September 8, 2014

Re: Order Granting Petition for Clarification of Final Order Requiring Measuring Devices and Controlling Works for Diversions in Water District No. 63, Boise River and Tributaries

Dear Water User,

The Idaho Department of Water Resources ("Department") has issued the enclosed order clarifying the Department’s Final Order Requiring Measuring Devices and Controlling Works for Diversions in Water District No. 63, Boise River and Tributaries ("Final Order"), signed by the Department Director on August 15, 2014. The enclosed order was issued in response to the August 29, 2014, Petition for Reconsideration and/or Petition for Clarification of Final Order ("Petition") filed with the Department by two water rights owners in Water District No. 63. A copy of the Petition may be found at:

The Final Order established a schedule for installation of measuring devices and controlling works for several drainage areas above Lucky Peak Dam that were added to Water District No. 63 in 2013 (Final Order at 1, 4). For example, prior to the diversion of water for the 2018 irrigation season, acceptable measuring devices shall be installed for all qualifying water right diversions in the Mores Creek drainage (Id. at 3-4).

The Petition sought clarification that the Final Order is “limited only to the establishment of a schedule for review and installation of measurement devices, and cannot be used as a means to preclude priority administration of surface water rights in the Mores Creek drainage” (Petition at 6). The enclosed order confirms that the Final Order was not intended to preclude priority administration of surface water rights in the Mores Creek drainage or any other drainage included in the Final Order.

Although priority administration of surface water rights in any drainage of Water District No. 63 can occur at any time, such regulation by the water district watermaster may be difficult until measuring devices and controlling works are installed as required by the Final Order. Additionally, priority administration of water rights in any Boise River tributary drainages located either above or below Lucky Peak Dam will likely require watermaster assessments in accordance with water district resolutions adopted at the annual meeting of water district water users. Further, priority administration of water rights in tributary drainages may result in curtailment of those rights which are junior in priority to water rights on the Boise River below Lucky Peak Dam.
Questions concerning the enclosed order may be addressed to the Department’s State office (208-287-4800) or Western Regional office (208-334-2190), or Rex Barrie, Water District 63 Watermaster, at 208-908-5480.

Respectfully,

[Signature]

Tim Luke
Chief, Water Compliance Bureau

Encl:  Order Granting Petition for Clarification; Denying Petition for Reconsideration
       Explanatory Information to Accompany an Order Denying Petition for Reconsideration

Cc:  Rex Barrie, Watermaster, Water District 63
     IDWR Western Region
     Chris Bromley, Attorney for Petitioners
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF REQUIRING
MEASURING DEVICES AND
CONTROLLING WORKS FOR
DIVERSIONS IN WATER DISTRICT NO.
63, BOISE RIVER AND TRIBUTARIES

ORDER GRANTING PETITION FOR
CLARIFICATION; DENYING
PETITION FOR RECONSIDERATION

BACKGROUND

On October 21, 2013, the Idaho Department of Water Resources ("Department") issued a Preliminary Order ("Preliminary Order") in the above captioned matter expanding Water District No. 63 to include all surface water rights from the Boise River, its forks and tributary creeks upstream of Lucky Peak Dam, except rights used for in-stream watering of livestock as defined by Idaho Code § 42-113 and rights included in Water District No. 63-S. Preliminary Order at 8. The Preliminary Order explained the Department would issue a separate order requiring installation of measuring devices and controlling works for water right diversions within the expansion area of Water District No. 63. Id. at 9.

On August 20, 2014, the Director of the Department ("Director") issued a Final Order ("Final Order")1 in the above captioned matter setting forth a schedule for installation of measuring devices as follows:

2. Prior to the diversion of water for the 2016 irrigation season, acceptable measuring devices shall be installed for all diversions from the South Fork Boise River and tributaries, except those water rights described in Paragraph 1.a of this Order. Water right holders in the South Fork Boise River drainage shall submit measurement plans to the watermaster for each point of diversion by September 1, 2015.

