



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

November 29, 2007

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

RE: Petition for Reconsideration of Transfer 73570 (Kammer)

Dear Mr. Speck:

IDWR received the petition for reconsideration you sent in connection with Transfer 73570, which authorized changes to Right 37-33 and associated Right 37-21128. Under Rule 730.02.a. of IDWR's Rules of Procedure, a petition for reconsideration of a preliminary order must be filed within fourteen days of the service date of the order. The amended preliminary order approving Transfer 73570 was served on October 23, 2007. Your facsimile letter and attached petition for reconsideration were sent and received on November 7, 2007, or the 15th day after the service date of the preliminary order.

Because IDWR did not receive a timely petition, the order approving Transfer 73570 became a final order pursuant to Rule 730.02.b.iii of IDWR's Rules of Procedure. Final orders of the agency may be appealed as described in Rule 730.02.f-g of IDWR's Rules of Procedure.

While IDWR cannot take action on your petition, I do want to respond to the concerns raised in the petition. As you noted, irrigators should not apply more water than they can beneficially use. Idaho Code § 42-222 directs IDWR to consider the conservation of water resources within the state of Idaho when evaluating a transfer application. In an October 9, 1990, memorandum to staff, IDWR interpreted "conservation" as a standard of efficiency for the application of water to beneficial use.

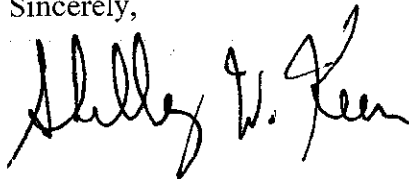
Some irrigators may need more than 0.02 cfs/acre if they employ less efficient flood irrigation methods. Irrigators using sprinkler systems, however, have greater flexibility to manage and apply water than irrigators using flood irrigation. Except in special circumstances, properly operated sprinkler irrigation systems do not require more than 0.02 cfs/acre for irrigation of crops that can be grown in Idaho.

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IDWR typically considers a diversion rate greater than 0.02 cfs/acre to be necessary for a sprinkler irrigation system in only two scenarios: (1) parcels less than five acres where certain economies of scale do not apply and (2) public spaces, such as golf courses, where application of water throughout the daytime impedes the function of the space. There may be other circumstances where a diversion rate exceeding 0.02 cfs/acre is necessary for sprinkler irrigation. Because they are atypical, however, IDWR expects requests for more than 0.02 cfs/acre to be explained in a report from an engineer or other qualified professional. The report must show that applying more than 0.02 cfs/acre with a sprinkler irrigation system employs efficient practices consistent with the conservation of water resources in Idaho.

If you have any questions, please contact me at 208-327-7946.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name being the most prominent.

Shelley Walter Keen, Manager
Water Permits Section