



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

May 17, 2013

Dan Smith  
Watermaster, Water District 74-W  
PO Box 22  
Leadore, ID 83464

Re: Guidance Concerning Delivery of Water Permit No. 74-15613 Owned by James Whittaker

Dear Mr. Smith,

The purpose of this letter is to provide some documented guidance regarding delivery of the above referenced water permit (copy attached). This guidance is a follow-up to our phone conversation from earlier today and your question regarding delivery of the permit with respect to diversion of high flows on Big Timber Creek and tributaries in excess of recorded water rights as authorized by the Snake River Basin Adjudication (SRBA) General Provisions for the Lemhi River Basin.

Condition no. 8 of the approved permit specifies that there must be a flow of more than 13 cfs in Big Timber Creek between the confluence of Big and Little Timber Creeks and the confluence of Big Timber Creek and the Lemhi River before water can be diverted under the permit. The condition further states that the right holder can divert an amount that is equal to the difference between the measured flow on the creek and 13 cfs as long as the diversion rate does not exceed the amount authorized by the permit (4 cfs). Condition 10 of the permit provides that the flow of Big Timber Creek shall be measured at the existing measuring station on the creek near Leadore. Condition 9 of the permit states that diversion of water under the permit must cease anytime the flow of Big Timber Creek at the measurement station near Leadore is 13 cfs or less. Condition 5 of the permit requires the permit holder to install and maintain a measuring device, including a data logger, the permitted point of diversion.

Delivery of water to Permit 74-15613 shall be in accordance with the permit priority date and before delivery of any seasonal high flows that exceed recorded water rights if the following conditions are satisfied:

- The permit holder has made a call for delivery of water under the permit;
- The permit holder has installed an acceptable measuring device and a data logger at the permitted point of diversion (the data logger must be operable);

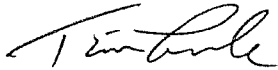
If these conditions are satisfied, then you must deliver an amount of water to the permitted point of diversion in excess of the 13 cfs measured at the measurement station on Big Timber Creek, but not to exceed the authorized water right rate of 4 cfs. As noted in your call to me, all other

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recorded water rights on Big Timber Creek and tributaries for which delivery requests have been made, including permit 74-15613, must be satisfied before any high flows can be delivered. The effect of this guidance does mean that more than 13 cfs must be measured at the measurement station on Big Timber Creek before any high flows can be diverted at any other authorized water right diversion points, assuming of course that the conditions of permit 74-15613 listed above are satisfied. As you also noted, flows at the measurement station that are greater than 13 cfs already include 7.28 cfs under the Big Timber Creek rights held by Leadore Land Partners (Tyler) and Beyler Ranches.

Please contact me if you have any questions or concerns regarding this matter.

Regards,

A handwritten signature in black ink, appearing to read 'Tim Luke', with a stylized, cursive script.

Tim Luke  
Water Distribution Section

Encl: Water Right Permit No. 74-15613

Cc: Kurt Bird, WD74-W Advisory Committee Chair  
James Whittaker  
Allan Purcell