



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 17, 2008

SETH D. SEAMONS
2223 S 5400 W
MALAD ID 83252

RE: Application for Permit 15-07285

Dear Mr. Seamons:

The Idaho Department of Water Resources (IDWR) is reviewing your application to divert and use 3.60 cfs of ground water in the NE¼SE¼ of Section 4, Township 15S, Range 35E, Boise Meridian, to irrigate 180 acres. When reviewing an application to appropriate water, IDWR is directed in Idaho Code §42-203A(5) to evaluate the following items whether the application is protested or not:

- 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 applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

IDWR's analysis of your application so far has included the following four items:

- Preparing a Hydrogeologic Assessment report to estimate the potential impacts to existing water rights near the subject application
- Reviewing the water rights and well drilling activity in the Malad River Basin
- Interviewing staff members with specific experience and expertise in the Malad River Basin
- Discussing Samaria Water and Irrigation Company's use of water from nearby Warm Springs with David Reel

While there may be some impact from your proposed water use on nearby ground water diversions and on the Malad River, these efforts focused IDWR's primary concern on the potential of your proposed ground water diversion to affect the flows of Warm Springs and thereby injure Samaria Water and Irrigation Company. Recent lawsuits over the use of water in the Thousand Springs and Eastern Snake River Plain aquifer areas illustrate the water management problems that can result when junior ground water diversions affect the spring flows used by senior water right holders.

The flows of Warm Springs are diverted in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, Township 15S, Range 35E, Boise Meridian, not far from your proposed diversion. Samaria Water and Irrigation Company has two licensed water rights totaling 6.5 cfs for irrigation purposes from Warm Springs. At this time IDWR does not know whether, or to what extent, your proposed water use will affect the flows of Warm Springs because local aquifer characteristics and the connection between the local aquifer(s) and Warm Springs remain relatively unknown. Consequently, more information is needed before IDWR can approve your application with some surety that Samaria Water and Irrigation Company will not be injured.

To ensure that IDWR has sufficient information to evaluate the criteria listed in Idaho Code §42-203A(5), Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) authorizes IDWR to require water right applicants to submit additional information in connection with their applications. The additional information requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 af or less, but if necessary IDWR can require the applicant to submit the additional information for any application. Ultimately, it is the applicant's responsibility to show that a new appropriation will not injure holders of senior water rights.

To support your application, please submit to IDWR a technical report containing data, analysis, and conclusions from a pump test or similar scientifically sound evaluation of the potential for your proposed water use to affect the flows of Warm Springs. The test should be designed and conducted by a qualified professional, such as a hydrologist, geologist, or engineer, and approved by IDWR before it is conducted. A pump test can be performed on an existing well provided a well of similar size, depth, screening interval, and pumping rate to the proposed well can be found. Ideally, your study should be conducted during the non-irrigation season so that the effects of existing irrigation wells do not complicate your evaluation of spring flows.

Measuring the flows of Warm Springs will be an important component of your study. IDWR has discussed with David Reel of Samaria Water and Irrigation Company the need to install a measuring device for the flows of Warm Springs. Mr. Reel indicated that Samaria also would like to have a measuring device in place. Depending on channel conditions, installation of a permanent measuring device can be costly. For study purposes, a less costly temporary measuring device/method may also suffice. The requirement that you complete the study is contingent upon the timely installation by Samaria Water and Irrigation Company of a permanent measuring device or Samaria's cooperation with you to install a temporary measurement method for the flows of Warm Springs. Samaria must also allow access to the device. If this support and cooperation is not provided timely, as determined by IDWR, then you may petition IDWR in writing to re-evaluate this requirement.

A decrease in Warm Spring flow rates as a result of your test and report will signify potential injury to the Samaria Water and Irrigation Company and may result in the denial of your

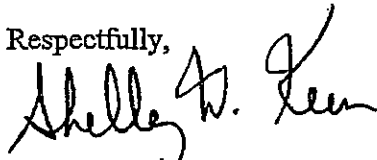
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application unless you implement a mitigation plan, subject to IDWR approval, that alleviates injury.

IDWR will delay further processing of your application for up to one year so that you can provide the requested information. If you have not submitted the requested information within that time, IDWR will assume you have no further interest in the application, and it will be voided.

The main focus and goal of IDWR, in requesting you to comply with the above requirements, is to prevent injury to senior water rights. We apologize for any inconvenience this may cause, but we feel it is necessary to take a proactive approach in addressing these questions prior to, rather than after, substantial resources are invested into developing your water use. We appreciate the patience and understanding you have shown. Please contact us with any questions regarding this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent.

Shelley Keen, Manager
Water Right Permits Section

Cc: Candice McHugh
Samaria Water and Irrigation Company
IDWR Eastern Region