

MEMORANDUM

TO: John Westra

From: Rob Whitney 

Date: 10-02-09

RE: Water Right Permit No. 65-13689, Dan Brown, Site Inspection

I met with Mr. Brown on site (Wilhelm Creek Dam) June 4, 2009 to verify compliance with conditions of approval of the above referenced permit. Attached are the following, requested by your memo of 5-14-09:

- 1) Copy of receipt number C047740 for \$35, dated 1-13-2000 (per request of Glen Saxton letter dated 1-3-2000).
- 2) Photographs of safety fence, dam embankment, 4 ft. overflow stand-pipe (culvert) and connected 4 ft. outflow culvert.

Mr. Brown stated that the requirement for the emergency spill was negated by the installation of the 4 ft. overflow in the center of the dam according to department field staff that had conducted a previous inspection. No other outlets or overflow channels were identified.

The safety fence consists of galvanized wire "field fence" 40 inches tall stapled to pressure treated 6" dia. posts spaced 10 ft. apart. The east end of the fence nearest to the county road was "Posted" as private property. The fence is in good condition and would serve to limit access to the pond and related spillway structure.

The dam embankment appears in good condition and is covered with native grass, other small flora and a few willows. No leaks or seeps were discovered along the length of the dam.

Receipt Details for ID C047740

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
1/13/2000 3:07:16 PM	1/13/2000 12:00:00 AM	State	\$35.00	Check

Payee	BROWN, DAN OR CONNIE
--------------	----------------------

Account Information

Check Number 4749

Comment BENEFICIAL USE___#65-13689

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$35.00	BENEFICIAL USE #65-13689	56104	229	21	0	1155

Refund(s)
Amount**Payee****Date**

Document Number

Receipt Details for ID W025447

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:				
Date Received	Date Deposited	Region	Total Amount	Payment Type
7/12/1999 11:39:24 AM	7/12/1999 12:00:00 AM	Western	\$15.00	Check
Payee	BROWN, DAN			

Account Information	
Check Number	4212

Comment PROOF OF BENEFICIAL USE

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$15.00	PROOF OF BENEFICIAL USE	62103	229	21	0	1155

Refund(s) Amount	Payee	Date	Document Number
---------------------	-------	------	-----------------















Field Work Request

To: Rob Whitney
From: J. Westra, Manager JFW
Date: 5/14/09

RE: Field Confirmation of Permit Condition of Approval #65-13689

Please contact Mr. Brown for an appointment to confirm he has met the conditions of approval on permit #65-13689. See IDWR 03/18/09 *Pending Order to Void Permit*. I would ask the following field confirmations and related findings be submitted in a written report:

-Request \$35 shortage of payment of Beneficial Use Fee, ref IDWR letter of 01/03/00.

-Conditions of Approval #9 & 20 Construction of an emergency spillway on the right abutment

- * Provide dimensions of channel—depth, width, channel armor type
- * Photographs of the area

-Condition of Approval #12—Safety Fence

- * Provide type material, height, spacing of rails/columns, anchoring
Does the fence provide safety; limiting access to the dam/reservoir?
- * Photographs of the fence

-Condition of the dam embankment

- * General state: seepage, sloughing, erosion, etc.
- * Provide photographs of the embankment, outlet works, and reservoir overview.

MEMORANDUM

Type: In Office Conversation

Telephone

Meeting Notes

Follow-up

Log of Events

Other _____

To: Don Brown Permit / Complaint File

From: J. Westra, Western Reg.

Date: 5/2/09

RE: Notice of Pending Void 3/18/09

5/2/09 Mr. Brown contacted me concerning the notice that was sent. Stated that fence had been constructed and the spillway requirement had been waived. My response was I was not aware of the spillway waiver. I would be sending a field agent to confirm the conditions of approval had been met (he would be contacted for an appointment).



