potential affected users on the ditch and any entity associated with distribution of water on or to the ditch, including the water district watermaster, and shall allow 14 days for written responses to the petition. Based on response to the petitions, the Director may issue an order either appointing or declining to appoint a lateral manager (see attached copy of Section 42-1308).

I am not certain from review of your letter whether or not you are petitioning IDWR for appointment of a lateral manager pursuant to Section 42-1308. Your letter specifically states that you would like to "request that the users appoint a lateral manager". Perhaps you are seeking to have the users resolve this independently. An independent resolution of this matter would be an acceptable approach to IDWR. However, if the users can not resolve the problem on their own, then you do have the option of filing a petition seeking appointment of a lateral manager in accordance with Section 42-1308.

Please contact Bob Foster, IDWR Salmon Field Office, or myself at the above referenced location if you have further questions concerning this matter.

Sincerely,



Tim Luke

Enclosure: Section 42-1308, Idaho Code

Cc: Bob Foster, IDWR
IDWR Eastern Region
Rick Sager, Water District 74 Watermaster
Larry Gardner
Bill Hager
Jeral Hagen
Bill Loudy

Ross Goddard

P.O. Box 11

Tendoy, ID 83468

May 10, 2004



RECEIVED

MAY 14 2004

Department of Water Resources

Idaho Department of Water Resources

206 Van Dreff

Salmon, ID 83468

Dear Bob Foster,

As a lessee of John Sells property and user of L-32 ditch, I have encountered several problems with delivery of this water. John Sells property is the last user on this ditch and when the full decree is on it has the most water. The last two years I have received less than 150 inches. This property has a water right of 400 plus inches. This property has the only measuring device on the reach of this ditch.

I would like to request measuring devices on all water being used in the L-32 ditch. If this does not solve the problem than I would like to request that the water users appoint a lateral manager to monitor this problem. The users of water that do not have these are Larry Gardner, Bill Hager, Jeral Hagen and Bill Loudy.

Thank you.

Sincerely

Ross Goddard

A handwritten signature in black ink, appearing to read "Ross Goddard", written over the typed name.

42-1308. Appointment of Lateral Manager by Director of Department of Water Resources.

(1) In the event that the water users or the board of directors of any lateral or ditch association do not meet and elect a lateral manager as provided for in this chapter or a lateral manager is not selected as otherwise provided by law, then, the director of the department of water resources may appoint and fix the compensation of a lateral manager, upon the written petition of a water user alleging that water is not being apportioned and distributed properly among the users from the ditch or lateral and that the rights of the water user are being injured thereby.

(2) If the water users also have failed to elect association officers, the lateral manager appointed by the director may exercise the duties of the association officers, including the making and collection of assessments, but not the borrowing of money, as is necessary to achieve the proper allocation and distribution of water from the ditch or lateral and without regard to the statutory dates for the performance of these duties.

(3) The lateral manager appointed by the director shall hold office only for the period of time fixed by the order of appointment and in no event beyond the remainder of the year in which appointed.

(4) If the lateral is located within a water district established pursuant to chapter 6, title 42, Idaho Code, the director shall advise the district watermaster of the receipt of the petition and invite the watermaster to make recommendations concerning the need for appointment of a lateral manager and the person to be appointed.

(5) Upon receipt of a petition filed pursuant to subsection (1) of this section, the director shall make a reasonable effort to provide written notice of the petition to any irrigation district, canal company, or other water distribution entity that supplies water to the lateral, and to all persons having rights to the use of water from the lateral. Except in the case of serious threat of imminent injury to person or property, the director shall allow fourteen (14) days for written response to the petition.

(6) Based upon a review of the petition, the responses thereto, the recommendations of the watermaster, if any, and any investigation by the department of water resources, the director shall issue an order with findings either appointing a lateral manager or declining to appoint a lateral manager. Any person aggrieved by the order of the director shall be entitled to request a hearing before the director pursuant to section 42-1701A, Idaho Code.

From: Idaho Statutes Pertaining to Canals and Laterals –

A complete copy of the Idaho Code related to water rights and irrigation statutes may be viewed online via a link on the IDWR Internet homepage at www.idwr.state.id.us, or through the State of Idaho homepage at www.accessidaho.org. A complete copy of the Idaho Code can also be obtained at most Idaho libraries.