

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Buy - The - Way, L.L.C. Phone 208-983-1006
Mailing address 217 East Main Street, Grangeville, ID 83530 Email
2. Source of water supply Johns Creek which is a tributary of Red Rock Creek
3. Location of point of diversion is Township 30 N Range 2 E Sec. 25, in the SE $\frac{1}{4}$,
NW $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot , B.M., Idaho County;
additional points of diversion if any:
4. Water will be used for the following purposes:
Amount 2 AF for recreational storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)
Amount 2 AF for aesthetic storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)
Amount 0.60 for diversion to storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per year)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per year)
Amount for purposes from to (both dates inclusive)
(cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) 0.60 and/or (b) 2
cubic feet per second acre feet per year
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source A 4" ABS pipe, with adjustable valve, running from Johns Creek into the pond and a 4" ABS overflow pipe running back into Johns Creek.
 - b. Height of storage dam feet; active reservoir capacity acre-feet;
total reservoir capacity 2 acre-feet
 - c. Proposed well diameter is inches; proposed depth of well is feet
 - d. Is ground water with a temperature of greater than 85°F being sought?
 - e. If well is already drilled, when? ; Drilling firm ;
Well was drilled for (well owner) ; Drilling Permit No.
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9): Pond for subdivision
 - a. Hydropower; show total feet of head and proposed capacity in kW.
 - b. Stockwatering; list number and kind of livestock.
 - c. Municipal; show name of municipality.
 - d. Domestic; show number of households.
 - e. Other; describe fully.

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WATER RESOURCES
WESTERN REGION

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
30N	2E	25										X							

Total number of acres to be irrigated: _____

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? See #12

11. a. Who owns the property at the point of diversion? Buy - The - Way, L.L.C

b. Who owns the land to be irrigated or place of use? Same

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Per mat Weaver's (IDWR) recommendation we are applying for an additional permit because the original water right (license 79-14134) does not cover the full beneficial use as constructed. We are applying for additional permit to cover the remaining portions of the pond and diversion that are not currently covered by the original water right.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

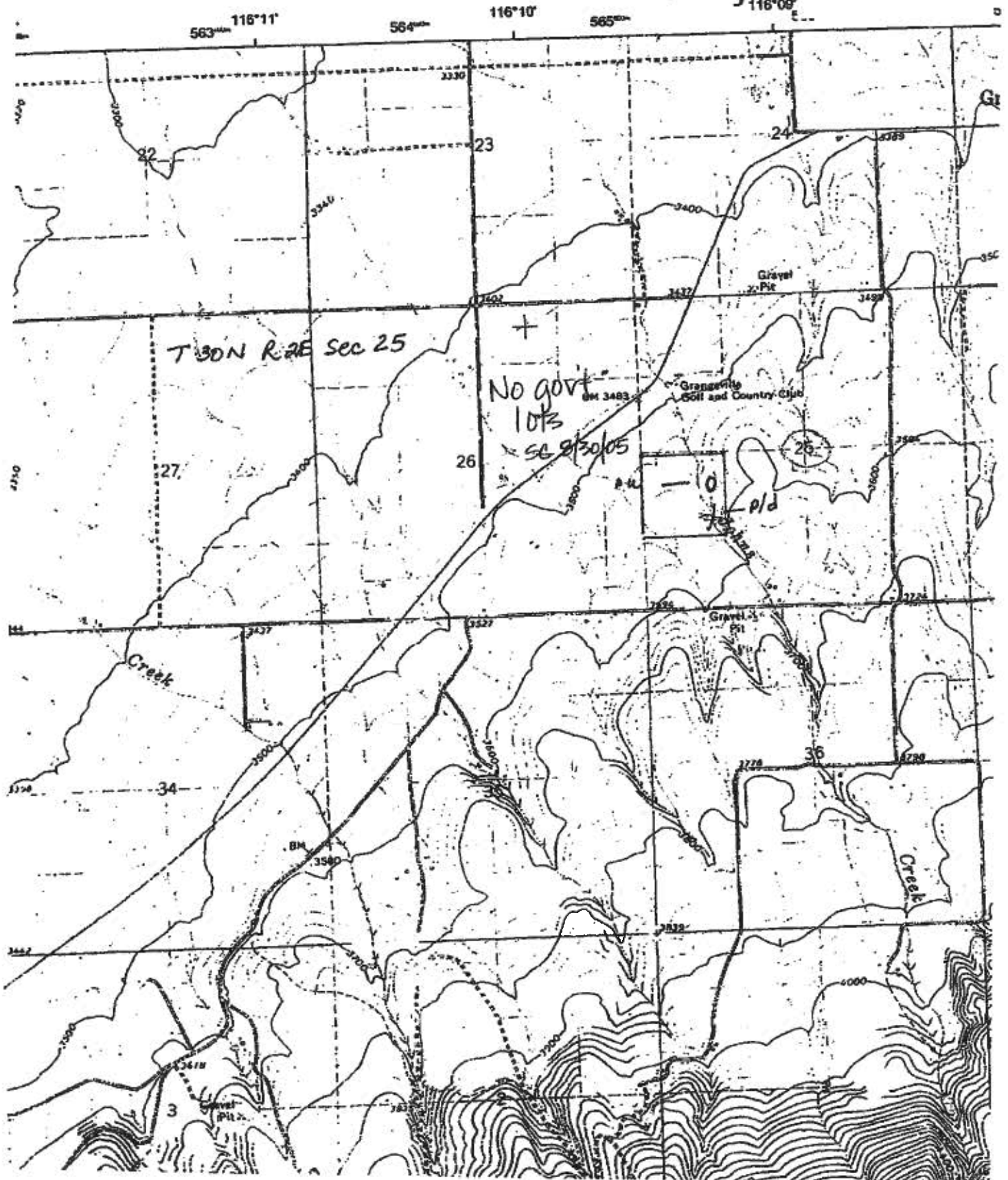
Debbie L. Tomlinson
Signature of Applicant

