



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 20, 2005

NEW UNION DITCH CO LTD
C/O MIKE CREAMER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720

ROTH CONSTRUCTION INC
C/O CHRISTIAN PETRICH
SPF WATER ENGINEERING LLC
600 E RIVER PARK LN STE 105
BOISE ID 83706

Re: Application for Transfer of Water Right No. 63-146 and Applications for Permit Nos.
63-31934 for Lakeland Village and 63-32143 for Ulmer Lane Townhomes

Dear Gentlemen:

The New Union Ditch Company transfer application to mitigate pending applications for permit for Lakeland Village and Roth Construction Inc. (Ulmer Lane Townhomes) cannot be processed at this time as explained below.

The transfer application describes a water right for which a Snake River Basin Adjudication (SRBA) Claim has 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.

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The SRBA objection period for Ada County is expected to conclude around May or June of 2006. IDWR will hold the transfer application until that time and will notify you at the appropriate time to allow it to be processed. This transfer application should be one of the first processed at that time due to its original filing date in 2003.

This also means that pending applications for permit 63-31934 and 63-32143 cannot be resolved until transfer processing is successfully completed or until a suitable replacement mitigation plan is proposed and approved.

IDWR regrets the inconvenience undoubtedly caused by this necessary delay. Please contact me at 334-2190 if you have any questions in this regard.

Sincerely,

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

Steve Lester
Water Rights Supervisor

Copy: BOR, Protestant in 63-31934