



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 15, 2000

Richard Hansen
101 Dartmouth
Pocatello, ID. 83201

Re: Cease and Desist Order and Notice of Violation Pond Diversion.

Mr. Hansen:

Enclosed is Notice of Violation and Cease and Desist Order regarding the above referenced diversion. Please note any civil penalties and compliance dates stipulated in the attached order. Please also note your opportunity to request a compliance conference concerning this matter as well as the time frame and manner in which such a request must be made.

Sincerely,

Harold W. Jones
Water Resources Supervisor

HWJ/ck

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF DIVERSION)
OF WATER BY RICHARD HANSEN)
NOT IN CONFORMANCE WITH)
VALID WATER RIGHTS)

NOTICE OF VIOLATION
AND CEASE AND DESIST ORDER

The Director of the Department of water Resources (department), being charged with the duty of protecting vested water rights, enforcing certain statutes of the state of Idaho and the rules of the department, and being authorized to order the cessation of violations or attempted violations of the provisions of the law relating to appropriation and distribution of water, has investigated the use of water by Richard Hansen herein referred as Hansen.

Based on the department's investigation and understanding of the law, the Director finds, concludes and orders as follows:

FINDINGS OF FACT

1. On August 7, 2000 Eastern Region Staff received a call from Arlin Olson, Water Master of District 29 (Portneuf River). He indicated that Mr. Richard Hansen was diverting Dempsey Creek into a pond on property owned by Hansen.
2. A check of the water rights database by Department staff revealed no valid water right on Dempsey Creek for Hansen for this use.
3. A call was made by staff from Eastern Region to Hansen who confirmed this activity was Taking place.

4. On August 11,2000 Water Master Arlin Olson called Eastern Region and indicated the activity was still on going.
5. On August 14,2000 Harold Jones from Eastern Region accompanied Water Master Arlin Olson on site to the Hansen property. This is located in T10S R38E Sec 9 Lot 1 Block 1 Pine Haven Subdivision.
6. Both parties observed the diversion of water from Dempsey Creek into a pond on Hansen's property with no out flow occurring at the time.
7. Under the direction of the Water Master the inflow ditch to the pond was partially filled and the flow from Dempsey Creek redirected back to the natural channel.

CONCULSION OF LAW

Idaho Code 42-351 (1) states, in pertinent part if the director of the department of water resources finds, on the basis of available information, that a person is diverting water or has diverted water form a natural watercourse or from a ground water source without having obtained a valid water right to do so or is applying water or has applied water not in conformance with a valid water right, then the director of the department of water resources shall have the discretion to take action against such person.

1. A field investigation by the Department of Water Resources on August 14,2000 confirms the water to be diverted without a valid water right.
2. The director should issue a Notice of Violation instructing Hansen to Cease and Desist from Diversion and use of water in Sec 9 T10S R38E.

ORDER

IT IS HEREBY ORDERED as follows:

1. Hansen shall cease and desist diverting water to his pond in the SW ¼ of Sec 9 T10S R38E.
2. For any future diversion of surface water that is not in compliance with valid water rights, Hansen shall pay civil penalty of \$50 per one-tenth (0.1) cubic feet per second of water or part thereof, per calendar day.
3. Hansen is entitled to a Compliance Conference if Hansen submits a written request for a conference to the department within fourteen (14) days of receipt of the Notice of Violation.

DATED THIS 21st OF AUGUST, 2000

A handwritten signature in cursive script, appearing to read "Ronald D. Carlson". The signature is fluid and extends across the width of the text area.

Ronald D. Carlson
Eastern Regional Manager

RDC/ck