

MEMORANDUM

Date: January 11, 2005

To: Transfer 5197 – Water Right Nos. 36-2457B, 36-7760B and 36-8063F

From: Jeff Peppersack

Re: Phone Conversation with Rob Williams

Rob Williams, attorney representing the new water right owners (Ketterling), called to discuss my letter from November, 2004 regarding the re-approval of Transfer 5197. The transfer was rescinded because the water right owner failed to meet the conditions of approval of the transfer. The owners petitioned for reconsideration of the rescind order. IDWR granted the petition and allowed future consideration of the transfer if the CAFO issue was resolved. The CAFO issue was subsequently resolved with confirmation of a CAFO permit for a 750-cow dairy (less than originally proposed under the transfer). Last year, the new owners filed a motion to reconsider approving the transfer. My letter indicated that they would need to provide information regarding water use for 350 cows (400 cows were covered under another right), historic beneficial use information for the change from irrigation to dairy use, and an analysis of the effects of the change to the Snake River.

Mr. Williams called to ask if IDWR would consider processing the transfer using guidelines established prior to the current transfer memo. Mr. Williams indicated that the CAFO dispute was resolved prior to the issuance of the transfer memo.

I indicated that the motion submitted to IDWR to reconsider approving the transfer was not submitted to IDWR until 2004, two years after the new transfer memo was implemented. IDWR is considering the motion the same as any other new transfer since the final order originally approving the transfer was rescinded due to noncompliance with the conditions of approval. Due to ESPA and other concerns, IDWR should follow current processing guidelines.