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Monday, June 23, 2025

Sent Via E-Mail

Cody Parker
IDWR
Water Resources Supervisor
Cody.Parker@idwr.idaho.gov

RE: Veolia's Integrated Municipal Application Package ("IMAP") Transfer No. 89499.

Dear Mr. Parker:

I am responding to your letter dated June 9, 2025 regarding the above-referenced matter. Per your request, I am writing to you on behalf of Nampa & Meridian Irrigation District and Settlers Irrigation District (collectively the "***Districts***") and providing comments on the draft approval of Transfer No. 89499 ("***Transfer***"). First of all, thank you for providing the Districts an opportunity to comment on the draft Transfer conditions and for providing notice that some of the draft conditions may not be consistent with the Stipulations previously filed by the Districts and other protestants. The Districts do have comments which they would like IDWR to consider.

A. Re-Opener Condition.

As you have pointed, the Stipulation filed by the Districts provides that the Districts recognize and support long term planning for water rights and accept a "re-opener condition" to provide flexibility in re-evaluating the extent of future needs before the end of the 50 year planning horizon. However, as you have explained, the proposed conditions do not provide for such a re-opener condition and simply provide for report 90 days after the expiration of the planning horizon or 40 years from now.

I have to admit that I had to revisit the Stipulation which was entered over seven (7) years ago, and the Department's backfile/website, to remind myself as to some of the issues being

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discussed regarding the 50-year planning horizon and the intent of the proposed re-opener condition. From my review of the backfile/website, it appears that the Department was questioning whether to include a re-opener condition because it did not provide finality to the Transfer and a re-opener may burden the Department's resources. However, it is not uncommon to have monitoring or other conditions placed upon new applications or transfers, and if the burden is on the applicant, Veolia in this case, to provide the reporting and notice then it should not burden the Department. Regardless of whether a condition is included in the Transfer approval, this is information Veolia will certainly be tracking over the next forty (40) years and it behooves the Department to also track such information. Even if it is not an official "re-opener" of the Transfer, the relevant information can and should be supplied to the Department and parties as an interim report and then each can determine whether there may be concerns, including, but not limited to, requesting more formal proceedings such as a contest case. Thus, it is still the Districts' position that it is still in everyone's best interest, including IDWR and Veolia, to at least have interim reporting check ins before the expiration of the planning horizon in 2066 (90 days after December 31, 2065).

As an alternative to a formal "re-opener" condition, the Districts propose the following edits to the proposed conditions:

Prior to diversion and use of water under transfer approval 89499 the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications.

The right holder shall record the diversion volume measurements and maximum flow rates for each point of diversion monthly throughout the planning horizon. The measurement records must be made available to the Department upon request. Within 90 days of December 31, 2035, December 31, 2045, December 31, 2055 and Upon the expiration of the planning horizon, the right holder shall prepare a report containing the measurement records and a gap analysis comparing peak demand with the right holder's portfolio of water rights and other entitlements available to meet that demand. The right holder shall submit the report to IDWR ~~within 90 days of the expiration of the planning horizon~~, with notice provided by the right holder to the parties to transfer 89499. The Department or the parties to transfer may seek a review of the gap analysis provided through an informal proceeding, a contest case or other available procedures.

Again, the Districts believe that Veolia will already be tracking such information and the burden is on Veolia to provide the information to IDWR and the parties to the Transfer, including the Districts. Please let me know if a meeting would be helpful to further discuss.

B. Stipulation Condition.

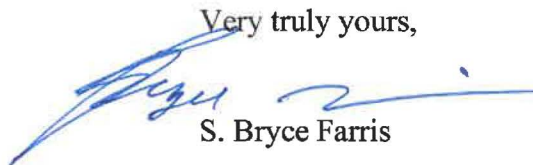
Condition 15 to Water Right No. 63-10862 provides that the Transfer may be subject to additional conditions which the Department may not be a party to and then specifically references the Settlement Agreement between the Boise Project and Suez (executed July 9, 2018). The Districts would request that this same condition, which is on all water rights which are part of the Transfer, also specifically reference the Stipulation for Withdrawal of Protests between the Districts and Suez (filed on April 18, 2018). Please note that the Department's website for pending Administrative Actions related to this matter incorrectly refers to this Stipulation as being filed in 2017.

C. APOD Condition.

The Districts' Stipulation refers to specific scenarios which were outlined by counsel for Suez (now Veolia) and then provided that "so long as the APODs are granted subject to condition language along those lines, the Districts have no objections to the APODs." While the APOD conditions placed upon the individual water rights does not include the specificity of the scenarios outlined by Suez's counsel, the Districts believe the condition meets the intent. If there is any dispute regarding the administration of the APODs in the future, then the Districts can and will refer to the prior filings by Suez concerning the application and administration of the APODs.

Please advise if these comments raise any additional questions or if you think a meeting would be helpful.

Very truly yours,


S. Bryce Farris

Cc: NMID
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Michael Lawrence
Chris Meyer
Garrick Baxter
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Sara Ajeti
Craig Saxton
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