



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.
Director

March 13, 2009

Larry J. Allen
8 Mt Idaho Cemetery Rd
Grangeville, ID 83530

COPY

Re: Application for Permit 79-14217

Dear Applicant:

The Idaho Department of Water Resources (IDWR) is reviewing your application for a new water permit from a source within the Salmon River basin. Additional information is needed to fully evaluate your proposal. IDWR is working with other agencies of the State of Idaho regarding projects requiring new water right approval within the Salmon River basin.

Please see the enclosed attachment about additional information for your application. Page 1 of the attachment outlines the legal basis and reasons for this request. That page also provides contact information for the other state agencies that will be involved in this process. Page 2 of the attachment lists the Water Appropriations rules about this request for more information. Please be sure to state why you think that any of the items on page 2 do not apply to your application.

Additionally, there were a few areas of the application that need correction or completion. I have drafted an amended application based on information you submitted with the original application and information available to the Department. The items to be addressed are as follows:

- The tributary of the source listed (Item no. 2). The Unnamed Stream proposed as the source for the appropriation is directly tributary to the South Fork of White Bird Creek.
- Description of proposed uses (Item no. 8). I have not amended this portion of the application. Please indicate, in the space provided for item no. 8, what type of wildlife (water fowl, deer, birds, etc.) and an estimated quantity (if possible) of wildlife that will make use of the proposed wildlife storage.
- The place of use (Item no. 9). The map provided with the original application indicates the proposed storage facility may extend into the NE NE of Section 12 T28N R3E.
- The place of use property owner (Item no. 11b). Based on information on file for water right 79-7245, the application map, and your answer to item no. 11a, I assumed the place of use is entirely owned by you.

Please note the deadline (Attachment Page 1) for your written reply to this request. Water Appropriation Rule 40.01.d allows an applicant to request that IDWR interrupt processing an application for up to six months if more time is needed by the applicant. If you request more time, be sure to include documentation verifying that you have initiated your request for comments from other state agencies listed in the attached handout. IDWR can approve the request if it (a) will not injure others, (b) is

Allen
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consistent with the public interest, and (c) is not for speculative purposes. Applications are normally voided if applicants do not provide timely written responses.

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. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Angela M. Grimm', with a large, sweeping flourish at the end.

Angela M. Grimm
Water Resource Agent, Sr.

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

1. Name: LARRY J ALLEN
8 MT IDAHO CEMETERY RD
GRANGEVILLE ID 83530
(208) 983-2581
2. Source: UNNAMED STREAM Tributary to: SOUTH FORK WHITE BIRD CREEK
3. Location of Point of Diversion:
#1 UNNAMED STREAM NE1/4SE1/4NE1/4 Sec. 12, Twp 28N, Rge 03E, B.M.
IDAHO County
4. Water will be used for the following purposes:

<u>Purpose</u>	<u>From</u> <u>To</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
WILDLIFE STORAGE	01/01 to 12/31		16.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		16.0 AF
5. Total quantity to be appropriated is:			16.0 AF
6. Proposed diverting works:
POINT OF DIVERSION #1
 - a. Type and size of devices used to divert water from the source: NATURAL RUN OFF
 - b. Height of storage dam 8 feet;
Active reservoir capacity 16 acre-feet;
Total reservoir capacity 24 acre-feet;.
 - c. Proposed well diameter is _____ inches;
Proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 85F being sought?
 - e. If well is already drilled, when? _____;
Drilling Firm _____;
Drilling Permit No. _____.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 year(s).
8. Will fence out livestock. Fire protection for 1 household.

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

To appropriate the public water of the State of Idaho

PLACE OF USE: WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
28N	03E	12	X			X													

PLACE OF USE: FIRE PROTECTION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
28N	03E	12	X			X													

9a. Who owns the property at the point of diversion? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

9b. Who owns the land to be irrigated or place of use? If other than applicant, describe the arrangement enabling the applicant to make this filing.

APPLICANT

10. Remarks:

The existing pond will be enlarged to accommodate wildlife and for possible fire protection for the single household.

11. Map of proposed point of diversion and place of use attached? [Yes]

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Applicant

Received by _____ Date _____ Time _____ Preliminary check by _____

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

Receipt No. W036811

Date: 8/11/2008

Received by: DB

IDAHO DEPARTMENT OF WATER RESOURCES

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications.

The additional information requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 af or less. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. Only certain applications for small domestic and stockwater uses and applications to divert ground water for domestic use in multiple homes are exempt from the additional information requirement. A copy of Water Appropriation Rules 40.05.c-g is enclosed.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR. IDWR will hold your application until you have submitted the additional information. If you believe that a particular piece of information is not relevant to your application, please explain why. A complete response to Rule 40.05.f, Information Relative to Financial Resources, is not required if construction of your project will cost less than \$5,000. Instead, simply state the projected cost of your project.

Your response, or a request for more time to make your response, must be received within 60 days from the date of this mailing. The application will be voided without a timely written reply.

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. Please contact these agency representatives at least 15 days prior to the end of your 60 day response period.

IDFG contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-769-1414
McCall Subregion: Dale Allen at 208-634-8137
Salmon Region: Tom Curet at 208-756-2271

Clearwater Region: Ray Hennekey at 208-799-5010
Southwest Region: Eric Leitzinger at 208-465-8465

IDEQ contact list for water right applications:

Lewiston: Kerby Cole at 208-799-4370 (Clearwater or lower Salmon River basins)
McCall: Leslie Freeman at 208-634-4900 (South Fork Salmon River basin)
Idaho Falls: Troy Saffle at 528-2650 (Upper Salmon, Lemhi, Pahsimeroi basins)

Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water. . . .

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 Resources¹, 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.

¹ Note limited response acceptable for projects that will cost less than \$5,000 – see page 1.