

3 Day/24 Hour Notice

To Land owner at: _____

TITLE 42, CHAPTER 9, **42-911. USERS OF WATER DEFINED.** The term "users of water" from a community ditch shall be understood to include the owner of the land on which the water is used, or any tenant or other person in possession and control of said premises.

~ Complaint filed by _____, on _____,
Address: _____, Phone #: _____

~ Complaint is flood damage to real property.

~ Complaint is water running on road and/or side walks and/or property located at _____

TITLE 42, CHAPTER 12, **42-1203. MAINTENANCE OF EMBANKMENTS.** The owner or owners of any irrigating ditch, canal or conduit shall carefully keep and maintain the embankments thereof in good repair, in order to prevent the water from wasting during the irrigation season, and shall not at any time permit a greater quantity of water to be turned into said ditch, canal or conduit than the banks thereof will easily contain or than can be used for beneficial or useful purposes; it being the meaning of this section to prevent the wasting and useless discharge and running away of water.

~ Complaint is foul odors from standing water.

~ Complaint is insect problem caused by standing water.

~ Complaint is water flow restriction(s) causes by a unmaintained ditch.

TITLE 42, CHAPTER 12, **42-1202. MAINTENANCE OF DITCH.** The owners or persons in control of any ditch, canal or conduit used for irrigating purposes shall maintain the same in good order and repair, ready to deliver water by the first of April in each year, and shall construct the necessary outlets in the banks of the ditches, canals or conduits for a proper delivery of water to persons having rights to the use of the water.

REMEDIES:

~ **CONTACT NEIGHBOR(S)** that are contributing to the problem and work out a solution.

~ **3 DAY NOTICE** to repair/clean the ditch problems by Ash Park Water User Association.

~ **24 HOUR NOTICE** by Ash Park Water User Association (follows a three day notice) for immediate action which includes a \$30.00 administration charge. If follow up inspection after 24 hours has not resolved the problem(s), then a contractor will be retained to correct the problem at the land owner's expense. Land owner will have 30 days to reimburse the ditch association, after which a lien will be placed on the property owner at an additional cost of \$375.00 for legal fees. Contractor hired will be based on who can do the repair in the shortest time, not by lowest bidder.

~ **LEGAL CITATIONS** under state statutes, partial list on back of this notice.

TITLE 18, CHAPTER 43, **18-4308. CHANGE OF LATERAL DITCH OR BURIED IRRIGATION CONDUIT.** Where any lateral ditch has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land, shall have the right at his own expense to change said lateral ditch or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such lateral ditch or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

See web site for additional information: <http://www.prolawncare.org/apwua/>

By: _____, Officer of APWUA. Date: _____

TITLE 42, CHAPTER 22, 42-2201. **MAINTENANCE CHARGES -- RIGHT TO COLLECT -- BASIS OF ASSESSMENT-- LIEN.** Any corporation heretofore organized or any corporation that shall hereafter be organized for the operation, control or management of an irrigation project or canal system, or for the purpose of furnishing water to its shareholders, and not for profit or hire, the control of which is actually vested in those entitled to the use of the water from such irrigation works for the irrigation of the lands to which the water from such irrigation works is appurtenant, shall have the right to levy and collect from the holders or owners of all land to which the water and water rights belonging to or diverted by said irrigation works are dedicated or appurtenant regardless of whether water is used by such owner or holder, or on or for his land; and also from the holders or owners of all other land who have contracted with such company, corporation or association of persons to furnish water on such lands, regardless of whether such water is used or not from said irrigation works, reasonable administrative charges, tolls, assessments and charges for the purpose of maintaining and operating such irrigation works and conducting the business of such company, corporation or association and meeting the obligations thereof, which tolls, assessments and charges shall, after projecting the revenue to be derived from an administrative charge of not to exceed ten dollars (\$10.00) to be levied against each holder of a stock certificate of the company:

- (1) Be equally and ratably levied and may be based upon the number of shares or water rights held or owned by the owner of such land as appurtenant thereto; or
- (2) May be based upon the amount of water used or said tolls, assessments and charges may be based on:
 - (a) A combination of a charge of a fixed amount per share for annual operation and maintenance and a charge for a fixed minimum amount of water per share, whether used or not, plus an additional charge based on the estimated amount of water to be delivered over the minimum, as requested by the farmer, including the energy costs of said excess delivery; or
 - (b) A combination of a charge for energy costs, based on the amount of water delivered, and a separate charge for all other operation and maintenance costs, based on the number of shares or water rights; or
- (3) May be based upon any other method of assessment fairly allocating the costs of operating and maintaining the irrigation works which has been approved by the affirmative vote of at least two-thirds (2/3) of the shares entitled to vote at any annual, regular or special meeting of the shareholders at which the question of approving the method of assessment is brought properly before the meeting. Such company, corporation or **association of persons shall have a first and prior lien**, except as to the lien of taxes, upon the land to which such water and water rights are appurtenant, or upon which it is used, said lien to be perfected, maintained and foreclosed in the manner set forth in this chapter: provided, that any right to levy and collect tolls, administrative charges, assessments and charges by any person, company of persons, association or corporation, or the right to a lien for the same, which does or may hereafter otherwise exist, is not impaired by this chapter.

TITLE 42, CHAPTER 22, 42-2207. **FORECLOSURE OF LIEN.** Proceedings in the way of civil action in the district courts may be commenced and maintained to enforce the lien herein provided, which proceedings may embrace one or more parcels of land, or one or more landowners, or reputed landowners; and except as otherwise provided herein, the provisions of the Idaho laws relating to civil actions, new trials and appeals, are applicable to and constitute the rules of practice in proceedings under this chapter; and except as otherwise provided, the nature and effect of a judgment of foreclosure shall be the **same as the foreclosure of a first real estate mortgage**: provided, that the sale of such land under foreclosure shall pass to the purchaser, all ditch and water rights appurtenant thereto, and the interests, including corporate stock, of the owner or holder of such land in such corporation, company or association.

TITLE 18, CHAPTER 43, 18-4304. **WRONGFUL DIVERSION OF WATER.** Any person who without the consent of the water master of the district, diverts any water from a ditch or channel where it has been placed, or caused or left to run by the water master or his deputies, or who shuts or opens any ditch, gate or dam, or in any way impedes or increases the flow of water in any stream or ditch diverting water from a stream, while the same is under the charge of a water master, or who cuts away any embankment of a stream, whereby the water of such stream is diverted, or breaks, injures, or removes any gate, flume or other device used for the equitable distribution of the water of such stream by the water master, shall be **guilty of a misdemeanor**.

TITLE 18, CHAPTER 43, 18-4306. **INJURIES TO DITCHES AND APPURTENANCES.** Any person or persons, who shall cut, break, damage, or in any way interfere with any ditch, canal, headgate, or any other works in or appurtenant thereto, the property of another person, corporation, or association of persons, and whereby water is conducted to any place for beneficial use or purposes, and when said canal, headgate, ditch, dam, or appurtenance is being used or is to be used for said conduct of water, shall be **guilty of a misdemeanor**.

TITLE 18, CHAPTER 43, 18-4301. **INTERFERENCE WITH DITCHES, CANALS OR RESERVOIRS.** Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir, used for the purpose of holding or conveying water for manufacturing, agricultural, mining, or domestic uses, or who shall, without like authority, raise, lower, or otherwise disturb, any gate or other appurtenance thereof used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume, or reservoir, any rubbish, filth, or obstruction to the free flow of water, is **guilty of a misdemeanor**.