

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 75-07067)	ORDER REMOVING MEASURING
IN THE NAME OF EDWARD H. CORBETT)	DEVICE REQUIREMENT
_____)	

This matter having come before the Department of Water Resources (Department) as a request to remove a measuring device requirement, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On April 7, 1976, the Department issued Permit 75-07067 to Edward H. Corbett (permit holder).
2. On August 18, 1978, the Department issued an order requiring the permit holder to either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.
3. On August 28, 2009, a Department employee conducted a field examination to verify the beneficial use of water established in connection with this permit. The field examiner reported that Martin. W. Halpern now owns the land where the permitted water use was established.
4. On September 14, 2009, the field examiner also reported that the permit holder or his successors in interest have not complied with the requirement to install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.
5. On September 16, 2009, via a telephone conversation, Martin W. Halpern asked the Department to waive the requirement to install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.
6. South Gulch Creek, the source of water for the permitted use, is not in a water district and has no water master control at this time.
7. There are no other water rights authorizing the diversion and use of water from South Gulch Creek.

CONCLUSIONS OF LAW

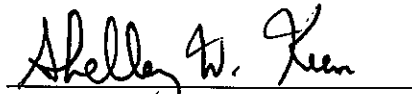
1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.
2. Installation of a measuring device is not necessary for administration of the diversion of water by the holder of Permit 75-07067 at this time, but it may be necessary in the future.

ORDER

The condition of approval requiring the permanent installation of a measuring device as part of the diversion works for the permit is **MODIFIED**.

Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.

Dated this 24th day of September, 2009.



SHELLEY KEEN, Manager
Water Rights Section