



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

August 9, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

DONNA F TUTTLE TRUSTEE
C/O JAMES P SPECK
SPECK & AANESTAD
120 EAST AVE
PO BOX 987
KETCHUM, ID 83340

RE: Water Right Permit No. 37-8759

Notice of Pending Order to Void Permit

Dear Permit Holder(s):

On January 3, 1995 the IDWR issued Permit 37-8759, authorizing you to develop a right to divert groundwater from the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, Township 5 North, Range 17 East, in Blaine County, for the following uses: 0.05 cfs for irrigation use; 0.04 cfs for domestic use; 0.1 af for fire protection storage and 0.05 cfs for diversion to storage. Under the terms of the permit, development was to have been completed by January 1, 2000. The IDWR received your Proof of Beneficial Use statement for Permit 37-8759 on December 30, 1999.

On July 14, 2008, IDWR personnel conducted a field examination to confirm beneficial use of water in accordance with your Permit 37-8759. On July 16, 2008, the completed Beneficial Use Field Report was received at the State office of the IDWR and I was assigned to review the exam report for completeness and if appropriate, to prepare a water right license.

One of the conditions of approval on Permit 37-8759 states:

"A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right."

The field examiner reported that he found a measuring device in the irrigation pipeline. However, he also reported that lockable controlling works suitable for watermaster control had not been installed. In his report narrative, the field examiner stated that he was aware of ongoing work by the District 37 watermaster on this issue and he recommended that this permit be licensed. On July 17, 2008, and on July 27, 2010, I requested confirmation from the District 37 watermaster that he had exempted this right from the requirement for lockable controls. I have not received word from the watermaster that the required controls have been installed.

Section 42-219 (8) of the Idaho Code states:

"In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit."

There are at least two options for addressing the lockable controlling works requirement. One option is to submit documentation demonstrating that you have complied with the approval condition by installing lockable controls. A second option is to send the IDWR a written request for removal of the requirement. If you choose the second option, please attach documentation which shows that you have discussed the need for lockable control works with the watermaster of Water District 37 and that he has no objection to the removal of the requirement. The watermaster in Water District 37 is:

Kevin Lakey
107 W First
Shoshone, ID 83352
208-886-2451

Please submit your compliance documentation or your request for a waiver of the requirement, within thirty (30) days of the date of this letter. If you need additional time to provide the information, you may seek it by making a written request to the Department. In your request for an extension, please include your reasons for needing more time and an estimate of the additional time needed.

If the IDWR does not receive a response from you within thirty (30) days, the agency will assume you have no interest in your permit, and an order voiding the permit will be prepared. If you are no longer interested in your permit, you can shorten the voiding process by signing and returning the enclosed relinquishment form.

If you have any questions, please call me at 208-287-4946, or email me at michele.edl@idwr.idaho.gov.

Respectfully,



Michele Edl
Associate Engineer

cc: IDWR Southern Region

Enclosure