

Harris, Jeff

From: Harris, Jeff
Sent: Thursday, March 20, 2008 9:46 AM
To: 'cmm@racinelaw.net'
Subject: Seamons Application for Permit
Attachments: PT Condition 15-7285 (2).doc

Mrs. McHugh,

I have attached a letter that that discusses Seth and Lorinda Seamon's Application for Permit. I look forward to meeting with you and the Seamon's on Monday, have a great day.

Regards,

Jeff Harris
Water Resource Agent
Boise
(208) 287-4955

3/20/2008

March 18, 2008

SETH D. SEAMONS
2223 S 5400 W
MALAD, ID 83252

**RE: Summary of Permit Application 15-07285 and
Recommendation of Options for Moving Forward**

Mr. and Mrs. Seamons:

The purpose of this letter is to summarize the following: the history of your application for permit #15-07285; an explanation for Idaho Department of Water Resources (IDWR) concerns regarding the proposed ground water diversion associated with this permit; and the options available to you in regards to moving forward with the completion of your application.

On February 21, 2007 we received an application for permit in the name of Seth D. Seamons proposing the diversion of groundwater at a rate of 4.88 CFS for the purpose of irrigating 244.3 acres of land located in the SW and SE quarters of Section 4, Township 15S, Range 35E, Boise Meridian. The application was processed and advertised in the Eastern Regional office and sent to the State office for final review and approval. We received two protests in response to the advertisement; however, both were received the day after the final protest deadline.

During the initial review of the application in the State office, the reviewing agent found that the information submitted was not sufficient to evaluate the criteria required under Water Appropriation Rule 040.05 regarding the irrigation of more than 200 acres. We contacted you regarding this matter and you responded by filing an amended application for permit reducing the amount of irrigated land to 180 acres and the diversion rate to 3.6 CFS. We received the amended application on August 29, 2007 and determined that re-advertisement of the amended application was not necessary.

Although the protests were received too late to be valid, they still raised concern, and regardless of protest, pursuant to Idaho Code §42-203A (5) IDWR has an obligation to ensure that development of the beneficial use associated with your application does not result in injury to senior water right holders. In evaluating the proximity of your application to Warm Springs, the Malad River, and other ground water right diversions, we came to the conclusion that further analysis was warranted to evaluate the potential injury to senior water right holders. Specifically, our initial review raised concerns regarding the potential for injury to the Samaria Water and Irrigation Company's Warm Springs rights.

Further analysis on the part of IDWR came in three forms: (1) a Hydrological Assessment Report of the region was prepared by the Hydrology Section of our Department further investigating the potential impacts to existing water rights near the subject application; (2) we made a review of water rights and well drilling activity in the Malad River Basin and; (3) we interviewed IDWR staff with specific experience and expertise in the Basin. The results of these efforts only served to heighten our concerns. The assessment found that the potential for injury to nearby senior ground and surface water users could be substantial. However, unknown aquifer characteristics and connectivity between surface, spring and ground water rights make it difficult to determine how substantial the impacts may be. Our review of water rights and well drilling activity indicated an increasing trend in ground water allocations, with 2007 representing the greatest

amount of activity, while review of well drilling activity was inconclusive. Finally, discussion with Dennis Dunn the Eastern Region's Well Drilling Supervisor indicated that anecdotally there is concern on his part and that of the public regarding potential over-appropriation of ground water in the basin. Our additional findings have continued to indicate that the potential injury to existing water rights exists from the development of this beneficial use and more information is necessary to ensure that all prior water rights are protected.

The Department of Water Resources has identified two options that will allow you to move forward with the development of the beneficial use as currently described on the application.

(1) Pursuant to Administrative Rule 040.05, and at the specific request of the Director, the permit applicant can submit additional information relevant to the affect of the proposed beneficial use to existing water rights for IDWR's review and consideration. Additional information should be prepared by a Professional Geologist or Engineer and specifically address the following parts of Rule 040.05. Response to items c-iii and d-ii should specifically address the possible connection between the proposed ground water diversion and the Warm Springs and IDWR's concern for potential injury to the Samaria Water and Irrigation Company's existing water rights.

c-ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.

c-iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d-i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year. (7-1-93)

d-ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

(2) IDWR can issue the permit as requested in the application with the following conditions placed upon the permit. It would then be up to you the permit holder to fulfill the requirements of the conditions to the satisfaction of IDWR.

Pumping Test Condition

1. To prevent injury to senior water right holders, the permit holder, prior to developing the beneficial use associated with this permit, shall carry out a Pump test at the location of the proposed water right. If desired, the pump test can be performed on a reduced scale test well. The permit holder shall submit a pump test narrative summarizing the proposed pump test its objectives, methods, data collection, and key components to IDWR for review and approval prior to conducting the pump test. Following the pump test a Technical Report summarizing the pump test and its findings shall be submitted to the

Department of Water Resources for review and evaluation, prior to further development of the beneficial uses described by the Permit. A Professional Geologist or Engineer shall be on hand at the time of the well drilling and pump test and shall prepare the Technical Report for submittal to the Department.

2. To evaluate potential injury to existing water rights associated with the Warm Springs, flow rates shall be monitored and recorded for one week prior to the pump test, during the pump test, and for one week following the pump test. Spring flow rates shall be monitored and recorded daily for the week prior to and following the pump test, and hourly during the flow test, the applicant must record and maintain records of the flow rates by date, time, and flow rate in cubic feet per second. Warm Springs flow rate data shall be submitted to the Department of Water Resources for review and evaluation prior to further development of the beneficial uses described by the Permit. A decrease in Warm Spring flow rates as a result of the pump test will signify potential injury to the Samaria Water and Irrigation Company and may result in the cancellation of the permit unless the permit holder implements a mitigation plan, subject to IDWR approval, that prevents injury to the Warm Springs.
3. Prior to diversion and use of water for irrigation purposes under this permit, the permit holder shall install a totalizing measuring device of a type approved by the department on the system diverting ground water for irrigation. The measuring device shall be monitored and recorded on a daily basis while the pump is in use and the applicant must record and maintain records of all irrigation diversions from the well identifying the amount of water diverted by date and the total annual volume. These records must be made available for inspection by the department upon request. Each annual record set must be maintained for a minimum of 10 years.
4. Water surface elevations in the well shall be monitored and recorded on a weekly basis and the applicant must record and maintain records of the water surface elevation by date and elevation in feet above mean sea level. These records must be made available for inspection by the department upon request. Each annual record set must be maintained for a minimum of 10 years.

The main focus and goal of IDWR, in requesting you to comply with the above requirements, is to prevent injury to senior water rights and thereby protect you from possible future curtailment or mitigation. We apologize for any inconvenience this may cause but 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,

Idaho Department of Water Resources
Water Allocation Bureau