



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

May 17, 2012

RE: Notice of Petition for Appointment of Lateral Manager for Grays Creek Ditch Lateral

Dear Water User:

The enclosed Petition for Appointment of Lateral Manager ("petition") was submitted to the Idaho Department of Water Resources ("Department" or "IDWR") on May 10, 2012 pursuant to Section 42-1308, *Idaho Code*. The petition requests the Director of IDWR to appoint a lateral manager for the entire Grays Creek Ditch Lateral for the remainder of this year to avoid imminent injury in the distribution of water. The petition further requests the Director to appoint Norma Ratcliff as the lateral manager with compensation as approved for the previously elected lateral manager at the annual meeting of the Grays Creek Ditch Lateral held on March 26, 2012.

Section 42-1308, *Idaho Code*, provides that the Director of IDWR may appoint and fix the compensation of a lateral manager, upon written petition of a water user. If the lateral is located within a water district established pursuant to Chapter 6, Title 42, *Idaho Code*, the director shall advise the district watermaster of the petition and invite the watermaster to make recommendations concerning the need for appointment of a lateral manager and the person to be appointed. By copy of this letter to Joe Stippich, watermaster of State Water District 67A, the Director requests the recommendation of the watermaster in this matter.

The Director of IDWR is also required to make a reasonable effort to notify any irrigation district, canal company, or other water distribution entity that supplies water to the lateral, and to all persons having rights to the use of water from the lateral and provide fourteen (14) days for written response to the petition. The list of water delivery entities and water users receiving this notice is attached. The attached list was compiled using the water rights associated with the Grays Ditch point of diversion location or description from the Little Weiser River. Please provide written comments to me within 14 days, or on or before June 1, 2012.

Sincerely,

  
Jeff Peppersack  
Chief, Water Allocation Bureau

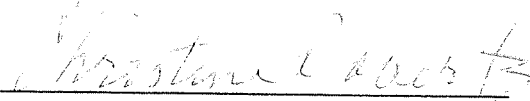
Encl: Petition for Appointment of Lateral Manager with exhibits  
List of water users and entities

C: Joe Stippich, Water District 67A Watermaster  
Little Weiser Irrigation District  
IDWR Western Region

CERTIFICATE OF MAILING

I DO HEREBY CERTIFY that on this 18th day of May, 2012, the attached Petition for Appointment of Lateral Manager, was served upon the following individuals, unless otherwise noted, by placing a copy of the same in the United States Mail.

Recipients noted by \*, were additions generated on a mail list from the office of Dana L. Hoffstetter, Hoffstetter Law Office, LLC., May 10, 2012



Christine Roberts  
Christine Roberts  
Technical Records Specialist/Water Distribution  
Compliance Bureau  
Idaho Department of Water Resources

