



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

JAMES E. RISCH
Governor

KARL J. DREHER
Director

June 20, 2006

RAYMOND STOLTEY
HC 75 BOX 3556
NEW MEADOWS ID 83654

Re: Application for Permit No. 78-12245

Dear Mr. Stoltey:

My recent letter about the expected approval of your application was a bit premature. Additional review of your amended application identified a problem that we need to resolve before your application can be approved. I apologize for overlooking this hurdle in my last letter to you.

The amended application that you recently returned included details about your proposed dam for the storage pond. You listed a proposed dam about ten feet high. The Idaho Department of Water Resources (IDWR) presumes that a dam to store water would involve an impoundment on a natural drainage of some sorts – otherwise a dam above land surface would not make much sense. Impounding water on any type of natural drainage suggests that at least part of the source of water would be runoff captured by the dam.

In water right terms, runoff is described as an unnamed stream tributary to the nearest named body of water – in this case, Little Elk Creek or Elk Creek. Additionally, the dam acts as the point of diversion for runoff. Building a dam on any natural drainage adds a source of water and a point of diversion to Application 78-12245.

The application would need to be amended again in order to do that. The amended application would need to be advertised due to the significant changes added to the proposal. This might cause problems regarding the protest agreement. Additionally, you would need to apply for an Application for Construction of Small Dam (see enclosed). The project would require two approvals from IDWR - water right and dam construction. Approval for the dam might be complicated by high-risk factors associated with nearby homes etc. despite the minor amount of water proposed for storage.

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An alternative to building a dam would be to excavate a site on your property to store water from Little Elk Creek not involving the impoundment of water from any other source. This option would remain within the limits of your current application, allowing IDWR to approve it without further complications.

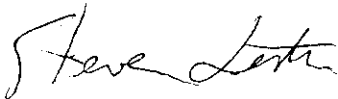
Please let me know how you would like to proceed as follows:

- Optim per
6/26/06
reply
JL
1. Revise the enclosed application to list "n/a for excavated site" in item 6b. This would mean that you intend to store the creek water in an excavated site on your property that would not involve a dam or other sources of water. No additional fee would be needed. The priority would not be affected. The protest agreement would remain intact.
 2. Revise the enclosed application to amend it by adding a source and tributary for runoff as previously discussed. Also add a point of diversion for the location of the dam. A \$50 amendment fee would be needed. The priority would be advanced to the new date of filing this version. IDWR advertising of the amended application would be required. The protest agreement might need to be revisited. This route would also require an application to construct a dam.
 3. For either option, please be sure to initial and date revised Application 78-12245 at the top of the front page to endorse the changes.

Please return your revised water right application based on one of those options. You may seek more time to consider your options by requesting an interruption of processing for up to six months (Water Appropriation Rule 40). Application 78-12245 will be voided without a timely written reply within the next thirty (30) days (Section 42-204, *Idaho Code*).

Please contact me at 208-334-2190 if you need more information or have any questions.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure

CC (without enclosure): Protestants c/o Joel Chambliss