



United States
Department of
Agriculture

Forest
Service

Intermountain Region

324 25th Street
Ogden, UT 84401
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File Code: 2540-1

Date: MAR 13 2003

RECEIVED

MAR 17 2003

WATER RESOURCES
WESTERN REGION

Mr. Gary Spackman
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Dear Mr. Spackman:

This is in response to your letter dated March 4 in which you requested a schedule of available dates for a pre-hearing conference regarding the Notice of Protest we filed on the University of Idaho Regents application number 77-14145. I am writing to request that this action be delayed at this time, and revisited in approximately 6 months. We have been in close contact with Mr. Gerard Billington of the University of Idaho Regents, and are working cooperatively to resolve several issues identified in our Notice of Protest. These issues include approval by the Federal Energy Regulatory Commission, possible consultation with National Marine Fisheries Service, NEPA evaluation and land occupancy approval by the Forest Service.

The occupancy matters are challenging because the University of Idaho has a pending easement application for the pipeline under the Ditch Bill Act, which limits applications to agricultural uses. The addition of hydropower in 77-14145 could negate that application and require a special use permit. In addition, it appears that approval of any new activity on National Forest System land within an existing wilderness area requires presidential approval.

Our discussions with Mr. Billington also indicate that the quantity of water requested in 77-14145 is not intended to exceed a maximum diversion of 0.64 cfs during the irrigation season under existing water right 77-02219, and 0.31 cfs during the non-irrigation season, so conjunctive use implications are also apparent.

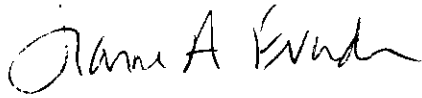
Our discussions up to this time have helped us understand the actual intent of the water diversion and use, which will aid resolution of our protest issues. It is apparent that a field season is needed for us to visit the site, collect information, evaluate impacts, focus the issues, and identify possible options and resolutions. I am requesting that we be allowed time to work with the University of Idaho to address these issues. We would report back to you no later than September 30 on the status of this matter.



Mr. Gary Spackman

Please contact Steve Spencer (208-331-5944) of my staff in Boise if you have questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne A. Evenden". The signature is fluid and cursive, with the first name "Jeanne" being more prominent than the last name "Evenden".

JEANNE A. EVENDEN
Director, Lands