



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 21, 2019

CYNTHIA SMITH
PO BOX 2233
EAGLE ID 83616-9114

RE: Application for Permit 63-34735

Dear Applicant:

The Department is evaluating your application to appropriate ground water for irrigation purposes. The information in the file suggests the proposed permit will provide primary irrigation water and that the existing appurtenant surface water supply through Capital View Irrigation District (CVID) is not available. However, the Department has received the attached correspondence from CVID stating that surface water is available to the subdivision, but the property owners have yet to connect to the pressurized irrigation system. The purpose of this letter is to request information relative to the availability of surface water to help the Department decide whether it can authorize your proposed use of ground water as a primary irrigation source on land historically irrigated with surface water.

Among the criteria the Department must evaluate in deciding whether to approve an application for permit to appropriate water is whether it will conflict with the local public interest as defined in section [42-202B](#), Idaho Code, and whether it is contrary to conservation of water resources within the state of Idaho. In evaluating these criteria for applications seeking to appropriate ground water, the Department considers the availability of surface water for irrigation. Idaho's ground water is a limited resource in certain areas and is generally a higher quality water source. Additionally, the extensive delivery systems maintained by organized surface water delivery entities play an essential role in the availability of surface water to various lands. The public interest is served by encouraging existing users of those systems to continue participating in the delivery organization to maintain the availability of surface water to as much land as possible. The public interest and conservation of water resources are both further served through the use of surface water by the benefits associated with incidental ground water recharge that helps maintain existing ground water levels.

Where surface water is reasonably available, it is not in the public interest and not consistent with conservation of water resources to appropriate ground water as the primary water source for irrigation¹. The Department typically addresses this concern by conditioning new permits to require that the right holder first use available surface water for irrigation and limit ground water

¹ The strong public policy in favor of the use of surface water first when both ground water and surface water sources are available is also reflected in Idaho's land use code. Idaho Code§ 67-6537 provides, in relevant part, that "[a]ll applicants proposing to make land use changes shall be required to use surface water, where reasonably available, as the primary water source for irrigation." Idaho Code§ 67-6537(1).

use to those times when surface water is not available. The Department's standard condition is as follows:

The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.

With the foregoing in mind, two options available to you are as follows:

- 1) **Agree to utilize surface water as a primary source and limit use of ground water for irrigation to those times when surface water is unavailable.** If you select this option, any permit issued pursuant to your application will contain the condition quoted above. Additionally, the Department would require some assurance that you do intend to connect to and utilize the available surface water system and that you understand that you cannot irrigate more than ½ acre under the permit until the surface water connection and use is established.
- 2) **Demonstrate that your proposal to utilize ground water as a primary irrigation source is in the public interest and consistent with conservation of water resources in Idaho.** Information to support such a position could include a statement from the existing irrigation delivery entity supporting the proposal to cease using surface water, and/or a demonstration that surface water is not reasonably available, or other facts specific to the project that support a decision in favor of the proposal.

Please provide a written response regarding how you choose to proceed and include supporting information as necessary.

Please submit the requested information within 30 days of the date of this letter. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be voided without a timely written reply within the next thirty (30) days. Refunds are not issued for voided applications.

Sincerely,



Nick Miller
Manager, IDWR Western Region

Enclosure

Capital View Irrigation District (CVID)
P.O. Box 208
Eagle, Idaho 83616

RECEIVED

JUN 13 2019

WATER RESOURCES
WESTERN REGION

To: Idaho Department of Water Resources

Date: June 11, 2019

RE: Application for Permit No. 63-34735

As an "interested party", I am writing to inform you of incorrect and possibly misleading information on Ms. Smith's application that needs to be corrected for you to properly consider her request. I am not protesting – I am only educating. To that end I met with Allen Bradbury, one of your Senior Water Resource Agents, at your location on June 4, 2019. I told Mr. Bradbury the following.

Ms. Smith is a shareholder in our water district. Her property is located within the 4 lot Inspiration Point Subdivision at the northwest corner of Eagle and Beacon Light Road. She, along with the other 3 lot owners who comprise the HOA each have 5 shares of CVID water. Each share has 5.4 gallons per minute allocated. Thus she has 27 gpm 24/7. She has yet to build on the site. None of the 4 have yet to hook into our pressurized mainline which is located on the northern property line of Inspiration Point.

In her application Ms. Smith states that she intends to use 1 cfs of well water for irrigation purposes. With the availability of Capital View Irrigation's 27 gpm, she does not need to use any well water. She further states that she "own 5 shares but no delivery from water district. Capital View". This statement is false – CVID delivers 108 gpm to Inspiration Point. The subdivision has yet to provide a means to deliver our water to the 4 lots.

In the plat for Inspiration Point, which is attached to the application, Note #5 states "Irrigation water has been provided from Capital View Irrigation Incorporated, in compliance with Idaho Code 31-3805 (1)(b). Lots within the subdivision will be entitled to irrigation water rights, and will be obligated for assessments from Capital View Irrigation Incorporated." Ms. Smith has paid CVID's 2019 annual assessment on time.

CVID has numerous shareholders with 5 acres like Ms. Smith. Her 27 gpm is more than enough water to keep her acreage green. CVID encompasses 515 acres and it is mostly green throughout the irrigation season.

Feel free to contact me regarding this.

Respectfully submitted,



Earl L. Silverstein
President
Capital View Irrigation District
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