Debbie L. Tomlinson, Secretary
Print Name (and title, if applicable)

Received by gmh Date 3-9-09 Time 1:10 pm Preliminary check by _____
Fee \$ 100.00 Received by gmh Receipt No. W037234 Date 3-9-09
Rec'd #150.00 SB W038840 11-9-2010
11/8/2010

BTW, LU 1

1:24,000 USGS
Orangeville West



79-14134

79-14227

WorkCentre 7345 Transmission Report

G3 ID

Date/Time: 12/09/2010:02:01PM
Page: 1 (Last Page)

Local Name
Logo

Document has been sent.
Document Size 8.5X11"SEF

FAX Transmittal Cover Sheet

State of Idaho
Department of Water Resources
Western Region
Boise, ID
PH: (208) 334-2190
FAX NO: (208) 334-2348

Number of total pages: 3

Date: December 9, 2010

To: Idaho County Free Press, Attn: Nana Donaldson

From: Denise Buffington

Fax: (208) 983-1336

Attached please find (1) legal notice being submitted for publication. If you have any questions about the attached information; or if you are not able to run the notice on the dates requested, please contact me immediately. This information was also sent via e-mail earlier today.

Thank you in advance,

Denise

Denise Buffington
Administrative Assistant I

Total Pages Scanned: 3 Total Pages Sent : 3

No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	6767	2089831336	12- 9: 2:00PM	28s	3/ 3	SG3		CP

Note:
RE: Resend MB: Send to Mailbox BC: Broadcast MP: Multi Polling RV: Remote Service
PG: Polling RS: Relay Broadcast RS: Relay Send BF: Box Fax Forward CP: Completed
SA: Send Again EN: Engaged AS: Auto Send TM: Terminated

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Thank you in advance,



Denise Buffington
Administrative Assistant I

Buffington, Denise

From: Buffington, Denise
Sent: Thursday, December 09, 2010 12:52 PM
To: Idaho County Free Press
Subject: LEGAL NOTICE
Attachments: Idaho Co. Cover Letter.Doc; Idaho Co. Ads.doc

Attached please find (1) legal notice being submitted for publication. Please contact me immediately if you have any questions, or if you are not able to publish the ad on the dates requested.

