

March 28, 2001

**To the water users on Raft River, South Fork Junction Creek, and Basin Creek**

At the meeting held on March 2, 2001, several distribution issues were discussed. Mr. Amidan made a presentation through his attorney that the priority date shown in the Proposed Determination of Water Rights for his water right number 11-528 (prior to 1892) is ambiguous. He presented a copy of a document from the Box Elder County Records Office which was a water certificate claiming a flow of water for 200 acres filed by C.E. Colton in 1883. Mr. Colton was apparently the original homesteader of Mr. Amidan's farm. He also presented information from two individuals who claimed to have worked on the farm or associated with people who worked on the farm during the 1920's and 1930's. These individuals claimed that distribution of water was never an issue with the upper water users because the upper water users realized that the Colton/Beus ranch had the earlier priority date. Mr. Amidan requested that his priority date be changed administratively by the State Engineer so that water could be distributed to him in accordance with his water rights.

Other water users who have had a long involvement with irrigation in the area near the reservoir on South Junction Creek also made statements. They asserted that the homesteaders who originally farmed the land near the reservoir first came into the area and began irrigation in 1882. They said they personally had been irrigating in the area since the late 1940's and that during that time period they were unaware of any time that Mr Briggs (successor to Beus) requested that the upper users send water down to his place during dry years. They stated that there used to be a continual return to the creek below the irrigated lands near the reservoir that provided the water for Mr. Amidan's farm. It appeared to them that there was less water now in the area than there had been in the past. It was also mentioned that the change to sprinkle irrigation had changed and reduced the return flow patterns in the area.

There was also some discussion and disagreement about when water has been stored and used from the reservoir on South Junction Creek. The disagreement centered on whether the reservoir operators continued to store water in the reservoir past the period allowed by the water right.

After considering the information presented at the meeting, the State Engineer offers the following proposal for the distribution and regulation of water on the streams listed in the heading of this letter.

First, there is enough uncertainty surrounding the priority date assigned to Mr. Amidan's water right no. 11-528 (and perhaps uncertainty concerning the priority dates of the other water rights in the area) and enough historical precedent for the current distribution practices that the State Engineer does not believe it would be appropriate to administratively change the priority date. This issue would be better handled in the district court where a judge could decide if the proposed determination should be modified.

Second, it is reasonable to expect an equitable distribution of water in the area according to the water rights. However, the certainty of an equitable distribution is questionable because of the lack of measuring devices and independent regulation effort in the area. Therefore measuring devices should

be installed and someone should be selected who would be acceptable to the water users as the water commissioner for the area.

Measuring devices should be installed at the following locations:

- A flow measuring device on South Junction Creek before the creek enters the reservoir.
- A storage level gage on the reservoir installed at a location (perhaps on the outlet tower) where the water level can be easily read.
- A flow measuring device on South Junction Creek just below the Keith Nelson property.
- A flow measuring device on Raft River down by Hal Amidan's property to determine the flow available for diversion.

The flow measuring devices should be of a design and set in a location acceptable to the state engineer. The installation of the devices should be capable of withstanding much larger water flows but should be able to measure in the range of 1 cfs to 20 cfs. These devices should be installed in such a manner that they can be upgraded and continuous recorders added at some point in the future if necessary.

It seems reasonable that the water commissioner should visit the area once a week to take and record measurements at the four locations described above. This should start at the beginning of the irrigation season and continue until there is not an adequate amount of flow to distribute. The water users in the area are responsible to recommend someone to be appointed by the state engineer as water commissioner. The water users are also responsible to set up a budget to cover the salary and expenses of the commissioner. The state engineer will assess the water users according to the budget set by the water users. The water users will be assessed on a pro-rata basis according to their water rights.

We would like to discuss this proposal with the water users at another meeting to be held on Wednesday, April 18, 2001 at 2:00:p.m. at

The Raft River Rural Electric Association  
Board Room  
Malta, Idaho

If there are any other reasonable approaches to resolving this situation, please come prepared to present them and discuss them at this meeting.

If you have any questions concerning this proposed procedure prior to the meeting, please contact me at (801)538-7380 or Bob Fotheringham at (435)752-8755.

Sincerely,

Lee H. Sim, P.E.  
Assistant State Engineer for Distribution

cc: Bob Fotheringham  
Ward Wagstaff

bc: John Mabey