



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 17, 2018

Nathan Erickson, Watermaster
Water District 130
650 Addison Ave West
Suite 500
Twin Falls, ID 83301

Re: Curtailment Order and Watermaster Guidance to Curtail Diversions that are not Compliant with Water District No. 143 Measurement Order

Dear Mr. Erickson,

The Director of the Idaho Department of Water Resources ("Department") issued the attached *Curtailment Order In the Matter of Requiring Measuring Devices for Ground Water Diversions in Water Districts No. 143* ("Curtailment Order") on September 17, 2018. **The Curtailment Order directs you, as Water District No. 143 watermaster, to curtail water rights at points of diversions listed in Attachment A of the Curtailment Order beginning September 24, 2018.** Curtailment at each diversion shall be enforced until an acceptable measuring device is installed or the owner of the diversion submits to the Department or watermaster a request for variance or extension and the Department approves such request.

The watermaster shall adopt the following guidance with respect to curtailments:

- Contact the owners or operators of each diversion or well listed in Attachment A of the Curtailment Order either by phone or in person to confirm when curtailment will take place.
- Shut off and lock or seal each well subject to curtailment, even if the well may be off for the rest of the irrigation season. If the well cannot be locked or sealed, identify the method in which water use may be monitored during the remaining season (i.e. use of dedicated power meter or other options). Locking or sealing may be accomplished using security seals, locks or cables on electrical switch controls or by closing and locking/sealing main pipe valves. A Curtailment Notice card ("Red Card") should be placed at each diversion in a noticeable location. Document any curtailment with photos that show method of closure.
- The watermaster or watermaster's assistants should coordinate shut-off and locking with the owner or operator present if possible. The watermaster should not delay curtailment based on the owner's or operator's schedule.

Curtailment Order and Watermaster Guidance

September 17, 2018

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- When feasible the regulation of water users and enforcement action should be carried out by the watermaster. If the watermaster is unable to regulate all non-compliant water users by himself, staff assisting the watermaster in enforcement should coordinate closely with the watermaster prior to taking action. If site visits by supporting staff are required, staff should enforce curtailment requirement in teams of two. In the event an owner/operator is uncooperative or refuses access or entry to the well, the watermaster should consult with Department staff (contact Tim Luke, Rob Whitney or Brian Ragan).
- If the watermaster encounters circumstances that suggest enforcement action pursuant to Idaho Code § 42-1701B is preferable to curtailment (e.g. curtailing a diversion would cut off a source of drinking/domestic water or curtailment is not physically possible), the watermaster may refer the matter to Department Compliance Bureau staff. If a formal administrative enforcement action becomes necessary, please coordinate with appropriate Department Compliance Bureau staff (either Tim Luke, Rob Whitney, Brian Ragan or Cherie Palmer). Please document all attempts to curtail the well and the obstacles or reasons why physical curtailment cannot be achieved.

Please contact Department Compliance Bureau staff members Tim Luke, Rob Whitney or Brian Ragan regarding any questions you may have about the Curtailment Order and any subsequent curtailment procedures. Successful implementation of this Curtailment Order is currently one of the Department's highest priorities.

Sincerely,



Gary Spackman
Director

Enclosures(s)

Cc: Corey Skinner, IDWR Southern Regional Manager



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C.L. "BUTCH" OTTIE
Governor

GARY SPACKMAN
Director

September 17, 2018

Re: Curtailment Order In the Matter of Requiring Measuring Devices for Ground Water Diversions in Water District No. 143 (Raft River Basin)

Dear Water User,

You are receiving this letter because your ground water diversion(s) is not being measured as required by previous orders issued by the Director ("Director") of the Idaho Department of Water Resources ("Department"). Enclosed is a *Curtailment Order In the Matter of Requiring Measuring Devices for Ground Water Diversions in Water Districts No. 143* ("Curtailment Order") issued by the Director on September 17, 2018.

The Curtailment Order directs the watermaster to curtail water rights at points of diversions listed in Attachment A of the Curtailment Order beginning September 24, 2018. One or more of your wells is included on this curtailment list. The watermaster will curtail diversions of ground water until an acceptable measuring device is installed or until an acceptable request for variance or extension is submitted to the Department, or watermaster, and is approved. The watermaster will contact users in their water district beginning September 24, either by phone or in person, to confirm when curtailment will take place.

Please contact the Department or your water district watermaster if you have questions.

Idaho Department of Water Resources
Tim Luke or Rob Whitney, 208-287-4800

Water District 143
Nathan Erickson, Watermaster, (208)-736-3033
Nathan.erickson@idwr.idaho.gov

Sincerely,

Gary Spackman
Director

Enclosure(s)

Cc: Corey Skinner, IDWR Southern Regional Manager

**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 DISTRICT)
NO. 143 (RAFT RIVER BASIN))
_____)**

BACKGROUND

On September 14, 2016, the Idaho Department of Water Resources (“Department”) issued a *Preliminary Order*¹ requiring measuring devices for ground water diversions in Water District No. 143 (“WD143”), Raft River Basin.² The Department ordered holders of water rights in WD143³ to “install and maintain on each point of diversion or well, a measuring device of a type acceptable to the Department.” *Preliminary Order* at 4. The Department set the following deadlines:

Owners of irrigation wells or diversions that are required to be measured shall install acceptable measuring devices by the start of the irrigation season. Owners of non-irrigation diversions that are required to be measured shall install acceptable measuring devices by January 1, 2018.

