

Cefalo, James

From: Joan Tope <jdjoan@gmail.com>
Sent: Wednesday, September 06, 2017 1:30 PM
To: Cefalo, James
Subject: HEARING FOR APPLICATION PERMIT NO. 95-17241
Attachments: Image (58).jpg; Image (59).jpg; Image (60).jpg; Image (61).jpg; Image (62).jpg; Image (63).jpg

Dear Mr. Cefalo.

Attached to this email is the request the protestors have submitted to postpone the hearing for 2 months. We feel we have been deceived and defrauded on this matter. As I stated, Steve came to us and gave us this Amended Application which takes out the pond and puts the water into a cistern. We decided to keep the protest based on various reasons, and sent a letter to Morgan Chase stating our reasons. The reasons WERE BASED ON THE AMENDED APPLICATION. It is very easy to see this. There was no talk of "Let me have the permit or I won't do the Amended Application". Steve stated this was how he was going to do the project.

We were never informed that the Amended Application was going to be dropped by either Steve Barnhart or the Coeur d'Alene office of IDWR. It wasn't until Sept 1st that I learned (quite by accident) that the original application was in the hearing, not the amended application. This makes a great deal of difference to us. We need more time to get our expert witness in line for the hearing based on the pond.

I also filed a complaint against the Barnharts on the practices they have engaged in on Careywood Creek. The complain was filed last spring, and I have been waiting for the document on their findings. I asked Morgan Chase many many times to please get me the document and pictures that were taken. She promised over and over she would get it out to me, but she did not send anything to me before she left. Even after she left, she wanted to send the information and held it up longer in getting it to me. I finally received the pictures by Friday, Sept 1st. Too late to submit for the hearing.

We need the additional two months to set up our answer on this protest. Again, we have been deceived by the applicant. I understand you want us to call Steve and ask if he will agree to the additional two months. I will call him this evening and then let you know what he says. I can tell you now, he won't go for it.

Joan Tope, Protestant

Sorry, I had to send each page separate.



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Sept 9, 2017

Douglas Jones
Northern Region Manager
Idaho Dept of Water Resources
7600 N. Mineral Drive, Suite 108
Coeur d'Alene, Id. 83815-7763

James Cefalo
900 N. Skyline Dr., Ste A
Idaho Falls, Id 83402-1718

Dear Sirs:

Last Friday, Sept 1st, I was in the Coeur d'Alene office to pick up pictures on a complaint filed against the Barnharts for practices used on Careywood Creek. While talking to Doug Jones, he mentioned the hearing on Sept. 19th for the Steve Barnhart Water Application. He kept talking about a pond that was to be built in this application. I knew that the Application had been amended and did not include a pond. Doug was insistent that there was a pond.

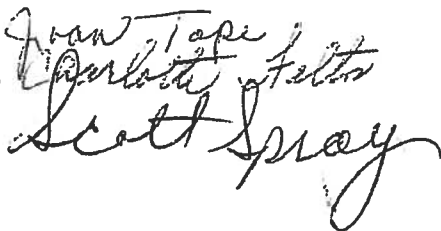
When I returned home I went to the IDWR site where the application was. I looked for the Amended Application but could not find it. Steve Barnhart came to my house and Charlotte Felts house and gave us a copy of the Amended Application he was working on with the IDWR office. In this Amended Application the pond was eliminated. The spring was to be piped to the house for domestic and stock with overflow of domestic piped to cistern for hydropower. I talked with Steve personally and he stated that was what he was doing. A copy of the Amended Application is attached.

We have been getting ready for the hearing based on what we saw and were told. We strongly protest that he has gone back to the original application without informing us. We cannot do the hearing based on the original application without more time to work on it. We ask that the hearing be postponed for 2 months to give us time to get more exhibits and witnesses.

I also was waiting for pictures of Careywood Creek obtained by IDWR to use as exhibits, but I did not receive them until Friday, Sept. 1, the day they were due. We feel we have been treated unfairly and need more time to be able to attend the hearing on this matter.

Please look over this matter and inform us of your decision.

Sincerely,
Joan Tope
Charlotte Felts
Scott Spray



Enclosure



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. _____

AMENDED

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

AMENDED

1. Name of applicant(s) STEVE BARNHART Phone 208-597-5199
 Mailing address 485 KRIPPLE CREEK City ATHOL
 State ID ZIP 83801 Email SMBARNHART5@GMAIL.COM
 Name connector (check one): ☐ and ☐ or ☐ and/or
2. Name of representative, if any _____ Phone _____
 Mailing address _____ City _____
 State _____ ZIP _____ Email _____
- a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☐ Send original correspondence to the applicant and copies to the representative.
- b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply SPRING which is a tributary of CAREYWOOD CREEK

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
54N	02W	15		SE	NW	SE	BONNER	SPRING	

5. Water will be used for the following purposes:

Amount .02 for DOMESTIC purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)

Amount .02 for STOCKWATER purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per year)

Amount 0.14 for POWER purposes from 11/1 to 5/1 (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

6. Total quantity to be appropriated is (a) 0.16 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

7. Proposed diverting works:

- a. Describe type and size of devices used to divert water from the source. SPRING PIPED TO HOUSE FOR DOMESTIC AND STOCK (0.02 CFS) OVERFLOW OF DOMESTIC PIPED TO CISTERN FOR HYDROPOWER
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? _____; drilling firm _____;
 well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Receipted by _____ Receipt No. _____ Date _____

