



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 10, 2005

Jim Martiny
Watermaster, Water District 73
83 Hooper Lane
May, ID 83252

Ralph Hatch
Advisory Committee, WD73
434 Pahsimeroi Rd
Ellis, ID 83253

Jim Downton
Advisory Committee, Water District 73
HC 62 Box 2320
May, ID 83252

Ted O'Neil
Advisory Committee, WD73
81 Furey Lane
May, ID 83252

Re: Water District 73 Boundary and Regulation of Diversions in Water District

Dear Gentlemen,

It is the understanding of the Idaho Department of Water Resources ("IDWR") that the water users in the Pahsimeroi River valley, IDWR Administrative Basin 73, do not consider diversions from the river that are located below Downton Lane to be part of Water District 73. This issue has been raised several times with IDWR in the past two years as a result of the Department's order requiring measuring devices and headgates, and due to several questions and/or complaints about water use and regulation on diversions near or below Downton Lane. It is the Department's further understanding that the Water District has not considered the reach below Downton Lane to be part of the district because it is a gaining reach and all water rights within the reach are normally satisfied.

Additionally, the Department and the Governor's Office of Species Conservation ("OSC") have received complaints over the past year about the lack of watermaster regulation at the P-9 Diversion (also known as the Ellis Ditch). The P-9 heading is located above Downton Lane although lands served by the ditch may be downstream of Downton Lane. The river immediately below the P-9 Diversion does not benefit from the same reach gains that occur below Downton Lane, thus there are often concerns about river flows at this location and whether the P-9 and other diversions upstream are properly regulated.

The purpose of this letter is to advise the watermaster and the advisory committee that IDWR considers the reach of the Pahsimeroi River located below Downton Lane to be within the district. The official description of Water District 73 that is on file with the Department states "Water District 73 is composed of the entire Pahsimeroi River drainage basin and is located in Custer and Lemhi Counties." There are no orders or other documents on record with IDWR that indicate the reach of river below Downton Lane is excluded from Water District 73.

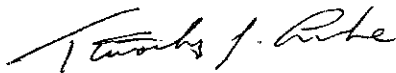
Diversions and water rights below Dowton Lane should be measured and regulated by the watermaster. Diversions in this reach, as in the rest of the water district, should have adequate measuring devices and headgates. At a minimum, diversions in this reach should be measured and reported on some regular frequency and the watermaster should be responsive to any water user questions or concerns about water diverted to ditches in this area. IDWR suggests that diversions in this reach be measured on at least a weekly basis during times of regulation on any portion of the river. The P-9 Diversion, located upstream of Dowton Lane and in a reach of more limited supply, should be measured and regulated on a regular basis (weekly or daily) with other upstream diversions to assure that senior right holders are delivered the water that they are entitled to under their rights. All beneficial use claims located above Dowton Lane should be curtailed during times of shortage regardless of the claimed priority.

All diversions in the water district should be shut off and head gates closed at the end of the irrigation season unless there are valid winter stock water rights that can be diverted. The watermaster's term of service should be extended during all or a portion of the winter if there are concerns about unauthorized diversions or open headgates during the non-irrigation season. Open headgates during the winter may present concerns or liability with respect to taking of threatened or endangered fish.

This clarification and guidance may potentially increase time the watermaster must spend in monitoring and regulating diversions on the river and tributaries. The district may wish to consider this guidance with respect to preparation and adoption of its annual budget.

Please contact me at the above location or Bob Foster, IDWR Salmon Field Office (756-6644), if you have questions or concerns regarding this matter.

Sincerely,



Tim Luke
Manager, Water Distribution Section

Cc: Bob Foster, IDWR Salmon Field Office
Jeff Allen, Governor's Office of Species Conservation
IDWR Eastern Region