Id. (bold in original). The Department specified that acceptable measuring devices for both irrigation and non-irrigation water uses are those flow meters identified in the Department’s *List of Approved Closed Conduit Flow Meters*. *Id.* The Department explained that it would “consider a request for variance of the Department-approved flow meter requirement upon

¹ *Preliminary Order in the Matter of Requiring Measuring Devices for Ground Water Diversions in Water District No. 143 (Raft River Basin)* (Sept. 14, 2016).

² The *Preliminary Order* became a final order as described in the Department’s Rule of Procedure 730 (IDAPA 37.01.01.730) pursuant to Idaho Code § 67-5245. See IDAPA 37.01.01.740.01.

³ The *Preliminary Order* waived the measuring and reporting requirement “until further notification” for the following ground water uses and diversions: (1) domestic and stockwater diversions defined by Idaho Code §§ 42-111 and 42-1401A(11), (2) diversions of ground water or water systems with multiple diversions irrigating less than or equal to five acres, (3) 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, and (4) ground water rights located within Water District 130 overlying the Eastern Snake Plain Aquifer. *Preliminary Order* at 4.

submittal of a written plan to the Department.” *Id.* at 5.⁴ The Department 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 extensions submitted to the Department in writing. *Id.*

On April 10, 2018, the Department sent a letter to owners of diversions or wells listed in Attachment A that, based upon Department “records and communication with Water District staff,” did not appear to have the required measuring device installed or have an approved variance. The letter notified the owners that, pursuant to Idaho Code § 42-701(3), they “**must install and maintain the required measuring device(s) before diverting water this irrigation season to avoid potential curtailment by the watermaster.**” (bold in original). The letter asked the owners to respond by calling the Measurement Hotline and either: (1) requesting an inspection if the measuring device had been installed, (2) submitting information concerning any measuring device installation underway and the date installation would be complete, or (3) giving notice of the owner’s intent to request a variance and submit the necessary application. The letter also informed the owners that, “[i]f a diversion is unused, the Department may consider an **extension of time** on a case-by-case basis.” (bold in original).

ANALYSIS

In accordance with Idaho Code § 42-701(3) and as described above, on April 10, 2018, the Department sent a letter to the owners of 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” I.C. § 42-701(3). As of the date of this order, according to Department records, flow meter inspections in August and September 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” *Id.*

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the watermaster of WD143 shall, beginning September 24, 2018, curtail water rights listed in Attachment A at the points of diversion specified in Attachment A until an acceptable measuring device is installed as described in the Department’s *List of Approved Closed Conduit Flow Meters*⁵ or the owner submits to the Department or watermaster a request for variance or extension as described in the *Preliminary Order* and the Department approves such request. If

⁴ The *Preliminary Order* specified that requests for variance must be submitted to the Department on the Department’s form titled “*Request for Variance of IDWR Approved Flow Meter Requirement*” available on the Department’s website or upon request. *Preliminary Order* at 5.

⁵ Available at <https://idwr.idaho.gov/files/water-measurement/approved-flow-meter-list.pdf>.

the watermaster encounters circumstances that suggest enforcement action pursuant to Idaho Code § 42-1701B is preferable to curtailment, the watermaster may refer the matter to Department Compliance Bureau staff. *See* Idaho Code § 42-701(3). 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 Department a written petition stating the grounds for contesting the order and requesting a hearing.

Dated this 17th day of September 2018.

A handwritten signature in cursive script, reading "Gary Spackman", written over a horizontal line.