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in kW. 100 FT/119kW
- b. Stockwatering; list number and kind of livestock. 20 HEAD OF MIXED STOCK
- c. Municipal; must complete and attach the Municipal Water Right Application Checklist.
- d. Domestic; show number of households 1
- e. Other; describe fully. _____

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
54N	02W	15										D,S							
												P							
												GL3							

Total number of acres to be irrigated: _____

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 95-9455 DOMESTIC FROM CAREYWOOD CREEK. THE DOMESTIC PORTION OF THIS PERMIT, WHEN COMBINED WITH 95-9455, WILL NOT EXCEED A DIVERSION RATE OF 0.02.

11. a. Who owns the property at the point of diversion? PHILLIP AND PATSY BARNHART
- b. Who owns the land to be irrigated or place of use? STEVE BARNHART
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: WRITTEN AND VERBAL AGREEMENT ALLOWING ACCESS TO POD.

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. SEE ATTACHMENT.

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant _____

Signature of Applicant _____

Print Name (and title, if applicable) _____

Print Name (and title, if applicable) _____

ATTACHMENT

ATTACHMENT TO AMENDED APPLICATION FOR PERMIT NO. 95-17241

THE SPRING SOURCE IS LOCATED APPROXIMATELY 600 FT FROM CAREYWOOD CREEK AND FOLLOWS A SEPARATE DRAW ~1200 FT BEFORE IT REACHES CAREYWOOD CREEK. THE SPRING CONNECTS TO CAREYWOOD CREEK ONLY DURING SNOWMELT AND SPRING RUNOFF. IT GOES UNDERGROUND BY LATE SPRING. THE OVERFLOW FROM THE DOMESTIC CISTERN WILL OVERFLOW INTO A FOLLOWING ~5000 GALLON CISTERN THAT WILL STORE WATER FOR HYDROPOWER. STORAGE IS NOT REQUIRED AS A BENEFICIAL USE ON THE APPLICATION BECAUSE IT WILL STORE LESS THAN THE AMOUNT DIVERTED DURING A 24 HOUR PERIOD. IT WILL BE PIPED TO HYDRO AND THEN BACK TOWARDS CAREYWOOD CREEK. THE HYDROPOWER SYSTEM WILL HAVE VARIOUS OUTPUT, DEPENDING UPON THE WATER AVAILABILITY, WITH MAXIMUM-SIZED HEAD OF $\frac{1}{4}$ INCH WITH MAX FLOW THROUGH OF 13 GPM. TOTAL DIVERSION FROM THE SPRING WILL NOT EXCEED 0.16 CFS (0.02 FOR DOMESTIC AND STOCKWATER COMBINED AND 0.14 CFS FOR NON-CONSUMPTIVE HYDROPOWER).

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17241

Priority: December 08, 2016

Maximum Diversion Rate: 0.16 CFS

This is to certify, that STEVE BARNHART
485 KRIPPLE CREEK RD
ATHOL ID 83801

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: CAREYWOOD CREEK

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>
DOMESTIC	01/01 to 12/31	0.02 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
POWER	11/01 to 05/01	0.14 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SE1/4NW1/4SE1/4 Sec. 15, Twp 54N, Rge 02W, B.M. BONNER County

PLACE OF USE: DOMESTIC, STOCKWATER, AND POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
54N 02W 15	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
										X							
										L 3							

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2022**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Domestic use is for 1 home.
5. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
6. The domestic quantity of water under this right shall not exceed 13,000 gallons per day.
7. Stockwater is for 20 head of mixed stock.
8. Rights 95-9455 and 95-17241 when combined shall not exceed a total domestic and stockwater diversion rate of 0.02 cfs.
9. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 95-17241

10. The term of this permit shall extend to April 01, 2042. Prior to the expiration of the term, the Director may issue an order canceling all or any part of the use authorized herein, may establish a new term, or may revise, delete, or add conditions under which the water right permit or subsequent water right license may be exercised. The order shall take effect on the date the current term expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the project's prior term and any prior conditions on the water right permit or subsequent water right license shall remain in effect.
11. The right holder shall install a measuring device that can be used to determine the instantaneous rate of flow of water through the system, or the right holder shall provide to the department a flow rate measurement or computation made by a certified water right examiner in accordance with actual system design and operation.
12. The rights for the use of water acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
13. This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.
14. Use of water under this right shall be non-consumptive.
15. To facilitate determination of the volume of water beneficially used by this project, the right holder shall provide the Department a copy of the characteristic performance curve for the turbine(s) and a copy of the monthly power generation figures during the development period. These items shall be submitted with the required Proof of Beneficial Use statement. Failure to submit these items shall be cause for the Director to reject the Proof of Beneficial Use statement.
16. Proof of application of water to beneficial use shall be submitted no sooner than October 1, 2021 and received no later than the beneficial use due date of April 01, 2022.
17. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
18. This right does not grant any right-of-way or easement across the land of another.

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

Signed this _____ day of _____, 20_____.

MORGAN CASE, Northern Regional Manager