



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

August 15, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Arthur Powell
9718 Marsh Creek Road
McCammon, Idaho 83250
Via FAX, 208-254-9151

Re: Forfeiture

Dear Mr. Powell:

This letter is to confirm the phone conversation you and I had about forfeiture.

According to Idaho Code 42-222 (2), "All rights to the use of water... shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter." There are exceptions for land that is enrolled in the Conservation Reserve Program, for water that has not been available due to drought, for land irrigated with land-applies waste water, and for non-use caused by circumstances beyond the water users control.

In the Snake River Basin Adjudication, our instructions are to only consider forfeiture that occurred before the date the claim was signed. Some claims were filed as long as twelve years ago, so it is possible that Mr. Carlson may recommend a Marsh Creek right that has been unused for five years, but not before the claim was signed. In this case, other water users will have the opportunity to object to the recommendation before the Snake River Basin Adjudication (SRBA) court. The charge of the SRBA is to determine the validity, ownership, and elements of water rights that are tributary to the Snake River or the Snake River Aquifer.

We are in the process of investigating water rights in the McCammon area, and expect to present recommendations to the court within the next year.

Please feel free to call me if you have questions. Dave Carlson will be able to answer specific questions about your water rights. You may also wish to contact the court at 736-3011, or look at the statutes on the internet at

<http://www3.state.id.us/idstat/TOC/42FTOC.html>

Sincerely,

A handwritten signature in cursive script that reads "Bryce A. Contor".

Bryce A. Contor
Senior Water Resource Agent

cc: Dave Carlson