

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF REQUIRING)
MEASURING DEVICES FOR GROUND) CURTAILMENT ORDER
WATER DIVERSIONS IN WATER DISTRICTS)
NOS. 31, 34, 100, 110, 120, 130, AND 140)
_____)

BACKGROUND

On June 17, 2016, the Director (“Director”) of the Idaho Department of Water Resources (“Department”) issued a *Final Order In the Matter of Requiring Measuring Devices for Ground Water Diversions in the Portions of Water Districts Nos. 31, 34, 100, 110, 120, 130, and 140 Overlying the Eastern Snake Plain Aquifer* to assist watermasters in the administration of water rights within the boundaries of the water districts affected by the order.

On July 1, 2016, the Surface Water Coalition (“SWC”)¹ filed with the Department the *SWC’s Petition for Reconsideration and Request for Hearing*. On July 22, 2016, the Director issued a *Final Order on Reconsideration* (“Measurement Order”).

In the Measurement Order, the Director ordered as follows:

Holders of ground water rights within Water District Nos. 34, 100, 110, 120, 130, and 140, except those ground water rights, uses and diversions identified below, and ground water rights in Water District 31 subject to the Mud Lake Agreement, shall install and maintain on each point of diversion or well, a measuring device of a type acceptable to the Department. Installation of measuring devices will assist the watermasters of Water District Nos. 31, 34, 100, 110, 120, 130, and 140 in reporting the amount of water withdrawn from each well. **Owners of irrigation wells or diversions that are required to be measured shall install acceptable measuring devices by the start of the 2018 irrigation season. Owners of non-irrigation diversions that are required to be measured shall install acceptable measuring devices by January 1, 2018.**

Measurement Order at 13.² The Director specified that measuring devices acceptable to the Department are flow meters identified in the Department’s *List of Approved Closed Conduit*

¹ The SWC consists of the following seven surface water delivery organizations: A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and the Twin Falls Canal Company.

² The measurement and reporting required by the Measurement Order are waived for the following ground water uses and diversions:

Flow Meters (Version 2.9 updated 6-6-2016). *Id.* The Director explained that the Department would consider a request for variance of the Department approved flow meter requirement upon submittal of a written plan to the Department. *Id.* at 13-14.³ The Director also explained that, if a water user could not comply with the specified deadlines (“start of the irrigation season” for irrigation diversions or “January 1, 2018” for non-irrigation diversions), the Department would consider requests for extension submitted to the Department in writing. *Id.* at 14.

On March 2, 2018, the Department sent a letter to owners of non-irrigation diversions who were required to install acceptable measuring devices by January 1, 2018, but who, according to the Department’s records and communications with water district staff, had not installed the required measuring device or requested a variance. The letter informed the owners that, to avoid potential curtailment by the watermaster, they had to either: 1) within fifteen days of the letter, submit documentation that the required measuring device had been installed, 2) install an approved measuring device and notify the watermaster by March 15, 2018, or 3) submit a variance or extension request by March 15, 2018.

On March 27, 2018, the Department sent a letter to owners of irrigation diversions who were required to install acceptable measuring devices by the start of the 2018 irrigation season, but who, according to the Department’s records and communications with water district staff, had not installed the required measuring device or requested a variance. The letter informed the owners that, to avoid potential curtailment by the watermaster, they had to install and maintain the required measuring device before diverting water for the 2018 irrigation season. The letter also requested that the owner either: 1) request an inspection if the measuring device had been installed, 2) document any measuring device installation currently underway and the date installation would be complete, or 3) submit a request for variance within fifteen days of the letter.

On March 30, 2018, the Department sent a follow-up letter to owners of non-irrigation diversions who were sent the March 2, 2018, letter described above. The letter informed the owners that, according to the Department’s records and communications with water district staff, the owners still had not installed the required measuring device or requested a variance. The letter informed the owners that, on or after April 9, 2018, and pursuant to Idaho Code § 42-701(3), the watermaster could shut off and refuse delivery of water from each diversion described in the letter unless an acceptable measuring device is installed. The letter also informed the owners that, if an acceptable measuring device is installed, the owner must notify the Department or watermaster on or before April 9, 2018.

