



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

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DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 24, 2005

CITY OF HAILEY  
115 S MAIN ST  
HAILEY ID 83333

RE: Water Right Permit No. 37-7854

### Notice of Pending Order to Void Permit

Dear Permit Holders:

On October 25, 1985, the Department of Water Resources (IDWR) received the Proof of Beneficial Use statement you submitted for Permit 37-7854, which authorized you to establish a right to divert 5.0 cfs of water from Indian Creek Spring in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 23, Twp. 3N, Rge. 18E, for power generation purposes within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 33, Twp. 3N, Rge. 18E. On May 25, 2000, IDWR personnel conducted an examination to verify your water use. The examiner reported that you were beneficially using 3.38 cfs based on the flow meter reading in your generator house.

On July 31, 2001, the Department sent an Application for Amendment of Permit for licensing purposes to you. The application for amendment was necessary to change the place of use of the proposed water right. Without submittal of the licensing amendment we will have to void the permit because the place of use found by our field examiner was not included as part of the permit.

On August 28, 2001, the Department sent a second letter to you requesting submittal of the licensing amendment. On September 4, 2001, the Department received a phone call from Jim Speck, your attorney, requesting an additional 30 days for review and submittal of the amendment application.

On September 26, 2001, the Department received a letter from Mr. Speck stating that you did not agree with the amount of water the field examiner recommended to be licensed. Mr. Speck also stated that the city intended to replace the flow meter that the examiner used to make the capacity determination for this system.

On December 11, 2001, the Department sent a third letter to the permit holders requesting submittal of the licensing amendment and/or information that would provide the Department evidence that the measurement of the system was in error.

On December 18, 2001, the Department received a letter from Thomas Hellen, City Engineer for the City of Hailey, which stated you had received approval to install new flow meters for all city water sites, including the Indian Creek Spring site that would determine if the examiner's

recommendation was in error.

On December 21, 2001, the Department acknowledged the City of Hailey's request for additional time to install new flow meters. The Department advised the City that upon completion of the installation of the new flow meters, and upon finding that an additional rate of water was used, a request for re-examination of their system would be required along with an examination fee equal to the initial fee submitted on May 23, 1986.

On May 13, 2002, the Department received a letter from Thomas Hellen updating the status of their plans to install new flow measuring devices. The letter states that your contractor was in the process of installing the equipment and would need time to test and calibrate the devices. The letter also advised that the Department would be notified once the installation was complete.

On December 2, 2004, the Department again corresponded with the permit holder requesting either 1) submittal of the licensing amendment or 2) a request for re-examination of the system along with the required examination fee.

On December 15, 2004, the Department received a letter from Thomas Hellen requesting additional time for the installation and/or rechecking of the flows out of the Indian Creek Spring site. Mr. Hellen also stated he would inform us of when the flow measuring was completed.

The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that the requirements for establishing a water right have been met. A license can be issued only for development that occurred prior to the date that the Proof of Beneficial Use statement was filed. After a Proof of Beneficial Use statement has been submitted a permit cannot be retained to cover future development of the resource.

If you believe you developed a use for more water than recommended by the Department's field examiner, please send supporting documentation to the Department within thirty days of the date of this letter. If IDWR does not hear from you within thirty days, we will take action to void the permit. If you have any questions, please contact me at (208)287-4953.

Sincerely,

A handwritten signature in black ink that reads "Kay Walker". The signature is fluid and cursive, with the first name "Kay" and last name "Walker" clearly distinguishable.

KAY WALKER  
Sr. Water Resource Agent

Cc: Jim Speck, Attorney