



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

September 12, 2006

Zach C. Miller
Davis, Graham & Stubbs LLP
1500 17th Street, Suite 500
Denver, CO 80202

RE: Subcase No. 27-7302 (Conda Partnership/Nu-West Mining)

Dear Mr. Miller:

I have had an opportunity to review the file regarding the above-referenced subcase. The current claim and recommendation does not include a comprehensive place of use. As currently recommended, your client may be restricted to T08S R44E Sections 9 and 10. Filing an amended claim to include a description of the haul roads would clarify where your client uses the water and would be consistent with how other dust abatement water rights have been handled in the SRBA. If you choose not to amend your claim, then the current recommendation will likely be partially decreed unchanged and if there is a dispute about the place of use in the future, your client may be required to file an administrative transfer with the Department.

In order to file an amended claim, you would have to get permission from the SRBA District Court and use the Standard Form 4 which is found on the SRBA's website, www.srba.state.id.us. If the Court allows you to amend your claim, a deadline will be set for the Department to file an Amended Director's Report and then an objection and response period will follow. If you disagree with the Amended Director's Report, you would be able to file an objection, as would any other party in the SRBA. I believe the more specific legal description may take care of any concerns the United States Bureau of Land Management may have about the current fairly imprecise place of use description. I am sending a copy of this letter to Larry Brown, attorney for BLM, for his information, as I understand that you and Mr. Brown have been discussing the BLM's objection to the above water right.

Also, the Notice of Change of Ownership for water right numbers 27-2165, 27-2176, 27-7059, 27-7302 and 27-7440 was returned to your client on August 10, 2006, with a letter advising that additional information was required before the Change of

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Ownership could be processed. It appears that the information requested has not yet been received.

If you should have any questions or comments, please feel free to contact me at (208) 287-4810.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Candice M. McHugh", with a stylized flourish extending to the right.

Candice M. McHugh
Deputy Attorney General, IDWR

cc: Ernie Calrsen
Larry Brown