

February 27, 2008

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State of Idaho
Department of Water Resources
322 East Front
P.O. Box 83720
Boise , ID 83720-0098

RE: Permit No. 78-12138

Dear Mr. Peppersack:

I am responding to your "Lapse Notice", dated January 8, 2008. Also to the "Proof Due Notice", dated 31 October. Note also that I had a phone conversation with Deborah Gibson in early January.

I expressed to Ms. Gibson that I more or less gave up on the process. As I felt too many conditions fatal to granting my permit were in place.

A brief Chronology:

I filed for permit May 24, 2001.

IDWR letter dated 4 September 2001 stating that Watermaster for Goose Creek recommended denial of permit.

September 24, 2001. I appealed the recommended denial above.

October 9, 2001 IDWR letter. Towards the end of the main paragraph it states ... "however there cannot be any water flowing into the pond during the irrigation season (4/15 to 10/31)". I cannot stop the water from flowing into the pond! Like I stated in my appeal dated September 24, 2001, Number 3. To paraphrase- The pond fills before irrigation season, and all subsequent water flows into and out of pond unimpeded.

December 13, 2001 IDWR letter. Letter refers to "live-flow uses" and "diversion to storage". With every letter from IDWR conditions to the permit were added. Every attempt I made to clarify a detail has resulted in more conditions.

December 26, 2001. "Permit to Appropriate Water" issued. Number 5, in the "Conditions of Approval" requires a measuring devices to measure in flow and out flow. That is an impossible condition! This pond is filled by the unnamed stream (ditch) and runoff through the meadow thus there is no single collection point that can be measured.

This is the end of the controversial chronology. In my conversation with Ms. Gibson regarding the deadline for "Proof of Beneficial Use" I stated that the conditions of IDWR letter October 9, 2001, no water may flow into the pond during irrigation season, and a measuring device are impossible to meet. Ms. Gibson's suggestion was to request a waiver for the measuring device. I there for request a waiver for the measuring device due to the dispersed nature of the inflow to the pond. That still leaves the issue of the October 9, letter regarding ... "however there cannot be any water flowing into the pond during the irrigation season (4/15 to 10/31)". Once the pond is full by definition it cannot hold any more water unless altered in some way as in raising height of spillway. That is, water does not, indeed cannot, flow into the pond but over or around pond. No water is collected after the pond is full. Also the issues of the letter dated December 13, 2001 Re: "live-flow uses" and "diversion to storage".

I am filing the Proof of Beneficial Use. I also am enclosing a M.O. for \$50.00 for license examination fee. However do not cash M.O. unless you are willing to grant my waiver for the measuring device, and reconcile the verbiage regarding: diverting/ storing/ collecting during irrigation season. If any of these additional conditions cannot be resolved, obviously there is no point in an examination, as the criteria cannot be met in advance.

The micro scale of this project verses the headaches, to say nothing of the costs of filing \$150.00. so far, I hope are worth it.

The micro scale of this project not with standing, the true "nature" of this project is that now there are nesting Phalaropes and Wilson's snipe in the spring, two species of mayflies, caddis, transient ducks, sedge, and basically more varieties of both plant and animal. This area is reverting back to a wetland after years of being artificially drained.

I hope that all issues can be resolved. I look forward meeting with your examiner. Please schedule in the spring when shore birds are nesting. I am sure you find this project good for man and beast.

Sincerely



Doug Mastaler

Cover sheet

Enclosed is M.O. for \$50.00

Please do not cash until IDWR resolves
issues in my letter.

If any of these issues are fatal to the process
there is no point going any further. These
issues are addressed in my letter.

The issues are:

The requirement for a measuring device.

"Conditions of approval" dated December 26, 2001

No water may flow into pond during
irrigation season.

IDWR letter dated October 9, 2001

"Live-flow uses"... and ..."Diversion to
storage"

IDWR letter dated December 13, 2001