

MEMORANDUM

DATE: July 13, 2005

TO: Water Right File 01-10401

FROM: Shelley W. Keen ^{SWK}

RE: Approval Condition about Compliance with Dam Safety Provisions

Last week I spoke with Resource Protection Bureau Chief Guy Paul about the need for a condition that reminds the permit holder that the storage of water in connection with this permit is contingent upon certification of the dam under the dam safety provisions of the Idaho Code. Guy said that IDWR does not grant annual certificates for federal dams like it does for privately owned dams. Instead, IDWR dam safety engineers accompany the federal dam safety inspectors on their inspections every two or three years, and IDWR issues lifetime certificates to the Corps of Engineers and to the Bureau of Reclamation for their dams. Nevertheless, Guy prefers to maintain the usual dam safety compliance condition on water right permits. He reminded me that federal dams are still technically subject to the Idaho dam safety provisions and that, while remote, there is a possibility that IDWR inspectors could disagree with the federal dam operators about a dam safety issue. (What if IDWR and the federal engineers had disagreed about filling the reservoir behind Teton Dam?) The possibility that the water right could not be exercised if a dam safety issue is not resolved could be used as leverage to get resolution of the dam safety issue.