



State of Idaho

DEPARTMENT OF WATER RESOURCES

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EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 6, 2004

Mr. Ken Andrus
6948 east Old Oregon Trail Road
Lava Hot Springs, ID 83246

Re: Transfer Application. Moving a better priority right to better ground.

Dear Mr. Andrus

Thank-you for the opportunity to comment on the project referenced above. As promised, I consulted with water rights personnel in the state office in respect to your transfer request. In that respect, I hope to convey their concerns to you.

1. You can transfer the water as you have requested. This would mean that you would "stack" water rights upon the Place of Use. As a result of that "stacking," a combined use limits condition would normally be placed in the right. This could result in a reduction or loss of existing rights but would be adequate for the irrigation of the areas you wish to irrigate with the better priority water right.
2. You could protect the existing rights as explained above by stating in writing your intentions (i.e. "I want to reserve the right to transfer right _____ to another place of use or for another purpose of use within five years of the date of this transfer"). It would be to your benefit to protect your option to move, sell, or otherwise change the existing right, however, you would have to do so within five (5) years to be sure to avoid forfeiture. If you indeed do not intend to irrigate the land again from which you are moving water from, then perhaps this is a moot point. However, it may be possible to exchange water rights between the two properties so that, when water was available, you could continue to irrigate the original property.

I hope that this helps explain your options for processing your transfer. I will await your response in regards to what option you wish to exercise. In addition, we require \$290.00 to process the transfer. As always, feel free to call or stop by to discuss your options.

Sincerely,

W. Roger Warner

Water Right Supervisor – Eastern Region