



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER, Governor  
DAVID R. TUTHILL, JR., Director

January 27, 2010

ORCHARD RANCH LLC  
C/O NORM SEMANKO OF COUNSEL  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE ID 83701-2139

Re: Application 63-32703

Dear Norm:

I sent a letter dated January 19, 2010 to your Rose Law Group address. It was returned as undeliverable. I sent a follow up email, including that letter, to your now outdated email address, hoping that would work.

Today I learned you are now with another firm. Just to be sure nothing slips through the cracks, I am sending this updated letter plus a copy of the January 19 letter.

The prior letter did not incorporate the interim director's twice-affirmed final order implications from M3 Eagle application 63-32573 regarding municipal provider status for a developer seeking a "reasonably anticipated future needs" (RAFN) municipal right. As you probably already know, he ordered that M3 Eagle cannot obtain a RAFN right but can seek a standard ("5 year") municipal right.

Assuming that decision stands, your client could not obtain a RAFN approval. In that case, item 5 in my previous letter does not apply. In addition to amending application 63-32703 as previously suggested, it can be amended to delete references to RAFN and replace that reference with the standard five year maximum time period to be requested in item 7 of the application. The narrative in application item 12 would also need to be revised.

Therefore, legal notices for the application can be published when the application is appropriately amended as outlined in my previous and current letters. The remaining information in items 3 and 4 of the January 19 letter ideally would be provided when the application is amended but could be provided at a later date if preferred. I imagine not delaying responses to items 3 and 4 might avoid those issues as protest fodder.

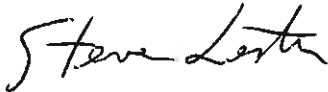
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Please respond within the next sixty (60) days for the application to remain in good standing. This can include a request for more time to provide a response. Please let me know if you have any questions or concerns. Thank you for your attention to these matters.

Sincerely,

A handwritten signature in cursive script that reads "Steve Lester". The signature is written in dark ink and is positioned below the word "Sincerely,".

Steve Lester  
Water Rights Supervisor

Enclosure