



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 3, 2011

Josh Paskett
Flinders Samaria Ranch
4889 South 4400 East
Malad, ID 83252

RE: Application for Permit 15-7320

Dear Mr. Paskett:

This letter is meant to update you on the status of your application for permit in the name of Flinders Samaria Ranch. In August 2009, and again in March 2010, IDWR sent a letter asking for additional information about your application. You were asked to identify all of the wells and springs within ½ mile of your proposed point of diversion. You were also asked to provide technical and detailed information about the local aquifer and the potential impacts (drawdown) at nearby springs and wells if your ground water permit is approved. Because of the significant risk that new ground water diversions will impact existing water rights, we are requiring all ground water applicants in the Malad River drainage to show that their proposed diversions will not adversely impact any existing water users in the immediate area.

In September 2009, you provided a one-paragraph letter, stating that there are no other wells within 3300 feet (0.63 miles) of your proposed point of diversion. Although that may be true, aerial photography shows that there are springs and seeps located within ½ mile of your proposed point of diversion which provide water to downstream water users, including Samaria Lake Irrigating Company. Even though Samaria Lake did not protest your application, we cannot approve your application until you provide hydrologic evidence that your diversion will not negatively impact the springs that supply water to Samaria Lake's ditch.

Other applicants in the basin have chosen to hire a hydrogeology consultant to collect and analyze ground water data. These applicants have provided technical reports in support of their applications. When the technical reports have shown little or no impact to existing water rights, the water permits have been granted.

Another issue you should be aware of is related to the existing ground water well on the property (the proposed point of diversion). Idaho Code §42-1601 makes it a misdemeanor to own an uncapped or uncontrolled flowing artesian well. Well drilling companies are required to follow very specific procedures when they encounter artesian ground water. Wells must be sealed to the confining layer to prevent loss of artesian pressure in the aquifer. Evidence suggests that the well drilled in 2002 by Mountain West Well Drilling was not constructed

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properly. Regardless of the outcome of your permit application, you must address all of the flowing artesian wells on the property. These wells must be sealed to the confining layer and equipped with a control valve.

Because you made an attempt to respond to the initial request for additional information, we will extend the deadline to allow you to collect and process ground water data in accordance with this letter and the previous IDWR letters. Please provide the requested information by August 1, 2011. If a sufficient response is not received by that date, your application for permit will be voided. Feel free to contact our office if you have any questions.

Sincerely,

James Cefalo
Water Resources Program Manager

Encl. (copy of IDWR's March 31, 2010 letter)

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C. L. "BUTCH" OTTER
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GARY SPACKMAN
Interim Director

March 31, 2010

Flinders Samaria Ranch
4889 South 4400 West
Malad, ID 83252

Re: Application for Permit 15-7320, Rule 40.05 Requirements

Dear Applicant,

On August 27, 2009, my predecessor, Earnest Carlsen, sent a letter to you asking you to provide additional information regarding your application for permit, No. 15-7320, before it could be evaluated. The letter stated that IDWR cannot approve a new permit in a basin where there is an insufficient supply of water or when the new appropriation would injure existing water rights. Recent reports from water users within the Malad River Basin indicate that aquifer levels and spring flows within the basin are in decline. USGS monitoring wells in the basin seem to confirm the reports.

Under IDWR Water Appropriation Rule 40.05, an applicant bears the burden of demonstrating that the water supply is sufficient for the proposed appropriation. Rule 40.05 allows IDWR to require applicants to submit additional information in certain circumstances. The full language of Rule 40.05 can be found at <http://adm.idaho.gov/adminrules/rules/idapa37/37index.htm>. Because of the high potential for injury to existing water users in the Malad River Basin, IDWR is requiring all applicants for new groundwater irrigation permits to submit the following information before their applications will be considered:

Rule 40.05

- c.ii For applications appropriating groundwater, a plat . . . locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- c.iii Information . . . concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.
- d.i Information . . . on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.

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- d.ii Information . . . on the quantity of water available from the source applied for, including, but not limited to, . . . information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

The information described above is meant to be fairly technical and detailed. Some applicants may not have the technical expertise needed to collect and analyze the relevant data. Given the recent budget cuts and limited staff resources, IDWR does not plan on conducting a hydrologic study of the Malad River drainage. To assemble the information required by Rule 40.05, you may need to hire an engineer or hydrogeologist to collect hydrologic data. IDWR cannot process or evaluate your application for diversion of groundwater until the required information is submitted.

Your response letter, received by IDWR on September 9, 2009 does not satisfy the requirements described above. Our records show that there are three registered wells within one-half mile of the well identified in your permit. There may be other unregistered wells or springs in the area. The other items listed above also need to be addressed. IDWR is seeking detailed information regarding the aquifer in the area of your well. You may be able to use your well as a means of tracking the aquifer levels throughout the irrigation season.

You should also be aware that there are fourteen pending applications for permit that were filed before your permit was filed. IDWR is evaluating the applications in the order they were received, provided the applicants submit the required information. Rule 40.05 allows IDWR to set a 30-day window for submitting requested information. Because the data collection process may require an entire irrigation season, however, I am extending the deadline. If you have not supplied the specific information described above by December 1, 2010, your application for permit, No. 15-7320, will be voided.

