



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

**COPY**

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

August 16, 2005

RECEIVED

AUG 19 2005

Department of Water Resources  
Eastern Region

Velma Mahaffey  
PO Box 14  
Lemhi, Idaho 83465

CERTIFIED MAIL

**Re: Notice of Violation of Idaho Code Section 42-351  
Order to Cease and Desist Illegal Diversion**

Dear Mrs. Mahaffey:

The Idaho Department of Water Resources ("IDWR") has determined that you are in violation of Idaho Code §42-351. The violation is associated with unauthorized diversion of a spring source for irrigation of approximately 2 acres located within the NW 1/4 of Section 33, Township 18 North (T18N), Range 24 East (R24E). On July 30, 2004, IDWR sent you a Pending Notice of Violation regarding the potential unauthorized irrigation of lands within the above referenced legal description. The notice advised you of the potential unauthorized use and asked that you identify water rights for the expanded development or else cease and desist further diversion of water on the lands in question. The notice also advised you that IDWR may issue a Notice of Violation to you.

On or about July 25, 2005, the watermaster of Water District 74, Lemhi River, observed the above-described land being irrigated from the same spring source. An IDWR representative made a drive-by inspection of the land in question on or about August 1, 2005, and found evidence of recent irrigation. The 2005 irrigation of the 2 acres in Section 33, Township 18 North, Range 24 East, constitutes a violation of I.C. §42-351, illegal diversion of water without a water right. You are hereby ordered to **CEASE and DESIST** any further diversion of water for irrigation of the lands described above.

Under Idaho Code, Section 42-1701B, the director of IDWR may commence an administrative enforcement action to obtain a remedy for a violation and seek a civil penalty for irrigation use equal to three hundred dollars (\$300) annually for each acre irrigated, in whole or in part, for water illegally used or diverted.

Pursuant to Idaho Code, Section 42-1701B(5)b, IDWR requires that the following action be taken:

1. You must **CEASE and DESIST** any further diversion of water on lands located within Section 33, T18N, R24E that are not authorized by a valid water right.

Diversion of water shall not be resumed until authorization is received from the Department.

2. Pay an agreed civil penalty in the amount of six hundred dollars (\$600), which is the maximum penalty authorized by law for an illegal diversion of water of this magnitude. The civil penalty shall be due and payable to IDWR no later than September 9, 2005.

If you object to any provision in this notice, you have the opportunity to schedule a compliance conference to discuss the violation with IDWR. Your written request must be received at this office within 14 days of receipt of this notice. Failure to comply with the requirements of this notice will be cause for IDWR to initiate a civil enforcement action through the Attorney General in district court.

Please note that there may be options available to you with respect to obtaining a valid water right for the unauthorized use described above. These options can be further explored with IDWR at a compliance conference. If you have questions concerning this matter please contact me directly at (208) 327-7864.

Respectfully,



Tim Luke  
Manager, Water Distribution Section

cc: Roger Warner, IDWR Southern Region  
Bob Foster, IDWR Salmon Field Office  
Rick Sager, Watermaster, Water District 74  
John Homan, Idaho Deputy Attorney General