

PLACE OF USE: STOCKWATER, STOCKWATER STORAGE, AND STOCKWATER FROM STORAGE

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 95-17025

PLACE OF USE: FIRE PROTECTION, FIRE PROTECTION STORAGE, AND FIRE PROTECTION FROM STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
49N	04W	4	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
				X															
				L 2															

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 01, 2021**.
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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire.
6. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
7. Stockwater use is for 40 head of mixed stock.
8. Domestic use is for 10 homes.
9. The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted subdivision lot. This right does not provide for irrigation of common areas.
10. Right 95-17025 authorizes a total annual storage volume of 12.9 acre-feet, 0.4 acre-feet to be used for the initial filling of the reservoirs and 12.5 acre-feet for the storage of water for domestic, stockwater, and fire protection purposes.
11. The reservoirs established by the storage of water under this right shall not exceed a total capacity of 0.4 acre-feet.
12. 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.
13. 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 29 day of January, 2016.


KEITH E. FRANKLIN, Program Manager



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 3, 2016

QUAKING ASPEN ESTATES OWNERS ASSOC INC
5489 W QUAKING ASPEN DR
COEUR D ALENE ID 83814

RE: Permit No.95-17025

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

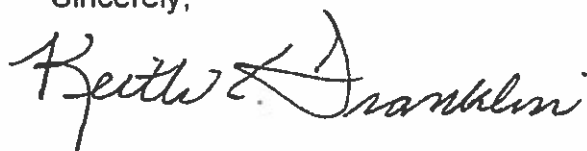
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-762-2800.

Sincerely,

A handwritten signature in black ink, reading "Keith E. Franklin". The signature is written in a cursive style with a large, stylized "K" and "F".

Keith E. Franklin
Program Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 95-17025

**QUAKING ASPEN ESTATES OWNERS ASSOC INC
5489 W QUAKING ASPEN DR
COEUR D ALENE ID 83814**



**Dianne L Ball
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held.
- ii. The final agency action was taken.
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss

Holly Fredericks being first duly sworn
upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

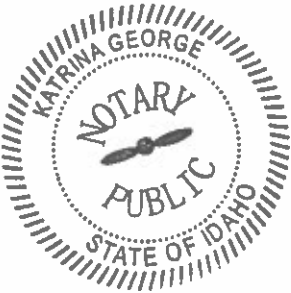
2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The legal notice

of which the annexed is a printed copy, was published in the regular Thursday issue of said newspaper for 2 consecutive weeks commencing on the 17 day of December 20 15 and ending on the 24 day of December 20 15 and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice Holly Fredericks. On this 24 day of December in the year of 2015, before me, a Notary Public, personally appeared Holly Fredericks, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Katrina George
Notary Public for the State of Idaho
residing at Coeur d'Alene, Idaho



MY COMMISSION EXPIRES 8/29/17

RECEIVED
JAN 04 2016
IDWR / NORTH

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

95-17025

QUAKING ASPEN ESTATES OWNERS ASSOC INC
5489 W QUAKING ASPEN DR
COEUR D ALENE, ID 83814
Point of Diversion(2) L2(NWNE) S4 T49N R04W KOOTENAI CO
Source GROUND WATER
Use: DIVERSION TO STORAGE 01/01 to 12/31 0.2 CFS
Use: DOMESTIC 01/01 to 12/31 0.15 CFS
Use: DOMESTIC from Storage 01/01 to 12/31 12 AF
Use: DOMESTIC STORAGE 01/01 to 12/31 12.4 AF
Use: FIRE PROTECTION 01/01 to 12/31 0.2 CFS
Use: FIRE Protection from Storage 01/01 to 12/31 0.4 AF
Use: FIRE Protection Storage 01/01 to 12/31 0.4 AF
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Use: STOCKWATER from Storage 01/01 to 12/31 0.5 AF
Use: STOCKWATER STORAGE 01/01 to 12/31 0.9 AF
Total Diversion: 0.2 CFS 12.9 AF

Date Filed: 11/23/2015

Place of Use: ALL USES: T49N R04W S4 L2(NWNE)

Domestic use is for 10 homes.

Stockwater use is for 40 head mixed stock.

95-17123

C & K LEASING
102 E ANTON
COEUR D ALENE, ID
Point of Diversion SESW S36 T51N R06W KOOTENAI Co
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: INDUSTRIAL 01/01 to 12/31 2 CFS
Total Diversion: 2 CFS

Date Filed: 12/2/2015

Place Of Use: DOMESTIC T51N R06W S36 SESW

Place Of Use: INDUSTRIAL same as DOMESTIC

Domestic use is for 1 office.

Industrial use is for gravel washing, concrete batch plant & dust abatement.

95-17124

MICHAEL A MARTIN
3956 N PALMER DR
COEUR D ALENE, ID 83815
Point of Diversion L3(NESW) S29 T50N R03W KOOTENAI CO
Source COEUR D ALENE LAKE tributary SPOKANE RIVER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 12/8/2015

Place of Use: DOMESTIC T50N R03W S29 L3(NESW)

Domestic use is for 1 home.

