

**From:** Keen, Shelley  
**Sent:** Friday, August 31, 2012 10:01 AM  
**To:** 'Brian Higgs'  
**Cc:** Miller, Nick  
**Subject:** RE: Whittaker

Mr. Higgs,

Mr. Whittaker's application to appropriate water from Big Timber Creek was the subject of a contested case proceeding in 2007. The final order resolving the contested case and issuing Mr. Whittaker's permit contained the following requirement:

**Prior to diversion and use of water under this right, the right holder shall install and maintain an acceptable measuring device, including data logger, at the authorized point of diversion, in accordance with Department specifications.**

Mr. Whittaker submitted a petition for reconsideration of the final order. In his petition, Mr. Whittaker questioned the need for a data logger. In denying the petition for reconsideration, the hearing officer stated:

**As demands for use of water increase, the requirement for measurement and accounting for water use also increases. Whittakers should be responsible for insuring that their diversion of water does not exceed the flow rate that is authorized. Because Whittakers' proposed point of diversion is in a remote location and water could easily be diverted in excess of the quantity authorized, Whittakers are required to install a measuring device and the necessary electronic hardware to ensure compliance with the limitations of their water right.**

The full text of the orders approving the permit and denying the petition for reconsideration are available at:  
<http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=74&Sequence=15613&SplitSuffix=>

The management of water in the Lemhi Basin in general, and on Big Timber Creek in particular, is under scrutiny because of efforts by the Upper Salmon River Watershed Program, the local soil conservation district, and various other local, state, and federal groups to restore habitat for spring chinook salmon, steelhead, and bull trout. Reconnection of Big Timber Creek to the Lemhi River is a top priority for these restoration efforts. Installing a data logger will enable Mr. Whittaker to show that he is complying with the limitations of his permit, which the hearing officer carefully crafted to avoid conflict with the public interest in the habitat restoration projects. In that regard, the data logger requirement is similar to the requirement that Mr. Whittaker comply with fish screening requirements on his diversion.

As for the configuration of the measuring and recording devices, we think a properly designed stilling well with transducer and data logger would be able to accomplish the objective. There may be other configurations that could work as well. Since the requirement is perpetual, it is important for the measuring and recording devices to be durable, easy to use, and easy to maintain. It will also be important for the watermaster to be able to collect the data periodically. We would prefer the recording device to be digital for ease of reporting. Recording measurements at regular intervals throughout the day, such as every 15 minutes, is likely sufficient. If you have additional questions about measuring and recording, you may want to contact Nick Miller, Water Distribution Section Manager, at 208-287-4956.

Sincerely,

Shelley Keen  
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**From:** Brian Higgs [mailto:[brian@waterwellconsultants.com](mailto:brian@waterwellconsultants.com)]  
**Sent:** Friday, August 24, 2012 8:16 AM  
**To:** Keen, Shelley  
**Cc:** Jaxon Higgs  
**Subject:** Whittaker

Hi Shelley,

My name is Brian Higgs. I have a small hydrologic consulting firm in the Burley area. James Whittaker has been a client of mine for some time.

He fax'd me a copy of the letter you sent him concerning the field exam tentatively scheduled for Spring 2013. My question is concerning the second bullet of your letter dated, August 14.

As I understand it, this POD is a small ditch with an installed weir device sent to him by the IDWR. This device is read by a ditch-rider every day it is diverting water when in priority. Are you (IDWR), as a condition of his right, directing him to install a stilling well with transducer and data logger?

Certainly you can understand my question since, if my understanding of the situation is correct, all that data collection would be overkill and unnecessary.

I would appreciate it if you could shed some light on this situation.

Thank you.

Brian