



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 22, 2004

MISSION CREEK WATER ASSN
HC 60 BOX 249
PORTHILL ID 83853

RE: Water Right Permit 98-7613 and 98-7770

Dear Permit Holders:

The Department of Water Resources (IDWR) is reviewing two of your water right permits to determine if water right licenses can be issued to you. Permit 98-7613 authorized you to establish a right to divert 0.5 cfs of water from Mission Creek in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 8, Township 64N, Range 1E, for domestic and irrigation purposes. In June of 1990 you submitted a Proof of Beneficial Use statement indicating that you had completed the development authorized by Permit 98-7613. On September 9, 1999, IDWR personnel conducted an examination to verify your water use. The examiner reported that you were not diverting any water from Mission Creek because you now use groundwater in connection with Permit 98-07770, which is the other permit being reviewed for licensing.

The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right. If you have not developed an actual beneficial use of water within the development period authorized by your permit, however, no water right has been established, and no license can be issued. After a Proof of Beneficial Use statement has been submitted, a permit cannot be retained to cover future development of the resource.

If you believe you developed a beneficial use of water under Permit 98-7613, please send IDWR supporting documentation within thirty days. If you are no longer interested in your permit, you can shorten the voiding process by signing and returning the enclosed relinquishment form.

In contrast to the report for Permit 98-7613, the field examiner for Permit 98-7770, which authorized the diversion of 0.20 cfs from ground water for use in your water system, found that you are diverting and using water, and IDWR has already corresponded with you about changing the nature of use of the water right from domestic, irrigation, and commercial purposes to municipal purposes. However, Permit 98-7770 carried the following condition:

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

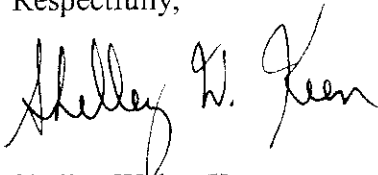
The permit was issued with this condition because you had existing surface water rights at the time the permit was issued and because IDWR believes that the use of surface water instead of ground water whenever possible will protect both the supply and quality of Idaho's ground water resources. In many areas in Idaho it is becoming commonplace for municipalities and subdivisions to provide dual delivery systems so that untreated surface water can be used for lawn irrigation and other "outdoor" purposes while cleaner ground water is reserved for "indoor" domestic use.

Before issuing a license, IDWR must ensure that the permit holder has complied with the conditions of the permit. If you have complied with the conditions of Permit 98-7770 by making full use of your surface water rights under Permit 98-7613 or Rights 98-2037 and 98-4296, then please provide supporting documentation as discussed above. If you are not diverting and using surface water, then you have some alternatives. One alternative is to submit to IDWR a detailed plan and timetable for coming into compliance with the condition. A second alternative is to explain the reasons for converting to the use of ground water as your sole source, such as to comply with IDEQ public drinking water supply requirements, and to request in writing that IDWR waive the requirement that you use surface water. A third alternative is to demonstrate that you are in compliance because you intended to use surface water, but it is no longer available to you. A fourth alternative would be to ask IDWR to issue the license with a revised condition requiring the use of surface water only for lawn irrigation and other "outdoor" uses while allowing the continued use of ground water for your indoor domestic use.

Please respond to this letter within 30 days. More time may be granted if you submit a written request. If your response or request for more time is not received within 30 days, IDWR will move to void Permit 98-7316 and will likely issue a license for 98-7770 limiting the ground water use to indoor domestic-type uses.

If you have any questions, please contact me at 208-327-7946.

Respectfully,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley Walter Keen
Water Rights Supervisor

Enclosure