



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 31, 2012

Louis D Jeffrey
2050 E Medicine Wheel Ln
Glenns Ferry ID 83633

Re: Contested Application for Permit 61-12274

Dear Applicant:

This letter is a follow-up to the pre-hearing conference held on 10/18/12. As discussed at the conference, additional information is needed by the Department for further review. Attached is the list of evaluation criteria that must be considered by the Department in connection with a new appropriation of water (permit), ref Idaho Code § 42-203A. The Applicant has the initial burden of proof and must provide evidence and arguments addressing the criteria. Please provide the following:

-Sufficiency of water supply

-There was a great deal of discussion during the conference regarding the sufficiency of water for the proposed appropriation. Provide convincing data and technical analysis there is sufficient ground water available. The data and analysis should include aquifer(s) yields, depths, recharge characteristics, etc.

-Injury to existing water rights

-Provide data and information regarding the effect of the proposed appropriation on existing water rights. The effect on neighboring flowing (artesian) wells and ground water pumping levels should be addressed.

- How will the appropriation effect the settlement agreements between parties and Idaho Fresh Pack LLC under water permit #61-7724?

-Local Public Interest/

Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?

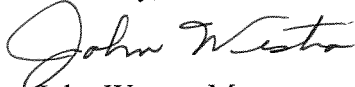
Please submit the requested information to allow final evaluation of your applications on or before **February 1, 2013**. You may seek additional time to provide the information by making a written request. The application will be voided without a timely response.

Page 2.
Jeffrey

Enclosed are copies of the settlement agreements with Idaho Fresh Pack LLC. You can also find ground water right listings, well logs, ground water hydrographs, and other information on the Department website: www.idwr.idaho.gov. A list of local consultants is included should you desire assistance.

Should you have questions or concerns, please contact me at the Western Regional Office, phone 208-334-2190.

Sincerely,



John Westra, Manager

Enclosures: conference/hearing information, consultant list, water right 61-7724 proof.

CERTIFICATE OF SERVICE

I hereby certify that on this **31st day of October, 2012**, I mailed a true and correct copy, postage prepaid, of the foregoing **REQUEST FOR INFORMATION LETTER** to the person(s) listed below:

Louis D Jeffrey
2050 E Medicine Wheel LN
King Hill ID 83633

Robert K Hall
2975 W Latty DR
Glenns Ferry ID 83623

Edward T Potucek
1890 E Potucek LN
King Hill ID 83633

Idaho Fresh Pak LLC
Jerry Rigby, Attorney
Rigby, Andrus, & Rigby Chartered
PO Box 250
Rexburg ID 83440

A handwritten signature in black ink, reading "Justin Allen", is written over a horizontal line.

Justin Allen
Office Assistant

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
8. If the proposed application is for a minimum streamflow, will it meet the requirements for local public interest, according to chapter 15, title 42, Idaho Code.
9. Is the source where the water is to be appropriated largely within the state's boundaries, irrespective of the location of any proposed power generating plant?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, 7, 8 and 9 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issues 5 and 8 if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

August 2009

CONSULTANTS

The following firms have worked with the Idaho Department of Water Resources (IDWR) on water right related matters. Inclusion on this list does not constitute an endorsement or guarantee by IDWR for any work done by any consultant. Please feel free to consult any additional resources for references and other details.

AMERICAN GEO TECHNICS

5360 Chinden Blvd.
Boise, ID 83714
208-658-8700

BROCKWAY ENGINEERING PLLC

2016 N. Washington Street, Suite 4
Twin Falls, ID 83301
208-736-8543

CLAIBORN & WAITE CONSULTING

120 N. Curtis Road
Boise, ID 83706
208-376-8555

CSHQA CIVIL ENGINEERING

250 S. 5th Street
Boise, ID 83702
208-343-4635

DC CONSULTANTS

156 SE 1ST Avenue
Ontario, OR 97914
541-889-6160

ERO RESOURCES CORP

3314 Grace Street
Boise, ID 83703-5836
208-373-7983

HOLLADAY ENGINEERING

PO Box 235
Payette, ID 83661
208-642-3304

HYDRO LOGIC INC.

