

Merritt, Allen

From: Jim Speck [jim@speckandaanestad.com]
Sent: Monday, June 13, 2011 4:29 PM
To: 'Albert Barker'; 'Craig Hobdey'; 'Tim Graves'
Cc: Merritt, Allen; 'Brian Smith'
Subject: RE: RE: RE: RE: Smith/Application for Permit 37-20743

Tim,

Thank you.

Jim

-----Original Message-----

From: Tim Graves
Sent: Monday, June 13, 2011 3:55 PM
To: Jim Speck; Albert Barker; Craig Hobdey
Cc: Merritt, Allen; Brian Smith

I'm satisfied with the conditions and the County is willing to withdraw its protests.

Tim

Timothy K. Graves
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-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Friday, June 10, 2011 4:04 PM
To: 'Albert Barker'; 'Craig Hobdey'; Tim Graves
Cc: 'Merritt, Allen'; 'Brian Smith'
Subject: FW: RE: RE: Smith/Application for Permit 37-20743

Al, Craig & Tim,

I'm following up on my e-mail below of 10 days ago. Can we resolve your protests and move this application on to the permit stage? Please get back to me next week.

Jim

-----Original Message-----

From: Jim Speck
Sent: Tuesday, May 31, 2011 11:50 AM
To: 'Craig Hobdey'; 'tgraves@co.blaine.id.us'; 'Merritt, Allen'; 'Albert Barker'
Cc: 'Brian Smith'

Al, Craig & Tim,

Al's understanding is correct and my clients agree to the additional conditions he requests. I have added them to condition no. 5 on the attached revised draft approval. Will you all please now confirm that you will withdraw your protests contingent upon the permit being issued in the attached form (subject also to Al's additional request on the protest fee).

Thank you.

Jim

-----Original Message-----

From: Albert Barker
Sent: Monday, May 30, 2011 6:12 PM
To: Jim Speck; Craig Hobdey; tgraves@co.blaine.id.us; Merritt, Allen

All-

As I understand this right, it simply was intended to convert one irrigated acre to a pond. No changes to the diversion from the river or total use of water on the land is intended.

According to WRVID #45, the actual diversion to this property from the WRVID canal occurs at a headgate on Gannett Road in the NE corner of a lot owned by Moore, where it is diverted into a lateral ditch. The return flow from Smith goes to Bloomfield and then under Equus Dr. That return flow does not reach the main canal. Although there is a potential for that water to return to the canal down near Glendale Road, the return flow never reaches that point. As a practical matter the flow through from the pond will not reach the District's other water users.

However, since the consumptive use for irrigation is dried up in the same amount of use as the pond is proposed to be permitted, there should not be an impact to the other water users in the District from licensing the right at 3.5 AFA for the pond.

The existing rights do have a combined use, field headgate condition. So that this permit does not expand the use, that same condition should be included on the permit as well. It reads:

The rights listed below shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use. Combined Right Nos. 37-21665, 37-21672, 37-21681, 37-21690, 37-21699 and 37-21708.

I would also request that condition no 5 be clarified by adding the following to the existing sentence:

The land that will no longer be irrigated under these rights totals 1.0 acre and is located within the SWSE, Section 07, Township 01N, Range 19E, B.M.
These rights shall hereafter authorize irrigation of 7.1 acres in the Place of Use.

Finally, I note that the Department did not consult with WRVID #45 under Idaho Code section 42-108, which requires the consent of the Irrigation District if the works or system is owned and/or managed by the Irrigation District. The application proposes to use the District's diversion, canal and headgate. The Department is required to, but did not consult with the District prior to noticing the application for protest, requiring the District to file a protest. The District is prepared to consent to the application with the conditions Mr. Speck has proposed and those outlined above. However, the District requests a refund of its protest fee for having to file a protest, when its consent was not requested or obtained prior to publication of the application.

Albert P. Barker

Barker Rosholt & Simpson LLP

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-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, May 18, 2011 11:46 AM
To: Albert Barker; 'Craig Hobdey'; tgraves@co.blaine.id.us
Cc: 'Merritt, Allen'
Subject: Re: Smith/Application for Permit 37-20743

Al, Craig & Tim,

I have made some redlined changes to Allen's original draft approval of this permit application. I believe they address your concerns. Please let me know as soon as possible if you will withdraw your protests contingent upon the issuing of the permit in this form. Thank you.

Jim

James P. Speck

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