Thank you in advance,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

December 9, 2010

LEGAL NOTICE DEPARTMENT

IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE, ID 83530

RE: Application For Permit No(s): 79-14227

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 1/3/2011. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

79-14227

BUY THE WAY LLC

217 E MAIN ST

PO BOX 711

GRANGEVILLE, ID 83530

Point of Diversion SENWSW S25 T30N R02E IDAHO County Source JOHNS CREEK Tributary ROCK CREEK

Use: RECREATION STORAGE 01/01 to 12/31 2 AF

Use: AESTHETIC STORAGE 01/01 to 12/31 2 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 0.6 CFS

Total Diversion: 0.6 CFS

Date Filed: 3/9/2009

Place Of Use: RECREATION STORAGE & AESTHETIC STORAGE

T30N R02E S25 NWSW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 1/3/2011. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 12/15 & 12/22/2010

Buffington, Denise

From: Buffington, Denise
Sent: Thursday, December 09, 2010 1:47 PM
To: Thiel, Sandra
Subject: Comment Letter for 79-14227
Attachments: 79-14227 Comment Letter to Planning.doc; 79-14227 APP.pdf

Attached is a cover letter and copy of an Application for Permit, for your review &/or comments. If you have any questions regarding the attached information, please feel free to contact our office.

Thank you in advance,

*Denise Buffington
Administrative Assistant I
Dept of Water Resources
Western Region
(208) 334-2190*

December 9, 2010

IDAHO DEPT OF WATER RESOURCES
ATTN: SANDRA THIEL, PLANNING BUREAU
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: Application for Permit: 79-14227

Dear Ms. Thiel:

Attached are copies of one or more applications that may be of interest to you. Please contact the applicant(s) if you have concerns about the application(s). In addition, you may refer to the current Review Memo, which can be found in Power Docs, listed under the water right number referenced above.

Please submit any comments you may have to this office within 21 days of the date of this letter. Regional review of unprotested applications can be completed as soon as the final protest period is past; your prompt response to this request is appreciated so that your recommendation can be considered during regional review.

Please contact this office at 334-2190 if you have any questions regarding the application(s).

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure

MEMORANDUM

TO: Application No. 79-14227
FROM: Kay Walker *Kay*
DATE: December 2, 2010
RE: Salmon-Clearwater Processing, Basins 77-79 Western Region

The application proposes to increase the size of a pond that was field examined and determined that original permit (79-14134) did not fully cover the amount of storage that had been developed.

The site is located approximately 1.5 miles southwest of Grangeville.

Contact person for the applicant is Debbie Tomlinson, Secretary of the LLC at (208)983-1006, or David Wimer, Manager, at (208)983-0262.

Wild & Scenic River (WSR) Processing

General Information - WSR processing applies to portions of Bs 77 and 78 but not to Bs 79.

Minimum Streamflow Rights (MSF)

General Information - MSF analysis applies to all surface water upstream¹ from any MSF rights. Basins 77-79 have various MSF rights that might affect applications. By agreement with SO regarding these basins, specific MSF conditions of approval are not necessary provided the reviewer checks MSF issues and documents the file with the results (7/8/09 telephone conference).

Downstream MSF right 3-8 on the Snake River² is not subordinate to "future dcmi" uses or "future non-dcmi (with cfs limits)" uses. Downstream Salmon River MSF right 79-14119³ is subordinated to future dcmi uses but not to future non-dcmi uses.

All Basin 77-79 MSF rights upstream from the ending point of 79-14119 (mouth of Salmon River) include subordination to future dcmi uses. Most of those upstream MSF rights are also subordinate to various amounts of future non-dcmi uses. None of the future non-dcmi cfs rates have been exceeded yet by new approvals. Further MSF analysis is generally not needed until a specific future non-dcmi cfs rate is exceeded.

Because the review memo extensively covers WSR and MSF issues, SO Planning Bureau comments are not needed yet (prior agreement with SO). Planning will be contacted for comments during the legal notice process as a precaution.

¹ Shallow ground water tributary to surface water might involve MSF issues under conjunctive management thinking. Discuss with your supervisor if this comes up.

² POD = T31N-R5W-S10.

³ From mouth of river T29N-R4W-S14 upstream thru about Shepp Ranch T24N-R6E-S12.

Specific Information for this Application – MSF analysis is required for the proposed surface water source.

The source, Johns Creek, is tributary to Rock Creek which has MSF right 79-14117 that allows new non-dcmi uses up to 1.3 cfs. To date, we have only issued new non-dcmi uses for 0.15 cfs so we have a cushion of water to allow this use.

This system diverts water from Johns Creek, runs through the existing pond, and then the water is injected back into Johns Creek, which is almost non-consumptive so there would be little impact on the tributary.

