



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 12, 2010

Dan Weaver
P O Box 426
Buhl, Idaho 83316

RE: Potential Illegal Water Use

Dear Mr. Weaver:

Our office has received a complaint from Mr. Orem Hyde regarding water right 47-17524. According to Mr. Hyde your actions are affecting the delivery of his water right from an unnamed stream (locally known as the J-2 Coulee). Mr. Hyde's complaint indicates that the delivery ditch has at times been blocked or diminished in flow preventing him from the use of water on his property. On a recent visit to the property I observed that Mr. Hyde was receiving water to his property. I also observed that it appears you are capable of diverting water from the ditch supplying water to Mr. Hyde's property. Apparently you are interfering with Mr. Hyde's legally recorded and authorized use of water right 47-17524. My review of the Department's water right records for the area finds there are no recorded water rights to cover the possible diversion to your property nor have there been Snake River Basin Adjudication (SRBA) claims filed for such uses.

Under Idaho law, a water right is required to divert surface water for any use. Since 1971 it has been mandatory to obtain a water right permit prior to development of surface water for a new use. Since no water rights or approved permits appear to provide for diversion and use of water to your property I request your cooperation in:

- identifying what privately held water right may be appurtenant to your property
- immediately cease diversion and use of water without a valid water right.
- &/or obtain a valid water right for any development.

Please note that to divert water in Idaho without a valid water right is illegal pursuant to 42-351, Idaho Code and subject to civil penalties of up to \$300 per acre of land irrigated or \$50.00 per 0.1 cfs per day up to a maximum of \$50,000 per year.

Please respond to our office within 14 days of the date of this letter as to the status of your project.

Sincerely,

Benny Walker
Water Resource Agent
CC: Orem Hyde