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January 4, 2004

State of Idaho
Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

Department of Water Resources

RE: Permit No. 74-7175

Attention: Kay Walker, Senior Water Resource Agent

The purpose of this letter is response, as required within 30 days from the date of your office letter of December 22, 2003, (see attached), (1) confirming interest in pursuing the above referenced permit license, and (2) seeking an acceptable solution for addressing the non-compliance matter reiterated below:

A measuring device and lockable controlling works of type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.

In conformity to prescribed regulations set forth by the Idaho State Department of Water Resources (IDWR), and pursuant to Section 42-219(6), *Idaho Code*, your communiqué cites two (2) options for resolving the existing problem of non-compliance: (a) either install measuring device and lockable controlling works, as required by the permit or (b) request removal of requirement from the permit.

It is noted here that no water has been diverted for usage purposes since issuance of the permit. Major cause is that the permit designation represents the last diversionary right on the tributary. Water normally is unavailable for seasonal diversion purposes, particularly during marginally drought conditions of the last several years. Because of this situation, the present leaseholders of the property have not made effort to divert such usage. Based therefore on these circumstances, at least for now, it would seem that option (b), defined above, might offer the most expeditious resolution to correct the non-compliance matter. The Department however would need to offer specificity as to any supporting documentation required since no water-master of Water District No. 74-W yet has been involved. If favorable determination of Option (b) is unlikely, then attention obviously would be given to the installation (within a reasonable timetable) of a measuring device and lockable controlling works acceptable to the IDWR.

Finally, I take this opportunity to elaborate briefly of previous attempt, unsuccessfully, to contact Department personnel directly for discussing such related matters posed here. Your letter represents the first response to my query even though voice message was left with current contact data in June 2003, and which appears now on your transmittal.

I anxiously look forward to your response, direction from the Department for moving forward, and expeditious resolution to this matter capsulated in your excellent letter.

Sincerely,



Penny J. Ogden-Edwards
Telephone: (435) 734-0286

CC: Alan C. Stephens, Attorney

Attachment

Penny J. Ogden-Edwards
2330 South 350 West
Perry, UT 84302

FOLD AT DOTTED LINE
CERTIFIED MAIL

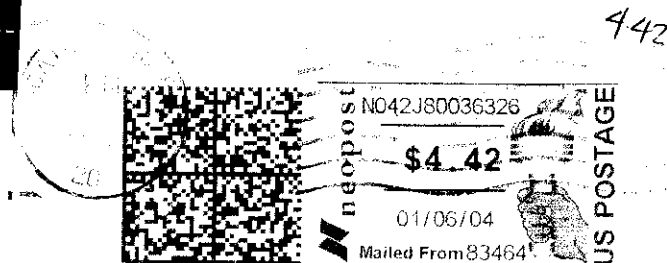


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Attention: Kay Walker, Sr. Water Resource Agent

**RETURN RECEIPT
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Handwritten initials

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