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AUG 20 2012

Department of Water Resources
Eastern Region

IDAHO DEPARTMENT OF FISH AND GAME

SALMON REGION
99 Highway 93 North
P.O. Box 1336
Salmon, Idaho 83467

C.L. "Butch" Otter / Governor
Virgil Moore / Director

August 20, 2012

James Cefelo
Idaho Department of Water Resources
900 North Skyline Drive Suite A
Idaho Falls, ID 83402

RE: Notice of Protest-Water Right Application No. 74-15889 (Ms. Malinda Tracy, Bohannon Creek, tributary to the Lemhi River)

Dear James:

Idaho Department of Fish and Game (Fish and Game) has reviewed the above referenced application for a permit to appropriate public surface waters submitted by Ms. Malinda Tracy (Applicant), whose address is 3 Prairie Road, Salmon, ID 83467. The Applicant seeks to divert a total of 0.07 c.f.s. of surface water from Bohannon Creek, tributary to the Lemhi River, for the beneficial use of irrigation and stock water. The current application proposes a year-round use of 0.07 c.f.s. for irrigation water on 2.3 acres and a seasonal use (03/15 to 11/15) of 0.02 c.f.s. for stock water. Typically, irrigation water is used at a rate of 0.01 c.f.s. per acre and used on a seasonal basis (i.e. during the growing season) while stock water is sought year-round. Fish and Game questions the validity of the proposed water uses and recommends that Idaho Department of Water Resources staff verify the applicants request to find it was not applied for in error.

Bohannon Creek is considered a priority watershed for fishery recovery efforts in the Lemhi River Basin. Fish and Game wants to ensure the proposed application does not conflict with the fisheries, wildlife, and aquatic habitat components of the local public interest defined under Idaho Code § 42-202B(3). Bohannon Creek is a known spawning steelhead trout stream and also contains resident populations of bull trout and westslope cutthroat trout. Historic irrigation practices have dewatered the lower reaches of Bohannon Creek, particularly during summer and early fall, and may have contributed to the loss of migratory bull trout, a species protected under the Endangered Species Act. Fish and Game and willing landowners along with federal, state, and private partners are actively engaged in fish screening and water conservation projects. By this fall over \$1 million dollars will have been invested in the Bohannon Creek watershed to help improve aquatic habitat and fish populations. Fish and Game is currently discussing strategies with Bohannon Creek water users about potentially consolidating various points of diversions including the diversion the Applicant identifies in the water right application.

Keeping Idaho's Wildlife Heritage

In accordance with provisions of Idaho Code § 42-203A(4) Fish and Game understands that a formal protest is required to participate in the water right application process. It is part of the role and responsibility of Fish and Game in fulfilling its mission of protecting, preserving, and managing fish and wildlife resources to provide technical information regarding the potential effects of the proposed water right on these resources and assess how any adverse effects can be avoided, minimized, or mitigated. Fish and Game does not support or oppose the application, but is instead filing this protest to assist IDWR in the decision-making process.

Please initiate the interagency billing for the applicable protest fee of \$25.00. The PCA is 11606 and the ABC code is B7/TX. Please send the billing documents to IDFG Headquarters, Attention: Dr. Walt Poole, P.O. Box 25, Boise, ID 83707.

If you have questions, please contact the Region's Environmental Staff Biologist, Tom Bassista at 525-7290.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Schmidt' followed by a stylized flourish.

Steve Schmidt
Regional Supervisor

SLS:TBP:jms

cc: Walt Poole (IDFG-HQ)
Tom Curet (IDFG-Salmon)
Dallas Burkhalter (IDFG, Deputy Attorney General)
Harriet Hensley (IDFG, Deputy Attorney General)
Sharon Kiefer (IDFG-HQ)
David Kampwerth (USFWS-Chubbuck)
David Mabe (NOAA-Fisheries-Boise)
Ms. Malinda Tracy (Applicant)

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, August 22, 2012 11:56 AM
To: Marston, Sascha
Subject: Interagency Billing

Sascha, please do an interagency billing for the following:

Amount: \$25.00

PCA: 63103

Bill to:

Idaho Dept of Fish & Game

PO Box 25

Boise ID 83707

Reason: Protest of 74-15889 water right.

Thank you.

Sharla

Sharla Cox
Administrative Assistant
Idaho Department of Water Resources
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Idaho Falls ID 83402
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208-525-7177 - fax
sharla.cox@idwr.idaho.gov