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P.L.L.C.
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TIMOTHY J. STOVER
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August 22, 2005

COPY

**VIA FACSIMILE (208) 287-6700 (w/o
Enclosures) and U.S. MAIL**

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83706

RECEIVED
AUG 23 2005
Department of Water Resources
Southern Region

RE: **Millenkamp
Transfer No. 71604**

Dear Gary:

From our telephone conference call on Friday afternoon, I understand that the hearing in the above referenced matter will be rescheduled to allow for continuation of discovery and to allow for the Protestants to prepare in light of the most recent amendment to the Application for Transfer. As that conference call was not on the record, please consider this letter a written record of my objection.

Additionally, in light of the fact that the hearing will be moved, I will not be providing witness lists or exhibits as required by your Order and Third Notice of Hearing dated July 22, 2005. If my understanding of your comments concerning moving the hearing are incorrect, please let me know.

Finally, it is my understanding that the order you will be issuing as a result of the telephone conference will require the Applicants to more fully respond to any discovery served on them. If this is the case, I would ask that the same obligation be placed on the Protestants, especially in light of the fact that only minimal answers to written discovery have been provided by Mr. Halper and the remaining Protestants have not provided any answers to discovery which was served upon them over four months ago. For your information, enclosed with this letter are copies of the original discovery served on the Protestants and their responses, if any, to date.

Gary Spackman, Hearing Officer
Idaho Department of Water Resources
August 22, 2005
Page - 2

Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read 'TJ Stover', with a stylized flourish at the end.

TIMOTHY J. STOVER

TJS:jl

Encls.

cc: ✓ Allen Merritt, IDWR (Twin Falls Office)
Pat Brown (via fax and U.S. Mail 733-9343)
Lee Halper (via fax and U.S. Mail 324-4422)
Client

RECEIVED

AUG 23 2005

Department of Water Resources
Southern Region

Lee Halper
331 S 230 W
Jerome, ID 83338
208-324-2240

BEFORE THE DIRECTOR
IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 71604

William & Susan Millenkamp,
Applicants

Steven R. Hurd, Lee Justus Halper,
William F. Gulley, Steve R. Matthews, &
Doyle Schwisow
Protestants

HALPER'S RESPONSE
TO APPLICANT'S FIRST
SET OF INTERROGATORIES,
REQUEST FOR PRODUCTION
AND REQUEST FOR
ADMISSION

COMES NOW Protestant Halper and responds to Applicant's First set of
Interrogatories, Requests for Production and Request for Admission.

INTERROGATORY NO. 1 Myself, Steve Hurd, Bill Gulley, Steve Matthews, Doyle
Schwisow and I reserve the right to supplement this list at a later date according to the
rules.

INTERROGATORY NO. 2 No one as of this date.

INTERROGATORY NO. 3 No one as of this date.

INTERROGATORY NO. 4 No.

INTERROGATORY NO. 5 Not Applicable

INTERROGATORY NO. 6 None.

INTERROGATORY NO. 7 N/A.

INTERROGATORY NO. 8 N/A.

INTERROGATORY NO. 9 These documents are being accumulated and reviewed at
this time and if offered as exhibits will be forthcoming prior to discovery deadline.

INTERROGATORY NO. 10 The Millenkamp operation is a CAFO. It is an undisputed
fact that CAFOS emit odors that are emissions of toxic chemicals. These odors attach to

water that comes in contact with manure and other waste. This odor-water, in various forms and means, returns to and negatively affects the resource.

REQUEST FOR PRODUCTION NO. 1 These documents are being accumulated and reviewed at this time and if offered as exhibits will be forthcoming prior to discovery deadline.

REQUEST FOR PRODUCTION NO. 2 Interrogatories Nos. 4 and 5 are not applicable and for Nos. 9 and 10 please see Request for Production No. 1 answer above.

REQUEST FOR PRODUCTION NO. 3 If I deny any Request for Admission, such documents or facts supporting such denial will be provided as they are accumulated.

REQUEST FOR ADMISSION NO. 1 Deny

REQUEST FOR ADMISSION NO. 2 Deny

REQUEST FOR ADMISSION NO. 3 Deny

INTERROGATORY NO. 11 These facts and possible witnesses/exhibits are being accumulated and reviewed at this time and if offered as exhibits will be forthcoming prior to discovery deadline.

DATED this 14th day of April 2005

A handwritten signature in black ink, appearing to read 'Lee Halper', is written over a horizontal line.

