



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 23, 2004

RECEIVED

SEP 27 2004

Department of Water Resources
Southern Region

DELIS FARMS INC
PO BOX 665
PAUL ID 83347

Re: Petition for Declaratory Ruling and Motion to Stay in the matter of
Application for Permit Number 36-16125 in the name of Delis Farms,
Inc.

Dear Applicant:

The records of the Idaho Department of Water Resources (IDWR) show that you filed application to appropriate water no. 35-16125 proposing a new water right in an area where IDWR has restricted new appropriations of water. Your application states that the water use proposed was developed prior to November 1987. IDWR has been considering and approving new applications in restricted areas if the applicant can establish use prior to November of 1987.

North Side Canal Company and the Twin Falls Canal Company (the canal companies) protested application no. 35-16125. On June 1, 2004, the canal companies filed a petition for declaratory relief contesting the processing of your application. The petition raises legal issues that should be resolved prior to the contested case hearing. IDWR has held your application until these legal issues are resolved.

Because a decision by IDWR may affect the disposition of other pending applications, IDWR is notifying other applicants alleging pre-November 1987 development that they may participate in the proceeding. Other applicants must file petitions to intervene with IDWR on or before October 15, 2004.

Following IDWR's consideration of the petitions to intervene, IDWR will discuss with the parties the procedures for resolution of the canal companies' petition and the entire contested case. I propose to the parties that, because the petition about pre-November 1987 application processing does not raise issues of fact requiring presentation of evidence, and solely raises issues of law, the issue about pre-November 1987 development can be decided by IDWR following submittal of briefs by the parties.

Delis Farms, Inc.
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Please call if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Gary Spackman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary Spackman

Encl.

- c. Amy Chestnut, Barker Rosholt & Simpson
Roger Ling, Ling, Robinson & Walker
E. Gail McGarry, Bureau of Reclamation
✓ Allen Merritt – IDWR Southern Region