3. Prior to the diversion of water for the 2017 irrigation season, acceptable measuring devices shall be installed for all diversions from the Middle and North Fork Boise River and tributaries, except those water rights described in Paragraph 1.a of this Order. Water right holders in the Middle and North Fork Boise River drainage shall submit measurement plans to the watermaster for each point of diversion by September 1, 2016.

4. Prior to the diversion of water for the 2018 irrigation season, acceptable measuring devices shall be installed for all diversions from Mores Creek and tributaries (Mores Creek drainage), except those water rights described in Paragraph 1.a

1 While the Final Order was signed by the Director on August 15, 2014, it was served on August 20, 2014.
of this Order. **Water right holders in the Mores Creek drainages shall submit measurement plans to the watermaster for each point of diversion by September 1, 2017.**

*Final Order* at 4 (emphasis in original).

On September 2, 2014, Richard Stull and Steven Cummings ("Stull and Cummings"), who own surface water rights within the Mores Creek drainage decreed through the Snake River Basin Adjudication, filed with the Department a *Petition for Reconsideration and/or Petition for Clarification of Final Order* ("Petition"). The Petition can be found at: http://www.idwr.idaho.gov/WaterManagement/WaterDistricts/BoiseRiver/default.htm.

**ANALYSIS**

Stull and Cummings assert that, while they view the schedule for installation of measuring devices set forth in the Final Order “simply as a means for [the Department] to stage its resources to efficiently evaluate measurement device plans, their concern is the Final Order could be interpreted to delay or somehow preclude them from seeking priority administration in the Mores Creek drainage.” *Petition* at 5. Stull and Cummings “request that the Director reconsider and/or clarify that the schedule set forth in the Final order for installation of measuring devices not affect their ability to seek priority administration of surface water rights in the Mores Creek drainage.” *Id.* at 1.

The Director grants Stull and Cummings’ request for clarification. The Director clarifies that the Final Order was not intended to preclude priority administration of surface water rights in the Mores Creek drainage or any other drainage included in the Final Order.3

**ORDER**

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that Stull and Cummings’ petition for clarification is GRANTED. The Final Order was not intended to preclude priority administration of surface water rights in the Mores Creek drainage or any other drainage included in the Final Order. IT IS FURTHER ORDERED that Stull and Cummings’ petition for reconsideration is DENIED because no change to the Final Order is necessary.

Dated this 8th day of September 2014.

GARY SPACKMAN
Director

---

2 Richard Stull is an owner of water right no. 63-317B. Steven Cummings owns water right nos. 63-30310 and 63-15101.

3 The Director notes that priority administration of surface water rights may be more difficult until measuring devices are installed as required by the Final Order and may necessitate acceleration of the time period for assessing water rights in drainages included in the Final Order.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of September 2014, 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 posted on the Department’s website: http://www.idwr.idaho.gov/WaterManagement/WaterDistricts/BoiseRiver/default.htm. 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.

Kimi White, Paralegal
Idaho Department of Water Resources
EXPLANATORY INFORMATION TO ACCOMPANY AN ORDER DENYING PETITION FOR RECONSIDERATION
(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is an Order Denying Petition for Reconsideration of the "final order" or "amended final order" issued previously in this proceeding by the Idaho Department of Water Resources ("department") pursuant to section 67-5246, Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. Note: The request must be received by the Department within this fifteen (15) day period.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Revised July 1, 2010
A & E FAMILY ENTERPRISES LLC  
C/O ALBERTA & EUGENE DAFFNER  
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ROBERT L ADAMS  
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EMMETT, ID 83617

GEORGE A ADAMS  
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ALSCOTT REAL ESTATE LLC  
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BOISE, ID 83703

GUY AMIDON  
2350 W MC MILLAN  
MERIDIAN, ID 83642

RANDY A ANDERSON  
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STAR, ID 83669

ANDERSON ENTERPRISES  
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KUNA, ID 83634

ARK PROPERTIES LLC  
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11204 N BAR 21 DR  
GLENNS FERRY, ID 83623-5033

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AND THOMAS W SCHAPER  
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HOPE C AND ROBERT M ATKINSON
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C/O DAVID LAKE
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JUDE BACON
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BEN AND JOHN BADIOLA
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HOMEDALE, ID 83628