Lee Halper, Protestant

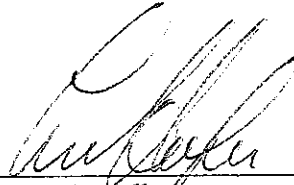
CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April 2005, that a true and correct copy of the foregoing document was served by the method indicated below and addressed to each of the following:

Patrick D. Brown
PO Box 207
Twin Falls, Idaho 83303-0207
Via US Mail

Timothy Stover
PO Box 1906
Twin Falls, Idaho 83303-1906
Via US Mail

Gary Spackman
IDWR
322 E. Front St.
PO Box 83720
Boise, Idaho 83720-0098
Via US Mail

A handwritten signature in black ink, appearing to read 'Lee Halper', is written over a horizontal line.

Lee Halper, Appellant

RECEIVED

AUG 23 2005

Department of Water Resources
Southern Region

Timothy J. Stover, ISB #4842
ROBERTSON, HEPWORTH, SLETTE
WORST & STOVER, PLLC
161 5th Avenue South, Suite 100
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
Facsimile: (208) 736-0041

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 71604)

William & Susan Millenkamp,
Applicants)

APPLICANTS' FIRST SET OF
INTERROGATORIES,
REQUESTS FOR PRODUCTION
AND REQUEST FOR
ADMISSIONS TO
PROTESTANTS)

Steven R. Hurd, Lee Justus Halper, William F.
Gulley, Steve R. Matthews, & Doyle
Schwisow,)

Source: Groundwater
County: Jerome)

Protestants.)

TO: PROTESTANTS.

Applicants William &/or Susan Millenkamp, by and through their attorney of record, Timothy J. Stover, hereby require you to answer and respond to the following interrogatories, requests for production and request for admissions, within fifteen (15) days after service hereof, in the manner prescribed by Rules 33, 34 and 36 of the Idaho Rules of Civil Procedure and ID ADC 37.01.01.520 and ID ADC 37.01.01.521.

PRELIMINARY STATEMENT

a. When answering these interrogatories and requests, you are requested to furnish all

1
2 information available to you, including information in the possession of your attorneys,
3 investigators, employees, agents, representatives, guardians, physicians or any other person or
4 persons acting on your behalf, and not merely such information as is known by you on personal
5 knowledge.

6 b. If you cannot answer any of the following interrogatories and requests in full, after
7 exercising due diligence to secure the information, so state, and answer to the extent possible,
8 specifying your inability to answer the remainder, and stating whatever information or knowledge
9 you have concerning the unanswered portions.

10 c. Each interrogatory and request is intended to and does, request that each and every,
11 all and singular, the particulars in parts thereof, be answered with the same force and effect as if
12 each part and particular were the subject of and were asked by a separate interrogatory.

13 d. The term "anyone acting on your behalf" includes, but is not limited to, your
14 representatives, attorneys, insurance carriers, investigators, and guardians, whether they be hired
15 or appointed by you, your insurance carrier, your attorneys or their representatives, or a court of
16 law.

17 e. The term "person" means and includes natural persons, corporations, partnerships,
18 associations and any other kind of business or legal entity.

19 f. The term "document" means and includes any kind of written, typewritten or
20 printed material whatsoever including, but without limitation, papers, agreements, contracts,
21 notes, memoranda, correspondence, letters, telegrams, statements, books, reports, studies,
22 minutes, records, accounting books, maps, plans, drawings, diagrams, photographs, analyses,
23 surveys, studies, transcriptions and recordings of which you have any knowledge or information,
24 whether in your possession or under your control or not, relating or pertaining in any way to the
25 subject matters in connection with which it is used, and includes, but without limitation, originals,
26 all file copies, and all other copies, no matter how or by whom prepared, and all drafts prepared in
connection with such writings, whether used or not.

g. A request for the description of documents shall be deemed to include a request for
the following information with respect to each of said documents:

1. The nature and substance of the document with sufficient particularity to enable

1
2 the same to be precisely identified.

3 2. The date, if any, which the document bears.

4 3. The date the document was sent.

5 4. The date the document was received.

6 5. The person or persons executing the documents and the identity of all persons
7 participating in the preparation thereof, if different from the person executing it.

8 6. The person to whom the document is addressed.

9 7. Any file number used in connection with the document.

10 8. The present location of the original or a legible copy of the document, and

11 9. The full name, present address and telephone number of the person or persons
12 having possession, custody or control of each such original or legible copy.

13 h. A request for the description of a person shall be deemed to include a request for
14 the following information with respect to such person:

15 1. The person's full name.

16 2. The person's last known residence and business address.

