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August 12, 2005

Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

RECEIVED

AUG 15 2005

Department of Water Resources
Southern Region

RE: **Millenkamp
Transfer No. 71604**

Dear Ladies & Gentlemen:

Enclosed please find an Amended Motion in Limine for filing with regard to the above-entitled matter.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me.

Yours truly,

JAYNA L. LOCKE, Legal Assistant
to TIMOTHY J. STOVER

:jl

Encls.

cc: Gary Spackman, Hearing Officer
Client
Protestants

RECEIVED

AUG 15 2005

Department of Water Resources
Southern Region

1 Timothy J. Stover, ISB #4842
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9

10 BEFORE THE DEPARTMENT OF WATER RESOURCES
11 OF THE
12 STATE OF IDAHO

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

15 William & Susan Millenkamp,)

16 Applicants)

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

20 Protestants.)

AMENDED

MOTION IN LIMINE

Source: Groundwater

County: Jerome

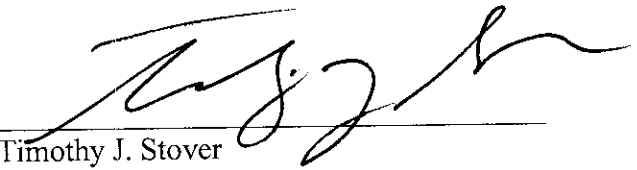
21 COME NOW, the above named Applicants, by and through their undersigned counsel
22 of record, and move this court for an order prohibiting the Protestants, their counsel, and
23 respective witnesses from making any argument or factual assertion concerning the "local public
24 interest" (See, Idaho Code §42-222(1) and the Department of Water Resources Notice of Hearing,
25 Conference and Hearing Procedure, Application for Transfer Issues, at paragraph 3) in any
26 manner whatsoever during the opening statement, interrogation of witnesses, objections,
arguments, closing statements, or in any other manner whatsoever, which is not strictly limited to
the effect of the Applicants' proposed change of use solely ". . . on public water resources."
Idaho Code Section 42-202(B)(3)(2003). See also, Idaho Code Section 42-222(1)(2003).

1
2 Evidence, testimony or other information regarding the local public interest issues which is not
3 specifically limited to effect of the Applicants' proposed change of use on ". . . public water
4 resource" as required by Idaho Code sections 42-203B and 42-222 should be prohibited said
5 documents included, but are not limited to documents produced in discovery by Protestant Lee
6 Halper entitled Livestock and Poultry Odor Workshop; Livestock Odors: Implications for
7 Human Health and Well-Being; Journal of Agromedicine; Transcript of Hearings conducted
8 May 20, 2003, on Transfer No. 5639 in the name of K & W Dairy.

9 Applicants also move this Court for an order prohibiting Protestants, their counsel and
10 respective witnesses from making any argument or factual assertion regarding the Transcript of
11 Hearings conducted May 20, 2003, on Transfer No. 5639 in the name of K & W Dairy as
12 allowing reference to such document would constitute a violation of the Applicants' due
13 process rights, due to the fact that they were not in attendance at said hearing, and did not have
14 an opportunity to cross-examine or object at such proceeding.

15 DATED this 12 day of August, 2005.

16 ROBERTSON, HEPWORTH, SLETTE
17 WORST & STOVER, PLLC.

18 By: 

19 Timothy J. Stover
20
21
22
23
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26

CERTIFICATE OF SERVICE

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

Patrick D. Brown
HUTCHINSON & BROWN, LLP
P.O. Box 207
Twin Falls, ID 83303-0207

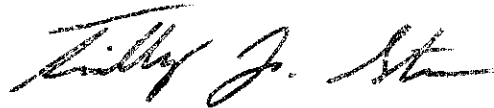
☐ Hand Deliver
☒ U.S. Mail
☒ Overnight Courier
☐ Facsimile Transmission

Lee Justus Halper
331 S 230 W
Jerome, ID 83338

☐ Hand Deliver
☒ U.S. Mail
☒ Overnight Courier

Del Kohtz
1135 Valley Rd. S.
Eden, ID 83325

☐ Hand Deliver
☒ U.S. Mail
☒ Overnight Courier



Timothy J. Stover