

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO
CONSENT ORDER AND AGREEMENT

In the matter of Notice of Violation and Cease and Desist Order dated June 26 , 2002, issued to John Tanner pursuant to Section 42-1701B, Idaho Code.

Findings of Fact

- 1) The pond was constructed on property approximately 8 acres in area with valid rights diverted from the Big Wood River via the District 45 Canal which total 32.5 inches of water varying in priority from 1891 to 1883. The property is also served from a supplemental irrigation well.
- 2) The pond is approximately 0.06 acres in surface area with a total volume of approximately 0.3 acre feet.
- 3) The pond was constructed with a liner to prevent seepage loss.
- 4) The pond was constructed on a ditch which supplies water to a downstream pond on adjacent property.
- 5) The pond is of such a size that it may fall within the 24 hour rule of thumb for storage for irrigation use in an irrigation system.
- 6) The irrigation system design and construction is not complete.

As agreed between the Department and John Tanner during the compliance conference held on July 17th, 2002, it is hereby ordered and agreed that:

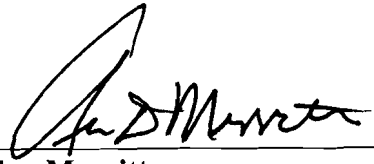
Terms of Agreement

- 1) Term No. 1 John Tanner will seek an application for permit within 7 days of the execution of this agreement to cover the pond for aesthetic/fire protection uses. Said application will provide a mitigation plan utilizing existing water rights to mitigate any consumptive impact the pond may have.
- 2) Term No. 2 Use of the pond if the application for permit is not granted will be primarily for irrigation use in a future irrigation system that falls within the 24 hour rule of thumb for storage of irrigation water in an irrigation system.
- 3) Term No. 3 Use of the pond in all instances shall not injure use of the pond located downstream on adjacent property. (This may require construction of a bypass around the pond.)

4) Term No. 4 Payment of an agreed civil penalty by John Tanner in the amount of \$50.00 payable to the Idaho Department of Water Resources within 7 days of the execution of this agreement by John Tanner for the violation identified in said Notice of Violation dated June 26th, 2002.

5) Term No. 5 Payment of \$1950 civil penalty is suspended by the Idaho Department of Water Resources. This penalty or any portion may be re-imposed for John Tanner to failure to fully comply with this agreement.

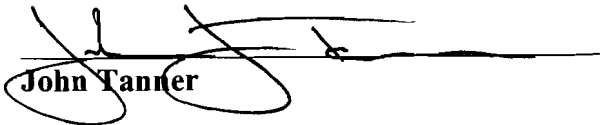
Dated this 17th day of July, 2002


Allen Merritt
Manager, Southern Regional Office

CONSENT

Respondent acknowledges in general the facts set forth during the conference and accepts fully the terms and conditions of this Order. These terms shall become effective upon execution by the parties. Respondent waives any right to contest this Order and consents to the issue hereof.

Signed this 17th day of July, 2002


John Tanner