17 3. The person's telephone number, and

18 4. The person's company affiliation at the date of the transaction referred to and
19 the capacity in which the person was then serving said company.

20 i. A request for the description of oral communications shall be deemed to include a
21 request for the following information with respect to each of said oral communications:

22 1. The date and place thereof.

23 2. Whether said communication was in person or by telephone.

24 3. A description of each person who participated in or heard of said
25 communication, in the manner described in Paragraph (i) of this Preliminary
26 Statement.

4. The substance of what was said by each person who participated in said
communication, and

5. A chronological description of all documents or recordings, summarizing,
confirming or in any manner referring to said communication, in the manner

described in Paragraph (g) of this Preliminary Statement.

j. These interrogatories and requests are deemed continuing. If, after responding to these interrogatories and requests, you acquire any information responsive thereto, file and serve supplemental responses containing such information, as required by the Idaho Rules of Civil Procedure.

Request is hereby made by the undersigned pursuant to Rule 34 of the applicable Rules of Civil Procedure, that you produce each document and thing identified in your answers to the Interrogatories, except any such document and thing attached to your answers to the Interrogatories, in the manner following:

- (1) either by copying such items for production and then mailing or delivering such copies to the undersigned so that such copies are received by the undersigned by the date hereinafter designated;
- (2) or, (if at your option you elect not to produce the items for production in the manner specified in subparagraph (1) hereof) by producing such items for production and permitting the undersigned, or someone acting on behalf of the undersigned, to inspect by reading and examining the same and to copy and photograph the same at the time and place hereinafter designated.

Time and Place of Production: The production above requested shall take place:

Time: 9:00 a.m.

Date: April 28, 2005

Place: the law office of the undersigned counsel at

161 5th Avenue South, Suite 100, Twin Falls, Idaho

INTERROGATORIES

INTERROGATORY NO. 1. Please set forth the names, addresses and telephone numbers of persons having knowledge of the facts of this case whom you may call as witnesses at the trial, and for each person state the substance of his expected testimony.

INTERROGATORY NO. 2. Identify each and every person that you or your

1
2 representatives have retained to analyze this water transfer which forms the subject matter of this
3 action. By this interrogatory, we seek the names, addresses, telephone numbers and qualifications
4 of all persons who have conducted any studies, surveys or analyses as a result of this transfer
5 application.

6 INTERROGATORY NO. 3. Please give the name or other means of identification,
7 address, telephone number and occupation of each person not heretofore mentioned who has
8 personal knowledge of facts material or relevant to this transfer application and whether or not
9 you intend to call such person at the hearing on this transfer application.

10 INTERROGATORY NO. 4. As to all persons whose names are set forth in the answers to
11 the preceding interrogatories, have you, your agents, investigators or attorneys, or anyone acting
12 on your behalf, obtained statements of any kind, whether written, recorded, stenographically
13 transcribed, oral or otherwise, from any of the persons so named in these answers to
14 interrogatories?

15 INTERROGATORY NO. 5. If your answer to the preceding interrogatory is in the
16 affirmative, please state separately for each such person:

- 17 (a) The name, address and occupation;
18 (b) The type of statement which was taken, (whether written, recorded or transcribed);
19 (c) The name and address of the present custodian of each statement so taken;
20 (d) The date on which the statement was taken; and
21 (e) Please attach a copy of each statement to your answers to these interrogatories, or in
22 the alternative, indicate your willingness to allow Plaintiff's attorney to inspect and copy each
23 such statement.

24 INTERROGATORY NO. 6. Please state the names of any experts or consultants with
25 whom you, your attorneys or any of your representatives have communicated, consulted or
26 conversed in connection with this transfer application. This interrogatory is directed to any and all
experts or consultants, regardless of the particular matter with which they are concerned. In
conjunction with this interrogatory, also state:

- (a) The business address of each such person, and the name of any business entity with
which each person is associated or affiliated;

1
2 (b) The person's profession, education, background, training and specific area of
3 knowledge;

4 (c) The date or dates each such person was contacted;

5 (d) If any such person has rendered a report, the date of each report, indicating whether
6 such report was written or oral;

7 (e) The name and address of the person or firm who has present custody or control of any
8 such reports; and

9 (f) Precisely what evidence, physical or otherwise, was provided to each such person.

10 INTERROGATORY NO. 7. For each such person expected to be called as an expert
11 witness, please state, in capsule summary, the qualifications and background of the individual.

