



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

September 24, 2012

ROGER TROTTE
PO BOX 53
MACKAY ID 83251

RE: Mitigation Plan for Water Right No. 34-7171

Dear Mr. Trotten:

The Idaho Department of Water Resources (IDWR) has received the proposed mitigation plan for water right 34-7171. Thank you for your time and letter. At this time IDWR would like to work with you and Mr. and Mrs. Seefried to ensure that the needs of all interested parties are met once an acceptable mitigation plan is in place.

IDWR has reviewed the mitigation plan and has a few concerns and comments.

In general, the mitigation plan states that water will be delivered to the Kent springs weir¹ as necessary to mitigate losses in the spring as a result of pumping ground water from Seefried's irrigation well. This type of mitigation plan is known within IDWR as using "replacement water" to offset the injurious water withdrawals.

The mitigation plan was vague as to the source of the replacement water. A mitigation plan must identify the source of the replacement water (including water rights) to be used for mitigation and must describe the quantity, method and location of delivery to ensure that compensation is adequate. You have provided the location of delivery for the replacement water; however, the mitigation plan should be very specific as to how the mitigation will occur in regard to quantity and method.

The plan must also include ownership documentation or authority to use the source of water and/or water rights. In addition, the mitigation plan must include information confirming the validity and historic use of any rights to be used for mitigation.

A mitigation plan that proposes diversion and use of canal company, irrigation district, or other water delivery entity water rights would not be acceptable without an application for transfer and written consent from the entity. A mitigation plan which involves use of a conveyance system owned by a canal company, irrigation district or other water delivery entity would also require written consent from the entity for use of the system and a plan to account for water deliveries to confirm that mitigation is accomplished.

¹ Kent springs weir is physically located in the NW¼NW¼ of Section 2 T6N, R24E, B.M. Custer County.

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Lastly, water right 34-7171 includes a condition that states:

The plan may include a procedure for determining the "natural discharge" of Kent springs which does not need to be augmented or enlarged by the appropriator. The "natural discharge" from the springs is intended to mean the rate of flow which would occur without the effect of pumping the appropriator's well.

The proposed mitigation plan states that the "Seefrieds do not have to augment or increase the naturally occurring flow of Kent springs, as determined by the Watermaster." The method to quantify the natural discharge from the springs must be described in the mitigation plan.

Please submit additional information that will fulfill the requirements outlined in this letter. For your reference I have attached an IDWR mitigation plan checklist and memo that may help you in completing an acceptable mitigation plan.

You may reach me at (208) 287-4944 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cherie Palmer".

Cherie Palmer, Sr. Water Resource Agent
Water Allocation Bureau

cc: William and Holly Seefried
4399 Houston Rd
Mackay ID 83251