



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 • Web Site: www.idwr.idaho.gov

June 20, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

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

Re: Water Right Permit No. 37-8205

Dear Mr. Lawson:

The Department received your letter dated May 30, 2012 regarding the permit referenced above. In your letter, you requested additional time for the permit holder to submit information regarding a plan to mitigate for evaporative losses from the pond authorized under the permit.

In the Department's January 5, 2011 letter, I provided one year from the date of approval of an amendment of the permit to submit an acceptable mitigation plan, and if an acceptable plan was not submitted, the Department would proceed to license the permit for only those developed uses that do not require mitigation. The amendment of permit was approved at the end of May, 2011. Your request for additional time is based on a desire to collect data to develop a more accurate estimate of evaporation and a better mitigation plan. It is important to note that the Department has previously accepted the permit holder's estimates of evaporation and consumptive use associated with the pond; however, the Department has not accepted prior proposals to mitigate for those losses. I understand the desire to more accurately estimate losses, but I am concerned that, after one year, the permit holder may be no closer to identifying an acceptable source of mitigation water that will offset the losses.

The Department will need additional information before deciding whether or not to grant your request for more time. First, the permit holder must identify a source of mitigation water that will be used to offset the evaporative losses. Second, the permit holder must provide information about the weather station being used to estimate evaporation. Third, the permit holder must provide an explanation of how data collected for one year will be used to provide a better estimate of evaporation. Clearly, one or two years of record is not sufficient to provide a good estimate. At best, a comparison to established weather station data can be completed to provide some correction for use at the pond site. I understand that data collection began in August, 2011, so there should be sufficient data for a comparison at the end of this summer.

Lastly, the permit holder is reminded that diversion of water to the pond for heating purposes is not authorized until a mitigation plan is accepted by the Department. Failure to comply with the conditions of the permit may result in cancellation of the permit.

The Department will hold further action on the permit for 14 days to provide time for the permit holder to submit the requested information. Please contact me at 208-287-4948 if you have questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff', with a stylized flourish extending from the bottom left.

Jeff Peppersack
Chief, Water Allocation Bureau

cc: Southern Region, IDWR