



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 22, 2009

JAMES W MECHAM
PO BOX 3119
428 MAIN AVE N
TWIN FALLS ID 83301-3119

RE: Fish Propagation on 37-7862 and how it relates to newly issued license 37-7861

Dear Mr. Mecham,

We have spoken a couple of times about your request to add fish propagation as a water use onto water right license 37-7861. After our brief phone conversation on Monday December 21, 2009, I wanted to write you a letter and try to explain in more detail why the right to divert water for fish propagation use is already licensed under 37-7862.

IDWR records show 4 water rights in your name that are diverted from Stoddard Creek Spring:

Water Right #	Basis	Priority Date	Rate(cfs)	Volume(af)	Source	Water Use(s)
37-1244	Decreed	6/1/1914	0.71		STODDARD CREEK SPRING	IRRIGATION, STOCKWATER
37-7756	License	1/3/1979	0.18	5.2	STODDARD CREEK SPRING	DOMESTIC, STOCKWATER
37-7861	License	10/28/1980	0.71	364	STODDARD CREEK SPRING	POWER
37-7862	License	10/28/1980	2	1448	STODDARD CREEK SPRING	AESTHETIC, FISH PROPAGATION

Within this group, I want to focus specifically on two water rights: Existing license 37-7862 and newly issued license 37-7861.

Water Right #	Basis	Priority Date	Rate(cfs)	Volume(af)	Source	Water Use(s)
37-7861	License	10/28/1980	0.71	364	STODDARD CREEK SPRING	POWER
37-7862	License	10/28/1980	2	1448	STODDARD CREEK SPRING	AESTHETIC, FISH PROPAGATION

37-7861 and 37-7862 both are diverted from the same point of diversion and the same source.

Both rights list the same place of use which is the NWSW of Section 27. From our previous conversation and looking at the maps in the file and on our GIS system, the power generators and fish ponds including the fingerling ponds you described to me are all located in the NWSW of Section 27.

You mentioned during our brief conversation on Monday December 21, 2009, that the water to the fingerling ponds and to the larger aesthetic pond go through different pipes. IDWR doesn't regulate or monitor how the delivery system carries water from the point of diversion to the place of use. How it gets between the two, be it a ditch, several ditches, a pipe, or a system of pipes is not part of the water

right description. Therefore, adding fish propagation to 37-7861 would not describe fish propagation any differently than it is described under 37-7862.

In addition, the priority date for 37-7861 and 37-7862 are the same, so there is not priority advantage to adding fish propagation to 37-7861.

Finally, adding fish propagation to 37-7861 would incorrectly describe the water use and could very well cause confusion. 37-7862 authorizes 1.2 cfs for fish propagation. If we added fish propagation for 0.3 cfs to 37-7861, then it would appear that you would be authorized to divert a total of 1.5 cfs for fish propagation which is not the case. The 0.3 cfs is part of the 1.2 cfs described in 37-7862.

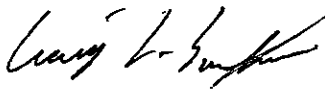
If the fish propagation use you are pursuing is actually from a different source, different point of diversion, or having a different priority date, then it is a separate water right than that being described under 37-7861 and will need to be pursued through a new application for permit as we spoke about during our meeting on December 18, 2009.

In conclusion, I would like to assure you that the fish propagation use that you requested to be added onto license 37-7861, is already described on 37-7862. I do not see a way IDWR could add a water use to 37-7861 that is already described on 37-7862.

In a separate mailing you will receive a copy of the updated license for 37-7861 reflecting the addition of power use for those months outside the irrigation season of use. You still will have the opportunity to file a motion of reconsideration and dispute the license.

Please feel free to contact myself or Michele Edl if you have further questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig L. Saxton".

Craig L. Saxton
Water Right Supervisor
Water Rights Permit Section