On May 17, 2018, the Department sent a follow-up letter to owners of irrigation diversions who were sent the March 27, 2018, letter described above. The letter informed the

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- a. Domestic and stockwater uses as defined by Idaho Code § 42-111;
 - b. Diversions of ground water or water systems with multiple diversions irrigating less than or equal to five (5) acres; and
 - c. Diversions of ground water or water systems with multiple diversions delivering ground water for any purpose other than irrigation that divert less than or equal to 0.24 cubic feet per second (approximately 108 gallons per minute).

Measurement Order at 13.

³ The Measurement Order specifies that requests for variance must be submitted to the Department on the Department’s form “Request for Variance of IDWR Approved Flow Meter Requirement for Irrigation Wells” available on the Department’s website or upon request. *Measurement Order* at 14.

owners that, according to the Department's records and communications with water district staff, the owners still had not installed the required measuring device or requested a variance. The letter informed the owners that, on or after June 1, 2018, and pursuant to Idaho Code § 42-701(3), the watermaster could shut off and refuse delivery of water from each diversion described in the letter unless an acceptable measuring device is installed. The letter also informed the owners that, if an acceptable measuring device is installed, the owner must notify the Department or watermaster on or before May 27, 2018.

ANALYSIS

In accordance with Idaho Code § 42-701(3) and as described above, the Department sent letters to the owners of non-irrigation and irrigation diversions listed in Attachment A constituting ten days' notice "within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice." I.C. § 42-701(3). As of the date of this order, according to Department records, flow meter inspections in June and July 2018, and communications with water district staff, the owners listed in Attachment A have not installed the required measuring devices, did not within ten days' notice from the Department begin "to diligently pursue to completion the construction or installation of the required measuring devices," and have not received an approved variance or extension from the Department. *Id.* Therefore, pursuant to Idaho Code § 42-701(3), the Director will "order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist. . . ." *Id.*

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the watermasters of the water districts responsible for administering water rights listed in Attachment A shall, beginning August 6, 2018, curtail those water rights at the points of diversion listed in Attachment A until an acceptable measuring device is installed as described in the Department's *List of Approved Closed Conduit Flow Meters* (Version 2.9 updated 6-6-2016) or the owner submits to the Department or watermaster a request for variance or extension as described in the Measurement Order and the Department approves such request. Pursuant to Idaho Code § 42-1701A(3), any person aggrieved by this order may, within fifteen days after receipt of written notice of the order or receipt of actual notice, file with the Director a written petition stating the grounds for contesting the order and requesting a hearing.

Dated this 31st day of July 2018.



GARY SPACKMAN
Director

Attachment A

Water Right Owner	Water Right	Description	WMIS Number	Diversion Name	Water District
KYLE BYBEE SUTTON	22-7699	Irrigation	200408		100
	22-7227	Irrigation	200409		100
SCHULDIES DAIRY	22-12378	Domestic Stockwater	200656		100
	22-12378				
BROWN ALPHA II	31-7127	Irrigation	1001706		110
	31-7202B	Irrigation			
	31-7423	Irrigation			
	31-12189	Irrigation			
	31-12191	Irrigation			
BRUCE MITCHELL ESTATE	31-7266	Irrigation	300163		110
ALLAN AND MILLIE BATT	25-7109	Irrigation	200334	OLD CRYSTAL WELL	120
DIXIE BUNDY	35-14266	Irrigation	1001867		120
	35-14267	Irrigation			
KEVIN AND JENNIFER CARMAN	35-8740	Domestic	1000333	04S 33E 09 01	120
	35-8740	Irrigation			
	35-10586	Domestic			
	35-10586	Stockwater			
WILLIAM AND CARLENE CARTER	35-2897	Irrigation	501034	04S 33E 22 01	120
	35-12924	Irrigation			
BYRON AND JENNIFER HALEY VALATE GARDNER BETTY OLSSON GARRETT AND ALEXIS EICKLEBERRY	35-14037	Irrigation	500992	04S 33E 02 06	120
	35-14059	Irrigation			
	35-14060	Irrigation			
	35-14473	Irrigation			
RICHARD AND CHERYL KOOMPIN CONAN FELD DALENE SASSER	35-14211	Domestic	1000016	O 29 2	120
	35-14212	Irrigation			
	35-14219	Domestic			
JARED AND MELONIE JUDY	35-2097G	Irrigation	200643	02S 34E 20 04	120
JARED AND MELONIE JUDY	35-2097G	Irrigation	500479	02S 34E 19 03	120
MAX AND KERI LE FEVRE	35-2096B	Irrigation	500412	02S 33E 36 03	120
TERI PORTER	29-7707	Domestic	1001881		120
	29-7707	Irrigation			
FINCH AND VERNA ROBERTSON	35-7052	Irrigation	500752	03S 33E 02 04	120
WILLIAM AND KATHERINE SCHROEDER	35-2167F	Irrigation	600483		120
HOMER AND LELA STEWART	35-2904A	Irrigation	500563	02S 35E 20 01	120
BINGHAM COUNTY	27-11978	Irrigation	1000023	01S 37E 27 02	120
CARLSON FIVE A PARTNERSHIP	35-2796	Irrigation	500044	01N 36E 22 01	120
	35-13061	Irrigation			
CITY OF BASALT	27-7015	Municipal	1000340	01S 37E 19 03	120
CVRH FARM LLC	27-12220	Irrigation	1000645	02S 36E 13	120
	27-12222	Irrigation			

