

MEMORANDUM

DATE: February 22, 2008

TO: Water Right File 27-7420

FROM: Shelley W. Keen *SWK*

RE: Phone conversation with B. J. Driscoll

Yesterday B. J. Driscoll, attorney for the City of Shelley, called to discuss his late petition for reconsideration of Water Right License 27-7420. The City of Shelley has joined with other regional governments to build a wastewater treatment facility near the site where Right 27-7420 was developed. As one of its contributions to the project, the city plans to build an administration building on site. The engineers hoped to provide water to the building from the well used as a point of diversion for Right 27-7420. As licensed, the right does not provide enough water for the administration building.

I explained that when it issues a license, IDWR has to look back in time to the beneficial use already established, not forward to what may be established. For that reason, it is unlikely that IDWR could change the license. However, it may be possible to establish a new water right that diverts from the same well. An application for a Part B domestic use (2500 gpd) would not be affected by the moratorium.

If the city wants to establish a new 2500 gpd domestic use without filing for a water right, they need to avoid the stacked exemption prohibition by drilling a new well. To use the same well, they need to file an application.

Mr. Driscoll said he needs to confer with his clients, but he thinks they will probably withdraw the petition for reconsideration, allow Right 27-7420 to be decreed in the SRBA as licensed, and file an application for a new water right for the new building. Mr. Driscoll said he would inform IDWR in writing of the city's decision.