



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

May 19, 2008

Hon. John Melanson
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

RE: *Subcase No. 63-7531 (Tyson Fresh Meats, Inc.)*

Dear Judge Melanson:

The Idaho Department of Water Resources ("IDWR") filed the Director's Report for Basin 63, Part 3 with the SRBA Court on December 19, 2006, which included the recommendation for water right no. 63-7531. The deadline to file objections was June 20, 2007. No objections were timely filed to this water right recommendation, and a partial decree has not yet been issued.

It has recently come to the attention of IDWR that the water right recommendation contained clerical errors. Specifically, pertinent conditions were inadvertently omitted from the recommendation.

I am attaching an Amended Director's Report wherein the omissions from the initial recommendation are underlined for your convenience. I respectfully request the Court set the standard objection and response deadlines for this Amended Director's Report.

I am sending a copy of this letter to the claimant so it will be aware of this error.

If you should have any questions or comments, please feel free to contact me at (208) 287-4810.

Sincerely,

A handwritten signature in black ink, reading "Andrea L. Courtney". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Andrea L. Courtney
Deputy Attorney General, IDWR

Enclosure

cc: Tyson Fresh Meats, Inc.
Sandy Egbert

Amended Directors Report -Right No. 63-7531

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-7531

NAME AND ADDRESS:

TYSON FRESH MEATS, INC
ATTN: JOHN MEYER
800 STEVENS PORT DRIVE SUITE 709
DAKOTA DUNES SD 57049

SOURCE:

Source:

Tributary:

GROUND WATER

QUANTITY:

3.600 CFS

744.600 AFY

The total instantaneous diversion of water from all points of diversion under Transfer 5442 shall not exceed 10.77 cfs, nor a total combined annual volume of 4403.1 af.

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Rights 63-07531 and 63-10383 when combined shall not exceed a total diversion rate of 5.87 cfs.

PRIORITY DATE:

12/10/1971

POINT OF DIVERSION:

T01N R02E S6 Lot 2 NWNE
Within ADA County

T01N R02E S6 Lot 3 NENW
Within ADA County

T01N R02E S7 Lot 3 NWSW
Within ADA County

T01N R02E S7 SWSE
Within ADA County

T01N R02E S18 Lot 2 SWNW
Within ADA County

T02N R02E S31 SWSE
Within ADA County

Three (3) points of diversion are located within Lot 3 (NWSW), S07, T01N, R02E B.M.

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

3/15 11/15

3.200 CFS

720.00 AFY

STOCKWATER

1/01 12/31

0.200 CFS

13.40 AFY

COMMERCIAL

1/01 12/31

3.200 CFS

720.00 AFY

DOMESTIC

1/01 12/31

0.200 CFS

11.20 AFY

Amended Directors Report -Right No. 63-7531

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

PLACE OF USE: IRRIGATION within ADA County

T01N R02E S06 Lot 1 NENE 35.0

T01N R02E S06 Lot 2 NWNE 40.0

T01N R02E S06 SWNE 40.0

T01N R02E S06 SENE 40.0

T01N R02E S06 Lot 3 NENW 40.0

T01N R02E S06 SENW 40.0

T01N R02E S06 NESW 40.0

T01N R02E S06 SESW 40.0

T01N R02E S06 NWSE 40.0

T01N R02E S06 SWSE 39.0

T01N R02E S07 NENW 40.0

T01N R02E S07 Lot 1 NWNW 40.0

T01N R02E S07 Lot 2 SWNW 40.0

T01N R02E S07 NESW 40.0

T01N R02E S07 Lot 4 SWSW 36.0

T01N R02E S07 SESW 32.0

T01N R02E S07 SWSE 32.0

T01N R02E S18 NENE 32.0

T01N R02E S18 NWNE 40.0

T01N R02E S18 SENE 40.0

T01N R02E S18 NENW 40.0

T01N R02E S18 Lot 1 NWNW 40.0

T01N R02E S18 Lot 2 SWNW 40.0

T01N R02E S18 SENW 40.0

T01N R02E S18 NESW 40.0

T01N R02E S18 Lot 3 NWSW 40.0

T01N R02E S18 Lot 4 SWSW 40.0

T01N R02E S18 SESW 40.0

T02N R02E S31 NESW 40.0

T02N R02E S31 Lot 3 NWSW 40.0

T02N R02E S31 Lot 4 SWSW 40.0

T02N R02E S31 SESW 40.0

T02N R02E S31 SWSE 40.0

DOMESTIC within ADA County

T01N R02E S07 Lot 3 NWSW

COMMERCIAL Same As IRRIGATION

1286 ACRES TOTAL

Rights 63-03362, 63-07531, 63-10383 and 63-11347 when combined are limited to the irrigation of 619.0 total acres under the irrigation components of the rights in the 1286.0 acre place of use described above in a single irrigation season. This condition does not limit the acreage upon which wastewater from the industrial and commercial uses under the rights may be land applied for wastewater treatment purposes to satisfy water quality requirements.

Amended Directors Report -Right No. 63-7531

Right 63-07531 is limited to the irrigation of 160.0 acres in the place of use described above in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The right holder shall be required to utilize any cold water from the well located in the NENW, S06, T01N, R02E B.M. up to its capacity for irrigation of the place of use under Right 63-11347. The low temperature geothermal well in the NWNE, S06, T01N, R02E B.M. shall only be diverted at the rate equal to the remaining portion of 2.23 cfs not capable of being satisfied by cold water from the well.

The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under Right 63-11347 and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

The place of industrial and commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under the industrial and commercial components of Rights 63-7531 and 63-10383 shall not be used for irrigation unless the water is first used in the commercial/industrial purposes as authorized by these water rights.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Wastewater pond is located within Lot 1 (NWNW), S19, T01N, R02E B.M.

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

A single new point of diversion is authorized in either the SWSE, S07 or Lot 2 (SWNW), S18, T01N, R02E to provide water that shall not exceed a temperature greater than 85 degrees Fahrenheit.

Prior to diversion of water under this right, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Use of water under Rights 63-7531 and 63-10383 shall comply with applicable water quality standards of the Division of Environmental Quality of the Idaho Department of Health and Welfare.

The right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Failure of the right holder to comply with the conditions of Transfer 5442 is cause for the Director to rescind approval of the transfer.