



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue

Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter/Governor

Cal Groen/Director

October 2, 2008

*E on computer
10/8/08*

Mr. Keith Franklin

Idaho Department of Water Resources

7600 Mineral Drive, Ste 100

Coeur d'Alene, ID 83815

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Dear Keith:

REFERENCE: 95-9515 - MORSS

We have reviewed the above-named application by Anthony and Jeanne Morss for a water right from three points of diversion creating a storage pond for irrigation of crops and an ornamental tree farm, wildlife storage, and wetland creation. The three points listed on the application include an unnamed ephemeral stream supplying surface runoff from snowmelt and rainfall from the 80 acre watershed, groundwater from the domestic well, and groundwater from seepage of the excavated draw.

The application does not provide details regarding the construction materials proposed for the dam or pond. A complete plan of the proposed project, including construction and phases and materials should be submitted prior to permitting.

While it is not clear whether the applicant desires to stock, or otherwise manage the proposed pond for fish, we recommend they be made aware of the following. According to Section 36 (706), Idaho Code, no person shall establish and maintain a pond on premises owned or leased by him and obtain, possess, propagate and process for his own personal pleasure and use any fish approved by the Commission, unless he has first obtained a permit from the Director of the Idaho Department of Fish and Game. One of the stipulations that must be met before a permit may be issued by the Director is that the pond is not constructed in or across a natural stream bed containing wild fish, except when it has been determined by the Commission that the water flow and volume of wildlife concerned in such proposed private pond are not a significant part of the wildlife resource of the State.

Requirements to obtain a permit include the following.

- Pond construction may not be in or across any natural streambed, lake, or other watercourse containing wild fish, except when determined by the Commission that the water flow and volume of wildlife concerned in the proposed pond are not a significant part of the wildlife resource of the state.

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- The pond must be located entirely on private property owned or leased by the applicant.
- Any dam constructed to divert water into the pond must meet all requirements in Section 36-906(a), Idaho Code.
- All inlets to the pond must be screened at the point of diversion (screen mesh size should be 0.25 inches; intake approach velocities should not exceed 0.5 ft/second) as provided in Section 36-906(b), Idaho Code, to prevent the entrance of wild fish into the pond.
- The permit application is made using the form provided by the Department, which provides information required by the Director.
- The pond shall be posted in three (3) separate conspicuous places and all entrance roads.

In addition, if the applicant intends to stock fish in the pond, the fish to be stocked must be delivered by a commercial hatchery (required for trout), the applicant must acquire a fish transport permit to bring fish to the pond. Both permits are available from Idaho Department of Fish and Game. Before any fish are stocked into the pond, it must be inspected by the IDFG to ensure it is properly screened to prevent fish from escaping downstream into areas occupied by native fish.

IDFG in general has concerns with on-channel pond construction, as dams may fail and cause damage to downstream aquatic and riparian habitat. Rather, we recommend landowners desiring ponds construct them off channel and in a manner which limits the risk of failure.

We are willing to meet with the applicant to discuss the project and potential alternatives. If you have questions concerning our comments please call us at 769-1414.

Thank you for the opportunity to comment.

Sincerely,

Mary Tena-Berns
for
Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB:BPH

C: Sharon Kiefer, IDFG Boise