

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-12197)
IN THE NAME OF DALE F. NAGY AND/OR)
ROBERT D GLAISYER AND/OR)
ROSWELL DUCK CLUB L.L.C.)
_____)

**ORDER MODIFYING MEASURING
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 28, 1996, the Department issued Permit 63-12197 (permit) authorizing Dale F. Nagy and/or Robert D. Glaisyer and/or Roswell Duck Club L.L.C. (permit holders) to divert 2.0 cfs from a pond tributary to the Scott Drain in Canyon County for wildlife and wildlife storage purposes.

2. Approval condition no. 4 of the permit required the permit holders to install a measuring device and lockable controlling works at the authorized point of diversion.

3. On October 17, 2000, 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 lockable controlling works had not been installed. The examiner also reported that the installation of a flow measurement device is currently unnecessary and impractical because the water use is on-stream storage, not off-stream storage, and it not actively regulated by the watermaster of Water District 63. The examiner also reported that a lockable device could be placed on the diversion works (dam) to regulate the storage of water in connection with the permit.

4. On July 11, 2000, the Department received the permit holders' petition to remove the measuring device requirement. In the petition, the permit holder states that a lockable device will be installed on the outflow to the Scott Drain.

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 remove the measuring device requirement for Permit 63-12197.
3. The Department should require the installation and maintenance of a lockable controlling device on the storage outlet from the reservoir established in connection with the permit.

ORDER

Approval condition no. 4 on Permit No. 63-12197 is **MODIFIED** as follows:

A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Dated this 27th day of December, 2005.


GARY SPACKMAN