



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 22, 2015

Andrew Waldera
PO Box 7985
Boise, ID 83707

Mr. Waldera,

You contacted the Idaho Department of Water Resources ("Department") concerning water right no. 63-12305 owned by Moon Lake Ranch ("MLR"). In your email of May 28, 2015, and our in-person meeting June 5, 2015, you conveyed that MLR is concerned with the conditional limitations on use of the two artesian wells referenced in the license for 63-12305. The specific concerns relate to condition 5 which states:

Groundwater from the wells may be diverted pursuant to this right only from March 15 through November 15 of each year and only when Boise River water is not being delivered to Middleton Mill Ditch Co., Middleton Irrigation Association, or Pioneer Ditch Co.

Condition 5 originates from two concerns noted by the Department prior to approving the original application for permit. These concerns were outlined in a March 7, 1997, letter from the Department to MLR. This letter can be found in the water right back-file online, and a copy is also enclosed. The first concern in the letter was "[t]he artesian wells used for irrigation were developed and should have been used as a supplemental source of water when the surface water was not available." This concern was addressed by authorizing diversion from the artesian wells only when surface water for irrigation is not available.

The second concern in the letter was using the artesian wells during the winter, specifically that the "additional diversion of water in the winter may lower the pressure in the artesian aquifer." Since the Department has a responsibility to protect against declining artesian pressure, the permit and subsequent license limit diversion from the artesian wells to within the irrigation season (March 15 to November 15). The Department's expectations regarding use of water from the wells have been consistent since they were stated in the 1997 letter. Both of the limitations on use of the artesian wells mentioned in the letter were contained in the permit issued in 1997 and restated in Condition 5 of the license issued in 2014.

Andrew Waldera
July 22, 2015
Page 2

In your May email, you suggest Condition 5 conflicts with the year round aesthetic use elements of the license. However, given the original concerns with the use of the artesian wells and that the right authorizes the use of other water sources for aesthetic purposes, there isn't a conflict. As described in the beneficial use field report, the 0.49 cfs authorized for aesthetic flow in the wintertime is contributed from the waste water source. During the irrigation season, the 0.85 cfs of aesthetic flow comes from the waste water source and the Boise River, except that water from the artesian wells may be used when the Boise River water is not available. In your email you also say that Condition 5 appears to conflict with Condition 11. The only connection between Conditions 5 and 11 is ground water from the artesian wells is one of the sources that can provide the volumes in Condition 11, subject to the limitations of Condition 5. The quantities in the license have been and can be met using the waste water and Boise River sources.

I hope this explanation addresses your concerns and helps you to understand why the artesian wells cannot be used outside of the limitations of Condition 5 on the license. If you have any further questions feel free to contact me.

Sincerely,



Rob Whitney
Water Compliance Bureau

Encl.

cc: Meghan Carter, Deputy Attorney General – Boise
Shelley Keen, IDWR - Boise
Water Right File 63-12305



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

March 7, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MOON LAKE RANCH
C/O RON SALI PROPERTIES INC
PO BOX 488
BOISE ID 83702

Re: Application for Permit No. 63-12305

Dear Mr. Sali:

On February 28, 1997, I received a faxed withdrawal of protest to application for permit no. 63-12305 from Les Quinn. With Mr. Quinn's withdrawal of protest, the Department of Water Resources (IDWR) can now process the application.

Despite the withdrawal of the protest, IDWR must evaluate the criteria contained in Idaho Code §42-203A. IDWR will determine whether your application will injure other water users, whether there is sufficient water for the purpose sought, whether use of water proposed is in the public interest and whether the use is consistent with conservation of water of the state of Idaho. As I understand the application, it proposes the storage of water for irrigation and aesthetic purposes that is already diverted from the Boise River and from artesian wells for irrigation purposes. During the irrigation season, if water is used from the respective sources in the same manner as it was used in the past, the diversion of water pursuant to the new application for permit will not injure other water users. The questions about sufficiency of water and public interest are somewhat moot because the water could be diverted pursuant to the other water rights with an equal consumptive use.

I am concerned, however, about additional diversion from artesian wells during the irrigation season. Surface water rights appurtenant to your property bear priority dates in the 1800's. The ground water rights for artesian wells bear priority dates of 1932 or later. The artesian wells used for irrigation were developed and should have been used as a supplemental source of water when the surface water was not available. As a result, I am recommending that your permit not allow diversion from the artesian wells for irrigation except when surface water is not available.

I am also concerned about diversion of water from the artesian wells in the winter. Use of water during the winter should be non-consumptive. The water you divert from artesian wells, however, is derived from a different water bearing zone than the zone to which you are discharging water on the surface. I am aware that you are proposing to open at least one artesian well to operate a fountain, as well as keeping the ponds open and full in the winter time. The

MAR 22 1997

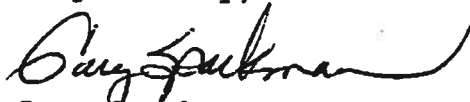
additional diversion of water in the winter may lower the pressure in the artesian aquifer. IDWR has some evidence to suggest that the artesian pressure in the area of your wells is declining. The state has a responsibility to protect against declining artesian pressure. Operation of an aesthetic fountain with artesian pressure, while pleasing, is not dissimilar to an artesian well owner allowing the water to freely flow during the winter months. I am recommending that you not be allowed to divert water from your artesian wells from November 15 through March 15 of every year.

I am forwarding your application to our state office with the following recommended conditions:

1. The water right holder shall retain 91.75 shares of the Middleton Mill Ditch Co., Middleton Irrigation Association, and Pioneer Ditch Co. for irrigation of the place of use and for maintaining water levels in the aesthetic ponds.
2. Surface water shall be solely used to irrigate and maintain pond levels during the time the water is being delivered by the Middleton Mill Ditch Co., the Middleton Irrigation Association, or the Pioneer Ditch Co.
3. Water may only be diverted from the artesian wells pursuant to adjudication claim no. A63-17205 when water is not being delivered by the Middleton Mill Ditch Co., Middleton Irrigation Association, or the Pioneer Ditch Co.
4. Water from the artesian wells described by adjudication claim no. A63-17205 shall not be diverted from November 15 through March 15 of every year.
5. Water diverted pursuant to adjudication claim nos. A63-17210 and A63-17211 shall continue to be used for domestic purposes unless changed by a transfer approved by IDWR.

If you wish to discuss this matter with me further, please call.

Respectfully,


Gary Spackman

GS/st

Bcc: Les Quin

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