



State of Idaho

DEPARTMENT OF WATER RESOURCES

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SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 23, 2005 *2006*

Steve Fisher
Fisher & Associates
6640 Highway 20 East
Missoula, MT 59802

Dear Mr. Fisher:

Please find enclosed a water right transfer application, in the name of Walter Lachewitz Jr., that you recently filed with our office. Also enclosed is the \$100 filing fee (Walter Lachewitz Jr. check #4847) that accompanied the application. Our office has had an opportunity to review and discuss the concept proposed by this application and has reached a consensus that it does not provide an adequate water right for the pond. In addition, it appears that the proposed project would also require a modification to Mr. Lachewitz's other water right, 37-7215F.

The basic concept behind the submitted application is to dry up enough acres for a one-year period for a one time filling of the pond (equivalent to the volume of the pond) and then permanently dry up acres to offset the evaporation from the pond. After discussing this concept, our office has reached a consensus that this would only cover the first year of water storage in the pond, and would not allow for any water storage beyond the first year. In order to permanently store water in a pond, there has to be a permanently recorded water right listing water storage in an amount at least equal to the storage volume in the pond. This can be accomplished in one of two ways, either make a brand new water right filing for water storage with appropriate mitigation for evaporative losses (typically accomplished via an application for permit accompanied by a water right transfer application), or by converting an existing water right to storage use in an amount adequate to cover the storage in the pond and any associated evaporative losses (could be accomplished by a water right transfer application). Note that if a new water right filing is not made and an existing irrigation water right is converted, then enough acres to cover the pond storage and evaporative losses must be permanently dried up under the existing irrigation right.

Review of the submitted application, aerial photography, and the Stream Channel Alteration Application filed with Terry Blau of our office indicates that the proposed pond will be constructed on an unnamed (spring fed) channel near the northeast corner of Mr. Lachewitz's property. The application indicates, "Irrigation of the remaining pasture will be through a pump placed in the new pond." Presently, Mr. Lachewitz has two water rights 37-562D (Big Wood River delivered through the Cove Canal) and 37-7215F (spring/unnamed stream) used to irrigate his property. The application proposes modifying only a portion of water right 37-562D to allow storage on the unnamed (spring fed) stream. There is nothing in the proposed application that allows for the impoundment of water from the unnamed (spring fed) stream, which will require

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some sort of water right. In addition, right 37-7215F currently allows for the diversion of water from the unnamed (spring fed) stream in the SWSWSW of Section 15, which is at a location north of Mr. Lachewitz's property. If water from the pond will be diverted for irrigation use, then the pump/pond location (NWNW of Section 22) needs to be listed on right 37-7215F as an authorized diversion point for irrigation use. If the current diversion (in the SWSWSW of Section 15) is to be retained then the pump/pond diversion location needs to be added to the water right, if the current diversion will no longer be used, then the authorized point of diversion for the right needs to be changed to the pump/pond diversion location.

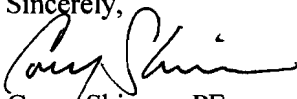
Examination of IDWR records reveals that rights 37-562D and 37-7215F are owned by Walter Lachewitz Jr. **and** Linda Lachewitz. Therefore, the application needs to be filed in the name of Walter Lachewitz Jr. **and** Linda Lachewitz, and both Walter Lachewitz Jr. **and** Linda Lachewitz need to sign the application. Otherwise, Walter Lachewitz Jr. needs to provide some sort of ownership documentation (such as a deed) showing that he is the sole owner of the rights and property involved with the application.

The application proposes changing the nature of use of irrigation rights to uses associated with a pond. For applications proposing a change in nature of use of an irrigation right, some sort of evidence (crop reports, third party affidavits, etc) needs to be provided showing what type of crop has been historically irrigated. The type of crop and its corresponding irrigation requirement determines the actual amount of water that can be transferred to a new use. You based your calculations off of an irrigation requirement (2.53 ac-feet per acre) for pasture in the Hailey area. However, there was no evidence included with the application that pasture was ever grown on the property.

The maps that were included with the application do not shed much light on exactly where the pond will be located on Mr. Lachewitz's property, other than being on the unnamed (spring fed) stream near Broadford Road. A more detailed map, showing the pond's location in relation to existing landmarks would be appreciated.

If you have any questions, or if I can be of any further assistance, feel free to contact me at your convenience.

Sincerely,



Corey Skinner, PE
Water Resource Engineer

Enclosures