

COPY



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER - Governor
Gary Spackman - IDWR Director

October 23, 2013

Vincent or Malinda Tracy
3 Prairie Road
Salmon, ID 83467

RE: Two Pending Applications for Permit

Dear Mr. and Mrs. Tracy:

On June 26, 2012, you filed an Application for Permit (No. 74-15889), seeking a water right from Bohannon Creek for irrigation and stockwater use. The application was advertised and was protested by the Idaho Department of Fish & Game, the Idaho Water Resources Board, and Boyd Stokes.

On July 16, 2013, the parties met in Salmon, Idaho to conduct a pre-hearing conference for the contested matter. During that conference, I identified certain items that would need to be addressed before your application could be considered by the Department. You agreed to address the items, amend the application, or withdraw the application. You have taken no action since the July 2013 pre-hearing conference.

This letter is intended to be a formal request for the additional information required to process Application for Permit 74-15889. Please provide the following information:

1. Evidence of legal access to the point of diversion on Bohannon Creek. (IDAPA 37.03.08.40.05.e) Even though your application states that you own the property at the proposed point of diversion, taxlot information available to the Department indicates that you do not own the property at the Bohannon Creek headgate. Please provide documents showing that the actual owner will allow you to divert water from Bohannon Creek at the proposed location.
2. Evidence of legal access to convey water across the properties between the proposed point of diversion and the proposed place of use. (IDAPA 37.03.08.40.05.e)
3. Evidence demonstrating that there is water available for new appropriation from Bohannon Creek. (IDAPA 37.03.08.40.05.d)

4. Evidence demonstrating that there is water available for new appropriations in the Lemhi River basin. (IDAPA 37.03.08.40.05.d)

Pursuant to Rule 35.01.f of the Department's Water Appropriation Rules (IDAPA 37.03.08), if the information described above is not provided within 30 days, the Department may take steps to void the application.

On May 30, 2013, you filed an Application for Permit, seeking a right to divert waste water from a draw near your property. The application was deficient in a number of areas. On June 28, 2013, Kerrie Mathews from IDWR sent you an email asking you to address the deficiencies. You have never responded to that request.

This letter is also intended to be a formal request to make the needed corrections to the May 2013 application. In addition, you need to address questions relating to sufficiency of the water supply and access to the proposed point of diversion. Please address the following items:

1. The filing fee for this application is \$100. We were able to dedicate \$50 from Receipt E034195 (App. 74-15889) to this application. The remaining \$50 must be provided before the application can be processed.

2. The point of diversion is not listed correctly. The proposed point of diversion must be described to the 40-acre tract (quarter-quarter). Your application only listed the township, range, and section number.

3. Your application does not adequately describe the proposed diversion works and irrigation system. The waste ditch terminates on the opposite side of the B3 ditch. You need to describe how you will convey the waste water across the B3 ditch.

4. The place of use is not listed correctly. The proposed place of use must be described within a 40-acre tract (quarter-quarter). Your application only listed the township, range, and section number.

5. You did not answer Question #9 on the application relating to other water rights on the property.

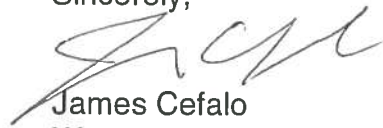
6. Please provide evidence of legal access to the proposed point of diversion. According to the county taxlot shapes available to the Department, the waste water channel is not located on your property. It appears to be located on Eagle Valley Ranch. You need to demonstrate that you have legal access to the proposed point of diversion before your application can be processed. (IDAPA 37.03.08.40.05.e)

7. Please provide evidence about the sufficiency of the water supply. There is already an existing right to use the waste water in question. (74-15624, Simpson) In his application for permit, Mr. Simpson stated that waste water is only available for a short time period during the year. You need to demonstrate that there is water available above and beyond the amount used by Mr. Simpson.

Pursuant to Rule 35.01.f of the Department's Water Appropriation Rules (IDAPA 37.03.08), if the information described above is not provided within 30 days, the Department may take steps to void the application.

If you have any questions about these two pending applications or need assistance to correct the legal descriptions, please contact me or Kerrie Mathews.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', written over the printed name.

James Cefalo
Water Resources Program Manager

Cc: IDFG and IWRB (Ann Vonde)
Boyd Stokes