



State of Idaho

DEPARTMENT OF WATER RESOURCES

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October 25, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DAVID B SHAW
ERO RESOURCES CORP
3314 GRACE ST
BOISE ID 83703

Re: Application for Permit No. 63-32185, Roswell Marsh Wildlife Habitat Area

Dear Dave:

Your October 19, 2005, letter proposed processing the above referenced application based on ground water thought to be tributary to the Snake River instead of the Boise River. This office has received considerable pressure in recent months for new consumptive uses of ground water within Basin 63 but for sources proposed as tributary to the Snake or Payette Rivers. This has included areas around Parma, Melba, Eagle, Kuna and deeper within Basin 63 near Blacks Creek Reservoir.

This office recently discussed these matters with the department administration. Discussion focused on out-of-priority processing of Basin 63 applications based on Application Processing Memo No. 59. That memo has defined department policy in this matter since 1996 and has authorized application processing on a case specific basis.

The meeting resulted in a consensus that processing these applications could erode or shift the alleged boundary separating ground water considered tributary to the Boise River versus ground water considered tributary to the Snake or Payette Rivers. Injury to at least the owners of many non-processed Basin 63 applications would be the likely result.

Therefore, applications in Basin 63 that suggest a ground water source not tributary to the Boise River will be more rigorously reviewed. Those applications should not be processed out-of-priority unless the application includes an approvable mitigation plan to address consumptive use within the basin.

Of course, the application can be processed regardless of the above comments if the applicant would like to proceed without an approvable mitigation plan. The expected outcome in that event would probably be denial of the application. As you know, department decisions are subject to appeal should an applicant decide on that course. Application 63-32185 will be held pending changes in any of the above factors. Please let me know if the applicant wishes to proceed in some other way.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Lester'.

Steve Lester
Water Rights Supervisor