This leads to the following MSF conclusions for this application:

- Senior MSF right 3-8 will not be subordinated to the proposed uses.
- Senior MSF right 79-14119 will not be subordinated to the proposed non-dcmi uses.
- Senior MSF right 79-14117 will be subordinated to the proposed non-dcmi uses.

The attached MSF spreadsheet shows the application meets the criteria for MSF rights in the same basin.

Discussion

This application is for an existing pond that was built larger than original Permit 79-14134 covered. The application was submitted following a field examination of IDWR employee, Mat Weaver, on July 9, 2008.

Normal Rule 40 information is not applicable and additional information is unnecessary because the project is completed. The applicant did obtain comment letters from IDFG and IDEQ; those comments did influence specific conditions that will be recommended if the application is approved.

Conditions of Approval

In addition to typical standard conditions (004, 121 etc.), use the following standard, modified &/or unique conditions for Basins 77-79.

Per IDFG comments, use the following:

- **029 modified** - Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game at the point of diversion from Johns Creek and the point of return flow to Johns Creek.
- **X16 modified** – The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

Per IDEQ comments, use the following:

- **D08 modified** - The amount of water diverted under this water right may not exceed 25% of the stream flow of Johns Creek at the point of diversion described above at any given time. Upon notification by the Department, the right holder shall install a measuring device on Johns Creek or provide stream flow measurement data from a qualified party.

BS 79 MINIMUM STREAMFLOW RIGHTS -- QUERY 12/1/2009

Basin	Sequence	Priority	Source	Subordinate to Future DCMI	Subordinate to Future Non DCMI (CFS Limit)	Non DCMI CFS Approved Since 4/1/2005
79	14054	12/31/1975	BERNARD CREEK			
79	14055	12/31/1975	BIG CANYON CREEK			
79	14056	12/31/1975	CORRAL CREEK			
79	14057	12/31/1975	DEEP CREEK			
79	14058	12/31/1975	GRANITE CREEK			
79	14059	12/31/1975	JONES CREEK			
79	14060	12/31/1975	KIRBY CREEK			
79	14061	12/31/1975	KIRKWOOD CREEK			
79	14062	12/31/1975	KLOPTON CREEK			
79	14063	12/31/1975	KURRY CREEK			
79	14064	12/31/1975	OXBOW CREEK			
79	14065	12/31/1975	SHEEP CREEK			
79	14066	12/31/1975	THREE CREEK			
79	14067	12/31/1975	WEST CREEK			
79	14123	4/1/2005	LITTLE SLATE CREEK	YES	1	0
79	14118	4/1/2005	RICE CREEK	YES	0.7	0.2
79	14117	4/1/2005	ROCK CREEK	YES	1.3	0.15
79	14119	4/1/2005	SALMON RIVER	YES	NO	N/A
79	14121	4/1/2005	SKOOKUMCHUCK CREEK	YES	0.4	0
79	14122	4/1/2005	SLATE CREEK	YES	2	0
79	14120	4/1/2005	WHITE BIRD CREEK	YES	1.3	0.05

These are federal rights for Hells Canyon Natl. Rec. Area, no conditions for future dcmi or future non-dcmi cfs except these msf rights are subordinated to junior de minimus domestic & stock uses meeting rate/volume limits in 42-111. No pending applications in these areas, will deal with future issues when they occur. Other msf rights listed below are typical state rights with dcmi etc. factors to evaluate in processing new applications.

IF APPLICATION WITHIN ABOVE ITALICIZED DRAINAGES FOR HELLS CANYON AREA, CONSULT SUPERVISOR.

OTHERWISE, DCMI APPL OK, NON-DCMI APPL OK WITHIN ALLOWABLE PARAMETERS. SEE "PROCEDURE" BELOW.

PROCEDURE: DCMI APPL ok for all msf rights in Bs 79 as noted in review memo. NON-DCMI CONSUMPTIVE USE APPL: See if within drainage with msf right. For that msf right, if column G (last) is less than column F (2nd to last), ok to process appl. Note in review memo that senior msf right will be subordinate to junior application under the future non-dcmi clause. Do not need to repeat for msf rights downstream from the msf right you are actively checking since the downstream future non-dcmi rates are higher for those bigger sources. Satisfying the smaller upstream rate test satisfies the larger downstream rate test. For the msf right you are actively checking, if column G (last) is equal to or greater than column F (2nd to last), consult supervisor for next step.

