



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

June 24, 2009

CHARLES G. BROCKWAY PE
BROCKWAY ENGINEERING PLLC
2016 NORTH WASHINGTON ST SUITE 4
TWIN FALLS ID 83301

RE: Water Right Permit 37-8205 - Sun Valley Land & Minerals

Dear Mr. Brockway:

The Department of Water Resources has received your letter to the Director dated June 8, 2009 regarding the permit referenced above. The Director has asked me to respond to your questions on his behalf.

The application for amendment of permit filed on May 4, 2009 was recently published to provide notice of the proposed changes. The protest period ended on June 15. There were no protests to the application. The Department is now prepared to continue processing the application. You included an engineering report with your letter to provide an analysis of water requirements for specific uses of the geothermal water. Your letter requested responses to three questions related to licensing for the permit. I have summarized your questions and provided responses below.

Are the proposed uses beneficial uses? Space heating, snow melting and heating of a swimming pool or spa can all be recognized by the Department as beneficial uses of low temperature geothermal water. Conservation of water and public interest have been considered by the Department in reviewing the application; your report helps to narrow the focus for consideration of these issues and the Department generally finds the uses to be acceptable. Department review of the application must also consider potential for injury and enlargement as described below.

As you know, the original permit was issued as a nonconsumptive use for limited purposes. The nonconsumptive nature allowed for processing without additional requirements in the Trust Water Area and in the Big Wood River Ground Water Management Area, as well as the Snake River Moratorium area. The Department must consider whether the proposed uses in the application for amendment would enlarge the use of water. The Department requires information from the applicant to demonstrate that the proposed uses will not require more water to be diverted than the specific uses that were originally permitted, and that the proposed uses will be nonconsumptive. Although you have indicated in previous correspondence that the proposed uses will be nonconsumptive, the use of water to heat a pond will likely result in evaporation in excess of the pond losses anticipated under other water rights.

Regarding flow demand, are methods and assumptions appropriate and reasonable to allow a flow of 765 gpm to be licensed? As you know, any license issued for this permit will be limited to diversion and beneficial use of the water. The engineering report is intended to justify quantities proposed to amend the permit. Department staff has reviewed the report and provided comments as shown in the enclosed memorandum. Some revision to the engineering report is suggested in the memo.

If the system is in place, but actual use of water has not occurred or is limited due to the time of year, how will the Department handle it? Section 42-219, Idaho Code requires that the license shall state "...the quantity of water which may be used, which in no case shall be an amount in excess of the amount that has been beneficially applied."

The Department recognizes that peak heating requirements may vary from year to year based on climatic conditions and may be willing to recognize a higher rate and/or volume to address reasonable climatic fluctuations. However, the Department is not authorized to provide additional time to beneficially use the water because the permit has already received the maximum extensions provided by law.

The Department will continue processing the application for amendment upon receipt of the information requested in this letter and the revisions outlined in the enclosed staff memorandum. If you have any questions, please call me at 208-287-4948.

Sincerely,



Jeff Peppersack, Chief
Water Allocation Bureau

Enclosure: IDWR staff review memo

cc: Allen Merritt, IDWR Southern Region
Hal Anderson, IDWR