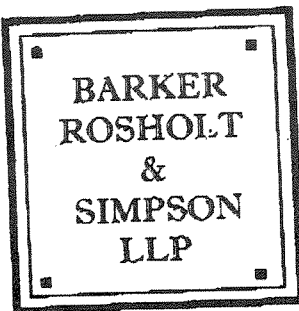


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January 20, 2004

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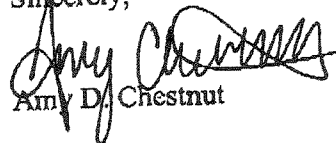
Sharla Cox
Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

Re: *Water Right Application for Transfer No. 70663, Water Right No. 35-2391, 35-7777, Andrew Povey*

Dear Sharla:

This letter is in response to your phone call Friday, January 16, seeking to schedule a hearing for February 19 regarding the application for transfer filed by Andrew Povey. It was indicated that this hearing was to be scheduled without a prehearing conference. However, we can not agree to a date for hearing until disclosure has been made by the Applicant as to the issues, witnesses, testimony, and evidence he seeks to submit. Without such disclosure by the Applicant it is difficult to evaluate whether or not we can be adequately prepared by the proposed date. Due process is applicable not only to the applicant but also to the protestant. Therefore, at this point, we propose either a prehearing conference be set to discuss procedure or that the Applicant disclose such information so an appropriate hearing date can be determined and this matter expeditiously resolved.

Sincerely,



Amy D. Chestnut

cc: Randall C. Budge
Gary Spackman