

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 65-22377) **ORDER MODIFYING MEASURING**
IN THE NAME OF REX E LANHAM) **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 makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On September 19, 2001, the Department issued Permit 65-22377 (permit) with a condition of approval requiring the installation of a measuring device at the point of diversion and a lockable controlling works that will provide the watermaster suitable control of the diversion.
2. On October 1, 2002 a Department field examiner conducted an examination to confirm and quantify the beneficial use of water under Permit 25-07661 and found no measuring device or lockable controlling works installed on the portable system.
3. On February 4, 2005, the Department received the recommendation of the watermaster of Water District No. 65 that the permit holder could have a temporary waiver regarding the installation of the measuring device and lockable controlling works until such time that a permanent pumping system can be installed.
4. On February 10, 2005, the Department received the permit holder's petition to remove the measuring device requirement.
5. Installation of a measuring device and lockable controlling works for the permit are not necessary at this time but may be necessary in the future.

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.

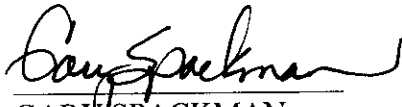
2. The Department should waive the measuring device requirement until such time as it is necessary for regulation of the water right.

ORDER

The condition of approval requiring the installation of a measuring device at the point of diversion and a lockable controlling works that will provide the watermaster suitable control of the diversion for the water use under Permit No. 65-22377 is **MODIFIED** as follows:

Upon specific notification by the Department or the Water District, the right holder shall install a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Dated this 23rd day of February, 2005.


GARY SPACKMAN