



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

July 22, 2003

Brailsford Ditch Water Users

CERTIFIED MAIL

RE: Notice of Violation of Idaho Code Section 42-701(5)
Order to Submit Annual Water Measurement Reports

Dear Water User:

On April 30, 2003, the Idaho Department of Water Resources (IDWR) sent a Pending Notice of Violation to water right holders on the Brailsford Ditch advising that the ditch users had failed to submit annual water measurement reports to IDWR for years 1998 through 2002. The notice asked that the delinquent reports be submitted to IDWR on or before May 15, 2003. As of this date IDWR has not received the requested reports nor has IDWR received contact from any water users on the ditch. The notice advised that failure to submit the reports by the requested date and/or contact IDWR would result in the issuance of a Notice of Violation.

Under Section 42-701(5) Idaho Code, IDWR may take action pursuant to section 42-1701B, Idaho Code, when water users do not comply with the reporting provisions of the statute. Under Section 42-1701B, the director of IDWR may commence an administrative enforcement action to obtain a remedy for a violation and seek a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one hundred fifty dollars (\$150) per day for a continuing violation, whichever is greater.

Pursuant to Idaho Code, Section 42-1701B, IDWR requires that the following action be taken:

Immediately submit all delinquent annual water measurement reports for the Brailsford Ditch to IDWR with an annual \$25.00 reporting fee per individual report (\$125 total for all five delinquent reports) or immediately contact IDWR if the data are not available.

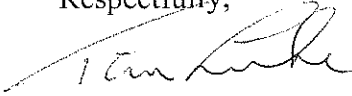
Pay an agreed civil penalty in the amount of ten thousand dollars (\$10,000), which is the maximum penalty authorized by law for violating the reporting provisions of Section 42-701(5). The civil penalty shall be due and payable to IDWR on or before August 15, 2003. If the Brailsford Ditch water users immediately submit the delinquent reports to IDWR, then the users on the ditch may petition IDWR at the compliance conference to reduce any penalties sought.

If you object to any provision in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with IDWR. Your written request must be

received at this office within 14 days of receipt of this notice. Send written requests to Tim Luke at the address on the letterhead. Failure to comply with the requirements of this notice will be cause for IDWR to initiate a civil enforcement action through the Attorney General in district court. IDWR may also order water users on the ditch to cease and desist from further diversion of water to the ditch.

Questions concerning this notice may be directed to Tim Luke at 208-327-7864.

Respectfully,

A handwritten signature in black ink, appearing to read "Tim Luke", written over a horizontal line.

Tim Luke
Manager, Water Distribution Section

Attachment

cc: Frank Erwin, Water District 36-A Watermaster
IDWR Southern Region Office
Cindy Yenter, IDWR

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on July 22, 2003, the attached Notice of Violation for Order to Submit Annual Water Measurement Reports was served upon the following individuals by placing a copy of the same in the United States Mail, postage prepaid, certified with a return receipt and properly addressed as follows:

State of Idaho
Dept. of Fish & Game
PO Box 25
Boise, ID 83707

Flying Triangle Inc
C/O William N Brailsford
PO Box 180
Hagerman, Id 83332

Nevada B Omohundro
2901 S 1050 E
Hagerman, Id 83332

Shelby Wise
1049B E 2925 S
Hagerman, Id 83332

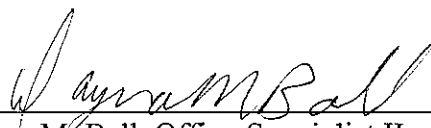
Joan Wise
Rt 1 Box 240
Hagerman, Id 83332

Fred L Mavencamp
Rt 1 Box 231
Hagerman, Id 83332

John Mavencamp
1019 E 2900 S
Hagerman, Id 83332

Ronnie D Smith
Rt 1 Box 230
Hagerman, Id 83332

Sharlene M Smith
1046 E 2900 S
Hagerman Id 83332



Dayna M. Ball, Office Specialist II
Water Distribution Section