



State of Idaho

DEPARTMENT OF WATER RESOURCES

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NORTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

COPY

February 7, 2007

Darrel Stucky
1700 River Drive
Jackson, WY 83001

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho.

Dear Mr. Stucky:

The Idaho Department of Water Resources (IDWR) is in receipt of your application to withdraw water from Mill Creek for irrigation, stock water and recreation purposes within Water Basin 85.

Your property happens to be in the Salmon-Clearwater River drainage, which is considered a sensitive basin. Idaho Code 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the financial resources of the applicant
- The local public interest in the public water resources
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the statutorily mandated criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications. I have enclosed a copy of Rule 40.05 for your reference.

In accordance with Rule 40.05.c, the additional informational requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 acre feet or less. Because the waters of the Clearwater River drainage are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, IDWR believes that caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the rivers and streams of the Clearwater River basin. As part of this cautious approach, IDWR is requiring that applicants submit the additional information required

by Water Appropriation Rules 40.05.c through 40.04.g even when the applications are for less than the usual 5.0 cfs/500 acre feet threshold. Also, information about the local public interest must contain comments from the Idaho Department of Fish & Game, the Idaho Department of Environmental Quality and appropriate Forest Service Ranger District if applicable.

Please submit the information required by Water Appropriation Rules 40.05.c through 40.05.g to IDWR within 30 days. For your convenience, I have highlighted the portions of the rules that apply to your application. If you need additional time to submit the required information, please submit a written request. IDWR can grant additional time "upon a showing of good cause". Water Appropriation Rule 40.05.d also allows an applicant to request that IDWR interrupt processing an application for up to six months. IDWR can approve the request if it will not injure others, it is consistent with the public interest, and it is not for speculative purposes.

If you have any questions, don't hesitate to contact me at this office.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

Enclosure/kf

Cc: Marti Bridges at IDEQ in Boise
Cindy Robertson at IDFG in Boise
Cal Goen at IDFG in Lewiston
Kerby Cole at IDEQ in Lewiston
Bill Graham at IDWR in Boise
Shelley Keen at IDWR in Boise