

TP-83-09

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that the department has examined this application for temporary approval to use water under the provisions of Section 42-202a, Idaho Code, and has determined that:

- ☐ a) The application for temporary approval should be denied.
- ☒ b) The application for temporary approval should be approved, since
1. The temporary approval can be properly administered.
 2. Other water sources are not readily available.
 3. The approval is in the public interest.
 4. The approval will not injure known public values associated with the water source or any known water rights.

This application is therefore hereby:

- ☐ a) DENIED
- ☒ b) APPROVED, subject to the following conditions:
1. Diversion and use of water under this approval is subject to all valid existing water rights.
 2. The applicant assumes all risk the use of the water under this approval may injure other water rights.
 3. This approval authorizes a maximum diversion of 1.0 AF and a maximum rate of diversion of 0.2 cfs.
 4. This approval does not grant a right-of-way across the land of another, does not create a continuing right to use the water and may not be used in connection with a use which requires a continuing water supply.
 5. The department may cancel this approval at any time if the department identifies injury to other water rights.
 6. This approval expires on 12/31/2010.
 7. This approval does not create a continuing right to use water.
 8. The holder of this temporary permit shall not divert at a rate or in a manner that will significantly reduce the flow in the water source or otherwise adversely affect fish, wildlife or other public values.
 9. Other: Water intakes should be screened to prevent entrainment or impingement of fish or other aquatic life. The maximum screen mesh size should be 0.25 inches; approach velocities should not exceed 0.5 ft/second.
 10. Contact the DEPARTMENT OF WATER RESOURCES prior to diversion of water from streams.

DATED this 22 day of June, 2010.

Robert D. Haynes

For the Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TEMPORARY APPROVAL OF WATER APPROPRIATION
(5 AF or less)

- Name of Applicant ALFRED D. BECK JR Phone 208-930-4684
Address 1807 E. SATRE AVE. CDA ID 83815 Email djbeck@roadrunner.c
1. Source of water INDEPENDENCE CREEK Tributary to MOOSE CREEK
2. Location of point of diversion NE 1/4 NE 1/4 Sec. 32 Township 40N, Range 11E B.M.,
County CLEARWATER
3. Location of place of use NE 1/4 NE 1/4 Sec. 32 Township 40N, Range 11E B.M.,
County CLEARWATER
4. Proposed use of water HIGHBANKING / POWER SLICING (MINING) ABOVE HIGHWAY
MARK - RECREATIONAL - OCCASIONAL USE WEEKENDS AND POSSIBLY
1-2 WEEK PERIOD DURING SUMMER - "LOST HOPE" IMC 185059
5. Amount of water:
Maximum rate of diversion 0.20 cfs or 90 gpm.
Maximum daily volume Less than 1 AF; Total volume 1 AF.
6. Duration of diversion: From OCCASIONALLY 15/06 to OCCASIONALLY 15/10
Day-month Day-month
7. Proposed diverting works GRAVITY - PUMP
8. Who owns the property at the requested point of diversion? NATIONAL FOREST
9. Describe the arrangement allowing access to the water BY FOOT ON MINING CLAIM
10. Remarks THIS IS FOR RECREATIONAL MINING USE TO FILL A SMALL
SETTLING AREA FROM WHERE WATER WILL BE RECIRCULATED
DURING OPERATION "LOST HOPE" IMC 185059

I hereby acknowledge that I assume all risk if the diversion and use of the water under this approval injures other water rights. I certify this is a temporary use and that I am not seeking a continuing right to use water.

Date

4/14/10

Applicant

Alfred D Beck Jr

Received by

db

Date

4/30/10

Time

\$50.00 fee receipted by

db

#

N024214

Date

4/30/10

Watermaster Comments received?

Date

RECEIVED
APR 30 2010
IDWR / NORTH



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

06/23/2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

ALFRED D BECK JR
1807 E SATRE AVE
COEUR D ALENE ID 83815

RE: Temporary Permit No. TP-83-09

Dear Applicant(s):

Your application for Temporary approval of Water Appropriation has been granted and assigned number TP-83-09.

Please be advised that THE PERMIT IS SUBJECT TO THE EFFECTIVE DATES AND CONDITIONS STATED ON PAGE TWO OF THE APPLICATION.

If you have any questions or if this office can be of further assistance, please contact us.

