



State of Idaho

DEPARTMENT OF WATER RESOURCES

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August 2, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

DOUG GLASPEY
US GEOTHERMAL INC
1509 TYRELL LN STE B
BOISE ID 83706

Re: Application for Transfer No. 72440 – Expansion Right 43-10069

Dear Mr. Glaspey:

This letter is in response to your letter dated July 27, 2006 for the transfer referenced above. I have reviewed your proposed conditions and offer the following comments.

As I understand it, US Geothermal is concerned that quantification of the amount of water that may be curtailed under Section 42-1416B, *Idaho Code* is premature for the transfer proceeding. US Geothermal proposed the following condition:

The portion of these water rights that the Director determines are for expanded use in an order pursuant to Idaho Code Section 42-1416B may be subject to curtailment until sufficient ground water is available to resume or increase withdrawals.

I agree that the need for, and conditions of curtailment are not yet determined and should not be the subject of this transfer proceeding. The Department's immediate concern is not the specific quantity to be curtailed due to a finding and order by the Director, but rather to ensure that enlargement cannot occur under the rights due to the transfer as required under Section 42-222, *Idaho Code*. The SRBA decree has already defined the expansion right and the acreage that could be subject to curtailment. Since the transfer will remove the acreage value of the expansion right, the rights must be conditioned to ensure that enlargement cannot occur as transferred.

Your alternate proposed conditions are more acceptable. You suggested that 75% efficiency should be the basis for consumptive use. The result is 3.0 acre-feet per acre for the historical acres under each right. These values may be acceptable if they can be supported based on the historical crops and irrigation system. Please provide information regarding the historical crops grown and the irrigation system used prior to the expansion. The historic consumptive use values will establish the maximum use available for transfer and should not be considered preliminary values. Any future finding and order regarding the extent of curtailment under the expansion right will be still be subject to challenge, as you suggested in your letter.

I propose the following conditions, subject to documentation of historic use. Note that the total annual diversion volume under each right will be shown on the face of each right, so will not need to be repeated in a condition.

43-2381

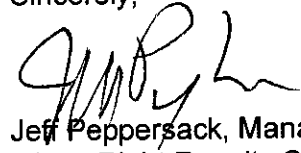
The consumptive use of water under this right shall not exceed <495> acre-feet per year.

43-2534B

The consumptive use of water under this right shall not exceed <663> acre-feet per year.

If you have questions, please feel free to call me to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', written over the printed name.

Jeff Peppersack, Manager
Water Right Permits Section