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Department of Water Resources
Eastern Region

RE: Pahsimeroi Water District

Dear Jim:

I looked at the question that you presented me regarding your water district boundaries and like issues.

From what I have been able to determine, there is little or no evidence of the existence of a basin-wide district encompassing the entire river. Apparently, as you explained, you have found nothing by the way of by-laws or rules concerning your organization or a basin-wide district. Likewise, the Custer County Recorder's office informed me that there were no tax levies for the district and in their words "the County has nothing to do with collection of assessments". I presume the same would be true in Lemhi County. Again, you assured me that only the landowners with diversions above Downton Lane have historically been participants and that those owners contribute to defer the costs incurred through the group. You also act as your own collection agency and you historically limit voting to the operators living on the lands described.

In short, I would say that your group or association has taken on an identity through its practices and history over the years, and that although little exists by way of formality or record, you have standing as a group. I can point to such events as the Pahsimeroi River Minimum Stream Flow issue of a few years back as further support for your status. It appears to me that your group is recognized by the IDWR, but not necessarily as the basin-wide district. However, all water users, individual or collective, fall under IDWR rules, so I can't conclude that such recognition accords you any status or authority beyond what you have historically assumed.

I have been following a couple of similar issues regarding district boundaries, voting and like issues in Idaho, and frankly, I don't see any clear cut guidelines coming out of those cases.

More particularly, on the question of extending your boundaries, I would suggest that you approach that matter with extreme caution. If you allow some additional owners in, I would think that you would have to accommodate all others within that class. I would also be of the opinion that

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any cutoff in your new boundaries would have to be based on sound reason or logic and that you could not be selective in taking on new members resulting in a patchwork approach.

Therefore, the problems that I can foresee in expansion of your boundaries are at least two-fold: (1) many of the occupants and/or users in the lower Valley are other than traditional ranchers (i.e., residential or connected with agency uses, etc.); and (2) some users (members) falling within the new boundary may not see the need for service and therefore collection of assessments may be difficult.

Let me suggest an alternative. Perhaps if, as you say, certain downstream owners want their uses verified by your watermaster, this could be accommodated on a contract basis (i.e., your watermaster and your group could provide the service on a contract reimbursement basis with a record of use being retained). Some similar arrangement may be devised short of boundary adjustment.

In short, Jim, I am not saying that you should not expand, but I am saying that at this point in time and with all of the uncertainty that exists, I would advise extreme caution and suggest you change your practices only after careful thought. Further, you may be well advised to try to adopt some guidelines in support of your historical practices.

Very truly yours,


James R. Bennetts

JRB:k