



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718  
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

April 6, 2010

Lex Smith  
1969 South 1900 West  
Malad, ID 83252

Re: Application for Permit 15-7307, Rule 40.05 Requirements

Dear Applicant,

The Idaho Department of Water Resources (IDWR) is requesting that you provide additional information regarding your application for permit, No. 15-7307, before it can be evaluated. IDWR cannot approve a new permit in a basin where there is an insufficient supply of water or when the new appropriation would injure existing water rights. Recent reports from water users within the Malad River Basin indicate that aquifer levels and spring flows within the basin are in decline. USGS monitoring wells in the basin seem to confirm the reports. In September 2009, IDWR hydrology staff conducted an analysis of your permit and determined that your proposed groundwater diversion could impact a domestic well located less than one mile north of your proposed well.

Under IDWR Water Appropriation Rule 40.05, an applicant bears the burden of demonstrating that the water supply is sufficient for the proposed appropriation. Rule 40.05 allows IDWR to require applicants to submit additional information in certain circumstances. The full language of Rule 40.05 can be found at <http://adm.idaho.gov/adminrules/rules/idapa37/0308.pdf>. Because of the high potential for injury to existing water users in the Malad River Basin, IDWR is requiring all applicants for new groundwater irrigation permits to submit the following information before their applications will be considered:

#### Rule 40.05

- c.ii For applications appropriating groundwater, a plat . . . locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- c.iii Information . . . concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.
- d.i Information . . . 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.

- d.ii Information . . . on the quantity of water available from the source applied for, including, but not limited to, . . . 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.

The information described above is meant to be fairly technical and detailed. Some applicants may not have the technical expertise needed to collect and analyze the relevant data. Given the recent budget cuts and limited staff resources, IDWR does not plan on conducting a hydrologic study of the Malad River drainage. To assemble the information required by Rule 40.05, you may need to hire an engineer or hydrogeologist to collect hydrologic data. IDWR cannot process or evaluate your application for diversion of groundwater until the required information is submitted.

You should also be aware that there are eight pending applications for permit that were filed before your permit was filed. IDWR is evaluating the applications in the order they were received, provided the applicants submit the required information. Rule 40.05 allows IDWR to set a 30-day window for submitting requested information. Because the data collection process may require an entire irrigation season, however, I am extending the deadline. If you have not supplied the specific information described above by December 1, 2010, your application for permit, No. 15-7307, will be voided.

Feel free to contact me directly if you have any questions.

Sincerely,

James Cefalo  
Water Resources Program Manager  
IDWR -- Eastern Region