

06/12/2014

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: September 12, 2014

Water right number: 92-7218
POTLATCH LAND & LUMBER LLC
601 W 1ST AVE STE 1600
SPOKANE WA 99201
Telephone Number: (509) 835-1500

RECEIVED

SEP 15 2014

IDWR/NORTHERN

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

See Attachment A

2. Describe the changes you wish to make in the proposed recommendation:

See Attachment A

3. Give a brief explanation as to why you disagree with these portions:

See Attachment A

I AGREE with this proposed recommendation: no changes need to be made.

DATE:

9/10/14

SIGNATURE:

Brant Steigler

Please print your name:

Brant Steigler

IDWR Regional Office, 7600 Mineral Drive, Suite 100, Coeur D' Alene, ID 83815, (208) 762-2800

Attachment B attached hereto is a copy of IDWR's Preliminary Recommendation.

Attachment A
Claim No. 92-7218
Notice of Error Reply

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

The claimant disagrees with the following in the Preliminary Recommendation:

- a. the “39.00 AFY” limitations listed under the quantity and purpose of use elements;
- b. the omission of the claimed Storage purpose of use in the amount of 1.0 acre-feet (reflecting the volume of the impoundment, which is filled multiple times during each period of use); and
- c. the “Industrial use is for watering log decks” remark under purpose of use.

2. Describe the changes you wish to make in the proposed recommendation:

- a. The “39.00 AFY” limitations should be removed.
- b. The claimed Storage purpose of use in the amount of 1.0 acre-feet should be included, together with a remark stating that 1.0 acre-feet reflects the volume of the impoundment, which may be filled multiple times during each period of use.
- c. The “Industrial use is for watering log decks” remark should be removed and no further description of the Industrial or Storage uses should be included.

3. Give a brief explanation as to why you disagree with these portions:

- a. The “39.00 AFY” limitation in the license was in error, should have been calculated differently, or not included at all.
- b. The Storage use was erroneously omitted from the original license. Evidence in IDWR’s backfile shows that ponds were developed with the original permitted right. For example, the 1995 Application for Permit included information that “the water will be pumped to a small reservoir adjacent to the stream,” and the 1997 beneficial use field report states that water is pumped to “a bentonite lined pond” and an “overflow pond.” Alternatively, the Storage use could be recommended as an “accomplished transfer” under I.C. § 42-1425, since the ponds existed prior to January 1, 2006 (the date by which changes to rights may be recognized as accomplished transfers).

- c. Although the “Industrial use is for watering log decks” remark was included in the original license, it fails to describe all of the various Industrial uses, such as washing equipment, to which the right actually was put to beneficial use prior to January 1, 2006 (the date by which changes to rights may be recognized as “accomplished transfers” under I.C. 42-1425). No further description of Industrial or Storage use element should be included.

Claimant reserves the right to object to any elements set forth in IDWR’s Director’s Report Recommendation for this claim notwithstanding whether such objection is raised in this Notice of Error Reply.

Attachment B

06/12/2014

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 92-7218
NAME AND ADDRESS: POTLATCH LAND & LUMBER LLC
601 W 1ST AVE STE 1600
SPOKANE WA 99201
SOURCE: WEST FORK ST MARIES RIVER TRIBUTARY: ST MARIES RIVER
QUANTITY: 1.000 CFS
39.00 AFY
PRIORITY DATE: 05/04/1995
POINT OF DIVERSION: T42N R02E S7 NWNE Within SHOSHONE County
PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	03/01 11/01	1.000 CFS 39.00 AFY
Industrial use is for watering log decks.		

PLACE OF USE: INDUSTRIAL in SHOSHONE County
T42N R02E S07 NWNE T42N R02E S07 NENW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Parcel No. RP42N02E071000