



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 2, 2003

NORMAN E FULLER
PO BOX 1066
SUN VALLEY ID 83353

RE: Status of Permit 37-08365

Dear Mr. Fuller:

I just received your letter about the damage done to the geothermal water system you developed under Permit 37-08365. From your letter I understand that you might temporarily cap your well. Section 42-222, *Idaho Code*, provides for the forfeiture of a water right if it is not used for a period of five consecutive years. However, IDWR has interpreted this provision as applying to licensed and decreed water rights, not to permits. Although you submitted proof of beneficial use in 1997, your right remains in the permit stage because IDWR has not yet conducted the field examination necessary for licensing your water right. If you cap the well and discontinue your water use, the five-year forfeiture period will commence when the examination is conducted and the water right license is issued. However, it will be difficult for the field inspector to confirm the beneficial use developed in connection with your permit if you discontinue your water use for a long period of time.

In response your letter you also asked about the need treat your source of water as ground water. Under Sections 42-226 and 42-230, *Idaho Code*, ground water that does not exceed 212 degrees Fahrenheit is subject to the water appropriation permitting requirements. In Section 42-4002, *Idaho Code*, ground water in excess of 212 degrees is defined as a geothermal resource, which is "neither a mineral resource nor a water resource." Geothermal resources are, however, considered to be "closely related to and possibly affecting and affected by water and mineral resources." Section 42-4003(b), *Idaho Code*, requires the user of a geothermal resource to obtain a water appropriation permit if the water will be used for any beneficial purpose "other than as a mineral source, an energy source, or otherwise as a material medium."

If you have any questions, please call me at 208-327-7946, or email me at skeen@idwr.state.id.us.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

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