

HOFSTETTER LAW OFFICE

608 West Franklin Street
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

April 10, 2008

RECEIVED

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**WATER RESOURCES
WESTERN REGION**

Via Facsimile and U.S. Mail

Steve Lester
Water Rights Supervisor
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Peregrine Springs LLC - Transfer Application No. 74360

Dear Mr. Lester:

Cynthia Bridge Clark of your office requested that I send you a letter documenting my request for certain materials on behalf of Peregrine Springs LLC. My request resulted from Ms. Clark's March 12, 2008 letter concerning Peregrine Springs' Application for Transfer No. 74360. Ms. Clark's letter indicated that the Idaho Department of Water Resources ("IDWR") requested additional information because the location of the proposed point of diversion was within an area where ground water shallower than 200 feet below ground surface is generally considered tributary to the Boise River upstream from Star Bridge. The letter further indicated that the Application could not be approved unless information demonstrating that holders of water rights to divert from the Boise River will not be injured by the proposal or unless an acceptable mitigation plan was submitted. My request for information concerns this apparently newly developed IDWR policy.

As you may know, in July 2005, Peregrine Springs entered into a contract to purchase a portion of Water Right No. 63-7194 from Mellin Properties Limited Partnership. The decision to enter into the contract was based SPF Water Engineering's evaluation of IDWR policies and discussions with IDWR officials confirming that this water right was transferable to Peregrine Springs' intended location. Shortly after execution of the contract, at the end of July 2005, Scott King of SPF submitted the subject Transfer Application on behalf of Peregrine Springs concerning this portion of Water Right No. 63-7194. A copy of the Contract for Sale of a Water Right was submitted with the Transfer Application. The Contract in Paragraph 9(a) required Peregrine Springs to pay for up to two extra six-month extensions of the closing date if the Transfer Application was not approved within 18 months after July 15, 2005. If the Transfer Application was not approved by the deadlines, the transaction also could be terminated. Accordingly, Peregrine Spring and Mellin Properties requested that the Transfer Application be considered for expedited review. No Protests were filed to the subject Transfer Application after preliminary processing, and with the contractual transfer deadline approaching and with all indications that the Transfer Application was consistent with IDWR policies, Peregrine Springs proceeded with closing the purchase of the water right in September 2006.

Thus, it appears that Ms. Clark's March 12, 2008 letter results from a recent change in IDWR policy concerning the transfer of ground water rights within Basin 63. My request for more information resulted from this apparent change in policy. Specifically, in this regard, I would like to request the following information from IDWR pursuant to the Idaho Public Records Act, *Idaho Code* § 9-337 *et seq.*:

1. *Copies of all IDWR policies, memoranda, guidance documents, regulations, etc., concerning or applying to Applications for Transfer of Water rights in Basin 63 that were in effect any time during the period from May 3, 1995 to the present;*

2. *Copies of all IDWR files pertaining to Water Right No. 63-7194 and any water rights split from Water Right No. 63-7194, including without limitation copies of any transfer application files associated with Water Right No. 63-7194 and any splits thereof.*

3. List of all Transfer Applications approved by IDWR after May 3, 1995 allowing ground water withdrawals in the following locations:

Township 5 North, Range 1 West, Sections 35-36
Township 5 North, Range 1 East, Sections 24-36
Township 5 North, Range 2 East
Township 5 North, Range 3 East
Township 4 North, Range 1 West
Township 4 North, Range 1 East
Township 4 North, Range 2 East
Township 4 North, Range 3 East
Township 3 North, Range 1 East, Sections 1-6, 9-15, 24-25
Township 3 North, Range 2 East, Sections 1-30
Township 3 North, Range 3 East
Township 2 North, Range 3 East, Sections 1-4, 9-15, 22-24

If you estimate that the fees to comply with this request will exceed one hundred dollars (\$100.00), please inform me before commencing the response to this request. Please do not hesitate to contact me if you have any questions about this request. As provided in *Idaho Code* § 9-339, I will expect a response to this request within three (3) working days of the date of receipt of this letter. Thank you for your assistance.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in black ink, appearing to read "Dana Hofstetter", with a long horizontal flourish extending to the right.

Dana L. Hofstetter

cc: Cynthia Bridge Clark, IDWR
Richard Pavelek, Peregrine Springs
Scott King, SPF Water Engineering