

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-12304) **ORDER REMOVING MEASURING**
IN THE NAME OF MIDDLETON IRRIGATION) **DEVICE REQUIREMENT**
ASSN. INC. AND MIDDLETON MILL DITCH)
COMPANY)

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

FINDINGS OF FACT

1. On June 11, 1996, the Department issued Permit 63-12304 (permit) to Middleton Irrigation Assn. Inc. and Middleton Mill Ditch Company (permit holders) with a condition of approval requiring the installation and maintenance of a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

2. On September 23, 2010, a Department field examiner corresponded with the permit holders regarding the requirement of a measuring device and lockable controlling works. The examiner reported that the installation of a flow measurement device had been complied with but the lockable controlling works requirement had not.

3. On November 12, 2010, the permit holder's attorney corresponded with the Department and requested that the condition requiring a measuring device and lockable controlling works be installed prior to diversion of water be modified to require the installation of the measuring device and lockable controlling works be installed upon future notification by the Department.

4. On November 2, 2011, the Department corresponded with the watermaster of Water District 63 requesting comments and written recommendations regarding the permits holder's request. The watermaster was given 14 days to respond to this request. The Department did not receive a response concerning the modification of the requirement on Permit 63-12304.

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 63-12304 at this time, but it may be necessary in the future.

ORDER

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

Upon notification by the Department, the right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Dated this 27th day of December, 2011.



John Westra
Western Regional Manager