



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 16, 2010

LAKEVIEW WATER DISTRICT
ATTN: BOARD PRESIDENT
PO BOX 2136
OROFINO, ID 83544

RE: Water Permits 83-7118, 83-7136, and 83-11931

Lakeview Water District Board President,

On December 31, 2008 and August 26, 2008 I sent two letters to Mr. Larry Annen regarding the matter of licensing the Lakeview Water District's (LWD) outstanding permits, and updating existing water rights so that the contact information and water right information was consistent throughout the suite of LWD permits and water rights. I received two letters in response to my correspondences. One was from Mr. Annen dated December 2, 2009 in which he provided detailed answers and exhibits to all of my remaining technical concerns regarding this matter. Mr. Annen also indicated that he was no longer the point of contact for these matters and that I should direct future correspondence to the LWD Board President. The second letter was from Shanon Jones dated December 17, 2009 indicating that the matters presented in my correspondence to Mr. Annen were under review by the Board, which was currently determining how to proceed.

I feel there may be a little bit of confusion on the part of the Board, due in part to my previous correspondence. I would like to take this opportunity to clarify matters. A license amendment is required by the Department any time an element of the permit differs from what has actually been constructed during the beneficial use development period, provided the Department determines the change will not result in an enlargement or increase in the water beneficially used under the permit and future water right license. Elements of the permit that can be modified through the amendment process at the time of licensing include changes in ownership name and contact information, changes in point(s) of diversion, changes in place of use, and changes in the description of beneficial use. In the case of the LWD's three existing permits, modification to multiple elements of each permit is required. A summary of the modification required for each permit are as follows:

83-7118

- Update the address on the permit from 4129 Eureka Ridge Road Orofino, ID 83544 to PO Box 2136 Orofino, ID 83544.
- Add three points of diversion, representing wells 3, 4, & 5 to the water right permit and subsequent license.
- Modify the place of use description to refer to the general description of the Lakeview Water District service area (similar to 83-11931).
- Change the beneficial use description from domestic to municipal.

83-7136

- Add four points of diversion, representing wells 1, 2, 3, and 5 to the water right permit and subsequent license.
- Modify the place of use description to refer to the general description of the Lakeview Water District service area (similar to 83-11931).
- Change the beneficial use description from domestic and irrigation to municipal.

83-11931

- Change the owner's name from Lakeview Recreation Water District to Lakeview Water District.
- Update the address on the permit from 4115 Eureka Ridge Road Orofino, ID 83544 to PO Box 2136 Orofino, ID 83544.
- Add four points of diversion, representing wells 1, 2, 3, & 4 to the water right permit and subsequent license.

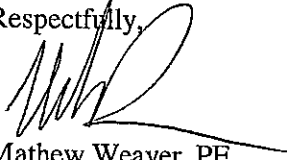
Enclosed with this letter are three Application for Amendment forms depicting the modified elements of the water rights, as they will appear on the licenses when issued. Please review the amendment forms carefully. If you concur with the information presented, please sign the forms and return them with a \$50.00 (incorrectly identified at \$25.00 in the December 2008 letter) filing fee for each amendment form within 30 days. I have determined that an Assignment of Permit is not necessary and the change in ownership required for permit 83-7118 can be carried out in the Application for Amendment.

It is my understanding that the LWD may be considering not signing and paying the processing fees associated with the three Applications for Amendment. At the end of 30 days, should the LWD fail to respond to this letter or choose not to sign the Application for Amendment forms and pay the combined processing fee of \$150.00, I will move forward in issuing water right licenses with the information currently contained on the permits and verified during my field examination. This would not be my preference for the following reasons:

1. Your licensed water rights will not accurately describe LWD's physical public water system with all existing points of diversion and correct place of use.
2. Your licenses will be issued for diversion rates less than the diversion rates that the Department can issue with approved Applications for Amendment.
3. Once the three water rights are licensed, the existing physical configuration and operational procedures of the LWD water supply system will be in violation of the licensed water rights. If a person or entity is suspected of using water without having a valid water right license that accurately describes the beneficial use of water, they are subject to a "Notice of Violation" from the Department and at the Director's discretion are subject to civil enforcement actions (IC§42-351). Any person determined in a civil enforcement action to have willfully and knowingly or after notice diverted water not in accordance with their water right shall be liable for civil penalty. Civil penalties shall not exceed \$100 per calendar day per diversion (IC§42-352).
4. In order to resolve the Notice of Violation the Department will require the LWD to amend their water rights via an Application for Transfer, such that each water right accurately represents the physical use of water by the LWD. Combined transfer processing fees for three water rights, each diverting less than 0.20 CFS is \$300.00.
5. Water rights 83-7118 and 83-11931 would be in violation of IC§42-248, which requires the owner of all water rights to maintain current and accurate ownership and address records on file with the Department.

Hopefully the Board's desire not to sign the Application Amendment forms is due to a lack of complete understanding of the matter and any confusion that may have existed in my previous correspondences with Mr. Annen. If you have any questions regarding any of these issues I would encourage you to contact me by email at mathew.weaver@idwr.idaho.gov or by telephone at (208) 287-4914.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mathew Weaver', with a long horizontal line extending from the end of the signature.

Mathew Weaver, PE
Staff Engineer

Enclosures