

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 71-7179)	
IN THE NAME OF PATRICK W. LEE)	ORDER MODIFYING MEASURING
AND/OR JOHN T. BROWN)	DEVICE REQUIREMENT
_____)	

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

FINDINGS OF FACT

1. On June 30, 2006, the Department issued Permit 71-7179 (permit) authorizing Patrick W. Lee and/or John T. Brown (permit holders) to divert 0.50 cfs from ground water for diversion to storage and wildlife storage purposes.
2. Approval condition no. 7 of the permit required the permit holders to install a measuring device, including datalogger, at the authorized point of diversion.
3. On August 27, 2008, a Department field examiner reported that the permit holders were diverting and using water in connection with the permit, but that the required measuring device and datalogger had not been installed.
4. On November 22, 2008, the Department received the permit holders' petition to remove the datalogger requirement, and instead use the Power Consumption Coefficient (PCC) method to determine annual diversion volumes.
5. Use of water in connection with the permit is regulated by the watermaster of Water district 170. The watermaster does not oppose the use of the PCC method for measuring the diversion and use of water in connection with this permit.

CONCLUSIONS OF LAW

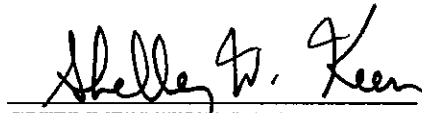
1. Beneficial Use Examination Rule 35.02.d. (IDAPA 37.03.02.35.02.d.) provides for the waiver of a measuring device requirement by the Department.
2. The Department should replace the datalogger measuring device requirement for Permit 71-7179, and replace it with a requirement that the permit holders use the PCC method until such time that the Department determines a datalogger is necessary on this diversion.

ORDER

Approval condition no. 7 on Permit No. 71-7179 is **MODIFIED** as follows:

The right holder shall use power records to determine the amount of water diverted and shall annually report the information to the Department, until such time the Department determines a measuring device and datalogger are needed.

Dated this 5th day of December, 2008.



SHELLEY KEEN, Manager
Water Rights Section