



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

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**DIRK KEMPTHORNE**  
Governor

**KARL J. DREHER**  
Director

September 10, 2002

JACK & SHEILA LARKIN  
1795 N 1200 E  
LEHI UT 84043

*Re: Diversion of Surface Water in South Fork Robie Creek Drainage*

Dear Mr. and Mrs. Larkin:

The Idaho Department of Water Resources (IDWR) received a complaint regarding the use of your surface water permits. Your water permits are nos. 63-12602 and 63-12603 with priority dates of 9/18/2000 and 11/3/2000, respectively. These permits are subject to senior surface water rights in the local drainage.

Under the Idaho appropriation doctrine, junior water rights are subordinate to senior water rights ("first in time, first in right"). Senior rights are entitled to water before junior rights can be diverted. Surface water rights in the South Fork Robie Creek drainage are subject to control of the Boise River Watermaster, Mr. Lee Sisco. The watermaster typically regulates diversions of surface water rights downstream from Lucky Peak Reservoir, although he is authorized to control diversions upstream of the reservoir if necessary.

A water right holder can petition IDWR for watermaster control of surface water rights in the South Fork Robie Creek drainage. If the watermaster regulated diversions in your area, your permits would most likely be unusable after the peak runoff period. Under those circumstances you probably could not divert any water for the remainder of the irrigation season.

Regulation of this sort is best considered a last resort to solve local problems. Water users generally prefer to exercise self-regulation by cooperating with neighbors to prevent injury to senior water right holders. For example, you could inquire locally about water availability and ongoing water uses prior to exercising your water permits. In this manner you might be able to divert water sometimes as the irrigation season progresses, depending on the changing water use needs of your neighbors. This option is better than one in which your permits would not be usable due to watermaster control.

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I strongly encourage you to make this effort before diverting your permits during the irrigation season (March 15 through November 15), particularly in drought years such as this one. Without this cooperative approach, IDWR would act upon a petition to impose watermaster control over all the surface water diversions in the local drainage. IDWR would do this by consulting with the water right holders and the watermaster to address water user payments to the watermaster, installation of controllable and measurable diversion works, and candidates for a deputy watermaster for Mr. Sisco to appoint. Local water users would be assessed for costs associated with watermaster regulation. A deputy watermaster would be the only person authorized to adjust the diversions when watermaster regulation was in effect.

Please contact me at 208-334-2190 if you have any questions or need more information about this situation.

Sincerely,



Steve Lester  
Water Rights Supervisor

CC: Lee Sisco, Boise River Watermaster  
Patrick Cafferty