



# State of Idaho

## DEPARTMENT OF WATER RESOURCES

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WATER RIGHTS

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LOGAN

**WATER RIGHTS**  
**SALT LAKE**

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

October 20, 1992

RE: Goose Creek Water Diversions and Water Rights

Dear Water User:

Some Goose Creek water users contacted the Department during the 1992 irrigation season with questions pertaining to water rights and regulation of diversions on Goose Creek within Idaho, Utah and Nevada.

As you may know, there are water right decrees or draft decrees within each of the three states which describe water rights and provide direction concerning water distribution. The Idaho Goose Creek decree is more particularly described as Oakley Canal Co. vs. Whittle et. al., February 21, 1925. Although the Goose Creek drainage in Idaho is included within the current and on-going Snake River Basin Adjudication, the Whittle Decree remains intact. One must still refer to this decree to address questions about water rights and distribution on Goose Creek.

Under Idaho water law, the Director of the Department of Water Resources is authorized to create a water district for any stream or water supply where the rights have been adjudicated or decreed by a court of law with appropriate jurisdiction, and/or where rights are represented by valid permits or licenses issued by the Department. Department records indicate that a Goose Creek water district was created and has been in existence since 1925. This district consists of the Goose Creek drainage within Idaho. Department records further show that the Goose Creek district has largely been inactive for a number of years. Apart from the delivery of stored water from Oakley Reservoir, there has been no recent regulation of natural flows rights by a watermaster above the Oakley Reservoir. Recent annual water district meetings have had little or no attendance.

The purpose of this letter is to remind all users that decreed rights to the use of Goose Creek within Idaho are covered by the Whittle Decree. This decree specifies that the irrigation season for those rights with diversions from Goose Creek is limited to the period between April 15 and July 20 of each year. The decree further specifies that all right holders are to install and maintain suitable headgates, controlling works and measuring devices at the respective points of diversion. A recent field inspection of Goose Creek diversions revealed that none of the

diversions are fitted with measuring devices. Only one diversion was fitted with a suitable headgate and a means in which to control the amount of water diverted. Although a second diversion was in the process of being reconstructed, all remaining diversion structures and ditches lacked suitable headgates and/or controlling works. Furthermore, it was found that water was still being diverted for irrigation purposes at two points of diversion. Irrigation use in October is well past the end of the April 5 to July 20 irrigation season as set in the Whittle Decree. One of these points of diversion was an in-stream pump which apparently was installed this year. There are no existing water rights or Snake River Basin Adjudication claims on file with the Department identifying this point of diversion, nor does the Department at this time have any record of a transfer application which seeks to add this point of diversion to one or more existing rights.

The present situation within the Goose Creek district appears to be one of no control and regulation. The organization which can provide control, the water district, is inactive. There is evidence that both natural flow rights and storage rights have been injured and continue to be injured due to this lack of control, measurement and regulation. In order to improve this situation, it is recommended that all Idaho Goose Creek water users attend the next annual water users meeting and work towards reactivating the district. This would include electing a watermaster, adopting a budget if necessary, and adopting resolutions which may provide direction about water distribution. If there is no organized district with a local watermaster and no mutual cooperation among users to install suitable headgates, controlling works and measuring devices, then the district will not be able to resolve matters on its own. If an annual meeting is not held or a watermaster is not elected, then the Department has the authority to appoint a watermaster and set his compensation. The Department also has authority to order water users to install suitable headgates and measuring devices. Under Idaho law, failure to comply with such orders could result in shutting down diversions or assessing civil penalties. If the Department has to order the installation of headgates and controlling works, then water users may not be eligible for federal government cost sharing funds under SCS or ASCS guidelines.

The Department wishes to work with the Goose Creek users in reactivating the district and providing any other necessary assistance. Attached to this letter is a copy of a letter

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clarifying certain questions about the Whittle Decree including interstate water rights and regulation. Further questions concerning this matter may be directed to me at this office or to Loren Holmes at the Department's Twin Falls regional office.

Sincerely,

A handwritten signature in cursive script that reads "Tim Luke". The signature is written in dark ink and is positioned to the left of the typed name.

TIM LUKE, Hydrologist  
Water Allocations Bureau

Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 20<sup>th</sup> day of October, 1992, I mailed a true and correct copy of the attached letter, postage prepaid, to the following individuals:

Robert Whiteley  
Shoulder 3 Ranches Inc.  
P.O. Box 218  
Oakley, ID 83346

Bruce Bedke  
Oakley, ID 83346

Carl Austin  
P.O. Box 116  
Oakley, ID 83346

Oakley Canal Co.  
W.B. Whiteley  
P.O. Box 207  
Oakley, ID 83346

Carlson Canyon Ranch  
P.O. Box 'A  
Burley, ID 83318

Bob Fotheringham  
Regional Engineer  
Utah Dept. of Water Resources  
Division of Water Rights  
Logan Regional Office  
55 E. 100 N.  
Logan, UT 84321

Don Campbell  
Box 285  
Oakley, ID 83346

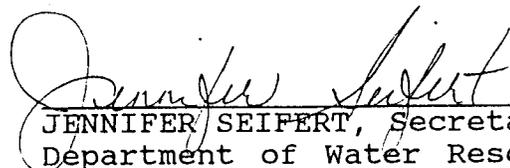
Ray C. Bedke  
P.O. Box 283  
Oakley, ID 83346

Nolan Victor  
1528 Addison Ave. E.  
Twin Falls, ID 83301

Loren Holmes  
Regional Manager  
IDWR  
Twin Falls

Mike Poulton  
Oakley, ID 83346

J. Stephen Folk  
Hydraulic Engineer  
Nevada Dept. of  
Conservation and Natural  
Resources  
123 W. Nye Lane  
Carson City, NV 89710

  
JENNIFER SEIFERT, Secretary  
Department of Water Resources