

## Lester, Steve

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**From:** Peppersack, Jeff  
**Sent:** Wednesday, June 15, 2005 5:28 PM  
**To:** Lester, Steve  
**Subject:** Policy Questions for Municipal Transfers

Steve,

Finally getting back to you on your May 26, 2005 memo. You asked two questions; 1) can City of Boise transfer from the Gambel well (hot) to the WSGC well (cold) and 2) can a municipal right be enlarged in a transfer. Gary also reviewed and I spoke with him about your questions.

Regarding no. 1, I don't think the Boise Front policy should trump the transfer policy if the transfer policy is based on state law. The transfer statute does not provide for a change in source and that was the basis for the transfer policy. I'm not sure that the Boise Front policy necessarily means that an existing right (from low-temp. geothermal source) should be transferred to a cold water source. It could also mean that the right holder should seek an alternate right from a cold water source. I am aware of some permit amendments that were approved to change the source from low-temp. geothermal to cold water, but the permit status allowed for the change especially since the original application and notice did not specify a low-temp. geothermal source. There may be other cases that I'm not aware of.

Gary indicated that the Gambel well at 86 degrees F barely qualified as low-temp. geothermal. He agreed that the applicant could probably show that the well had some hydraulic connection to the proposed well at WSGC. If the applicant can show that connection, then the separate aquifer issue would not apply and the transfer could move forward.

Regarding no. 2, Gary and I agreed that UWID would not be required to give up a place of use in the transfer. There would be enlargement of existing UWID rights, but I guess enlargement of the UWID rights could occur with or without the transfer. If the UWID rights were clearly tagged as rights for reasonably anticipated future needs, then a transfer outside the service area or to change nature of use would be prohibited; but, that's not the case here.

Let me know if you want to discuss further.

Jeff