

**State of Idaho****DEPARTMENT OF WATER RESOURCES**

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 29, 2002

Distribution: Bar S Ditch Water Distribution Representatives

RE: Additional Considerations Regarding Deliveries from the Bar S Ditch

Dear Interested Parties:

On Thursday, July 25, 2002, several parties met at the Idaho Department of Water Resources (IDWR) Southern Regional Office to discuss options for water delivery on the Bar S Ditch, in response to the ongoing request for IDWR involvement. As a follow-up to this meeting, Dr. Ivan Gustafson invited IDWR to conduct an on-the-ground assessment of the delivery system. Ms. Gwen Tzanakakis also volunteered to attend this assessment, and the field visit was conducted on July 30, 2002. Mr. Dan Yore joined us for the review of the diversion box that splits flow between the north and south pipelines, and Mr. Steve Clelland participated in the entire assessment. The field assessment consisted of a walk of the diversion system from the confluence of the Bar S Ditch and the Curren Ditch, downstream to the end of the Share Ditch deliveries. The walk was made between 10:30 am and 1:30 pm on a hot sunny day, and 65 digital pictures were taken. Dr. Gustafson and Ms. Tzanakakis are to be commended for this donation of effort on behalf of the water users on the ditch.

Based on the results of this field visit, Dr. Gustafson organized a meeting of the water users, held at Hagerman High School on the evening of September 3, 2002. Dr. Gustafson invited me to make a presentation of the results of the field review and recommendations of IDWR. Mr. Nick Spencer and Mr. Steve Clelland accompanied me to ensure that we could answer questions for the group regarding legal and technical considerations on the ditch. A printed version of the slides that I utilized for the briefing is enclosed.

One of the central themes in the discussion at the meeting was the concern on behalf of some of the water users whereby existing contracts provide that maintenance responsibilities are assigned to specific parties. IDWR recognizes that such contracts could be valid. However, Chapter 13, Title 42 of the Idaho Code describes that the costs associated with lateral water users associations are to be paid by the water users. Thus, billing statements should be sent directly to water users. The water users could then seek reimbursement from other parties based on contract provisions.

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The morning after the meeting, Dr. Gustafson called to tell me that he had decided to no longer take a leadership role in the formation of the Bar S Ditch Lateral Water Users' Association. He referred me to Mr. Verl Bell as the primary contact in this matter. I later spoke with Mr. Bell, and advised him that I would provide this letter to the known interested parties, to summarize the IDWR position in this matter. IDWR recommendations are summarized as follows.

Recommendations

1. An organization should be formed to provide for maintenance and distribution of water from the Bar S Ditch. The organization set forth in Idaho law to perform these functions is a lateral water users' association. Water users that divert from the Bar S Ditch should form and maintain a fully active lateral water users' association, constituted in accordance with the provisions of Chapter 13, Title 42, Idaho Code. One idea that arose based on discussions at the meeting is to form a similar organization for the Curren Ditch, because many of the users are the same and the ditches are combined in certain reaches. However, formation of an association for the Curren Ditch is not a prerequisite for the formation of an association for the Bar S Ditch.
2. For proper water distribution, deliveries from the Bar S Ditch and the north and south pipelines must be measured and regulated. Each user who diverts from the system should install a measuring device and controlling works, and a "lateral manager" should be appointed by the lateral water users' association to conduct measurement and regulation.
3. The field investigation revealed that the present delivery system has many uncontrolled leaks. While we did not measure the flow rates of the leaks, my visual assessment is that cumulatively these leaks have a significant impact on flows delivered at the end of the ditch. The association should institute a maintenance program which ensures that the water distribution system is repaired.
4. The association should consider sponsorship of construction of a pipeline to replace that portion of the Bar S Ditch from the beginning of the ditch to the confluence with the Curren Ditch. Such a pipeline would have the advantages of:
 - a. Reducing ditch loss.
 - b. Reducing highway safety concerns.
 - c. Reducing water-logging of fields adjacent to the ditch.
 - d. Increasing the portion of water rights satisfied by Weatherby Springs water.
 - e. Reducing ditch maintenance problems.

A copy of a letter from the Hagerman Highway District offering to contribute \$7,000 toward the cost of the ditch is attached. Representatives of the Highway District attended the meeting on September 3, 2002. My response to the Highway District, incorporated in this letter, is that IDWR encourages the construction of the pipeline, but sponsorship by the Bar S Ditch Lateral Water Users' Association appears to be a necessary requirement. As we have discussed, other potential contributors include, but are not limited to, the Natural Resources Conservation Service (NRCS) and the Idaho Water Resource Board (IWRB). The NRCS has mentioned that

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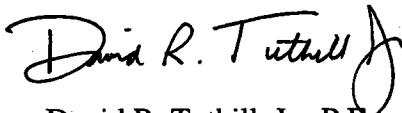
sponsorship might be authorized, depending on the outcome of the new farm bill rules. As we have discussed, the IWRB often provides to water delivery organizations grants for engineering and feasibility studies, and low interest loans for construction. These funds are not available for individuals – the IWRB deals only with entities such as water users' associations.

The flow rate for such a pipeline has not yet been conclusively determined and is subject to further negotiation.

5. Water users should continue to pursue alternate delivery mechanisms. One technique that is being explored is a water exchange with the North Snake Ground Water District that would bring water to the users in the Billingsley Creek area in cooperation with the North Side Canal Company. Another potential technique is injection of Weatherby Springs water into Billingsley Creek, and re-diversion of these flows lower in the system, perhaps through the Buckeye Ditch, or through the Buckeye Ditch into the Big Bend Ditch. While these changes would require the investment of time and effort, and in some cases would require transfers of the water rights, they might be worthwhile in the long term. Again, for participation in these discussions, a water users' organization has more clout than an individual water user.

This letter represents the present IDWR position in this matter, and is sent on behalf of both our Water Distribution Section and our Southern Regional Office. In order to provide interested parties with consistent information in this regard, please send any inquiries regarding the Bar S Ditch directly to me. At this time, we consider the next step in this matter to be item number one above, formation of the lateral water users' association. We will continue to provide support in this regard upon your request.

Sincerely,



David R. Tuthill, Jr., P.E.
Adjudication Bureau Chief

Enclosures: Distribution List
Presentation Slides
Copy of a letter from the Hagerman Highway District dated August 26, 2002

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