



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

June 10, 2009

James Fronk L. A.
Secesh Engineering Inc.
PO Box 70
McCall, ID 83638

Re: Copenhaver Subdivision

Dear Jim:

The idea of constructing two new diversions from the South Fork Salmon River for a community water system for Copenhaver Subdivision sounds like a good approach, as we discussed the other day. The project requires some type of water right approval from the Idaho Department of Water Resources (IDWR). Water right approval could include (1) seeking a new water right, or (2) seeking a change to all existing rights for participating owners.

Enclosed is some information applicable to seeking a new water right by filing an Application for Permit as follows:

- Spreadsheet for existing water rights from the river for individual owners in the subdivision.
- Reference sheets for additional information needed to process an Application for Permit.
- Chart for maximum amount of internal domestic water based on number of homes served in a new water right.

The simplest and quickest option is for the owners choosing to participate to form some type of organization. The organization could file an Application for Permit seeking two diversion points for water for the appropriate number of homes to be served. The domestic chart defines the maximum amount of water for internal domestic use that could be applied for. Yard/garden etc. irrigation, if any, would be listed as irrigation. Irrigation requires identification of the maximum number of acres to be irrigated. For up to five acres, the maximum irrigation rate per acre is 0.03 cfs. Beyond five acres, the maximum amount is 0.02 cfs per acre. The application fee is based on the maximum total rate of water to be diverted for the beneficial use(s). The minimum fee is \$100 for up to 0.20 cfs.

An Application for Permit should include all the additional information outlined in the reference sheets – written comments from the Idaho Department of Fish & Game and the Idaho Department of Environmental Quality plus the items listed in Rule 40. That information is needed before the application can be processed. A complication in this regard is that IDWR should not approve new rights for the same use and from the same source already covered under existing rights. An Application for Permit should include an agreement signed by participating owners stating that they would relinquish their individual rights upon approval of the new right for the community system. Some loss of

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priority (seniority) would occur in this approach but not to any significant degree, except for right no. 77-10055 (1915 priority¹).

A much more complex, lengthy option would be to seek a change to all existing rights for participating owners. The simplest way to do that would be to file one Application for Transfer to change points of diversion for all existing rights for participating owners (individual rights would join into a common system). This would probably require a \$100 transfer fee for up to 0.20 cfs.

The problem with that alternative is those rights listed as Permits (see 3rd column in spreadsheet). Permits must be licensed before they can be included in a transfer application. To be licensed, all development under a permit must be completed, proof of beneficial use must be filed for the permit (\$50 each permit), IDWR must complete a field exam to verify the development, and then a license can be issued. This would be quite time consuming.

Another alternative to seeking changes to rights for participating owners would include the following:

- Permits for which proofs of beneficial use have been filed (last column in spreadsheet) could be licensed as previously described.
- Those licenses plus any existing licenses or decrees (3rd column in spreadsheet) could be changed under a single Application for Transfer (\$100).
- The remaining permits for which proofs of beneficial use have not been filed could be changed by filing a separate Application for Amendment of Permit (separate \$50 application for each permit). A Permit for which proof of beneficial use has been filed generally cannot be changed by the amendment route.

As you can imagine, this option would also be very time consuming.

In summary, filing an Application for Permit for a new right is the preferred alternative. IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure

¹ A separate Application for Transfer could be filed for this senior right to change the point of diversion to the community diversion points. This would protect the 1915 priority date instead of relinquishing the right to be replaced within a new community right with a junior priority date if that owner is concerned about the date.