

Pre-Hearing Conference Notes

Eagle Springs/Barnes Ventures

Applications for Permit #65-23239 & #65-23105

Application for Transfer #73787

From: J. Westra

Location: Western Regional Office

Date: 08/18/08

Attending: See Attached Roster

-The conference began with the applicant presenting the project—South Fork Landing along the South Frk. Boise River near Garden Valley. Scott King reviewed the elements and intent of each application. The transfer will mitigate consumptive pond losses under the permit applications—irrigated acres are dried up (aesthetics) under portions of rights listed. There will be no additional consumptive use than previously under irrigation. Ponds are already constructed.

-Ms. Reed, protestant presented her concerns.

- *discussed rule IDAPA Rule 45 Criteria

- * Concerns about water quality

- Surface water & ground water comingling—flood events.

- * Financial resources—compared to the Tamarack resort situation

- What happens if the project is not completed.

- *Solicit comments from Fish & Game, DEQ, & Corps of Engineers.

- * Supply of water to lot owners—times when water diversion may be curtailed by watermaster.

- * Wet land issues near the river—drying up, distributed photos to participants.

-IDWR explained management of Payette basin system—Water District #65 also reviewed the evaluation criteria for permits and transfers. Discussion concerning review of the applications and current status—advertised only.

-Negotiations

The applicant was willing to negotiate the following with the protestant

1. Provide written information regarding the water supply to each lot owner that is possible curtailment/unsure supply at times.

- Protestant will provide input.

2. Implement water monitoring program—water in and water out

3. Solicit input from Fish & Game, DEQ, and Corps.

-All agreed negotiations will continue, no hearing date set, IDWR will check with parties in 30 days.

Eagle Springs Prehearing Conference
August 18, 2008
IDWR Western Region

Purpose

- Formulate/simplify the issues*
- Discuss settlements, make settlement offers*
- Address matters that may expedite conduct of the proceeding or settlement*
- Schedule hearings, discovery.*

Agenda

- Introductions--IDWR**
- Conference structure/comments-- IDWR** *No interruptions*
- Presentation of the project—Applicant (10 minutes)**
- Protestant concerns---Protestant (10 minutes)**
- IDWR remarks---**
 - *Evaluation criteria *Traden*
 - * Water Management of the Payette Basin #65.
Min Stream flows
- Discussion/Questions/Answers**
- Settlement Discussions/Offers**
- Actions**
 - Dates—Schedules.

Evaluation Criteria Applications for Permit

Pursuant to Idaho Code §42-203A (5)

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply sufficient for the purposes intended?
3. Is the application made in good faith, for delay, or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest? *that is, the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource.*
6. Will the proposed use be contrary to conservation of water resources within the State of Idaho?

Transfer Evaluation Criteria

See IC 42-108 & 42-222

Authority

WR Validity

Injury

Enlargement

Local Interest

Conservation

Web References www.idwr.idaho.gov, select **forms-rules-statutes**

-Idaho Code 42-203A *Protests—Hearings Appeals*

-Rules of Procedure; IDAPA 37.01.01

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 65-12733

WATER RIGHT NUMBER: 65-12733

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208)287-4800

Priority Date: 04/26/1985

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
PAYETTE RIVER SOUTH FORK PAYETTE RIVER	SNAKE RIVER PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MINIMUM STREAM FLOW	01/01 to 04/18	212.000 CFS	
MINIMUM STREAM FLOW	07/16 to 12/31	212.000 CFS	
MINIMUM STREAM FLOW	04/19 to 07/15	<u>1,100.000 CFS</u>	
		<u>Total Diversion:</u>	1,350.000 CFS