JOHN BAGLEY
5000 LARRY LN
MERIDIAN, ID 83642

PAMELA D GEHLKEN AND PATRICIA BAILY
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REDDING, CA 96003
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KING BROADCASTING  
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LESLEEN Kober  
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ELIZABETH ANN AND LONN KUCK  
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C/O TIM DUBLIN  
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MIDDLETON, ID 83644

CAMI AND DAVID W LARSEN  
24551 BENHAVEN LN  
MIDDLETON, ID 83644
HILDA LARSON  
160 DAGGETT CR RD  
BOISE, ID 83716-3368

MICHAEL P LAWRENCE  
GIVENS PURSLEY LLP  
601 W BANNOCK ST  
BOISE, ID 83701-2720

JOHN R AND RUTH L LE FAVE  
10435 MAYMIE RD  
BOISE, ID 83703

JANICE AND TERRANCE L LEIGHTON  
620 CLEARVUE DR  
MERIDIAN, ID 83646

LEMP LANE PROPERTIES  
23019 HWY 20-26  
PARMA, ID 83660

LEXINGTON HILLS HOMEOWNERS ASSN INC AND WESTCHESTER PLACE  
9601 W STATE ST STE 203  
BOISE, ID 83714

LEXINGTON HILLS INC  
1815 E STONYBROOK CT  
EAGLE, ID 83616

HELEN LIDDIARD  
2314 TARGEE ST  
BOISE, ID 83705

EDWARD P LIDDIARD SR  
1914 S LATAH ST  
BOISE, ID 83705

KENT F AND PAMELA J LIND  
264 CLEARVUE  
MERIDIAN, ID 83646

MERLE H LINDLEY  
25588 PAR DR  
CALDWELL, ID 83607-8448

RICHARD LINHART  
C/O PFIZER ANIMAL HEALTH  
50 YELLOW PINE LN  
BOISE, ID 83716

LION LAND LLC  
3405 E OVERLAND RD  
STE 150  
MERIDIAN, ID 83642

BARBARA W LITTLE  
1980 MYERS RD  
BOISE, ID 83706
MIDDLE FORK ASSOC  
C/O GREG AUCH  
11477 HIGHLANDER RD  
BOISE, ID 83709

MIDDLETON IRRIGATION ASSN, MIDDLETON IRRIGATION ASSN INC AND MIDDLETON MILL DITCH CO  
PO BOX 848  
MIDDLETOWN, ID 83644

JOLENE R AND TERRY D MILLER  
1175 E 800 N  
RUPERT, ID 83350

DOUGLAS AND PATRICIA MILLER  
14150 N BROKEN HORN RD  
BOISE, ID 83714

BETTY M AND CLAY MILLER  
15100 BLACKS CREEK RD  
BOISE, ID 83716

EVA JO AND RAY A MILLER  
30001 PET LN  
PARMA, ID 83660

BOB MILLER  
461 CLEAR CREEK RD  
BOISE, ID 83716

SANDRA MINER  
1512 APACHE DR UNIT D  
CHULA VISTA, CA 91910-8160

MOFFATT THOMAS BARRETT ROCK & FIELD CHTD  
C/O SCOTT L CAMPBELL  
PO BOX 829  
BOISE, ID 83701-0829

MOFFATT THOMAS BARRETT ROCK & FIELDS  
C/O ANDREW J WALDERA  
PO BOX 829  
BOISE, ID 83701-0829

EDWARD RAY MONTIERTH  
825 HEARTLAND DR  
NAMPA, ID 83686

HERBERT R MONTIERTH JR  
6312 S ZITHER AVE  
BOISE, ID 83709

MOON LAKE RANCH  
C/O JAN ROSE AND JEFF WREEDE  
PO BOX 810  
STAR, ID 83669

FRANK D AND JACQUELINE MOORE  
32 MOORES LN  
BOISE, ID 83706
<table>
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<td>DARLAINE V AND STANLEY P OLESKIEWICZ</td>
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<td>C/O ELENA COURT BRISBANE, CA 94005</td>
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<td>BARBARA OURS</td>
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<td>PARADISE HOMEOWNERS ASSN INC</td>
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<td>TERRI R PICKENS</td>
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<td>PINE CREEK RANCHES INC</td>
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STEVEN L AND TERESA L RASCHKE
2095 PANAMA ST
BOISE, ID 83705

