



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 7, 2018

Water District 13A Advisory Committee
Brian Jensen, Water District 13A 2018 Meeting Chair
C/o Maxine Waddoups, WD13A Secretary
PO Box 311
Preston, ID 83263

Re: Water District Procedures

Dear Gentlemen,

The Idaho Department of Water Resources ("Department") has recently learned of certain Water District 13A ("WD13A") operation and financial procedures that are not consistent with Idaho law. The purpose of this letter is to identify those inconsistencies and offer guidance that will align district operations with Idaho statutes governing Idaho water districts. The operational concerns found by the Department and the Department's recommendations for corrective actions are as follows:

1. Water District Assessments and Collections:

It has come to the Department's attention that the Franklin Soil and Water Conservation District ("FSWCD") collects WD13A assessments directly from water users for the water district. It appears that the FSWCD has been depositing funds to a WD13A bank account since there is documentation in its records indicating that WD13A has its own bank account from which expenses are paid.

Idaho Code authorizes two methods in which a water district may collect annual assessments. Districts may collect funds through the local county treasurer following the provisions of Idaho Code §§ 42-613 and 42-617, or they may collect funds directly from water users in accordance with Idaho Code § 42-618. The latter statute specifies that the water users "may, at any annual meeting, authorize the watermaster to collect his compensation and that of his assistants, and other expenses of delivering the water of said district to the users thereof, directly from the water users, canal companies and irrigation districts." The statute further states that "the watermaster shall collect such compensation and expenses directly from the water users and shall turn the collected funds over to the water district treasurer for deposit and disbursement in accordance with section 42-619, Idaho Code."

Idaho Code § 42-619(3) requires the district treasurer to "deposit all moneys of the district in a designated depository [bank account] approved at the annual meeting," Idaho Code § 42-

619(8) states that “[t]he treasurer of the water district shall only disburse moneys from the water district account upon submission of a written voucher approved by the watermaster for expenses incurred for water district purposes related to the delivery of water or by a voucher approved by the chairman of the advisory committee for activities pursuant to resolutions adopted by the water users from district funds... .”

It is common in many water districts to adopt a resolution authorizing the water district treasurer to assist in the collection assessments directly from water users on behalf of the watermaster and deposit such receipts in a water district account. While it is acceptable for the elected treasurer to assist in the collection of funds on behalf of the watermaster in accordance with an authorized annual meeting resolution, the funds must be collected by the water district directly and deposited in an account held or controlled by the water district. WD13A should not be using a third party such as FSWCD to collect, deposit or pay district expenses.

Recommendations:

- WD13A should adopt an annual meeting resolution affirming that the district watermaster shall collect assessments directly from the water users in accordance with Idaho Code § 42-618. Said resolution may authorize the elected water district treasurer to assist in the collection of assessments on behalf of the watermaster.
- WD13A should adopt an annual meeting resolution that clearly designates a bank (including name and location) for deposit of assessments collected by the district.
- WD13A assessments should be sent to water users using WD13A letterhead or invoice forms. Said assessment or invoice should clearly indicate that WD13A is collecting the funds and require payment be made to WD13A.

2. WD13A Donations to the FSWCD and Disbursement of WD13A Funds

The Department recently received a copy of a letter dated August 8, 2018 documenting a donation from WD13A to the FSWCD in the amount of \$5,500 for ‘General Support’. The document was signed by Brian Jensen acting as the WD13A President. The same document includes an attached copy of a check from WD13A to the FSWCD in the amount of \$5,500 for general support, signed by Brian Jensen and Maxine Waddoups.

The WD13A 2018 adopted budget on file with the Department did not include an authorization to provide a \$5,500 “donation” to FSWCD. The Department understands that the WD13A budget did include \$3,500 for cloud seeding and \$2,000 for river measuring. The Department understands that the FSWCD provides certain river measuring tasks for WD13A. The Department also understands that the FSWCD facilitates cloud seeding for WD13A, possibly in cooperation with other agencies and entities. The \$5,500 “donation” to FSWCD raises three issues.

First, Idaho Code § 42-612(1) requires that expenditures of a water district be related to “delivering the water” to the water users. Water district “donations” are not authorized by statute. Cloud seeding and river measurements are valid water district expenses recognized by Idaho Code § 42-605. If WD13A is actually providing payment to FSWCD for cloud seeding and river measuring, the Department questions whether it is appropriate to characterize the payment as a “donation.” In the future, the Department recommends that WD13A avoid characterizing payments to FSWCD for cloud seeding and river measuring as “donations.”

Second, the Department is not aware of any formal contract between WD13A and FSWCD for such services. If WD13A pays a third party for cloud seeding or water measurement services, the Department recommends that it do so under a formal contract authorized by water district annual meeting resolutions.

Third, the check to FSWCD was signed by Brian Jensen and Maxine Waddoups. As discussed above, pursuant to Idaho Code § 42-619(8), if the water district has authorized the watermaster to collect assessments, the payment of any expenses should be done by the water district treasurer. It is the Department's understanding that neither Brian Jensen nor Maxine Waddoups were elected district treasurer.

Recommendations:

- WD13A should adopt an annual meeting resolution authorizing the WD13A advisory committee to enter into a contract with the FSWCD, or any other entity it may select, for cloud seeding, water measurement, or any other services related to delivery of water within WD13A.
- WD13A should enter into a contract with FSWCD for water measurement and cloud seeding services. Expenses for these services can be paid directly to FSWCD upon receipt of invoices from the FSWCD.
- Expenses of the water district should be paid using water district account checks signed by the elected water district treasurer, and upon vouchers approved by the water district watermaster or the advisory committee chairman in accordance with adopted resolutions. Although it is recommended to have additional authorized bank account signatories, it is not necessary for those additional persons to sign checks.

3. WD13A Advisory Committee

Review of the 2018 WD13A annual meeting minutes shows that the WD13A advisory committee includes Mark Beckstead, Alan Smith and Seth Wheatley. The minutes also show that Brian Jensen was nominated and elected as 'chairman', and Maxine Waddoups was nominated and elected as 'secretary'. Although not specified in the minutes, the Department assumes Mr. Jensen and Ms. Waddoups were elected respectively as annual meeting chairman and annual meeting secretary. Certain documents on record with the Department refer to Mr. Jensen as the president of WD13A.

Idaho Code § 42-605(5) states in pertinent part that the water users at an annual water district meeting "shall choose a meeting chairman and meeting secretary."

Idaho Code § 42-605(6) states the following: "At such [annual] meeting the water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisers to the director and watermaster in matters pertaining to the distribution of water within the district. The advisory committee may be authorized to carry out policies as set forth in resolutions duly adopted by the water users at the annual meeting or at a special meeting."

As per Idaho Code, there is no specific water district position known as 'water district president'. However, it is common for water district advisory committees, once selected at the annual meeting, to select a committee chair from its membership. A committee chairman is normally the person designated by the committee to sign contracts for services related to water delivery or

cloud seeding. Moreover, Idaho Code § 42-619(8) authorizes the advisory committee chairman to authorize water district expense vouchers for activities pursuant to adopted resolutions.

Recommendations:

- WD13A should adopt a resolution authorizing the advisory committee chairman to sign any contract for cloud seeding and water district measuring services, or other services directly related to the delivery of water within WD13A.

4. Water District Financial Statements

Idaho Code § 42-619(9) states that “it shall be the duty of the water district treasurer to prepare a statement of the financial affairs of the district at the end of each fiscal year and to file the statement with the director of the department of water resources.” Although annual meeting minutes for recent years indicate that some presentation of district finances is presented or discussed at the meetings, there are no copies of annual financial statements filed with the Department over the past several years as required by Idaho Code § 42-619(9).

Recommendations:

- WD13A should adopt an annual meeting resolution setting a fiscal year and that the water district treasurer prepare a statement of the district financial affairs for the fiscal year that is presented at the annual meeting and sent to the Department. The statement is normally submitted to the Department with the annual meeting minutes and adopted budget for the succeeding year.

The Department can send applicable sample resolutions to WD13A for its consideration related to Department recommendations offered in this letter.

Please contact me directly at 208-287-4959 or by email at tim.luke@idwr.idaho.gov if you have questions or need assistance related to this matter.

Sincerely,



Tim Luke
Water Compliance Bureau

cc. Kirk Iverson, WD13A Watermaster
Lyla Dettmer, WD13A Treasurer
James Cefalo, IDWR Eastern Region
Franklin Soil and Water Conservation District
WD13A 2018 File