

HOFSTETTER LAW OFFICE

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August 25, 2004

RECEIVED
AUG 26 2004
Department of Water Resources

Via Facsimile and U.S. Mail

Glen Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

Re: The Terteling Company -
Emergency Request for Temporary Point of Diversion Change

Dear Mr. Saxton:

On behalf of Edwards Greenhouses, this letter responds to The Terteling Company's August 23, 2004 Emergency Request for a Temporary Point of Diversion Change in District 63-S (the "Request").

While there does not appear to be specific statutory provision for the Request, Edwards Greenhouses does not oppose the Temporary Request under the emergency circumstances presented and to the extent that appropriate conditions are included in any approval. It is noted that the Temporary Request is for a limited 30-day period and that any amounts diverted will be included within the annual diverted volume allowance. Any approval of the Request should include these considerations as well as a requirement for monitoring and recording of flow rates and volumes diverted under the supervision of the District's Watermaster. Further, the approval should immediately terminate prior to expiration of the 30-day time to the extent that any other users in District 63-S are

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impacted by the temporary use. Additionally, the Idaho Department of Water Resources should consider whether to include in its approval appropriate measurement and data gathering during the temporary 30-day approval period to assist with evaluation of the pending transfer application which also involves, in part, this same point of diversion.

Please let me know if you have any questions or comments about these suggestions.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in cursive script, reading "Dana Hofstetter".

Dana L. Hofstetter

cc: Charles L. Honsinger *via facsimile*
Ken Neely *via facsimile*
Jeff Peppersack *via facsimile*
Ed Squires *via facsimile*