

Agenda

Prehearing Conference – Vermeer Dairy

Application for Permit #63- 12347

*Conference
Handout. 1/3*

Date: May 27, 2010

Location : IDWR Western Reg.

-Introductions-- IDWR

-Purpose of Conference/ Handouts—IDWR (No Interruption)

-Issues/Concerns—(No Interruption)
Protestant:

-Project Clarifications----Applicant
-Response to Issues/Concerns --- (No Interruption)

-Comments/Questions—IDWR

-Discussion

-Settlement options

Specific Dates and Deadlines

Pre Hearing Conference Purpose

2/3

- Formulate/simplify the issues*
- Discuss settlements, make settlement offers*
- Address matters that may expedite conduct of the proceeding or settlement*
- Schedule hearings, discovery.*

Evaluation Criteria --Applications for Permit

Pursuant to Idaho Code §42-203A (5)

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply sufficient for the purposes intended?
3. Is the application made in good faith, for delay, or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest? *that is, the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource.*
6. Will the proposed use be contrary to conservation of water resources within the State of Idaho?

Web References www.idwr.idaho.gov, select forms-rules-statutes

- Idaho Code 42-203A *Protests—Hearings Appeals*
- Rules of Procedure; IDAPA 37.01.01
- Water Appropriation Rules; IDAPA 37.03.08

Ground Water Appropriation Fact Sheet Summary

- Domestic Use Definition—exempt from water right requirements
 - Single family residence—13,000 gal/day & ½ acres irrigation
 - Other uses-- .04 cfs (18-gpm) & 2500 gal/day IC 42-111 & 42-227
- All other uses require a water right IC 42-351
- Ground water is not regulated in southwest Idaho (unlike eastern-southern Idaho). Regulation is accomplished by measurement/water district under IC 42-706 & 42-604 Domestic wells are exempt from regulation.
- IDWR generally does not have jurisdiction whether a residential subdivision has individual domestic wells or community well is selected. Local zoning, reg. agencies, and developer.
- The state of Idaho does not guarantee a pumping level. A reasonable pumping level can be established by the Director. IC 42-226
- Domestic users with wells prior to 1978 are given special protection under the Parker vs. Wallentine case. Case: 103 Idaho 506, 512 (1982)
- Mountain Home Area is in the Mountain Home Ground Water Management Area. Conditions are approaching of a critical ground water area (not having a safe sufficient ground water supply for the needs) IC 42-233a & b

IDWR Jurisdiction

- Illegal Diversions from any source IC 42-201, IC42-351
- Water District Distribution—Mtn. Home Area priority IC 42-602 thru IC 42-619

IDWR Non-Jurisdiction (Civil Issues)

- Trespass/right-of-way issues
- Too many domestic wells impacting older wells, “drying my well up.”
- Wells with a recorded water right impacting older domestic wells, unless conditions of approval address a specific remedy.

Conference
Reference.

Winslow



Vermeer Dairy
Canyon County, Idaho

ERO Resources Corp.

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Legend

-  Proposed Well
-  Existing Wells
-  Dairy - POU
-  Township & Range
-  Section Lines

0 500 1,000
Feet



Figure 1

Location Map for
Vermeer Application for Permit
63-12347

Prepared for: IDWR

File: vermeer

Date: October 19, 2009