

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)	
FOR PERMIT NOS. 61-12173 AND)	
61-12174 IN THE NAME OF DENNIS)	PRELIMINARY ORDER
C. RIDER)	VOIDING APPLICATIONS
_____)	

FINDINGS OF FACT

1. On March 21, 2008, Dennis C. Rider filed applications for permits with the Idaho Department of Water Resources (IDWR).
2. IDWR sought additional information from the applicant on March 19, 2010. The applicant was provided up to sixty (60) days in which to respond. The request for information specified the applications would be voided without a timely response.
3. The request for information was returned on March 30, 2010, as undeliverable by the U.S. Postal Service.
4. IDWR sent a courtesy letter to attorney Norman M. Semanko on April 1, 2010. The purpose of the letter was to ask the attorney to help contact the applicant and remind him of the obligation to make a timely reply to IDWR.
5. The attorney made a notice of appearance on May 18, 2010. This included a request for more time for his client to provide the additional information.
6. On May 19, 2010, IDWR approved that request and advanced the deadline to November 18, 2010.
7. The applicant failed to provide the information requested by IDWR and did not provide a new mailing address.

CONCLUSIONS OF LAW

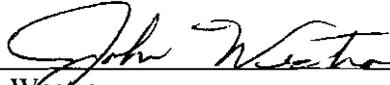
1. Section 42-204, Idaho Code, and Water Appropriation Rule 35.01 authorize IDWR to void an application if an applicant fails to provide the requested information.
2. The applications should be voided.

3. A preliminary order should be mailed to the application address of record.

ORDER

IT IS HEREBY ORDERED that Applications for Permit Nos. 61-12173 and 61-12174 in the name of Dennis C. Rider are VOIDED.

Dated this 1st day of December, 2010



John Westra
Manager, Western Regional Office

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2010, I mailed a true and correct copy of the foregoing Preliminary Order to the person(s) listed below:



Denise Buffington
Administrative Assistant

DENNIS C RIDER
2564 WIGWAM PARKWAY #213
HENDERSON NV 89074

NORMAN M SEMANKO
BARKER ROSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139

RECEIVED

FORM 202 10/07 MAR 21 2003

WATER RESOURCES WESTERN REGION

Ident. No. 61-12173

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES APPLICATION FOR PERMIT To appropriate the public waters of the State of Idaho

1. Name of Applicant Dennis C. Rider Phone 702-372-9828 Mailing address 2564 Wigwam Parkway #213, Henderson, NV 89074 Email

2. Source of water supply Ground Water which is a tributary of N/A

3. Location of point of diversion is Township 1 North Range 5 East Sec. 21 in the NW 1/4, NE 1/4, N/A 1/4, Govt. Lot N/A, B.M., Elmore County; additional points of diversion if any: See Attached Sheet.

4. Water will be used for the following purposes: Amount 4.5 cfs for Domestic purposes from Jan. 1 to Dec. 31 (both dates inclusive) (cfs or acre-feet per year) Amount for purposes from to (both dates inclusive) (cfs or acre-feet per year) Amount for purposes from to (both dates inclusive) (cfs or acre-feet per year) Amount for purposes from to (both dates inclusive) (cfs or acre-feet per year) Amount for purposes from to (both dates inclusive) (cfs or acre-feet per year) Amount for purposes from to (both dates inclusive) (cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 4.5 cubic feet per second and/or (b) acre feet per year

6. Proposed diverting works: a. Describe type and size of devices used to divert water from the source Underground Well

b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total reservoir capacity N/A acre-feet

c. Proposed well diameter is 16 inches; proposed depth of well is 400-1200 feet

d. Is ground water with a temperature of greater than 85°F being sought? No

e. If well is already drilled, when? N/A; Drilling firm N/A; Well was drilled for (well owner) N/A; Drilling Permit No. N/A

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9): a. Hydropower; show total feet of head and proposed capacity in kW. N/A b. Stockwatering; list number and kind of livestock. N/A c. Municipal; show name of municipality. N/A d. Domestic; show number of households. 4665 e. Other; describe fully. N/A

VOID

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
1N	5E	19																	40-D	40
		20									40-D		40-D	40-D	40-D	40-D				200
		21	40-D	40-D	40-D	40-D	40-D			40-D		560								
		22					40-D		40-D	40-D		40-D	40-D							200
		29						40-D	40-D											80
		30	40-D	40-D			40-D													120

Total number of acres to be irrigated: 1200

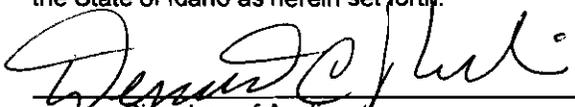
10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? N/A

- 11. a. Who owns the property at the point of diversion? Dennis C. Rider
- b. Who owns the land to be irrigated or place of use? Dennis C. Rider
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. It is the proposal of the Applicant to develop the approximately 1200 acre parcel of land into a residential subdivision with a total number of residential units not to exceed 4665 units. With this proposal, it is the intent of the Applicant to develop a local water distribution system to provide water to each unit. It will be the Applicant's intent to drill five wells on the parcel to provide adequate diversion rates to provide for the subdivision.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.