ALLRED, DAVID VON; ALLRED,  
RAMONA L  
926 GRAYS CRK RD  
INDIAN VALLEY ID 83632

BREST, BRIDGETTA L & LOREN R  
2280 MUNDY GULCH  
INDIAN VALLEY ID 83632

BUCHANAN, ALLEN M;  
BUCHANAN, VIVIAN L  
1367 W 2ND ST  
WIESER ID 83672

DUNHAM, BETTY & RONALD  
852 INDIAN VALLEY RD  
INDIAN VALLEY ID 83632

GRAHAM, DEZARAE A  
GREEN, THOMAS A  
PO BOX 15  
INDIAN VALLEY ID 83632

GROSSEN, NORMA & TOM L  
PO BOX 72  
INDIAN VALLEY ID 83632

HOLMES, JOAN H  
1009 GRAYS CRK RD  
INDIAN VALLEY ID 83632

HOLMES, JOHN W  
1924 COVE RD  
WEISER ID 83672

HOLMES, PHILIP J  
973 GRAYS CRK RD  
INDIAN VALLEY ID 83632

HUEY, BARBARA & MICHAEL  
2273 MORITZ LN  
INDIAN VALLEY ID 83632

HUST, ADRIAN R & JAMES D  
2290 MUNDY GULCH RD  
INDIAN VALLEY ID 83632

J W HOLMES AND SONS  
948 GRAYS CRK RD  
INDIAN VALLEY ID 83632

JOHNSON, LILIANA & RICHARD E  
2922 OWYHEE LN  
CALDWELL ID 83605

KRETTEN, RICHARD A  
350 SCHOOL RD  
MIDVALE ID 83645

LEGG FAMILY TRUST  
PO BOX 118  
CAMBRIDGE ID 83610

MC DANIEL, DARCY  
PO BOX 229  
NEW MEADOWS ID 83654

RAY, ESTHER L & RONALD J  
785 INDIAN VALLEY RD  
INDIAN VALLEY ID 83632

SHAW, JAMES B & PATRICIA M  
914 GRAYS CRK RD  
INDIAN VALLEY ID 83632

VOERMANS, ROBERT & WHITNEY  
PO BOX 57  
INDIAN VALLEY ID 83632

WALLACH IX LLC  
PO BOX 5667  
INCLINE VILLAGE NV 89450

WARD, VICTOR  
PO BOX 77  
INDIAN VALLEY ID 83632

WINFREE, GEORGIA & NEWTON  
PO BOX 7  
INDIAN VALLEY ID 83632

YANTIS, RALPH & SCOTTI  
685 INDIAN VALLEY RD  
INDIAN VALLEY ID 83632

\*ADAMS, JOE  
2268 MUNDY GULCH RD  
INDIAN VALLEY ID 83632

\*DUNHAM, DEAN & PAULA  
PO BOX 2  
INDIAN VALLEY ID 83632

\*BAUER, BRIAN  
PO BOX 7  
INDIAN VALLEY ID 83632

\*CRAIG, SHELLY  
350 SCHOOL RD  
MIDVALE ID 83645

\*MOTT, ORVEL  
797 INDIAN SCHOOL RD  
INDIAN VALLEY ID 83632

\*BAKER, ED  
1821 CANYON RD  
COUNCIL ID 83612

\*VESELKA, DAVE  
2381 S GRAYS CRK RD  
INDIAN VALLEY ID 83632

\*CLARK, DON  
24535 FARMWAY RD  
CALDWELL ID 83607

\*WINDER, PHUYLLIS  
PO BOX 222  
MIDVALE ID 83645

\*NEWTON, WINFREE  
GEORGIA WINFREE  
790 INDIAN VALLEY RD  
INDIAN VALLEY ID 83632

\*DUNHAM, BETTY & RONALD  
852 INDIAN VALLEY RD  
INDIAN VALLEY ID 83632

Dana L. Hofstetter, ISB #3867  
Hofstetter Law Office, LLC  
608 West Franklin Street  
Boise, Idaho 83702  
Telephone: (208) 424-7800  
Facsimile: (208) 424-8774  
E-Mail: Dana@IdahoWaterLaw.com

Attorney for the Legg Family Trust, Petitioner

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

**In the Matter of Water Users' Association)  
of the Grays Creek Ditch Lateral            )  
\_\_\_\_\_ )**

**PETITION FOR APPOINTMENT OF  
LATERAL MANAGER**

The Legg Family Trust, by and through its counsel of record, Dana L. Hofstetter of Hofstetter Law Office, LLC, petitions, states and alleges as follows:

**Parties and Jurisdiction**

1. The Legg Family Trust, (hereinafter "Petitioner") is an Idaho trust.
2. Petitioner owns that certain real property in Adams County, Idaho (the "Property"), including, but not limited to, the place of use for Water Right Nos. 67-431 and 67-4454 which are delivered at or near the end of the Grays Creek Ditch Lateral.
3. The Petitioner has all right, title and interest in and to Idaho Water Right Nos. 63-431 and 67-4454, along with the Property.
4. The Idaho Department of Water Resources (hereinafter "IDWR") has jurisdiction over this proceeding pursuant to *Idaho Code* § 42-1308.

