

Hersley, Jean

Subject: FW: [EXTERNAL] IDAPA Rule

From: Keen, Shelley

Sent: Saturday, September 07, 2019 11:28 AM

To: Hersley, Chad <Chad.Hersley@idwr.idaho.gov>; Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>

Cc: Vincent, Sean <Sean.Vincent@idwr.idaho.gov>; Neace, Thomas <Thomas.Neace@idwr.idaho.gov>; Grimm, Angie <Angie.Grimm@idwr.idaho.gov>

Subject: RE: [EXTERNAL] IDAPA Rule

Chad,

I reviewed the partial decree for water right no. 34-10901 and the "Water Rights Agreement" (Agreement) between the State of Idaho and the US Department of Energy. The Department of Energy can divert water pursuant to right no. 34-10901 from "[a]ny point within the boundaries of the INEL." (Agreement, page 7) For new points of diversion, the Department of Energy must report "as described in Article 6.2. (Agreement, page 7) Article 6.2.2 states, "The Department of Energy voluntarily agrees to provide the State with a comprehensive inventory of all wells (monitoring, production and disposal) at or relating to activities at the INEL." (Agreement, page 9) Article 6.2.3 states, "The Department of Energy may develop new points of diversion for the water right described in Article 5 [34-10901] and agrees to install a water measuring device on each new point of diversion. The Department of Energy shall monitor each measuring device used to deliver the water right described in Article 5 and report the results each year to IDWR . . . upon reasonable notice." (Agreement, page 10) If the Department of Energy updates the comprehensive well inventory to show conversion of the monitoring well to a production well, meets the measurement and reporting obligations of Article 6.2.3, and does not exceed the decreed amounts of 80 cfs and 35,000 AFY, diverting from any location "within the boundaries of the INEL" is consistent with water right no. 34-10901 and the Agreement.

Please route a copy of this correspondence and any follow-up reporting to Water Rights Section for filing in the water right file for 34-10901.

Thanks.

Shelley

From: Hersley, Chad

Sent: Friday, September 06, 2019 9:06 AM

To: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>

Cc: Vincent, Sean <Sean.Vincent@idwr.idaho.gov>; Neace, Thomas <Thomas.Neace@idwr.idaho.gov>

Subject: FW: [EXTERNAL] IDAPA Rule

Gentlemen;

I think at issue is the language in IDAPA 37.03.09.025.13 that appears to not allow diversion of water from a monitoring well:

13. Monitoring and Remediation Wells. ..."No person may divert ground water from a monitoring well or a remediation well for any purpose not authorized by the Director..."

Typically monitoring wells are installed for purposes not requiring diversion of water, monitoring aquifer properties or contaminant plumes, for example. The rule is intended to not allow diversion of water from a well in the absence of a water right. Calling it a monitoring well is not what precludes the diversion of water.

However, US Department of Energy has a water right allowing any new or existing well within the boundaries of the Idaho National Laboratory to be used as a point of diversion so long as the combined diversions do not exceed the limits of the water right (see page 7, attached).

My interpretation is that diversion of water from the monitoring well is a permitted use under the existing water right.

Please correct me if I am misinterpreting the intent of Rule 025.13 or the language of the water right.

If my interpretation is accurate I will forward this on to Mr. Bartholomay.

Chad. F. Hersley, P.G.
Technical Hydrogeologist
Idaho Department of Water Resources
Ground Water Protection Section
208-287-4930

From: Vincent, Sean
Sent: Thursday, September 05, 2019 2:01 PM
To: Hersley, Chad <Chad.Hersley@idwr.idaho.gov>
Subject: FW: [EXTERNAL] IDAPA Rule

Chad,
Per our discussion, below is an email thread concerning a request for information from Roy Bartholomay. Thanks in advance for your help.

Sean

From: Vincent, Sean
Sent: Wednesday, September 4, 2019 3:56 PM
To: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>
Subject: RE: [EXTERNAL] IDAPA Rule

I had the same thought Garrick. Unfortunately, both Tom and Chad are both out right now. It'll wait until one of them returns.

Sean

From: Baxter, Garrick
Sent: Wednesday, September 4, 2019 3:45 PM
To: Vincent, Sean <Sean.Vincent@idwr.idaho.gov>
Subject: RE: [EXTERNAL] IDAPA Rule

Hi Sean,

I think the citation is wrong. I believe he means IDAPA 37.03.09.025.13. I would recommend that you have ask Tom Neace or Chad Hersley talk with the guy. Either Tom or Chad should be able to answer his questions.
Garrick

From: Vincent, Sean
Sent: Wednesday, September 04, 2019 2:57 PM
To: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>
Subject: FW: [EXTERNAL] IDAPA Rule

Garrick,
Roy Bartholomay with the USGS at INL has a question concerning IDAPA Rule 37.93.09.026.13. Do you know the answer to his inquiry or can you perhaps direct it to someone on your staff? Thanks.

Sean

From: Bartholomay, Roy [<mailto:rcbarth@usgs.gov>]
Sent: Wednesday, September 4, 2019 1:53 PM
To: Vincent, Sean <Sean.Vincent@idwr.idaho.gov>
Subject: Fwd: [EXTERNAL] IDAPA Rule

Hi Sean, I am wondering if you know or can point me to someone who can give me an answer about an IDAPA rule listed above. The USGS has historically been using monitoring wells at some drilling locations for water supplies for drilling because of difficulty in getting cost effective water supplies to our drill sites here at the INL. We had planned to use one of our wells for some upcoming drilling near the Naval Reactors Facility (NRF), but the NRF are telling us we can't because of this IDAPA rule. Appreciate any input you can provide. Thanks,

Roy Bartholomay, Project Chief
USGS Idaho National Laboratory Project Office
1955 N. Fremont
Idaho Falls, ID 83415
phone: (208) 526-2157
cell: (208) 390-3840
[email:rcbarth@usgs.gov](mailto:rcbarth@usgs.gov)
website:<https://www.usgs.gov/centers/id-water/science/idaho-national-laboratory-project-office>

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From: Willie, Kelly D (Contractor) <Kelly.Willie@unnpp.gov>
Date: Wed, Sep 4, 2019 at 1:36 PM
Subject: [EXTERNAL] IDAPA Rule
To: rcbarth@usgs.gov <rcbarth@usgs.gov>

Sent from my iPhone The rule reference is IDAPA 37.93.09.26.13..."No person may divert ground water from a monitoring well or remediation well for any other purpose not authorized by the Director." I'll talk to Josh too to see if there any other alternatives.