



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 23, 2009

Nagel Beverage Company, Inc.
c/o Hydro Logic, Inc.
Attn: Ed Squires
1002 W Franklin Street
Boise, ID 83702

COPY

Re: Application for Transfer No. 74563

Dear Ed:

This office received the application for transfer to change a water right referenced above. Upon review of the application, there are areas of the application that require clarification and/or completion. Please submit an amended application and additional information to allow for further processing.

Please submit an amended application to address the following:

- **Part 1 Applicant Name.** Documentation provided during processing of a Notice in Change of Water Right Ownership in June of this year indicates the applicant's name has been changed to Pepsi Bottling Ventures of Idaho Inc. Please amend the transfer application accordingly.
- **Part 1 A No. 9.** This item was incomplete on the original application. Please address this question in the amended application.
- **Part 2 B No. 3** place of use description for portion of right to be transferred. The application, along with the associated water right purchase and sale agreement, indicates 25.5 acres in the NE SW Sec 31, T3N, R2W is the portion of right 63-3066 subject to the proposed nature of use change. However, the current place of use for right 63-3066 only authorizes irrigation of 5 acres in the NE SW Sec 31, T3N, R2W. Please amend the application and potentially the purchase agreement to address this issue.

- **Part 3.** Please provide a map of the existing point of diversion, the existing place of use acreage subject to the proposed nature of use change, and the proposed place of use locations.

Please submit additional information to address the following:

- **A lien holder letter.** Department Administrator's Memorandum Records No. 9 states a purchase agreement alone is not sufficient documentation for a change in water right ownership. However, previous transfer approvals have split and changed ownership of water rights with only documentation of this form provided the agreement contains no significant contingencies, because both parties involved have the opportunity to object to the transfer approval and/or the transfer approval may be rescinded if necessary. In the case of this transfer application, the purchase agreement, along with a documented security interest recorded with the Department, indicates the property associated with right 63-3066 is subject to a lien, mortgage, or other contract. The applicant is required to submit a notarized statement or a statement on official letterhead signed by an authorized representative of Hopkins Northwest Fund LLC (or any other related entity holding a lien, mortgage, or other contract on the property) acknowledging the lien holder is aware of and does not object to the proposed changes to right 63-3066.
- **Historic consumptive use rate per acre.** The application proposes a nature of use change for 25.5 acres of irrigation to 74.5 ac-ft of industrial use. The conversion from irrigation to industrial use is based on a historic rate of 2.92 ac-ft per ac of consumptive use on turf grass, per applicant remarks. On February 11, 2008 Administrator's Memorandum Miscellaneous Memo No. 16 was issued stating the Department shall use data from Allen and Robison's report of September 2006. I have enclosed a copy of this memo for your reference. This data indicates the consumptive use for irrigation of turf grass in Nampa is 3.41 ac-ft per ac, based on the precipitation deficit value. Please provide additional information regarding the data source and reason for using the rate of 2.92 ac-ft per ac proposed in the transfer application opposed to the 3.41 ac-ft per ac value that would be used otherwise per Department policy.
- **Proposed point of diversion location.** Department's well construction program data indicates one production well (Well Tag # D0039322) and one monitoring well (Well Tag # D0038520) exist at the applicant's processing plant. The GPS location on file for the production well is 43° 36.600533' latitude and -116° 34.316837' longitude. The location is different than the location on file for the points of diversion for existing industrial rights associated with the applicant's processing plant. Please confirm the GPS location on file for the production well

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is accurate and/or provide additional information to confirm the point of diversion location proposed for the applicant's portion of right 63-3066.

Please submit an amended application along with the additional information requested to allow for further processing of this application, if the applicant wishes to proceed. Your response, or a request for more time to make your response, must be received within 30 days from the date of this mailing. The application will be rejected without a timely written reply.

IDWR forms and other information are 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,

A handwritten signature in black ink, appearing to read "Angela M. Grimm", with a stylized flourish at the end.

Angela M. Grimm
Water Resource Agent, Sr.

Enclosure(s): Administrator's Memorandum Miscellaneous Memo No. 16

ADMINISTRATOR'S MEMORANDUM

Miscellaneous Memo No. 16

To: Regional Offices
Water Allocation Bureau
Adjudication Bureau

From: Gary Spackman 

Re: **CROP CONSUMPTIVE USE DATA FOR WATER RIGHT REVIEW**

Date: February 11, 2008

A University of Idaho report entitled, *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*, dated September, 2006 was prepared by Richard G. Allen and Clarence W. Robison under contract with IDWR. The report indicates that "[t]he ET and net irrigation water requirement calculations are intended for use in design and management of irrigation systems, for water rights management and consumptive water rights transfers and for hydrologic studies." The data in the report includes water consumption estimates for agricultural crops, a number of native plant systems, and open water systems. Data from the report is available online at the following:

<http://www.kimberly.uidaho.edu/ETIdaho/>

In the past, IDWR has used crop water use data developed as part of the University of Idaho report entitled, *Estimating Consumptive Irrigation Requirements for Crops in Idaho*, dated August, 1983, prepared by R.G. Allen and C.E. Brockway for water right analysis. Data from the 1983 report has been used to support water right transfer applications to change nature of use and water right permit applications requiring mitigation to compensate for potential injury. The 1983 data has also been used in the estimation of irrigation diversion requirements for adjudication claim and water right permit application review. The 1983 data has also been used for review of mitigation plans associated with water right delivery calls under conjunctive management rules, consent agreements associated with water right violations, and other analyses related to water use or water measurement.

The 2006 report indicates that "[t]hese ET calculations supersede calculations previously made for Idaho by Allen and Brockway (1983)." IDWR will no longer accept or prepare new water use estimates (for water right analysis) based on the 1983 Allen and Brockway data.

This memo does not preclude use of other reasonable water use data if used appropriately or if designated as acceptable by statute or other IDWR rule or policy.