



State of Idaho

DEPARTMENT OF WATER RESOURCES

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SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 23, 2005

Brockway Engineering
ATTN: Charles E Brockway
2016 N Washington St Suite Suite 4
Twin Falls, ID 83301

RE: Apps For Transfer 71469 (Dairy) & 71475 (Irrigation), Searle Bros.

Dear Chuck;

The dairy transfer has just gone to Mary for advertising, so I would expect it to get into the newspaper fairly soon.

The irrigation transfer has hit a snag, however. Due to the reduced diversion rate transferable from Basin 43 under the proposed mitigation schedule, only 0.37 inches per acres will be available for the 365 acres that are being added to the existing farms in Basin 45. This is well below the unofficial standard of 0.50 inches per acre, and our Boise office is concerned that flows under the existing Basin 45 rights will be increased to make up the shortfall. This would constitute an illegal expansion that cannot be allowed under the transfer statute.

The other problem with the irrigation transfer relates to diversion volume. The early-priority right from Basin 43 is only capable of producing 3.0 afa/acre, not the 4.0 afa/acre that was decreed. It is our intention to reduce the volume at the new place of use to the lower volume. With the mitigation plan, the reduction from the higher figure is about 78 afa. With the mitigation plan, the 169.4 new acres will have 1.4 afa/acre. It is unlikely that any crop could be grown with such a small volume, so more volume would have to be diverted under the existing rights to make up for any shortfall. Again, this would constitute an illegal expansion.

The only way to increase the diversion rate and volume under Right 43-13367 is for the applicants to petition the SRBA court for a reconsideration of the findings. We do not have the authority to increase these amounts, even though it seems likely that the flow rate of the original well was higher than what was decreed.

Please bring this to the attention of your clients to see how they plan to deal with our concerns. I will hold the irrigation transfer until a satisfactory solution is presented, as the transfer cannot be approved in its present form.

Regards,

James E. Stanton
Sr. Water Resource Agent