1002 W. Franklin Street
Boise, ID 83702
208-342-8369

IDAHO WATER ENGINEERING

David R Tuthill, Jr. PhD, PE
2918 N El Rancho Place
Boise, ID 83704
208-378-1513 (office)
208-870-0345 (cell)

KELLER ASSOCIATES INC

131 SW 5th Ave. Suite B
Meridian, ID 83642
208-288-1992

MILLENNIUM SCIENCE & ENGINEERING, INC.

1555 Shoreline Drive, Suite 150
Boise, ID 83702
208-345-8292

PINNACLE ENGINEERS INC.

12552 W. Executive Drive, Suite B
Boise, ID 83713
208-887-7760

QUADRANT CONSULTING, INC.

1904 W. Overland Road
Boise, ID 83705
208-342-0091

SPF WATER ENGINEERING LLC

300 E Mallard Dr, Suite 350
Boise ID 83706
208-383-4140

TOOTHMAN-ORTON ENGINEERING

9777 Chinden Blvd.

Boise, ID 83714

208-323-2288

URANGA HYDRO LOGIC

J. Matt Uranga

1216 N 22nd St

Boise ID 83702

(208) 629-8221 phone / fax

(208) 602-9954 cell

VANDERSTELT, DARWIN

16931 Star Road

Nampa, ID 83687

208-465-9496

W & H PACIFIC

3501 W. Elder St., Ste 200

Boise, ID 83705

208-342-5400

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 61-7724

WATER RIGHT NUMBER: 61-7724

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	MAGIC WEST INC PO BOX 475 RUPERT, ID 83350 (208)436-3126
Previous Owner	IDAHO FRESH PAK INC PO BOX 130 LEWISVILLE, ID 83431-0130 (208)754-8100
Current Owner	IDAHO FRESH PAK LLC C/O LEO HERBERT 357 CONSTITUTION WAY IDAHO FALLS, ID 83402-3538 (208) 754-8194

Priority Date: 09/27/1996

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
INDUSTRIAL	1/01 to 12/31	0.670 CFS	
<u>Total Diversion:</u>		0.670 CFS	

Location of Point(s) of Diversion

GROUND WATER	SW1/4SE1/4	Sec. 29, Twp 05S, Rge 10E, B.M.
ELMORE County		

Place of Use

INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
05S	10E	18									X						X	X	
05S	10E	19					X			X				X		X	X		
05S	10E	29															X		
05S	10E	30		X	X		X			X									

IDAHO DEPARTMENT OF WATER RESOURCES
Water Permit Report 61-7724

Conditions of Approval:

1. WD8 The place of industrial use authorized by this approval in Sections 18, 19 and 30, T5S, R10E describes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the food processing plant as authorized by this water right.
2. In accordance with applicable law, the right holder is responsible to ensure that pumpage under this approval does not reduce the water available under any prior right so as to cause material injury to the holder of the prior right, as determined by the Director, unless the right holder provides compensation or mitigation to the prior right holder.
3. 051 Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
4. In accordance with applicable law, the right holder is responsible to ensure that pumpage under this approval does not directly lower the hydraulic head in any domestic well drilled and in use prior to March 29, 1978, requiring modification to the well or pumping system, unless the right holder provides reasonable compensation or mitigation to the prior right holder.
5. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
6. 067 The right holder shall measure and annually report the volume of ground water diverted and used pursuant to this permit and any other water right authorizing use of the same point of diversion and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
7. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
8. Industrial use is for the Glens Ferry food processing plant including the existing cogeneration operation.
9. The limit on maximum rate of diversion and annual pumped volume under this right when combined with Right 61-7189 and any other water right authorized to use the same point of diversion shall not exceed 0.67 cfs nor 338.0 afa.
10. Use of water under this right may be affected by a series of agreements executed in March and May of 1999 between the right holder and individuals or entities initially protesting Application for Permit to Appropriate No. 61-7724.

Remarks:

Comments:

1. scurtis 8/28/2002 Amendment of Permit
Comment: An amendment of permit was issued on 8/28/2002 which modifies the place of use to include lands upon which waste water from the processing plant is applied.

Water Supply Bank: