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November 25, 2003

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RECEIVED

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Department of Water Resources
Eastern Region

Re: *Andrew E. Povey/Transfer No. 70663*
Protest of Twin Falls and North Side Canal Companies

The applicant, Andrew E. Povey, has contacted me to represent him with respect to the above-referenced transfer application and hearing before the Department on the Notice of Protest which you filed on behalf of Twin Falls and Northside Canal Companies.

The transfer involves the movement of the point of diversion and place of use southwest across the Eastern Snake River Plain Aquifer ("ESPA"). The hydrologic analysis of the pumping effects was analyzed by Rocky Mountain Environmental utilizing the new transfer and mitigation procedure in the ESPA.¹ Based on the Water Resources Research Institute's computer model of the Snake River Plain Aquifer, the geographic and residual effects of consumptive use at the original and proposed point of diversion were calculated to determine the depletion. Under the IDWR Guidelines, it was determined that the proposed transfer could be mitigated by reducing consumptive use to 100 AF/trimester or 300 AF/year. At 4 AF/acre, only 73 acres could be irrigated of the original 276 acres, a 73 percent reduction, absent mitigation.

¹Dreher, K.J., and Young, N.C., 2002, Administrator's Memorandum: Interim Policies and Procedures Currently Applicable for Applications to Transfer Ground Water in the East Snake River Plain Only: Transfer Processing No. 24, Idaho Department of Water Resources.

November 25, 2003

Page 2

Attached for your convenient reference is a copy of the Mitigation Plan attached to the application. Mr. Povey advises that the Application was prepared for him by Eastern Region Manager Ron Carlson. In sum, Povey proposes to provide mitigation annually (except on years when the reservoirs fill and there are flood releases past Milner) from the Water District 1 Global Rental Pool. Should water be unavailable to provide the necessary mitigation, 73 percent of the irrigated acres would be dried up and only 75 acres would be irrigated. As a result there would be no injury to prior downstream rights.

I am enclosing a copy of the July 1, 2003 letter from Rocky Mountain Environmental to Ron Carlson, which provides further information and detail on the proposed Mitigation Plan as prepared by Mr. Carlson and attached to the Transfer Application. I am also enclosing a revised Mitigation Plan which Mr. Povey indicates was recently prepared by Mr. Carlson in an attempt to further address the concerns raised in the canal companies' objection.

Please further review this information and advise if this is sufficient to address their concerns and permit the protests to be withdrawn. If this is not adequate to relieve any concerns the canal companies may have, please describe precisely what injury you believe the canal companies will suffer under the existing mitigation plan as amended and what changes would be required to satisfy them so we might attempt to address and resolve them in lieu of proceeding to a formal hearing.

Sincerely,

RANDALL C. BUDGE

RCB:rr

Enclosures

cc: Andrew E. Povey (w/encls.)
Ron Carlson, P.E. (w/encls.)
James G. Rush, P.E. (w/encls.)