



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

10/24/2008

(HAND DELIVERED TO)
(WATERMASTER)
(NICK MILLER)
(WATER DISTRICT 170)
(BY)
(DANIEL A. NELSON)
(ON 10/24/2008)

PATRICK W LEE
AND JOHN T BROWN
PO BOX 61
SUN VALLEY ID 83353

COPY

RE: Water Right Permit No. 71-7179 And 71-7178

Dear Permit Holder(s):

The Department of Water Resources (Department) is reviewing the permits referenced above prior to issuing the water right licenses. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permits. Various issues on both these permits will need to be addressed prior to licensing. I will address each permit separately to avoid any confusion. **Please read each section carefully, so that you can provided all of the needed information to allow your water rights to be licensed.**

71-7179 (the ground water permit):

I have verified that certain elements of the ground water permit, 71-7179, have been developed differently than described on your permit. Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

Based on my field exam, the point of diversion (well location) is different than authorized by the permit. I also found that you have a point of injection, which is the point where the water from the well is diverted into the South Channel of Lost Creek. A point of re-diversion generally accompanies a point of injection, and in your case the point of re-diversion would be the point where the water from the well in the South Channel of Lost Creek discharges into the ponds.

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when it is issued. It includes the correction to the point of diversion and the addition of the point of injection and point of re-diversion. Please review the amendment form carefully. If you concur with the information presented, please sign the form and return it with the \$50.00 filing fee within 14 days.

I would also like to inform you at this time that the permit has a condition that required this point of diversion to have a measurement device with a data logger to measure and record the amount of water used. This requirement was part of an agreement between several state and federal agencies and various groups to allow the processing of water rights in the Salmon River drainage.

Nick Miller, the watermaster for Water District 170, has discussed this permit with these groups in an effort to allow you to use the power consumption coefficient (PCC) method for monitoring your water use at this time. The PCC method allows your water use to be measured using your power records to determine your annual water use from the well. However, a flow meter and data logger may be required in the future if conditions dictate that the PCC method is not sufficient.

In order for the Department to allow you to use the PCC method for your water system, the permit issued to you must be formally changed. In order to change a condition on a water right, you must send a written petition (letter) requesting that the condition be changed. The Department will then review the petition, and if it agrees, will issue an order to change the condition. An official order from the Department is required to change any facet of a water right permit.

Please enclose a letter with the amendment that requests a change in the condition that requires you to install a measurement device and data logger or inform us if you decide to install a measurement device with a data logger on your well. In the letter please explain that instead of using the data logger, you would prefer to use the PCC method of monitoring suggested by Mr. Miller. If you do not send this letter, we will not be able to issue a license for your water use.

If the Department does not receive a letter from you requesting a change in this condition or confirmation that a measurement device with a data logger has been installed by March 1, 2009, our office will void this permit, and you will be required to cease diverting water from the well into the ponds

71-7178 (Lost Creek Permit)

I have verified that certain elements of the Lost Creek permit, 71-7178, have also been developed differently than described on your permit. There are two separate channels associated with this permit. The first channel is the South Channel of Lost Creek. This is the channel that delivers water from the well to the ponds. The second channel is the North Channel of Lost Creek. This is the channel that had the headgate and V-notch weir installed to convey the water from this channel to the ponds through the PVC pipeline.

This permit required that a measurement device be installed in the South Channel of Lost Creek prior to the water entering the ponds, and a measurement device was required on the outflow of the second pond. Even though the South Channel of Lost Creek only runs during spring runoff or major rain events, a measurement device is required on this channel up stream of the ponds. Whereas, the water diverted into the ponds does not leave the ponds, a measurement device is not required on the outflow of the ponds. However, if it is discovered that water does flow out of the ponds, a measurement device will need to be installed immediately.

In conversations with Mr. Miller, we have determined that a weir similar to that installed on the North Channel of Lost Creek would be sufficient to measure the flow in the South Channel of Lost Creek. The device should be installed in the South Channel of Lost Creek immediately upstream of the point where the well discharges into the channel. More specifically, the measurement device should be located between the fence that goes over the channel and the point where water is discharged from the well. This will allow the watermaster to keep the amount of water used from these two sources separate.

A license cannot be issued on this permit until we receive verification in the form of photos or inspection by Mr. Miller that the device has been installed. This device must be installed prior to the spring runoff to allow the water right license to be issued. **If the Department does not receive confirmation that a measurement device has been installed by March 1, 2009, our office will void this permit, and you will be required to ceasing diverting water in the ponds.**

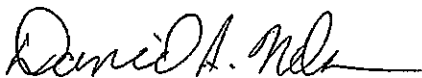
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The application for permit for 71-7178 was originally protested by the Idaho Department of Fish and Game. During this protest, an agreement was reached between you and the protestant. As a result of this agreement, you or your representative removed the diversion to storage component that would have allowed you to divert from the North Channel of Lost Creek. Unfortunately, we cannot add this component back onto the water right once it was removed. The only storage we can allow is the on-stream storage developed on the South Channel of Lost Creek. **Therefore, in order to divert from the North Channel of Lost Creek, you will need to file another application for permit to allow that diversion to continue. We have instructed Mr. Miller to not deliver water from the North Channel of Lost Creek to the pond until a water right permit authorizing that use has been secured.**

I apologize for the length of this letter, but there are a number of issues that must be resolved to allow your system operate in the manner that it was developed. I have enclosed the Amendment to correct your ground water right, and the application for permit to allow you to divert from the North Channel of Lost Creek. I also recommend that you install the measurement device in the South Channel of Lost Creek as soon as possible, and return a photo of the installation to allow us the opportunity to license 71-7178.

If you have any questions, please call me at (208) 287-4918.

Respectfully,



Daniel A. Nelson
Staff Hydrologist
Water Distribution Bureau
Idaho Department of Water Resources

Cc Nick Miller – Watermaster, Water District 170

Enclosure(s)