

Warner, Roger

To: Tim Murr

Subject: RE: Application nos. 75-07589 and 75-07590 re. Spackman order

Tim,

Below I have attempted to answer the questions that you presented me. Your questions are in black, my response is in blue. The questions and answers will be shared with all parties to the contested case.
regards,

Roger.

-----Original Message-----

From: Tim Murr [mailto:cavebear@ida.net]

Sent: Wednesday, July 19, 2006 7:03 AM

To: Warner, Roger

Cc: slavnlaw@salmoninternet.com; redcells101@hotmail.com; dnoel@forsgren.com;
director@poulsbochamber.com

Subject: Application nos. 75-07589 and 75-07590 re. Spackman order

Roger;

I wanted to thank you for the time you gave me on the 29th of June.

Again I would like to extend to you an invitation to attend the Williams Lake Recreational Water & Sewer Board meeting on Friday the 21st day of July in Salmon at the office of attorney Milton Slavin, 116 N.Center St.

If your schedule would allow we would greatly appreciate the opportunity to personally discuss these matters with you.

Response: I am sorry. I will not be able to attend this meeting with you. However, I did suggest that you ask your questions through a letter which it appears that you have done.

In respect to our conversation pertaining to application nos. 75-07589 and 75-07590, "domestic use" is defined by Idaho statute, title 42, section 42-111; however, in accordance with the order signed by Gary Spackman on January 19th 1993 there is no definition of the term "in-house use" as specified in condition no. 4.

Acting as spokes-person for the Williams Lake Recreational Water Board, I respectfully request that the Idaho Department of Water Resources provide the board with a written, legal definition of the term "in-house use".

Response: In-house use is commonly based upon the non-consumptive status given to such when residences have septic systems that returns water to the ground. Watering pets or a couple head of livestock associated with a residence is not an in-house use, but, given the largely nonconsumptive nature of the use, IDWR would probably not strictly enforce the in-house condition. However, use for watering several livestock or a commercial or cottage business operation (i.e. kennel) could be considered consumptive but also may place a unplanned burden on the existing water system. Irrigation is not an in-house use. If the water district wishes to allow such uses, they should consider making an application for permit to appropriate additional waters.

The same order signed by Mr. Spackman limited the number of homes in condition no. 10 as "domestic use for 100 homes", other documents refer to different nos. of homes allowed to be connected to the system including an order in reference to permit no. 75-07052 signed by Mr. L. Glen Saxton dated June 4th 1990 allowing "domestic use of 66 homes".

Exactly how many homes (connections) are these two applications limited to, and do they cover the same

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homes allotted to permit nos. 75-07052 and 75-07053?

Response: All that was constructed by the deadline date, March 1, 1995. Keith is currently reviewing the number of homes that had been constructed by the deadline date including those associated with Williams Lake Resort. By all appearances, 66 homes is a very close number. However, we hope to have an exact number soon.

Condition no. 4 of this order refers to "in-house use", and condition no. 10 refers to "domestic use", but the Beneficial Use Field Report dated April 29th 2005 and signed by the field examiner Mr. Keith C. Wilson refers to "Municipal use" and in sections E. and H. Mr. Wilson recommends that the nature of use be changed to municipal.

Which is it? Is it "in-house use", "domestic use", or is it "municipal use"?

Mr. Wilson was requested to perform a field examination by members of the Williams Lake water board. The board members requested that it be changed to municipal. Hence, the readvertisement of the permits and the subsequent protests. For the present, we consider it to be a domestic use with an in-house limitation.

How many homes are allowed per connection to the water system?

Response: All that was constructed by the deadline date, March 1, 1995.

For each connection, besides homes, can water also be run to barns, outbuildings, garages, 2nd homes, mother-in-law apartments, frost-free water spickets, etc.?

Response: All that was constructed by the deadline date, March 1, 1995. After the deadline date, No. Frost free spickets are considered to be an OUTSIDE use and therefore consumptive.

We have an understanding that the camp ground and resort are valued at more than one home. Exactly how many homes are both the camp ground and the resort valued at?

Response: The Department has considered the campground to be one (1) connection.

Condition 6. of the Spackman order states "Only homes built and served by district water lines before or during the development period may be recognized as legitimate places of use." What record is there identifying these "legitimate places of use"?

Response: The Wilson Field exam.

Can a "legitimate place of use" be changed by the board, if so, how, and under what conditions, and is this not one of the benefits of changing the nature of use to municipal?

Response: depends upon how it is licensed and how the changes affect the legal description. If within the same 40 acre tract, then it should be OK with the IDWR. If it is moved to a different 40 acre tract then file a transfer.

It has been brought to the attention of the water board that there are complaints of possible violations of conditions of the Spackman order in relation to these two applications. What weight do the conditions of the Spackman order carry as far as enforcement is concerned (do they carry the full weight of law?) and what is the mechanism by which violations of the conditions of the Spackman order are enforced?

Response: It is fully enforceable within the administrative laws of the Department of Water Resources, Titles 42 and 43 of the Idaho Statutes.

In as far as the conditions of the Spackman order are concerned the board respectfully requests clarification in specific instances.

With respect to "in-house use":

1. Is exterior washing permitted? i.e. house washing, deck washing, driveway washing,

automobile washing, boat washing, ATV washing, etc. No. Incidental use of this purpose would not warrant enforcement.

2. Is watering animals permitted? i.e. watering household pets, operating a dog kennel, watering livestock, watering one horse or cow or goat, watering ten horses, watering a thousand cows, etc. Incidental use of this purpose would not warrant enforcement.

3. Is irrigation permitted? i.e. watering lawns, watering flower beds, flower pots, children playing in sprinklers, etc. No

4. Are there any individual water consumption limits associated with "in-house use", will water consumption require to be monitored for each homeowner? Limited in aggregate by water right. No individual limits are imposed.

5. Can a patron of the water district drill a private domestic use well within the boundaries of the water district? Based upon IDWR rules, yes. Other agencies preclude drilling a well, however.

6. Can a patron of the water district install an underground storage tank (commonly referred to as a cistern) and haul water? Yes

7. Can a patron of the water district use lake water for any domestic or irrigation purposes? Only to the extent of the existing right.

8. Is a patron of the water district required to complete construction of a house before a water connection can be made to the property? (why does a person have to have a house to get water?) Condition of the order was that specific. That is what protestants agreed to.

9. Can a patron of the water district make an application to be removed from the taxing district if the water board cannot provide water to the property? If so what is the procedure for making such application? The Department has no authority over this issue.

I am looking forward to our continued dialogue and thanking you in advance for your response.

Tim Murr