

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.	)	
29-13672 IN THE NAME OF	)	
GEORGE W. KATSILOMETES	)	ORDER TO SHOW CAUSE
_____	)	

This matter having come before the Idaho Department of Water Resources (Department) as a result of receipt of a Statement of Completion for Submitting Proof of Beneficial Use in connection with permit no. 29-13672, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On January 30, 2004, Francis B. Brady applied to the Department for a permit (application) to appropriate 0.50 cubic feet per second (cfs) of ground water located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 09 South, Range 38 East, B.M., for heating purposes.
2. On May 29, 2008, the Department issued permit no. 29-13672 authorizing diversion of 0.50 cfs of ground water to be diverted within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 21, Township 09 South, Range 38 East, B.M., for heating purposes. The permit included conditions of approval no. 8 and no. 9 as described below:

Condition no. 8:

Prior to diversion and use of water for heating purposes under this permit, the permit holder shall install a totalizing measuring device with data logging capabilities of a type approved by the Department on the system diverting ground water for beneficial use. Each day water is diverted, the permit holder must record and maintain records of all diversions from the well, identifying the amount of water diverted by date and the total daily volume. These records must be maintained and compiled into an annual record set and made available to the Department upon request. **Annual record sets must be maintained for the duration of the permit process and submitted to the Department with proof of beneficial use. Submittal of proof of application of water to beneficial use, without an acceptable data set will not be accepted by the Department and may result in cancellation of the permit [Emphasis added].**

Condition no. 9:

Water surface elevations and water temperatures in the well(s) used as the point of diversion for this right, shall be measured and recorded on a weekly basis. The permit holder must record and maintain records of the water surface elevation by date and elevation in feet above mean sea level and temperature by date and temperature in degrees Celsius. Temperatures shall be measured at the well head.

These records must be maintained and compiled into an annual record set and made available to the Department upon request. **Annual record sets must be maintained for the duration of the permit stage and submitted to the Department with proof of beneficial use. Submittal of proof of application of water to beneficial use without an acceptable data set will not be accepted by the Department and may result in cancellation of the permit [Emphasis added].**

3. On December 29, 2010, Frances B. Brady assigned permit 29-13672 to George William Katsilometes (permit holder).
4. On May 14, 2012, the Department received a Statement of Completion for Submitting Proof of Beneficial Use in connection with permit 29-13672. The permit holder did not include any of the information required by condition of approval nos. 8 and 9.
5. On May 15, 2012, the Department sent a Proof Deficiency Letter to the permit holder informing him that the requirements of condition nos. 8 and 9 have not been met and giving the permit holder 15 days to submit the information required by condition nos. 8 and 9.
6. On June 11, 2012, the Department received an e-mail from the permit holder's representative. The e-mail included a forwarded statement authored by the permit holder that was intended to provide the information needed to meet the requirements described in condition of approval nos. 8 and 9. The e-mail did not include any annual record sets as required by condition of approval nos. 8 and 9.
7. Section 42-311(1), Idaho Code, provides in pertinent part:

If the director of the department of water resources finds, on the basis of available information at any time after a permit is issued but prior to license, that the permittee has refused or failed to comply with any of the conditions in the permit, or has refused or failed to comply with the provisions of the law governing the permit, then the director of the department of water resources may issue (a) an order to show cause before the director of the department or the director's designee on or before a date therein set, which shall be not less than thirty (30) days from the date of service, why the director of the department should not cancel said permit;

8. Section 42-219(8), Idaho Code, provides:

In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit. Notice of such action shall be forwarded to the permit holder by certified mail. The applicant may contest such action by the department pursuant to section 42-1701A(3), Idaho Code.

9. Section 42-311(4), Idaho Code, provides:

The permittee shall have a right to an administrative hearing before the department if requested in writing within twenty-one (21) days from the date of service of the order, and to judicial review, all as provided in section 42-1701A, Idaho Code.

CONCLUSIONS

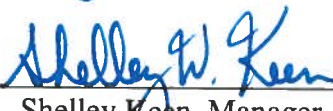
1. Section 42-311, Idaho Code, provides that the Department can issue an Order to Show Cause why the Department should not cancel a permit when the Department finds that the permit holder has failed to comply with any of the conditions of the permit.
2. Section 42-311, Idaho Code, provides that the permit holder has the right to an administrative hearing before the Department if requested in writing 21 days from the date of service of this order.
3. Section 42-219(8), Idaho Code, provides that the director of the Department can refuse issuance of a license and void the permit upon finding that the permit holder has not complied with the conditions of the permit.
4. The permit holder has not complied with condition of approval nos. 8 and 9 of permit no. 29-13672.
5. The permit holder should be required to show cause why permit no. 29-13672 should not be cancelled for failure to comply with the conditions of the permit by failing to submit annual record sets as described in the conditions of the permit.

ORDER

IT IS HEREBY ORDERED that the permit holder show cause before the Department of Water Resources within thirty (30) days of the date of this order why water right permit no. 29-13672 should not be **CANCELLED** pursuant to the provisions of Section 42-311, Idaho Code, and Section 42-219(8), Idaho Code.

IT IS FURTHER HEREBY ORDERED that the permit holder shall have a right to an administrative hearing before the department if requested in writing within twenty-one (21) days from the date of service of the order, and to judicial review, all as provided in section 42-1701A, Idaho Code.

Dated this 15th day of August, 2012



Shelley Keen, Manager
Water Rights Section