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Samuel Kaufman (1921-1986)

December 29, 2003

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WATER RESOURCES
WESTERN REGION

Dan Nelson
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Transfer Application for Eureka Water Right No. 63-145

Dear Mr. Nelson:

Enclosed for processing is the revised original transfer application for a portion of Eureka Canal Company's water right no. 63-145. Also enclosed is a redlined version, showing the changes that were made to the previously filed application. I assume that the fee submitted with the previously filed application is sufficient to cover this revised application. Please contact me if this is not the case.

Eureka is filing this revised application at the request of one of its shareholders to facilitate a proposed residential development that depends upon approval of the proposed transfer. The revisions to the application are based on the historical consumptive use analysis that Michael Creamer advises me IDWR now requires in transfers. Eureka Canal Company does not agree that a transfer of a portion of its water rights should be limited by its shareholders' historical consumptive use, and reserves the right to contest this limitation.

Mr. Creamer also informs me that the consumptive use analysis currently required by IDWR, and reflected in the revised transfer application, discounts historical consumptive use of a water right by "effective precipitation," thereby reducing the quantity of the water right that may be consumptively used after the transfer, but does not account for effective precipitation when calculating the amount of consumptive use that will occur after the transfer. As I understand the analysis in the case of this transfer, the historic consumptive irrigation use is reduced by "effective

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precipitation," but no consideration is given to the extent to which precipitation will offset the consumptive use of the ponds for which the new use is proposed. Eureka has strong reservations about reducing the amount of its water rights that may be transferred for new uses by limiting that quantity by historic consumptive use, then reducing the historic consumptive quantity by "effective precipitation." The failure to account for the effect of precipitation on the water consumption of the new use further compounds the restriction on the extent of new use that may be made of Eureka's water rights. As I am sure IDWR is aware, changes in water rights are increasingly necessary to accommodate changes in land use in the Boise Valley. The compounded restrictive effect of the aforementioned historic use analysis imposes unwarranted restrictions on the ability of Eureka and other water delivery organizations to meet future needs.

During a recent meeting with the Director of IDWR regarding IDWR's interim transfer policies, standards and procedures, it appeared that failing to account for precipitation as a component of consumptive use after the transfer may not be consistent with the Director's guidance. Please review this aspect of the analysis with the Director and advise me of your findings. If a change in the application is warranted, it will not increase the quantity of water to be transferred, and therefore should not require an amendment to the application that would hinder immediate processing.

Thanks for your assistance in processing the enclosed application. Please contact me or Mr. Craemer at any time if you have any questions regarding the application.

Yours very truly,

A handwritten signature in black ink, appearing to read "Daniel Steenson".

Daniel V. Steenson

cc: Eureka Water Company
Michael C. Creamer
Karl Dreher