



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.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

June 27, 2006

JIMMY DOWTON
HC 62, Box 2320
MAY, ID 83253

CERTIFIED MAIL

**RE: Pending Notice of Violation
Potential Unauthorized Use of Water**

Dear Mr. Dowton,

The Idaho Department of Water Resources (Department) has become aware of a potential water development that may exceed the amount of water and acreage allowed under your existing valid water rights. The development in question is irrigation at least 15 acres located in the NESE of Section 20, T 15N, R 20E, B.M., in Custer, County. These 15 acres appear to be an expansion of an existing pivot covered by water rights that you own. The pivot expansion appears to have occurred this spring. There is no evidence in the Department records that these 15 acres in question were ever irrigated under your water rights, nor is there evidence that these 15 acres are including in any of your water rights and Snake River Basin Adjudication (SRBA) claims. The Department is also concerned that the total number of acres that you are currently irrigating may exceed the total number of acres authorized by your water rights. The total discrepancy may be as high as 70 to 75 acres. Several maps are attached for your reference that outline your water rights places of use and irrigation changes between 1988 and 2006.

On June 19, 2006, representatives of the Department visited the site of the pivot expansion. The 15 acres under the pivot had a three to four inch crop growth and there was evidence of pivot tracks running across this growth. Since there do not appear to be water rights authorizing irrigation of at least the 15 acres described above, I request your immediate cooperation in:

- a) Identifying what water right covers the 15-acre development if our records are not correct.
- b) Cease the diversion of water for irrigation of the additional 15 acres, if you do not have a right to do so, and/or
- c) Obtain a valid water right for the enlargement or development in question.

Please respond to our office within 10 days of the date of this letter as to the status of your project. Please note that to divert water in Idaho without a valid water right is illegal pursuant to §42-351, Idaho Code, and that pursuant to §42-1701B, Idaho Code, civil penalties for illegal irrigation use may be \$300 annually for each acre irrigated, in whole or in part, by

the illegal use or diversion.

If you have questions regarding this matter please contact me directly at 287-4959. You may also contact either Roxanne Brown, Water Rights Adjudication Supervisor in Boise at 287-4914, or Bob Foster, Salmon Field Office (756-6644). I will be away from the office between June 28th and July 11th, so it may be best to contact either Ms. Brown or Mr. Foster. Roxanne has been working on your SRBA claims and is the staff person who is most familiar with your water rights and claims.

Sincerely,



Tim Luke
Manager, Water Distribution Section

Attachments: Summary of Water Rights
Water Rights Place of Use Maps (3)

CC: Ted O'Neal, Water District 73 Watermaster
Roxanne Brown, IDWR Adjudication Bureau
IDWR Eastern Region
Bob Foster, IDWR Salmon Field Office

Summary of Jimmie Dowton's Water Rights - June 26, 2006

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>
73	86	C	2/4/1910	3.2	82.9	PAHSIMEROI RIVER	IRRIGATION
73	86	D	5/1/1900	1.6	122.5	PAHSIMEROI RIVER	IRRIGATION
73	87		5/1/1900	7.2	175.4	PAHSIMEROI RIVER	IRRIGATION
73	96	A ✓	5/10/1901	1.8		PAHSIMEROI RIVER	IRRIGATION
73	96	B ✓	5/10/1901	1.4		PAHSIMEROI RIVER	IRRIGATION
73	97	A ✓	4/5/1919	0.8		PAHSIMEROI RIVER	IRRIGATION
73	2170		2/10/1961	1.6	62.0	PETERSON SPRINGS	IRRIGATION
73	10058		3/19/1964	1.5	50.0	PAHSIMEROI RIVER	IRRIGATION
<u>Total:</u>				19.1	492.8		
<u>Total 2004:</u>					551.7		
<u>Total 2006:</u>					565.5		

Combined Acres: 73-86D and 73-96A irrigate the same acres
 73-86C, 73-96B and 73-97A irrigate the same acres