



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 4, 2002

Leo Bell
HC 36 Box 26
Albion, ID 83311-9702

RE: Protested Application for Permit 45-7745 in the name of the USFS

Dear Mr. Bell:

I received your letter to me dated November 30, 2002 regarding the above described contested case. Since you are a party to the protested matter and your letter contains statements which may be considered *Ex Parte Communication* I request that you send a copy of your letter with attachment to all other parties. (Copy enclosed if you did not keep a copy and a list of parties to this contested case if you do not have one)

IDAPA 37.01.01. 417 (Rules of Procedure- Ex Parte Communications Rule 417) provides:

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. A party to a contested agency proceeding shall not communicate directly or indirectly with the presiding officer or the agency head regarding any substantive issue in the contested case. When a presiding officer or the agency head becomes aware of an ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer or agency head shall place a copy or written summary of the communication in the file for the case and order the party providing the communication to serve a copy of the communication or written summary upon all parties of record. Repeated violations of this rule shall be cause for the presiding officer to dismiss an action or to dismiss a party from an action. Written communications from a party showing service upon all other parties are not ex parte communications. (4-5-00)

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Parties