



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 11, 2010

Troy Foster
Watermaster WD 13-A
2063 E 1600 S
Preston, ID 83263

Re: Updated Guidance on Use of Palmer Pipeline

Dear Mr. Foster,

This letter provides some updated guidance to correspondence that I sent to you dated April 29, 2010 regarding use of the Palmer pipeline, delivery of water on Spring Creek, and delivery of water right 13-2 owned by the Preston-Whitney Irrigation Company (PWIC). The guidance provided in my letter of April 29, 2010 is unchanged except with respect to PWIC's use of the Palmer pipe.

Since my last correspondence, PWIC provided information to the Department concerning the location of lands that have both PWIC and Cub River Irrigation Company (CRIC) shares, as well as the names of the common shareholders. PWIC explained that these lands can only receive water via the Palmer, Webster and Idaho pipelines due to the various system changes that have been made within the PWIC delivery area. Most of these lands are located within the CRIC place of use area as described by CRIC's water rights. There is at least one 40-acre parcel that is included within PWIC's water rights place of use. The 40-acre parcel is located in the SWSW of Section 9, T16S, R39E, and is owned by Floyd J Jensen as per 2009 Franklin County Tax Assessment records on file at the Department. I understood from PWIC representatives at a meeting in Idaho Falls on May 3, 2010 that Brian Jensen has an ownership interest in the parcel and farms the ground. Since this parcel is included within PWIC's water right place of use area, PWIC may convey water to the Palmer pipe from the Lamont-Johnson pipeline system exclusively for this 40-acre parcel. None of the other PWIC-CRIC common shareholder lands should receive water from the Lamont-Johnson pipe. The discharge of water from the Lamont-Johnson pipe to the Palmer pipe must be limited to an amount equivalent to 40 acres. PWIC advised IDWR that a flow meter is installed at the end of the Lamont-Johnson pipe to monitor any discharge from the end of the pipe. This discharge however may also include any operational spill or waste to the waste ditch that flows to Spring Creek. IDWR asks you to regularly measure and record total discharge from the Lamont-Johnson, and regularly record the approximate amounts of water going from the Lamont-Johnson to both the waste ditch and the Palmer pipe. You must assure that no more water is diverted from the Lamont-Johnson pipe to the Palmer pipe than is needed for the 40 acre-parcel described above.

Except for the 40-acre parcel described above, and until further notice, irrigation deliveries to all of the remaining lands that have both PWIC and CRIC shares must be served by the Middle Ditch diversion from the Cub River. The Palmer pipe may be used to convey water to these common PWIC-CRIC lands, but water must be conveyed to the Palmer through the Cub

River Middle Ditch and not the Lamont-Johnson pipe (except for the 40-acre Jensen parcel described herein).

All other guidance from my correspondence of April 29, 2010 remains intact until further notice is provided to you. Please contact me directly at 208-287-4959 if you have any questions regarding this updated guidance.