EXAMPLE: Appl 79-98765 for 0.2 cfs irrigation, future non-dcmi consumptive use tributary to Rice Creek. Rice Creek msf right with 4/1/2005 priority is subordinate to 0.7 cfs future non-dcmi use, only 0.2 cfs approved since 4/1/2005. Process appl and note review memo about this. Salmon River msf right will not be subordinate to application (no future non-dcmi clause in that msf right) as noted in review memo. Updates to this spreadsheet will eventually show another 0.2 cfs has been approved for Rice Creek.

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NOV 08 2010



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

September 21, 2010

BY-THE-WAY LLC
PO BOX 711
GRANGEVILLE ID 83530

Re: Application for Permit 79-14227

Dear Applicant:

E.K.RILEY
INVESTMENTS
MEMBER NASD / SIPC

David R. Wimer, CFA
Financial Services Group

217 East Main Street
Grangeville, Idaho 83530

208.983.0262 local
800.676.0262 national
208.983.2236 facsimile

The Idaho Department of Water Resources (IDWR) is reviewing your application for a new water permit from a source within the Salmon River basin. Additional information is needed to fully evaluate your proposal. IDWR is working with other agencies of the State of Idaho regarding projects requiring new water right approval within the Salmon River basin.

Please see the enclosed attachment about additional information for your application. Page 1 of the attachment outlines the legal basis and reasons for this request. That page also provides contact information for the other state agencies that will be involved in this process. Please provide written comments from those other state agencies regarding your application. The other requirements in the attachment are waived for your application.

Also, please be advised that the filing fee for this application, as submitted, would be \$250.00 rather than the \$100.00 fee you submitted. The filing fee is based upon the greater of the two amounts being filed on. In this case, if you wish to divert at 0.60 cfs the fee would be based upon this amount and the priority date will be advanced to the date the additional fee is submitted. If you wish to amend the application to only 0.20 cfs and the \$100.00 fee, please submit an amended application form.

Please provide the requested information within the next sixty (60) days. Alternately, you may seek up to six months additional time to provide the information. The application will be voided if a timely written response is not received. A refund of the filing fee will not be issued for a voided application.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

Enclosure

#150 - rec'd 11/8/2010 DB W038840
(Receipted 11-9-2010)

IDAHO DEPARTMENT OF WATER RESOURCES

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

Water Appropriation Rules 40.05.c-g authorize IDWR to seek more information to evaluate the above criteria. Please see the attached copy of those rules.

Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values for rivers and streams. IDWR is, therefore, requiring applicants to submit additional information required by Rules 40.05.g, local public interest. Other information in the remainder of those rules is requested only if necessary.

The cover letter included with this attachment identifies the Rule 40.05.c-g information needed for your application.

The following state agency representatives will help you respond to the local public interest requirement of Rule 40.05.g. IDWR must receive written comments from both of those agencies.

Idaho Department of Fish & Game contact list for water right applications:

Panhandle Region:	Mary Terra-Berns at 208-769-1414
Clearwater Region:	Ray Hennekey at 208-799-5010
McCall Subregion:	Dale Allen at 208-634-8137
Salmon Region:	Tom Curet at 208-756-2271
Southwest Region:	Rick Ward at 208-465-8465

Idaho Department of Environmental Quality contact list for water right applications:

Lewiston:	Cindy Barrett at 208-799-4370 (Clearwater or lower Salmon River basins)
McCall:	Leslie Freeman at 208-634-4900 (South Fork Salmon River basin)
Idaho Falls:	Troy Saffle at 528-2650 (Upper Salmon, Lemhi, Pahsimeroi basins)

Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water. . .

Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

- i. Information shall be submitted 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.
- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, 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.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

Note: Limited response for Section F is acceptable for projects that will cost less than \$5,000. In those cases, simply state the total cost of the project. Plans and specifications are not required under those circumstances.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

Note: Section G is typically satisfied by submitting comments from IDFG and IDEQ. Seeking comments from other entities is not necessary unless the applicant is otherwise notified by IDWR.



