



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

RECEIVED

SEP 29 2008

DEPARTMENT OF
WATER RESOURCES

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

September 24, 2008

DIRECTOR BONNIE SHARP
ELMORE COUNTY GROWTH & DEVELOPMENT DEPT
520 EAST 2ND SOUTH ST
MOUNTAIN HOME ID 83647

Re: Alternate Energy Holdings, Inc.

Dear Director Sharp:

The Idaho Department of Water Resources (IDWR) offers the following comments in response to your September 15, 2008 letter about the proposed nuclear power plant in Elmore County.

The site includes Snake River irrigation water right no. 2-2379. That right provides 23.67 cubic feet per second and 6,060 acre-feet per year to irrigate 1232 acres. It is possible to change the nature of use of an irrigation right to a different beneficial use through the Application for Transfer process. That process is subject to public protests. A transfer application can be either rejected, denied, approved in part or in whole by IDWR. One significant limitation to changing a surface water irrigation right to a non-irrigation beneficial use is that the period of use most likely would remain limited to the irrigation season to prevent an expansion of use and/or injury to other water right owners.

It would be difficult to obtain new water rights from the Snake River in that location due to concerns about Trust Water. In a general sense, Trust Water is the available water in the Snake River system, whether surface water or tributary ground water, in excess of minimum stream flow requirements at the Murphy Gage just downstream from Swan Falls Dam. Complex Trust Water statutes and Water Appropriation Rules govern the ability to obtain new water rights from surface water and/or tributary ground water for the site in question.

The western portion of the site falls within the Mountain Home Ground Water Management Area. That most likely precludes the ability to obtain new water rights from ground water diversions from the portion of the site within the management area. The management area does not preclude the possibility of transferring a ground water right in the management area to a proposed well(s) within the management area. It might be possible to obtain a new ground water right for a well(s) outside of the management area if the new use could pass the Trust Water hurdles noted above.

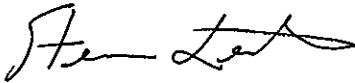
Alternate Energy Holdings, Inc.
September 24, 2008
Page 2

The information you provided does not discuss water requirements for the project or describe how water needs will be met. However, it is not hard to imagine that water requirements for the project will be significant. Also, the approval process for water right coverage for the project would most likely be complicated by the above noted constraints and the expected public interest in water issues related to the project.

More information about water and water rights is available on the IDWR website at www.idwr.idaho.gov.

Please contact me at 208-334-2190 if you need more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester". The signature is fluid and cursive, with the first name "Steve" and last name "Lester" clearly distinguishable.

