



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 15, 2005

JOHN MARSHALL
GIVENS PURSLEY LLP
601 W BANNOCK ST
BOISE ID 83702

Re: Application for Transfer of Water Right Nos. 63-125G and 63-198AC and related
Application for Permit

See 63-32171

Dear John:

Enclosed are conformed copies of two applications in the names of Middleton Mill Ditch Co., Middleton Irrigation Association Inc. and Chapparel Development Inc. Processing of the applications must be delayed as explained below.

The transfer application describes two water rights for which Snake River Basin Adjudication (SRBA) Claims have been filed. SRBA Claims in the area affected by the transfer application are currently being reviewed. The role of the Idaho Department of Water Resources (IDWR) in the SRBA is to review claims and make recommendations regarding those claims to the SRBA Court. Recommendations are presented to the court in a Director's Report. Potentially affected parties may object to recommendations in a Director's Report. This process introduces uncertainty regarding water rights until the objection period is over.

IDWR's limited staff resources must be used to complete the remaining Director's Reports during the next year. Additionally, experience indicates that processing an application for transfer in an area where a Director's Report is being prepared can result in confusion and complications by mixing judicial (SRBA) and administrative (transfer) actions.

The SRBA objection period for your area is expected to conclude sometime during the latter half of next year. Based on that schedule and the above reasoning, the application for transfer cannot be processed at this time. Likewise, the application for permit cannot be processed since it is based on mitigation proposed under the transfer proposal. IDWR will hold both applications until processing can begin.

Meanwhile, please address the following application fee issue. The transfer application proposes to change 0.38 cfs, which requires a \$250 fee. The permit application addresses 380 af of storage, which needs a \$370 fee. As you can see from the enclosed receipts, IDWR mistakenly mixed up

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separate checks for the applications: receipt W033395 for \$100 applied to the proposed transfer and receipt W033396 for \$250 applied to the proposed permit. The department can correct the receipts for the opposite outcome. Following correction of the receipts, the result would be complete payment of the \$250 transfer fee but a balance of \$270 needed for the permit application (\$370 owed minus \$100 paid).

Please remit an additional \$270 at your earliest convenience to establish a proposed priority date for the application for permit.

IDWR will notify you as soon as processing of the applications can begin. IDWR regrets the inconvenience undoubtedly caused by this necessary delay. Please let me know if you have any questions or need more information in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", with a stylized, flowing script.

Steve Lester
Water Rights Supervisor

Enclosure: Copy of Applications and Original Receipts