



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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February 9, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

T J BUDGE
201 EAST CENTER ST
POCATELLO ID 83204-1391

RE: Water Right Permit No. 29-7936

Dear Mr. Budge:

Thank you for your letter answering our questions about the beneficial use established in connection with Permit 29-7936. As a consequence, I have reexamined the contents of that water right file. This letter summarizes some additional findings and informs you of the next steps in the water appropriation process for Permit 29-7936.

Non-compliance with conditions of the permit

One of the conditions of approval on this 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 prior to diversion of water under this permit.

The field examiner does not mention the required lockable controlling works but he did report that he found no measuring device in place.

IDWR cannot issue a license if the permit conditions have not been met. The permit required a measuring device and lockable control works. The measuring device was not in place at the time that the field exam was completed. Idaho Administrative Code IDAPA 37.03.02 Beneficial Use Examination Rules 035.02.d states,

Field reports which indicate that a measuring device, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement has been formally waived by the director.

There are at least two options for addressing the measuring device and lockable controlling works requirement. One option is to submit documentation demonstrating that the City of Lava Hot Springs has complied with the approval condition by installing the required measuring device. A second option is to send IDWR a written request for removal of the permit requirement. If you choose the second option, please attach documentation which shows that you have discussed the need for measuring devices and control works with the watermaster of Water District 29 and that he has no objection to the removal of the requirements. The watermaster in Water District 29 is:

Steven Hebdon
190 N Meadowview Dr.
Arimo, ID 83214-1631

Please inform IDWR in writing, within thirty (30) days, which option you intend to pursue. If the City of Lava Hot Springs needs time to install the measuring device and control works, please indicate how quickly they can complete construction.

Amendment of permit required for licensing purposes

By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit. The examiner who verified the water use reported that the point of diversion was developed differently than described on the permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, permit 29-7936 must be amended to depict the water use as it was actually developed.

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. The approval conditions are draft versions, subject to further review and to your response to the measuring device requirement. Please review the amendment form carefully. If you concur with the information presented, please and return the signed form with the \$100.00 filing fee within thirty (30) days.

If IDWR does not receive a response from you within thirty (30) days, the agency will assume that the City of Lava Hot Springs has no further interest in this permit, and an order voiding it will be prepared.

If you have any questions, please call me at 208-287-4946, or email me at michele.edl@idwr.idaho.gov.

Respectfully,



Michele Edl
Associate Engineer

Enclosure

cc: City of Lava Hot Springs