### Factual Allegations

5. On March 26, 2012, after notice mailed by counsel for the Legg Family Trust on March 13, 2012, to all property owners receiving water from the Grays Creek Ditch Lateral, the annual meeting of the Grays Creek Ditch Lateral was held. A copy of said notice and a list of the Gray Creek Ditch Lateral water users to which such notice was mailed are attached hereto as Exhibits A and B, respectively.

6. At such annual meeting, a lateral manager and three directors were duly elected by the Grays Creek Ditch Lateral water users in attendance. A copy of the Draft Minutes of such March 26, 2012, meeting is attached hereto as Exhibit C.

7. On or about March 27, 2012, the elected lateral manager resigned for personal reasons.

8. Since then, the Directors of the Water Users' Association of the Grays Creek Ditch Lateral have met at least twice and have failed to appoint a replacement lateral manager.

9. For many years water has not been apportioned and distributed properly among all the users along the entire length of the Grays Creek Ditch Lateral and the rights of certain water users, including but not limited to the Legg Family Trust, have been and are being injured thereby.

10. There is the need for a lateral manager with responsibility for water distribution along the entire length of the Grays Creek Ditch Lateral, starting from the headgate at the Little Weiser River and extending to the last delivery points, to ensure that water users, such as the Legg family Trust at or near the end of the Grays Creek Ditch Lateral, receive their proper apportionment.

11. Since irrigation water is about to be delivered in to the Grays Creek Ditch Lateral imminently, there is the threat of imminent injury unless a lateral manager is appointed immediately.

12. Recently, Norma Ratcliff was appointment lateral manager for the entire Grays Creek Ditch Lateral by the Little Weiser Irrigation District Directors pursuant to Idaho Code § 42-909.

**Claim for Relief**  
**Idaho Code § 42-1308**

13. The allegations above are incorporated by reference.

14. In order to avoid imminent injury, a lateral manager for the entire Grays Creek Ditch Lateral is needed immediately for the remainder of this year.

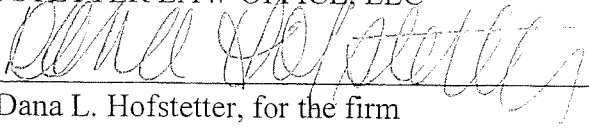
15. Pursuant to Idaho Code § 42-1308, the Director of the Department of Water Resources should immediately appoint Norma Ratcliff lateral manager for the entire Grays Creek Ditch Lateral with the same compensation approved for the previously elected lateral manager, as described in Exhibit C hereto.

WHEREFORE, the Legg Family Trust requests pursuant to Idaho Code § 42-1308, and other applicable law, that the Director of the Idaho Department of Water Resources immediately appoint Norma Ratcliff lateral manager for the entire Grays Creek Ditch Lateral with the same compensation approved for the previously elected lateral manager, as described in Exhibit C hereto.

DATED this 10th day of May, 2012.

HOFSTETTER LAW OFFICE, LLC

By

  
\_\_\_\_\_  
Dana L. Hofstetter, for the firm  
Attorney for Legg Family Trust

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of May, 2012, I caused a true copy of the foregoing PETITION FOR APPOINTMENT OF LATERAL MANAGER to be served by the method(s) indicated on the following:

**Original to:**

Gary Spackman  
Acting Director  
Idaho Department of Water Resources  
The Idaho Water Center  
322 East Front Street  
Boise, Idaho 83702  
 U.S. Mail  Fed Ex  Hand  Fax

**Copies to:**

Jeff Peppersack  
Idaho Department of Water Resources  
The Idaho Water Center  
322 East Front Street  
Boise, Idaho 83702  
 U.S. Mail  Fed Ex  Hand  Fax

  
DANA L. HOFSTETTER

4103.1\10150



## Grays Creek Ditch Meeting Notice

Dear Water User:

Notice is hereby given, that pursuant to Idaho law and at the request of the Legg Family Trust, a meeting for the selection of a watermaster/lateral manager for the Grays Creek Ditch and for the conduct of other business is scheduled for the time and location listed below:

