



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

September 2, 2011

PERKINS COIE LLP  
ATTN: ROBERT MAYNARD OR ERIKA MALMAN  
PO BOX 737  
BOISE, ID 83701-0737

RE: Consolidation of Hearings for Mayfield Area Water Right Applications

Dear Water Right Applicants, Protestants, and Representatives:

The Department of Water Resources (IDWR) is processing two applications for transfer of ground water and six applications to appropriate ground water in the vicinity of Mayfield and Orchard, which are roughly halfway between Boise and Mountain Home. Records indicate that you are the applicant, protestant, attorney, or representative for at least one of the eight applications. Collectively the eight applications propose to divert a total 84.76 cfs of water, mostly for large-scale residential developments and some irrigation. IDWR has already issued permits authorizing the diversion of 14.02 cfs for large-scale residential developments in the same area. I have enclosed a list of the applications and maps showing their locations.

When reviewing an application for permit to appropriate water, IDWR must consider several criteria, including whether the water supply is sufficient for the purpose intended. Similarly, transfer applications must be evaluated to ensure they will not cause injury to other water rights. Water supply is a key component of the injury analysis for transfer applications.

All of the eight applications are proposing to divert ground water from the same geographic area of the Western Snake River Plain aquifer along the northwestern edge of the Mountain Home Groundwater Management Area. The aquifer in this area may not be able to sustain all of the proposed new withdrawals over the long term without causing injury to other water rights or mining the aquifer. If IDWR were to authorize the diversion of more water than the aquifer could sustain, existing water right holders could be injured and the residents of the proposed new communities would be at risk of water shortages. In addition, because most of the applications are protested and would likely go to hearing anyhow, testimony concerning the water supply issue at various hearings could be redundant or conflicting. For these reasons, it does not make sense to review the eight applications in isolation from each other.

Rule 556 of IDWR's Rules of Procedure (IDAPA 37.01.01.556) states:

The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding.

Letter Regarding Consolidation of Hearings for Mayfield Area Water Right Applications

September 2, 2011

Page 2

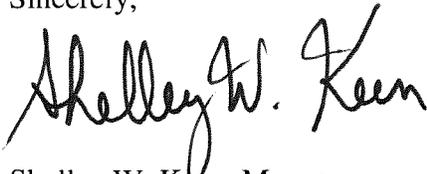
IDWR intends to hold a single, consolidated hearing to take evidence regarding the water supply available for the eight pending applications. The consolidated hearing will conform to IDWR's Rules of Procedure (IDAPA 37.01.01). For those applications that are protested, IDWR will hold separate hearings to address other remaining issues.

Because IDWR does not have significant experience with consolidated hearings like the one proposed, IDWR would like to give you the opportunity to submit written comments and suggestions for proceeding in a manner that will both protect the rights of the parties and develop a sufficient record of evidence on which to base a decision. Please provide your responses by September 23, 2011.

Before setting a hearing date, IDWR plans to hold a pre-hearing conference. Possible conference dates are afternoons on Tuesday, October 25<sup>th</sup> or Wednesday, October 26<sup>th</sup>, 2011. In addition to your written comments and suggestions, please indicate your availability for a conference on these dates.

If you have any questions, please call me at 208-287-4947, or email me at [shelley.keen@idwr.idaho.gov](mailto:shelley.keen@idwr.idaho.gov).

Sincerely,

A handwritten signature in black ink that reads "Shelley W. Keen". The signature is written in a cursive, flowing style.

Shelley W. Keen, Manager  
Water Rights Section

Enc.