Signature of Applicant

Dennis C. Rider
Print Name (and title, if applicable)

For Department Use:

Received by DB Date 3-21-08 Time 1:45 PM Preliminary check by _____
Fee \$ 410 - Received by DB Receipt No. WD36288 Date 3-21-08

Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____ Dates Published _____

#3 – Location of point of diversion....additional points of diversion if any:

Point of Diversion No. 2 – Township 1 North, Range 5 East, Sec. 21, in the NW1/4 SE1/4, B.M., Elmore County.

Point of Diversion No. 3 – Township 1 North, Range 5 East, Sec. 21, in the SW1/4 SW1/4, B.M., Elmore County.

Point of Diversion No. 4 – Township 1 North, Range 5 East, Sec. 20, in the NW1/4 SW1/4, B.M., Elmore County.

Point of Diversion No. 5 – Township 1 North, Range 5 East, Sec. 30, in the SE1/4 NE1/4, B.M., Elmore County.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 2, 2010

DENNIS C RIDER
2564 WIGWAM PARKWAY #213
HENDERSON NV 89074

**RE: Preliminary Order in the matter of Application for Permit Nos. 61-12173
& 61-12174**

Dear Applicant(s):

The accompanying order is a "**Preliminary Order**" issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed yellow information sheet.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Denise Buffington".

for: John Westra
Manager, Western Regional Office

Enclosures

cc: Norman Semanko @ Barker, Rosholt & Simpson

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082
PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
GARY SPACKMAN, Interim Director

May 19, 2010

DENNIS RIDER
C/O NORMAN M SEMANKO
BARKER ROSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139

Re: Applications for Permit Nos. 61-12173 and 61-12174

Dear Norm:

I am replying to your email letter of May 18, 2010. The applicant's request for another six months to provide additional information is approved. Please note the following points for these applications.

- You are confirmed as the attorney of record for the applicant.
- The applicant should provide a current mailing address as required by Water Appropriation Rule 035.04.f.
- Please disregard the erroneous reference to municipal provider status in my March 19, 2010 letter, page 2, item 5. The applications propose domestic, not municipal, use. The applicant should provide a status report regarding any work with IDEQ, IPUC and/or any local government. Alternately, the applicant should explain why one or more of those entities need not be involved with the proposed development.
- A request for another extension of time to provide the additional information would need more rigorous evaluation by this agency.

Please provide the current applicant address as soon as possible. Please provide the additional information outlined in my March 19 letter by **November 18, 2010**. The application will be voided without a timely written response. A refund will not be issued for a voided application.

Please contact me if you have any questions or concerns. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Lester', written in a cursive style.

Steve Lester
Water Rights Supervisor

Lester, Steve

From: semanko@rmci.net
Sent: Tuesday, May 18, 2010 3:28 PM
To: Lester, Steve
Cc: Roxanne Brown
Subject: Applications for Permit Nos. 61-12173 and 61-12174

May 18, 2010

Via Email
Steve Lester
Water Rights Supervisor
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

• Attorney of Record
• more time to provide info

Re: Applications for Permit Nos. 61-12173 and 61-12174

Dear Steve:

This is in response to your letter to Dennis Rider, dated March 19, 2010, regarding the above-referenced applications for permit. In addition, this will confirm that I am the attorney of record for Dennis Rider in this matter.

These applications are related to the proposed development that is the subject of applications for permit no. 61-12090 (permit issued), 61-12095 (protested) and 61-12096 (not processed). Dennis Rider is the principal for both Nevid LLC and Elk Creek Canyon LLC. Given the uncertainty surrounding the pending applications (i.e., whether they will be issued and, if so, for what quantity of water and with what conditions), the applicant needs additional time to further evaluate and determine how the additional applications will be incorporated into the proposed development, including consideration of any necessary amendments to the applications.

Accordingly, the applicant requests an additional period of six (6) months to provide the requested information and to make any necessary amendments to the applications. We reserve the right to provide the requested information and make any necessary amendments prior to the expiration of the extension period, as warranted.

Thank you for your attention to this matter.

