

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 70750 IN THE)
NAME OF WYNN DEWSNUP FAMILY)
REVOCABLE TRUST _____)

**PRELIMINARY ORDER REJECTING
APPLICATION FOR TRANSFER**

This matter having come before the Department of Water Resources (Department) as a result of an application to transfer water rights, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On August 11, 2003, Wynn Dewsnap Family Revocable Trust (applicant) applied to the Department for authorization to add a point of diversion under water rights 43-2293, 43-4151 and 43-13038. The transfer application, designated no. 70750 by the Department, proposes to add a new well to an existing ground water system within the Raft River Critical Ground Water Area. The purpose of the new well would be to produce water of a lower temperature to mix with warm water from an existing well to make the water temperature suitable for agricultural use.

2. Idaho Code §42-222 says, in pertinent part:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter. The director may consider consumptive use, as defined in section 42-202B, Idaho Code, as a factor in determining whether a proposed change would constitute an enlargement in use of the original water right.

3. On December 18, 2003 and February 5, 2004, Department staff prepared memorandums summarizing the review of the connection between the Raft River Geothermal aquifer, the cooler regional aquifer, and the Raft River. The review concluded that the deep geothermal waters are leaking upwards into the cooler regional system, but the quantity is not known. The review also concluded that the aquifers are not hydraulically connected to the Raft River in the area of the transfer.

4. On January 7, 2004, the Department mailed the applicant's attorney a letter asking for information showing that the proposed transfer will not result in injury to water users in the area that divert water from the Raft River or the shallower cool-water aquifer. The Department also sent a copy of the letter to the applicant on January 21, 2004. In the letter, the Department informed the applicant that if they did not respond to the request within 30 days, the Department would issue a preliminary order to reject or deny the transfer application. The letter also indicated that additional time may be granted upon receipt of a written request and sufficient justification for an extension.

5. On February 18, 2004, the Department received a letter from the applicant's attorney indicating that they could provide the necessary information within 30 days.

6. On March 25, 2004, Department staff contacted the applicant's attorney by phone to remind them of the need for information to support the application.

7. The Department has not received any information addressing the injury concerns raised by the Department.

CONCLUSIONS OF LAW

1. Without the additional information requested from the applicant, the Department cannot ascertain that the change in water use proposed in transfer application no. 70750 will not result in injury to other water rights.

2. The Department should reject transfer application no. 70750.

ORDER

IT IS HEREBY ORDERED that transfer application no. 70750 in the name of Wynn Dewsnup Family Revocable Trust is **REJECTED** without prejudice.

Dated this 1st day of May, 2004.


GARY SPACKMAN
Chief, Water Allocation Bureau