



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 26, 2018

BROCKWAY ENGINEERING PLLC
2016 NORTH WASHINGTON STREET SUITE 4
TWIN FALLS IDAHO 83301

RE: Field exam report for water right permits 37-20653 and 37-20654

Dear Sirs:

I have been asked to review the field exams performed by Jeffery s. Rau from your organization for water right permits 37-20653 and 37-20654. These field reports were submitted to the Department on January 4, 2010. Unfortunately, there are several issues that will need to be clarified before we can move forward with licensing this water right. The following issues will need to be resolved:

Measurement Device Requirement:

Both permits have the following condition:

Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.

In Mr. Rau's field report for both permits, he states the following:

An adjustable cipolletti weir is located at point C as seen in Figure 6. No other measuring devices are installed. A portion or all of the waste water could be diverted prior to the measuring device. No method of distinguishing and measuring waste water separate from irrigation water is available.

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

Field reports which indicate that a measuring device or lockable controlling works, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement or lockable controlling works requirement has been formally waived or modified by the Director.

The field report submitted by Mr. Rau did not provide adequate information to ensure that a lockable controlling head gate had been installed at the point of diversion. It also appears as though the measurement device described by Mr. Rau is inadequate to measure all of the water being diverted through the point of diversion. There also needs to be a mechanism in place to determine the amount of water being diverted through the point of diversion that is attributed to each water source. Without this information, there is no reasonable way to determine the amount of water being diverted under the various water right authorizations. The field report provided enough ambiguity that we are going to allow additional time to provide information that clearly shows that all water being diverted from the point of diversion is clearly being measured, and all the water rights can be clearly identified for each water source.

Water Quality Monitoring:

Both permits have the following conditions:

Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.

Mr. Rau's field report states the following:

No water quality standard tests have been performed.

The water right file contains a letter from Mr. Rau dated February 7, 2003, to Doug Howard of the Idaho Division of Environmental Quality. In this letter Mr. Rau writes the following:

We have met with representatives from your office and it is our understanding that your agency does not have a problem with the project as proposed. Since a portion of the project entails proposed "recharge" of excess water into the Silver creek Aquifer, IDEQ has indicated that they would require a monitoring plant to track water quality effects of the proposed activities.

Mr. Rau's letter goes on to provide a monitoring plan for both of these permits. The file also has another letter dated April 24, 2003, from Bill Allred from Idaho Department of Environmental Quality approving the plan proposed by Mr. Rau.

The field reports for these permits suggest that the condition requiring the permit holder to comply with Idaho Department of Environmental Quality standards may not have been met. Please supply information that shows the permit holder has complied with Idaho Department of Environmental Quality standards.

Ground Water Recharge Volume:

The field report did not provide a volume for the ground water recharge component of the water right. Currently, the Department rejects field reports that do not provide a volume for water uses that require a volume according to Idaho Beneficial Use Examination Rules IDAPA 37.03.02.035.01.j. Where the field exam was not rejected at the time of receipt, the Department made attempts to determine an annual volume for the recharge component.

The Department decided the best way to calculate the recharge volume for these permits was to base the recharge volume on the seepage losses from the ponds. We have performed a seepage calculation using the Department's pond spreadsheet, and determined that the ponds would have a seepage rate of approximately 40 af. We would like to extend an offer to you to provide a reasonable recharge volume that you feel depicts the actual recharge rate. Anything you provide will need to include the calculations and information used to determine the recharge volume. We would be willing to take that information into account.

Wildlife Volume:

No wildlife volume was included in Mr. Rau's field report. Similar to the ground water recharge volume, the Department has attempted to determine possible flow through rates for the wildlife use. Without actual measurement records, our options are limited to making very conservative estimates or remove this use from the permit.

We have decide to allow you the opportunity to provide the frequency, availability, and volume of water that is typically available for wildlife use in order to provide a wildlife volume. A review of the aerial photography suggests that there may not have been adequate water to fill all of the ponds, so the wildlife use or flow through water may never have been developed. If you can provide reasonable water flow data and the frequency of the water availability, we feel that we can calculate a reasonable wildlife volume. This may be difficult if there are no actual measurement records, so any information that you provide will need to include flow records.

Conclusion:

At the time this field report was received, an immediate review of the file was not done. Therefore, we do not feel we can reject or return the file as is required by the Idaho Beneficial Use Examination Rules IDAP rules. The Department would like to allow your organization additional time to clarify the field examination in a manner that is deemed acceptable according to the Idaho Beneficial Use Examination IDAPA rules. Idaho Beneficial Use Examination Rules IDAPA 37.03.02.035.02.c states that we can give a certified water right examiner an additional 30 days to supply additional information to clarify the field exam report as stated below:

If the Director determines that a field report prepared by a certified water right examiner is acceptable but that additional information is needed to clarify the field report, he will notify the examiner in writing of the information required. If the additional information is not submitted within thirty (30) days or within the time specified in the written notice, the priority date of the permit will be advanced one (1) day for each day the information submittal is late. Failure to submit the required information within one (1) year of the date of the department's request is cause for the Director to take action to cancel the permit.

We intend to follow IDAPA 37.03.02.035.02.c in order to acquire the information needed license these two permits. Please supply the information and supporting information required above within 30 days of this letter. Please remember that all recommendations must include adequate background information that allows Department staff to verify those recommendations. Please supply the above information by May 1, 2018. If you have any questions, please don't hesitate to contact me.

Respectfully,



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Idaho Department of Water Resources
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Enclosures: Computer Generated water right reports for permits 37-20653 and 37-20654

The water right back file and Beneficial Use Field Reports can be found on our website at:

[http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=37&Sequence=20653&Split
Suffix=](http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=37&Sequence=20653&SplitSuffix=)

and

[http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=37&Sequence=20654&Split
Suffix=](http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=37&Sequence=20654&SplitSuffix=)