

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER MODIFYING MEASURING
NO. 65-23169 IN THE NAME OF	)	DEVICE AND LOCKABLE
GEORGE LOGAN	)	CONTROLLING WORKS
_____	)	REQUIREMENT

This matter having come before the Department of Water Resources (Department) as a request to remove a measuring device and lockable controlling works requirement, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On February 6, 2009, the Department issued Permit 65-23169 (permit) to George Logan (permit holder).
2. Approval condition no. 7 of the permit reads:

Prior to Diversion of water under this right, 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.

3. On December 20, 2011, the Department received a proof of beneficial use statement submitted by the permit holder. Item no. 7 on the proof statement was completed to indicate that installation of a measuring device and lockable controlling works was required as a condition of the permit, but neither the measuring device nor a lockable controlling works had been installed.
4. On January 12, 2012, the Department acknowledged receipt of proof of beneficial use, and notified the permit holder of conditions of approval no. 7 and that a waiver from the requirements could be requested. The Department also stated that watermaster approval would be a requirement to consider a waiver.
5. January 31, 2012, the Department received a letter from the permit holder informing the Department that he had spoken with the watermaster of water district no. 65 (WD 65), and that the watermaster agreed to removal of the lockable controlling works requirement. The permit holder also stated that he would install a measuring device if required by the Department.
6. On January 31, 2011, the Department contacted the water master of WD 65 by electronic mail (e-mail) and requested comment on the need for installation of a measuring device and lockable controlling works for the diversion system developed under 65-23169.
7. February 2, 2012, the watermaster replied to the Department's inquiry by e-mail. He stated that he had spoken with the permit holder and that he agreed to waive the requirement for

installation of a measuring device and lockable controlling works with the stipulation that the requirements could be imposed in the future.

CONCLUSIONS OF LAW

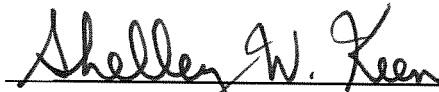
1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.
2. The permit holders have requested a waiver from the requirement for installation of a measuring device and lockable controlling works.
3. Installation of a measuring device and lockable controlling works is not necessary for administration of the diversion of water by the holder of permit 65-23169 at this time, but it may be necessary in the future.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition of approval no. 7 on permit no. 65-23169 is **MODIFIED** as follows:

Upon specific notification 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 6th day of February, 2012.

A handwritten signature in cursive script that reads "Shelley W. Keen". The signature is written in dark ink and is positioned above a horizontal line.

Shelley W. Keen, Manager
Water Rights Section