



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

May 16, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

ROBERT R ANDERSON
MARY M ANDERSON
5646 SORRELL DR
POCATELLO ID 83202

RE: Notice of Error Reply for Water Right Number 29-13146

Dear Mr. and Mrs. Anderson:

Thank you for taking the opportunity of returning the "notice of error" reply. Upon it you indicated that you disagreed with the recommendation for domestic use for one (1) business with 0.04 cfs. You went on to say that you wished to keep the well use for manufacturing, culinary, and industrial use. Attached to the notice of error reply was a letter detailing the size of the property, buildings, and the businesses that have operated at that location since 1975.

I have reviewed your notice of error reply and our associated files and reply the following:

- The basis of the claim to your water right was "beneficial use." Prior to March 25, 1963, a person in the state of Idaho could appropriate water simply by putting it to use and later claiming the water right in the form of evidence indicating when it was put to use along with other key elements of a water right. Hence the term "beneficial use." After 1963 and since, the method to obtain a water right is by "application for a permit."

What this means in regards to your right, is that there was no evidence provided that indicated that the water was appropriated by "beneficial use" prior to March 25, 1963. Since the letter evidence provided with the notice of error reply also does not indicate "beneficial use" appropriation prior to March 25, 1963, we have recommended your water right under current Idaho Statutes for the appropriation of water for a commercial or business use.

- Under Idaho Statute 42-111 1b, and 2 (see attached copy), the Idaho Department of Water Resources is allowed to permit commercial or business establishments to appropriate water under "domestic" definitions. This allows a diversion rate of up to 0.04 cfs and a daily maximum of 2,500 gallons. If this is not sufficient, there are two choices:

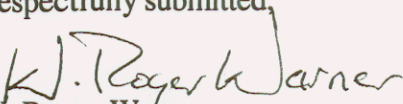
1. Provide evidence that the well was installed prior to March 25, 1963

- along with what it was used for the and amounts, or
2. Obtain a water right (ground water) and file to transfer that water right to your location.

Unless additional evidence is submitted to the contrary, we intend to recommend this water right to the adjudication court for 0.04 cfs for 2,500 gallons per day.

If you have any further questions regarding this matter, please feel free to call me at 525-7161.

Respectfully submitted,


W. Roger Warner
Adjudication Specialist

Enclosure(s) Copy of Idaho Statue 42-111.



Idaho Statutes

TITLE 42
IRRIGATION AND DRAINAGE -- WATER
RIGHTS AND RECLAMATION
CHAPTER 1
APPROPRIATION OF WATER -- GENERAL
PROVISIONS

42-111. DOMESTIC PURPOSES DEFINED. (1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

(b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

(2) For purposes of the sections listed in subsection (1) of this section, domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection (1)(b) of this section.

(3) Multiple water rights for domestic uses or domestic purposes, as defined in this section, shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, Idaho Code.

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