



## 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

February 10, 2011

Challis Creek Cattle Co. LLC  
PO Box 10  
Challis, ID 83226

Garney and Victoria Hall  
1955 Oak Way  
Arroyo Grande, CA 93420

Re: Correspondence to Water Users Regarding Lack of Adequate Measuring Devices and Head Gates on Big Creek, Water District 73

Dear Gentlemen,

Attached is correspondence dated January 25, 2011 to holders of water rights with certain diversions from Big Creek that have either no measuring devices or head gates or inadequate measuring devices or head gates. You will note from the attached documents that I had not included the Big Creek diversion described by your water rights, 73-172 (Challis Creek Cattle Co.) and 73-12037 (Hall) in the January 25 correspondence based on my understanding that the diversion is not used. I received correspondence from an attorney representing David Laatz, a third water right holder who shares this same water right point of diversion, stating that Mr. Laatz uses this diversion. My personal inspection of portions of the diversion and ditch system last season indicates that the diversion is not used. Prior inspections by IDWR in recent years confirm non-use at the time of the inspections. The watermaster has reported that water right 73-172 may be diverted at a different location on the creek (see attached map).

The purpose of this letter is to formally advise you that diversions in Water District 73 must have adequate measuring devices and head gates. If you intend to use your Big Creek diversion this year, please make sure that an adequate measuring device and lockable control gate is installed prior to diverting any water under your water right. If you believe an adequate measuring device and lockable control gate is already installed, please contact me directly and forward any information that describes or documents the structures that are in place. If you believe that your water right is diverted at a different location from Big Creek, please contact the Department immediately to file a water right transfer application. The watermaster cannot deliver water to a diversion location that is different from the one described by your right.