12 INTERROGATORY NO. 8. State the name and address of each person whom the
13 Protestant expects to call as an expert witness at the trial, and for each such person, state the
14 subject matter on which the expert is expected to testify, the substance of the opinions to which
15 that person is expected to testify and the facts upon which those opinions are based.

16 INTERROGATORY NO. 9. Please identify each and every letter, writing or other
17 document that you intend to offer as an exhibit at the hearing on this transfer application, and
18 provide such identification by giving the names of the parties to the document, the date of the
19 document, who has possession of a copy or the original of the document and a summary of the
20 facts, statements or opinions contained in any such letter, writing or other document. In lieu of
21 answer to this interrogatory, you may attach copies of such items to your answers hereto.

22 INTERROGATORY NO. 10: Please set forth with particularity the factual basis which
23 supports your assertion/allegation that Transfer #71604 is not the public interest pursuant to
24 Idaho Code § 42-222.

25 REQUESTS FOR PRODUCTION

26 REQUEST FOR PRODUCTION NO. 1: Please produce copies of each and every
document you intend to introduce at the hearing on this transfer application.

REQUEST FOR PRODUCTION NO. 2: Please produce copies of each document you
refer to in your Answers to Interrogatory Nos. 4, 5, 9 and 10, above.

1
2 REQUEST FOR PRODUCTION NO. 3: Should you deny any of the Requests for
3 Admission below, please provide any documents or facts supporting such denial.

4
5 **REQUESTS FOR ADMISSION**

6 REQUEST FOR ADMISSION NO. 1: Please admit that Transfer #71604 does not
7 propose to injure any other water rights if approved, pursuant to the provisions of Idaho Code
8 Section 42-222.

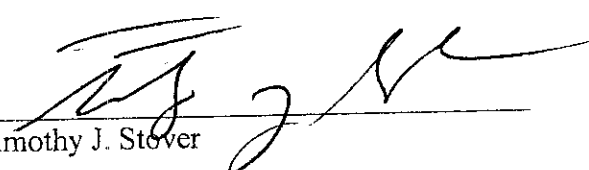
9
10 REQUEST FOR ADMISSION NO. 2: Please admit that Transfer #71604 does not
11 constitute an enlargement in use of the original right pursuant to the provisions of Idaho Code
12 Section 42-222.

13 REQUEST FOR ADMISSION NO. 3: Please admit that Transfer #71604 is consistent
14 with the conservation of water resources within the state of Idaho pursuant to the provisions of
15 Idaho Code Section 42-222.

16 INTERROGATORY NO. 11: If you denied any of the above Request for Admission
17 Nos. 1 - 3, please state the factual basis of each such denial and the names of the witnesses who
18 provided information and upon whom you relied for information to deny the requests for
19 admission.

20 DATED this 12th day of April, 2005.

21 ROBERTSON, HEPWORTH, SLETTE
22 WORST & STOVER, PLLC.

23 By: 
24 Timothy J. Stover

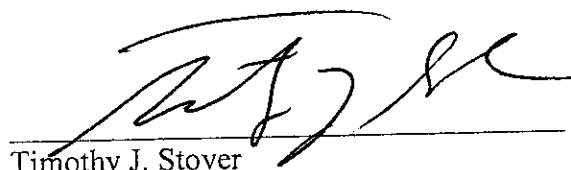
CERTIFICATE OF SERVICE

The undersigned certifies that on the 12th day of April, 2005, he caused a true and correct copy of the foregoing instrument to be served upon the following persons in the following manner:

Gary Spackman, Hearing Officer	☐	Hand Deliver
Idaho Department of Water Resources	☒	U.S. Mail
P.O. Box 83720	☐	Overnight Courier
Boise, ID 83706	☐	Facsimile Transmission

Patrick D. Brown	☐	Hand Deliver
HUTCHINSON & BROWN, LLP	☒	U.S. Mail
P.O. Box 207	☐	Overnight Courier
Twin Falls, ID 83303-0207	☐	Facsimile Transmission

Lee Justus Halper	☐	Hand Deliver
331 S 230 W	☒	U.S. Mail
Jerome, ID 83338	☐	Overnight Courier
	☐	Facsimile Transmission


Timothy J. Stover

DISK

8/9/05

REVISED TRANSFER AREAS

MILLENKAMP # 71604

GULICK # 71709

JCH-BROCKWAY ENG.

(dry-Prescott-Revised by 40)

SONY

I N D E X

.....
PRESOTT SHAPEFILES
.....

WP-POU 36-16300, 16302
.....

DRIED UP TRAN 71604, 71709
.....

.....
JCH 8/17/05 BROCKWAY ENG.
.....