



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 6, 2014

~ Sent Dec. to Nov. 28, 14
DAN 1-5-15

BROCKWAY ENGINEERING PLLC
ATTN CHARLES E BROCKWAY
2016 NORTH WASHINGTON STREET SUITE 4
TWIN GALLS IDAHO 83301

RE: Field exam report for water right permit 37-22354

Dear Mr. Brockway:

I have reviewed the field exam you supplied for water right permit 37-22354. Unfortunately, there are few issues that I will need to have clarified before I can move forward with licensing this water right. The issues are as follows:

- 1.) To measure the flow rate, you state in section D2 that you used a time measurement on the installed flow meter. This is an acceptable means of measurement for a license, but we do need the details of the measurement. Please include the beginning and ending meter readings and the time elapsed during the reading. If multiple readings were done, please show the same for each reading. The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.040.03 states the following:

03. Measurements. Water measurements may be made by vessel, weir, meter, rated flume, reservoir capacity table or other standard method of measurement acceptable to the Director. The field report shall describe the method used in making the measurement, the date when made, the name of the person making the measurement, the legal description of the location where the measurement was taken and shall include sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case.

- 2.) We interpreted line H1 to claim there is a combined storage use of 65.1 for the recreation storage, wildlife storage, fire protection storage and aesthetic storage. We also interpreted line H1 to claim a combined flow through rate of 0.74 cfs for the diversion to storage, aesthetic, wildlife, and recreation uses. However, you did not address the volume associated with the flow through uses. Diversion to storage, aesthetic, wildlife, and recreation uses are not exempt from the reporting of annual volumes. The Idaho Administrative Code Beneficial Use Examination Rules, IDAPA 37.03.02.035.j states the following:

For each use of water the examiner shall report an annual diversion volume based on actual beneficial use during the development period for the permit. The method of determining the annual diversion volume shall be shown. The annual diversion volume shall account for seasonal variations in factors affecting water use, including seasonal variations in water availability. For irrigation, the volume shall be based on the field headgate requirements in the map titled Irrigation Field Headgate Requirement appended to these rules (see Appendix A located at the end of this chapter). Annual diversion volumes for heating and cooling uses may be adjusted to account for documented weather conditions during any single heating or cooling season from among the fifty (50) years immediately prior to submitting proof of beneficial use for the permit. For storage uses that include filling the reservoir and periodically replenishing evaporation and seepage losses throughout the year, the annual diversion volume shall be the sum of the amounts used for filling and for replenishment. Volumes may include reasonable conveyance losses actually incurred by the water user. The following water uses are exempt from the volume reporting requirement: (3-29-12)

- i. Diversion to storage. (Volume should be reported for the storage use, such as irrigation storage.) (3-29-12)
- ii. Domestic uses as defined in Section 42-111, Idaho Code. (3-29-12)
- iii. In-stream watering of livestock. (3-29-12) iv. Fire protection. (Volume is required for fire protection storage.) (3-29-12) v. On-stream, run-of-the-river, non-consumptive power generation uses. (3-29-12)
- iv. Minimum stream flows established pursuant to Chapter 15, Title 42, Idaho Code. (3-29-12)
- v. Municipal use by an incorporated city or other entity serving users throughout an incorporated city, except the following situations that do require a volume to be reported: (3-29-12) (1)

(1) The permit or amended permit was approved with a volume limitation; or (3-29-12)

(2) The permit was not approved for municipal use but can be amended and licensed for a municipal use established during the authorized development period for the permit. (3-29-12)

- vi. Irrigation using natural stream flow diverted from a stream or spring. (Volumes must be reported for irrigation uses from ponds, lakes and ground water and for irrigation storage and irrigation from storage.) (3-29-12)

- 3.) Finally, I probably most importantly, you did not provide any flow measurements, hydrographs or other analysis that shows all of the water attributed to this right was actually Indian Creek water. The measurement device requirements were removed from the permit, so this effort may be difficult. However, we still need to be assured that the basis for the recommendations in your field report is Indian Creek water, not Big Wood water being conveyed by the Hiawatha Canal.

The Idaho Beneficial Use Examination Rules 37.03.02.035.02.c states that field exams 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.

Therefore, please supply the above information by December 31, 2014. If you have any questions, please don't hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read 'Daniel Nelson', followed by a long horizontal flourish line.

Daniel Nelson

Staff Hydrologist

Idaho Department of Water Resources

Telephone (208) 287-4856

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