95-17125

MICHAEL A MARTIN
3956 N PALMER DR
COEUR D ALENE, ID 83815
Point of Diversion L3(NESW) S29 T50N R03W KOOTENAI CO
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 12/8/2015

Place of Use: DOMESTIC T50N R03W S29 L3(NESW)

Domestic use is for 1 home.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800; or for a full description of the right(s), please see:

www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp.

Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 1/4/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
LEGAL 4790

DECEMBER 17, 24, 2015

RECEIVED
JAN 04 2016
IDWR / NORTH

Ball, Dianne

From: Ball, Dianne
Sent: Monday, January 04, 2016 2:03 PM
To: 'mbeeler@chinohills.org'
Cc: Franklin, Keith
Subject: Quaking Aspen Application No. 95-17025 - Protested by Kootenai Environmental Alliance
Attachments: 95-17025-prorest.pdf; 95-17025-Prot-notice-to-applcint.pdf; 95-17025-KEA-Prot-sckgt.pdf; 95-17025-confrnce--hearg-procedures.pdf

Good afternoon, Melissa,

Attached are copies of documents received in our office and sent from our office on December 31, 2015.

The application went through the initial publication process, with final date for protests to be received in our office being today, January 4, 2016.

On December 31, 2015 we received a protest from the Kootenai Environmental Alliance stating their reasons for protesting this application. Their protest was received in a timely manner.

The matters of concern involved with this application must be resolved before we will be able to further move the process forward toward issuance of a Permit.

If applicant is able to resolve the problems with the protestant before a Pre-Hearing Conference can be scheduled, that would speed up the process. Otherwise a Pre-Hearing Conference will need to be scheduled where parties might be able resolve the protested items.

I will deliver this file to Keith Franklin, our Program Manager this afternoon. Adam Frederick is out of the office today but should be back in the office tomorrow, January 5, 2016.

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819

Frederick, Adam

From: Shane Zaring [swz3056@yahoo.com]
Sent: Thursday, November 19, 2015 9:23 AM
To: Frederick, Adam
Cc: Franklin, Keith
Subject: Quaking Aspen community

Hi Adam. I have spoken to Anna Moody and Matt Plaisted at DEQ. They have both told me since the Quaking Aspen community is not yet 15 homes or 25 people, our community does not fall under a public water system and DEQ will not mandate or require anything at this time. I have attempted to get further future requirements from them and am waiting to hear back from them. With what they have said, does the Quaking Aspen community still have to file for a municipal water right with a public water system number? Can our community proceed forward with the original application that was already submitted and paid for? If not, what State requirements dictate we must file under a municipal water right and not the previous water right application we already completed? Also if we must file a municipal water right, why were we not told this when I originally completed the application with your assistance? I continue to receive conflicting information for IDWR at DEQ, which are both State agencies. There is currently only three homes in our development with eight people living here. Can you please help clarify things? Thank you.

Shane

Frederick, Adam

From: Franklin, Keith
Sent: Tuesday, October 27, 2015 8:56 AM
To: Frederick, Adam
Subject: FW: Quaking Aspen

From: Shane Zaring [<mailto:swz3056@yahoo.com>]
Sent: Thursday, October 22, 2015 2:29 PM
To: Franklin, Keith
Subject: Quaking Aspen

Hi Keith this is Shane Zaring from Quaking Aspen. All of the well testing has been completed and I am told you were sent all of the information. I want to confirm you do indeed have it and if not, I can forward it to you. The developer of the community, Gabe Rees, just sent the Quaking Aspen HOA a proposal to give the HOA \$10,000 for a full release from any future law suits against him. We do not fully know why Gabe is offering this unless he knows something and is expecting a negative outcome as far as the water rights go. I am not looking for legal advice at all from you, but the Board of Directors are inquiring about when the HOA might hear some type of results from the IDWR. The sooner we know the outcome, the easier it may be for us. The members have already spent \$15,000 as a result of the mandated well testing.

The engineer overseeing the well testing has told me both wells tested at 33.5 GPM. Also the only working well (well one), tested at 14 GPM. This is 16 GPM less than when it was originally tested in 2007. Our HOA currently does not have the funding to activate the second well. All of our money was spent on the testing. We have also learned our water storage tank is not 98k gallons as the developer originally told us, but 68k gallons. Additionally the tank cannot be filled to the top due to overflow / drain holes near the top of the tank. We recently learned from the Mica Kidd Fire Chief that 60k gallons of water from the holding tank must be saved for the fire department at all times for fire protection. So now our tank size is much smaller than originally believed. We do not know if this impacts the community and / or if an additional water holding tank will be needed to obtain our water rights.

The developer is giving us a time frame for how long his offer of \$10,000 will be good for. This makes it difficult for us since we do not know the outcome of our water rights. I am sure you are extremely busy. Can you please take some time to review our case and let us know your thoughts. Any help, advice or recommendations will be greatly appreciated. Thank you.

