



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 7, 2005

John Schorzman
1400 S 3298 E
Malta, Id 83342

Re: Consent Order and Agreement
Notice of Violation June 18th, 2005

Dear Mr. Schorzman,

I am in receipt of the Consent Order and Agreement that you executed on August 1st, 2005 regarding the Notice of Violation dated June 18th 2005. Please find attached a copy of the agreement that I have executed on behalf of the Idaho Department of Water Resources. The Department appreciates your continued cooperation in this matter.

Please contact me directly at 208-287-4959 if you have any further concerns or questions regarding this matter.

Respectfully,

Tim Luke
Water Distribution Section

Attachment: Consent Order and Agreement

Cc: IDWR Southern Region
✓ Cynthia Clark, IDWR Water Supply Bank Program
John Homan, Idaho Attorney General's Office



State of Idaho

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COPY

July 25, 2005

John Schorzman
1400 South 3300 East
Malta, ID 83342

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CERTIFIED MAIL

Re: Consent Order and Agreement; Notice of Violation Dated June 18, 2005

Dear Mr. Schorzman,

Pursuant to our meeting on July 19, 2005, please find enclosed a Consent Order and Agreement regarding the Notice of Violation dated June 18, 2005 that the Idaho Department of Water Resources sent to you. Note the terms of the agreement and all compliance dates and fees or civil penalties stipulated in the attached order.

Please carefully review and consider the terms and conditions of this proposed order and agreement. If you agree with the terms and conditions, please sign the document and return it directly to me as soon as possible. If you have concerns or questions about the proposed order and agreement, or if you wish to propose revisions or provide other input, call me directly or submit written comments to me at the office listed on this letterhead.

The terms of agreement in the attached Consent Order requires that you cease and desist irrigation of the remaining 28.5 acres in the 112 acre pivot or lease additional water rights from the water supply bank to cover these acres. I encourage you to complete this process as soon as possible to avoid additional violations.

I look forward to your prompt reply and a final resolution of this matter.

Respectfully,

Tim Luke
Water Distribution Section

Enclosure

Cc: Cynthia Clark, IDWR Water Supply Bank Program
Allen Merritt, IDWR Southern Region
John Homan, Idaho Attorney General's Office

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO
CONSENT ORDER AND AGREEMENT

In the matter of Notice of Violation and Cease and Desist Order dated June 18, 2005, issued to John Schorzman, pursuant to Section 42-1701B, Idaho Code.

Findings of Fact

- 1) John Schorzman ("Schorzman") is the owner of property situated in the SE 1/4 of Section 36, Township 12 South (T12S), Range 27 East (R27E), Cassia County. Schorzman purchased the property from Mark Henery ("Henery") in 1964. However, the deed has not been recorded and the Cassia County Tax Assessors Office lists the owner of the property as "Mark Henery c/o John Schorzman". The Idaho Department of Water Resources ("Department") issued a Notice of Violation to both Schorzman and Henery on June 18, 2005 for irrigating approximately 112 acres within the above-described tract of land without a valid water right.
- 2) On June 8th, 1989 Schorzman Ranch, Inc filed a Snake River Basin Adjudication ("SRBA") water right claim for irrigation of 135 acres within the above-described tract of land. The claim was filed with the Department and assigned the claim identification number 43-10410. The Department recommended the claim to the SRBA District Court as "disallowed" in 2001 with the comment "No Lawful Appropriation Shown".
- 3) Schorzman requested a compliance conference with Department representatives pursuant to the June 18, 2005 Notice of Violation. A compliance conference was held on July 19, 2005, between the Department and Schorzman at the IDWR Southern Regional Office. During this conference, Schorzman indicated the pivot on the land in question had been installed in the mid-1980s and that the 112 acres had been planted with alfalfa hay in 2004 and 2005, but grain had been grown some of the previous years. Schorzman acknowledged that he had received the notice that SRBA claim 43-10410 had been recommended as disallowed. Schorzman explained that he continued to irrigate the land, assuming he would receive additional correspondence from the Department if he was supposed to cease irrigation.
- 4) On July 8th, 2005, Schorzman obtained a lease for rental of water rights from the Idaho Water Supply Bank sufficient to irrigate 83.5 of the 112 acres for the remainder of 2005 at a cost of \$3,670.
- 5) Schorzman was informed by Department staff that he may lease an additional supply of water from the Water Supply Bank to continue irrigating the remaining 28.5 of the 112 acres in 2005. Schorzman explained at the conference he has approximately 30

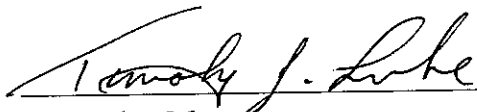
acres in a pivot in the NE ¼ of section 36, T12S, R27E under water right number #43-23470 that are not being irrigated which can be placed in the water supply bank and leased for the remaining 28.5 acres in the SE1/4 of Section 36. Schorzman has begun the process of securing a permanent transfer of water rights for the 112-acre pivot in the SE1/4 of Section 36.

It is hereby ordered and agreed that:

Terms of Agreement

- 1) Schorzman has already obtained valid rights for 83.5 of the 112 acres located in the SE 1/4 of Section 36, T12S, R27E and may therefore irrigate 83.5 acres on this property for the remainder of the 2005 season. Schorzman agrees to cease and desist from further diversion of ground water for irrigation of the remaining 28.5 acres in 2005 until valid water rights are obtained for this land and upon receiving authorization from the Department. Schorzman may place a sufficient portion of his own rights from other locations that are not being used this year into the water supply bank and lease that water from the bank to cover the remaining 28.5 acres in the SE1/4 of Section 36. Schorzman must obtain valid water rights through an approved water right transfer or by leasing water through the water supply bank prior to applying water to the 112 acres in the SE1/4 of Section 36, T12S, R27E in 2006 and subsequent years.
- 2) Payment of an agreed civil penalty in the amount of \$2,000 is payable to the Idaho Department of Water Resources within thirty days (30) days of the execution of this agreement for the violation identified in the Notice of Violation dated June 18, 2005.
- 3) The Department suspends payment of \$31,600 of the civil penalty proposed by the Notice of Violation dated June 18, 2005. This penalty or any portion may be re-imposed for Schorzman's failure to fully comply with this agreement, including continuing unauthorized irrigation of the land located in the SE 1/4 of Section 36, Township T12S, R27E.
- 4) This agreement does not limit the Department to seek future compliance or regulation of said water use for other issues not directly related to this violation.

Dated this 6th day of September, 2005.

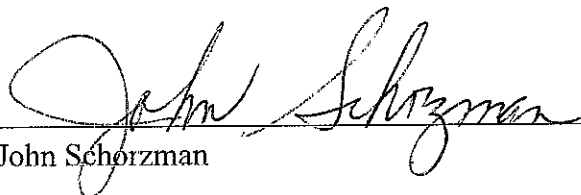


Tim Luke, Manager
Water Distribution Section
Idaho Department of Water Resources

CONSENT

Respondent Schorzman acknowledges, in general, the facts set forth during the conference and accepts fully the terms and conditions of this Order. These terms shall become effective upon execution by the parties. Respondent waives any right to contest this Order and consents to the issue hereof.

Signed this 12th day of Aug, 2005.



John Schorzman