



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

September 8, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SDRTR LLC
C/O ANTHONY ROBBINS
930 S ANDREASEN DR STE H
ESCONDIDO CA 92029

RE: Water Right 37-8388

Dear Permit holder:

The Department of Water Resources has received Charles E. Brockway's August 18, 2011 letter reviewing the draft license for permit 37-8388. The Department has incorporated his input into the enclosed draft license. This letter serves two purposes. It summarizes the consensus reached and the resulting revisions to the license. And it requests confirmation of compliance to all of the conditions on the permit.

As Dr. Brockway indicates, the thermal source (Warfield Hot Spring) is capable of transitory output in excess of the maximum rate proposed in the prior draft license. IDWR staff documented a 3.5 hour stint of production at the higher rate. The examiner estimates that the higher rate is beneficially used. The higher rate is long lived enough to acknowledge and authorize by licensing, with the condition that it is not a continuous entitlement. The revised license will show 0.46 cfs as the maximum diversion rate and will be conditioned to restrict that rate to those times when the source can sustain it.

Other points of discussion have been reconciled in the revised draft license as well. The revised space heating limits are now weather/climate adjusted and based on the as-built floor space. And I have corrected the summary volume to include the volume for recreation use which had been excluded in the prior draft license.

Further comments on the enclosed draft license are welcome but before the license can be issued, one additional item must be addressed. Condition of approval 1.e. on Permit 37-8388 states in part:

A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works period to the diversion of water under this permit.

The examiner's report indicates that the required measuring device is installed and operable. However, confirmation of the lockable controlling works has not been submitted.

Section 42-219 (8) of the Idaho Code states:

In the event that the department shall find that the applicant has not fully complied with the law and the conditions of permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

There are at least two options for addressing the lockable controlling works requirement. One option is to submit documentation demonstrating that you have complied with the approval condition by installing lockable controls. A second option is to send the IDWR a written request for removal of the requirement. If you choose the second option, please attach documentation which shows that you have discussed the need for lockable control works with the watermaster of Water District 37 and that he has no objection to the removal of the requirement. The watermaster in Water District 37 is:

Kevin Lakey
107 W First
Shoshone, ID 83352
208-886-2451

In an email dated July 22, 2011, addressed to the examiner, Charles E. Brockway and to your representative, James Speck, I informally requested verification of compliance to permit condition 1.e. Now I am making a formal request.

Within thirty (30) days of the date of this letter, please provide IDWR:

- 1) Documentation of compliance with the lockable controlling works requirement of the permit, or
- 2) A written request to waive the requirement, with a statement of support from the watermaster.

If the Department does not receive a response from you within thirty days, we will assume you have no further interest in this permit, and an order voiding the permit will be prepared.

Sincerely,



Michele Edl
Associate Engineer
Water Rights Section
Idaho Department of Water Resources
322 East Front St
Boise, ID 83720-0098

Enclosure

cc:
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

SDRTR LLC
C/O JAMES P SPECK
SPECK & AANESTAD
120 EAST AVE
PO BOX 987 KETCHUM ID 83340

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-08388

PLACE OF USE: RECREATION

Twp Rge Sec	NE				NW				SW				SE				Totals
04N 16E 36	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
	X																

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. Recreation use is for a hot pool.
4. Heating use is for 1 home, a barn, and snow melting for the driveway and sidewalk around the home.
5. Domestic use is for external use, including irrigation of up to 1/2 acre. When combined with all other domestic water rights for the home, the total use shall not exceed 13,000 gallons per day and irrigation of 1/2 acre.
6. Place of use is located in H.E.S. No. 389 and is also known as Lot 1B, Block 1 Warfield Hot Springs Subdivision.
7. The right holder is entitled to divert water at the full authorized diversion rate so long as that rate can be sustained by the source. However, the right holder shall not be entitled to make a delivery call for more than the demonstrated sustainable yield of 0.36 cfs.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.