Attachment A

Water Right Owner	Water Right	Description	WMIS Number	Diversion Name	Water District	
	27-12224 27-12226 27-12228	Irrigation Irrigation Irrigation				
HONEYBEE ACRES WELL USERS ASSOCIATION - CAROL LEE	25-7086	Domestic	200072	Subdivision (Main Well)	120	
HONEYBEE ACRES WELL USERS ASSOCIATION - GARY MCINTIRE	25-7086	Domestic				
KEY PROPERTY RENTALS LLC	35-7639 35-9067	Domestic Domestic	1000020	02S 35E 32 01	120	
L LEIGH BAIR FAMILY TRUST	35-14245 35-14245	Domestic Irrigation	500476	02S 34E 18 01	120	
ROWLANDS INC	29-4443 29-11278 29-11278 29-13956 29-13957 29-13958 29-14000	Domestic Domestic Industrial Irrigation Domestic Domestic Industrial	200596		120	
DALE AND NILENE TURNER	45-7334	Irrigation	101726	150 S 370 E	130	
DOUBLE V, LLC	36-2286B 36-7582	Irrigation Irrigation	100392	8	130	
HARRY BOKMA DAIRY (HARRY B. AND FLORA BOKMA)	36-8662 36-8662 36-16921 36-16921	Commercial Stockwater Commercial Stockwater	401499	BARN WELL	130	
	36-8662 36-8662 36-16921 36-16921	Commercial Stockwater Commercial Stockwater	400076	CORRAL WELL	130	
	GEORGE KELLEY	45-7434	Irrigation	1000137	Elk Farm Well	140
	ROBINSON	45-13552 45-13554	Irrigation Irrigation	1000119	40 WELL	140
WADE AND LINDA ZOLLINGER	45-2673B	Irrigation	1000161		140	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July 2018, the above and foregoing document was served on each individual or entity on the service list for this matter on file at the Idaho Department of Water Resources, 322 East Front Street, Boise, Idaho and www.idwr.idaho.gov. Each individual or entity on the service list was served by placing a copy of the above and foregoing document in the United States mail, postage prepaid and properly addressed.

Documents served: **In the Matter of Requiring Measuring Devices for Ground Water Diversions in Water Districts Nos. 31, 34, 100, 110, 120, 130, and 140: Curtailment Order**



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Technical Records Specialist

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RIGBY ID 83442

BINGHAM COUNTY
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KEVIN AND JENNIFER CARMAN
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WILLIAM AND CARLENE CARTER
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BRUCE MITCHELL ESTATE
GEORGEANNA MITCHELL ESTATE
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MONTEVIEW ID 83435

BETTY OLSSON
677 S 1400 W
PINGREE ID 83262

FINCH AND VERNA ROBERTSON
14 S 1300 W
BLACKFOOT ID 83221

ROBINSON
1560 S 500 W
OAKLEY ID 83346

DALENE SASSER
2221 W 100 S
STERLING ID 83210

SCHULDIES DAIRY
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