

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LICENSE)
NO. 74-15840 IN THE NAME OF)
THE STATE OF IDAHO)
DEPARTMENT OF FISH AND)
GAME)

**PRELIMINARY ORDER
CORRECTING A LICENSE**

This matter having come before the Department of Water Resources (Department) as an inspection of water right records, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On December 10, 2009, the Department issued permit no. 74-15840 to State of Idaho, Department of Fish and Game, for 0.80 cubic feet per second (cfs) of Wimpey Creek water for fish propagation purposes from April 1 to November 1 each year.
2. On October 21, 2010, the Department received proof of beneficial use for permit No. 74-15840.
3. On May 22, 2012, the Department conducted a field examination and confirmed beneficial use had been developed as permitted except for the rate of diversion, which was reduced to 0.62 cfs based on the maximum flow capabilities of the diversion and distribution system.
4. On November 14, 2012, the Department issued water right license No. 74-15840 (license) to the State of Idaho, Department of Fish and Game, for 0.62 cubic feet per second (cfs) of Wimpey Creek water for fish propagation purposes from April 1 to November 1. The license limited the annual diversion volume to 303 acre feet (af). The Department issued the license as a preliminary order of the agency.
5. On January 25, 2013, the Department discovered the licensed volume of 303 af had been calculated using a 246 day season use instead of the 215 day season of use. A diversion rate of 0.62 cfs diverted continuously for 215 days will not produce 303 af. The volume that should have been authorized on license No. 74-15840 is 264 af.

CONCLUSIONS OF LAW

1. Under Section 42-219, *Idaho Code*, the Department has a statutory obligation to issue a water right license that accurately portrays the extent of beneficial use of water developed in accordance with the permit.

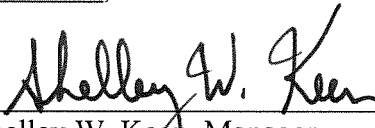
2. The annual volume described by license No. 74-15840 does not accurately portray the water use developed in accordance with the permit.
3. The Department should correct license No. 74-15840 to describe the annual volume as 264 acre feet (af).

ORDER

IT IS HEREBY ORDERED that license No. 74-15840, in the name of the State of Idaho, Department of Fish and Game, is **CORRECTED** to show the authorized annual volume as 264 acre feet (af).

IT IS FURTHER HEREBY ORDERED that a revised license document shall be issued on this date in connection with this order.

Dated this 13th day of February, 2013.



Shelley W. Keen, Manager
Water Rights Section