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DEPT. OF WATER RESOURCES
SOUTHERN REGION

March 24, 2009

Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, ID 83301

Re: Petition for Reconsideration – Permit Amendment 37-8205
Project No. 337-07-2000

Dear Allen:

Please consider this letter as a formal petition for reconsideration of the above-referenced approval dated March 20, 2009.

The original Application for Amendment submitted in October 2008 contemplated 1) rearrangement of points of diversion; 2) addition of Fish Propagation as a beneficial use; and 3) clarification of the intended specific uses under the broader categories of Heating and Recreation. #1 was required to correct the legal description to reflect existing and future well development. #2 was contemplated to allow raising of warm-water fish species. #3 was included upon recommendation of the Department, because it was suggested that because conditions 10 and 11 of the original permit listed certain uses (e.g. greenhouses, gym, indoor pool), that the permit development may be limited to those specific uses even though many other specific uses could fall under the categories of Heating or Recreation.

On October 14, 2008, an Application for Amendment was submitted along with a cover letter which outlined in detail the three purposes described above. Subsequently, the applicant decided not to attempt to add Fish Propagation as a use. An amended application was submitted with my letter dated February 13, 2009. In that letter, I wrote that the requested addition of Fish Propagation was deleted, and that the amendment was only to modify the points of diversion. However, this re-submittal was not intended to nullify the third purpose of the amendment, which was to clarify beneficial uses. The actual beneficial uses may include facilities which would not accurately be described by the conditions on the permit. This has been the case since the beginning of the discussions with the Department about the need to amend the permit, and continues to be the case today. On December 15, 2008, a telephonic meeting was held with David Tuthill, Jeff Peppersack, and yourself to discuss this very issue. A number of possible beneficial uses were discussed, and it was made

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clear again during that meeting that the proposed uses would differ from those specifically outlined in the permit conditions.

I would request that the permit amendment approval include modification of conditions 8 and 9 (originally conditions 10 and 11) to reflect those uses outlined in my letter dated October 14, 2008. Alternatively, the conditions could be deleted altogether to confirm that a range of uses under Heating and Recreation may be developed.

Cordially,



Charles G. Brockway, P.E.

Cc: Donna Kelsey