BONNIE AND CARL REITERMAN
770 W MC MILLAN RD
MERIDIAN, ID 83642

GLENN J RHODES
1406 JOHSON ST
BOISE, ID 83705

RICHARD LYON FAMILY TRUST
17545 ALLENDALE RD
WILDER, ID 83676

RICHARD M PHILLIPS & STACI PHILLIPS TRUST
RICHARD M PHILLIPS TRUSTEE
210 MURRAY ST
BOISE, ID 83714

K GAIL RICHARDSON AND RICHARD A STULL
13 ROBIE CREEK LN
BOISE, ID 83716

RINGERT CLARK CHARTERED
DAN STEENSON / S BRYCE FARRIS
455 S 3RD ST
BOISE, ID 83701

RINGERT CLARK CHARTERED
CHARLES L HONSINGER
PO BOX 2773
BOISE, ID 83701-2773

RINGERT CLARK CHTD
DAN STEENSON & JON C GOULD
455 S THIRD
BOISE, ID 83701-2773

RIVER RUN HOMEOWNERS ASSOC
975 RIVER RUN DR
BOISE, ID 83706

RIVERS END NEIGHBORHOOD ASSN INC
C/O HOMEOWNERS ASSN PROPERTY MGMT CO
PO BOX 1255
EAGLE, ID 83616

RIVERSIDE IRRIGATION DISTRICT LTD
120 N THIRD ST
PARMA, ID 83660

RIVERSIDE VILLAGE HOMEOWNERS ASSN INC
C/O ADVANTAGE IDAHO
664 S RIVERSHORE LN STE 152
EAGLE, ID 83642

RIVERVIEW VENTURES
PO BOX 9294
BOISE, ID 83707
NANCY ROSE AND ROBERT C ROBERTS  
2109 N 9TH ST  
BOISE, ID 83702

LYNETTE AND MICHAEL ROBICH  
87 BEAVER CREEK RD  
BOISE, ID 83716

BILLIE J ROBISON  
2165 SPRINGWOOD DR  
MERIDIAN, ID 83642

WILFRED E ROHR  
50 REEDS LN  
BOISE, ID 83716

CAROL A AND DAN M ROHRBACHER  
24392 MARKET RD  
PARMA, ID 83660

RON SALI PROPERTIES INC  
PROFIT SHARING PLAN  
919 S LINDER RD  
EAGLE, ID 83616

DERALD W AND RUTH E ROWE  
3670 CLACTON WAY  
BOISE, ID 83712

NORM E RUDOLPH  
27998 WAMSTAD RD  
PARMA, ID 83660

KIMBERLY AND RUSSELL RUFF  
200 E CLEAR CREEK DR  
MERIDIAN, ID 83646

AVONA AND RALPH RUSSI  
2624 E CHICAGO  
CALDWELL, ID 83605

S V W LLC  
2009 S ROOSEVELT  
BOISE, ID 83705

NORMAN N SABIN  
1116 DAWN DR  
BOISE, ID 83704

KAREN A SALEEN  
8771 PURPLE SAGE RD  
MIDDLETON, ID 83644

RON SALI  
919 S LINDER RD  
EAGLE, ID 83616
JEAN AND STEVE SANDERS  
112 COTTONWOOD ST  
PO BOX 55  
IDAHO CITY, ID 83631