**Day & Date:** Monday, March 26, 2012

**Time:** 1:30 P.M.

**Location:** Lakey's Café  
1036 Highway 95  
Indian Valley, Idaho 83632

**Questions May Be Directed To:** Dana L. Hofstetter  
Hofstetter Law Office, LLC  
608 West Franklin Street  
Boise, Idaho 83702  
Telephone: (208) 424-7800  
Attorney for the Legg Family Trust



Joe Adams  
Indian Valley, ID 83632

Jim Buchanan  
Indian Valley, ID 83632

Ed Baker  
Indian Valley, ID 83632

Dean Dunham  
Indian Valley, ID 83632

Marvin Gray  
Indian Valley, ID 83632

Tom Green  
Indian Valley, ID 83632

Joe Holmes  
South Grays Creek Road  
Indian Valley, ID 83632

Bob Elias  
Mortiz Lane  
Indian Valley, ID 83632

Adrian Hust  
Indian Valley, ID 83632

Jackye Phillips  
Indian Valley, ID 83632

Ron Ray  
Indian Valley, ID 83632

Dave Veselka  
Indian Valley, ID 83632

Bob Voermans  
Indian Valley, ID 83632

Victor Ward  
Indian Valley, ID 83632

Georgie Winfree  
Indian Valley, ID 83632

Brian Bauer  
P.O. Box 7  
Indian Valley, ID 83632

Dave Allred  
926 S. Grays Creek Road  
Indian Valley, ID 83632

Don Clark  
24535 Farmway Road  
Caldwell, ID 83607

Ron Dunham  
852 Indian Valley Road  
Indian Valley, ID 83632

Tom Grossen  
P.O. Box 72  
Indian Valley, ID 83632

Mike Huey  
2273 Moritz Lane  
Indian Valley, ID 83632

Richard Johnson  
2922 Owyhee Lane  
Caldwell, ID 83605

Shelly Craig  
350 School Road  
Midvale, ID 83645

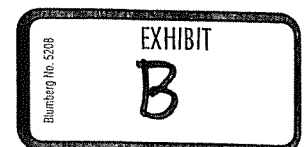
Kathleen Legg  
Box 118  
Cambridge, ID 83610

Loren Brest  
2280 Munday Gulch Road  
Indian Valley, ID 83632

Orvel Mott  
797 Indian Valley Road  
Indian Valley, ID 83632

Phyllis Widner  
P.O. Box 222  
Midvale, ID 83645

Ralph Yantis  
685 Indian Valley Road  
Indian Valley, ID 83632



DRAFT OF MINUTES

March 26, 2012, 1:30pm  
Grays Creek Ditch Meeting  
Indian Valley, Idaho  
Lakey's Café

The meeting was called to order shortly after 1:30 by Dana Hofstetter, representing Legg Family Trust. Hofstetter introduced herself and noted the fact that the ditch had not been active in many years, however, under Idaho Code Title 42, chapters 9 and 13 (<http://www.legislature.idaho.gov/idstat/Title42/T42.htm>) an annual meeting is required. (If the secretary fails to call an annual meeting, the meeting is to be held on the last Monday of March as dictated by title 42-1301- see Appendix A.) Hofstetter gave a brief explanation of these chapters and read aloud from Title 42-901- see Appendix B. She stated that the goal was to hold this annual meeting and elect a lateral watermaster for the ditch to ensure that ditch users received the water that they were entitled.

The first agenda item was introductions. Each person present at the meeting introduced themselves- see Appendix C for attendees.

Next, Steve Lester from Idaho Water Resources spoke. He provided two handouts. The first was a map of the Grays Creek Ditch, the second was a list of water rights with locations, priority date, and owners. He stated that he was attending this meeting as an observer and that the state didn't want to get involved.

At this point, Roger Meyers spoke up to say that the involvement from the state was dependent on the individual water officer and that the state officials have been involved in local matters in the past and have significant power. (An example of the power of the Idaho Water Resources is outlined in 42-1308 see Appendix D.)