Feel free to contact me directly if you have any questions.

Sincerely,

James Cefalo
Water Resources Program Manager
IDWR – Eastern Region

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Dunn, Dennis

From: Dunn, Dennis
Sent: Wednesday, March 10, 2010 1:52 PM
To: Neace, Thomas
Cc: Cefalo, James
Subject: Flowing Artesian

Tom,

I have a water right application for permit (15-7320) near the springs at Samaria; Josh Paskett in his application states that he has several flowing artesian wells near this one that was drilled in 2002 by his father in law, and it is a flowing artesian well.

One of the problems in the Malad River Valley is uncontrolled flowing artesian well impacting spring flows and ground water levels.

Samaria Irrigation receives a large portion if not all of its water from the springs at Samaria. It was their complaints the brought the county commissioners to Idaho Falls to ask that we slow down applications for permits. Samaria Irrigation also is the major protestant to new applications being filed in basin 15.

How hard is the Department willing to push for reconstruction? We should probably talk with John and see what the position is going to be.

To Whom It May Concern:

I have applied for a water permit near Samaria Id permit # 15-7320. The project which I would like to go forward with is about 3300 feet from the nearest other well. The well for this project was drilled back in 2002 by my father in law. It has been an artesian well. I have several other artesian wells close to this which did not slow down this year which I attribute to the rain which we had in June. I use these artesian wells for stock water so I do not want to dry them up, because that hurts my operation as well. I believe this project would make the land more productive. So as soon as I get the go ahead I would like to put the pump, mainline, and well lines in as soon as possible. If you like to see plans for this project please contact me at 766-3152.

Thank You
Josh Paskett

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 27, 2009

Flinders Samaria Ranch LC
4889 S 4400 W
Malad ID 83252

RE: Application for Permit 15-7320

Dear Applicant:

The Department has received the above application for permit to appropriate 0.6 cfs of ground water in the Malad River drainage. For new appropriations, under Idaho Code § 42-203A(5) IDWR has the responsibility to ensure there is a sufficient supply of water and that the appropriation will not result in injury to existing water rights

Historically, when issuing permits for new appropriations, IDWR viewed ground water and surface water as two separate sources. Often the impacts of new ground water appropriations on existing surface water rights were not evaluated. However, Idaho water law now recognizes that in many places ground water and surface water are hydraulically interconnected, and proper administration of existing water rights and new appropriations requires conjunctive management of both sources.

In March 2009, the Department received a letter from the Oneida County Commissioners expressing their concern about the perceived decline in flows from springs and artesian wells in the area. Their letter questioned whether the Department should continue issuing new permits to appropriate ground water in the Malad River drainage. In response to the commissioners' request, the Department's Hydrology Section has been tasked to review available information and data on ground water and surface water supply in this drainage. The Hydrology Section's report will be helpful in developing water policy for the Malad River drainage.

Meanwhile, applicants who want IDWR to take final administrative action on their applications can provide IDWR with the information required under Water Appropriation Rule 40.05 regarding the availability of water for the proposed appropriation and the potential for the proposed appropriation to injure existing water rights. The additional information requirement is usually waived for applications proposing the appropriation of 5 cfs or less or the storage of 500 af or less. Because of the concerns regarding the impact to springs and artesian wells in the area, the department is requiring that applicants submit the additional information required by water appropriation rule 40.05, even when the application is for less than the 5 cfs / 500 af thresholds. Only certain

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applications for small domestic and stock water uses and applications to divert ground water for domestic in multiple homes are exempt from the additional information requirement. A copy of the pertinent sections of Water Appropriation Rule 40.05 is included in this letter. If you believe that a particular section of Rule 40.05 is not relevant to your application, please explain why.

Ultimately, the applicant bears the burden for demonstrating that the water supply is sufficient for the proposed appropriation and that it will not cause injury to other water right holders.

Please submit the information within 30 days of this letter. If you have questions concerning this matter discussed above feel free to contact the Eastern Region Office.

Respectfully Submitted

Ernest Carlsen
Water Resources Program Manager

Enclosure – Copy of Application
Copy of Water Appropriation Rule 40.05

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To Whom It May Concern:

My name is Josh Paskett I applied for a irrigation water permit no 15-7320. Which to my understanding in talking to Sharla Cox was not protested she thought that it may help to speed things up if I wrote a letter explaining my circumstance. The well was drilled in 2001 by my father in law who passed away before finishing the irrigation project. The permit lapsed before I was able to afford the project. I reapplied and that takes us to the present. I would like to get started on the project as soon as possible to get a crop growing this year. Please let me know as soon as possible when I may begin to work on main line, pump, and such.

Thank You



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SPADE 7 TRUCKING LLC,

Spade 7 Trucking Phone: 208-766-9273
4889 s 4400 w Fax: 208-766-9273
Malad Id, 832524

Fax Transmittal Form

To Dept. of Water Rec.
Name: *Sharla Cox*
Organization Name/Dept:
CC:

From
JOSH PASKETT
Phone: 208-766-9273
Fax: 208-766-9273

Urgent
For Review
Please Comment

Date sent: *4-16-09*
Time sent: *12:30*
Number of pages including cover page: **2**

Message:

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