



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

June 25, 2010

WALT POOLE
IDAHO DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

Re: Water Right Review for Sterling Wildlife Management Area – 35-8624, 35-8631 and 35-12863 A&B

Dear Mr. Poole:

This letter provides the results of our review of water rights associated with the Sterling Wildlife Management Area ("SWMA"). This review was initiated as a result of numerous letters to the Idaho Department of Water Resources ("IDWR") from local residents regarding the diversion and use of water for ponds managed by the Idaho Department of Fish and Game ("IDFG") in the SWMA. Copies of this letter are being sent to those residents to provide them with results of our review.

As you know, both IDWR and IDFG have spent a considerable amount of time and/or resources addressing this issue. I appreciate the efforts of IDFG and your cooperation with IDWR in this matter. This review has generated several memos or reports that will be scanned and available on our website at <http://www.idwr.idaho.gov/> under the water rights referenced above. In summary, IDWR finds that IDFG is currently in compliance with their water rights in the SWMA. Ongoing monitoring by IDFG and control in coordination with the watermaster of Water District 120 will be required to ensure continued compliance. Specific findings and instructions are summarized below.

Johnson Pond

IDFG is in compliance with water right 35-8624 as long as the rate and volume are not exceeded for wildlife purposes and the place of use is not enlarged. The annual volume of water authorized under the water right is based on continuous flow of 1.01 cfs over 365 days. As long as the rate of flow is limited to 1.01 cfs, the annual volume limit will not be exceeded.

To ensure continued compliance, IDFG should install a flow meter with data logger to demonstrate that the authorized flow rate is not exceeded. As an alternative, IDFG could physically alter the pumping plant or lock the controlling works to prevent flow in excess of 1.01 cfs. Specific action should be coordinated with the watermaster of Water District 120. IDWR has created a digital shapefile of the place of use based on development confirmed at the time of licensing. Additional development for water use outside of the place of use is not authorized.

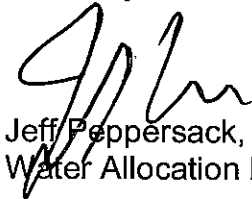
Orth Ponds

Water rights 35-8631 and 35-12863A&B authorize a total of 70 af for wildlife storage purposes. Review of the extent of ponds is complicated by pre-existing marsh and ponds in the area prior to development by IDFG. Storage water rights are only issued for the volume of impoundment of water resulting from the development of barriers and dikes and would not include the volume that existed due to natural ponds and marshes.

IDFG measured pond water depths for six ponds on May 17, 2010 and completed a report on June 15, 2010 to determine existing pond depths, surface area and volume of water. The report indicated a total volume of 21.57 af in use for the six ponds. The IDFG report confirms compliance with existing water rights at the time of the study; however, photos from IDWR's site visit on April 29, 2010 suggest that the historic high water mark for pond #1 (IDFG reference) is higher than pond levels observed on April 29 and likely higher than those measured on May 17. Higher water levels in the pond would increase pond surface area and total volume. To ensure continued compliance, IDFG must be mindful of pond depth and surface area, especially in early spring months, to ensure that water right volumes and place of use are not exceeded.

IDWR appreciates your continued cooperation with IDWR on this matter. Please contact me to discuss any questions or concerns.

Sincerely,



Jeff Peppersack, Chief
Water Allocation Bureau

cc: James Cefalo – Watermaster of Water District 120
Sherri Horrocks
Debbie Nugent
Steven & Penny Adams
Nellie Fan
Earl Barclay
Jay & Shirley Beck
Robert Barusco
Troy Beck
Ronnie & Peggy Lowder
Clay Poulsen
Carol Poulsen
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Bob Mann
Duane Barclay
Clark & Julie Beck
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Steve Alvarez