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NOV 08 2010

WATER RESOURCES
WESTERN REGION

IDAHO DEPARTMENT OF FISH AND GAME

CLEARWATER REGION

3316 16th Street

Lewiston, Idaho 83501

C.L. "Butch" Otter/Governor

Cal Groen/Director

October 26, 2010

Debbie L. Tomlinson
Buy-the-Way, LLC
PO Box 711
217 East Main Street
Grangeville, Idaho 83530

Dear Ms. Tomlinson:

REFERENCE: APPLICATION FOR A WATER RIGHT APPROPRIATION, ID# 79-14227

IDFG has reviewed Buy-the-Way, LLC's draft application for an appropriation of water from Johns Creek, Idaho County for a pond of 2 AF storage for recreation and aesthetics. Diversion would be up to 0.6 cfs.

According to your application and a telephone discussion with Dan Wimer of Buy-the-Way, LLC, the diversion from Johns Creek and the pond already exist. A water right previously obtained for the pond miscalculated the volume of the pond. This application is intended, therefore, to correct the water right so that it reflects the actual amount of water already being diverted and stored.

Because the pond and diversion already exist and have been in use for some time without having had adverse impacts that we are aware of, IDFG has no objection to the revised water right as long as all other required state and federal permits are secured.

Please note that your diversions, as well as returns, must be screened to prevent fish access to the diversion and pond, or from the pond to the stream. Diversions should be screened with a maximum screen mesh size of 0.25 inches; and approach velocities should not exceed 0.5 ft/second to prevent losses of juvenile fish.

Finally, during our telephone conversation, Mr. Wimer mentioned an unfulfilled intention to stock the pond with fish. Although your application does not indicate an intention to stock fish, we want to inform you that a permit is required prior to stocking private ponds with fish. In addition, unless the fish to be stocked are delivered by a commercial hatchery (required for trout), the applicant must acquire a fish transport permit to bring fish to the pond. Please contact our Lewiston office to obtain those permits and additional assistance if you are considering stocking the pond.

Please contact Ray Hennekey at this office (208-799-5010) if you have any questions regarding our comments on your application.

Thanks for the opportunity to review your proposal.

Sincerely,

Dave Cadwallader
Clearwater Regional Supervisor

c: Sharon Kiefer, IDFG HQ
Cindy Barrett, IDEQ Lewiston
Kay Walker, IDWR

Keeping Idaho's Wildlife Heritage



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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NOV 08 2010

WATER RESOURCES
WESTERN REGION

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

October 7, 2010

Debbie L. Tomlinson
Buy-The-Way, LLC
P.O. Box 711
Grangeville, ID 83530

RE: Comments, Water Right Application

Dear Ms. Tomlinson,

We received your request for our comments on the approval of your application for a permit to appropriate water from Johns Creek, tributary to Rock Creek, located in Idaho County. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

Johns Creek is currently listed in Section 5 in the Draft Idaho 2010 Integrated Report as not meeting aquatic life beneficial uses due to increased nutrients. Johns Creek is also listed in Section 4a of the Draft Idaho 2010 Integrated Report as having a Total Maximum Daily Load (TMDL) allocation for temperature, sediment, and *E. coli* bacteria pollutants. The TMDL is a pollution management plan that calculates the maximum amount of a pollutant allowed in the creek based on the volume or flow of water in the creek. Reduction in flow in Johns Creek can cause water temperature, sediment, and bacteria increases that exceed the total maximum daily load and Idaho water quality standards.

Based on the Johns Creek TMDLs, we are concerned that there may not be sufficient flow outside the seasonal high flow period to support the pond, the existing beneficial uses, and provide the volume necessary for the TMDL allocations for listed pollutants. We recommend that the legally appropriated withdrawal be made during periods of seasonal high flow or at a minimum, flows greater than 1 cfs. At no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please call us at (208) 799-4370 or email, Cynthia.Barrett@deq.idaho.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cindy Barrett".

