

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER TO CHANGE
NO. 37-8096 IN THE NAME OF	)	MEASURING DEVICE
NOTCH BUTTE HYDRO CO. INC.	)	REQUIREMENT

This matter having come before the Department of Water Resources (Department) to change the measuring device and lockable controlling works requirement, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On January 7, 1986, the Department issued Permit 37-8096 (permit) to Geobon, Inc. (permit holder) with a condition of approval requiring a measuring device and lockable controlling works of a type acceptable to the Department be permanently installed and maintained as part of the diverting works.

2. Through a series of assignments, the permit is now held by Notch Butte Hydro Company, Inc. (permit holder).

3. On May 5, 2003, the Department conducted a field examination of the system developed under this permit and reported, "No installed measuring device or equipment was used for direct measurement of the water flow. The watermaster utilizes a rating developed for the facility to utilize the power records to calculate amount of water diverted to the facility for purposes of charging for the watermaster services."

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 and lockable controlling works requirement by the Department.

2. Installation of the measuring device and lockable controlling works is not necessary at this time since Water District No. 37M has utilized the power plant output to obtain flow records.

ORDER

IT IS HEREBY ORDERED that the condition of approval requiring a measuring device and lockable controlling works as part of the diversion works for the permit is MODIFIED as follows:

The right holder shall maintain a measuring device and lockable controlling works or other methods acceptable to the Department and the watermaster for administering the diversion of water under this right and for ensuring that the required bypass flows are met.

Dated this 8th day of July, 2005.



GARY SPACKMAN