



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 15, 2020

ROCKY MOUNTAIN ENVIRONMENTAL
ATTN: PATRICK N NAYLOR
PO BOX 4773
BOISE, ID 83706

RE: Field exam report for water right permit 13-7996

Dear Mr. Naylor:

I have reviewed the field exam you supplied for water right permit 13-7996. During my review I discovered that field exam is deficient in several areas. Due to the number of issues involved, I am required to reject this field report. I will discuss each deficiency below:

BENEFICIAL USE:

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.010.05 states the following:

Certified Water Right Examiner. A professional engineer or professional geologist, qualified and registered in the state of Idaho who has the knowledge and experience necessary to satisfactorily complete water right field examinations as determined by the Director, and who has been appointed by the Director, Idaho Department of Water Resources as a certified water right examiner. A certified water right examiner is commonly termed a field examiner, water right examiner or examiner. A certified water right examiner is an impartial investigator and reporter of the information required by the Director to determine the extent of beneficial use established in compliance with a permit. Department employees are authorized to conduct water right examinations at the discretion of the Director.

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.010.12 states the following:

The form provided by the Department upon which the examiner records the data gathered and describes the extent of diversion of water and application to beneficial use. The report is fully termed beneficial use field report and is also termed a field examination report.

The above rules confirm that it is the responsibility of the water right examiner to determine the extent of beneficial use, and record the extent of beneficial use on the field report form. For fish propagation uses, this requires that the field examiner supply suitable information to confirm that the fish being raised are for either commercial or restocking purposes. You must determine if this use is a true fish propagation use or a recreation use for general enjoyment or fishing in the ponds. Recreational fishing in ponds have been determined to be a fish propagation use if fees are being charged to fish the ponds.

Where these are ponds and not the normal cement raceways in most fish hatcheries, I would consider them to be fish propagation storage if used for commercial rearing purposes and recreation storage for recreational purposes. In either case you should include a Storage: Pond Loss Calculation sheet that can be found at <https://idwr.idaho.gov/forms/water-rights.html>.

VOLUME OF THE FISH PROPAGATION USE:

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.010.05 states the following:

The total number of holding/rearing ponds and the dimensions and volume of the ponds shall be shown on the field report for fish rearing or fish propagation use. The annual volume shall be calculated based on the changes of water per hour.

As you can see from the IDAPA rule shown above, all field exams reports for fish propagation uses require a volume for that use. You also must justify that use by the number of changes of water in the facility per hour, and the number of fish that are commercially being raised. Your report did not provide any volume calculations or recommendations. Your report also did not provide any fish numbers to address the justification for the size of this facility. In order to accept this field report a volume recommendation must be included with the field report for the fish propagation. Once again, the Pond Loss Spreadsheet is a valuable tool to determine volumes.

General recommendations for earthen ponds suggest a minimum of density of fish should not exceed ½ pounds of fish per cubic feet of water. It is also suggested that a general rule of thumb for the water in trout rearing ponds should be between 50 to 60 degrees Fahrenheit. Another industry standard is to have approximately 2 ½ water exchanges of water per hour. The exchanges per hour is based on the number of times the pond or raceway could be filled with the diversion rate available. This would include the water from both water rights.

SYSTEM DIAGRAM:

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.01.c states the following:

A concise description of the diversion works and a general description of the distribution works shall be given. This description must trace the water from the point of diversion to the place of use and the return to a public water source, if any. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structure shall be included. If water is stored, the timing and method of storage, release, redirection and conveyance to the place of use shall be described. The make, capacity, serial number and model number of all pumps, boosters or measuring devices associated with the point of diversion at the source of the water supply shall be described on the field examination report. Schematic diagrams, photographs, and maps sufficient to locate and describe the diversion, conveyance and usage systems shall also be provided in the examination report.

None of the maps you supplied showed the conveyance system. I am still not sure whether water from the spring is split and goes into each pond, or if all the water goes through one pond and then through the other pond. I am also not sure how or where the water from 13-7998 gets to the ponds. You need to provide a map showing the water system as whole.

OVERLAPPING RIGHT 13-7998:

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.01.d states the following:

Any interconnection of the water use being examined with other water rights or with other conveyance systems shall be described on the field report. Interconnection includes, but is not limited to, sharing the same point of diversion, distribution system, place of use, or beneficial use. The examination report shall also include an evaluation of how the water use being examined is distinct from prior existing water rights and provides an alternate source of water or increment of beneficial use not authorized by prior existing water rights

This permit has a condition that states the following:

Rights 13-7996 and 13-7998 when combined shall not exceed a total diversion rate of 1.00 cfs.

There is nothing in the field report that shows how this condition is being addressed. I did not find any measurements in the field report of water right from the Bear River. I also did not see in any of your maps a diagram that shows the relationship between water rights 13-7996 and 13-7998. You need to show how these two water rights are related, and how the permit holder maintains the 1.00 cfs when the rights are combined.

RETURN FLOWS:

The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.01.e states the following:

If water is returned to a public water source after use, a legal description of the point where the water is returned and source to which discharge is made shall be provided. Examples of uses which generally have an effluent discharge include fish propagation and power facilities.

You didn't show on your maps where the water from the ponds discharge into the Bear River. You did take pictures of the outflow, but we need the location pointed out. A measurement of the outflow would also be a reasonable practice to show difference between the number of exchanges and possible evaporation and seepage losses.

CONCLUSION:

The IDAPA Beneficial Use Examination Rules 37.03.02.035.02.b states the following:

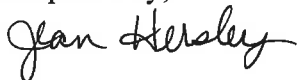
Field reports not completed as required by these rules will be returned to the certified water right examiner for completion. If the date for submitting proof of beneficial use has passed, the penalty provisions of Rule 055 shall apply.

The Department has concluded that this field report is not completed as required by the IDAPA Beneficial Use Rules. Therefore we are returning the Proof of Beneficial Use Statement and Field Report to you for completion.

The "Proof of Beneficial Use Statement of Completion" form for this permit is not required to be submitted until October 1, 2020. Therefore, there will be no penalties or adjustments of the priority date until after the October 1, 2020, deadline to submit the proof of beneficial use statement.

If you have any questions or concerns, please don't hesitate to contact me.

Respectfully,



for Daniel Nelson
Staff Hydrologist
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

Enclosures: Returned Field Report
 Returned Proof of Beneficial Use

Rejection for Field Examination for permit 13-7996

Nelson, Dan

Sent: Wednesday, April 15, 2020 1:59 PM**To:** patrick.rmea@gmail.com**Attachments:** Field Exam Rejection Lett~1.docx (50 KB)

Hello Patrick,

I have reviewed the field report for permit 13-7996. Unfortunately, the field report is incomplete and needs to be redone before our office can accept it and the proof of beneficial use statement you submitted. We will be sending out the attached letter with the return of the field report. I tried to explain what we needed and provided links to spreadsheets that will help you provide the needed information. Fortunately, you have until October 1, 2020, to provide an acceptable field report. I think you can easily accomplish this task. I also quoted the IDAPA Rules that relate to what is needed. You can find the full set of IDAPA Rules at <https://adminrules.idaho.gov/rules/current/37/370302.pdf>. I use these rules as my guide for processing certified field examinations, so it is helpful to know what I use to make the determinations of if a field exam is acceptable or not.

If you have any questions, please don't hesitate to contact me.

Respectfully,

Daniel Nelson

Water Right Analyst 3

Idaho Department of Water Resources

Telephone (208) 287-4856

Fax (208) 287-6700 (attn: Dan Nelson)