



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 3, 2013

RIGBY ANDRUS & RIGBY
PO BOX 250
25 NORTH SECOND EAST
REXBURG ID 83440

RE: Application for Amendment of Permit No. 29-7869

Dear Mr. Rigby:

The Idaho Department of Water Resources (department) is in receipt of your correspondence regarding the Application for Amendment (amendment) of permit 29-7869 that we prepared after reviewing the permit for licensure. It appears that the department may have caused some confusion in our previous letter and I apologize if that is the case.

Mr. Katsilometes has two active permits, 29-7869 and 29-13672, that are at different phases of the licensing process. At this time the department is moving forward to issue a license that reflects the development which occurred during the authorized development period for permit 29-7869. The authorized development period extended from December 20, 1989 to January 1, 1992.

The Department cannot recognize development that occurred after January 1, 1992 under permit 29-7869. Therefore, the amendment the department sent reflects the development between 1989 and 1992 with the exception of the inclusion of a second point of diversion which is the well that was drilled in 1995. Despite being developed after the authorized development period, the 1995 well can be recognized through the amendment as long as its inclusion does not enlarge the permitted use. The department is proposing to add the second point of diversion to permit no. 29-7869 but cannot include any diversion rate or volume that the second point of diversion might provide. Any additional capacity that the second well provides will need to be addressed when the development that occurred under permit 29-13672 is reviewed for licensure. The February 12, 2013 mailing included documents that were meant to clarify the Departments review of the available evidence when evaluating the permit for licensure.

With that said, after reviewing the file again, I do feel that the diversion rate developed in accordance with the permit was actually 90 gallons per minute (gpm) instead of 80 gpm. Finding of Fact #53 in the *Final Order In the Matter of Applications for Permit Nos. 29-8162 and 29-7164 in The Name of Craig Lyon and Vicki Lyon*, dated January 13, 2009, does state that the 80 foot deep well drilled in 1990 produced a flow of 80 gpm. However, a pump test conducted by Thomas E. Lanchmar, Ph.D, on September 15 and 16, 2005, found the capacity of the 80 foot well drilled in

1990 to be 90 gpm. Because of this, I have updated the enclosed application for amendment to show a diversion rate of 0.20 cubic feet per second.

After the license is issued in connection with permit 29-7869, we will be able to move forward with the review of any development occurring under permit 29-13672. The proposed amendment of 29-7869 is intended only to reflect that development which occurred under permit 29-7869 during the authorized development period.

Because the point of diversion and place of use was developed differently than permitted, the department cannot issue a license without an amendment of the permit. If you decide to move forward to amend the permit, please sign and return the Application for Amendment (copy enclosed) with the required fee of \$100 within 30 days. If the Department does not receive the amendment within 30 days, pursuant to Idaho Code §42-219(8) the Department may prepare an order voiding the permit.

You may contact me at (208) 287-4916 if you have any questions regarding this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Craig Saxton", written in a cursive style.

Craig Saxton
Water Rights Supervisor