



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
September 28, 2004

S. Bryce Farris
Ringert Clark, Chtd.
P. O. Box 2773
Boise, ID 83701

Re: Proposed Condition for Green Ranch Alternate Point of Diversion –
Transfer No. 69594

Dear Bryce:

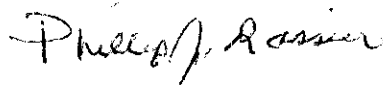
This letter is a follow-up to my letter to you dated August 13, 2004. In our subsequent telephone conversation regarding this matter you indicated that the proposed modifications to Transfer Approval Conditions No. 10 and 13, as set forth in my letter, appear to be acceptable with one possible exception. You asked why the last sentence of Condition No. 13, as proposed by the Nampa & Meridian Irrigation District, was being deleted from the wording acceptable to the Director. I responded that I thought the sentence was being deleted because the Director viewed it as creating an ambiguity. You requested that the sentence be reinserted, if possible, and I agreed to discuss the matter further with the Director.

I have now discussed with the Director his reasons for deleting the last sentence of your proposed revisions to Condition No. 13. That sentence reads: "In relation to other water rights from the Boise River, the date of priority of this right shall not be advanced." The Director reads this sentence to be contrary to the purpose of the condition, which is to protect other rights on Mores Creek from injury that could otherwise result from approval of the transfer. For example, if a call by the holder of a senior water right on the Boise River were to require some but not all of the junior water rights on Mores Creek to be curtailed, the language in question would protect the Green Ranch diversion with a priority of November 20, 2001, from being curtailed. This would result in another water right on Mores Creek senior in priority to November 20, 2001, being curtailed to help meet the Boise River call. The proposed last sentence could thus result in injury to other existing rights on Mores Creek that would not occur in the absence of the transfer approval. The sentence is therefore not acceptable to the Director.

S. Bryce Farris
September 28, 2004
Page 2 of 2

I appreciate being able to informally work through your concerns over the transfer conditions. Hopefully, we are now at a point where this transfer can be finalized. Please let me know at your earliest convenience.

Sincerely,

A handwritten signature in cursive script, reading "Phillip J. Rassier".

Phillip J. Rassier
Deputy Attorney General