



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

January 6, 2016

**Mariah R. Dunham
Morris and Wolff, P.A.
722 Main Avenue
St. Maries, ID 83861**

RE: City of Harrison Notices of Error (94-7071 & 94-9369)

Dear Ms. Dunham:

On October 5, 2015 you submitted two Notice of Error Replies (NOE), concerning water right claims 94-7071 and 94-9369, on behalf of the City of Harrison to the Idaho Department of Water Resources (IDWR). In the NOEs you requested IDWR remove a condition from both of the water right recommendations. The condition states:

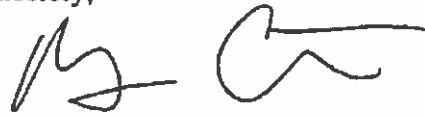
To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from City of Harrison Well No. 3 located in T47N, R04W, S01, NESE (Lot 7).

Use of this condition prevents injury to junior water right holders which would result from IDWR's recognition of additional of points of diversion (POD) established through an accomplished change under Idaho Code §42-1425. This practice has been upheld by the Idaho Supreme Court in *City of Pocatello v. Idaho* 152 Idaho 830 (2012). Therefore, IDWR will retain the condition in its recommendations of claims 94-7071 and 94-9369 when it submits the Director's Report to the Court.

In addition, while reviewing the City of Harrison claims it was discovered that the quarter quarter designation for the PODs in Lot 7 do not appropriately describe the location of the POD. IDWR has changed that legal description to "T47N, R04W, S01, Lot 7" removing the quarter quarter. This change will be made in the recommendations including the conditions of claims 94-7071, 94-9369, 94-9370 and 94-7383. Revised preliminary recommendations have been included for your review.

Please contact me with any questions or concerns you might have.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a cursive 'C' and a horizontal line extending to the right.

Meghan Carter
Deputy Attorney General

Encls.

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

12/30/2015

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 94-7383

NAME AND ADDRESS: CITY OF HARRISON
PO BOX 73
HARRISON ID 83833

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.170 CFS

PRIORITY DATE: 10/14/1999

POINT OF DIVERSION:

T47N R04W S1 Lot 7 Within KOOTENAI County

T47N R04W S1 Lot 7 Within KOOTENAI County

T47N R04W S1 SENE Lot 4 Within KOOTENAI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MUNICIPAL

01/01 12/31

0.170 CFS

PLACE OF USE:

Place of use is within the service area of the City of Harrison municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

12/30/2015

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 94-9369
NAME AND ADDRESS: CITY OF HARRISON
PO BOX 73
HARRISON ID 83833

SOURCE: GROUND WATER TRIBUTARY:
QUANTITY: 0.450 CFS
PRIORITY DATE: 12/31/1941
POINT OF DIVERSION:

T47N R04W S1 Lot 7 Within KOOTENAI County
T47N R04W S1 Lot 7 Within KOOTENAI County
T47N R04W S1 SENE Lot 4 Within KOOTENAI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	0.450 CFS

PLACE OF USE:

Place of use is within the service area of the City of Harrison municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from City of Harrison Lake Well One located in T47N, R04W, S01, Lot 7.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The City of Harrison Lake Well One has been identified by the Idaho Department of Environmental Quality as City of Harrison Well #1.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

12/30/2015

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 94-9370

NAME AND ADDRESS: CITY OF HARRISON
PO BOX 73
HARRISON ID 83833

SOURCE: COEUR D ALENE LAKE

TRIBUTARY: SPOKANE RIVER

QUANTITY: 0.450 CFS

PRIORITY DATE: 08/01/1901

POINT OF DIVERSION:

T47N R04W S1 Lot 7 Within KOOTENAI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MUNICIPAL

01/01 12/31

0.450 CFS

PLACE OF USE:

Place of use is within the service area of the City of Harrison municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use