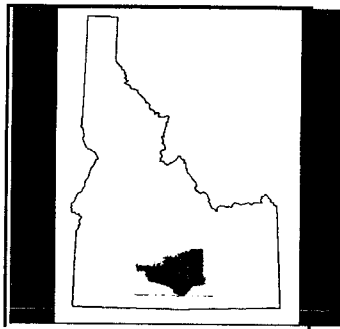




STATE OF IDAHO
WATER DISTRICT 130
C/O IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE ST STE 200
TWIN FALLS ID 83301-3380
TELEPHONE NUMBER (208) 736-3033

IDWR DIRECTOR
KARL J. DREHER

April 16, 2004

DR LAURAL NELSON, SUPERINTENDENT
VALLEY SCHOOL DISTRICT
883 VALLEY ROAD SOUTH
HAZELTON ID 83335

RE: Notice of Unauthorized Water Use at Valley School - Immediate Action Required

Dear Dr. Nelson:

Thank you for your assistance during my visit to your school on April 2, 2004. The School District had approached Department of Water Resources (DWR) staff in early March of this year, out of concern that present water uses at the school were in excess of an existing water right. The purpose of my visit was to confirm and document, to the extent possible, water withdrawals and use at the consolidated Valley School District facility, and to follow up with required actions and resolutions.

The 1993 expansion of Valley School, and the construction and use of a second well for primary culinary supply and for fire protection, are not presently authorized on any recorded water right. An existing water right no. 36-15190, used at the old school facility, authorizes only a portion of the present use, and does not authorize the high rate of flow pumped from the new well. Water right no. 36-15190 also does not authorize diversions for irrigation in excess of 0.2 acres.

These diversions are within Water District 130. As Watermaster of this Water District, my duties and authority include the regulation and curtailment of all unlawful uses of water. However, because you approached DWR with your concerns before the excess uses were discovered, I will not seek curtailment of domestic uses at this time. In order for you to avoid future regulation, you will be expected to take certain immediate actions, and then to work diligently toward a permanent resolution.

The following are actions the School District must take to remedy non-compliance with water right regulations:

1. **Irrigation from ground water in excess of 0.2 acre must be ceased *immediately*.** Water right no. 36-15190 authorizes only 0.2 acre irrigation (about 8700 square feet). Nearly one acre of lawn and landscaping is presently being irrigated under the automatic sprinkler system.
2. **Measuring devices are required to be installed on both wells *within 45 days*.** Measuring devices will be required as a part of any required water right approvals. Measurement and reporting of diversions is also required by Water District 130. Because your present withdrawals are not being documented at this time, measuring devices must be in place now. A magnetic-type flow meter and data logger will be required for the new well. The flow meter must be positioned between the well head and the inlet to the storage tank, and must measure all diversions from the well, emergency fire flows excepted. A propeller-type meter may be installed on the irrigation well (this requirement is not applicable if this well is abandoned; see condition 4). Please refer to the attached document, "Water Measurement Requirements and Specifications", for flow meter criteria.

3. **A water right must be obtained to authorize diversions from the new well.** This water right must authorize an instantaneous rate of flow equivalent to the design capacity of the new well and pump. Existing water right no. 36-15190 is limited to an instantaneous flow of 0.15 cfs (about 67 gpm). I was not able to confirm the actual rate of flow from the new well to the storage tank, however, my conversations with Walker Water Systems indicate that the pump will produce between 500 and 600 gallons per minute, depending on operating conditions. The water right(s) must also authorize the expanded uses consistent with the present operation of the facility, plus any reasonably anticipated future growth. Right no. 36-15190 is limited to 2.8 acre-feet of diverted volume for domestic use each year. Over a 180-day school year, this equates to approximately 5000 gallons per day. Presently, with an average daily attendance of about 700 students and staff, estimated use is 17,500 gallons per day, or about 10 acre-feet for the school year.
4. **The 4" well must be properly abandoned, or a water right transfer must be approved to authorized its continued use.** The drilling permit for the new well was issued for a *replacement* well, and original conditions of approval required the old 4" well to be abandoned. Abandonment of the old well did not occur, and diversions have been resumed from this well for irrigation purposes. The domestic portion of 36-15190 is now being diverted from the new well. Right no. 36-15190 does not authorize diversions from more than one well.

An Application for Permit, for a new water right, is recommended to authorize the expansion of use and the new well. Applications for non-consumptive uses may be processed under the current water right moratorium guidelines. Beneficial uses proposed under a new filing might be categorized as "municipal", if you feel you meet the definition of a municipal provider (Idaho Code Section 42-202B). Or, beneficial uses could be identified as "domestic" and "fire protection". Either way, it is almost certain that the permit will be limited to inside domestic purposes and that new consumptive uses, i.e., irrigation, will not be allowed. A new right acquired by permit will have a priority date equal to the filing date.

An alternative to the Application for Permit is an Application for Transfer, for which you would acquire an existing water right, modify and move it to be used at a new location, in this case your school site. The priority date of the existing right would remain the same, however, no expansion of use, either in rate of flow or volume, may occur. Many transfers begin with an irrigation right, and convert to other uses. However, to obtain the necessary rate of flow for your system, you would need to purchase about 75 acres of land irrigated from ground water at a full inch per acre (.02 cfs/acre). This may be cost prohibitive, but would have the advantage of allowing some additional irrigated acres to also be transferred to your system.

A better approach may be to acquire a domestic or commercial water right which has been used for similar purposes. Obvious candidates would be rights already held by the school district. I have searched our water right database for rights which may have been associated with the old Elementary or Junior High Schools in Eden and Hazelton. I did not find any rights in the name of Valley School District, which leads me to believe that the old school buildings were served with city water from those two communities. However, if there are privately held ground water rights for these facilities (irrigation or domestic), and if those rights have not been forfeited due to nonuse, there may be opportunity for the rights to be transferred to the new school. If this is a possibility, please identify these rights and contact me.

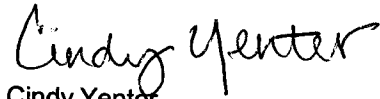
To avoid abandonment of the old well, an Application for Transfer is required for water right no. 36-15190, to add an authorized point of diversion. Approval of this application would enable you to maintain the old well for irrigation purposes, and change the diversion of the domestic portion of 36-15190 to the new well.

I must caution you that, pursuant to new DWR guidelines, most water right filings are subject to mitigation requirements in order to gain approval. The purpose of approval mitigation is to offset any future negative impact that the change or new right will have on flow in the Thousand Springs reach. Approval mitigation is typically accomplished by the concurrent retirement or temporary nonuse of all or a portion of a separately identified water right. Approval mitigation must be made in addition to your mitigation contributions to the North Snake Ground Water District (NSGWD), which you have recently joined. Mitigation by the NSGWD is in response to a call for water, and is intended to compensate for past injury in order that NSGWD members may continue to divert ground water.

I will continue to be available to assist you with any technical questions regarding the selection, installation and operation of a measuring device. For assistance in filing water right permit or transfer applications, please contact our office to make an appointment with a water right agent. Unfortunately, processing time for water right applications can be somewhat lengthy. If the first two of the above conditions are met within the identified time frames, and if the water right filings are submitted in a timely manner and are not protested, I will stay further regulation of water use at Valley School while the applications are being processed.

Please contact me at 208-736-3033 if you have questions. Thank you for your cooperation.

Regards,

A handwritten signature in black ink that reads "Cindy Yenter". The signature is written in a cursive, flowing style.

Cindy Yenter
Watermaster
Water District 130

cc: Ted Booth, Arkoosh and Arkoosh
Jim Stanton and Allen Merritt, DWR