

Cefalo, James

From: Cefalo, James
Sent: Thursday, April 02, 2020 9:22 AM
To: 'TJ Budge'; Greg Bingham
Cc: Clinton Aston; Rob Harris
Subject: RE: Application for Permit 13-8042 (Weston Creek Irrigation Co)
Attachments: Draft Permit 13-8042.pdf

Dear Parties,

Attached is a revised draft permit. I updated the diversion to storage period of use to be 10/16 to 4/30, consistent with this email chain. I also updated Condition #3 to reflect that period of use change. I also updated the language of Condition #3 to more clearly distinguish between the natural flow in Weston Creek and the storage flow in Weston Creek. I also removed the last condition (requiring the project to commence in one year). Idaho water law was recently changed to eliminate the one year commencement requirement. In this case, the reservoir is already built, so the commencement condition was meaningless anyway. Feel free to refer to the 4/2/20 draft permit in withdrawal documents.

James Cefalo
Regional Manager
IDWR Eastern Region
(208) 525-7161

From: TJ Budge [mailto:tj@racineolson.com]
Sent: Wednesday, April 01, 2020 10:44 AM
To: Greg Bingham <gonfarmn@gmail.com>
Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Clinton Aston <squarepeakfarms@gmail.com>; Rob Harris <rharris@holdenlegal.com>
Subject: RE: Application for Permit 13-8042 (Weston Creek Irrigation Co)

Great! James, would you mind revising the draft permit? I will draft a stipulation to resolve my clients' protests. Rob, is your client agreeable to a revised permit as discussed?

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
Office: (208) 232-6101 | Direct: (208) 478-3467 | Cell: (208) 705-0826 | www.racineolson.com

Assistant: Tessa Sparrow | Direct: (208) 478-3444 | tessa@racineolson.com

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From: Greg Bingham <gonfarmn@gmail.com>
Sent: Wednesday, April 1, 2020 10:08 AM
To: TJ Budge <tj@racineolson.com>
Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Clinton Aston <squarepeakfarms@gmail.com>; Rob Harris <rharris@holdenlegal.com>
Subject: Re: Application for Permit 13-8042 (Weston Creek Irrigation Co)

TJ
We will agree to those dates.
Greg

Sent from my iPhone

On Apr 1, 2020, at 9:30 AM, TJ Budge <tj@racineolson.com> wrote:

Greg –

Cub River Irrigation feels it's important to match the season of use of your storage right with the non-irrigation season. Cub River's irrigation rights are from May 1 to October 15, so we if we make your storage right October 16-April 30 they will match up. You should have no trouble filling this small reservoir during this time period. If this works for you I am authorized to sign a stipulation to resolve the protests of Cub River Irrigation and Bear River Water Users Association.

T.J. Budge

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From: Greg Bingham <gonfarmn@gmail.com>

Sent: Monday, March 30, 2020 5:25 PM

To: Cefalo, James <James.Cefalo@idwr.idaho.gov>

Cc: Clinton Aston <squarepeakfarms@gmail.com>; Rob Harris <rharris@holdenlegal.com>; TJ Budge <tj@racineolson.com>

Subject: Re: Application for Permit 13-8042 (Weston Creek Irrigation Co)

TJ

To answer your question TJ, yes, we would like to agree to this permit proposal. If I understand your email correctly, you want the dates changed that we can store from natural flow? I can see June being a little into the irrigation season, but April 15 seems a little early. Would your clients go for a May 10 date?

Greg

Sent from my iPhone

On Mar 18, 2020, at 1:35 PM, Cefalo, James <James.Cefalo@idwr.idaho.gov> wrote:

Dear Parties,

Thanks for taking the time to meet this morning. Attached is a draft permit incorporating the limits and conditions proposed at the status conference this

morning. In order to keep the discussion progressing between now and the next status conference (scheduled for April 15th), please review the draft permit and respond to this group email with any questions, revisions or concerns by Friday, April 3rd. Please also respond if the draft permit is acceptable. If we find that all of the parties find the draft permit acceptable, the protestants can prepare paperwork withdrawing the protests with reference to the draft permit.

James Cefalo
Regional Manager
IDWR Eastern Region
(208) 525-7161

<3-18-20 Draft Permit 13-8042.pdf>

State of Idaho
Department of Water Resources

Permit to Appropriate Water (4/2/20 Draft)

No. 13-8042

Priority: September 03, 2019

Maximum Diversion Rate: 3.00 CFS
Maximum Diversion Volume: 20.0 AF

This is to certify that

WESTON CREEK IRRIGATION CO
PO BOX 1
WESTON ID 83286-0001

has applied for a permit to appropriate water from:

Source : WESTON CREEK

Tributary: BEAR RIVER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION STORAGE	01/01 to 12/31		20.0 AF
IRRIGATION FROM STORAGE	04/20 to 09/30		20.0 AF
DIVERSION TO STORAGE	10/16 to 04/30	3.00 CFS	

Location of Point(s) of Diversion

WESTON CREEK SW¼ SW¼, Sec. 13, Twp 16S, Rge 38E, B.M. FRANKLIN County

Place of Use: IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
16S	38E	13												X				

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2025**.
2. Subject to all prior water rights.
3. This right does not authorize the diversion of natural flow from Weston Creek for irrigation storage between May 1 and October 15. The right holder may, however, use the storage pond authorized under this right to control and store water released from Weston Creek Reservoir and delivered through the Weston Creek channel during that time period.
4. This right does not authorize the irrigation of land not previously irrigated under water rights 13-948, 13-949 or 13-2293.
5. Irrigation from storage place of use is within the area served by Weston Creek Irrigation Company.
6. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 11.
7. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
8. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources

Permit to Appropriate Water (4/2/20 Draft)

No. 13-8042

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this _____ day of _____, 20____.

JAMES CEFALO
Eastern Regional Manager