



State of Idaho

DEPARTMENT OF WATER RESOURCES

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July 16, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

JOYCE TERRI
3866 N 45E
IDAHO FALLS ID 83401
And
RAIDA JENSEN
615 ASH
CALDWELL ID 83605

RE: Water Right Permit No. 29-07703 and 29-13155

Notice of Pending Order to Void Permit

Dear Permit Holder(s):

I have reviewed the field exam reports connected to Water Right Permit 29-07703 and Water Right Permit 29-13155. This review is the final step in the water appropriation process and is necessary in order to determine if licenses can be issued. This letter summarizes my findings and informs you of the next steps in the water appropriation process for your two permits.

Permit 29-7703 was issued for the storage of 3.0 af of water in an unnamed tributary of the Portneuf River. Proof of beneficial use for Permit 29-7703 was submitted in 1991, and IDWR conducted a field examination in 2000. One of the conditions of approval on this permit said:

"Measuring devices of a type approved by the Department shall be permanently installed and maintained at the point of diversion and the point of effluent discharge."

The field examiner reported that he found no measuring device.

Permit 29-13155 was issued for diversion of 1.00 cfs from springs in Harkness Canyon for the generation of power. Proof of beneficial use for Permit 29-13155 was submitted in 2003, and IDWR conducted a field examination in 2006. One of the conditions of approval on this permit said:

"Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works."

The field examiner reported that he found no measuring device.

IDWR cannot issue a license if the permit conditions have not been met. Both of the permits required measuring devices and measuring devices were not in place at the time that the field exams were completed. Idaho Administrative Code IDAPA 37.03.02 Beneficial Use Examination Rules 035.02.d states,

"Field reports which indicate that a measuring device, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement has been formally waived by the director."

There are at least two options for addressing the measuring device requirement. One option is to submit documentation demonstrating that you have complied with the approval condition by installing the measuring devices. A second option is to send IDWR a written request for removal of the measuring device requirement. If you choose the second option, please attach documentation which shows that you have discussed the need for measuring devices with the watermaster of Water District 29 and that he has

no objection to the removal of the measuring device requirement. The watermaster in Water District 29 is:

Steven Hebdon
190 N Meadowview Dr.
Arimo, ID 83214-1631
208-254-9888

Please inform IDWR in writing, within thirty (30) days, which option you intend to pursue. If you need time to install measuring devices, please indicate how quickly you can complete construction. If IDWR does not receive a response from you within thirty (30) days, the agency will assume you have no interest in your permits, and an order voiding each permit will be prepared. If you are no longer interested in either of your permits, you can shorten the voiding process by signing and returning the enclosed relinquishment form.

If you have any questions, please call me at 208-287-4946, or email me at michele.edl@idwr.idaho.gov.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michele Edl', written in a cursive style.

Michele Edl
Associate Engineer

cc: IDWR Eastern Region