

September 8, 2008

Mr. Scott Nannenga
USDA Forest Service
3650 S Overland Ave
Burley, Idaho 83301

Re: Permit to Appropriate Water #45-07745

Dear Sir:

Please...

- ☐ Read
☐ Handle
☐ Approve

And...

- ☐ Forward
☐ Return
☐ Keep or Recycle
☐ Review with Me

ROUTING & REQUEST

To: Jim

Place in

WD45F file

From: _____

Post-It® 7664 ©3M 1995

Date: _____

The above referenced permit issued 13 August 2007, contained a set of very specific conditions. These were specified to prevent injury of senior appropriators on Howell Creek. We only accepted the provisions of the preliminary order in this matter because these safe guards were in place.

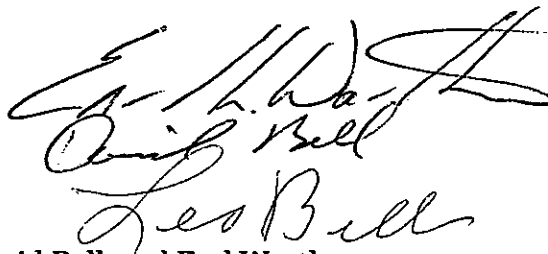
We will, respectfully, review some of these conditions with you.

1. The maximum diversion rate allowed is .06 cfs or 27 gpm.
2. The priority date is September 03, 1999. Although technically this is a year around right, in reality due to the fact that it is the most junior right on the creek, the only time water would typically be available for diversion would be during the non-irrigation season. Therefore, water would typically only be available for diversion for 135 days per year. Additionally, Anderwood proposes to use the .06 cfs directly for snow making in Nov. and Dec. This reduces the number of days water would be diverted to storage to approximately 74 days. It takes 8.41 days to accumulate one acre-foot of water at a diversion rate of .06 cfs. Prior to the irrigation season one might expect to accumulate 8.8 acre-feet in the proposed reservoirs. However; in documents prepared by Anderwood's hydrologist, 6.33 acre feet would be lost to evaporation though the summer. That would leave 2.47 acre-feet in storage at the end of the irrigation season. This is substantially less than the 16.3 acre feet needed for snow making and casts serious doubts on the feasibility of this snow making proposal.
3. The storage reservoirs combined size will be limited to a total surface area of not more than 2 acres (see permit " conditions of approval" #12).

4. All constructed ponds must be lined with an impervious liner. The liners must be maintained to prevent seepage (see permit "conditions of approval" #13).
5. The exclusive specified commercial use for this water is "snow making" at Pomerelle Ski Resort.
6. During the irrigation season, any water flowing into any reservoir constructed upstream from Pomerelle Spring must be measured and passed through to the Howell Creek channel unless express authority to the contrary is obtained from the water master (see permit "conditions of approval" #10).
7. No water may be diverted under this permit without obtaining express approval of the district water master (see permit "conditions of approval" #4 & 11).

In his "conclusions of law" item 8 page 9 of the Preliminary Order, the hearing officer found that, "During the irrigation season, without strict controls, the diversion and use of water proposed by the applicant will injure other water users." We respectfully insist, therefore; that all the "conditions of approval" for permit 45-07745 be strictly implemented.

Sincerely,

Three handwritten signatures are stacked vertically. The top signature is 'Earl Warthen', the middle is 'David Bell', and the bottom is 'Leo Bell'.

Leo Bell, David Bell, and Earl Warthen

Sub-district 45F water users

Albion, Idaho 83311

Cc: Woody Anderson, CEO Anderwood Corp.
Don Gunderson, Water master Sub-district 45F
Cindy Yenter, Water master Water District 140
Alan Merrit, Idaho Dept. of Water Resources

Merritt, Allen

From: Merritt, Allen
Sent: Thursday, September 18, 2008 1:12 PM
To: Luke, Tim; Yenter, Cindy
Cc: Keen, Shelley; Spackman, Gary
Subject: Copy of letter from Bell/Warthen to Nannenga/USFS regarding 45-7745

Attachments: img-918122309.pdf

Folks:

FYI, Leo Bell called me the other day asking if he needed to send IDWR a copy of a letter he was writing the forest service. I asked what the letter was about and he indicated it was the water district's letter about the conditions of approval for the ski hill. I told him to send me a copy. See attached.



img-918122309.pdf
(73 KB)

I believe authors of the letter were the protestants of the application. After reviewing, it appears the watermaster may not have been involved in preparing the letter but I would expect he may need some guidance regarding delivery in the future. The letter seems to have avoided the issue of mitigation required as part of the approval. If mitigation is provided as directed then I'm wondering if that avoids the injury issue?

I will put a copy in the WD45F file. I do not plan on responding to this letter at this time.