



United States
Department of
Agriculture

Forest
Service

Sawtooth National Forest
Sawtooth National Recreation Area

5 North Fork Canyon Road
Ketchum, ID. 83340
208-727-5000

File Code: 2540

Date: December 17, 2009

RECEIVED

DEC 21 2009

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Alan Merritt
Idaho Department of Water Resources
1341 Fillmore St, Suite 200
Twin Falls, ID 83301

Dear Mr. Merritt,

It has come to our attention that you have published notice regarding your consideration of an application (71-10929) from Messrs Brown and Lee to appropriate water from Lost Creek (SESESE, Sec 34, Township 08N, Range 14E). Our understanding is that these waters would be supplemental to their existing groundwater rights that fill, and currently maintain, their excavated ponds near Lost Creek. We recommend the application process for a permit to appropriate these requested waters be halted.

The United States holds a scenic easement on the subject property (Custer County Instrument 143173). The existing ponds were formerly developed without our consent, and this development may be inconsistent with the terms and conditions of the easement. This encumbering easement was acquired in 1976, at the public expense, and for their benefit. As such, these additional water appropriations for these ponds may further undermine this demonstrated public interest in the property.

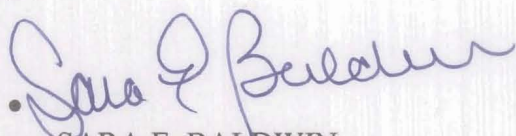
We further note that you have already licensed water for the same purpose to the same users (71-07178 and 71-07179). From our understanding, the additional water being requested would only supplement their existing use unnecessarily. The exact purpose of the water requested is difficult to ascertain from the application – the narrative description, referenced as “attached” in item 12 of the application, is absent from your files.

We also question the capability of Lost Creek to supply the 0.5 CFS requested in the application during summer and fall base flow conditions, particularly given the existing upstream use of this small tributary (71-10103). Just downstream of the proposed development, the current Lost Creek channel passes through National Forest System Lands before entering private lands and contributing to an extensive wetland complex at its confluence with Warm Creek. While we recognize Lost Creek surface flows do not reach Warm Creek during the summer months, the removal of 0.5 CFS routinely during this period will considerably shorten the time and/or distance the existing flows extend downstream, and alter the physical and biological conditions that depend on them – including those on National Forest System Lands.



We have not been contacted by the applicants on this particular matter, and note you instruct applicants to contact "interested agencies". After the first of the year, we plan to contact the applicants and invite them to meet with us to discuss the situation and attempt to resolve any issues that may be present with regards to the public interest concerning this application. Again, we request you halt the application process until we have resolution. Thank you for your consideration.

Sincerely,

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- SARA E. BALDWIN
- Sawtooth National Recreation Area
- Ranger

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cc: Patrick W Lee and John T Brown, PO Box 61, Sun Valley, ID 83353