SAWTOOTH METHODIST CAMP  
ORE-ID CONFERENCE OF THE  
UNITED METHODIST CHURCH  
1505 S W 18TH  
PORTLAND, OR 97201

GAIL A AND RONALD G SCHNEIDER  
20240 PINTO LN  
Caldwell, ID 83607

CAROL A AND GEORGE W SCHNEIDER  
20806 SEQUOIA PL  
GREENLEAF, ID 83626

ROBERT E SCHRAFT  
6234 SHENANDOAH AVE  
LAS VEGAS, NV 89115

ARTA SCHRAFT  
PO BOX 143  
ATLANTA, ID 83601

JOE B SCOTT  
380 E PARKCENTER BLVD  
STE 100  
BOISE, ID 83706

J B SCOTT  
PO BOX 70001  
BOISE, ID 83707-0101

SETTLERS IRRIGATION DISTRICT  
1910 N GARDEN ST  
BOISE, ID 83706

MARK R AND SHAUNA L SHALTRY  
170 E STONEWATER CT  
EAGLE, ID 83616

WILLIAM R SHARP  
PO BOX 9898  
RENO, NV 89507

MARIAN E SHAW  
13975 N BROKEN HORN RD  
BOISE, ID 83714

SHAW CATTLE CO INC  
23020 HOWE RD  
Caldwell, ID 83607

RONALD L SHERER  
PO BOX 98  
ATLANTA, ID 83601
JOSEPH C STADLER  
9700 BROOKSIDE LN  
BOISE, ID 83714

STAKER & PARSON COMPANIES  
2350 S 1900 W  
OGDEN, UT 84409-1429

BRENT, L DON, NANCY A AND TRICIA STANGER  
510 E CLEAR CREEK DR  
MERIDIAN, ID 83646

STAR SPRINGS LP  
760 GARDEN VIEW CT #200  
ENCINITAS, CA 92024

DOROTHY M AND HARLAN F STARR  
19372 LOWER PLEASANT RIDGE  
CALDWELL, ID 83605

STARWOOD OF EAGLE INC  
7701 W MOON VALLEY RD  
EAGLE, ID 83616

STATE OF IDAHO  
DEPT OF CORRECTIONS  
1299 N ORCHARD STE 110  
BOISE, ID 83706

STATE OF IDAHO  
DEPT OF FISH & GAME  
600 S WALNUT  
BOISE, ID 83707

STATE OF IDAHO  
DEPT OF FISH & GAME  
PO BOX 25  
BOISE, ID 83707

STATE OF IDAHO  
DEPT OF LANDS  
STATEHOUSE  
BOISE, ID 83720-0050

STATE OF IDAHO  
DEPT OF PARKS & RECREATION  
STATEHOUSE MAIL  
BOISE, ID 83720-0065

DAVID AND LYNAAE STEADMAN  
4242 APHRODITE CT  
BOISE, ID 83716-7060

JAMES R AND JOAN STEPHENS  
3040 ELDER ST  
BOISE, ID 83705

DR FRANK D WREGGLESWORTH AND ELZADA STEPP  
13361 HORSESHOE BEND RD  
BOISE, ID 83703
W/T LAND & CATTLE INC
PO BOX 209
NOTUS, ID 83656

DEWAYNE AND MARSHA WADSWORTH
318 S KINGS RD
NAMPA, ID 83651

ANNE AND MICHAEL E WAGNER
25838 N MIDDLETON RD
MIDDLETON, ID 83644

BETTY J AND GARY WANGSGARD
23135 STONE LN
CALDWELL, ID 83605

KAREN AND ROBERT WARD
340 E 2ND N
MOUNTAIN HOME, ID 83647

WARD STABLES
C/O CONLEY E WARD
PO BOX 2720
BOISE, ID 83701

LISA AND SCOTT WARDLE
1141 W HEMPSTEAD DR
EAGLE, ID 83616

HEBERT WARDLE
5987 ELKHORN AVE
BOISE, ID 83709

GEOFFREY M WARDLE
877 MAIN ST STE 1000
BOISE, ID 83702

PATRICIA AND RONALD WARE
7901 APACHE WY
BOISE, ID 83714

WARM SPRINGS DITCH CO
C/O BRIAN HOFF
1840 N LAKES AVE
MERIDIAN, ID 83646

ANN K AND ROGER J WATTS
2424 ANDREWS AVE
ONTARIO, OR 97914

WEATHERBY MINING CO
16000 S CLOVERDALE RD
KUNA, ID 83634

WILLIAM H WESSELS
18501 HWY 20-26
CALDWELL, ID 83607