



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 24, 2005

Charlie Honsinger
C/o Ringert Clark Chartered Lawyers
PO Box 2773
Boise ID 83701

Re: Application for Transfer No. 71690

Dear Charlie:

The Idaho Department of Water Resources (IDWR) is currently reviewing the Terteling Company's application for transfer of water rights to add six geothermal wells to their existing geothermal system and expand their place of use for heating. After preliminary review of the application, concerns were identified regarding enlargement issues that may result from your proposed changes. The department concluded that the current proposal to heat homes under senior rights if junior rights are curtailed is presumed to be an enlargement of use that cannot be approved.

The transfer policy provides that a change which would not result in an equivalent reduction in beneficial use under the original rights would be presumed to be an enlargement. As proposed, a "sliding scale of beneficial use" in which a variable amount of greenhouse use would be reduced to provide water to heat homes does not provide assurance that an enlargement would be avoided. An "advance notice sliding scale" in which the amount of greenhouse use to be reduced to provide water to heat homes might avoid enlargement if the owner were to quantify the proposed reduction at the beginning of each heating season. It is hard to imagine how this approach would be realistic since the whole idea hinges on an unexpected curtailment of junior rights for the homes. Instead of a sliding scale approach, a permanent reduction in greenhouse use to provide enough water to heat the homes under senior rights could be proposed in a manner to avoid an enlargement use.

Also, transfer 68558 was approved in October, 2002, identifying heating, domestic and irrigation uses for rights 63-12, 63-13 and 63-15. The SRBA claims for these rights were amended in March, 2004, at the claimant's request to include aesthetic and commercial uses pursuant to Idaho Code § 42-1425. This also constitutes an enlargement. Although the current transfer did not include the amended uses, the department has to act on the most recent recorded rights, which are the amended SRBA claims. To address the issue, please amend the SRBA claims back to their approved uses or provide written acknowledgement from the claimants that those amended uses will be removed from any transfer approval.

3/24/05

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You may wish to withdraw your application or amend it with an alternate proposal that will avoid enlargement. The application will be rejected or denied if a timely written reply is not received within the next 30 days of the date of this letter to: rebut the presumption of enlargement, amend the application to avoid the presumption of enlargement, or request a delay in processing of up to one year. The Department will hold further processing of your application for 30 days to allow a withdrawal or amendment of the application or any other information you may wish to submit in support of your existing or amended proposal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Graves".

Lori Graves
Sr. Water Resource Agent