



State of Idaho

DEPARTMENT OF WATER RESOURCES

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EASTERN REGION

COPY

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 3, 2005

Mr. Kent Foster
Holden, Kidwell, Hahn & Crapo PLLC
P.O. Box 50130
Idaho Falls, ID 83405

Mr. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, ID 83318

Mr. Lawrence Babcock
Big Lost River Water Users Association
P.O. Box 66
Moore, ID 83255

Re: Application for Transfer 71254, Mickelsen Properties, LLC.

Gentlemen,

Since the hearing that took place on July 19, 2005 at the Arco Butte Business Center in Arco, the department was made aware by the applicant that information was encountered that may be relevant to this contested matter.

Mr. Foster sent the department a letter indicating that copies of transport agreements discussed during the hearing were found and that they appear to be germane to the protest filed by the Big Lost River Irrigation District (BLRID) and perhaps to the other protestant.

Following receipt of the letter described above, antidotal conversation between the hearing officer and protestant attorney, Mr. Kent Fletcher, indicated that the BLRID might withdraw their protest.

This letter was prepared and sent to you for two reasons:

1. Determine whether or not parties to this contested case have reached an agreement or have withdrawn or wish to withdraw their protest.
2. Make the applicant aware that the information that has been presented to the hearing officer CANNOT be used as evidence for this contested matter UNLESS it has been petitioned to the hearing officer to augment the record. Only after the petition to augment has been received and granted will the hearing officer be able

to use the evidence that has been provided. Furthermore, the evidence and/or
petition should be served to all parties of the contested case.

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The Department Kindly requests that both parties respond within a 14-day period from the date of receipt of this letter. Failure to respond will indicate to the hearing officer that you wish the matter to be completed (Ordered) as the record stands.

If you have any questions, please contact me.

Sincerely,



W. Roger Warner

Water Right Supervisor – Eastern Region

Cc: Gary Spackman- Boise