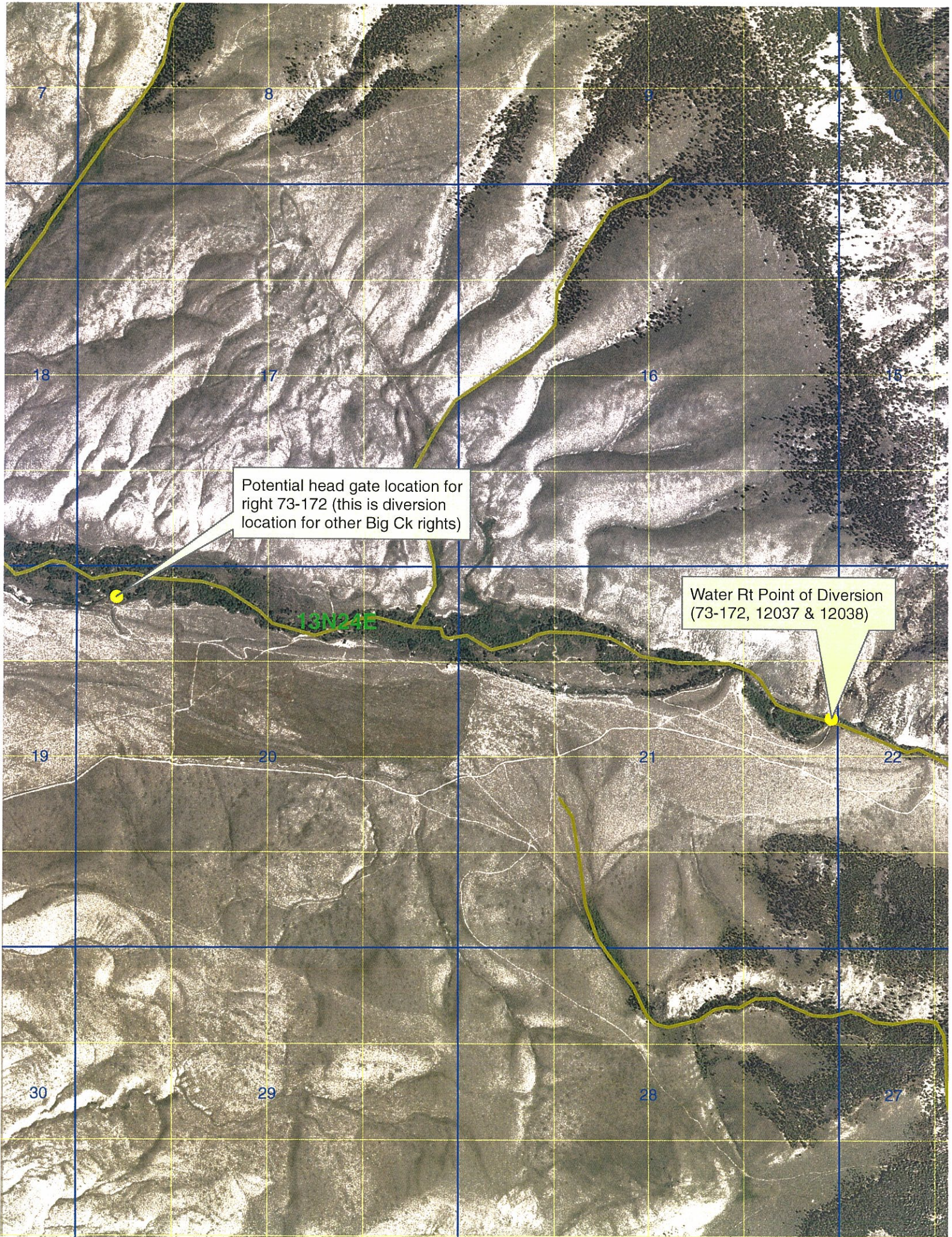
Respectfully,

Tim Luke  
Water Distribution Section

Enclosure: Copy of IDWR Correspondence dated January 25, 2011

Cc: Ted O' Neal, Water District 73 Watermaster









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

January 25, 2011

**Re: Pending Notice of Violation – Failure to Maintain Measuring Devices and Head Gates on Diversions from Big Creek, Water District 73**

Dear Water User,

Water right records on file at the Idaho Department of Water Resources ("IDWR") indicate that you are the current owner of record of one or more water rights authorizing the diversion of water from Big Creek, tributary to the Pahsimeroi River in Water District 73. IDWR staff inspected head gates and measuring devices on Big Creek with the water district watermaster last fall. IDWR found that some Big Creek diversions lack adequate measuring devices and head gates.

IDWR issued a notice in April of 2002 reminding water users of water district resolutions adopted in both 2001 and 2002 requiring installation of measuring devices and head gates. IDWR issued an order in November of 2002 requiring installation of head gates and measuring devices for all diversions in Water District 73. IDWR issued a similar order to Water District 73 water users in 1992.

IDWR finds that some diversions from Big Creek in Water District 73 lack adequate measuring devices and/or head gates, and other diversions in which measuring devices and/or head gates require some maintenance. Attachment A of this notice identifies those Big Creek diversions for which measuring devices and/or head gates do not exist, are inadequate, or are in need of maintenance.

Holders of water rights whose names and addresses are listed on Attachment B of this notice must install adequate measuring devices and head gates on their diversions from Big Creek, or correct maintenance deficiencies, on or before water is diverted for irrigation purposes this year. IDWR asks for your full cooperation concerning this matter. Pursuant to Section 42-1701, Idaho Code, water right holders who neglect to comply with notices and orders requiring installation of measuring devices and controlling works may be subject to the administrative enforcement actions provided by Section 42-1701B, Idaho Code. Enforcement actions may include the issuance of Notices of Violation and Cease and Desist Orders, as well as possible civil penalties.

Please contact Tim Luke, IDWR, at 208-287-4959 if you have questions or need assistance concerning this matter.

