State of Idaho
DEPARTMENT OF WATER RESOURCES
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February 5, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

BROCKWAY ENGINEERING
2016 N WASHINGTON ST STE 4
TWIN FALLS, ID 83301

RE: Applications for Permit (MOO VIEW COW PALACE)

Gentlemen:

I am in the process of reviewing the two applications you recently submitted as Representatives for Moo View Cow Palace and several questions have come up in discussions with our State Office.

Regarding the application for domestic uses on Woodbury Spring (45-14106), there are two approaches we can take in order to process this according to the Amended Moratorium Order signed on April 30th, 1993.

Item 5, page 5, of the Amended Moratorium Order states that the moratorium does not apply to any application for domestic purposes as defined under Section 42-111. Idaho Code. The exception for multiple ownership subdivisions and mobile home parks however pertains to ground water only. Because the proposed use is for surface water (spring), the only way we could process it would be to limit all four homes/domestic uses to a **combined total of 13,000 gallons per day and a combined total of ½ acre of irrigation**.

Otherwise, we could process it under Item 9, b, also on page 5 of the Amended Moratorium Order, which states the use is an **insignificant consumption of water**. This would mean for **in-house use only** and in that case, **each home/domestic use would be limited to 13,000 gallons per day with no volume limitation but the number of cows would be limited**.

A third option, of course, would be to submit four separate applications, one for each use. Under this scenario, each could receive their own 13,000 gallons per day and ½ acre of irrigation. Please indicate which way you wish us to process this application.

As for the other application for re-charge (45-14107), under 42-4201A (2), the use must be a **beneficial use and will be subordinated to all other uses, including water rights for power purposes**. We are not convinced that this is actually recharge because the pond is also used for irrigation purposes. Please submit additional information such as infiltration rates, etc. to demonstrate that seepage will occur fast enough so that the water is not exposed to evaporation and consumed and also indicate how the system will be managed to differentiate recharge water from irrigation storage water.

Without additional data showing that recharge to the aquifer will actually occur, the application may be viewed as speculative. Keep in mind that our region has approved only two recharge permits in the last 15 years. The following are some examples of conditions that would most likely be applied to this right, if approved.

1. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
2. Pursuant to Section 42-4201A(3), Idaho Code, the Director may reduce the amount of water diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
3. The use of water for ground water recharge purposes under this right does not provide a right to recover ground water for any purpose nor a credit as mitigation for diversion associated with any existing or future water right.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.
5. The ground water recharge portion of this right is subject to all prior water rights, including those water rights for power purposes that may otherwise be subordinated by contract entered into by the governor and Idaho Power Company on October 25. 1984, and ratified by the legislature pursuant to Section 42-203B, Idaho Code.
6. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
7. To insure that other water rights are not injured by the operations of the recharge project authorized by this right, the director retains jurisdiction to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.

The Department will hold further processing of your applications for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the applications.

Sincerely,

Jeanie Robertson
Sr. Water Resource Agent