

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 47-7659)	ORDER GRANTING PETITION
IN THE NAME OF LARRY HOLLAND)	TO REMOVE MEASURING
<u>AND/OR MARILYN HOLLAND)</u>	DEVICE REQUIREMENT

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

FINDINGS OF FACT

1. On December 15, 1980, the Department issued Permit 47-7659 (permit) to Larry Holland and Marilyn Holland (permit holders) with a condition of approval requiring the installation of a measuring device at the point of diversion and at the point of effluent discharge.
2. On November 30, 1990, the Department received the permit holders' proof of beneficial use statement.
3. On August 25, 2009, Department staff conducted a field examination to confirm the beneficial use of water that had been developed in connection with the permit. The field examiner reported that measuring devices have not been installed.
4. On September 3, 2010, the permit holder wrote the watermaster for water district 47-O, Rock Creek, a letter and requested that the measuring device requirement be waived. On September 7, 2010, the Department received a copy of the letter from the permit holder but, no response from the watermaster.

CONCLUSIONS OF LAW

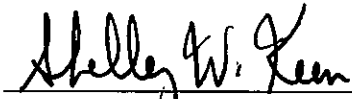
1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.
2. This permit is currently within a water district but, the permit is not actively being administered by the watermaster.
3. The Department should waive the measuring device requirement until such time as they are necessary for regulation of the water right.

ORDER

The condition of approval requiring the permanent installation of measuring devices as part of the diversion works for the permit is **MODIFIED** as follows:

When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall permanently install and maintain measuring devices of a type acceptable to the Department at the point of diversion and the point of effluent discharge.

Dated this 20th day of December, 2010.

A handwritten signature in black ink, appearing to read "Shelley W. Keen", is written over a horizontal line.

Shelley W. Keen, Manager
Water Right Permits Section