Sincerely,

Robert G. Haynes, P.E.
Regional Manager

Enclosure



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

May 4, 2010

RECEIVED

MAY 06 2010

IDWR / NORTH

Mr. Keith Franklin
Idaho Department of Water Resources
7600 North Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

Subject: Comments, temporary water appropriation from Independence Creek to operate a highbanker

Dear Mr. Franklin:

We received a request for comment on an application for a temporary water appropriation permit to withdraw 0.20 cfs or 90 gallons per minute from June 15 through October 15 from Independence Creek, Clearwater County. The temporary water appropriation is for the operation of a highbanker and power sluicing above the ordinary high water mark. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

In the Idaho Water Quality Standards, Independence Creek is included in waterbody ID 17060307CL031 and is protected for cold water aquatic life and secondary contact recreation presumed beneficial uses. This waterbody ID is listed in section 3 of the Idaho 2008 Integrated Report and is not assessed.

DEQ agrees that the temporary withdrawal of 90 gallons per minute from Independence Creek should not impact the water quality of the creek. At no time however, should the proposed action be allowed to impair existing beneficial uses of Independence Creek. In order to protect and maintain aquatic life beneficial uses, stream flow adequate to sustain existing aquatic life needs to be maintained (IDAPA 58.01.02.100.01). We recommend that stream flow be maintained at a level suitable to protect and maintain aquatic life during the withdrawal and at no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals. No waste water will be deposited back into Independence Creek.

Thank you for the opportunity to comment on this application. If you have any questions regarding the Idaho Water Quality Standards, please call the Lewiston Regional Office at (208) 799-4370.

Sincerely,

Gwen P. Fransen
Regional Administrator, Lewiston

c: Alfred D. Beck, Coeur d'Alene, Idaho
Ray Hennekey, IDFG



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 3, 2010

Alfred D Beck Jr.
1807 E Satre Ave.
Coeur d'Alene, ID 83815

Re: Application For a Temporary Water Appropriation

Dear Mr. Beck:

The Idaho Department of Water Resources (IDWR) is in receipt of your application to temporarily appropriate water for a small mining operation on Independence Creek. Before processing can begin, IDWR will need the following additional information;

Independence Creek is located within the Salmon-Clearwater River Basins, which are now considered sensitive water basins. Each application within this sensitive area must undergo close scrutiny to ensure IDWR is not negatively impacting sensitive ESA (Endangered Species Act) species.

IDWR has developed a process by which each application is reviewed. Idaho State Code requires "approval is in the public interest and a determination that the temporary approval will not injure the public values associated with the water source or any other water right".

Therefore, the applicant must obtain comments regarding their proposal from the Idaho Department of Fish & Game and the Idaho Department of Environmental Quality (DEQ), to make sure the proposed use will not harm sensitive species or public values.

Attached is an information sheet which explains the process. For a temporary water appropriation application, you are only required to seek comments from Fish & Game and DEQ. I have highlighted the contacts on page one for your convenience. When the applicant provides this information to IDWR, the northern regional staff will continue with the processing of the application.

Please provide IDWR with the agency comments and a USGS map showing the location of the point of diversion and place of use within the next 30 days, so as not to delay processing. If you have any questions, feel free to contact me at this office.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent
Enclosure

COPY

IDAHO DEPARTMENT OF WATER RESOURCES

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications.

The additional information requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 af or less. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. Only certain applications for small domestic and stockwater uses and applications to divert ground water for domestic use in multiple homes are exempt from the additional information requirement. A copy of Water Appropriation Rules 40.05.c-g is printed on the back of this page.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR within 30 days from the date you are notified that it is required. IDWR will hold your application until you have submitted the additional information. If you believe that a particular piece of information is not relevant to your application, please explain why. A complete response to Rule 40.05.f, Information Relative to Financial Resources, is not required if construction of your project will cost less than \$5,000. Instead, simply state the projected cost of your project. If you do not respond within 30 days, IDWR may void your application. If you need additional time to submit the required information, please submit a written request. IDWR can grant additional time "upon a showing of good cause."

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. Please contact these agency representatives at least 15 days prior to the end of your 30-day response period.

Idaho Department of Fish and Game contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-769-1414
McCall Subregion: Dale Allen at 208-634-8137
Salmon Region: Tom Curet at 208-756-2271

Clearwater Region: Ray Hennekey at 208-799-5010
Southwest Region: Rick Ward at 208-465-8465

Idaho Department of Environmental Quality contact list for water right applications:

John Cardwell

Lewiston: Kerby Cole at 208-799-4370 (Clearwater or lower Salmon River basins)
Cascade: Leslie Freeman at 208-634-4900 (South Fork Salmon River basin)
Idaho Falls: Troy Saffle at 528-2650 (Upper Salmon, Lemhi, Pahsimeroi basins)

Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water. . . .

Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

- i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.
- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

Note: For applications that do not exceed a total diversion rate of 5.0 cfs or the irrigation of 200 acres within the Salmon and Clearwater River drainages, seeking comment from the city or county is optional unless otherwise directed by IDWR.