



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

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MEMORANDUM

TO: Water Allocation Section and Regional Offices

FROM: A. Kenneth Dunn *AKD*

App. Processing No. 29

DATE: March 31, 1983

RE: Commencement of Works Process

The Amendment to Section 42-204, Idaho Code, enacted last year, provided one year for construction of works to commence for existing permits, where the rate of flow is 25.0 cfs or less. Therefore, June 30, 1983, marks the date when several thousand blue "Commencement of Works" postcards are due in our office. As the date approaches, we can anticipate receiving many inquiries regarding action required by permit holders if construction is not commenced by that date.

The statute states that:

"Every holder of a permit which shall be issued under the terms and conditions of an application filed hereafter appropriating twenty-five (25) cubic feet or less per second must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstances, over which he has no control."

Since the statute provides no guidance regarding action to be taken to enforce this statute, the Department anticipates doing the following:

1. The blue Commencement of Works postcards which have been submitted, are collected and filed numerically in a box at the state office. They serve as evidence that works have been commenced on specific projects.

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2. There are no provisions in the amended statute for the Department to grant an "extension of time" to commence construction of works. If extenuating circumstances prevent commencement within one year, the permit holder will be advised to compile his own file of supporting data to demonstrate the reason(s) for the delay, in case action is taken to cancel the permit. He could also send a letter to the Department describing reasons for the delay. The letter would be filed in the water right folder.
3. The Department does not currently have adequate personnel to follow up on "Commencement of Works" postcards. We will maintain the cards which are submitted; however, based on current staffing and workload, the state office does not anticipate initiating procedures to send follow-up notice or to cancel permits for which such cards have not been received.

Permit holders should be concerned about compliance with the provisions of Section 42-204, since action to cancel a specific permit based on non-compliance could be initiated by another wateruser or conceivably the Department at some time in the future.