



United States
Department of
Agriculture

Forest
Service

Sawtooth National Forest
Sawtooth National Recreation Area

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Ketchum, ID 83340
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File Code: 5440/2540 SV-82C, SV-87D

Date: August 22, 2011

RECEIVED

AUG 25 2011

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Department of Water Resources, Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

RE: Application for Permit No. 71-10935 (Ketchum Long Island LLC) and Application for Permit Nos. 71-10922 and 71-10923 + Application for Transfer No. 75469 (Tierney)

To Whom It May Concern:

The applications for the permits listed above have been publicly advertised. All of these applications are on private lands that are within the boundaries of the Sawtooth National Recreation Area (NRA). The United States holds conservation/scenic easements on each of these properties and as such, owns certain development rights as described in the respective instruments recorded in Custer County. We are concerned that granting these new water rights could negatively impact water rights and uses in the local vicinity that the United States has an interest.

Under Application for Permit No. 71-10935 Ketchum Long Island, LLC, proposes to appropriate 5.0 cfs of groundwater to irrigate 250 acres of what is currently native sagebrush habitat, including 0.033 cfs for stock water to serve 573 acres of this 604.65 acre tract that encompasses a stretch of the upper Salmon River. The USFS purchased a scenic easement (Custer County Instrument #157386) on the historic Henslee Ranch in 1981. The subdivision of that property now owned by Ketchum Long Island LLC represents approximately 1/6 of that original \$3,944,000.00 public investment in conservation. Under the terms and conditions of the easement, any structures on the property, including irrigation delivery systems, may not "materially detract from the scenic, natural, historic, pastoral, and fish and wildlife values of the area" (36 CFR 292.16(c)(2)) and the only structures permitted are those which "do not substantially impair or detract from the scenic, natural, historic, pastoral, and fish and wildlife values of the area..." (36 CFR 292.16(g)(1)). We do not believe the delivery system as designed will be compliant with the terms and conditions of this easement. In addition, we are not certain how this groundwater appropriation could or would affect public interest in retaining and providing adequate water quality and quantity for the recovery threatened and endangered aquatic species. We are in communication with the John Miller of Ketchum-Long Island LLC regarding our concerns about easement compliance, and these concerns have not yet been resolved.



Thomas and Elizabeth Tierney's Application for Permit No. 71-10923 proposes to divert up to 4.0 cfs of water directly from the upper Salmon River to construct a third aesthetic pond and a second aesthetic creek on their 80-acre property, with *de minimis* provisions for stock water. Application for Permit No. 71-10922 seeks to appropriate 0.28 cfs from an existing groundwater well, which is plumbed to a center pivot irrigation system that is currently in non-compliance with the scenic easement purchased by the United States on this property. As you are aware from our previous correspondence on this subject, dated February 11, 2011 and February 17, 2011, the Tierneys have been notified in writing that neither their proposed pond development, nor the center pivot that currently irrigates the northern portion of their property, are compliant with the terms and conditions of the conservation easement (Custer County Instrument # 143467) on their property that was purchased with public funds. In addition, we are not certain how the groundwater appropriation could or would affect public interest in retaining and providing adequate water quality and quantity for the recovery threatened and endangered aquatic species. As you know from copies of prior correspondence with the Tierneys, we have notified them that key parts of the existing and planned development for use of the applied for water rights would be non-compliant with the easement on their property.

A host of agencies and organizations, including Idaho Fish and Game, National Oceanic and Atmospheric Administration National Marine Fisheries Service, U.S. Department of Interior Idaho Fish and Wildlife Office, Idaho Department of Environmental Quality, the U.S. Forest Service, and the Custer County Commissioners have specifically identified a range of concerns that identify why further depletion of the waters of the upper Salmon River basin is not in the public interest and should preclude the further issuing of new appropriations. Primary concerns identified include the following:

- The upper Salmon River and its tributaries include critical habitat for bull trout spawning, rearing, migration, and overwintering and existing withdrawals have effects on this specie.
- Further flow reductions could adversely affect Chinook salmon and steelhead rearing near the point of diversion and point of use, could impede migration of adult Chinook and steelhead in the main stem of the Salmon River, and affect juvenile rearing and migration in the downstream reaches for these species as well as endangered sockeye salmon
- Substantial public investment has been made in an effort to maintain instream flows, including but not limited to acquiring water rights and retiring irrigated land, providing water lease contracts in the river and nearby tributaries, and purchasing conservation easements to protect fish and wildlife values on the Sawtooth NRA
- Potential for introduction of contaminants and aquatic nuisance species into the headwaters of the Salmon River drainage
- Affects of groundwater withdrawal on the volume and temperature of surface waters in the basin have not been adequately assessed
- Cumulative impacts of this and other pending and future water right applications should be evaluated in the broader landscape context, including the potential negative affects of climate change

In its correspondence to the applicants dated May 18, 2011, Idaho Department of Water Resources (IDWR) identifies its statutory requirement to consider local public interest in the area directly affected by the proposed water use as part of its permitting process. Four species of salmonid fish in the basin are listed as threatened or endangered under the ESA and numerous conservation measures have been implemented, many by local Soil and Water Conservation Districts and state agencies, that contribute to maintaining or restoring flows to the upper Salmon River and its tributaries to support the recovery of these species. There appears to be evidence presented by the agencies and institutions whose mission is dedicated to the conservation and management of these irreplaceable public resources suggesting that further appropriation or manipulation of limited waters in the upper Salmon River drainage, especially for aesthetic purposes, may not be in the public interest.

It appears that many cooperators and individuals feel that there is not sufficient water available to meet the needs of the threatened and endangered fish in the upper Salmon River. It would also appear that these applications are not in the public interest and would jeopardize local efforts such as cooperative work and investment toward fish habitat improvement and restoration by numerous state and federal agencies. We urge you to give consideration to the concerns described above.

Sincerely,

A handwritten signature in black ink, appearing to read "Sara E. Baldwin". The signature is fluid and cursive, with the first name "Sara" being more prominent.

SARA E. BALDWIN
Sawtooth National Recreation Area Ranger

cc: Thomas & Elizabeth Tierney, John Miller (Ketchum Long Island LLC)