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
CERTIFIED MAIL Director

March 18, 2009

DAN V BROWN
PO BOX 253
MCCALL ID 83638

COPY

RE: Water Right Permit No. 65-13689

Notice of Pending Order to Void Permit

Dear Permit Holder(s):

On July 12, 1999, the Department of Water Resources (IDWR) received the Proof of Beneficial Use statement for Permit 65-13689, which authorized you to establish a right for 15.0 acre feet of wildlife storage from Wilhelm Creek in the SE¼NE¼, Section 02, Township 17 North, Range 03 East. On September 26, 2001, IDWR personnel conducted a license examination to verify your water use. The examiner reported the pond and dam had been constructed and water was being stored. However, several of the permit Conditions of Approval have not been achieved. The following needs to be completed:

- Full payment** of the \$50 Proof of Beneficial Use Fee. \$15.00 was received with your proof submittal, \$35 remains due. See Department letter 1/03/2000.
- **Conditions of Approval #9 & 10** You were to construct an emergency spillway on the right dam abutment to adequately handle a storm event--3 feet minimum freeboard and protected with rock riprap for erosion protection.
- Condition of Approval #12** The safety plan submitted May 5, 1998 outlined the construction of a safety fence and signage along the dam, see attached plan. Fence construction needs to adequately keep individuals/children from entering the pond area.

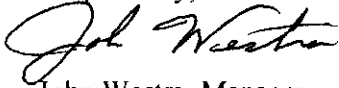
The final step in the water appropriation process is the issuance of a Water Right License. By issuing a license, IDWR recognizes that you have met the requirements for establishing a water right. A license can be issued only for development that occurred prior to the date that the Proof of Beneficial Use statement was filed. No water right has been established, and no license can be issued, if you have not diverted water and applied it to a beneficial use within the time period authorized by your permit. After a Proof of Beneficial Use statement has been submitted, a permit cannot be retained to cover future development of the resource.

Page 2.
D.Brown

Please submit documentation that you have achieved the conditions of approval and remaining fees within sixty (60) days. It has been 12 years since the permit was issued so no further time extensions will be authorized. *Please be advised that deficient construction of the spillway or fencing will result in the permit being ordered void* Once the documentation is received, our office will also make a site visit for verification. An untimely response or no response by the deadline will also result in your permit being ordered void.

If you are no longer interested in your permit, you can shorten the voiding process by signing and returning the enclosed relinquishment form. Should you have any questions, please contact me at 208-334-2190.

Respectfully,



John Westra, Manager

Enclosure

- Bcc R Collins

9:30
April 1**Westra, John**

From: Golart, Aaron
Sent: Tuesday, March 10, 2009 10:13 AM
To: Westra, John
Subject: FW: Un-named dam complaint

FYI

From: Falk, John
Sent: Monday, March 09, 2009 9:01 AM
To: Golart, Aaron
Cc: Hornbaker, Sonny; Galloway, Chuck
Subject: Un-named dam complaint

Aaron,
On Friday I received a phone call from:
Mr. Rob Collins (208) 634-8440

His complaint was about his neighbor's dam.
The neighbor's name:
Mr. Dan Brown
13885 Farm To Market Road
McCall.

According to Mr. Collins, his neighbor built a road across Wilhelm Creek several years ago (~ 1996), and subsequently used the embankment to impound water. Our dam safety records (65-13689) imply that the structure is too small per Idaho Code for dam safety regulation. However, I cannot find any documentation in our files that would provide an estimate of its existing/asbuilt physical height and/or storage capacity. From the photographs, it appears the embankment height is ~six (6) feet or less from top of road to stream channel. IDWR required Mr. Brown to file a Small Dam Application, but not until *after* the road was built. (Typically, information submitted on the application is within 75% of being correct).

Mr. Collins said the fill that was placed across Wilhelm Creek constituted a stream channel alteration; IDWR was involved in the past with enforcement of this structure. There were some compliance items that IDWR imposed on Mr. Brown that, according to Mr. Collins, have been ignored. You may have your own file history on this project??

I left a copy of our file on your desk together with a topo map and aerial photo illustrating the location. I told Mr. Collins that we would return his call today (Monday). My impression from our conversation is that other issues exist between the neighbors, and this may be just the last straw. (FYI, Mr. Collins sounded pretty hot).

- If you decide to visit the site, would you please record the height of the embankment for IDWR files? I imagine there is too much snow at present to see very much. Please let me know if you need anything else. I'll let you make the phone call. Thanks --jf--

3/11 - Home ILL left message at business - reception.

3/10/2009