

Ritter, Ashley

From: Grimm, Angie
Sent: Friday, November 20, 2020 4:43 PM
To: Charles Honsinger
Cc: George Katsilometes; Keen, Shelley; Ritter, Ashley
Subject: RE: Permit No. 29-13672

Charlie,

Good afternoon. Idaho Code § 42-203A(5) requires a water right permit applicant to demonstrate that the proposed use of water under a new water right permit application will not reduce the quantity of water available under existing water rights. IDAPA 37.03.08.040.05.c.ii states IDWR may request information regarding the location of existing wells and springs within a one-half mile radius of a proposed ground water use. IDAPA 37.03.08.045.01.a outlines the criteria IDWR is to use when evaluating whether a proposed use will reduce the quantity of water available to existing users.

When Permit No. 29-13672 was processed, IDWR requested additional information to assist in the required evaluation of the potential reduction in water available to existing users. Mr. Katsilometes submitted results from two pumping tests performed by Dr. Lachmar. IDWR technical hydrogeologist Dennis Owsley evaluated Dr. Lachmar's pumping tests results and found them to be inconclusive. Specifically, Mr. Owsley concluded, "Extrapolation of the findings in terms of potential hydrologic impacts is not possible with the information that is presented in the [Dr. Lachmar] aquifer test report." *See Hydrologic review of water right application 29-13672 for Lava Hot Springs Inn, March 18, 2008.*

IDAPA 37.03.08.045.01.a.iv. states an application that would otherwise be denied because of injury may be approved upon conditions that will mitigate losses of water to existing water right holders. While IDWR did not require formal mitigation for Permit No. 29-13672, IDWR did include permit conditions requiring collection of data that would assist with administration of water rights in the event injury occurred as a result of Permit No. 29-13672's development.

Since Permit No. 29-13672 conditions were not met during the permit development period, IDWR is now attempting to ascertain whether the intent of the conditions can be fulfilled based on current information. Towards that end, I have spent several days researching the water right history, water uses, and to some degree the hydrogeology of the Lava Hot Springs area. While acknowledging a reduction in water availability may occur beyond one-half mile, in the spirit of IDAPA 37.03.08.040.05.c.ii, I focused my research on water uses within one-half mile of Mr. Katsilometes' wells.

One approach to address whether a reduction in water availability has occurred would be to request Mr. Katsilometes' submit affidavits from the 14 different owners of the 26 senior ground water and spring water rights within one-half mile of Mr. Katsilometes' wells stating development of Permit No. 29-13672 has not reduced the water available to those senior water right holders. However, it is my understanding that Mr. Katsilometes' has already reached out to some of these water right owners and some are unwilling to sign an affidavit confirming there has been no reduction in water availability since Mr. Katsilometes' began diversions under Permit No. 29-13672. Therefore, we are in a situation where one must explain why a lesser number of affidavits is sufficient to demonstrate Mr. Katsilometes' development of Permit No. 29-13672 did not result in a reduction of water available to senior water rights. IDWR requests Mr. Katsilometes' provide this explanation along with the supporting affidavits.

In determining whether the explanation and affidavits are sufficient, IDWR would rely heavily on affidavits received from any of those 14 different water right owners within one-half mile of Mr. Katsilometes' wells. Also, IDWR would like to know if you contacted any of these 14 different water right owners and they refused to sign an affidavit. IDWR acknowledges it is extremely difficult to conclude which water right owners water availability may be impacted by Mr. Katsilometes ground water use due to the complexity of the Lava Hot Springs area hydrogeology. However, considering development of Permit No. 29-13672 started as far back as 2008, IDWR believes senior water right owners would likely

have complained to IDWR if they are being impacted by Mr. Katsilometes' increased diversion of ground water. Based on my current knowledge, IDWR has not received any complaints from Lava Hot Springs area water users in the past several years.

At our October 16, 2020 meeting, you asked IDWR for a specific number of affidavits that would be required from Mr. Katsilometes'. Rather than stating a specific number of affidavits, I offer the information above outlining the question IDWR is trying to address. Specifically, did Mr. Katsilometes' development of Permit No. 29-13672 reduce the amount of water available to senior water right users? IDWR is providing Mr. Katsilometes with the opportunity to submit the affidavits he is able to acquire along with an explanation why those senior water right users' affidavits demonstrate Mr. Katsilometes' development of Permit No. 29-13672 has not reduced the water available to senior water right users.

Please let me know if you have any questions regarding this response. I hope this message finds you well and I look forward to our continued corporation towards finding an amicable resolution of this matter.

Regards,
Angie

Angela M. Grimm, P.G.
Water Rights Section Manager
IDWR - State Office
322 E Front St Ste 648
Boise, ID 83702-7371
(208) 287-4951 phone
(208) 287-6700 fax

From: Charles Honsinger [mailto:honsingerlaw@gmail.com]

Sent: Friday, November 20, 2020 10:31 AM

To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>

Cc: George Katsilometes <dsigeorge@hotmail.com>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>; Ritter, Ashley <Ashley.Ritter@idwr.idaho.gov>

Subject: Re: Permit No. 29-13672

Hi Angie: We asked this question the last time we had a conference call and still haven't heard back with an answer. That was more than a month ago. The next conference call is scheduled for 2 weeks from today with the intervening Thanksgiving holiday week when it will be difficult to reach anyone to discuss what they might be able to testify to. Can you please let us know the answer to this question as soon as possible? Thank you.

