

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	PRELIMINARY ORDER MODIFYING
NO. 75-14607 IN THE NAME OF	)	LOCKABLE DEVICE REQUIREMENT
JOE AND SANDIE ENGLE	)	
_____	)	

This matter having come before the Department of Water Resources (Department) as a result of a field examination to confirm beneficial use, the Department finds, concludes and orders:

FINDINGS OF FACT

1. On December 9, 2009, the Department issued Permit No. 75-14607 authorizing a diversion from Jesse Creek, a tributary of the Salmon River, for irrigation purposes. Condition 10 on the permit reads as follows:

Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.

2. On October 1, 2008, the Department conducted a field examination to confirm the beneficial use of water in connection with a permit. The field examiner reported that Condition 10 had not been met.

3. On June 14, 2010, the watermaster of Water District No. 75A, responding to a request for watermaster comment, stated that a lockable controllable device is not necessary for the diversion of water authorized under Permit 75-14607.

4. The *Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees* [Snake River Basin Adjudication (SRBA) consolidated subcase no. 75-13316] (hereafter, *Stipulation*), filed in 2004, on page 5, states, "IDWR will condition each water right permit or license issued after the effective date of this Stipulation for a non-de minimis water right upstream from the ending point of the Wild and Scenic River as set forth in this Stipulation to require that each diversion is equipped with lockable controlling works ..."

5. The Salmon River was designated a Wild and Scenic River and is governed by the *Stipulation*. The waters of Jesse Creek are tributary to the Salmon River upstream from the ending point of the Wild & Scenic River.

6. The permit holder's diversion works are small and not conducive to the installation of traditional lockable controlling works, and the permit holder has agreed by

email to provide an alternate means of locking the diversion works.

CONCLUSIONS

1. The waters of Jesse Creek are included in the *Stipulation's* requirements.
2. Installation of a lockable device is required under the *Stipulation*.
3. The Department should modify Condition 10 of the permit to provide for an alternative means of curtailing the diversion of water and securing the diversion works to comply with the *Stipulation*.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition no. 10 on Permit No. 75-14607 is **CHANGED** to read as follows:

Prior to diversion of water under this right, the right holder shall install a lockable device, or alternative means of curtailing the diversion of water and securing the diversion works, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.

DATED this 12th day of July, 2010.



SHELLEY KEEN, Manager
Water Rights Section