

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 37-8306) **ORDER MODIFYING MEASURING**
IN THE NAME OF WAYNE D. MARTIN &) **AND LOCKABLE DEVICE**
KRISTIN D. MARTIN) **REQUIREMENT**

This matter having come before the Department of Water Resources (Department) to modify measuring device and lockable controlling works requirements, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On December 24, 1987, the Department issued Permit 37-8306 (permit) to Barbi Lindsay to develop a right to divert 1.0 cfs from Parker Gulch tributary to Elkhorn Gulch for aesthetic purposes within Blaine County. The permitted place of use is within water district no. 37, Big Wood River. A condition of approval on the permit states:

A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.

2. On December 14, 1989, the Department received a Proof of Beneficial Use statement (proof) in connection with the permit.

3. On April 29, 1998, a Department field examiner reported that water was used in connection with the permit. The field examiner did not report whether measuring and lockable devices had been installed. In addition, the field examiner reported that the Frank and Suz Cameron were now the owners of the place of use described on the permit.

4. On January 26, 2012, the Department sent a letter to Frank and Suz Cameron giving them thirty (30) days to notify the Department that they have complied with the requirements of the condition of approval or to request removal of the measuring and lockable device requirement.

5. On March 20, 2012, the Department received correspondence from the watermaster for water district no. 37. In the correspondence, the watermaster notified the Department that there is no diversion from Parker Gulch and the aesthetic use is for an in-stream pond. The watermaster does not see the need for a measuring device.

6. Photos that were taken at the field examination and the comments from the watermaster indicate that a lockable device cannot be accommodated on the diverting works of the permit.

7. On March 26, 2012, the Department received a Notice of Change in Water Right Ownership (notice) form from Wayne D. and Kristin D. Martin with the required fee and conveyance document. The Department processed the notice and updated ownership of the permit.

CONCLUSIONS OF LAW

1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.

2. Installation of a measuring device and lockable controlling works is not necessary for administration of the diversion of water by the holder of Permit 37-8306 at this time, but it may be necessary in the future.

ORDER

The condition of approval requiring the permanent installation of a measuring and lockable device as part of the diversion works for the permit is **MODIFIED** as follows:

When notified by the Department, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

Dated this 16th day of May, 2012.



Shelley W. Keen, Manager
Water Right Permits Section