



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 4, 1993

Mr. George Lemmon
Watermaster, District 36A
P.O. Box 389
Twin Falls, ID 83303-0389

Dear Mr. Lemmon:

I have your letter dated May 26, 1993 which was received on June 1, 1993 in which you "...demand...the Department of Water Resources to deliver water to the Curran Tunnel." You further make reference to a number of matters related to the organization of water districts in the state and the Director's Report in the Snake River Basin Adjudication of water rights. Your letter is signed as "Watermaster, District 36A." I assume, therefor, that you are asking for instructions in your duties as watermaster.

I feel I must call a number of matters to your attention which, apparently, you do not understand despite the fact that you have served as watermaster in the Water District under appointment from the Department for many years.

First, all watermasters work under the direction and authority of the Director of the Department of Water Resources who is charged by the laws of Idaho with the distribution of water to those entitled to its use. The Director's authority is partially delegated to a watermaster after selection by the water users and appointment by the Director. You obviously recognize this connection to the Department and the state since you participate in the Public Employees Retirement System.

In your watermaster position you take direction from the Department and legal advice from the Attorney General. No statements, depositions, letters or other opinions should be provided as watermaster without clearing such with these two offices.

Distribution of water is accomplished through the organization of water districts. Water District 36A is described in our records as "...composed of the entire Billingsley Creek drainage basin and Riley Creek drainage basin and is located in Gooding County." Water districts cannot be organized in Idaho in any "...streams or water supplies whose priorities of appropriation have not been adjudicated by the courts having jurisdiction thereof." (Section 42-604, Idaho Code) The ground water rights you apparently seek to have shut off have not been adjudicated. We believe this makes it improper for the Department to arbitrarily incorporate ground water rights into the existing surface water district without the ground water users having an opportunity for a hearing.

Mr. George Lemmon
Page 2
June 4, 1993


As watermaster, it is your duty to deliver whatever water flows from the Curran Tunnel to those entitled to its use in the order of priorities and as directed by the Department. You do not have responsibility to protect the holders of the rights against other users outside the district. Your duties as watermaster do not include being spokesman or representative for the water users within District 36A.

The Director's Report on Basin 36 does include reference to the interconnection between surface and ground water. Once that provision has been addressed by the court and if it becomes a legal finding, then it may be possible to incorporate the ground water rights into water districts which previously distributed only surface water (although I recognize that Curran Tunnel diverts ground water).

The Director's Report notes that the effect of pumping on spring flows has not been identified and quantified to allow conjunctive management at this time. It is apparent from the data you have collected and provided to Norman Young that the flow of Curran Tunnel closely correlates with series of either dry or wet years. Curran Tunnel may not have provided an adequate flow to satisfy all recorded rights from the tunnel during other prolonged drought periods such as the 1930's which was long before major ground water pumping was initiated. With only the information on tunnel discharge, IDWR is not able to reach a definitive decision that wells in some indeterminate area are "stealing" water from the tunnel. Additional hydrologic information, as well as information on water rights and other legal aspects of the matter is needed before use of water under other valid water rights is curtailed.

Your call or "demand" for the Department to deliver water to the Curran Tunnel cannot be met and is therefor rejected.

Sincerely,


R. KEITH HIGGINSON
Director

RKH:dc