



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DALLAN SCHENK
SCHENK LAND & CATTLE L P
1300 S 50 W
OAKLEY ID 83346

April 8, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RE: 45-4258B & Transfer Application #71611

Dear Mr. Schenk,

You filed an application for transfer on right 45-4258B in November of 2004 in which you stated: ***We have expanded our feedlot and need to add the additional pen space/acres.*** After a preliminary review of the application and consultation with staff in our state office, it was determined that there may be a significant issue relating to this application.

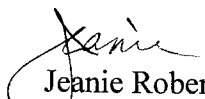
Please note that §42-222, IDAHO CODE (the statute that allows water right transfers) states...

*"The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, **the change does not constitute an enlargement in use of the original right,** the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code," . . . "The director may consider consumptive use, as defined in section 42-202B, Idaho Code, as a factor in determining whether a proposed change would constitute an enlargement in use of the original water right."*

There is concern that because you have essentially doubled the size of your place of use, that you may have enlarged the water right. Please provide information to show you have not enlarged water right 45-4258B.

The Department will hold further processing of your application for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the application.

Sincerely,


Jeanie Robertson
Sr. Water Resource Agent