



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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**EASTERN REGION**

**C. L. "BUTCH" OTTER**  
Governor

**DAVID R. TUTHILL, JR.**  
Director

May 11, 2009

David I. Stanish  
Deputy Attorney General  
Natural Resources Division  
PO Box 83720  
Boise ID 83720

RE: Transfer 74584, 21-2100, Measuring Device

Dear David:

I am writing to advise you the Department approves your request to locate a measuring device at the Highway 87/287 culvert instead of at the mouth of the Unnamed Stream. This letter is your approval to make the change without further administrative action to amend transfer 74584. Below is a summary of the circumstances and conditions considered in making this decision.

In February 2009 the Department of Water Resources ("department") issued transfer no. 74584 approving a change in point of diversion for water right 21-2100. A condition of this approval reads: Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the department for measuring the flow from Unnamed Stream at the original point(s) of diversion, at the mouth of Unnamed Stream and at the point of diversion from Henrys Lake.

In April 2009 council for the Department of Fish and Game ("Fish and Game") requested moving the measuring device from the mouth of Unnamed Stream to a culvert where the Unnamed Stream flows under Highway 87/287. Fish and Game contends the culvert is the more appropriate/practical measuring location for the following reasons: (a) Fish and Game would have easy access to the highway culvert because it is located on a public right-of-way. Access to the mouth of the stream would require passing over private property. (b) The culvert creates a defined water conduit, providing for better measurement accuracy. (c) The culvert is located approximately 300 yards from the stream mouth, and there are no diversions between the culvert and the stream mouth.

In light of these reasons, consultation between me and other department staff concluded measurement at the culvert would be reasonably representative of what would otherwise reach the mouth and therefore maintains the spirit of the original condition of accounting for the quantity of water that reaches Henrys Lake from the unnamed stream. In addition, Fish and Game will still need to provide a means of measuring the flow from the Unnamed Stream at the original point of diversion and at the point of diversion from Henrys Lake.

Respectfully,

A handwritten signature in blue ink that reads "Ernest Carlsen". The signature is written in a cursive, flowing style.

Ernest Carlsen  
Water Resource Program Manager  
emc