



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 20, 2000

Robert E. Williams
Fredericksen, Williams & Meservy
P.O. Box 168
Jerome, Idaho 83338-0168

Re: Water Right 36-02457B (Gunning)

Dear Mr. Williams:

Thank you for your letter of February 23, 2000, discussing the status of the county permits for the Gunning Dairy. The Department of Water Resource's interest in this matter relates to a condition of approval on Transfer No. 5197 issued to the Gunnings allowing ground water to be used at the dairy. This condition states:

The dairy operation authorized under this approval shall comply with applicable city and county zoning and use requirements.

A letter written November 4, 1999 by Gooding County Administrator, Judy Daubner, indicated that the Gunning Dairy is not in compliance with Gooding County ordinances and is not grandfathered from compliance with the ordinances. Based upon this representation from the county, IDWR issued an order to show cause on December 7, 1999 (reissued on January 4, 2000 to updated addresses) to allow the Gunnings an opportunity to demonstrate that they are in compliance with county ordinances. The order was not intended to provide additional time for the Gunnings to obtain county approval. Without information in the Department's files showing that there is some basis in fact or law that the dairy is in compliance with county requirements, the Department should move to enforce its transfer approval condition.

Robert E. Williams
March 20, 2000
Page 2

Your letter indicates that discussions with Gooding County on this matter should be finalized soon. I further understand that you intend to initiate a civil action to resolve this matter if an agreement is not reached with Gooding County. Based upon this understanding, the Department hereby extends the time within which to respond to the order to show cause until May 1, 2000. Please keep me advised of progress on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman C. Young". The signature is fluid and cursive, with the first name "Norman" and last name "Young" clearly distinguishable.

Norman C. Young
Administrator
Water Management Division

c: Susan Gunning
Marv Patton, Idaho Dept. of Agriculture
Francis Gunning
Allen Merritt, Idaho Dept. of Water Resources
Patrick D. Brown
Judy Daubner, Gooding Co. Planning & Zoning
Don Cogger