

SPACKMAN

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FEB 24 2006

DEPARTMENT OF
WATER RESOURCES

February 22, 2006

Department of Water Resources
Attention: Mr. Gary Spackman
P. O. Box 83720
Boise, ID 83720-0098

Re: Petition for Reconsideration - Permit No. 95-9036 – Amendment of Permit Approval
Notice

Dear Mr. Spackman:

After careful review of the Amendment of Permit No. 95-09036 which was mailed with your letter dated February 15, 2006 and the Draft version which was mailed with a cover letter dated December 2, 2005 we find that the documents do not match. Therefore, we must Petition for Reconsideration.

The February 15 version does not match the December 2 version and the petition is based on:

- A. Item # 1 of draft version deleted from final version
- B. Item # 4 of the draft version calls the voting residents of Hauser Lake Heights the (Hauser Lake Heights Homeowners Association). In the final version that name has been changed to the (Hauser Lake Heights Water Association) and the remaining portion, part [(b) the Department approves an amendment of the permit changing the place of use] was deleted entirely.
- C. Item # 6 changes the point of diversion in Hauser Lake Heights Subdivision from Well Lot Block 3 in draft to Well Lot Block 9 in final version.

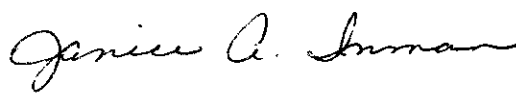
After some research, we do believe the draft was in error on paragraph (C) above and should have been corrected, however we believe that any changes that were made to the draft document that was used to make our determination to drop the protest should have been presented to all parties and signed off by all parties prior to the final being issued. In the matter of item (A) and (B) above we do not concur with those changes and they need to be written in the final version as we approved them in the draft.

We also note that your letter was dated February 15, 2006 and the package of documents postmarked February 16, 2006. The service date on the Amendment was February 10, 2006 and essentially cut our response time to file a petition or brief from 14 days to 9 days.

Please do not hesitate to call if you should have any questions. We can be reached at (208) 773-6797.

Sincerely,


Thomas M. Inman


Janice A. Inman



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

December 2, 2005

KARL J. DREHER
Director

JACK H ROBISON
JONES CHARTE DED
PO BOX 967
POCATELLO ID 83204

THOMAS INMAN
18520 WEST RICE AVE
HAUSER ID 83854-6397

CURT NEAD
18582 WEST RICE AVE
HAUSER ID 83854

Re: Application to appropriate water no. 95-9036 in the name of Northern
Development, LLC

Gentlemen:

On October 26, 2005, I conducted a hearing for protests filed against application to appropriate water no. 95-9036 filed by Northern Development, LLC. After nearly all the testimony had been taken, the parties discussed possible settlement. After the hearing was finished, I closed the record in the contested case, but I promised that, prior to issuing the decision, I would distribute a draft permit based on settlement discussions. Enclosed is a copy of a draft permit. I ask that you carefully read condition no. 4, which contains a limitation of the place of use, a requirement that any change in the place of use be recognized by a new water right filing, and a requirement that the Hauser Lake Heights Homeowners Association must approve any change in the place of use. Also enclosed is a calculation sheet of a volume limitation for the subdivision that is printed on the draft permit.

Please comment on the enclosed draft permit within twenty-one (21) days of the date of this letter. If the protestants concur with the conditional language, each of the protestants should file a written withdrawal of protest with this office. Upon receipt of the written withdrawals of protests, IDWR will continue to process the application. If the protests are not withdrawn within twenty-one days, I will write the necessary order.

Sincerely,


Gary Spackman

Enclosures (2)

Cc: Bob Haynes & Greg Taylor, IDWR - Northern Region

State of Idaho
Department of Water Resources

Amendment of Permit

Draft

Draft

RECEIVED
DEC 19 2005
IDWR/North

NO. 95-09036

Priority: August 18, 2003

Maximum Diversion Rate: 0.45 CFS
Maximum Diversion Volume: 208.9 AF

This is to certify, that NORTHERN DEVELOPMENT LLC
460 E OAK STE A
POCATELLO ID 83201