Shane Zaring
Quaking Aspen HOA President
818-469-7833



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

August 14, 2015

C.L. "BUTCH" OTTER
Governor

Shane Zaring
Quaking Aspen Estates Owners Assn., Inc.
5489 W Quaking Aspen Dr.
Coeur d'Alene, ID 83814

GARY SPACKMAN
Director

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho

Dear Mr. Zaring:

The Idaho Department of Water Resources (IDWR) is in the process of reviewing your recently submitted application for a new water right and has the following comments.

There are two wells currently on the property that were constructed in 2007. A pump test was performed on both wells in August 2007. According to the well test information, Well #1 was tested for a 24 hour period with a drawdown of 3 ft from a static depth of 56 ft with a sustained discharge of 30 gpm. Well #2 was also tested for a 24 hour period with a drawdown of 8.6 ft from a static depth of 56 ft with a sustained discharge of 17 gpm. Neither test plotted a profile of water level recovery from the pumping level projected to the original static water level as per IDAPA RULE 58.01.08(c)(iv). Water level recovery is a very important aspect of a test where the data can be used to calculate an aquifers capability.

Additional information that was submitted with the application is a letter dated November 26, 2007 from the Idaho Department of Environmental Quality. The letter states, "record drawings have been compared to the construction plans and specifications as approved by DEQ on January 10, 2007 and found to be acceptable. The submittal is hereby accepted by DEQ per Section 39-118 (3) of Idaho Code as the record drawings for this project." IDAPA RULE 37.03.08.40.05(d)(i) requires "Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year". Since approximately 8 years have lapsed, IDWR requests an updated letter from DEQ approving plans, specifications and/or any modification of the proposed project.

Since development started in your area, IDWR has been made aware of some wells experiencing a decline in water levels. Even though the 2007 pump tests indicated a sustainable water supply, which may not be the case presently. To

COPY

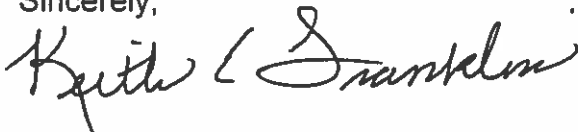
evaluate the sufficiency of a water supply, Idaho Code 37.03.08.05.05(d)(ii) requires "Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water". Prior to the issuance of water right, IDWR will need to evaluate the results of another pump test on both wells preformed in accordance with the Idaho Department of Environmental Quality's "Guidance for New Source Water Testing Procedures for Public Drinking Water Systems". Additionally, IDAPA RULE 58.01.08 (a) requires a pump test be supervised by an engineer or geologist.

Please communicate with IDWR as to a proposed time line on when the additional requested information will be available.

If you have any questions, feel free to contact me at this office.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith E. Franklin". The signature is fluid and cursive, with the first name "Keith" being more prominent than the last name "Franklin".

Keith E Franklin
Program Manager Northern Region

Frederick, Adam

From: Melissa Beeler [clabeemom@gmail.com]
Sent: Tuesday, July 28, 2015 9:15 AM
To: Frederick, Adam
Subject: Fwd: Quaking Aspen Well Pump Test
Attachments: Quaking Aspen - Well Record Drawing Submittal - P&S 10151 - 10-04-2007.pdf

Hi Adam-

Here is the information from DEQ. If you have any questions, you can always call Matt Plaisted at DEQ as well. Can you please confirm you received this. Thank you.

----- Forwarded message -----

From: <Matthew.Plaisted@deq.idaho.gov>
Date: Mon, Jul 27, 2015 at 4:27 PM
Subject: Quaking Aspen Well Pump Test
To: clabeemom@gmail.com

Hi Melissa,

Attached are the record drawings for the Quaking Aspen well. Pages 11-19 of the document are the well pump test results that were completed after the well was drilled in 2007. If there is anything else I can do for you, please do not hesitate to ask.

Best Regards,

Matt Plaisted, P.E.

Engineering Manager

Idaho Department of Environmental Quality

2110 Ironwood Parkway

Coeur d'Alene, ID 83814

Ph: [208-769-1422](tel:208-769-1422) Fax: [208-769-1404](tel:208-769-1404)

Matthew.Plaisted@deq.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 21, 2015

QUAKING ASPEN ESTATES OWNERS ASSN INC
5489 W QUAKING ASPEN DR
COEUR D ALENE ID 83814

Re: Application for Permit to Appropriate the Public Waters of the State of Idaho.

Dear Home Owners Association,

The Idaho Department of Water Resources (IDWR) has some concerns about your application for permit. The two wells (D0053663 and D0051750) were drilled in 2007 at depths of only 79 feet and 84 feet deep respectively. The pump test at time of construction said each well produced 40 gallons per minute. The yield test at the time of construction can be quite different from an actual pump test. The production capability of these wells for a development of 10 homes is suspect. Past experience has shown that in shallow basalt formations that are not directly connected to a surface water source have a limited or no recharge capability. Mining of the available water supply generally occurs which can lead to water availability problems in the future. Before processing begins, the Department of Water Resources is requiring a pump test on both wells to determine their true yield and sustainability as per IDAPA rules 58.01.08.06.a. For your convenience, please see attached copy of IDAPA rules.

Please call me at 208-762-2800 or email me at adam.frederick@idwr.idaho.gov if you have any questions.

Sincerely,

Adam Frederick
Water Resource Agent
Northern Region