

**IDAHO FISH & GAME**

Upper Snake Region
4279 Commerce Circle
Idaho Falls, Idaho 83401

Dirk Kempthorne / Governor
Steven Huffaker / Director

3

1 April 2005

Frank Exler,
Larry Chapple
Rolling Hills Development
PO Box 465
Rigby ID 83442

RECEIVED

APR 06 2005

Department of Water Resources
Eastern Region

RE Potential water right transfer, and Application for Permit No, 35-13522 (Rolling Hills Development):

Dear Frank and Larry:

Thank you for meeting with our staff on your Proposed Rolling Hills Development and the associated Water Rights issues. I understand from discussions with our staff, that you wish to transfer water rights consisting of 3.3 shares of the Butte and Market Lake Canal Company to Idaho Department of Fish and Game (IDFG). You desire to relinquish these rights to satisfy and relieve a protest levied against you by Twin Falls Canal Company and North Side Canal Company.

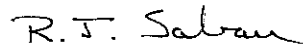
I understand you visited with regional staff in our office on Tuesday 15 March 2005, and each of you has spoken on the phone with our Environmental Staff Biologist Gary Vecellio. Our regional staff, in cooperation with headquarters personnel, has reviewed the water right shares you wish to transfer, and the accompanying "Stipulation to Resolve Protest". The "Stipulation" is signed by Travis L. Thompson and is dated March 8, 2005. We certainly would like to help you achieve your goals, and recognize that your offer is generous. However, we are not willing to accept this transfer due to several circumstances. Briefly, the reasons we must decline your offer include:

- The amount of water that would be transferred to IDFG is of questionable value to us in the location stipulated. The volume of water to be deposited in Roberts Gravel pond might, or might not, benefit the stocked rainbow trout therein by keeping water temperatures lower. The water would not benefit native fisheries or habitats, but might benefit a portion of a strictly "put-and-take" fish pond.
- There is a possibility that water delivered from this canal after a de-mossing operation would harm existing vegetation or fisheries if delivered into Roberts Gravel Pond. We feel that, even despite our best efforts, this is a very real possibility.
- Any stipulations or agreement that IDFG would accept to receive this transfer would have to clearly demonstrate that IDFG would not be held responsible for delivery, upkeep, record-keeping, or assuring that the presumed recharge actually occurs..

Again, we are sorry that we are not willing to help you by accepting this transfer. In order for us to reconsider accepting this water, IDFG would have to be held "not accountable" for any of the

stipulations necessary to relieve the protest, nor would we agree to have the shares of canal water transferred to us. We hope you are able to resolve this water right protest soon. If you have any questions, please contact Gary Vecellio at 525-7290.

Sincerely,

A handwritten signature in cursive script that reads "R. J. Saban".

R. J. Saban
Regional Supervisor

RJS:gmw

Cc: Natural Resource Policy Bureau, IDFG
Cindy Robertson, IDFG
Schmidt, Moore, IDFG
Jim Fredericks, IDFG
W. Roger Warner, IDWR