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Boise Parks & Recreation

March 24, 2009

Gary Spackman, Administrator
Idaho Dept of Water Resources
PO Box 83720
Boise ID 83720-0098

RE: Application for Transfer No. 69327

Dear Mr. Spackman,

Thank you for your timely response to our letter of January 21, 2009. The Department seeks to address IDWR's two main objections to the approval of this application: IDWR's interpretation that the new point of diversion represents a change in source, and secondly, protection of senior Boise River water users.

In regard to the first concern, the Department Parks & Recreation believes that the benefit of removing a water right from the geothermal resource overrides IDWR's policy that geothermal and cold water are separate sources. In support of this perspective, the Department offers the following for your consideration:

- The Application for Transfer No. 69327 was filed in 2001. IDWR adopted its policy of designating all cold and geothermal waters as separate sources in 2002. The retroactive application of a policy is contrary to the historic record and legislative intent of Idaho water policies and laws.
- The Department received a letter dated February 23, 2009, from the IDWR Western Region office. This letter states that the geothermal resource within the BFGWMA includes cold water.

In regard to the second issue of protection of senior water users, the Department wants to be clear that it is very cognizant of the concerns surrounding the protection of senior surface water users, both in this valley and throughout the State. We ask that you consider these site-specific conditions in support of approval of the Application:

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DEPARTMENT OF
WATER RESOURCES

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- License 63-9661 (State of Idaho) is diverted from the same well as the proposed new point of diversion listed in the Application for Transfer. Condition No. 7 of this license states that that the well at the Warm Springs Golf Course shall not be deepened to develop a water bearing zone below 192 feet. This Condition precludes deepening the well to a water-bearing zone of at least 200 feet below ground surface, a depth that meets IDWR standards to avoid injury to senior surface water users.
- There is no Condition on license 63-9661 to address the protection of existing Boise River water rights, nor is there any discussion in IDWR's file of injury to senior surface water users. This license was issued in November of 2008, three months after IDWR's letter to the Department of Parks & Recreation that requests that the Department prove non-injury from use of the same well.
- There are two ponds at Warm Springs Golf Course; the second and smaller pond is located downstream from the main irrigation pond and contains overflow from the site's Boise City Canal Company irrigation water. The smaller pond's outflow was capped when Warm Springs Park was developed in 1999. Since that time, canal water overflow, when not needed, has passively percolated into the ground and into the Boise River.

In order to resolve injury concerns, the Department suggests that the recharge from this overflow pond be added to IDWR's calculations of the impact to senior Boise River water right owners by the Department's use of ground water at this site. The ponds will be reconfigured as a part of the larger renewal project, and recharge calculations can be added to the pond's design.

The Department of Parks & Recreation requests that Application for Transfer No. 69327 be approved, with approval Conditions, if necessary, to include the use of canal water specifically for mitigation for potential impacts to senior surface water users.

Sincerely,



James R. Hall
Director