



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

May 14, 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.

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.

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,

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

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