



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

August 14, 2012

F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE ID 83464

RE: Water Right Permit No. 74-15613

Dear Mr. and Mrs. Whittaker:

The Department of Water Resources is striving to conduct beneficial use examinations and issue water right licenses for permit holders who have submitted a Statement of Completion for Submitting Proof of Beneficial Use ("proof statement"). The Department received your proof statement for Permit 74-15613 on October 25, 2011, and is preparing to schedule an examination. Our understanding is that the flow of Big Timber Creek may only be sufficient to satisfy diversions in connection with Permit 74-15613 for a short time during the spring runoff. Therefore, our plan is to conduct an examination early in the irrigation season of 2013. However, two issues must be addressed before the Department will schedule an examination. Note that each of the issues described below, if left unaddressed, is sufficient to preclude confirmation of development consistent with the permit and would likely result in voiding the permit.

- Submitting a proof of beneficial use statement indicates that diversion and beneficial use of water have occurred to the extent described on the form, and it ends the development period for the permit. While your proof statement indicates that you have irrigated 200 acres in connection with your permit, the 2011 diversion records for Water District 74W do not list Permit 74-15613 as having received water during the irrigation season. However, the records also contain a statement that high water rights were diverted from June 8 through July 11. Since the term "high water rights" does not normally refer to numbered water rights in the Lemhi Basin, it is not clear whether Permit 74-15613 was meant to be included in the reference to high water rights.

Before committing to a field examination in 2013, the Department needs assurance that the water use authorized in the permit was actually developed within the authorized development period. Please submit information confirming that irrigation actually occurred in connection with the permit in 2011. Data from your data logger would be ideal. If the data logger is not in place, then a statement from the watermaster of Water District 74W or other reliable documentation would be needed.

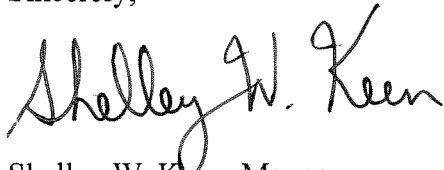
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- The other item we noted was that your proof statement indicates you may not have installed the required data logger to record diversions. The Department cannot confirm beneficial use and issue a water right license when the permit conditions have not been met. If the data logger is not in place, it must be installed prior to any future diversion of water in connection with your permit. Some information about effective data loggers can be found in the document available at <http://www.idwr.idaho.gov/WaterManagement/WaterMeasurement/PDFs/Meas-Transfer-Guidelines.pdf>. You may also want to contact a qualified consultant or sales representative for more information about data loggers.

Please provide the requested information about your diversion history within 30 days. At the same time, please provide evidence that you have installed the required data logger. If you need additional time to reply, please call me to make arrangements. If you have not provided the requested information within the expected time, the Department will not schedule an examination of your water use, and we will not be able to confirm beneficial use during the authorized development period. The likely outcome would be the voiding of your permit.

If you have any questions, please call me at 208-287-4947, or email me at shelley.keen@idwr.idaho.gov.

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive, flowing style.

Shelley W. Keen, Manager
Water Rights Section

cc: Nick Miller, IDWR Water Distribution Section Manager