



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

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

June 10, 2009

To: Distribution List

Re: Application for Permit No. 78-12318

Dear Interested Parties:

This letter summarizes the status of the above referenced application and discusses the next step in the process.

Protestant Krivda withdrew her protest based on an agreement reached at the May 21, 2009 prehearing conference. A copy of the agreement is enclosed for your records.

Protestant Salas responded to the June 1, 2009 notice of proposed default order for failure to appear at the prehearing conference. A copy of her response is enclosed. The proposed default order is withdrawn based on her acceptable response. Her protest remains to be resolved since she could not attend due to a family emergency.

At least one aspect of the Salas protest concerns where the applicant proposes to divert water – on his property or on Salas property. The applicant stated he intends to divert water from the unnamed stream on his property. One possible solution to the Salas protest is for IDWR to include a condition of approval if the application is approved as follows:

This right does not grant any right-of-way or easement across the land of another.

In that manner, approval of the application would not authorize Wolford to do anything on Salas land. Enclosed for Wolford and Salas is a proposed protest settlement agreement based on that idea. If that is satisfactory, they can sign the agreement and return it to this office. This could include both of them signing the same document or each of them signing separate documents. Either way works as long as both parties agree on the same thing.

If that is not satisfactory, IDWR asks Wolford and Salas to meet on their own to see if they can resolve the protest in some other way. This is requested due to the expense of conducting another prehearing conference in these difficult budget times. If they can resolve the protest, they can sign an agreement stating the Salas protest is withdrawn based on any agreed-upon details. Contact information for the parties is listed below.

If they cannot resolve the protest on their own, IDWR will consider conducting a second prehearing conference. The Salas protest states "The point of origin of water is on my property. We are currently in the process of developing that spring for our own use." To determine if a second conference should be held, Salas should provide IDWR the following information, also sending a copy to the applicant:

1) The application identifies proposed diversion points from an unnamed stream on the applicant's property. This was reiterated at the May 21 prehearing conference. How does this relate to a spring on Salas property?

Application for Permit No. 78-12318

June 10, 2009

Page 2

2) Salas owns decreed water right no. 78-10006 for 2/3 of the water from a spring that produces a very limited amount of water. A decreed right by definition is a use that was fully developed in the past. What is the meaning of "We are currently in the process of developing that spring for our own use" if the development was previously completed as defined by the decreed right?

Either (a) a signed protest withdrawal agreement from Wolford and Salas, or (b) Salas answers to the above questions should be received at this office by July 1, 2009.

Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure

Distribution List & Contact Information:

JACK WOLFORD
HC 2 BOX 700
POLLOCK ID 83547
208-628-3488

or temporary address: ¹
173 SW 1ST ST #2
ONTARIO OR 97914
541-889-4201

JESSICA SALAS
PO BOX 182
POLLOCK ID 83547
208-628-3736

ROSALIE KRIVDA
5525 HWY 95
NEW MEADOWS ID 83654

¹ This letter is sent to the temporary Ontario address because a June 2, 2009 IDWR mailing to Wolford's Pollock address was returned by the Post Office as "refused/unable to forward."