



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 26, 2002

John Tanner
C/o First American Title Co.
PO Box 756
Ketchum, ID 83340

CERTIFIED MAIL

RE: **Notice of Violation (Idaho Code Sections 42-351 and 42-1701B)
Order to Cease and Desist Diversion of Water**

Dear Mr. Tanner:

The Idaho Department of Water Resources (IDWR) has determined that you are illegally diverting water in violation of Idaho Code Section 42-351. The violation is associated with the use of surface water in a pond that has been constructed on your property in Lot 13 Block 4 of the Bellevue Farms Subdivision without a valid water right. This property is located in the SW/SE Sec. 7 T. 1N R. 19E, Blaine County. You are hereby ordered to **CEASE and DESIST** any further diversion of Big Wood River water into this pond.

Under Idaho Code, Section 42-1701B, the director of IDWR may commence an administrative enforcement action to obtain a civil penalty for non-irrigation uses equal to fifty dollars (\$50) per day per 0.1 cfs diverted, by the illegal use or diversion. Since this pond uses the same flow of water as the Bloomfield pond just downstream (which has a permit to divert 0.20 cfs), this could amount to a fine of \$100 per day for your diversion.

Pursuant to Idaho Code, Section 42-1701B(5)b, IDWR requires that the following action be taken immediately:

1. **CEASE and DESIST** any further diversion of water from the Big Wood River into the pond located in the SW/SE Sec. 7 T. 1N R. 19E, Blaine County.
2. In addition, the director of IDWR seeks an agreed civil penalty in the amount of \$100 per day for 20 days of illegal diversion for a total penalty of \$2000. (Note that department staff inspected the pond on 6/4/2002 and found Big Wood River water being diverted through the pond after conversations with you in May that only ground water would be used in the pond.)

If you object to any provision in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with IDWR. Your written request must be received at this office within 14 days of receipt this notice. Failure to comply with the requirements of this notice will be cause for IDWR to initiate a civil enforcement action through the Attorney General in district court.

Please contact me or Jim Stanton of my staff at 208-736-3033 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "A. D. Merritt", written over a horizontal line.

Allen D. Merritt, P.E.
Manager, Southern Regional Office

cc: Norm Young, Tim Luke – IDWR State Office
John Homan – Attorney General's Office

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you.
■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: **ADM/NOV**
6-26-02

JOHN TANNER
C/O FIRST AMERICAN TITLE CO
PO BOX 756
KETCHUM ID 83340

2. Article Number
(Transfer from service label)

7002 0460 0000 7276 2429

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-0381

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

KETCHUM, ID 83340

0.34

Postage

\$

UNIT ID: 0372

Certified Fee

2.10

Return Receipt Fee
(Endorsement Required)

1.50

Restricted Delivery Fee
(Endorsement Required)

3.94

Total Postage & Fees

\$

Postmark
Here

Clerk: DMHJ80

06/26/02

JOHN TANNER
C/O FIRST AMERICAN TITLE CO
PO BOX 756
KETCHUM ID 83340

For Instructions