


## MEMORANDUM

**TO:** Regional Offices  
Water Allocation Bureau

**FROM:** Jeff Peppersack 

**RE:** Waiving measuring device requirements

**DATE:** April 4, 2012

---

IDWR often issues water right permits with conditions requiring permanent installation of measuring devices and/or lockable controlling works at the points of diversion. The purpose of these requirements is to allow for active regulation of the diversions. Active regulation is typically carried out by a watermaster within a water district. Sometimes experience shows that active regulation is not necessary. Beneficial Use Examination Rule 35.02.d states:

Field reports which indicate that a measuring device or lockable controlling works, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement or lockable controlling works requirement has been formally waived or modified by the Director.

Since this rule was promulgated in the mid-1980s, it has been the practice of IDWR to issue a special order to waive a measuring device or lockable controlling works requirement. This practice should continue if the waiver is to be issued before the permit holder submits proof of beneficial use or if there is to be a substantial period of diversion and use before a water right license is issued.

However, sometimes a request for a waiver is received in connection with proof of beneficial use or in connection with a field examination, and completion of a field report and issuance of a water right license are imminent. In such cases, the water right license document, which IDWR issues as a preliminary order, may suffice as the formal vehicle for removing or changing the measuring device or lockable controlling works requirement. If the waiver is issued by changing or removing the condition when a water right license is issued, the waiver can be appealed according to IDWR's rules of procedure, as can any other element of the license.

As before, IDWR should consult with the watermaster prior to issuing a measuring device or lockable controlling works waiver for a permit in a water district. Because it facilitates conversation between the water user and watermaster, it is best when the water user seeks a signed statement from the watermaster in connection with a written request for a waiver. However, requests for waivers and watermaster comments may occur in any form of communication – conversation, letter, email, etc. – as long as the communication is clearly and accurately documented in the water right file.