



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 9, 2011

C. Michael Bennett
10764 North 55 East
Idaho Falls, ID 83401

Dear Mr. Bennett:

In August 1999, you filed an application for a permit (No. 31-7656) to divert water from Miner's Creek for domestic use. Your application was protested by Mud Lake Water Users and opposed by the watermaster for Water District 31. This letter is meant to update you on the status of the application.

In the past, our office would let an applicant dictate the speed of addressing a protest. If an applicant did not take steps to resolve a protest, the application was simply held. Because you have never requested an administrative hearing or resolved the outstanding protest in any other way, your application has been held for over ten years. It is unfair to the water users in Basin 31 to hold this application indefinitely. We are now requesting that you withdraw the application or take steps to resolve the outstanding protest.

The protest filed and the written objection from the watermaster state a general concern that water is not available in the basin for new uses during most of the year. It is an applicant's burden to show that there is water available to satisfy a proposed water use without affecting existing water rights. Pursuant to its Water Appropriation Rules (IDAPA 37.03.08.40.05.d), the Department can require an applicant to provide additional information regarding the sufficiency of the proposed water supply. Because of the significant risk of impacting existing water rights in Basin 31, we are requesting additional information to support your application. **Please provide evidence showing that the flows of Miner's Creek are sufficient to satisfy your proposed water use for a majority of the year without impacting any existing downstream water rights.**

We realize that it will likely take an entire summer to collect and organize the requested stream flow data. Please provide the requested information by **December 1, 2011**. If a sufficient response is not received by that date, your application for permit will be voided. If you are no longer interested in this application, you may withdraw the application at any time. This is done by sending a letter stating that you would like to withdraw your application. Feel free to contact our office if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Cefalo', is written over a horizontal line.

James Cefalo
Water Resources Program Manager

Cc: Greg Shenton, Water District 31