Sincerely,

Norman M. Semanko
Attorney at Law
Of Counsel
Barker, Rosholt & Simpson
P.O. Box 2139
Boise, ID 83701
semanko@rmci.net
208-863-7921

cc: Roxanne Brown, SPF

Sent via BlackBerry by AT&T



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
GARY SPACKMAN, Interim Director

April 1, 2010

DENNIS RIDER
C/O NORMAN M SEMANKO
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139

Re: Applications for Permit Nos. 61-12173 and 61-12174

Dear Norm:

The enclosed mailing was recently sent to Dennis Rider, the applicant for 61-12173 and 61-12174. The mailing was returned by the Post Office. The applications do not identify an attorney or consultant as a point of contact. However, your role in the Nevid/Elk Creek Canyon filings indicates you probably know how to reach him.

I am sending this courtesy letter to you on that basis. The applicant should respond by the deadline to avoid termination of the applications as discussed in the March 19 mailing.

Thank you for any help you can provide in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Steve Lester". The signature is written in black ink and is positioned above the typed name.

Steve Lester
Water Rights Supervisor

Enclosure

ADDRESS SERVICE
REQUESTED



FIRST CLASS

UNITED STATES POSTAGE
EIGHTY SEVEN
\$01.05
02-1R
0006559263 MAR 23 2010
MAILED FROM ZIP CODE 89702

3/19/10 mailing returned & undeliverable
("VACANT")

-52

61-12173 + 61-12174



RECEIVED
MAR 30 2010
WATER RESOURCES
WESTERN REGION

DENNIS RIDER
2564 WIGWAM PARKWAY #213
HENDERSON NV 89074



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
GARY SPACKMAN, Interim Director

March 19, 2010

DENNIS RIDER
2564 WIGWAM PARKWAY #213
HENDERSON NV 89074

Re: Applications for Permit Nos. 61-12173 and 61-12174

Dear Applicant:

The above referenced applications propose significant ground water development along the I84 corridor between Mountain Home and Boise. Your applications are two of many filed by various parties in this regard. A table summarizing the I84 applications is enclosed for your convenience.

The Idaho Department of Water Resources (IDWR) needs more information to process your applications. Please consider the following points.

Withdraw Applications – If you do not want to proceed with the proposed development, you can withdraw the applications using the enclosed form, and you can seek a refund of the \$820 filing fees. A refund should be requested in writing.

The rest of this letter applies if you do want to continue with the applications.

Uses and Amounts of Water, Both Applications – Each application lists domestic use for a specified number of homes. Domestic use covers internal uses for homes in this scenario. Irrigation for yards and/or other areas is not listed as a beneficial use in the applications. However, the number of irrigated acres is displayed in item 9 of the applications – place of use charts list 1,200 acres for one application and 720 acres for the other one. Irrigation should be listed as a separate use, whether for yards or other areas within the place of use. The minimum amount of water for irrigation is 0.01 cfs/acre, while the maximum amount is 0.02 cfs/acre. Each application needs to be amended to either properly include irrigation or to delete the list of irrigation acres. This might result in increased filing fees if the total amount of water is increased (see enclosed fee schedule). Details for each application follow.

61-12173: The application should be amended to correct one well location and to clarify the proposed uses and amounts of water. Point of diversion #4 is listed on the application as NWSW Section 20 but shown on the application map as NESW Section 20. The form and the map should agree. A maximum diversion rate of 4.5 cfs for 4,665 homes is proposed and is an acceptable amount. For 1,200 acres of irrigation, the minimum rate is 12.0 cfs and the maximum is 24.0 cfs. Rates for multiple uses are not required to be additive.

61-12174: The application should be amended to correct the place of use description and to clarify the proposed uses and amounts of water. The place of use on the application includes NESE Section 28 and NWSE Section 33. The place of use on the map shows NWSE Section 28 and NWNE Section 33. The form and the map should agree. The application proposes 4.5 cfs cfs for domestic use for 610 homes. The maximum domestic diversion rate for 610 homes is 1.0 cfs per IDWR standards. A higher rate can be acceptable based on reasonable justification from the applicant. Please reduce the domestic rate or justify a rate exceeding 1.0 cfs. For 720 acres of irrigation, the minimum rate is 7.20 cfs and the maximum is 14.4 cfs.

Technical Information to Support the Applications

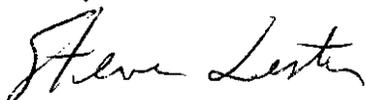
Water Appropriation Rule 40 information is needed for your applications. Please see the enclosed copy of Rules 40.05.c-g for this situation. Your responses to those items should also address the following concerns.

