



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 17, 2011

Casa Del Norte LP
1124 N Bar 21 Dr.
Glenns Ferry, ID 83623

Certified Mail

Re: Notice of Violation and Cease and Desist Order

Dear Gentlemen:

The Idaho Department of Water Resources (Department or IDWR) sent you the attached correspondence dated January 10, 2011 regarding a potential unauthorized use of water on land owned by the United States Bureau of Land Management (BLM) located within the NENE and SWNW of Section 8, Township 6 South (T6S) and Range 12 East (R12E). The Department has not received a response from you regarding this matter.

Given the lack of any response to the Department's prior correspondence, we must assume that you acknowledge the unauthorized use as described in the attached letter. The areas irrigated without water rights shown in the map attached to the January 10, 2011 IDWR letter represent approximately twelve acres. Additionally, the total irrigated area shown on the map attached to IDWR's January 10, 2011 correspondence is approximately 272 acres. Water right 02-10434, which is appurtenant to the lands shown on the attached map, is limited to irrigation of no more than 250 acres. As a result, you may have irrigated a total of 22 acres without an authorized water right. Finally, you were advised by IDWR correspondence dated August 19, 2010, and August 6, 2009 that water right 02-10434 has been leased to the Idaho Water Supply Bank (Bank) and that the right should remain unused until you formally release it from the Bank. Our correspondence of January 10, 2011 provided a reminder that right 02-10434 is leased to the Bank. Our records continue to show that you have not requested this right to be released from the Bank. Given the Department's notices that the right should remain unused, we find that a total of 272 acres may have been irrigated without any authorization.

The irrigation of approximately 272 acres without valid water rights constitutes a violation of Idaho Code §42-351, illegal diversion of water without a water right. Under Idaho Code §42-1701B, the director of the Department may commence an administrative enforcement action to obtain a remedy for a violation and seek a civil penalty for irrigation use equal to three hundred dollars (\$300) for each acre irrigated, in whole or in part, for water illegally used or diverted.

This letter provides formal notice of a violation of Idaho Code §42-351. Pursuant to Idaho Code §42-1701B, the Department requires the following actions be taken:

1. Pay an agreed civil penalty in the amount of eighty one thousand six hundred dollars (\$81,600), which is the maximum penalty authorized by law for an illegal diversion of water of

this magnitude. The civil penalty shall be due and payable to the Department no later than March 10, 2011.

2. Cease and desist diversion of water in 2011 on the approximate 272 irrigated acres as shown on the enclosed map attached to IDWR's correspondence of January 10, 2011 and as described in water right 02-10434 until you have that right 02-10434 be released from the Bank. If right 02-10434 is released from the Bank prior to irrigation of land in 2011, you may resume the use of the right but limit the irrigated area under the right to no more than 250 acres.
3. Permanently cease and desist any further irrigation of the BLM land located in the NENE and SWNW of Section 8, T6S, R12E.
4. You shall have the opportunity to enter into a Consent Agreement with the Department to remedy the violation and to assure future compliance with the laws of the State of Idaho.

If you object to any provision in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with the Department. You must contact this office within fourteen (14) days of receipt of this notice to request a compliance conference. Failure to comply with the requirements of this notice will be cause for the Department to initiate civil enforcement action through the Attorney General in district court.

If you wish to request a compliance conference, please call me directly at 208-287-4959 or submit a written request to me at the office listed on this letterhead. I look forward to your prompt reply and a final resolution of this matter.

Sincerely,



Tim Luke

Water Distribution Section

Enclosure: IDWR Correspondence to Casa Del Norte LP dated January 10, 2011
IDWR Correspondence to Casa Del Norte LP dated August 19, 2010
IDWR Correspondence to Casa Del Norte LP dated August 6, 2010

CC: Fred Price, US Bureau of Land Management, Boise
Allen Merritt, IDWR Southern Region Manager
John Westra, IDWR Western Region Manager
Monica Van Busum, IDWR, Water Supply Bank Coordinator
John Homan, Idaho Deputy Attorney General