Location of Point(s) of Diversion

PAYETTE RIVER	SW 1/4SW 1/4	Sec. 28, Twp 09N, Rge 03E, B.M.
BOISE County	(Ending of Reach)	
SOUTH FORK PAYETTE RIVER	NE 1/4SE 1/4	Sec. 31, Twp 09N, Rge 07E, B.M.
BOISE County	(Ending of Reach)	
SOUTH FORK PAYETTE RIVER	SW 1/4NW 1/4	Sec. 32, Twp 09N, Rge 07E, B.M.
BOISE County	(Ending of Reach)	
SOUTH FORK PAYETTE RIVER	NE 1/4NE 1/4	Sec. 20, Twp 09N, Rge 04E, B.M.
BOISE County	(Ending of Reach)	
SOUTH FORK PAYETTE RIVER	NE 1/4SE 1/4	Sec. 31, Twp 09N, Rge 07E, B.M.
BOISE County	(Beginning of Reach)	
SOUTH FORK PAYETTE RIVER	NE 1/4NW 1/4	Sec. 32, Twp 09N, Rge 07E, B.M.
BOISE County	(Ending of Reach)	
SOUTH FORK PAYETTE RIVER	NE 1/4NW 1/4	Sec. 32, Twp 09N, Rge 07E, B.M.
BOISE County	(Beginning of Reach)	
SOUTH FORK PAYETTE RIVER	SW 1/4NW 1/4	Sec. 32, Twp 09N, Rge 07E, B.M.
BOISE County	(Beginning of Reach)	
SOUTH FORK PAYETTE RIVER	SW 1/4NW 1/4	Sec. 2, Twp 09N, Rge 11E, B.M.
BOISE County	(Beginning of Reach)	
PAYETTE RIVER	NE 1/4NE 1/4	Sec. 20, Twp 09N, Rge 04E, B.M.
BOISE County	(Beginning of Reach)	

S Frk.
Roughly 1420 CFS
8/14/08

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 65-12733

7. DESCRIPTION OF FLOWS BY REACH:

REACH A:

FROM 01-01 TO 04-18 212 CFS

FROM 04-19 TO 07-15 1100 CFS

FROM 07-16 TO 12-31 212 CFS

REACH B:

FROM 01-01 TO 04-14 337 CFS

FROM 04-15 TO 08-31 1100 CFS

FROM 09-01 TO 12-31 337 CFS

REACH C:

FROM 01-01 TO 04-14 337 CFS

FROM 04-15 TO 08-31 337 CFS MONDAY - THURSDAY

FROM 04-15 TO 08-31 400 CFS FRIDAY - SUNDAY

FROM 09-01 TO 12-31 337 CFS

REACH D:

FROM 01-01 TO 04-14 337 CFS

FROM 04-15 TO 08-31 1100 CFS

FROM 09-01 TO 12-31 337 CFS

REACH E:

FROM 01-01 TO 04-14 407 CFS

FROM 04-15 TO 08-31 1350 CFS

FROM 09-01 TO 12-31 407 CFS

THIS MINIMUM STREAM FLOW IS FOR THE PRESERVATION OF SCENIC, RECREATIONAL AND AESTHETIC VALUES AND FOR THE MAINTENANCE OF FISH AND WILDLIFE HABITAT.

Remarks:

Comments:

1. AJU10-JS 2/1/2000 AJU10 CONDITION UPDATE

Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 65-12733

Place of Use

Conditions of Approval:

