



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

February 15, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Tom L and Norma R Grossen
PO Box 72
Indian Valley ID 83632-0072

RE: Notice of Intent to Void—Contested Application for Permit #67-15030.

Dear Mr. & Mrs. Grossen:

This letter is to acknowledge receipt of a February 10, 2011 letter from SPF Water Engineering. The letter was a response to information requested for the above contested application. Unfortunately, the information that was submitted is generalized and does not provide the specific data, analysis, and convincing information requested.

The Little Weiser River is over appropriated and water short for demands as confirmed by the construction of the C. Ben Ross storage facility in 1934. During the late 1980s and 90s drought periods, there were significant issues with water management and delivery on the river. Your Consultant has first-hand knowledge of these issues and concerns. The Department can not authorize new appropriations of water on paper when the water is not deliverable. Our agency is required to evaluate each application pursuant to Idaho Code 42-203A, copy attached. Thus, the Applicant is obliged to provide convincing information and evidence there is water available for a new appropriation.

I would ask you read each request carefully, and provide the specific information/analysis and data for each numbered request. (I have placed some possible approaches below each request):

1. Will the proposed appropriation reduce (injure) the quantity of water available for existing senior natural flow rights? Provide data and convincing evidence to show water is available for a new appropriation.

Possibilities:

Data may include river flow records during the March through June periods from old USGS gauge records or the Watermaster records. You may want to analyze spring river flows verses water rights junior and senior rights to C Ben Ross storage 1934 priority. Look at diversion locations in relation to upstream downstream effects.

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

Possibilities:

Analyze the data above and expand.

3. Address the Watermaster's concerns regarding the conveyance capacity of Grays Ditch and curtailment of senior water rights, see watermaster comments sent previously.

Possibilities:

Our records indicate there are 15 cfs of water rights dedicated to the ditch for delivery. Obtain the ditch capacity from the watermaster or facilitate measurements at the limiting location. Refer to license field exam on water right #67-7866
Analyze water rights total cfs verses the current ditch capacity—if capacity is deficient what is needed.

4. Address the impact of C Ben Ross Reservoir diversion to storage and storage volume from the river. The new appropriation could potentially divert and additional 358 acre feet of water per season proportioned with right #67-7866. Please read Mr. Burkhardt's protest.

Possibilities:

Again look at injury to senior downstream waterusers by a new appropriation.
Downstream senior waterusers will be demanding spring water the same time period you will. Analyze what effect will this have on the calling date for storage water?

Please provide the information/analysis and data to this office by **June 1, 2011**. As you have been granted almost 1 year to provide the additional information, it is unlikely that additional time will be granted to compile the information. If the responses are untimely or found deficient, the application will be ordered void.

Should you have questions, please contact me at the Western Regional Office, phone 334, 2190.

Sincerely,



John Westra, Manager

Cc: Little Weiser Irrig. Dist.: L Graves, SPF
Enclosure: IC & Rule 45.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of February, 2011, I mailed a true and correct copy of the foregoing **NOTICE OF INTENT TO VOID CONTESTED APPLICATION** to the person(s) listed below:

**Documents Enclosed: Notice of Intent to Void Application for Permit No. 67-15030
I.C. & Rule 45**

TOM L GROSSEN
NORMA R GROSSEN
PO BOX 72
INDIAN VALLEY ID 83632-0072

SPF WATER ENGINEERING
ATTN: LORI GRAVES
300 E MALLARD DR, STE 350
BOISE ID 83706

LITTLE WEISER IRRIGATION DISTRICT
ATTN: J WAYNE BURKHARDT
2410 LITTLE WEISER RD
INDIAN VALLEY ID 83632

A handwritten signature in cursive script, reading "Denise Buffington", is written over a horizontal line.

Denise Buffington
Administrative Assistant