



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 30, 2009

LARRY ALLEN
8 MT IDAHO CEMETARY RD
GRANGEVILLE ID 83530

Re: Application for Transfer No. 73751

Dear Mr. Allen:

You filed Transfer Application 73751 in February 2007 to change water right 79-14210. You also filed Application for Permit 79-14217 in August 2008 seeking a new water right. Due to confusion at the Idaho Department of Water Resources (IDWR) Western Region office, the two applications were mistakenly assigned to separate staff in two IDWR offices in Boise. This undoubtedly resulted in muddled communication between IDWR and you. IDWR regrets any inconvenience resulting from this confusion. I hope this letter helps clarify the situation.

The right proposed for transfer is defined as two springs in a common system. The transfer application proposes adding two more diversions from springs. Based on your transfer application maps, both proposed diversions will apparently be ponds on an unnamed stream. The most downstream pond is the same pond covered under Permit 79-7254, and that pond is proposed for expansion in Application 79-14217. Permit 79-7254 and Application 79-14217 both list the unnamed stream as a source.

For the transfer application, you indicated the existing and proposed diversions would be combined in a common system by "the ponds flowing into one another." That is conceivable for a series of ponds on the same stream. In that case, the presumed source name would be the stream instead of a spring or springs. Adding diversions on a stream over about a one-half mile area to a water right obtained from springs would most likely enlarge the right by providing more water than has historically been available for the right. Enlargement of a right cannot be approved in a transfer. Additionally, recent IDWR correspondence to you regarding Application 79-14217 noted that on-stream ponds for the site are not in the public interest. However, off stream ponds might be in the public interest.

The transfer application to add ponds on the unnamed stream is not approvable as filed based on enlargement and public interest criteria.

The transfer application might be approvable under the following conditions:

1. Show that you seek to develop two new springs instead of adding two on-stream ponds.
2. This could (but does have to) include constructing small ponds located somewhere other than in a stream channel.

3. Demonstrate how the two proposed diversions will be joined into a common diversion and conveyance system with the two existing diversions defined under right 79-14210.
4. Describe how water will be used in section $\frac{1}{4}$ $\frac{1}{4}$'s that do not include a point of diversion. Your original transfer application listed places of use within three $\frac{1}{4}$ $\frac{1}{4}$'s, but your amended application lists all the $\frac{1}{4}$ $\frac{1}{4}$'s for HES 67. That includes four $\frac{1}{4}$ $\frac{1}{4}$'s where existing or proposed diversion points are not found: Section 7 NENW, SENW, NWSW and Section 12 SWNE. How will water from existing and proposed diversions be used in those four $\frac{1}{4}$ $\frac{1}{4}$'s?

If you are unable to do that, please consider withdrawing your transfer application by completing and returning the enclosed withdrawal form. This can include a written request for a refund of the \$100 transfer fee you paid (see option in next paragraph about fee).

If you withdraw your transfer application, you could consider filing an application for permit for a new right for the diversion in SWNW Section 7. (The diversion in SENE Section 12 for the most downstream pond is already addressed in pending Application 79-14217.) Please remember a pond must be located somewhere other than in a stream channel to be considered for approval. You could request the fee paid for your transfer be applied to a new application for permit, assuming you withdraw the transfer application. An application for permit form and a map are included for your convenience.

Please submit the information requested in above items 1 through 4 for transfer application processing to continue. You may seek additional time to provide the information by making a written request to delay transfer processing. Your written response including the requested information, or a request for more time to seek the information, must be received within the next sixty (60) days.

Without a timely reply, IDWR will issue a preliminary order to reject the transfer application. The application fee will not be refunded for a rejected application. A rejected application may be re-filed when adequate information can be provided.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at (208) 287-4944 if you have any questions or need more information. Thank you for your attention to this matter.

Sincerely,



Cherie Padilla
Water Resource Agent
Water Allocation Bureau

Enclosures