GARY SPACKMAN
Director

Attachment A

Owner	Water Right	Description	WMISNumber
7 SPRINGS RANCH LLC	43-7080	IRRIGATION	1002480
BARNES, DEBRA	43-2390A	IRRIGATION	1002626
	43-2397A	IRRIGATION	
BARNES, MICHELLE	43-2390A	IRRIGATION	1002626
	43-2397A	IRRIGATION	
BRANCH, NOLAN K	43-2361	IRRIGATION, STOCKWATER	1002567
	43-2422	IRRIGATION	
	43-10238	IRRIGATION	
	43-12960	IRRIGATION	
BRANCH, NOLAN K	43-12995	IRRIGATION	1002573
	43-2361	IRRIGATION, STOCKWATER	
	43-2422	IRRIGATION	
	43-10238	IRRIGATION	
BRANCH, NOLAN K	43-12960	IRRIGATION	1002581
	43-12995	IRRIGATION	
	43-2361	IRRIGATION, STOCKWATER	
	43-2422	IRRIGATION	
BRANCH, NOLAN K	43-10238	IRRIGATION	1002595
	43-12960	IRRIGATION	
	43-12995	IRRIGATION	
	43-2361	IRRIGATION, STOCKWATER	
BRANCH, NOLAN K	43-2422	IRRIGATION	1002560
	43-10238	IRRIGATION	
	43-12960	IRRIGATION	
	43-12995	IRRIGATION	
BRANCH, NOLAN K	43-13799	IRRIGATION	1002826
	43-13800	IRRIGATION	
	43-13801	IRRIGATION	
BRANCH, NOLAN K	43-2308A	IRRIGATION	1002587
BRANCH, NOLAN K	43-2281	IRRIGATION	1002633
	43-2300A	IRRIGATION	
	43-2306A	IRRIGATION	
	43-2322	IRRIGATION	
	43-2337	IRRIGATION	
	43-2373	IRRIGATION	
	43-2424	IRRIGATION	
	43-2535	IRRIGATION	
	43-4119	IRRIGATION	
	43-4120	IRRIGATION	
	43-4121	IRRIGATION	
	43-4122	IRRIGATION	
GIBBY, VON	43-4169	IRRIGATION	1002487
	43-4209	IRRIGATION	
	43-4211	IRRIGATION	
	43-2359	IRRIGATION	
GIBBY, VON	43-2460	IRRIGATION	1002487
	43-4010	IRRIGATION	
	43-7054	IRRIGATION	

Attachment A

Owner	Water Right	Description	WMISNumber
GIBBY, VON	43-2359	IRRIGATION	1002485
	43-2460	IRRIGATION	
	43-4010	IRRIGATION	
	43-7054	IRRIGATION	
LEON R WALKER FAMILY TRUST	43-2359	IRRIGATION	1002485
	43-2460	IRRIGATION	
	43-4010	IRRIGATION	
	43-7054	IRRIGATION	
LEON R WALKER FAMILY TRUST	43-2359	IRRIGATION	1002487
	43-2460	IRRIGATION	
	43-7054	IRRIGATION	
LLOYD, F STANLEY	43-7091	IRRIGATION, STOCKWATER	1002469
NATURE FARM LLC	43-7015	IRRIGATION	1002487
	43-13384	IRRIGATION	
	43-13386	IRRIGATION	
	43-13388	IRRIGATION	
	43-13390	IRRIGATION	
	43-13392	IRRIGATION	
	43-13394	IRRIGATION	
	43-13396	IRRIGATION	
	43-13398	IRRIGATION	
	43-13400	IRRIGATION	
	43-13402	IRRIGATION	
	43-13404	IRRIGATION	
	43-13406	IRRIGATION	
	43-13466	IRRIGATION	
43-13468	IRRIGATION		
43-13797	IRRIGATION		
NATURE FARM LLC	43-7015	IRRIGATION	1002485
	43-13384	IRRIGATION	
	43-13386	IRRIGATION	
	43-13388	IRRIGATION	
	43-13390	IRRIGATION	
	43-13392	IRRIGATION	
	43-13394	IRRIGATION	
	43-13396	IRRIGATION	
	43-13398	IRRIGATION	
	43-13400	IRRIGATION	
	43-13402	IRRIGATION	
	43-13404	IRRIGATION	
	43-13406	IRRIGATION	
	43-13466	IRRIGATION	
43-13468	IRRIGATION		
43-13797	IRRIGATION		
ROUND MOUNTAIN RANCH	43-2401	IRRIGATION	1002724
SHERIDAN, CORDELL; SHERIDAN, PATRICIA	43-7085	IRRIGATION	1002457
THORTON, KIM	43-2446	IRRIGATION	1002553
	43-2549	IRRIGATION	
TRACY, VERNON L (BUD); TRACY, SHARYL L	43-2446	IRRIGATION	1002553
	43-2549	IRRIGATION	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September 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 Requiring Measuring Devices for Ground Water Diversions in Water District No. 143 (Raft River Basin): Curtailment Order



Rosemary DeMond
Administrative Assistant

7 SPRINGS RANCH LLC
2038 S HWY 81
MALTA ID 83342

DEBRA BARNES
390 E 300 S
BURLEY ID 83318

MICHELLE BARNES
2346 E 2525 S
MALTA ID 83342

NOLAN K BRANCH
PO BOX 24
MALTA ID 83342

VON GIBBY
715 S 750 E
BURLEY ID 83318

F STANLEY LLOYD
2270 S ELBA-ALMO RD
ELBA ID 83342

NATURE FARM LLC
872 E PEBBLE DR
BURLEY ID 83318

ROUND MOUNTAIN RANCH
3475 S ROUND MOUNTAIN LN
MALTA ID 83342

CORDELL AND PATRICIA SHERIDAN
PO BOX 184
ALMO ID 83312

KIM THORTON
PO BOX 635
MALTA ID 83342

VERNON L (BUD) AND SHARYL TRACY
PO BOX 654
MALTA ID 83342

LEON R WALKER FAMILY TRUST
C/O ZEONA M WALKER TRUSTEE
87 S 800 E
LINDON UT 84042