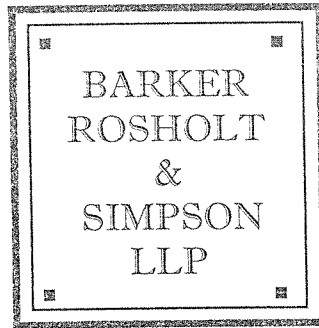


John A. Rosholt
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February 5, 2004

RECEIVED

FEB 09 2004

Department of Water Resources
Eastern Region

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey
PO Box 1391
Pocatello, Idaho 83204-1391

Re: Protest to Application for Transfer No. 70663, Andrew Povey

Dear Mr. Budge:

In light of the upcoming prehearing conference and the on-going concerns with the proposed mitigation plan, an alternative proposal is for Mr. Povey to rent storage water for diversion to a recharge site located near the diversion point. Mr. Povey would still be limited in his diversion by the amount of rental water he could obtain at the beginning of the season, as indicated in Mr. Povey's mitigation plan. However, instead of an accounting system as proposed in the mitigation plan that was drafted by Ron Carlson, the storage water would be diverted and used in a recharge site. The result would be actual recharge to the aquifer, and thus to the hydraulically connected surface water, during the time of depletion due to the proposed transfer.

Please let us know if Mr. Povey is willing to discuss this alternative and if this is a means of proceeding to a resolution of this matter. We look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Chestnut".

Amy D. Chestnut

cc: Roger Warner, IDWR, Eastern Region Office
Ron Carlson, Water District 01
Ted Diehl
Vince Alberdi