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DEPARTMENT OF
WATER RESOURCES

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September 5, 2017

Via hand delivery (tomorrow) and email

Shelley W. Keen
Water Right Section Manager
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702
shelley.keen@idwr.idaho.gov

Re: City of Nampa – Water Right No. 63-32835

Dear Shelley:

I am writing to follow up on the letter I had delivered to you this afternoon. In making notes to the file at the close of the day, I discovered another point that I should have included in my earlier letter.

The permit for Water Right No. 63-32835 contains a condition reading: “The full system capacity necessary to provide water for the reasonably anticipated future needs authorized under this right must be constructed by the end of the designated planning horizon.” This condition is consistent with the more flexible Departmental guidance regarding compliance with the “capacity of the system” language in Idaho Code § 42-219(1) that was in effect at the time of the permit.¹

¹ Karl J. Dreher, *Administrative Memorandum – Application Processing No. 63*, at 2 (June 15, 1999). This guidance consists of a letter from Karl J. Dreher to Christopher H. Meyer dated June 14, 1999 which L. Glen Saxton designated as *Administrative Memorandum – Application Processing No. 63* on the following day.

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In 2013 the Department rescinded *Application Processing No. 63*, replacing it with new guidance.² Arguably, the City can meet the standard in the new guidance, too. But I do not think that matters. It would appear to me that the new guidance cannot override a condition governing the standard for licensing set out in an existing permit. Accordingly, it would appear that there is no need to evaluate the "capacity of the system" issue under the current guidance. Instead, the Department has the authority (and the obligation) to issue the license as a RAFN license based on the condition language in the permit coupled with the documentation of system integration that was provided in my earlier letter today.

I apologize for not thinking to make this observation in my earlier letter. In any event, I look forward to hearing your thoughts on this. I hope this may assist the Department in seeing through to licensing this right without a combined use condition. Of course, whether we get there based on compliance with this condition language or compliance with the current guidance does not matter to the City.

In any event, one way or the other, we need to bring this licensing to a conclusion. My thanks to you, Mr. Rauhut, and Mr. Boe for your good efforts.

Sincerely,



Christopher H. Meyer

cc: Manuel Rauhut, Staff Engineer, Western Regional Office, IDWR
Erik Boe, Staff Engineer, Western Regional Office, IDWR
Michael J. Fuss, Director, Public Works Department, City of Nampa
Nate W. Runyan, Deputy Director, Public Works Department, City of Nampa
Roxanne Brown, Water Rights Specialist, SPF Water Engineering

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² Mat Weaver, *Memorandum – Application Processing No. 74, Permit Processing No. 20, License Processing No. 13, Transfer Processing No. 29* (Mar. 16, 2015) (replacing Nov. 15, 2014 and Nov. 13, 2013 versions).