

Edl, Michele

From: Arave, Nathaniel
Sent: Wednesday, July 16, 2008 12:48 PM
To: Edl, Michele
Subject: RE: illegal Tovey rights

Michele,

I'm going to work the permit owners and the water master, and I will hopefully have either a letter requesting removal, or existence of measuring devices in the next couple of weeks. Thank you for taking the time to look at these and giving some direction on what needs to be done to complete these processes.

Nate Arave
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Idaho Department of Water Resources
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Idaho Falls, Id 83402
(208) 525-7161

From: Edl, Michele
Sent: Wednesday, July 16, 2008 12:07 PM
To: Arave, Nathaniel
Subject: illegal Tovey rights

Nate,
I have just come from Shelley's office. We briefly discussed two DeVere Tovey rights: 29-7703 (recreation ponds) and 29-13155 (power). They both have similar problems in that they lack **required** measuring devices. Last fall I spoke to the watermaster about 29-7703 in a phone call and at that time he stated that nothing much could be done until spring. It looks like spring is here.

I have attached a letter that Shelley wrote a couple years ago. It summarized the Tovey water rights. It failed to reach Mr. Tovey (we have the return envelope) and may not have reached either of his daughters.

However, the short message is that without required measuring devices, they are in violation of their permits and the permits will be voided.

Beneficial Use Examination Rules 35.02.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."

In a 6/3/03 document, signed by DeVere and acknowledging a fee was paid, the department has some indication that Mr. DeVere was trying to get a measuring device exemption for 29-13155. I do not have a similar document for 29-7703.

The Tovey family can petition **in writing** to the watermaster for release from this requirement. I believe that a new watermaster has been elected since this adventure started. But I have been instructed to draft a letter giving the family 30 days to take action or the permits will be voided.

I will draft a 30-day letter today and address it to both daughters and I will keep you informed. Please let me know if anything changes on that side.

Thanks
Michele