

11/14/2006

NOTICE OF ERROR
REPLY

DEC 06 2006

DEPARTMENT OF
WATER RESOURCES

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 8, 2006

Water right number: 67-12337

ANITA D VAN GRUNSVEN
2555 FRUITVALE-GLENDALE RD
COUNCIL ID 83612
Telephone Number: (208)253-4456

RONALD J VAN GRUNSVEN
2555 FRUITVALE-GLENDALE RD
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1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

① Combination with 67-54B and 67-60B
② Maximum flow rate of 0.44 cfs

2. Describe the changes you wish to make in the proposed recommendation:

① Do not combine with any other rights
② Remove maximum flow rate stipulation.

3. Give a brief explanation as to why you disagree with these portions:

— See Attached Letter —

This is waste water so we have no control over
the volume.

___ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 12-4-06

SIGNATURE:

Anita D. Van Grunsven

Please print your name:

Anita D. Van Grunsven

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

November 30, 2006

Dave Tuthill
Coordinator
DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, Idaho 83720

Dear Dave,

I was at the well-attended meeting in Council yesterday. I want to thank you for listening to my complaints so politely, answering so reasonably, and for the most enthusiastic help of Monica Van Bussum. Water rights are a complicated subject but very important to the life of our farm. I really appreciated your efforts to inform us about the adjudication process. However, my complaints from last September—of ridiculously short time frames and impossibly blurry photo maps—are again problems in this iteration. It seems that, as we are about the last basin and the Department needs to finish this phase of the SRBA, we are getting unfairly squeezed to meet overarching deadlines. I have been on the phone all morning hoping to get the answers I need to properly submit the Notice of Error forms. If there is a problem, I hope your office will inform me and allow the extra time you mentioned yesterday to get it straight.

First, I want to discuss why I am filing a Notice of Error on 67-54B, 67-60B, and 67-12337. Your office combined these three water rights and wrote they “are limited to a total combined diversion rate of 0.66 cfs.” **I think it is fundamentally incorrect to combine water rights from the Robertson-Seavy Ditch (54B and 60B) with water that flows naturally onto our fields as waste water (12337).** Walk with me for a minute around the farm and I will try to explain why. The R/S ditch is up the hill from us so we go up to a neighbor's place to turn it on. There is a concrete head gate (put in by Joe Jordan) and a valve that we can close or open 2 turns, 4 turns, etc. to regulate the amount of water we are using. The water goes into a system of pipes that take it to high points on the property and then, through a system of ditches following the high ground, we can gravity-flow irrigate the pastures. A restriction to 0.66 cfs of these two rights is something we can comply with. Now let's look at the waste water. As I stated in my September 9, 2005 letter to your office concerning 67-12337, this is water over which we have no control. We cannot turn it on and we cannot turn it off. It just flows down from the mountains, through culverts under the county road and the old railroad bed, and onto our fields. It comes in at a natural low spot, and then floods onto fields that are lower yet. Provision has been made for its beneficial use, as I indicated on the map accompanying the September letter, probably since the 1940 filing date. In the spring, huge volumes of water come through the culverts and flood many acres of our pastures. In summer, it ebbs and flows as people irrigate their fields above us. By combining these three water rights, will IDWR now require us to guess what is coming in as waste water, then run up and down the hill to adjust our ditch water accordingly? Twice a day? Every two days? How are we to do this? And then, because we cannot stop the waste water, we are now supposed to neglect our better pastures that we can only irrigate with ditch water? I think this is the logical result if we allow the waste water to be counted as part of a “total combined diversion” with a maximum flow rate. It seems to me that we are put in the **untenable position of trying to comply with legal requirements that include a water flow over which we have no control.** I am requesting that your office dissolve the combination of water rights 67-54B, 67-60B, and 67-12337 in the 11/14/2006 “PRELIMINARY RECOMMENDATION.” You may combine the two Robertson-Seavy rights (54B and 60B), but please leave the waste water (12337) completely separate.

Now, on 67-60B, you say, "This right is limited to the irrigation of 1.6 acres within the place of use described above in a single irrigation season." The "place of use described above" is all 33 acres for which we have ditch rights. The water is all coming out of the same ditch, the same pipe, at the same time (and remember, you, yourselves, combined our ditch rights in the immediately preceding remark). How do you expect us to water just 1.6 acres out of 33 acres with a specific part of the same water and keep it separate? Any practical suggestions? Any useful reasons why we should try? If yes, please write me a note of explanation. If not, would you please completely remove the 1.6 acre limitation?

Next let's discuss 67-12337. I see you will allow me to use this water year-around for watering stock and from 3/15 to 11/15 I may irrigate with a maximum flow rate of 0.44 cfs. Does that mean that on 3/15 every year I should block up the culverts under the county road so that only 0.44 cfs comes onto our fields? That would certainly help us to not flood so many acres of pasture, but I think, depending on the snow pack, it would take one--maybe two--spring run-offs to completely wash out the county road. Alternatively, would IDWR propose to pay the millions and millions of dollars it would cost to put really big culverts (much larger than current--these run like geysers for a month or more) under the road, the railroad, our fields, the farmers' canal, and through more pastures and cottonwood trees (about ¼ to ½ mile as a guess) to deliver the flow to the Weiser River? I would certainly welcome this! And, under those circumstances, I would be happy to restrict my use to a maximum flow rate of 0.44 cfs. Failing this, however, once again, this is waste water that we cannot turn on, we cannot turn off, and we have no control over the volume so would you please completely remove the maximum flow rate stipulation?

Finally, I want to discuss issues concerning the Lost Valley Reservoir water. You say, concerning 67-2053A, 67-82A and 67-81AD, "Recommended as Right Nos. 67-14566, 67-14567, and 67-14568 in the name of the Lost Valley Reservoir Company." This morning I have talked with Steve Shumway, Dale Bolton (past President), and Bill Shore (current President). I get different answers from all of them concerning what the new water right numbers actually mean. One would assume that the three water right numbers will correspond with the A, B, and C shares but I see nothing in writing to this effect. I am unwilling to allow my individual, enforceable rights to be subsumed into an amorphous blob where, in the future, I may have no legs to stand on should problems arise here locally. Furthermore, when these water rights are officially questioned again in 20 years or so--as has been the history of our water rights over the past century--the paper trail will be hard to follow so these rights will once more be threatened from the state level. This needs more structure! A particular water right needs to be assigned to a specific new number. How about a meeting with the Lost Valley folks (invite all the shareholders, not just one at a time) to get an agreement that will be fair--and understandable--to all? We need to know how to comply with the new rules and I need to know more than that my rights are "recommended in another claimants name."

Thank you again for your attention to our case. And, please remember that if I have not stated my case clearly enough, I get extra time to correct it.

Sincerely,

Anita VanGrunsven

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Council, ID 82612