



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
GARY SPACKMAN, Interim Director

September 21, 2009

DEAN CARDWELL &/OR BEN KOVANDA
STANLEY CONSULTANTS INC
2264 S BONITO WY STE 150
MERIDIAN ID 83642

Re: Eagle Sports Legends Development ("Legacy Development")

Dear Mr. Cardwell and/or Mr. Kovanda:

Three water right filings were submitted for the above referenced project in Eagle. This included Application for Permit No. 63-32956 and Applications for Transfer Nos. 74573 (Idaho Development Services) and 74574 (Middleton Irrigation Association).

The Idaho Department of Water Resources (IDWR) has reduced its application backlog enough for processing of the "Legacy" applications to move ahead. However, one concern should be addressed before processing begins. Recent news reports suggest the project might not be economically viable. This reporting focused on the significant rate of vacancies and under-development.

Water Appropriation Rule 40 authorizes IDWR to request additional information as needed. Most of the requirements of the rule are not needed in this case. Rule 40.05.f.i is applicable as highlighted in the enclosed information. Please provide information to comply with that subsection.

The additional information or a request for more time to submit the information should be received within the next sixty (60) days. On the other hand, the applicants may wish to withdraw their respective applications and receive a refund of the filing fees. Without a timely written response, the applications will be voided or rejected and refunds will not be issued. Please contact me at 334-2190 if you have any questions or concerns. Thank you for your attention to this matter.

Sincerely,

Steve Lester
Water Rights Supervisor

Enclosure

Copy: Jerry Kiser, Stoppello & Kiser
Jeff Huhn, Bank of the Cascades

Water Appropriation Rules 40.05.c through 40.05.g

c. Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.

ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.

iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

i. Information shall be submitted 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.

ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, 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.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.

ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.

ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

Only item f.i needs to be addressed