

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-33130)	ORDER MODIFYING MEASURING
IN THE NAME OF RONALD R STUTHEIT)	DEVICE REQUIREMENT
AND SHARON M STUTHEIT)	
_____)	

This matter having come before the Department of Water Resources (Department) to remove measuring requirements, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On October 6, 2009, the Department issued permit 63-33130 (permit) to Ronald R. and Sharon M. Stutheit (permit holders) with a condition of approval that states:

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.

2. On August 10, 2011, the Department received a Statement of Completion for submitting proof of beneficial use (proof). The proof statement indicated that a measuring device had not been installed. The permit holders included a *Petition to Use Idaho Power Meter as a Measuring Device* and explained in the petition that the requirement for lockable controlling works had been met.

3. On September 17, 2011, the watermaster for water district 63 confirmed by electronic mail that he did not have an objection to modifying the measuring device requirement to allow for reporting using a power meter. He also confirmed that the requirement for a lockable controlling works has been met.

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 is not necessary for administration of the diversion of water by the holder of permit 63-33130 at this time, but it may be necessary in the future.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that 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** as follows:

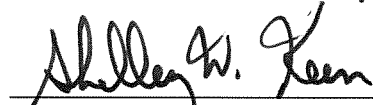
Prior to diversion of water under this right, the right holder shall install and maintain a lockable controlling works of a type acceptable to the Department as part of the diverting works.

IT IS, FURTHER, HEREBY ORDERED that the following conditions are added to permit 63-33130.

The right holder shall maintain a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted.

When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.

Dated this 29th day of September, 2011.



Shelley W. Keen, Manager
Water Right Permits Section