- 1) Demonstrate an adequate, sustainable ground water supply is available.
- 2) The proposed wells are within the Mtn. Home Ground Water Management Area (GWMA) and not far from the Cinder Cone Butte Critical Ground Water Area (CGWA). Demonstrate the proposed use of ground water will not result in further ground water level declines in the GWMA or the CGWA.
- 3) Discuss plans to monitor and report data about ground water supply, ground water levels, and ground water quality in and around the project area if your applications are approved and development proceeds.
- 4) Individual and Cumulative Effects: Provide Rule 40.05.cii-ciii information and above items 1 through 3 information with respect to the following: effects from each of your applications, effects from your combined applications, and cumulative effects from your applications plus all the projects senior in priority to yours as summarized in the enclosed table, "Ground Water Projects, I84 Area, March 18, 2010."
- 5) For Rule 40.05.g information regarding local public interest, describe how the applicant intends to become a municipal provider under I. C. § 42-202B, specifically with respect to the Idaho Department of Environmental Quality and/or the Idaho Public Utilities Commission. Also, describe your progress with any required local government approvals. It is not necessary to send comment letters noted under this section of the rule. *

Please provide your response within the next sixty (60) days. Alternately, you can request up to six months additional time in this regard. Without a timely written reply, the applications will be voided and a refund will not be issued.

More IDWR information is available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosures

* error - municipal N/A these apps. last sentence
of item 5 does APP's.
-JR 4/1/10

Active Applications, Ground Water Projects, I84 Area, March 18, 2010.

See notes, next page

NAME	NUMBER	PRIORITY	USE	CFS	WELL LOCATIONS	STATUS
ID Water Company	73811	1963-1980	Irrigation	05.56	1S 4E S. 14, 23, 24	Protested
Mayfield Townsite	74414	1971	Irrigation	01.91	1N 4E S. 25, 26	Protested
Elk Creek Canyon (Nevid?)	73789	1974-1977	Irrigation	17.92	1N 5E S. 21, 31-33; 1S 4E S. 1,11; 1S 5E S. 5-8	Not processed
Orchard Ranch	73834	1976	Municipal	11.36	1S 4E S. 19	Not processed
Intmnt. Sewer & Water	63-32225	9/16/2005	Municipal	10.00	1N 4E S. 28, 33	Permit issued
Intmnt. Sewer & Water	63-32225	9/16/2005	Municipal	10.00	1N 4E S. 28, 33	Appl. To Amend Permit, Protested
Mayfield Townsite	63-32499	7/28/2006	Municipal	10.00	1N 4E S. 23, 24, 27; 1N 5E S. 18, 19	Protested
Nevid	61-12090	9/28/2006	Municipal & Fire Protection	04.02 *	1S 4E S. 2, 11	Permit issued
Nevid	61-12095	4/3/2007	Municipal	05.00	1S 4E S. 1, 12	Protested
Orchard Ranch	63-32703	6/21/2007	Municipal	09.60	1S 3E S. 9, 10, 13-15, 24	Not processed
Cloverleaf	61-12162	12/28/2007	Domestic	02.00	1S 4E S. 2	Not processed
Cloverleaf	61-12168	1/2/2008	Domestic	04.50	1N 5E S. 33, 34; 1S 5E S. 4	Not processed
Intmnt. Sewer & Water	61-12256 **	1/17/2008	Municipal	13.76	1N 4E S. 34, 35	Not processed
Rider	61-12173	3/21/2008	Domestic	04.50	1N 5E S. 20, 21, 30	Not processed
Rider	61-12174	3/21/2008	Domestic	04.50	1N 5E S. 26, 28	Not processed
Pacific West Land	61-12257 ***	4/15/2008	Municipal	18.20	1S 3E S. 12; 1S 4E S. 7, 8, 16-18	Not processed

NOTES

- Listed in existing/proposed date of priority order.
- Includes approved & pending permits or transfers & 1 pending amendment of permit.
- Does not include void, withdrawn & otherwise terminated applications.
- 5-digit number = transfer; 7-digit number = application for permit, application for amendment of permit, or approved permit.
- Status of “not processed” indicates no legal notice yet.
- * 1.82 cfs municipal + 2.20 cfs fire protection
- ** previously mis-numbered 63-32973
- *** previously mis-numbered 63-33036

Water Appropriation Rules 40.05.c through 40.05.g

c. Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.

ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within ~~one-half mile~~ radius of the proposed well.

iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.

ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.

ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.

ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

— within an area of impact based on credible technical justification from a qualified expert in these matters

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WATER RESOURCES
WESTERN REGION

Perkins
Coie

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December 30, 2008

VIA U.S. MAIL

Idaho Department of Water Resources
Attention: Angie Grim
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Re: Request for Notification / Applications for Appropriation or Transfer Nos. 63-32535, 61-2188, 63-32605, 61-12095, 61-12096, 63-32703, 61-12162, 61-12168, 63-32973, 61-12173, 61-12174, 63-32680
Our Reference: 69165-0001

Dear Ms. Grim:

Please notify this office when the above-referenced water right applications / transfers are published for public comment.

Very truly yours,



Erika E. Malmen

EEM/kjg