Hofstetter asked if someone would like to speak to the history of the ditch. Alan Buchanan spoke. He mentioned changes that have occurred on the ditches, including a significant increase in the amount of water that was moving through his place (Steward ditch) and creating flooding.

Joe Stippich spoke and expressed concern about the cost of hiring a watermaster for the laterals.

Jerry Jaeger, Little Weiser Irrigation District, responded to this by sharing that he had had a problem receiving water in the past that was similar to the problem that was occurring on the Grays Creek Ditch. He resolved this issue by getting a court appointed watermaster that was paid for by the entire ditch. He said that it did not make him popular, however, it is in everyone's best interest to ensure that every water user was getting their water. Jaeger explained that the method for ensuring water delivery was to take water measurement at the point of entry into the property from a weir. The weir is the basic tool that the watermaster can use to monitor water flow.



Shelly Craig asked who was responsible for maintaining the ditches. Lester and Meyer responded that it was the responsibility of the landowner to maintain the ditch. (See Appendix E for Idaho code on this topic.) Hofstetter added if the ditch has been changed, it is the person who changed the ditch's responsibility to maintain the ditch if additional maintenance is required due to the new location see Appendix F, code 42-1207.

Craig then asked for clarification of who's responsibility it was to install the weir and the location of the weir. Lester confirmed that the weir should go on her property where the ditch enters the property. Lester, Jaeger, and Meyer went on to explain that the weir is the responsibility of the land owner to install and maintain. Jaeger gave an example of how he built and installed the weir himself. Meyer clarified that generally the weir should be no more than 100 feet from the headgate unless there is extenuating circumstances. The lack of sufficient fall was given as an example of an extenuating circumstance. Meyer mentioned the IDWR had information on weirs available on their website: ([http://www.idwr.idaho.gov/WaterManagement/waterDistricts/PDF/USalmon/workshop\\_material\\_PDF/WD170MEASUREMENT%20DEVICE%20SELECTION%20CONSIDERATIONS\\_HO.pdf](http://www.idwr.idaho.gov/WaterManagement/waterDistricts/PDF/USalmon/workshop_material_PDF/WD170MEASUREMENT%20DEVICE%20SELECTION%20CONSIDERATIONS_HO.pdf))

Jaeger also spoke to the storage in Ben Ross Reservoir. He stated that the amount of storage was 1.27 acre-feet/acre which is less than 30 days for Indian Valley. Jaeger stated that he believed once the ditch started to be managed that the ditch users would find it in their best interest to go on rotation.

Meyer then spoke about his experience being a watermaster on the Rush Creek ditch. He talked about the approach he took. He first worked with the other water officials and landowners to understand the correct distribution of water, then regulated accordingly.

Someone asked Meyer his billing and he stated the following rate:

- \$40 to show up- covering the first 2 hours
- \$15/hour thereafter
- Plus \$1.00/mile for his truck/trailer and \$0.50/mile for his ATV

There was some discussion regarding the distance of Meyer's house from Indian Valley and some estimates for cost per trip to Indian Valley were made. It was generally agreed that in the beginning there would be a higher cost, but once the system was set, it would take little maintenance and few costs would be incurred.

Scotti Yantis then spoke. She asked where the Grays Creek Ditch ended. Isaac Ward (and Steve Lester's handout map) clarified that the ditch starts where the water comes out of the river and ends where it returns to the river because that it is a re-use ditch. Water that is considered "waste" from one farm is actually a lower ditch user's source of water. Yantis explained that there had not been elections for ditch positions since the late 1970's but that she had been doing the secretary/treasurer position since then. She stated that there was \$1789 in the bank (current assets) and a payment due of \$2384 (current liabilities) for a cement block repair that occurred last year.

It was pointed out that the current assessment on this ditch was per benefited acre. It was determined that there were around 1805 benefited acres associated with this ditch. (Holli Ogle added the benefited acres numbers provided by Lester- see Appendix G.) Jaeger stated there could be some mistake that may need to be straightened out. Jaegar, Ward and Burkhart will get with the secretary of the ditch company and make sure it is all correct. It was calculated that an assessment of \$3.50 would raise enough money (\$6317.50) to pay the watermaster to get the process started and pay the outstanding bill- see Appendix H.