Respectfully,

Tim Luke

Cc: Ted O'Neal, Water District 73 Watermaster  
IDWR Eastern Regional Office

## ATTACHMENT A

### BIG CREEK DIVERSIONS NEEDING MEASURING DEVICES AND/OR HEAD GATES, OR MAINTENANCE OF MEASURING DEVICES AND HEAD GATES

- Big Creek Diversion # 1  
Water right owners: Troy Ziegler, Larry Whittier, Berend Friehe  
Users as per watermaster: Bauchman, Ziegler, Whittier  
Head gate: Gate provides adequate control, is lockable and in good condition.  
Measuring device: 8 ft. rectangular wooden weir. Weir crest and sides are wooden and should be fitted with sharp metal edges or angle iron. Weir crest is bowed and not straight. Recommend replacing crest with straight wooden timbers or metal plate with sharp metal edge across crest.
- Big Creek Diversion #5/California Ditch  
Water Rt Owners: Stephen Bauchman, Flying Joseph Ranch, Big Creek Ranch  
No head gate or measuring device installed. IDWR directs watermaster to discontinue delivery of water to ditch unless adequate controlling works and measuring device is installed. Ditch must be bermed or blocked off to prevent water to ditch if devices are not installed. Note that the water right POD is located further downstream on channel in NENW Sec 13, T13N, R23E. Correct POD location is NESE Sec 13, T13N R24E.
- Big Creek Ranch Diversion (Big Creek #6)  
User as per watermaster & water rights: Big Creek Ranch  
Head gate: Head gate washed out at time of visit; Needs to be re-located and re-set.  
Measuring device: 5 ft. wide ramped flume. Flume was not level, approach velocity at angle, sediment build-up on ramp and flume entry, water poling and eddying on right side of flume. Flume needs to be re-set and leveled, minimize approach velocity problems.
- Hamilton Ditch (Big Creek # 7)  
Users as per water rights: Big Creek Ranch, Ted O'Neal, Lee J Watson;  
Owners per watermaster: O'Neal, Big Creek Ranch, Watson & Sid Dowton  
No head gate or measuring device installed. IDWR directs watermaster to discontinue delivery of water to ditch unless adequate controlling works and measuring device is installed. Ditch must be bermed or blocked off to prevent water to ditch if devices are not installed.
- Big Creek Miller Diversion (Big Creek # 8)  
User as per watermaster or water rights: George Miller  
Head gate: Gate provides adequate control, is lockable and in good condition.  
Measuring device: No measuring device installed. Watermaster reported that a flume was installed the prior year but it was destroyed in spring flood. A new measuring device must be installed.

Note: Diversion located in NENW Sec 21, T13N R 24E (site tag no. A0000764) for rights 73-172 (Challis Ck Cattle Co.), 73-12038 (Laatz) & 73-12037 (Hall) did not appear to be in use for a number of years. Right 73-172 is diverted at Big Creek #1 as per watermaster. Owners of right 73-172 need to file a water right transfer to correct the point of diversion.

Diversion on north side of Big Creek (Div # 2, 3 & 4) owned/operated by Northwest Fidelity Trust and Kratz (formerly Dyer) had good head gates and measuring devices. Div # 4 not used or active.

# AMMENDED - ATTACHMENT A

<u>NAME</u>	<u>ADDRESS</u>	<u>CITY ST ZIP</u>
BAUCHMAN, LYNDELLA & STEPHEN G	PO BOX 10	CHALLIS ID 83226
BIG CREEK RANCH LLC	PO BOX 5987	KETCHUM ID 83340
FLYING JOSEPH RANCH LLC		
C/O JOSEPH LCARK	7213 PERIMETER RD S	SEATTLE WA 98108
FRIEHE, BEREND & CARLA	2498 RD S NE	MOSES LAKE WA 98837
MILLER, GEORGE	50 P MILLER RD	MAY ID 83253
NORTHWEST FIDELITY TRUST	PO BOX 133	MAY ID 83253
O NEAL, DEBBIE A & TED	81 FUREY LN	MAY ID 83253
RICHARD KRATZ	PO BOX 4420	KETCHUM ID 83340
WHITTIER LARRY D & JUDI	4402 PAHSIMEROI RD	MAY ID 83253
ZIEGLER, MAURENE & TROY R	HC 61 BOX 3080	CHALLIS ID 83226
SID DOWTON	PO BOX 7	ELLIS ID 83235
WATSON, LEE J	4177 ROAD L	ORLAND CA 95963