

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/4/2020

Water Application 43-7032

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RAFT RIVER RURAL ELECTRIC COOP INC PO BOX 617 MALTA, ID 83342 (208) 645-2211

Status: Denied

Source

Tributary

Beneficial Use

From

To

Diversion Rate

Volume

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Application Denied Date: 7/27/1989
Number of Protests: 0
Water District Number: TBD
Application Type: New Appropriation
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

RECEIVED

FFB 15 1989

Department of Water Resources
Southern Region Office

February 10, 1989

Raft River Rural Electric Co-op
Malta, ID 83342

Re: Application for Permit No. 43-7032

Gentlemen:

Enclosed is a copy of the order rejecting the above referenced application for permit.

Section 42-1701A(3), Idaho Code, provides that any person aggrieved by a denial by the director is entitled to a hearing. A written petition stating the grounds for contesting the action and requesting a hearing must be received within 15 days after the receipt of the denial.

Feel free to contact the department if you have questions.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

c: S. Region

43-7032

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Application)
for Permit No. 43-7032 in the)
Name of Raft River Rural)
Electric Co-op)

ORDER

This matter having come before the Idaho Department of Water Resources (IDWR) as a result of a general review of protested matters pending administrative hearing, IDWR finds, concludes and orders as follows:

FINDINGS OF FACT

1. On September 1, 1971, Raft River Rural Electric Co-op (applicant) submitted Application for Permit No. 43-7032 to IDWR proposing the diversion of 50 cubic feet per second of water to be diverted from ground water for power generation purposes in Cassia County, Idaho.
2. The application was advertised as required by law and was subsequently protested by Harlan B. Jensen, Bette Jensen, Harriet P. Crank, Ivan Darrington, Barbara Darrington and Paul H. Peuit.
3. A review of the water right file does not show any recent activity in pursuit of development of the proposed project (project) and did not show that the applicant has been actively seeking other permits and/or approvals needed in connection with the project.
4. On December 29, 1988, IDWR sent to the applicant a Notice of Pending Order to Reject the Application and requested information required by Water Appropriation Rules 4,5,3,3,1. and 4,5,3,3,2. to determine the status of the project.
5. The applicant did not respond to the Notice of Pending Order to Reject the Application and did not show cause why the application should not be rejected.
6. Section 42-203A(5), Idaho Code, provides that where a proposed use is such:
 - a) that it will reduce the quantity of water under existing water rights, or
 - b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or

ORDER REJECTING APPLICATION

- c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or
- d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or
- e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area affected by the proposed use,

the director of IDWR may reject the application.

7. Water Appropriation Rule 5,1,3. describes evaluation criteria for determining whether an application is made in good faith and provides among other criteria that an application will be found to have been made in good faith if:

The applicant shall have legal access to the property necessary to construct and operate the proposed project, has the authority to exercise eminent domain authority to obtain such access, or in the instance of a project diverting water from or conveying water across land in state or federal ownership, has filed all applications for a right-of-way. (Rule 5,1,3,1.),

and

The applicant is in the process of obtaining other permits needed to construct and operate the project (Rule 5,1,3,2.).

8. Water Appropriation Rule 4,4,2,1. provides that the applicant bear the initial burden of coming forward with evidence for the evaluation of criteria a) through d) of Section 42-203A(5), Idaho Code.

CONCLUSIONS OF LAW

1. Applicant has not shown that legal access to the property necessary to construct and operate the project as required in Water Appropriation Rule 5,1,3,1. has been obtained.
2. Applicant has not shown that other permits needed to construct and operate the project as required in Water Appropriation Rule 5,1,3,2. including any needed FERC approval has been obtained.
3. Applicant has not met the burden of providing evidence as required by Water Appropriation Rule 4,4,2,1.
4. The application should be rejected on the basis that it was not made in good faith.

ORDER

IT IS, THEREFORE hereby ORDERED that Application for Permit No. 43-7032 is REJECTED pursuant to the provisions of Section 42-203A, Idaho Code.

Dated this 9TH day of FEBRUARY, 1989.


NORMAN C. YOUNG
Administrator

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JAN - 4 1989

Department of Water Resources
Southern Region Office

File

December 29, 1988

Raft River Rural Electric Co-op
Malta, ID 83342

RE: NOTICE OF PENDING ORDER TO REJECT APPLICATION FOR PERMIT
NO. 43-7032

Gentlemen:

On September 1, 1971, you submitted the above referenced application to the department proposing the diversion of 50 cubic feet per second of water to be diverted from ground water for power generation and irrigation purposes in Cassia County, Idaho.

Notice of the filing was given in 1971 and protests were received expressing concern for injury to other rights because the project is proposed in a designated Critical Ground Water Area. Hearings were set and meetings were scheduled at that time in an effort to resolve the matter. Apparently the efforts were not successful and a review of the file does not show any indication of recent activity in pursuit of the proposed development.

Water Appropriation Rules 4,5,3,3,1. and 4,5,3,3,2. require an applicant for a permit to demonstrate a possessory interest in the proposed place of use and to be actively obtaining other permit approvals needed in connection with the project.

If you are no longer interested in the project, please sign and return the partially completed relinquishment form. If you do not relinquish the permit, you are directed to provide within thirty (30) days appropriate information to show that you are actively pursuing development of the project. If the requested information is not timely submitted to the department, an order will be issued rejecting the application pursuant to Section 42-203A, Idaho Code.

Feel free to contact the department if you have questions.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: S. Region

43-7032



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 16, 1988

RECEIVED

DEC 17 1988

Raft River Rural Electric Coop
150 N. Main
Malta, ID 83342

Idaho Department of Water Resources
Southern Region Office

RE: Drilling Permit

Dear Sir/Madam:

As of this date, I have received no response to the enclosed letter dated October 26, 1988. Has the well been drilled?

Please let me know the status of the well or let me know if you do not plan to drill the well.

I will anticipate a response within 30 days.

Sincerely,

JOHN E. BEAL
Groundwater Protection Section

JEB:ldt(GP14-1.57)

Enclosure

CC: ~~Loren Holmes~~
Stan Lloyd



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

October 26, 1988

Raft River Rural Electric Coop
150 N. Main
Malta, ID 83342

RE: Drilling Permit

Dear Sir/Madam:

The Department received your application for a drilling permit but no fee was submitted with the application. The fee for use of less than 0.04 cfs is \$10.

If this use is for single family domestic, no water right is required. If the use is commercial, you should have or file a water right.

If you have any questions, contact me. Once I receive the fee, the drilling permit will be approved.

Sincerely,

A handwritten signature in cursive script, appearing to read 'John E. Beal'.

JOHN E. BEAL, Manager
Groundwater Protection Section

JEB:ldt(GP13-1.34)