



ERO Resources Corp.
3314 Grace Street
Boise, ID 83703-5836
(208) 373-7983
Fax: 373-7985
Denver • Boise • Durango
www.eroresources.com
eroboise@eroresources.com

RECEIVED

DEC 22 2005

WATER RESOURCES
WESTERN REGION

December 22, 2005

State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

RE: Application for Transfer for Rhead Dairy (applicant)

Dear Ms. Graves:

On November 2, 2004, I filed an Application for Transfer on behalf of Daryl and/or Robert Rhead. Because this transfer relates to a dairy operation, IDWR requested additional information to help address a portion of the components of Idaho Code § 42-222 that refer to:

1) injury to other water rights, 2) enlargement of the original water right sought to be transferred, 3) is in the local public interest, 4) is consistent with the conservation of water resources in Idaho, and 5) affect on the local agricultural base.

Supporting data for the following issues are typically requested.

Injury to Other Water Users

There are several wells within ½ mile radius of the applicant's points of diversion. Within ½ mile to the northwest of the applicant's West Well is the Oppedyk dairy/farm operation with three wells. To the east of the applicant's East Well is the Ketterling dairy/farm operation with two wells. The closest well is ¼ mile away on the Oppedyk dairy/farm. The ¼-mile separation distance will tend to minimize the impacts of pumping from the applicant's well.

Injury to the other water users is not anticipated as a result of this transfer for two reasons: 1) the annual diversion volume will actually decrease as a result of this transfer, and 2) this transfer is changing the Nature of Use and Season of Use.

Explained further, the transfer considers only the consumptive portion of the historical use, leaving more water in the aquifer during the irrigation season than what historically was diverted. The year-around nature of pumping for the dairy will create a new drawdown during the winter months. However, the drawdown during the summer will be commensurately less, with an annual average being reduced relative to historic levels.

The second reason again is that this transfer is focused on water rights that have historically been put to beneficial use on this property. The transfer does not result in a new diversion to this area. The transfer is changing the Nature of Use, meaning that there will not be an increase in diversion rate or volume. The Season of Use will change to year-around, but in order for the owner to stay within the limits of the water right, they would by necessity have to lower the daily volume relative to historic practice so that water is available throughout the year. This operational change will lessen the impact to the aquifer during the irrigation season, but create a new demand on the aquifer during the non-irrigation season. However, during the non-irrigation season, the demand on the aquifer is reduced, allowing for partial recovery. Because the aquifer is recovering during the non-irrigation season, no injury is expected to nearby water users. The notion that the aquifer will recover less due to the demand during the non-irrigation season can be addressed by considering that the average annual diversion volume after this transfer is the same as the consumptive volume prior to the transfer. Therefore no net change is expected to the aquifer and no injury to other water users.

Local Public Interest

The applicant made public testimony to the Elmore Planning and Zoning Commission on January 26, 2005 regarding their plans for the dairy. Earlier, Senior Planner Bonnie Sharp presented the project to the Elmore County Commissioners on November 8, 2004. The County Commissioners requested that siting committee comprised of various state agency personnel review the merits of this project. The siting committee has provided a recommendation to the Elmore County Commission.

The applicant has indicated that the preliminary plans of the dairy design and the Nutrient Management Plan have been submitted to the Idaho State Department of Agriculture as indicated in Attachment A.

The Elmore County Planning and Zoning Commission made a favorable decision for the applicant. The decision was appealed to the Elmore County Commissioners. The County Commissioners upheld the Planning and Zoning decision on December 12, 2005. The County Commissioners will advertise their Findings of Fact, in early 2006.

Effect on Local Agricultural Base

The local residents in Elmore County are generally enthusiastic for the recent activity of dairies coming to the area. The construction of the dairy will use local contractors to the extent possible. Concrete will be of local origin. The operation of the dairy is anticipated to bring approximately 25 new jobs to the area. In addition, local farmers will be used to supply feed for the cows. This local demand for feed and silage will generate business for nearby farmers. The applicant indicated that they have already have requests for all of the manure the dairy will generate. Custom services for dairy operations will be utilized and with the coming of other dairies to the area, may offer new spin-off businesses. Elmore County will receive increased tax revenues and a spurred economy with the installation of the dairy.

The only possible negative impact could be the increased traffic along the local roads to the dairy, resulting from the dairy operation. The dairy is located approximately ¾-mile

from hwy 51. The Glenns Ferry highway district has surveyed this area to determine if any agency response will be needed in the future.

I hope that this information is sufficient for your questions. If you have other questions, or need other details, please feel free to call me.

Regards,

Steven R. Hannula

cc: Daryl Rhead

ATTACHMENT A
Idaho State Department of Agriculture letter



IDAHO STATE DEPARTMENT OF AGRICULTURE



ENGINEERING SERVICES

COPY

January 31, 2005

Ms. Lori Graves
Sr. Water Rights Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

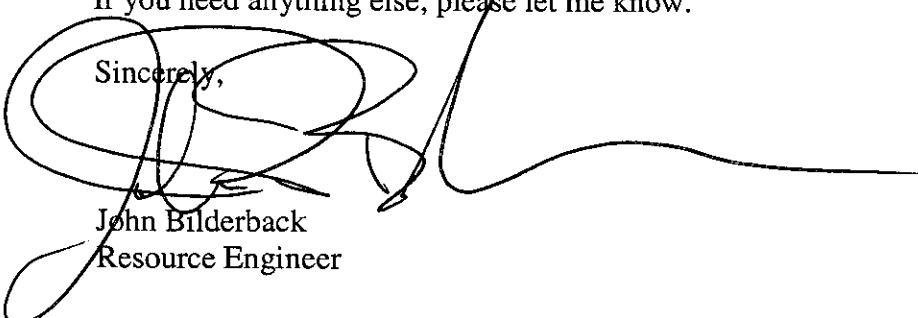
Dear Ms. Graves:

The Idaho State Department of Agriculture ("ISDA") is aware of the new dairy facility being proposed by Robert Rhead in Sections 3, 4 and 5 of Township 5 South, Range 6 East.

Periodically throughout the construction process, ISDA will be inspecting the facility to ensure compliance and ISDA will do final inspections before a permit to ship milk is granted.

If you need anything else, please let me know.

Sincerely,


John Bilderback
Resource Engineer

cc: Robert Rhead
cc: Steven Hannula, ERO Resources
cc: Dairy Bureau