



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 12, 2005

STEVEN C WETZEL
WETZEL & WETZEL ATTORNEYS AT LAW PLLC
1322 W KATHLEEN AVE STE 2
COEUR D ALENE, ID 83815-8339

RE: Permit No. 95-8856

Dear Mr. Wetzel:

This letter is a response to your letter dated January 7, 2005 regarding the water right permit referenced above. You asked about the possibility of increasing the number of households to be served under the permit.

The permit provides authority to develop a water right within the limitations provided, including the number of homes that can beneficially use the water. Section 42-211, *Idaho Code* provides, in pertinent part, the following:

Whenever a permit has been issued pursuant to the provisions of this act, and the permit holder desires to change the place, period, or nature of the intended use, or make other substantial changes in the method of diversion or proposed use or uses of the water, he shall file an application for amendment upon forms to be furnished by the department of water resources together with the statutory fee for filing and recording same, and upon receipt thereof it shall be the duty of the department of water resources to examine same and if approval thereof would not result in the diversion and use of more water than originally permitted and if the rights of others will not be adversely affected thereby, the director of the department of water resources shall approve said application and return an approved copy to the permit holder. The director of the department of water resources shall give such notice to other affected water users as he deems appropriate and may grant the amendment, in whole or in part or upon conditions, or may deny same.

The water required for additional homes would result in the diversion and use of more water than originally permitted; therefore, the change would not be approvable without a reduction in some other permitted use. For example, irrigation use under the permit could be reduced to provide water for additional homes (reducing fire protection use would not provide additional water for homes).

An alternative to an amendment of the existing permit would be an application for a new appropriation of water using the existing well. If qualified, an appropriation for municipal use could provide added flexibility in the diversion and use of water (see Section 42-202B, *Idaho Code* for definitions related to municipal use). Applications are being processed in the Rathdrum Prairie Ground Water Management Area (RPGWMA) and permits are issued with the following condition:

This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of any management plan approved by the director for the RPGWMA. If the director determines that the ground water supply in the RPGWMA is insufficient to meet the demands of prior water rights within the RPGWMA, the director may order the diversion and use of water under this right to be reduced or curtailed until the director determines that there is sufficient ground water available for this right.

Please contact me at 327-7940, if you have additional questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', is written over the printed name.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: Bob Haynes – IDWR Northern Region