Regards,

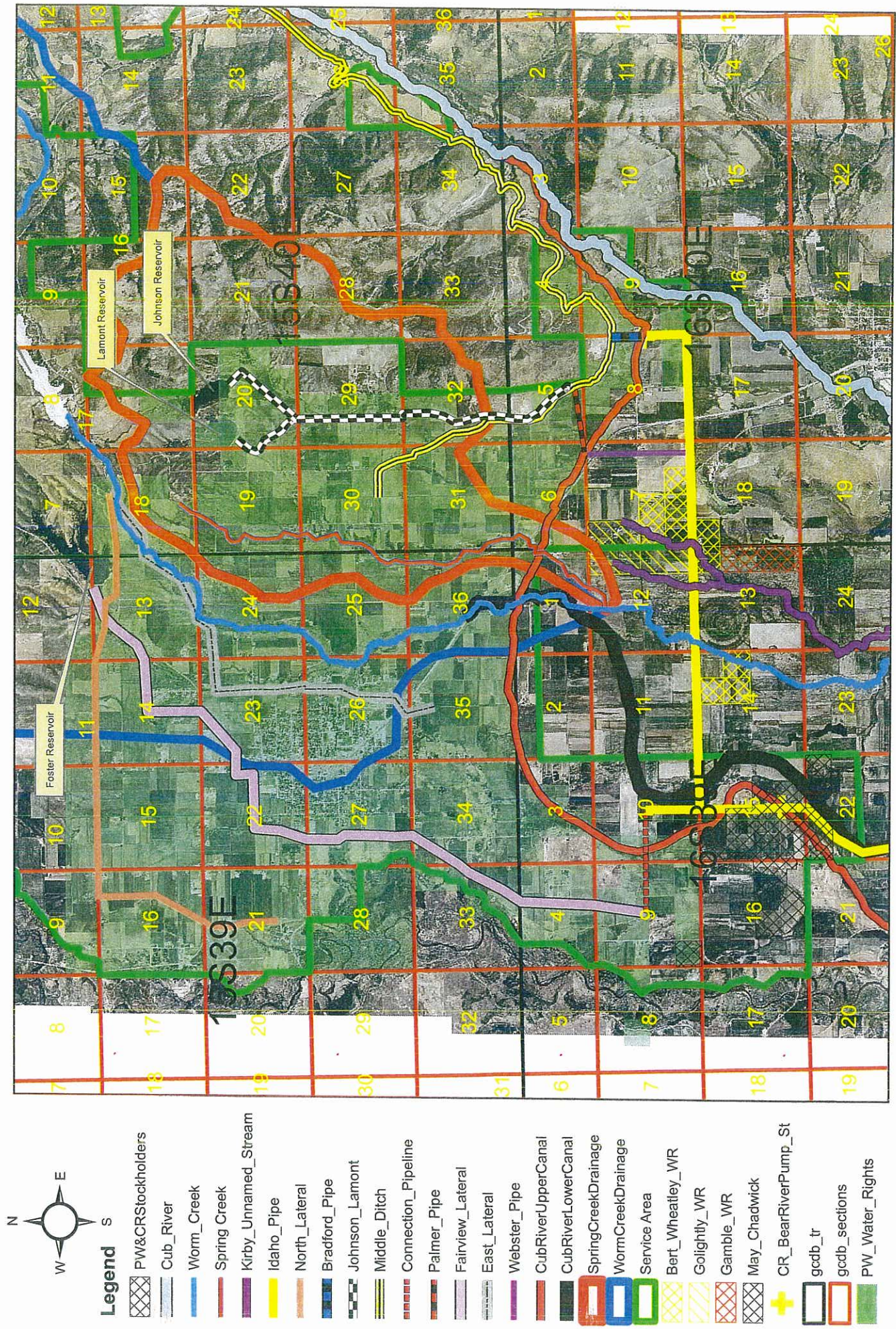
A handwritten signature in black ink, appearing to read "Tim Luke", written in a cursive style.

Tim Luke
Water Distribution Section

Encl: Map Showing Cub River Drainages, Creeks and Laterals, and Location of PWIC & CRIC Common Shareholders; List of PWIC-CRIC Common Shareholders

Cc: James Cefalo, IDWR Eastern Region
Eldon Golightly
Rob Harris, Attorney, Preston Whitney Irrigation Co.
Scott Campbell, Attorney, Spring Creek Water Users
Randy Budge, Attorney, Cub River Irrigation Company

WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS



Documentation for List of Water Users/Shareholders in PWIC and CRIC
Provided by PWIC

From: Rob Harris [mailto:rharris@holdenlegal.com]
Sent: Wednesday, May 05, 2010 3:21 PM
To: Luke, Tim
Subject: FW: Joint PWIC & CRIC shareholders

Tim:

Here is the shareholder information from PWIC and CRIC.

As we understand what we discussed on Monday, you were going to revise your instruction to Troy Foster regarding use of the Palmer pipe. We requested that it be issued by the end of the week. We know you are busy with other matters, but appreciate your immediate attention to this.

Thanks,
Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
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Idaho Falls, ID 83405-0130
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From: Lyle W. Porter [mailto:lylewporter@plmw.com]
Sent: Tuesday, May 04, 2010 7:54 AM
To: Rob Harris
Subject: Joint PWIC & CRIC shareholders

Rob:

Here is a list of the 5 waterusers in Fairview and their respective stock numbers.

	PW shares	CRIC shares
Jim Gilbert	100	39
Brian Jensen	130	90
Terry Johnson	390	98
Carl Hoffman	188	10
Owen Sharp	<u>115</u>	<u>16</u>
Total	923	253

Thank you.

Lyle W. Porter
President
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