Alan Buchanan asked how this charge compared to the Little Weiser Irrigation District assessment charge and Jerry Jaeger/Isaac Ward stated that it was less. The LWID charges \$4.00 per acre.

Yantis expressed that she did not want to incur additional costs on the ditch and that if there were additional costs and administration needed, the ditch would need to find a new secretary treasurer to do that work.

Hofstetter then referred to the Grays Creek Ditch meeting notes and asked for clarification on the \$700 payment that Yantis had received in December of 2011. Yantis stated that the payment was back payment of \$350/year for 2010 and 2011 and was not pre-payment for 2012. Yantis also said that in the past she had done these responsibilities for \$35/year and that she got permission from Dean Dunham and Tom Grossen to give herself the raise in 2010 to \$350/year, as was documented in the notes.

Someone then asked what authority that Grossen and Dunham had on this matter and it was determined that they were acting as directors for the ditch, but had not been elected. Someone then suggested that there should be officially elected directors. Hofstetter asked if anyone would be willing to take on director roles. Jim Buchanan and Loren Brest volunteered for the roles. There was more discussion that a third director was needed to complete the roles. Alan Buchanan nominated Dean Dunham in absentia and several other people generally agreed to this nomination.

Hofstetter, on behalf of the Legg Family Trust, made a motion to elect the three nominated directors, Jim Buchanan, Loren Brest, and Dean Dunham. Loren Brest seconded this motion. The motion received 5 yes votes and 1 abstaining vote.

After this vote, Yantis turned in her letter of resignation to the newly elected directors, said she would give the books to Brest, and left the meeting.

Hofstetter, on behalf of the Legg Family Trust, made the motion to base the assessment off of benefited acres. Brest seconded the motion. It received 5 yes votes.

Hofstetter, on behalf of the Legg Family Trust, made a motion to have a first assessment of \$3.50 per benefited acre. Brest seconded the motion. It received 4 yes votes and 1 no.

Hofstetter, on behalf of the Legg Family Trust, made a motion to elect Roger Meyer as the watermaster. Brest seconded the motion. It was debated. Alan Buchanan suggested that the position should be posted in the paper. Craig asked if the position was required by law to be publically posted. Hofstetter stated that the Idaho Statutes dictated that the watermaster be elected by April 1 and that 10 day

advance notice be given for the meeting (which stated that watermaster election was going to be conducted), but that no additional posting was required. Holli Ogle pointed out that April 1 was the following Sunday. Bridget Brest suggested that Meyers was present and willing to take the job and no one else wanted the position. After this the motion went to vote. It received 4 yes votes and 1 no.

The meeting was then adjourned at 5:15pm.

Holli Ogle volunteered to take the contact information (see Appendix I) and provide meeting notes to the directors.

Appendix A

TITLE 42

IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 13

LATERAL DITCH WATER USERS' ASSOCIATIONS

42-1301. ORGANIZATION -- OFFICERS -- RULES. Where three (3) or more parties take water from same canal or reservoir at the same point to be conveyed to their respective premises for any distance through a lateral or distributing ditch or laterals or distributing ditches such parties shall constitute a water users' association known as "Water Users' Association of Lateral or Laterals." Such water users' association may meet and organize at any time after thirty (30) days after this chapter shall take effect, and shall meet annually thereafter between January first and the last Monday in March of each year, at the call of the secretary of such association, said secretary to give ten (10) days' notice by mail of such annual meeting; provided that if for any reason the secretary should fail to call a meeting, then the annual meeting of such association shall be held on the last Monday in March of each year. At such annual meetings each water user shall be entitled to one (1) vote in person, for each inch and a fractional vote for each fraction of an inch of water which such water user is entitled to receive from such laterals, and a corporation shall vote by one (1) of its officers designated by it. Such association shall organize by the election of a chairman, vice-chairman and a secretary-treasurer, which officers shall also constitute the board of directors of such association, and shall hold office for one (1) year and until their successors are elected. Such association at the annual meeting shall also elect a manager of said lateral or laterals to be known as "lateral manager" for the succeeding season and shall fix the compensation of said manager, and of all officers. Such association may adopt such rules and regulations for the management of said lateral or laterals or distributing ditch or ditches and the delivery of water therefrom as they deem best, and may, by majority vote, if it be deemed for the best interests of the association, combine one or more laterals and abandon laterals not in use, and do any and all things not in conflict with the provisions of this chapter or the laws of this state wherein the best interests of the association will be

