



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 25, 2003

TERRY M SCANLAN PE PG
600 EAST RIVER PARK LANE SUITE 105
BOISE ID 83706

Re: Transfer No. 66602 – Capitol Water Corporation (CWC)

Dear Mr. Scanlan:

This letter is a response to your letter of April 21, 2003 and a follow up to our phone conversation of April 23, 2003 regarding the approval for the transfer referenced above. As we discussed, the period to appeal the preliminary order approving the transfer has passed and the approval has become a final order of the department. The department has amended certain approvals in the past where it has been clear that the department had made an error in preparation of the approval. In this case, it is not clear that the department erred. In fact, the department accepted the detailed flow evaluations submitted by CWC's consultant during review of the application.

It is important to note in this case that the flow evaluation and combined capacity recommendation included many considerations including the fact that the capacity and peak use of an integrated system may be lower than the summation of the capacity or use under individual wells within the system. In addition, the system in place today is different than the combination of individual wells existing during development of the original water rights. The evaluation also considered the need to prevent enlargement of use and potential injury to other right holders due to the transfer and the consideration of uses previously described but not requiring a water right such as fire protection.

As noted in your letter, objections to the department's recommendation of the water rights involved in the transfer is a process available to the right holder. CWC may wish to pursue that course once the Directors Report is submitted to the SRBA Court for the rights involved. Otherwise, CWC may need to consider filing a new application if there is a need to appropriate additional water for the system.

Please contact me if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'JP', is written over a horizontal line.

Jeff Peppersack, Section Manager
Water Right Permits Section

JP:klt