



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 18, 2006

GREG OBENDORF C/O DANA HOFSTETTER
HOFSTETTER LAW OFFICE
608 W FRANKLIN ST
BOISE ID 83702

Re: Applications for Permit for Wildlife Pond Project, Owyhee County

Dear Ms. Hofstetter:

The Idaho Department of Water Resources (IDWR) recently received three applications for permit for your client regarding a wildlife pond project in the Bruneau area. To assist this office in evaluating the project, additional information described by I. C. § 42-203A(5)(a-e) and 42-203C will be needed.

Please submit information addressing the items highlighted in the enclosed information. This includes the following based on Water Appropriation Rule 40:

1. effect on existing water rights (details: *ci* and *ciii*)
2. sufficiency of water supply (details: *di-ii*, also explain why 2.0 cfs per application for a total of 6.0 cfs is needed for the proposed beneficial use)
3. local public interest (details: county commissioners, IDFG, IDEQ and any irrigation delivery organizations within the project boundary; provide IDWR with copies of your letters seeking information plus any replies you receive)
4. reallocation of trust water (details: *hi* and *hvi*).

Water Appropriation Rule 45 defines evaluation criteria for applications for permit. *Rule 45 Subsections 2 and 3* discuss trust water issues. An application for more than 1.0 cfs of trust water is presumed to reduce the flow in the Snake River at the Murphy Gauge below Swan Falls Dam by more than 2 acre-feet per day (cfs x 2 = af/day). Each application lists 2.0 cfs. Therefore each one is presumed to fail the individual test for a significant reduction (*Rule 45.02.a*). The cumulative test with respect to other proposals by other owners is presumed to be met based on existing IDWR records and evaluation (*Rule 45.02.b*).

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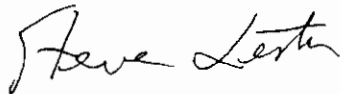
You might have information rebutting the presumption of a significant reduction. This might include details about timing and location for the proposed diversions, details regarding the tributary nature of the sources in question, or other information to show that the proposed diversions will not affect Snake River flows by more than 2 af/day per diversion. This analysis should discuss each proposed diversion and the combined effect of all three diversions on Snake River flows.

The previously filed transfer application for water right nos. 51-2174 and 51-7104 is also part of the pond project described by the three new applications for permit. Additionally, this office must focus most of its resources on completing the Snake River Basin Adjudication in the next few months. These factors will most likely delay processing of all the applications for this pond project. However, this provides an opportunity to obtain the requested information for this project. IDWR should allow more than the traditional thirty (30) day response period due to delays beyond the control of the applicant.

Please submit the requested information for the applications for permit. You may seek additional time to provide the information by making a written request to delay or interrupt processing. Your written response including the requested information, or a request for more time to seek the information, must be received **within ninety (90) days** of the date of this letter. The applications for permit will be voided without a timely reply.

Please contact me at your convenience if you need more information. Thank you for your attention to these matters.

Sincerely,

A handwritten signature in black ink that reads "Steve Lester". The signature is written in a cursive, flowing style.

Steve Lester
Water Rights Supervisor

Enclosure