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
MUNICIPAL	01/01 to 12/31	0.45 CFS	208.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE1/4SW1/4	Sec. 13, Twp 51N, Rge 06W, B.M.
KOOTENAI County		
GROUND WATER	NE1/4SW1/4	Sec. 13, Twp 51N, Rge 06W, B.M.
KOOTENAI County		
GROUND WATER	SE1/4SW1/4	Sec. 12, Twp 51N, Rge 06W, B.M.
KOOTENAI County		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before July 01, 2002.
2. Subject to all prior water rights.
3. Place of use is within the area served by the public water supply system of Hauser Lake Heights Water Association. The place of use is generally located within Section 13, Township 51N, Range 6W.
4. The place of use is limited to lots in the Hauser Lake Heights Subdivision as platted on the date of this approval and four lots in the Sheltered Pines Subdivision. Use of water outside the boundaries of the Hauser Lake Heights Subdivision as platted on the date of this approval and four lots in the Sheltered Pines Subdivision is not allowed unless: (a) the Hauser Lake Heights Homeowner's Association expressly consents, in writing, to the change in the place of use, and (b) the Department approves an amendment of the permit changing the place of use.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
6. This right does not grant any right-of-way or easement across the land of another.
7. Two points of diversion are located within Well Lot, Blk. 3, Hauser Lake Heights Subdivision and one point of diversion is located within Lot 12, Block 1, Waterford Estates Subdivision..

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 95-09036

8. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this _____ day of _____, 20____.

KARL J DREHER, Director

RECEIVED
DEC 19 2005
IDWR/North

State of Idaho
Department of Water Resources
Amendment of Permit

NO. 95-09036

Priority: August 8, 2003

Maximum Diversion Rate: 0.45 CFS
Maximum Diversion Volume: 208.9 AF

This is to certify, that NORTHERN DEVELOPMENT LLC
460 E OAK STE A
POCATELLO ID 83201

has applied for an amendment of a permit and the amendment is APPROVED for development of water as follows:

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
MUNICIPAL	01/01 to 12/31	0.45 CFS	208.9 AF

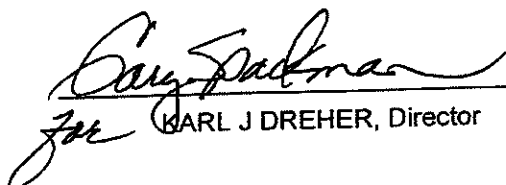
LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 13, Twp 51N, Rge 06W, B.M. KOOTENAI County
GROUND WATER NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 13, Twp 51N, Rge 06W, B.M. KOOTENAI County
GROUND WATER SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12, Twp 51N, Rge 06W, B.M. KOOTENAI County

CONDITIONS OF APPROVAL

1. Subject to all prior water rights.
2. Place of use is within the area served by the public water supply system of Hauser Lake Heights Water Association. The place of use is generally located within Section 13, Township 51N, Range 6W.
3. The place of use for this water right is limited to the 82 lots in the Hauser Lakes Heights Subdivision and the four lots in the Sheltered Pines Subdivision. Use of water diverted under this right on any other lot(s) is not allowed without the expressed, written consent of the Hauser Lake Heights Water Association.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
5. This right does not grant any right-of-way or easement across the land of another.
6. Two points of diversion are located within Well Lot, Blk. 9, Hauser Lake Heights Subdivision, and one point of diversion is located within Lot 12, Block 1, Waterford Estates Subdivision..
7. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.

This amendment of permit is issued pursuant to the provisions of Section 42-211, Idaho Code. Witness the signature of the Director, affixed at Boise, this 10th day of February, 2006.


KARL J DREHER, Director

FAX COVER SHEET

TO: State of Idaho, Department of Water Resources

DATE: February 22, 2006

ATT: Mr. Gary Spackman

CC: Director, Department of Water Resources

FROM: Thomas & Janice Inman

SUBJECT: Petition for Reconsideration – Permit No. 95-9036 – Amendment of Permit

Please acknowledge receipt of this document by return fax.

The number is (208) 773-6638

hp officejet 4100 serie 4110

Personal P rinter/Fax/Copier/Scanner

Log for

Tom

208 773 6638

2/22/2006 14:57

Last Transaction

Date	Time	Type	Identification	Duration	Pages	Result
22 Feb	14:54	Fax Sent	12082876700	1:37	6	OK