Appendix B

TITLE 42

IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 9

DISTRIBUTION OF WATER TO CONSUMERS

42-901. APPOINTMENT OF WATERMASTER -- APPOINTMENT BY COURT. It shall be the duty of those owning or controlling any ditch, canal or lateral to appoint a superintendent or watermaster, whose duty it shall be to measure the water from such ditch, canal or lateral through the outlet of those entitled thereto, according to his or her pro rata share: provided, that any vicinity or neighborhood, the inhabitants of which use the waters of any ditch, canal or lateral for the purpose of irrigation, or have or claim a common right to the waters of any ditch or lateral for such purposes, provided the waters so claimed or used have not been allotted to the individual users thereof, shall constitute a water district.

Any one or more of said joint owners so using the water of any ditch, canal or lateral as aforesaid, when the appointment of a watermaster can not be agreed upon, may petition the judge of the district court in whose district the ditch, canal or lateral may be located for the appointment of a watermaster for said ditch, canal or lateral, and shall set forth in said petition the facts of his or her ownership in said ditch, canal or lateral; the ownership and interest of all other joint owners; the location and length of said ditch, canal or lateral, and requesting said district court to appoint a watermaster to take charge of the same. Upon due notice being given to all of the water users under said ditch, canal or lateral, and after hearing before said court, it shall be the duty of the judge of said district court if he deem it necessary or equitable in order that the rights of all water users under said ditch, canal or lateral may be protected, to appoint a watermaster for the ditch, canal or lateral described in the petition. Said watermaster to receive such compensation as the court in his judgment may deem adequate, and shall be paid in the same manner as is provided for the payment of watermasters under chapter 5 [6] of this title, and shall perform the same duties and have the same power and authority as other watermasters appointed or elected in accordance with the provisions of this code.



## Appendix C

### Attendees:

- Shelly Craig
- Scotti Yantis
- Joe Stippich
- Isaac Ward
- Roger Meyer
- Mike Heuy
- Steve Lester
- Loren Brest
- Bridget Brest
- Norm Young
- Jerry Jaeger
- Allen Buchanan
- Jim Buchanan
- Marion Ogle
- Delbert Ogle
- Kameron Ogle
- Holli Ogle
- Dana Hofstetter

Appendix D

TITLE 42

IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 13

LATERAL DITCH WATER USERS' ASSOCIATIONS

42-1308. APPOINTMENT OF LATERAL MANAGER BY DIRECTOR OF DEPARTMENT OF WATER RESOURCES. (1) In the event that the water users or the board of directors of any lateral or ditch association do not meet and elect a lateral manager as provided for in this chapter or a lateral manager is not selected as otherwise provided by law, then, the director of the department of water resources may appoint and fix the compensation of a lateral manager, upon the written petition of a water user alleging that water is not being apportioned and distributed properly among the users from the ditch or lateral and that the rights of the water user are being injured thereby.

(2) If the water users also have failed to elect association officers, the lateral manager appointed by the director may exercise the duties of the association officers, including the making and collection of assessments, but not the borrowing of money, as is necessary to achieve the proper allocation and distribution of water from the ditch or lateral and without regard to the statutory dates for the performance of these duties.

(3) The lateral manager appointed by the director shall hold office only for the period of time fixed by the order of appointment and in no event beyond the remainder of the year in which appointed.

