



State of Idaho

DEPARTMENT OF WATER RESOURCES

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November 1, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

CAROL LYNN MACGREGOR
1109 WARM SPRINGS AVE
BOISE ID 83712

RE: Application for Amendment of Permit for 65-13912

Dear Dr. MacGregor,

On September 29, 2010, the Idaho Department of Department of Water Resources (IDWR) sent you a letter that included a technical review of information submitted to IDWR regarding permits 65-13912 and 65-13913. On October 8, 2010, you met with me and Mat Weaver (IDWR staff) at IDWR's state office to go through each of the itemized deficiencies that were outlined in the letter.

At this time I would like to thank you for your time and your continued cooperation. I believe that the meeting was very productive in clarifying your development and plans for your permits. The remaining of this letter summarizes our discussion at the meeting and outlines future requirements and considerations.

At the meeting, IDWR staff were notified that development of the spring authorized by permit 65-13912 is complete and that you would like to finalize the appropriation process for this permit. In addition, you told us that a three bedroom home, equipped with a hot tub and an outdoor pool, has been constructed where the spring water is being used to heat the home, hot tub and pool. You stated that you no longer plan to develop commercial uses at the authorized place of use under permit 65-13912.

Regarding permit 65-13913, you stated that there is not a beneficial use taking place from the well at this time and that an extension of time to submit proof of beneficial use may be filed.

It is my understanding that you intend to use the three-bedroom house, from time to time, as a vacation rental, but is no longer part of a spa development as you had envisioned. IDWR staff explained that one option would be to amend permit 65-13912 to change the nature of use from commercial use to domestic use. Heating use will remain on the permit. An amendment of permit (amendment) was submitted at the meeting. You also requested that IDWR waive Condition #5¹ and Condition #9² because Condition #5 is no longer

¹"Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality."

²"Prior to construction of diversion works for the surface low-temperature geothermal water from Belvidere Hot Springs, the right holder must submit plans and specifications for the spring diversion to the Department, and the Department must approve the plans and specifications. The plans and specifications must provide for direct water delivery to water rights no. 65-12891 and no. 65-13332, at no cost to the holder of those rights, to replace reductions in the quantity or temperature of water historically diverted under water rights nos. 65-12891 and 65-13332 caused by diversions under permit no. 65-13912."

applicable and you feel that Condition #9 is unnecessary since you are no longer developing a commercial use.

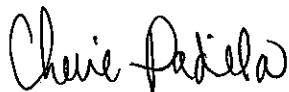
If the water authorized under this permit is being used to heat the home, hot tub, and pool only and that the water is not used for any other beneficial use, the amendment can be approved to reflect heating use only. Re-advertising the changes in the local newspaper and re-opening this permit to a protest period would not be required if the amendment simply drops commercial use from the permit. However, by requesting the removal of Condition #9, which is on the permit as required by final order³, IDWR will contact the protestants⁴ and make them aware of the proposed changes to the permit and give them the opportunity to comment or protest the amendment. Alternatively, you can provide evidence that you have contacted the protestant and secured their approval on the matter.

Previously, Mat evaluated statements made by Bill Carter of Musgrove Engineering, PA (Musgrove) that were part of engineering computations to determine the geothermal water used at the single-residence home. Musgrove estimated that 27 gpm or 0.06 cfs is the maximum amount of water required to fulfill your uses at the residence in connection with permit 65-13912. At the meeting, you agreed with the statements made by Musgrove despite the fact that permit 65-13912 authorizes the development of 224 gpm minute or 0.50 cfs.

If the protestants are not initially comfortable with removing Condition #9, you may consider using the removal of excess diversion rate from the permit as a token of good faith in acquiring their approval in removing Condition #9. Alternatively, the amendment can be approved by removing the commercial use and Condition #5 but keeping Condition #9 on the permit. You still have nearly a year to complete your development under this permit and should have time to comply with the condition.

I will hold action on your amendment until I hear back from you on how you would like to proceed. You may contact me at (208) 287-4944 or by email at Cherie.Padilla@idwr.idaho.gov to discuss this matter.

Sincerely,



Cherie Padilla, Sr. Water Resource Agent
Water Allocation Bureau

³ Former Director Karl Dreher's Final Order, in the Matter of Applicants to Appropriate Water Right Nos. 65-13912, 65-13913, and 65-13986 in the Name of Carol Lynn MacGregor dated October 4, 2006.

⁴ Darwin Pancheri, Duane Pancheri, and Joan Pancheri