



State of Idaho

DEPARTMENT OF WATER RESOURCES

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September 8, 2004

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P.O. Box 250
Rexburg, ID 83440

Steven R. Parry
Attorney at Law
P.O. Box 51630
Idaho Falls, ID 83405-1630

Re: Application to appropriate water no. 22-7792 in the name of Catherine Rowan

Gentlemen:

On August 30, 2004, Jerry Rigby sent an e-mail message to Glen Saxton of the Idaho Department of Water Resources (IDWR) inquiring about the status of the application to appropriate water no. 22-7792. A copy of the e-mail message is enclosed. In the message, Mr. Rigby refers to filing no. 22-7792 as both a permit and an application.

I also reviewed a letter Jerry Rigby mailed to Glen Saxton dated July 8, 2004. A copy of the letter is also enclosed. The letter refers to filing no. 22-7792 as a permit that should "proceed to license." I recall reading the letter in July, assumed Eastern Region of IDWR would schedule a licensing field examination, and asked staff to file the letter without a response.

After reading the correspondence in file no. 22-7792, I conclude the following:

- IDWR issued a preliminary order approving application no. 22-7792.
- Norman and Robin Riley petitioned for reconsideration of the preliminary order.
- IDWR determined issuance of the preliminary order did not create a contested case, and Rileys could not petition for reconsideration because they were not parties.
- IDWR agreed to consider the facts and issues raised by the petition.
- IDWR held application no. 22-7792 pending the outcome of litigation.
- Filing no. 22-7792 is an unapproved application to appropriate water.

If the litigation between Rowan and Rileys is concluded, IDWR will consider any information Rowan or Rileys submit related to the application. Following the submittal of information, and determination by IDWR that the water right application can be considered, IDWR will issue another preliminary order. Following issuance of the decision, the applicant may challenge the decision. In addition, if a person is aggrieved by the decision, the aggrieved person may request a hearing under Idaho Code § 42-1701A.

Please submit any information on or before October 1, 2004 that may help IDWR decide whether consideration of the application is appropriate.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

Gary Spackman

Enclosure