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Wm *File*

649
RECEIVED

35-8624 ✓

APR 30 2008

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 29, 2008

Mr. Robert L. Harris
Holden Kidwell Hahn & Crapo
1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, ID 83405

Re: Further Response to Letter Dated April 1, 2008 Regarding Alleged Waste of
Water and Trespass on Property Owned by Larry Phillips.

Dear Mr. Harris:

After I responded to your letter dated April 1, 2008, I discovered that I had inadvertently not enclosed a letter dated October 1, 2001, regarding Mr. Phillips use of water for stockwatering from the well for water right no. 35-8624. That letter dated October 1, 2001, is enclosed with this letter for your information. In addition, I received a letter dated April 29, 2008, from the Idaho Department of Water Resources about its measurement of the discharge from the well for water right no. 35-8624. That letter is enclosed for your information. That measurement demonstrates that the Idaho Department of Fish and Game is not diverting water in excess of the quantity stated in water right no. 35-8624.

Sincerely,

A handwritten signature in cursive script, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

Encl.

cc with enclosures:

David R. Tuthill
Lyle Swank



IDAHO FISH AND GAME
1345 Barton Rd.
Pocatello, Idaho 83204

Dirk Kempthorne/Governor
Rod Sando/Director

October 1, 2001

Mr. Larry Phillips
1524 S. 2600 W.
Aberdeen, ID 83210

Larry,

We will be disconnecting your hose on our Johnson pump again and ask that you not reconnect it until we come to a formal agreement. I understand that you felt that you had some sort of verbal agreement with Roy Youngstrom many years ago. This letter is to inform you that the past verbal agreement with a temporary employee is not valid and will not be recognized. If you would like to continue using the water, please contact me and ask. The local technician has mentioned to you that you need to talk to me first but you have continued to take the water without permission. All I am asking is that you give us the same courtesy that you would give any other neighbor.

Thank you.

Sincerely,

Dean Rose
Regional Habitat Biologist



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 29, 2008

Idaho Department of Fish and Game
C/O David Barber, Deputy Attorney General
600 S. Walnut
Boise, ID 83707

RE: Water Right 35-8624

To whom it may concern,

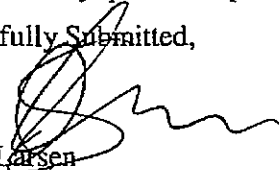
On April 23, 2008 Joe Larsen, Nate Arave, and Gene Hansen of Idaho Department of Water Resources, accompanied by Dean Rose and J.R. Zazweta from Idaho Department of Fish and Game performed a field exam of the 5 HP pump (metal tag number A0008668) located on the Sterling WMA at Johnson's Pond. This exam was requested by David Barber of the Natural Resources Division of the State of Idaho Office of Attorney General. During the exam the IDWR personnel followed standard protocol for determining flow using a Fuji Sonic Flowmeter (serial number WD01-102, calibrated on March 26, 2008) along with an FLD12 sonic induction bar to determine flow.

The pump is typically run with the controlling plate valve locked at one notch below full open thus preventing tampering with the flow rate. The exam by IDWR was performed with the system set at this condition.

The average flow rate over a ten minute sampling period was found to be about 412 gallons per minute which equals 0.92 cubic feet per second. This pump is covered by Water Right 35-8624 which is licensed and has received a Partial Decree from the Snake River Basin Adjudication for 1.01 cubic feet per second. Thus IDFG's pump at Johnson's pond on Sterling WMA is well below its allotted flow rate.

If you have any questions, please, feel free to contact me at (208) 542-2355.

Respectfully Submitted,


Joseph Larsen
Water Resource Agent

PCC Exam Sheet Enclosed
CC: IDFG Southeast Regional Office

08-04-23 14:20:00
+2.66E+0 ft/s
+4.23E+2 gal/m
+TOTAL 0000027 gal
NORMAL

08-04-23 14:29:59
+2.59E+0 ft/s
+4.12E+2 gal/m
+TOTAL 0004146 gal
NORMAL

A0008668

NORTH / EAST DISTRICT

EXAMINER'S SIGNATURE A. H. ...

SITE TAG# A 000 866 E

RECORD # 210011

STANDARD CONFIDENCE: E G F P FOLLOW-UP 6/11

EGAL:

W.A. 3.41 GPM 412 PCC 44.95 PSI - 100

DESCRIPTION COND #1

1 Pump open discharge

Throttle valve set at 1 notch below
pull open

W.A. GPM PCC PSI

DESCRIPTION COND #2

- COMPLEX, NO TRACKING REQUIRED.
- 3 TRACKING REQUIRED & PROVIDED
- 4 TRACKING REQUIRED, BUT NOT PROVIDED
- 5 COMPLEX, EXAM INCOMPLETE
- 6 KNOWN DATA PROBLEM
- 7 PCC MEASURED @ Q-METER VERIF.
- 8 LOW PCC WHERE Q-METER IS REQUIRED BUT NOT INSTALLED
- 9 CALCULATED OR ESTIMATED PCC

N NO PCC

Q OTHER, SEE EXAM NOTES

CHANGES TO SYSTEM Y / N

SITE VISIT NOTES:

COPY

KW Hrs GPM PSI

DESCRIPTION COND #3

KILOWATTS OF ENERGY CONSUMED COND #1

N= 1 (No. of Disc Rev) Time (sec): (22.8)+(22.2)+(22.9) / 3=Avg

3.6 x 21.6 (Kh) x 1 (Mult) x 1 (N) / 22.8 (T) = 3.41 KW

PCC COND#1 = 3.41 (KW) X 5431 / 412 GPM = 44.95 (KWh/ac.ft)

KILOWATTS OF ENERGY CONSUMED COND #2

N= (No. of Disc Rev) Time (sec): ()+()+() / 3=Avg

3.6 x (Kh) x (Mult) x (N) / (T) = KW

PCC COND#2 = (KW) X 5431 / GPM = (KWh/ac.ft)

KILOWATTS OF ENERGY CONSUMED COND #3

N= (No. of Disc Rev) Time (sec): ()+()+() / 3=Avg

3.6 x (Kh) x (Mult) x (N) / (T) = KW

PCC COND#3 = (KW) X 5431 / GPM = (KWh/ac.ft)

5 hp vertical pump