



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

September 16, 2008

Re: Requirement of measurement and reporting of Water District 11F, Thomas Fork Creek.

Dear Water User,

It is the duty of Water District 11F (District) and the watermaster of the District to supply an accurate accounting of the amount of water being diverted from each diversion on the creek during the irrigation season. These requirements are described in Idaho Code 42-701. I have attached a copy of this statute with this letter for your records. The Idaho Department of Water Resources (Department) has requested several times over the last few years for an accounting of the water diverted from Thomas Fork Creek, but has not received the required information. The watermaster needs to submit an annual report to the Department on the amount of water delivered to each user on an annual basis.

Department staff have visited the creek and worked with the watermaster this year to determine the best possible methods for measuring the diversions from the creek. Department staff also spoke with several of the water users on the creek to inform them that measurement and reporting will be required. A handout was given to the watermaster showing several different types of measurement devices and Department standards for measurement devices.

The Department's review of the District and the creek has raised some concerns on the best way to proceed with the requirement to report the amount of water being diverted. The Department encourages all water district users to install and maintain standard measurement devices. Your area is unique in that some of these devices may not work on the flat ditches that will need to be measured. Water users may contact the Department, the Natural Resources Conservation Service, or various other agencies and private consulting firms to request technical assistance in finding the proper measurement device. We suggest that these agencies or companies be contacted as soon as possible if you plan to use them.

The Department does not want to bring undue stress or burden on the users, but Idaho Code requires water districts to properly deliver water and maintain adequate water use records. The Department will allow the District to supply the Department with a plan of how the water will be measured at each diversion. This plan will need to be submitted approximately 14 days after the water district meeting, or no later than February 27, 2009. This plan will need to include the location of each diversion and the type of device that will be used.

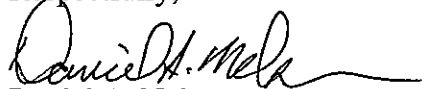
If the district chooses, it can supply the needed equipment and training required to allow the watermaster to measure these diversions with a portable device instead of installing a measurement device at each headgate. However, it will be the District's responsibility to ensure that the watermaster has the time, training, and tools to properly perform these measurements accurately. These measurements will need to be taken on a weekly, or when water is being turned on or off. The District can create an alternative solution that would be in the best interests of the District, and would comply with the need to accurately record the amount of water being diverted at each location.

During the visits by the Department this season, it was discovered that the current measurement device available to the watermaster was not in good working order, and needed to be repaired or replaced. Follow up by Department staff discovered that the watermaster's flow meter can have problems in water with a high conductivity or high silt and salts. A different type of portable flow meter may be needed to adequately measure the water in Thomas Fork Creek. Flowtracker, Marsh McBirney, and Swoffer meters are a few brands of flow meters that may work better under the conditions found in Thomas Fork Creek. You can find references to these meters on the internet. Whether you repair the watermaster's current flow meter or purchase a different brand, you will need to begin this process as soon as possible to ensure that it is available prior to delivery of water in 2009 if this is the route the District chooses to take.

If the Department does not receive a plan to measure the water by February 27, 2009, an order will be issued to require measurement devices to be installed at each diversion prior to the 2010 irrigation season. A measurement order will prevent anyone from diverting water until a measurement device approved by the Department is installed.

If you have questions or concerns, please contact the watermaster for Water District 11F, Joel Teuscher, or contact Dan Nelson at the Department's State office Water Distribution Section, Boise (208-287-4918).

Respectfully,



Daniel A. Nelson
Staff Hydrologist
Water Distribution Bureau
Idaho Department of Water Resources

Enclosures: *Idaho Code 42-701*

Cc: Joel Teuscher, Watermaster, Water District 11F
IDWR Eastern Region

TITLE 42
IRRIGATION AND DRAINAGE -- WATER
RIGHTS AND RECLAMATION
CHAPTER 7
HEADGATES AND MEASURING DEVICES

42-701. INSTALLATION AND MAINTENANCE OF CONTROLLING WORKS AND MEASURING DEVICES BY WATER APPROPRIATORS -- PROCEDURE UPON FAILURE TO INSTALL AND MAINTAIN -- MEASURING AND REPORTING OF DIVERSIONS -- PENALTY FOR FAILURE TO COMPLY -- ENFORCEMENT PROCEDURE -- REPORT FILING FEE.

(1) The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources.

(2) If an appropriator determines that installation and maintenance of a measuring device required by the director would be burdensome for his diversion, the appropriator may, upon approval of the director, execute an agreement with the director and submit to the director such information and technical data concerning the diversion and pumping facilities as the director determines necessary to establish the relationship of power usage to water withdrawal by any pump used to divert public water.

(3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices, or has not executed an agreement in lieu of a measuring device as provided in subsection (2) of this section, upon receiving ten (10) days' notice from the director of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices.

(4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

(5) All appropriators of the public waters of the state of Idaho who are given thirty (30) days' written notice by the director prior to the beginning of the irrigation season but no later than March 15 of any year, shall measure their water diversions and report said diversions annually thereafter on a form approved by the director of the department of water resources. Such report shall include: a legal description of the point of diversion, the number assigned to each water right diverting from the public waters of the state, the maximum authorized rate of diversion, the maximum rate at which diversions have been made during the reporting period, the total volume diverted during the reporting period, and a description of the physical changes to the diversion works that have been made during the reporting period. The appropriator shall furnish each year the depth to water in any well prior to commencement of pumping, the depth to water during the pumping period, and the pressure in the pipe distribution system during diversion if the well is not free flowing. When the director of the department of water resources determines that any person is in substantial violation of any provision of this section or any rule, permit, condition of approval or order issued or promulgated pursuant to this section, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. Subsections (5) and (6) of this section shall not apply to:

(a) any appropriator or water user with respect to a water right included in an active water district created pursuant to chapter 6, title 42, Idaho Code, the annual report of which meets the reporting requirements of section 42-708, Idaho Code;

(b) any irrigation district or ground water district having shown to the satisfaction of the director that they are currently making and recording sufficient measurements of their diversions with measuring methods acceptable to the director and upon their agreement to provide an annual report of their diversions to the director in substantially the same form as required in section 42-708, Idaho Code; and

(c) any water right included in an active water measurement district created pursuant to this chapter.

(6) The director of the department of water resources shall collect a report processing fee of twenty-five dollars (\$25.00) per diversion required to be reported, including those diversions covered by an agreement in lieu of a measuring device as provided in subsection (2) of this section. Such fee shall be submitted with the annual report of diversions and well data. All such fees received by the department shall be deposited in the water administration account created pursuant to section 42-238a, Idaho Code, for use by the department to collect, analyze and report water use information and to regulate water withdrawal and use.

(7) All domestic uses, as defined in section 42-111, Idaho Code, and all stock watering uses, as defined in section 42-1401A, Idaho Code, shall be exempt from the measuring device installation and maintenance, measuring and reporting requirements of this section.

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