Cindy Barrett
Water Quality Analyst

c: Kay Walker, IDWR, Boise
John Cardwell, IDEQ, Lewiston
Ray Hennekey, IDFG, Lewiston
Marti Bridges, IDEQ, Boise



RECEIVED

NOV 03 2010

WATER RESOURCES
WESTERN REGION

IDAHO DEPARTMENT OF FISH AND GAME

CLEARWATER REGION

3316 16th Street
Lewiston, Idaho 83501

C.L. "Butch" Otter/Governor
Cal Groen/Director

October 26, 2010

Debbie L. Tomlinson
Buy-the-Way, LLC
PO Box 711
217 East Main Street
Grangeville, Idaho 83530

Dear Ms. Tomlinson:

REFERENCE: APPLICATION FOR A WATER RIGHT APPROPRIATION, ID# 79-14227

IDFG has reviewed Buy-the-Way, LLC's draft application for an appropriation of water from Johns Creek, Idaho County for a pond of 2 AF storage for recreation and aesthetics. Diversion would be up to 0.6 cfs.

According to your application and a telephone discussion with Dan Wimer of Buy-the-Way, LLC, the diversion from Johns Creek and the pond already exist. A water right previously obtained for the pond miscalculated the volume of the pond. This application is intended, therefore, to correct the water right so that it reflects the actual amount of water already being diverted and stored.

Because the pond and diversion already exist and have been in use for some time without having had adverse impacts that we are aware of, IDFG has no objection to the revised water right as long as all other required state and federal permits are secured.

Note Please note that your diversions, as well as returns, must be screened to prevent fish access to the diversion and pond, or from the pond to the stream. Diversions should be screened with a maximum screen mesh size of 0.25 inches; and approach velocities should not exceed 0.5 ft/second to prevent losses of juvenile fish.

Finally, during our telephone conversation, Mr. Wimer mentioned an unfulfilled intention to stock the pond with fish. Although your application does not indicate an intention to stock fish, we want to inform you that a permit is required prior to stocking private ponds with fish. In addition, unless the fish to be stocked are delivered by a commercial hatchery (required for trout), the applicant must acquire a fish transport permit to bring fish to the pond. Please contact our Lewiston office to obtain those permits and additional assistance if you are considering stocking the pond.

Please contact Ray Hennekey at this office (208-799-5010) if you have any questions regarding our comments on your application.

Thanks for the opportunity to review your proposal.

Sincerely,

Dave Cadwallader
Clearwater Regional Supervisor

c: Sharon Kiefer, IDFG HQ
Cindy Barrett, IDEQ Lewiston
Kay Walker, IDWR

Keeping Idaho's Wildlife Heritage



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

October 7, 2010

RECEIVED

Debbie L. Tomlinson
Buy-The-Way, LLC
P.O. Box 711
Grangeville, ID 83530

OCT 12 2010
WATER RESOURCES
WESTERN REGION

79-14227

RE: Comments, Water Right Application

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Sincerely,

A handwritten signature in black ink that reads "Cindy Barrett". The signature is written in a cursive, flowing style.

Cindy Barrett
Water Quality Analyst

c: Kay Walker, IDWR, Boise
John Cardwell, IDEQ, Lewiston
Ray Hennekey, IDFG, Lewiston
Marti Bridges, IDEQ, Boise



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

September 21, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Buy

BY-THE-WAY LLC
PO BOX 711
GRANGEVILLE ID 83530

Re: Application for Permit 79-14227

Dear Applicant:

The Idaho Department of Water Resources (IDWR) is reviewing your application for a new water permit from a source within the Salmon River basin. Additional information is needed to fully evaluate your proposal. IDWR is working with other agencies of the State of Idaho regarding projects requiring new water right approval within the Salmon River basin.

Please see the enclosed attachment about additional information for your application. Page 1 of the attachment outlines the legal basis and reasons for this request. That page also provides contact information for the other state agencies that will be involved in this process. Please provide written comments from those other state agencies regarding your application. The other requirements in the attachment are waived for your application.

Also, please be advised that the filing fee for this application, as submitted, would be \$250.00 rather than the \$100.00 fee you submitted. The filing fee is based upon the greater of the two amounts being filed on. In this case, if you wish to divert at 0.60 cfs the fee would be based upon this amount and the priority date will be advanced to the date the additional fee is submitted. If you wish to amend the application to only 0.20 cfs and the \$100.00 fee, please submit an amended application form.

Please provide the requested information within the next sixty (60) days. Alternately, you may seek up to six months additional time to provide the information. The application will be voided if a timely written response is not received. A refund of the filing fee will not be issued for a voided application.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

Enclosure

Dave Wimer called
will seek
comments &
send us another
\$150.00
10-6-10
(scanned & e-mailed
app to him.)