



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTER

Governor

GARY SPACKMAN

Director

May 28, 2013

Hagerman Water Users Association
PO Box 265
Hagerman, ID 83332

Re: Pending Notice of Violation - Failure to Maintain Water Diversion Measuring Device

Dear Water Users:

The Idaho Department of Water Resources (IDWR or Department) was recently advised by the Water District 36A watermaster that the Hagerman Water Users Association (HWUA) no longer has an operable or acceptable measuring device for its irrigation diversion under water right 36-15168. The Department understands that the former measuring device for the HWUA diversion is not functional as a result of diversion system changes or improvements. IDWR understands the system changes were implemented pursuant to an AWEP project managed jointly by the United States Natural Resources Conservation Service (NRCS) and the Idaho Water Resources Board (IWRB). The project funding was granted for the purpose of conserving water and improving diversion conveyance system efficiencies for the HWUA and other diversions that rely on the same sources of springs tributary to Billingsley Creek. IDWR further understands that HWUA accepted project funding contingent on agreements to install and maintain an adequate measuring device.

On December 6, 1994, IDWR issued an order requiring most surface and ground water right holders in Administrative Basin 36 to install or maintain adequate measuring devices and report water use to IDWR. The HWUA received a copy of this order relative to its irrigation diversion under right 36-15168. The 1995 measurement order is a standing order and IDWR has worked directly with water users and/or with local water districts since 1995 to assure that water users annually measure and report their water diversions.

Pursuant to Idaho Code §42-351, IDWR may take action in accordance with Idaho Code §42-1701B when water users do not comply with any provision of an order issued by IDWR related to the diversion or use of water. Idaho Code §42-1701B provides that the director of IDWR may commence an administrative enforcement action to obtain a remedy for a violation and seek a civil penalty not to exceed ten thousand dollars (\$10,000) per violation, or one hundred fifty dollars (\$150) per day for a continuing violation, whichever is greater.

Additionally, Idaho Code §42-701 provides that the director of IDWR may order the water district watermaster to shut off and refuse delivery of water to any diversion that has been the subject of a notice from IDWR that requires the installation and maintenance of a measuring device.

This letter provides formal notice to the HWUA that it must install an acceptable measuring device on the HWUA diversion pipeline on or before July 1, 2013. Failure to

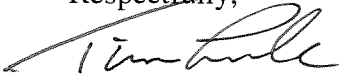
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comply with this notice will result in IDWR instructing the Water District 36-A watermaster to shut off the HWUA diversion. Additionally, IDWR may issue a formal Notice of Violation and Cease and Desist Order for failure to comply with this notice and IDWR's order requiring measurement and reporting of diversions in Administrative Basin 36 and Water District 36-A.

Please refer to IDWR's *Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices* for information on acceptable measuring devices. This document and a list of *Approved Closed Conduit Flow Meters* may be found on the following IDWR website link: http://www.idwr.idaho.gov/WaterManagement/WaterMeasurement/water_measurement.htm

The Department looks forward to your cooperation in this matter. Please contact me directly at 287-4959 if you have questions concerning this matter.

Respectfully,



Tim Luke
Water Compliance Bureau

Cc: Cindy Yenter and Allen Merritt, IDWR Southern Region Office
Frank Erwin, Watermaster, Water District 36-A
Stephen Thompson, NRCS, Gooding