

MEMORANDUM

TO: Pam Skaggs for Parallel Processing

FROM: Kay Walker *Kay*

RE: Application 79-14205

Date: May 6, 2009

.....

This application is located in Basin 79, upper Salmon River drainage, but not within the Wild and Scenic process area. It does, however, require parallel processing be conducted with the state office staff. This application was filed to cover additional storage found in an on-stream pond that was originally developed under Permit 79-14012.

Permit 79-14012 was issued in January, 2003, for stockwater, domestic and stockwater storage uses. The applicant intended to develop a 0.3 acre foot pond under the storage parameter of his permit. In February, 2007, the Department received a complaint from the neighbors of this development. IDWR staff and IDF&G conducted a field investigation of the system in June of 2007. It was determined that the complaint stemmed from the pond being developed over a ditch that fed a pond on the neighboring property. No water right could be found for that pond so it was determined that the complaint would need to be addressed in a civil court. At the time of the field exam, it was determined that the permit holder had developed a pond that was larger than he originally intended and he was advised to file an additional application to cover the increased size of the pond. Application 79-14205 is a result of the field examination of Permit 79-14012. Due to the size of the dam constructed it does not fall under our dam safety program. A copy of the findings of the field examination has been placed in this file for information purposes.

In processing this application, the applicant was advised of requirements of Water Appropriation Rule 40.05 and he pursued addressing all of the additional requirements. Although the Rule 40 response is very brief, it should be sufficient for this minor situation. He requested comment letters from IDEQ and IDF&G. He received a reply from DEQ which states that Johns Creek is protected for cold water and salmon spawning aquatic life and primary contact recreation designated beneficial uses. Their response also notes that this stream does not support the beneficial uses due to numerous pollutants; however, the stream flow must be maintained at all times to sustain the beneficial uses. IDEQ concerns can be met by the owner complying with suggested conditions regarding IDFG issues. The applicant could not get F&G to respond to his request for comments or phone calls he made. Since Fish and Game has viewed this development, along with IDWR staff, we can utilize the comments they submitted in regard to Permit 79-14012. See the recommended conditions regarding IDFG issues in field exam 79-14012 narrative. Those conditions can replace fish screening condition 029 in 79-14012 when licensed (see text with field exam photos for IDFG details). Those conditions can also be used if this new application is approved. Use of IDFG information from 79-14012 replaces a letter from that agency for application 79-14025 and allows a minor increase to an on-stream pond in this case (normally IDFG would not support on-stream ponds). The applicant also addressed Rule 40.05.c. thru 40.05.g. and that information has been placed in the application file.