

MEMORANDUM

TO: File

FROM: Steve Lester 

DATE: October 11, 2006

RE: IDOC Transfer Application 67055 and Amendment Application 69884

Deputy AG David Barber and Ed Squires contacted me recently in a conference call. Barber has some concerns about the draft approval information I provided to him (not available in database yet).

Most of the concerns were minor and were easily addressed. One concern remains that needs more thought.

The applications propose a set of irrigation wells for rights that will remain for irrigation. The applications propose another set of wells for municipal uses under rights proposed for that purpose. Some right propose both uses while others propose a single use. The municipal wells can back up irrigation uses but not vice versa. The legal notice for these applications discussed the wells as above in a narrative rather than a legal description way.

Barber said that the irrigation wells are generally old. IDOC plans to replace those wells over time as needed by upgrading them to public water supply standards. Squires noted that this would actually be cost-effective in the long run for managing the prison site.

The issue is this: would revision of the applications to allow all wells to be used for irrigation and/or municipal uses require additional legal notice? Both applications will be amended to show all wells for all rights if this will not prolong the approval process.

After reviewing the applications as filed and the legal notice (see attached copy), I do not think additional legal notice would be necessary. It is hard to imagine how anyone would be injured by this revision. Under this new approach, all the rights would list all the wells as points of diversion. This would avoid the need for a complex clarifying condition of approval that certain wells can be used for municipal use but that all the wells could be used for irrigation as originally proposed.

Additionally, this proposed revision should not have any bearing on the settlement between IDOC and United Water. We should give United Water a chance to comment if the applications are revised.

I discussed this today with Jeff Peppersack. He agreed with this analysis.

NOTICE OF AMENDED PROPOSED CHANGE OF WATER RIGHTS

IDAHO DEPT. OF CORRECTIONS of 1299 N. Orchard Suite 110, Boise ID 83706 has applied to the Department of Water Resources to amend an application for transfer of water rights and an application for amendment of permit pursuant to I.C. §§ 42-211 and 42-222 for nine ground water rights in Ada County. The transfer and amendment were originally processed in January 2000 but were amended in March 2002 to include two additional wells. The rights include five licenses, three beneficial use adjudication claims and one permit, all serving various portions of two prison complexes. The existing water rights and proposed changes are in Sections 21 and 27 through 34, T2N, R2E near Pleasant Valley Road south of the Boise Airport. The water rights are nos. 63-3271, 63-3445, 63-3487, 63-7025, 63-8088, 63-12296, 63-30296, 63-30297 and 63-30298. The priority dates range from early 1962 to late 1995.

The rights presently cover seven wells, 27.06 cfs, 1816 acres of irrigation (some overlap), and various year around non-irrigation uses. The applicant wants the water rights to reflect the municipal nature of the site. The applicant seeks to combine the rights into a 3125 acre permissible place of use (PPU). **TRANSFER APPLICATION #67055** for licenses and claims with 1962-1977 priorities will provide 19.18 cfs to irrigate 1214 acres per year within the PPU and 6.18 cfs for year around municipal use within the general service area of the prisons. The total amount of water being transferred is 21.24 cfs/7350 afa for both uses when combined. **AMENDMENT APPLICATION #69884** for permit #63-12296 with a 1995 priority will change 5.00 cfs of irrigation/domestic uses into year around municipal use within the same general service area. Uses will include fully consumptive land application of waste water.

e wells →
Nine existing wells will be used. Five of the wells were constructed to public water supply standards and will supply the municipal water. Most of the irrigation will be provided from the other four wells, although the municipal wells will be available for irrigation if needed. Details of the proposed changes are available from the office listed below.

Any protest against approval of the proposed changes must be filed with the Department of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705-5082, together with a protest fee of \$25 for each application on or before June 3, 2002. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the Idaho Statesman on May 16 and 23, 2002.

This is the notice as should have appeared in May 2002. For some reason unknown to me, the notice was published twice on each day: once with heading c transfer and once with heading c permit amendment.

But the above information appeared in both notices following the word "Remark" in the newspaper (see back of attached pages).

Although unfortunate, no harm was done by this "double-duty."
- gr 6/20/02

SCANNED

FEB 06 2003

UPDATE TO 5/28/02 Affidavit of publication