



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 11, 2005

ROD HOLTE
771 E BUCKLES ROAD
HAYDEN ID 83835

Re: Permit to Appropriate Water No. 95-9058 in the name of Ross Welburn

Dear Mr. Holte:

In December 2004, you wrote a letter to Robert Haynes of the Idaho Department of Water Resources (IDWR), requesting revocation of permit to appropriate water no. 95-9058. You assert Mr. Welburn built a dam and impounded water causing three to five acres of your property to be flooded, "rendering it useless for agriculture or grazing."

IDWR approved permit no. 95-9058 in 2001. The permit authorized irrigation of three acres, and impoundment of 0.7 acre-feet (af) of storage water. The information in the IDWR's files shows that Welburn owns the property where the dam is located and also owns the places of use.

If Welburn is storing more water than 0.7 af, IDWR will require a reduction in his storage. A water right cannot be perfected in trespass. Trespass is determined by the courts, not by IDWR. If you can show by court order that water developed under the permit is resulting in a trespass on your property, the water right will be reduced to prevent the trespass.

Should you have questions regarding this letter, you are welcome to call me at (208) 287-4943.

Sincerely,

Gary Spackman

Cc: IDWR Northern Region
Ross Welburn