

**Stanton, Jim**

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**From:** Merritt, Allen  
**Sent:** Monday, November 09, 2009 2:34 PM  
**To:** Stanton, Jim  
**Subject:** FW: Rockland, Idaho Ditch water fees.  
**Attachments:** Idaho Statutes2009.pdf; City of Rockland.xls

Please put a copy of this e-mail in the WD41 file.

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**From:** Knowles, Corbin  
**Sent:** Monday, November 09, 2009 2:13 PM  
**To:** Eddy Hansen  
**Cc:** Luke, Tim; Merritt, Allen  
**Subject:** RE: Rockland, Idaho Ditch water fees.

Eddy

Sorry for the delay in getting back to you, I was out on leave for two days last week. Unfortunately I will not be able to attend your meeting on Thursday but will try to provide some talking points that need to be discussed at your meeting. It is possible you could contact the water master for Rock Creek James Robinson (208-548-2255) to see if he would attend to help clarify any questions.

I will attempt to answer/clarify some of the confusion and possibly give you some solutions that all involved parties can live with. I will answer the questions in order as follows

1- If the city chooses to shut off the water or not use their portion of the rights the deeded users could still possibly have access to the pipe line that has been conveying their water for some time now but would be delivered by the water master at the proportional rates on the remaining rights.

Solution- Form a lateral association that would provide a mechanism were right holders could establish a set of bylaws that would be set by its users as to how the system would be both operated and maintained. You can visit our web page for a very helpful booklet we put together to provide water users the ability to set up things related to ditch and lateral associations at [http://www.idwr.idaho.gov/WaterManagement/WaterDistricts/PDF/watermaster\\_handbook.pdf](http://www.idwr.idaho.gov/WaterManagement/WaterDistricts/PDF/watermaster_handbook.pdf). This has the entire water master handbook but under Appendix A you will find the pamphlet I am referring to and it is also attached in this email. A lateral association can elect to hire an individual to do water master or ditch manager type duties that would be outlined by the bylaws that could include collecting assessments both for the decreed and non-decreed water users.

2- If the city does in fact have sole ownership of the pipeline than the answer is yes to shutting off deeded users who are not willing to pay their pro-rata share to operate and maintain the system. This would be looked at much similar to any other service you provide where maintenance fees are needed to keep the system running.

3- I do not agree with Mr. Farr that the costs should be split into 1/6 of the over all O&M costs. The costs associated with the pipeline should be based on a pro-rata share according to the water rights. If there is 12 inches in the system and the city owns all but 3 of those inches, the city would pay for 9 inches while the other users would split the remaining 3 inches amongst themselves and according to the pro-rata share according to the decreed rights. Also attached is a list of the decreed rights from the pipe line to help foster this type of cost sharing example. How is the Water District collecting operational assessments currently, is the city picking up that tab as well for the other decreed users on the system?

4- You are absolutely right regarding the water masters jurisdiction and or the Departments willingness to get involved in matters below an authorized point of diversion from a creek or river where multiple water right owners are using the same ditch. The Department fields these types of questions daily and although frustrating to end users the same question and answer is asked/given, "Is there a lateral or ditch association establish on the ditch

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you divert from?" If the answer is yes, we tell them to deal locally with the association (usually has a board who is voted in who have the tools to deal with problems as they arise), if it is no then we start looking at who has water rights and how do those rights reflect what is going on on the ground. One of the few times a water master may become involved below an authorized point of diversion is if the water is not being used according to the rights such as the place of use or nature of use is different than what has been decreed.

5- The deeded water users have the option of constructing their own pipeline or conveyance system but most likely will require a transfer to be filed due to the change in location of the point of diversion of the new transmission line. This seems to be the worst case scenario due to the fact they would incur huge costs and still may not get the water needed to irrigate their ground.

6- The city can relinquish their rights but still may have liability if the property is not sold to the remaining deeded users. The other option if the city wants to be removed from the mix is to split their water right up proportionally to its patrons. Although the Department would not be an advocate for this solution it is an option that would allow more people to be involved in the lateral association in which the city's liability would be gone once the right was sold/split proportionally. You most likely would want to get an attorney involved in this matter just to make sure the city is covered if this ever were to occur.

Let me know if I can help you out any more.

Thanks

Corbin Knowles  
IDWR-Boise

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**From:** Eddy Hansen [mailto:ehansen@Kellerassociates.com]

**Sent:** Thursday, November 05, 2009 5:01 PM

**To:** Knowles, Corbin

**Cc:** rocklandclerk

**Subject:** Rockland, Idaho Ditch water fees.

Corbin- Thanks for taking the time to discuss our issues with me. I have attached a letter written by a by a resident with a ditch water right, who's wife was on the committee and was in favor of the fees.

Please remember the only thing we are doing is charging for a operation and maintenance. We are not charging for the water. Please read the letter submitted by the city in the Power County Press. The letter submitted by the city is exactly what we are proposing and nothing else. Mr. Farr is putting words into the city's mouth with his letter.

QUESTION for you. These are question that are brought up in the letter and other patrons.

1. If the city decides to shut off the water due to no funds, is the city required to maintain or provide a ditch for the deeded users?
2. If the deeded water users do not pay thier share of the O&M costs can we close the head gate to them?
3. Mr. Farr states that we should divide the costs up between all the deeded water users, if so \$8,000 will be divided between 6 deeded water users. Then the city will have to pay approximately \$1,333.00 per year. Which we can then divie to our customers not the deeded users. The deeded users will have to pay the same amount of \$1,333.00.
4. I agree that the ditch master is in charge of the ditch and to supply water to us. Once he has delivered water to the deeded water head gate he is no longer responsible for the city or farmers ditch. CORRECT
5. If the water is shut off will the deeded water users be required to construct a new diversion point for their own water and install a transmission line? Remember that a single deeded water user doesnt have enough flow to irrigate thier ground.
6. If the city does away with the water, can the deeded users use the city's ditch, is the city liable for the damages caused by their negligence. Remember the ditch has leaked and caused basements and garages to flood.

Corbin I would like to know if you would be able to attend our meeting on November 12, at 5:00 P.M. We just want to do whats right.

11/9/2009

Thanks Cell 208-244-2336

**Eddy Hansen**  
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