



IDAHO DEPARTMENT OF FISH AND GAME

SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

C.L. "Butch" Otter / Governor
Virgil Moore / Director

February 20, 2014

James Cefalo
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls ID 83402

RECEIVED
FEB 24 2014
Department of Water Resources
Eastern Region

Re: Notice of Protest—Application for Water Right Permit No. 74-15964, Gordon and Mary Stephenson

Dear Mr. Cefalo:

The Idaho Department of Fish and Game ("IDFG") has reviewed the application for permit no. 74-15964 submitted by Gordon and Mary Stephenson ("Applicants"), whose address is 30 N. Baker Road, Salmon, ID 83467-5170. The Applicants seek to appropriate a yearly quantity of 24 acre-feet of public water from a ground and waste water source that is tributary to the Lemhi River. The proposed beneficial use of the ground and waste water is for aesthetic and recreation storage (pond) and fish propagation. It is our understanding that the existing 2 acre pond was likely the result of an excavated gravel pit. IDFG is familiar with the pond and issued a fish stocking permit in 2010 which is set to expire on June 30, 2014. We have been informed by your office that this application is an attempt by the applicants to comply with Idaho water law, as there is no record of a water right to store water for this pond.

In accordance with I.C. § 42-203A(4), IDFG understands that a formal protest is required to participate in review of water right applications. The purpose of these comments is to assist the decision-making authority by providing technical information addressing potential effects on fish and wildlife and fish and wildlife habitat and how any adverse effects may be avoided, minimized or mitigated. It is not the purpose of IDFG to support or oppose the water right application. IDFG and Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate and manage all fish and wildlife in Idaho. I.C. § 36-103(a). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following comments and suggestions.

IDFG is very familiar with water use and aquatic habitat conditions along this section of the Lemhi River. This section of the Lemhi River is considered critical habitat under the Endangered Special Act ("ESA") for summer Steelhead, Bull Trout, and Chinook salmon. It

Keeping Idaho's Wildlife Heritage

also contains resident populations of Rainbow Trout, Westslope Cutthroat Trout, and Mountain Whitefish. IDFG, the Idaho Water Resources Board, the Office of Species Conservation, local landowners and water users, and other collaborative partners, have spent considerable effort and financial resources improving flow and habitat for anadromous and resident fish populations, as well as monitoring the effects of these actions. Voluntary participation by landowners in these efforts supports the recovery efforts of ESA-listed species while protecting existing water rights and maintaining the viability of agricultural communities. The proposed application for permit may be inconsistent with these efforts and thus may be contrary to the local public interest defined under I.C. §§ 42-203A(5)(e) and 42-202B(3).

The applicants claim, on Line 7.e. of the application, that IDFG installed a fish screen on the outlet of the pond. IDFG records show, however, that IDFG did not install a screen on the outlet of Applicant's pond. After discussing this issue directly with the Applicants, IDFG learned that they were responsible for installing the screen. We are concerned that the existing screen structure may allow for escaped stocked fish to enter the Lemhi River. Escape of undesirable stocked fish species from the pond into the Lemhi River would negatively impact native fish populations in the Lemhi and Salmon River basins. IDFG staff would like the opportunity to work with the Applicants to identify, and possibly remedy, any functionality issues that may be associated with the existing screen structure. Additionally, if the Idaho Department of Water Resources issues a water right permit, we recommend that it contain a condition requiring an IDFG-approved fish screen on the pond outlet.

Please initiate interagency billing for the applicable protest fee of \$25.00. The PCA is 11606 and the ABC code is B7/TX. Please send the billing documents to IDFG Headquarters, Attn: Dr. Walt Poole, P.O. Box 25, Boise ID 83707.

If you have any questions, please contact the Salmon Region's Environmental Staff Biologist, Tom Bassista at 525-7290 or Regional Fisheries Manager, Greg Schoby at 756-2271.

Sincerely,



Tom Curet
Regional Supervisor

CC: Walt Poole (IDFG-HQ)
Ann Vonde (Deputy Attorney General)
Sharon Kiefer (IDFG-HQ)
Helen Harrington (IDWR-Boise)
David Kampwerth (USFWS-Chubbuck)
David Mabe (NOAA-Fisheries-Boise)
Gordon and Mary Stephenson (Applicants)

Cox, Sharla

From: Sutcliffe, Lorna
Sent: Wednesday, March 19, 2014 11:16 AM
To: Cox, Sharla
Subject: RE: Interagency Billing, 74-16010 and 74-15964

Hi Sharla,

These have been pd by F&G. Our number is BILL037201.

Thanks,
Lorna

From: Cox, Sharla
Sent: Monday, February 24, 2014 2:27 PM
To: Sutcliffe, Lorna
Subject: Interagency Billing, 74-16010 and 74-15964

Lorna, please do an interagency billing for:

Idaho Dept of Fish & Game
Walt Poole
PO Box 25
Boise ID 83707

Amount: 2 x \$25.00 = \$50.00

PCA: 63103

Billing for 2 protests from IDF&G for 74-16010 and 74-15964.

Please see enclosed letters.

*Thank you,
Sharla*

*Sharla Cox
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