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Department of Water Resources
Southern Region

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December 27, 2004

Allen D. Merritt
Southern Regional Office
Idaho Department of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3033

Re: John Dennis Koyle & Shanna Koyle - - Application for Transfer No. 71178
Our File No. 7485-1

Dear Mr. Merritt:

Please be advised that I have been retained by John and Shanna Koyle concerning the disposition of the above-referenced Water Right Transfer Application. I have reviewed the Protest and Conditional Withdrawal of Protest filed by Clear Springs Foods, Inc.

My clients have no objection to, and in fact expect that the Department will include, conditions in any order approving the transfer to the effect that:

- 1) the water right is limited to the irrigation of 156 acres within the described place of use;
- 2) the water right is supplemental to surface water delivered by the Big Wood Canal Company;
- 3) diversion under this water right, when combined with other rights appurtenant to the place of use, shall not exceed 0.02 cfs per acre;
- 4) the water right is subject to regulation by the Watermaster for WD 130; and
- 5) a measuring device acceptable to the Department shall be maintained at the point of diversion.

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My clients would, however, object to the condition contained in Clear Springs' Conditional Withdrawal of Protest and any implication of the Conditional Withdrawal that the Koyle ground water right be limited to a rate or volume at the new place of use that is less than has been, and could be, diverted for supplemental use at the original place of use.

In my experience, the Department has standard provisions that address each of the issues listed above. I would propose that the Department provide the language of those standard conditions to Clear Springs and the Koyles so that it can be determined whether those standard provisions do or do not address Clear Springs' concerns. I will be speaking with Mr. Thompson, counsel for Clear Springs, in this regard in hopes of avoiding the need for a hearing.

Sincerely,



Michael C. Creamer

cc: Dennis Koyle
Travis Thompson

MCC:tma

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