



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 17, 2013

EDWARD A LAWSON
LAWSON LASKI CLARK & POGUE PLLC
PO BOX 3310
KETCHUM ID 83340

Re: Water Right Permit No. 37-8205

Dear Mr. Lawson:

It was a pleasure to meet with you, Donna Kelsey, the Brockways and Fritz Haemmerle yesterday. I believe the meeting was productive as it provided an opportunity to discuss options and a path forward to address mitigation for the heated pond.

After the meeting, we reviewed the water rights associated with Clarendon Reservoir and agreed that the recent decrees provide for a storage volume up to 102 acre-feet, some of which might be available for mitigation of consumptive use for permit 37-8205. There are two water rights associated with Clarendon Reservoir, 37-2446 and 37-4369. Water right 37-2446 authorizes 10 cfs for recreation purposes and water right 37-4369 authorizes 102 acre-feet for recreation storage purposes. I believe water right 37-4369 would be the appropriate right to consider for mitigation because some volume of consumptive use can be recognized due to evaporation from the storage use.

The Department will need some additional information before approving a mitigation plan and issuing a water right license. First, we will need a final determination of the increased evaporation due to the heated pond under permit 37-8205. As discussed in my letter of December 26, 2012, and at our meeting, the Department anticipated that site specific weather data would be used to "correct" long term weather data available from the Hailey station to estimate evaporation. Additional details and recommendations resulting from staff review are available in the permit file (see online at <http://www.idwr.idaho.gov/>). Second, we will need specific details of the mitigation plan, including foregone storage volume that will be dedicated to mitigation with calculations showing surface area and evaporation used to determine the foregone storage. Third, we will need authorization from the owner (or authorized representative) for use of a portion of water right 37-4369 for mitigation purposes and for updates to the water right record to reflect the mitigation use.

Upon receipt of the requested information, the Department will proceed to review details of the mitigation plan and work towards issuing a license for permit 37-8205. Please contact me at 208-287-4948 if you have questions.

Sincerely,

Jeff Peppersack
Chief, Water Allocation Bureau

cc: Southern Region, IDWR
Brockway Engineering
Fritz Haemmerle