

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER GRANTING PETITION
NO. 95-09219 IN THE NAME OF	)	TO REMOVE MEASURING
LARRY ISENBERG	)	DEVICE REQUIREMENT
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to remove a measuring device requirement, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On May 1, 2004, the Department issued Permit 95-09219 (permit) to Larry Isenberg (permit holder) with a condition of approval requiring the installation of a measuring device and lockable controlling works as part of the diversion works.
2. The diversion and use of water falls within the jurisdiction of Water District 95-B.
3. On June 6, 2006, the Department received the permit holder's petition to remove the measuring device requirement.
4. On June 9, 2006, IDWR Northern Region staff member, Keith Franklin, indicated by e-mail that a watermaster was never appointed for Water District 95-B and diversions in that area are not regulated actively at this time.

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 waive the measuring device requirement until such time as it is necessary for regulation of the water right.

ORDER

On Permit No. 95-09219, the condition which requires the permanent installation of a measuring device as part of the diversion works for the permit, is **MODIFIED** as follows:

When notified by the Department, 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.

Dated this 22nd day of June, 2006.

Shelly W. Keen
FOR GARY SPACKMAN