



United States Department of Agriculture
Office of the General Counsel

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October 17, 2003

Allen Merritt
Southern Regional Manager
Idaho Department of Water Resources
1341 Fillmore St. STE 200
Twin Falls, ID 83301

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OCT 22 2003

Department of Water Resources
Southern Region

Re: In the Matter of Application for Transfer No. 66616 (45-04114) and Application for Permit No. 45-07745.

Dear Allen,

We are writing to update you on the status of the above titled case. On April 18, 2002, the Department held a prehearing conference in this case. At that conference the parties concluded that further settlement discussions would be useful in order to resolve the matter. In accordance with those discussions the parties have attempted to resolve this matter through negotiation. Specifically, experts for the parties developed a favorable water balance for the proposed use at Pomerelle Ski Resort. A copy is enclosed. As a result, the development of water facilities, mainly the storage ponds, would likely be reduced from those shown on original plans. This proposal would seem to address the protestant's concerns. However, we have not had any success bringing this issue to closure and regretfully believe that it is necessary to move forward to a hearing with IDWR on the matter.

In light of our lack of success in resolving this matter through negotiations, we request that IDWR schedule another prehearing conference in order to narrow the issues for trial. At that prehearing conference, we believe it would be appropriate to attempt to narrow the issues that would be contested in the proceeding. We would also be prepared to propose a scheduling order governing the exchange of proposed exhibits, designation of expert witnesses, and filing of any pretrial memoranda. We also believe that a prehearing conference may be useful to obtain admissions of fact and documents, limit witnesses, consolidate examination of witnesses and determine the procedure for subsequent hearings. We suggest that this prehearing conference be scheduled in January 2004.

I appreciate your assistance on this matter. You may contact me at 303-275-5537 if you have any questions.

Sincerely,



Randall J. Bramer
Office of General Counsel

enclosure

cc: Norman Semanko, counsel for Earl Warthen
Roger Ling, counsel for Andrwood, Inc. d/b/a Pomerelle
Leo Bell
Fred Hawker
Scott Nannenga, USDA Forest Service, District Ranger
Michael Collette, USDA Forest Service, BAT

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