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January 18, 2008

Via Facsimile and U.S. Mail

Daniel A. Nelson
c/o Sharla Curtis
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

RECEIVED

JAN 22 2008

WATER RESOURCES
WESTERN REGION

Re: Application for Transfer 73952

Dear Mr. Nelson and Ms. Curtis:

This letter responds to Mr. Nelson's January 8, 2008 letter concerning the above-referenced matter. Mr. Nelson instructed me to send this letter to Ms. Curtis in view of Mr. Nelson's transfer to the Idaho Department of Water Resources' ("IDWR") State Office.

Of the two options presented, the preferable one would be to have the application approved for ponds covering 78 acres. However, we continue to support the analysis submitted with the Transfer Application based on IDWR's traditional evaluation of not enlarging diversion rate, annual diversion volume and annual consumptive use volume. We continue to assert that IDWR's traditional evaluation should continue to apply where, as here, the new uses (wildlife ponds) do not fully consume the water and have return flows to essentially the same sources. Applying the traditional analysis in the Transfer Application, Norm Young identified 80 acres of pond surface area as being justified. Thus, in identifying the preferable option of the two presented in Mr. Nelson's January 8, 2008 letter we do not relinquish the position described in the Transfer Application and Mr. Obendorf reserves all rights to pursue the same.

Please let me know if you have any questions or need any additional information regarding this matter. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

cc: Dan Nelson, IDWR State Office