Sincerely,

Charles L. Honsinger
Honsinger Law, PLLC
P.O. Box 517
Boise, ID 83701
Phone: (208)863-6106
Fax: (208)908-6085
honsingerlaw@gmail.com

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On Tue, Nov 17, 2020 at 10:29 AM Charles Honsinger <honsingerlaw@gmail.com> wrote:

Hi Angie: Can you let me know what the answer is to this question yet?

Thanks.

Charlie

Charles L. Honsinger
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On Tue, Nov 10, 2020 at 4:02 PM Charles Honsinger <honsingerlaw@gmail.com> wrote:

Looks like we are going to get 2 more

Charlie

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On Tue, Nov 10, 2020 at 3:12 PM Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

Charlie,

Good afternoon! I'm still in the process of researching relevant water right files for the water rights and water use history information necessary to address your question. I hope to have a response to your question by the end of this week.

Have you been able to acquire any additional affidavits?

Regards,

Angie

Angela M. Grimm, P.G.

Water Rights Section Manager

IDWR - State Office

322 E Front St Ste 648

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(208) 287-4951 phone

(208) 287-6700 fax

From: Charles Honsinger [mailto:honsingerlaw@gmail.com]

Sent: Tuesday, November 10, 2020 2:41 PM

To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>

Cc: Ritter, Ashley <Ashley.Ritter@idwr.idaho.gov>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>; George Katsilometes <dsigeorge@hotmail.com>

Subject: Re: Permit No. 29-13672

Hi Angie: I'm wondering if you have any answer on the question below yet. Thank you.

Sincerely,

Charles L. Honsinger

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On Wed, Oct 21, 2020 at 11:20 AM Charles Honsinger <honsingerlaw@gmail.com> wrote:

Thanks Angie: Appreciate it.

Charlie

Charles L. Honsinger

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On Wed, Oct 21, 2020 at 11:16 AM Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

Hi Charlie,

I apologize, I should've responded right way. IDWR will plan to reconvene with you and George via a phone conference on Friday, December 4, 2020 at 3:00 pm. You and George can call in to (208)287-6751 for the conference call.

My response was delayed as I had hoped I would be able to settle on an answer to your second question, specifically "the number of affidavits that would be necessary for Dr. Katsilometes to obtain so as to avoid the monitoring requirements prior to licensing". I will work to finish the research necessary to answer this question and get a response to you as soon as possible.

Regards,

Angie

Angela M. Grimm, P.G.

Water Rights Section Manager

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From: Charles Honsinger [mailto:honsingerlaw@gmail.com]

Sent: Wednesday, October 21, 2020 11:02 AM

To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>

Cc: Ritter, Ashley <Ashley.Ritter@idwr.idaho.gov>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>; George Katsilometes <dsigeorge@hotmail.com>

Subject: Re: Permit No. 29-13672

Hi Angie: Just re-sending this in case it got lost in the ethernet. When you get a chance, please respond so I know it was received.

Thank you.

Charlie

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On Fri, Oct 16, 2020 at 4:09 PM Charles Honsinger <honsingerlaw@gmail.com> wrote:

Angie: Per our discussion regarding the above-referenced permit earlier today, I am proposing that IDWR, myself, and Dr. Katsilometes reconvene in a telephone conference on Friday, December 4 at 3:00 pm to discuss progress. Can you please let me know if that will be acceptable from the IDWR side?

Additionally, we would appreciate knowing the number of affidavits that would be necessary for Dr. Katsilometes to obtain so as to avoid the monitoring requirements prior to licensing that we discussed today.

Finally, I am attaching the Palen affidavit to this email. Thank you.

Sincerely,

Charles L. Honsinger

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Ritter, Ashley

From: Charles Honsinger <honsingerlaw@gmail.com>
Sent: Friday, October 16, 2020 11:46 AM
To: Ritter, Ashley
Subject: Re: Katsilometes update phone call

Ashley: Here is Dr. Katsilometes' statement regarding the well drilled in 2001 (a replacement well). "It has a submersible pump and motor and delivers from a depth of 220 feet. This well has delivered up to 1cfs (440gpm) when tested by Dr. Lachmar, and if no pump is used will flow boiling water from the top end of the casing ~2 feet above ground. This well definitely accesses a new aquifer, which is evident by the temperature of the water (hotter by at least 20 degrees F than any of the State Foundation wells or springs, or other neighbors 125 yards to ~600 yards to the East)."

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On Thu, Oct 15, 2020 at 11:11 AM Ritter, Ashley <Ashley.Ritter@idwr.idaho.gov> wrote:

Charlie,

The conference call number is (208) 287-6751. Also can you check with Mr. Katsilometes to see if he knows the pump setting depth for the well drilled in 2001, the deepest well-constructed to 700 feet? Any information about this well, pump setting depth, pump horse-power information or pumping water level would be helpful in my analysis of permit 29-13672. Thank you.

Ashley M. Ritter, E.I.T., G.I.T. | Associate Engineer

Idaho Department of Water Resources-State Office