(4) If the lateral is located within a water district established pursuant to chapter 6, title 42, Idaho Code, the director shall advise the district watermaster of the receipt of the petition and invite the watermaster to make recommendations concerning the need for appointment of a lateral manager and the person to be appointed.

(5) Upon receipt of a petition filed pursuant to subsection (1) of this section, the director shall make a reasonable effort to provide written notice of the petition to any irrigation district, canal company, or other water distribution entity that supplies water to the lateral, and to all persons having rights to the use of water from the lateral. Except in the case of serious threat of imminent injury to person or property, the director shall allow fourteen (14) days for written response to the petition.

(6) Based upon a review of the petition, the responses thereto, the recommendations of the watermaster, if any, and any investigation by the department of water resources, the director shall issue an order with findings either appointing a lateral manager or declining to appoint a lateral manager. Any person aggrieved by the order of the director shall be entitled to request a hearing before the director pursuant to section 42-1701A, Idaho Code.

Appendix E

TITLE 42

IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 12

MAINTENANCE AND REPAIR OF DITCHES

42-1202. MAINTENANCE OF DITCH. The owners or persons in control of any ditch, canal or conduit used for irrigating purposes shall maintain the same in good order and repair, ready to deliver water by the first of April in each year, and shall construct the necessary outlets in the banks of the ditches, canals or conduits for a proper delivery of water to persons having rights to the use of the water.

## Appendix F

### TITLE 42 IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

#### CHAPTER 12 MAINTENANCE AND REPAIR OF DITCHES

42-1207. CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ditch, canal, lateral or drain or buried irrigation conduit has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling said land shall have the right at their own expense to change said ditch, canal, lateral or drain or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ditch, canal, lateral or drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change, his heirs, executors, administrators, successors and assigns.

A landowner shall also have the right to bury the ditch, canal, lateral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the owner of the ditch, canal, lateral or drain, but the landowner, his heirs, executors, administrators, successors and assigns, shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the owner.

The written permission of the owner of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before it is changed or placed in buried pipe by the landowner.

While the owner of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate it on the property of another without permission, a ditch, canal, lateral or drain owner shall have the right to place it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but no longer than thirty (30) days after the completion of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner, his heirs, executors, administrators, successors and assigns, shall be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the conduit owner.

## Appendix G

2	Joe Adams
75	Jim Buchanan
0.5	Ed Backer
20.25	Dean Dunham
2 (?)	Marvin Grey (Maybe Marv's, this is under Ray Family Trust)
47	Tom Green
286	Joe Holmes
154	Bob Elias (Under Wallach IX LLC)
2	Adrian Hust
8	Jackye Phillips
2	Ron Ray
43	Dave Veselka
30	Bob Voermans
40	Victor Ward
13	Georgie Winfree
0.25	Brian Bauer
85	Dave Allred
0.5	Don Clark
125/157	Ron Dunham (Part of this is believed to come through the Steward ditch instead of Grays Creek Ditch)
113	Dunham Ranch
452	Tom Grossen
21	Mike Huey
58	Richard Johnson
49	Ralph Yantis
5	Phillis Widner
0.5	Orvil Mott
6	Loren Brest
137	Legg Family Trust
30	Shelly Craig
1805	total acres

Appendix H

1805	total acres
\$3.50	assessment per acre
\$6,317.50	Total assessment
\$1,789.00	Current assets
\$2,384.00	Current liabilities
\$5,722.50	Expected budget for watermaster payment

Appendix I

Grays Creek Ditch Directors:

Jim Buchanan  
208-484-7882  
2260 Munday Gulch Rd.  
Indian Valley, ID 83632  
[buchananjumper@aol.com](mailto:buchananjumper@aol.com)

Loren Brest  
208-256-4543  
2280 Munday Gulch Rd.  
Indian Valley, ID 83632  
[lbrest@ctcweb.net](mailto:lbrest@ctcweb.net)

Watermaster:

Roger Meyer  
208-257-3418  
3035 Cemetary Rd.  
Cambridge, ID 83610  
[rjmeyer@ctcweb.net](mailto:rjmeyer@ctcweb.net)