

Eastern



State of Idaho
DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 4, 1999

RECEIVED

AUG 09 1999

Department of Water Resources
Eastern Region

Gem Valley Farms
C/o Chad Neibaur
1550 Bancroft Rd
Bancroft, ID 83217

Re: Agreement and Consent Order: Failure to Comply with Conditions of Order

Dear Mr. Niebaur,

I have received a signed copy of the Agreement and Consent Order. Thank you for signing the order and returning it to us in a timely manner. I also received with that order a note from you diagramming the proposed mainline changes for the Dwaine Christensen well in Section 29, T9S, R40E. The proposed changes appear to be acceptable. The only question or concern we had was whether your plan includes a check valve below the well discharge to prevent canal water from entering the well. From review of our photos, it looks like there is a valve in this location already but your diagram did not show it. Please take precaution, if you have not done so already, to assure that surface water or ground water does flow back into the well column.

There are still two matters in the consent order that may not have been fully addressed or resolved and are of concern to the Department. I called the regional office in Idaho Falls today and learned that you had not filed any water right transfers by July 30 as was required by the Consent Order. The state office has not received any transfers from you as well. Pursuant to condition number 10 of the Order, you may now be subject to a civil penalty of three hundred dollars (\$300) per acre, or a total of \$2100 for the seven acres irrigated in the SWSWNW of Section 20, T9S, R40E. **This is a final warning that the transfers requested in the order must be filed immediately. The department will pursue collection of the civil penalties if the transfers are not received by August 13, 1999.**

A second concern regards the disruption of power to the well in Section 29. It is my understanding that you discussed this matter with Burke Scholer while he was in the area several weeks ago. I know you have agreed to not use the well after July 30th, and I trust that you will not. However, I am still concerned that there is no physical means to guarantee the disruption of power and that this could be a source of concern to some users in the area. Burke mentioned that you had both discussed placing a lock on the power panel. I assume this is an acceptable approach. I have not received word from the watermaster whether any locking device has been placed on the panel but I have left a message for him to contact me concerning this matter. Please be advised that I will advise him to contact you to coordinate placing a lock on the panel, unless that has already been done. You are also reminded that the Department does receive an annual

report from Utah Power that shows monthly demand readings. A normal demand reading for this well in August, if the reading is after July 30, would provide evidence of the well being used after the date that you agreed to disrupt power or cease from use of the well. You are reminded that if this should happen, you will again be in violation of the consent Order and the Department can pursue the monetary violations as outlined in provision 11 of the Order.

Please contact Norm Young or me if you have questions concerning this matter. You should call the regional office in Idaho Falls to schedule a time to file a transfer before August 10.

Respectfully,

A handwritten signature in cursive script that reads "Tim Luke".

Tim Luke

Cc: Craig Shuler, Watermaster
Howard Jones, Eastern Region
Norman C. Young, IDWR