1. PLACE OF USE FOR THIS RIGHT IS THE REACH OF THE SOUTH FORK PAYETTE RIVER BEGINNING AT THE BOUNDARY OF THE SAWTOOTH WILDERNESS AREA IN UNSURVEYED T09N R11E 2 TO THE CONFLUENCE OF THE SOUTH FORK PAYETTE RIVER AND THE MIDDLE FORK PAYETTE THENCE DOWNSTREAM ON THE PAYETTE RIVER TO THE CONFLUENCE OF THE PAYETTE RIVER AND THE NORTH FORK PAYETTE RIVER.
2. THE RATES OF FLOW FOR THIS MINIMUM STREAM FLOW ARE DESCRIBED IN DETAIL IN THE PURPOSE AND PERIOD OF USE PORTION OF THE WATER RIGHT.
3. DESCRIPTION OF REACHES: REACH A - BEGINNING AT THE BOUNDARY OF THE SAWTOOTH WILDERNESS AREA IN UNSURVEYED SECTION 2, T9N, R11E, TO THE CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE RIVERS IN NENW, S32, T9N, R7E, BOISE CO.
REACH B - BEGINNING AT END OF REACH A TO THE UPSTREAM END OF THE OXBOW BEND, APPROXIMATELY 1056 YARDS DOWNSTREAM FROM THE CONFLUENCE OF THE DEADWOOD & SOUTH FORK PAYETTE RIVERS IN THE SWNW, S32, T9N, R7E, BOISE CO.
REACH C - BEGINNING AT THE END OF REACH B TO A POINT IN THE NESE, S31, APPROXIMATELY 200 YARDS DOWNSTREAM FROM THE SECTION LINE BETWEEN SECTION 31 AND 32, T9N, R7E, BOISE CO.
~~REACH D~~ - BEGINNING AT THE END OF REACH C TO THE CONFLUENCE OF THE SOUTH FORK PAYETTE RIVER AND THE MIDDLE FORK PAYETTE RIVER IN THE NENE, S20, T9N, R4E, BOISE CO.
REACH E - BEGINNING AT THE END OF REACH D TO THE CONFLUENCE OF THE PAYETTE RIVER AND NORTH FORK PAYETTE RIVER IN THE SWSW, S28, T9N, R3E, BOISE CO.
4. THIS MINIMUM STREAM FLOW IS SUBORDINATE AND SUBJECT TO FUTURE APPROPRIATIONS OF WATER FROM THE SOUTH FORK AND MAIN STEM OF THE PAYETTE RIVER FOR MUNICIPAL AND DOMESTIC PURPOSES WITHIN THE MINIMUM FLOW WATERSHED.
5. 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.
6. UPON A FUTURE FINDING AND ORDER OF THE DIRECTOR THAT GAUGING STATIONS ARE REQUIRED TO MAINTAIN THE APPROVED MINIMUM FLOW ON THE SOUTH FORK AND MAIN STEM, PAYETTE RIVER, SUCH MEASURING DEVICES SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS SPECIFIED BY THE DEPARTMENT.
THE DIRECTOR RETAINS JURISDICTION, AS DESCRIBED BELOW, TO REVIEW AND AMEND ANY AND ALL PARAMETERS OF THIS RIGHT. THE BOARD, UPON RECEIVING A REQUEST, OR UPON ITS OWN INITIATIVE, MAY PETITION THE DIRECTOR FOR AN AMENDMENT TO THE RIGHT. THE PETITION MUST SET FORTH ANY SIGNIFICANT CHANGE IN CIRCUMSTANCES AND EVIDENCE OF THE PUBLIC INTEREST SUPPORTING THE PROPOSED AMENDMENT. THE DIRECTOR WILL NOTIFY THE GENERAL PUBLIC AND SPECIFIC PERSONS OR KNOWN INTERESTED PARTIES OF THE PROPOSED CHANGE, AND CONDUCT A HEARING FOR THE PURPOSE OF DETERMINING WHETHER THE RIGHT SHOULD BE AMENDED IN THE PUBLIC INTEREST. THE BURDEN OF PROOF AT THE HEARING SHALL BE UPON THE PERSONS OR PARTIES SEEKING THE AMENDMENT TO ESTABLISH THAT THE AMENDMENT OF THE RIGHT WOULD BE IN THE PUBLIC INTEREST.



State of Idaho

USGS DEPARTMENT OF WATER RESOURCES

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

USGS 13235000 SOUTH FORK PAYETTE RIVER AT LOWMAN, ID

Google Earth: 43.521976, -116.341111 • Web: <http://waterdata.usgs.gov/idwr.idaho.gov>

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

