



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

May 26, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

LORI GRAVES
SPF WATER ENGINEERING
300 E MALLARD DR
SUITE 350
BOISE ID 83706

RE: Application for Transfer 75920 – Donald Miller

Dear Lori:

Upon initial review of this application for transfer we find we need additional information concerning this proposal before we can process it.

This application proposes the use of additional points of diversion of water from mine tunnels. The Department normally would consider the water from the mine tunnels as ground water since the water "flows" from the mine shafts. Section 42-222, Idaho Code, does not provide for a change from a surface water source to a ground water source, or from a ground water source to a surface water source. Please submit information that documents that the water from the mine tunnels is actually a surface water source and not simply ground water that is flowing. The application also states that the proposed sources are hydraulically connected and are tributary to Granite Creek. Please submit whatever information you have that documents this statement.

We also have concerns regarding the quantity of water that is to be used if this proposal were approved. Please provide an operation plan that would prove that a greater quantity of water would not be diverted and there would be no expansion in the historical season of use for this project.

It is also noted that the applicant has Water Right No. 63-2117 from Confederate Gulch Creek for mining in the same general location as this water right. That right has been enrolled in the Water Supply Bank for several years. What will become of this right should this transfer be approved?

It is also noted, under item 5c, that the land under this application is subject to a lien, deed of trust, mortgage or contract. The form indicated that a notarized statement from the holder of said lien, deed of trust, mortgage or contract was attached. We have not

received this attachment and need to have that for our file before any further processing can occur.

Please submit the requested information for application processing to continue. You may seek additional time to provide the information by making a written request to delay processing. Your written response, including the requested information or a request for more time to seek the information, must be received within the next thirty (30) days. Without a timely reply, IDWR will issue a preliminary order to reject the application. The application fee will not be refunded for a requested application. A rejected application may be re-filed when adequate information can be provided.

Please contact me at 334-2190 if you have any questions in regard to this matter.

Sincerely,



KAY WALKER
Sr. Water Resource Agent

KW:k