



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

June 10, 2013

CLIFF JENSEN
PO BOX 201
HAGERMAN ID 83332

CHRISTY LOU AWALT
PO BOX 392
SAN MIGUEL CA 93451

RE: Water Right Permit Nos. 37-21456, 37-21486, 37-21827 and 37-21828, Malad State Park Reservoir

Dear Water Users:

Last summer, a beneficial use field examination was conducted for the purpose of issuing water right licenses pursuant to the above permits. During that examination and at least two subsequent follow-up visits, IDWR staff confirmed beneficial use under the permits but found certain inconsistencies between the approved permits and actual water development that will require amendment of the permits prior to licensing. The purpose of this letter is to describe those inconsistencies, the pending amendments, and their effect on regulation of the rights.

During the field examinations, it was determined that the present operation of the reservoir does not match the elements of the water right permits. The permits cumulatively identify an on-stream storage reservoir with a capacity of 99 acre-feet, and associated irrigation at Awalt's and Jensen's property using waste water originating from the W-Drain. This implies a single fill only in the reservoir, and most irrigation occurring with "live" or natural flow from the drain. In reality the W-Drain waste water inflows are highly variable, ranging from zero to about 12 cubic feet per second (cfs), making the reservoir an irrigation regulation impoundment which is drawn down and then re-filled multiple times during the season as the waste water is available. The reservoir was also determined to be constructed and operated as an off-stream reservoir, and the point of the diversion of waste water is at the head of the diversion ditch on the W-Drain, and not at the reservoir dam as identified in the permits.

It is IDWR's policy to issue water right licenses which reflect, as nearly as possible, the actual developed water uses which are found at the time of the field examinations. If these uses are not consistent with the water right permit(s), then the permits may be modified to match the water use(s) found, and the license then issued, so long as the changes do not cause an enlargement of the use(s) originally authorized by the permit. This often requires that certain elements of the permit be given up or abandoned to enable the changed uses. Simply adding water uses to an existing permit usually constitutes an enlargement.

In this case, IDWR believes that multiple reservoir fills can be authorized which would allow storage in the reservoir, irrigation from storage, and water to compensate for losses from evaporation and seepage. In total 762.4 acre-feet may be licensed pursuant to these permits, allowing for full irrigation of acres with stored water. This will be accomplished by converting the irrigation volume which would have been licensed as natural flow Irrigation use, to 762.4 acre-feet for Irrigation Storage and Irrigation from Storage uses. The natural flow Irrigation rate of 4.56 cfs (2.76 cfs Awalt, 1.8 cfs Jensen) will be converted to a Diversion to Storage component, and the Point of Diversion for all four permits changed to the head of the ditch from the W-Drain. A Diversion to Storage rate is required in lieu of an irrigation diversion rate for off-stream impoundments.

Page 2
June 14, 2013

The enclosed Amendment of Permit forms describe the above changes and show each water right as it is proposed to be licensed. When the Amendments have been signed and returned, the water right licenses will be issued.

The volume amendment to multiple-fill irrigation storage will most accurately describe the use of the reservoir and prevent curtailment of diversions after a the reservoir has accrued a single fill. Unfortunately, because the amended Diversion to Storage rate may be no more than the Irrigation rate originally permitted, instantaneous diversions to the reservoir will be limited to 4.56 cfs. The Watermaster indicates that the ditch to the reservoir has an approximate capacity of 12 cfs, and that she has observed flows of this magnitude being diverted. Another Application for Permit may be filed seeking an additional 8 cfs for Diversion to Storage, and this should fully authorize the system as it has been developed.

I have enclosed all four Amendments for your reference. Please sign and return the enclosed Amendments that belong to you with the statutory fee of \$100 per Amendment (\$200 each for Jensens and Awalts--\$400 total) within 14 days. Please let me know if you have any questions regarding this matter, I may be contacted at (208) 287-4944.

Sincerely,



Cherie Palmer, Sr. Water Resource Agent
Water Allocation Bureau

Enclosures

C: Bob Jones