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DEPARTMENT OF  
WATER RESOURCES

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June 17, 2013

Craig Saxton  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

Dear Mr. Saxton,

This letter is written in response to your letter dated May 23, 2013. It will clarify specific misunderstandings of Mr. Katsilometes' system for beneficial use of low temperature geothermal waters on his property and in his business under permits No. 29-07869 and No. 29-13672 for a total of 1CFS.

Item #1:

Requirement 1. of No. 29-07869 states: "Proof of construction of works and application of water to beneficial use shall be submitted on or before January 1, 1992." Mr. Katsilometes satisfied this requirement. It is important to note that the requirement on the permit does not appear to limit the amount or extent of application of water on his property to beneficial use under the terms of the permit. It simply requires that he construct works and put the waters to beneficial use which he continues to do and will continue to do until completion of all works making beneficial use of the water granted under No. 29-07869 (and No. 29-13672).

Requirement 6. of No. 29-07869 states: "Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete." Mr. Katsilometes commenced the excavation and construction of diverting works within one year of issuance of this permit, and to this date, and until sometime in the future, he plans to continue the excavation and construction until he has made beneficial use of the waters granted under the two permits: No. 29-07869 and No. 29-13672.

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Please note that there is no mention of a time limit in these permits nor is there mention of a possibility for decreasing the amount water granted for beneficial use in these permits. Mr. Katsilometes confirmed that he had proven up his diversion works and developments, but did not state on November 14, 1991, that he would not continue to develop the water right within the confines of permits 29-7869 and 29-13672.

Item #2:

Please see the statements of facts above and note the following corrections: The East well was completed on March 22, 1990 and was pumping using the 3 1/2 hp pump and motor temporarily installed by the well driller. On March 16, 1995, the West well was completed. In your foot note ,1 Dr. Lachmar tested the two wells as he numbered them. Well #1 is the last drilled, and the deepest and hottest of the three wells. Well #3 is the East well or the first well completed. These wells were tested at pumping rates of 1 CFS and 90 gpm respectively and they are located within 30 feet of each other with neither recording any effect from the pumping of the adjacent well. During the IDWR field inspection in 1995, construction and excavation was continuing with plans and installation of 16 additional pools. In 1996, these pools were completed and 5 were able to be supplied with water. In addition, the Main Inn and the Spa Building have heat exchangers and fan coils installed which allow for partial geothermal heating of these buildings. The remaining pools remain dormant and old and new buildings can not be heated due to delays of over 4 years in gaining an additional permit for water of 0.5 CFS under permit No. 29-13672. Since the issuance of permit No. 29-13672, plans have gone ahead for construction of 9 new hotel units and an additional therapy pool. The IDWR field examinations have confirmed Mr. Katsilometes' ongoing excavation, construction and development of his business. He has been using over 200 gallons per minute since 1995/1996 to supply 5 therapy mineral water pools and to partially heat 2 of his 4 buildings.

Item #3.

Mr. Katsilometes has correctly identified the location of the wells as: NWSESE, Sec. 21, Township 09S, Range 38E, Bannock County. This was confirmed on May 30, 2013 at the Assessor's Office at the Bannock County courthouse. Therefore, the permit should not be required to be amended.

Notwithstanding the language of Idaho Code § 42-219(1) in regards to the quantity of water that may be licensed pursuant to a permit, we believe there are adequate grounds for the Department to issue the license including the full quantity originally applied for in the permit. First, Mr. Katsilometes was not aware of the provisions of Idaho Code § 42-219(1). Compounding that is the fact that the permits issued to Mr. Katsilometes by the Department do not make the requirements of § 42-219(1) known to him. In fact, Mr. Katsilometes complied with the permits themselves, which only require, in the case of 29-7869, that he begin construction of diversion

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works within one year and then complete them (with no time frame given for completing the works), and in the case of 29-13672, that he provide proof of application of water to beneficial use by June 1, 2012. Again, the plain language of the permits has no requirement that he must put all of the permitted water to beneficial use by the given time period. It is perfectly understandable that a non-consumptive water user, such as Mr. Katsilometes, would believe that he was allowed to further the development of his right when the language on his permits in no way prohibits him from doing so, and when those permits make no reference to the requirements of § 42-219(1).

Further, it is again important to note that the use of this 1 CFS will in no way affect Mr. Katsilometes' neighbors. The well tests performed confirm this. The use of water here is non-consumptive. Due to these circumstances, we believe that Mr. Katsilometes should be allowed to continue the development of these rights.

Mr. Katsilometes' lodging, tourism and travel business employs 15, greets more than 6,000 guests to Lava/Idaho/ year from Idaho, the U.S. and abroad. The new units and pools will bring an additional ~3,000 guests to Lava/Idaho and employ at least 5 more people. Currently, 65% of these guests and tourists travel from out-of-state. In providing this service and benefit to Idaho (in excess of a total of \$100,000 in taxes collected and delivered each year) Mr. Katsilometes and his business are a true asset to Idaho and its people.

In conclusion, Mr. Katsilometes has cooperated and complied with all the terms of permits No. 29-07869 and No. 29-13672. He will continue to cooperate with accurate, reasonable and lawful requests. Our client believes however that he is being hindered by the Department in fully taking advantage of a valid water right, and that it is causing him delay in further economic development of his property. We have sent several letters on behalf of Mr. Katsilometes to the Department, and received several in return. We appreciate the Department's willingness to work with us on this issue and we would ask at this time what we might do to reach an agreement on this issue, proposing a settlement conference or similar meeting with the Department.

Should you have any further questions, please do not hesitate to call us at the number listed in the letterhead above.

Best Regards,



Robert H. Wood

RHW/md