



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

June 28, 2019

Eldon Golightly  
2414 S 1600 E  
Preston, ID 83263

RE: Delivery of Water Rights

Dear Mr. Golightly,

The Idaho Department of Water Resources ("IDWR") received the attached letter from Norman Semanko dated March 29, 2019 requesting, on your behalf, delivery of water right nos. 13-62, 13-217, 13-258 and 13-7792. Department staff contacted Mr. Semanko on April 10, 2019 to discuss his correspondence. Mr. Semanko responded to IDWR on April 17, 2019 to advise that his law firm no longer represents you. This letter therefore responds directly to you.

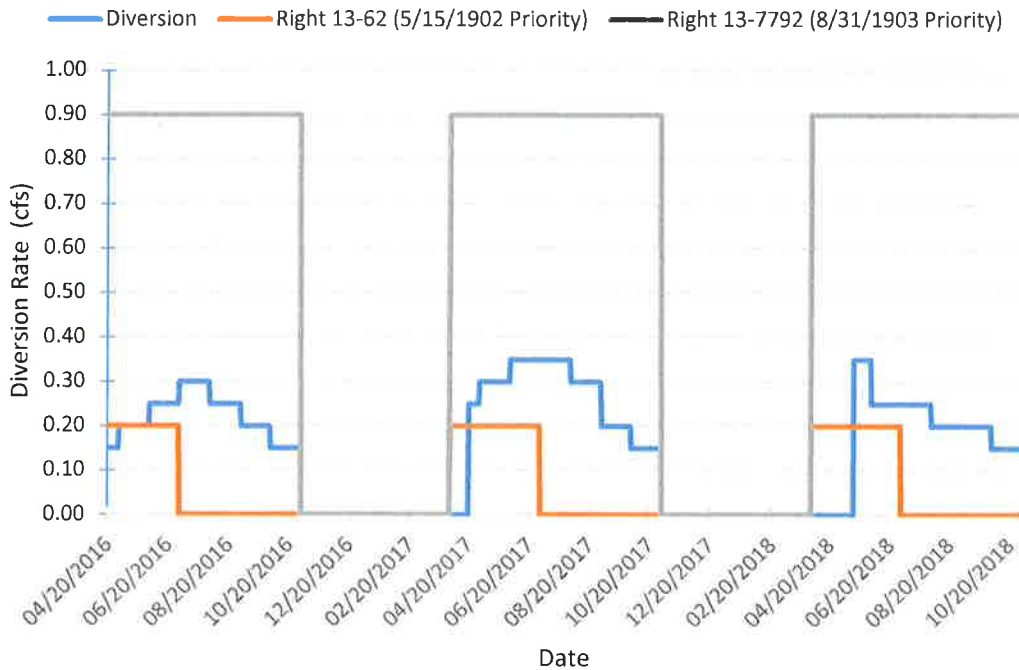
Mr. Semanko's letter states that "junior right holders receive their water before" your water rights. Unfortunately, Mr. Semanko's letter does not identify the junior rights that are allegedly delivered ahead of your rights. IDWR lacks evidence or understanding of the water rights that are allegedly delivered out of priority and causing injury to your water rights. IDWR requests you clarify your delivery request by identifying the junior rights that are delivered out of priority. IDWR will not take further action on your request without the additional clarification.

In the interim, IDWR offers the following comments and observations based upon review of Mr. Semanko's letter, the water rights identified in the letter, review of recent annual water district records, and a recent discussion with the Water District 13A watermaster:

- One of the four rights identified in the letter for which delivery is requested is right no. 13-258, which authorizes the diversion of 0.58 cfs of water from Spring Creek for the irrigation of 29 acres of land located in the NWNW of Section 7, Township 16 South (T16S), Range 40 East (R40E), Franklin County. The owner of record for this right is May Chadwick. According to Franklin County tax parcel records, Richard and Becky Chadwick own 33 acres of land in the NWNW Section 7, T16S, R40E. The Department assumes that Richard and Becky Chadwick are the current owners of right 13-258. You, or E&M Trust, owns only about 2 acres of land within the NWNW Section 7, T16S, R40E. Based on the foregoing information, the Department does not recognize you as the owner of right 13-258. You therefore cannot request delivery of the right unless you provide further documentation regarding your ownership interest in right 13-258 or until you secure a change of ownership in the right.

- One of the four rights identified in the letter, right no. 13-217, is from an unnamed stream source. This right is combined with your two water rights from Spring Creek, rights 13-62 and 13-7792, for the irrigation of 57 acres total, including 2 acres in the NWNW Section 7, T16S, R40E. The Department approved a water right transfer in November 2018 moving the point of diversion of right 13-217 near the current water right place of use to a location about 1.2 miles northeast. The transfer rearranged and combined the place of use for this right and your two Spring Creek rights, and did not include the fourth right identified in your letter, right 13-258. The new point of diversion from the unnamed stream source is along a county road where water is to run through a borrow ditch or conveyed through a pipe line to Spring Creek where it is to be injected and re-diverted. A condition of the approved water transfer requires that you install a measuring device at the point of diversion. As per discussion with the watermaster in April 2019, the transfer had not yet been accomplished and no measuring device had been installed at the new point of diversion.
- The watermaster has advised the Department that you have not installed an acceptable measuring device on your diversion from Spring Creek for water rights 13-62 and 13-7792. The Department issued an order on September 1, 2010 requiring holders of water rights in Water District 13A to install measuring devices by the start of the 2011 irrigation season. Your Spring Creek diversion therefore is not in compliance with the Department's 2010 measurement order. The Department's measurement order authorizes the watermaster to refuse delivery of water to any diversion where a measuring device is not installed or adequately maintained.
- Despite your lack of compliance with the Department's measurement order, the WD13A watermaster has nonetheless monitored your Spring Creek diversion and done his best to deliver water and estimate rates of diversion for the past several years. These estimates have been reported annually to the Department by the watermaster with other WD13A diversions. The chart below summarizes the watermaster's estimated diversions at your water right point of diversion from Spring Creek. Note that your first priority right from Spring Creek, 13-62, has a limited season of use from April 1 to July 1. As shown in the chart, all of your 1902 priority water right 13-62 (0.2 cfs) has been delivered from 2016 through 2018. A portion of your second priority right, 13-7792 (0.9 cfs), has been delivered from 2016 through 2018. The Department notes that your 1902 and 1903 Spring Creek priority rights are among the more junior priority rights from that source. It is IDWR's understanding that most of the Spring Creek water rights and diversions are not currently used.

### Golightly Spring Ck Diversion 2016 - 2018



Please contact me directly if you have any questions concerning this matter.

Sincerely,

Tim Luke  
Water Compliance Bureau Chief

cc: Kirk Iverson, Water District 13A Watermaster  
James Cefalo, Easter Region Acting Manager

**PARSONS  
BEHLE &  
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March 29, 2019

VIA EMAIL: [gary.spackman@idwr.idaho.gov](mailto:gary.spackman@idwr.idaho.gov)

Director Gary Spackman  
IDWR  
322 E. Front St.  
Boise, ID 83702-0098

**Re: Delivery of Water Rights**

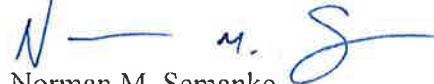
Dear Director Spackman:

We write on behalf of our client Eldon Golightly (E & M Trust) concerning the following water rights, which our client owns or has an interest in: water right nos. 13-62, 13-217, 13-258 and 13-7792. Our client has asked Watermaster Kirk Iverson to deliver these senior water rights in accord with their respective priorities, over junior rights, as Idaho Code § 42-607 requires. Unfortunately, Watermaster Iverson has not honored our requests. Our client has also addressed the issue with James Cefalo in the Department's Eastern Region Office, but the water rights have not been delivered. Because junior right holders receive their water before our client does, these senior water rights have not been delivered. We understand that this situation may recently have been brought to your attention.

As you know, the Director of the Department has a duty to supervise the watermasters. Idaho Code § 42-602. On behalf of our client, we ask that the director fulfill this supervisory function by instructing Watermaster Iverson to distribute the water rights "in accordance with the prior appropriation doctrine." Idaho Code § 42-602. Specifically, we ask that Watermaster Iverson be instructed to deliver water rights 13-62, 13-217, 13-258 and 13-7792 before other, more junior water rights. With the 2019 irrigation season nearly upon us, time is of the essence.

Sincerely,

PARSONS BEHLE & LATIMER



Norman M. Semanko  
Attorney at Law

NMS:pw  
cc: Client