



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Department of Water Resources

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

March 31, 2003

Lee Peterson, Watermaster  
Water District 37  
PO Box T  
Shoshone, ID 83352

RE: Hiawatha Canal Headgate Access

Dear Lee,


Our office has received and reviewed your letter requesting the Department send a letter to John Campbell advising him that the watermaster needs a road right of way to the river and gauging station on the Hiawatha Canal. You indicate Mr. Campbell has built a house on the old access road.

I have discussed this matter with Tim Luke and we concur that it may be more appropriate for the Hiawatha Canal users or canal company to approach Mr. Campbell to secure a road right of way or means of vehicle access to their diversion works since they will likely need to maintain the diversion structure and gauging station in the future. Moreover, the canal company perhaps already has an enforceable easement. The company would be in a better position to either directly enforce its' easement or negotiate a new means of access. The details for your use should be addressed in any agreement between the Hiawatha Canal and Mr. Campbell.

The authority to enter lands of private individuals by IDWR staff is found in Section 42-1701 of the Idaho Code. This authority would cover watermasters of water districts doing watermaster business as directed by the Director. This section of the code speaks toward "reasonable" entry. Our review of this section of the code finds that it does not appear to go far enough to obligate landowners to provide a "road right of way" but it does provide staff (including appointed watermasters) "reasonable" access through property either on foot or by vehicle depending on the situation. Our staff has been directed to contact landowners prior to entering land if at all possible. I recommend that you contact the Hiawatha Canal to see what can be worked out or contact Mr. Campbell directly.

If you have questions please feel free to contact this office.

Sincerely,

  
Allen Merritt, PE  
Southern Region Manager

CC: David Cropper  
John Campbell

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