Steve Lester
Water Rights Supervisor

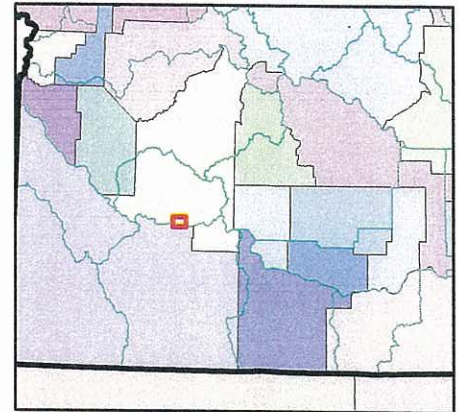


Idaho Department of Water Resources

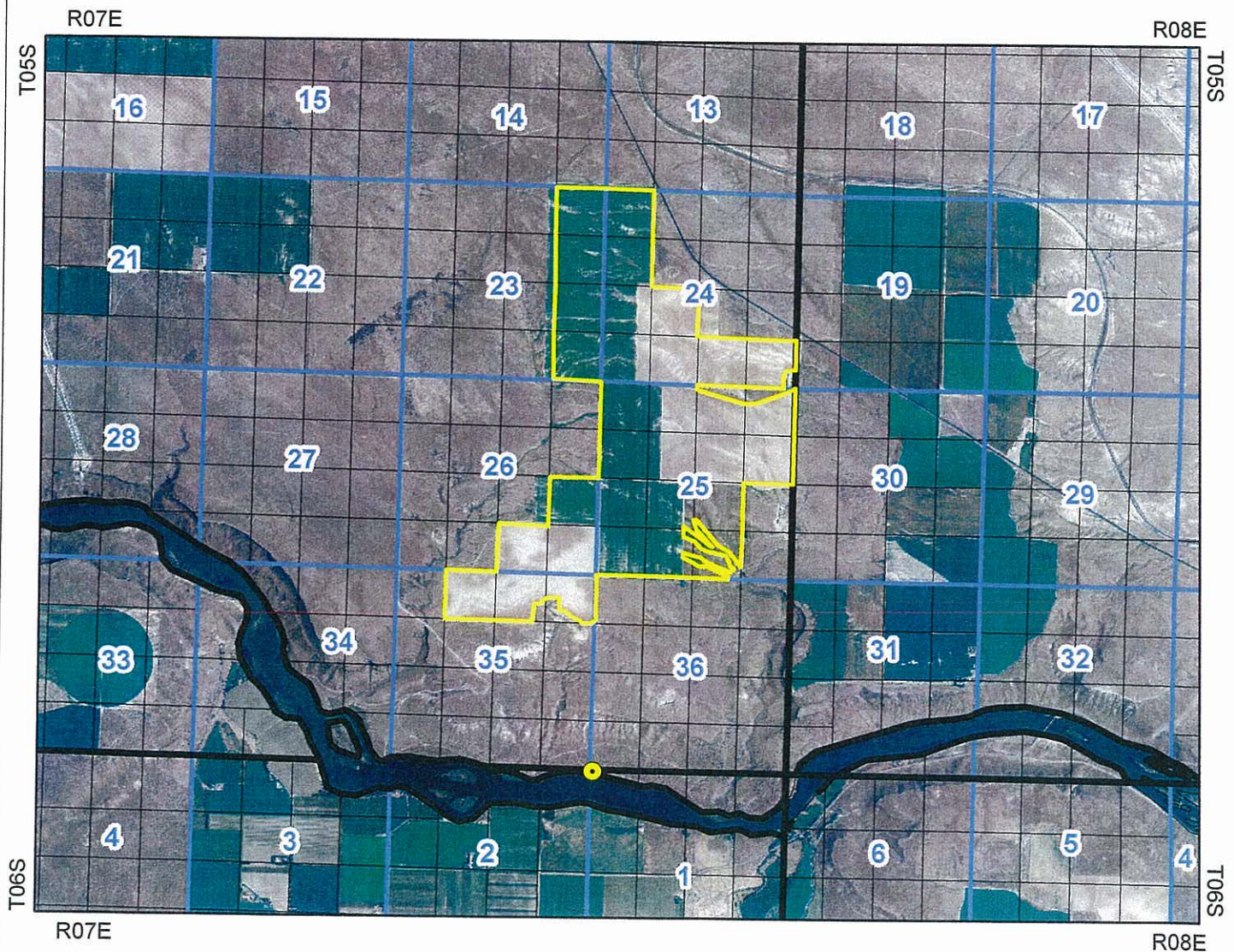
SRBA Recommendation 2-2379 (IRRIGATION)

Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Elmore County
IDWR Basin 2



Prepared by Steve Lester
On September 23, 2008
2004 Aerial Photography

0 0.5 1 2
Miles

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 2-2379 V1

WATER RIGHT NUMBER: 2-2379 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DERUYTER PROPERTIES LP 13027 SUNNYSLOPE RD CALDWELL, ID 83607
Directors Report Owner	SNAKE RIVER RANCH LTD C/O LANDSING CORP GEN PARTNER 800 EL CAMINO REAL MENLO PARK, CA 94025 (415)321-7100
Original Owner	THE TRAVELERS INSURANCE CO JEANETTE/DONALD/ROBERT/ DONALDA RICE ROBERT/ SARAH/MARLENE/CLAUDE RHEAD

Priority Date: 09/03/1965

Basis: License

Status: Active

← 50 not subject to curtailment c min flow
at Weiser gage

<u>Source</u>	<u>Tributary</u>
SNAKE RIVER	COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	23.670 CFS	6,060.00 AF
	<u>Total Diversion:</u>	23.670 CFS	6,060.00 AF

Location of Point(s) of Diversion

SNAKE RIVER L4 (NW1/4NW1/4NW1/4) Sec. 1, Twp 06S, Rge 07E, B.M.
ELMORE County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	07E	23	39.0			39.0					39.0				39.0			39.0	156.0
05S	07E	24					40.0	40.0			40.0	40.0	40.0	40.0			40.0	36.0	316.0
05S	07E	25	32.0	32.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	38.0	39.0	30.0			531.0
05S	07E	26													39.0	40.0	40.0		119.0
05S	07E	35	34.0	36.0			40.0												110.0

Total Acres: 1232

no other IAR was these sections per Pon comparison Query
 nonim = 2-10053 .14 cfs / 13k g/d many sections, all of S. 23, 24, 35 =
 Bowlin cattle LLC

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 2-2379 V1

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. G19 None of the place of use in this water right includes federal public land.

Comments:

1. srobischo 2/4/2005 offer to sell

Comment: Snake River Ranch, Ltd offered to sell 640 of the 1280 acres covered by this license

2. dshaff 2/7/2008 Owner Change POU

Comment: Two tracts (NWSE S24, NWNW S36) were not part of the sale in Jan 2008. The S24 land is the subject of a BLM objection, and S36 is owned by another party not connected with this property. Both of these tracts do not appear irrigated in 2004. Further, neither of these tracts were part of the 1965 water right permit preceding the license. Rather than split this right, the 48 acres were stripped from the water right with a correspondingly reducing the annual volume.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:

SubCase:

SubCase Number: 2-2379

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: srobischo

Basis of Claim: License

Date Filed: 12/5/2007 Objection Status: Active