



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

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EASTERN REGION

August 23, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

Rod E Arbon
42 S 1050 West
Blackfoot ID 83221

RE: Application to Appropriate Water 75-14301

Dear Mr. Arbon:

Now that the Director has rescinded the moratorium prohibiting new appropriations of surface water in the Salmon River drainage, the Department of Water Resources (IDWR) is now reviewing your application to appropriate water from the North Fork of the Salmon River for use in a pond (aesthetics and storage) in Lemhi County.

Idaho Code § 42-203A(5) directs IDWR to ensure that proposed new water uses meet a number of requirements. One of those requirements is that the proposed use must be consistent with the local public interest, which is defined as "the interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource." Removal of the moratorium has eliminated the presumption that every new appropriation of surface water will be harmful to anadromous fish. However, as part of its evaluation of the local public interest, IDWR must still review each application on a case-by-case basis to ensure that new appropriations of water do not undermine efforts to restore ESA listed fish species in the rivers and streams of the Salmon and Clearwater River basins.

On August 10, 2006, Idaho Department of Fish and Game (IDFG) responded by letter stating, "Juvenile salmon and trout have been observed in the ditch system downstream of the screen." The fish are entering the ditch at some point and until rectified, IDFG objects to any new water use on the ditch. IDFG would like the applicant to work with IDFG and other users on the North Fork 3A ditch to resolve the current situation before moving forward with a new permit.

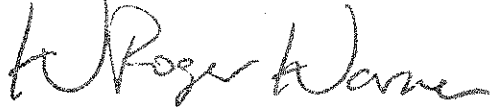
Given the strong public interest concerns expressed by IDFG, it appears that approval of your application to appropriate surface water from the North Fork of the Salmon River may not be in the public interest. However, there may be other considerations not yet made apparent. Before proposing a decision on your application, IDWR wants to be sure that you have an adequate opportunity to respond to the concerns expressed by IDFG. Within 30 days, please provide any data or information concerning the local public interest in the water you wish to appropriate and/or information about measures you can take to reduce or eliminate the potential effects of your proposed diversion on endangered or threatened fish species. If you need more time to respond, please request additional time in writing. If you do not respond or request more time

Mr. Rod E. Arbon
August 23, 2006
Page 2

within 30 days, IDWR will assume you are no longer interested in your application to use water from the North Fork of the Salmon River.

If you have any questions, please call me at 208-525-7161, or email me at roger.warner@idwr.idaho.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Roger Warner". The signature is fluid and cursive, with the first name "W." being particularly prominent.

W. Roger Warner
Water Rights Supervisor

Enclosure – Idaho Department of Fish and Game Letter dated August 10, 2006

Cc: Bob Foster, IDWR in Salmon
Jim Lukens, IDFG in Salmon
Walt Poole, IDFG in Boise
Troy Saffle, IDEQ in Idaho Falls
Shelley Keen, IDWR in Boise

WRW:sc