



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

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

March 23, 2009

JERRY ENSLEY
15431 10TH AVE
CALDWELL ID 83607

Re: Irrigation Water Right No. 63-2729

Dear Jerry:

You visited the Idaho Department of Water Resources (IDWR) office recently and asked about an old irrigation well on or near your property. I researched the situation and found the following information.

- The well was licensed for irrigation of 40 acres in 1979. That covered the entire NE ¼ of SE ¼, Section 16. See "water right report 63-2729" and its attached map. The map, from the early 1950s, appears to describe the well you noted.
- That license was claimed in two parts in the Snake River Basin Adjudication (SRBA) in 1989 and 1990. This resulted in two separate rights decreed by the SRBA Court in February 2009.
- Decreed right 63-2729A covers a well in the far northwest corner of the NE ¼ of SE ¼. That well serves 7 acres northwest of your property.
- Decreed right 63-2729B covers the well you are concerned about. This right serves one home and yard owned by Thies.
- See "water right report 63-2729A" and "water right report 63-2729B" in addition to the enclosed map summarizing those rights.
- The 33 acre remainder of the original 40 acres of irrigation has not been recognized in the SRBA. I did not find any evidence that the 33 acre portion had been moved to other land. Normally one would expect to find those 33 acres covered by some water right in the SRBA. However, in this case it appears that was reduced to use for a single home and yard based on the SRBA proceedings (see enclosed 11/2/2006 memo from file 63-2729B about that).

Jerry Ensley
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The SRBA included notices of error and objection processes to determine if errors were made or if other problems needed to be resolved. Those processes are over, and the Court has issued its decrees in this matter. I suppose it is possible to petition the Court to revisit a particular decreed right if mistakes have occurred despite those processes. You might want to seek help from an attorney on that matter.

Another route might be available if you believe you are entitled to irrigation of your property from the well on or near your place (well in 63-2729B). A water right is presumed to be attached to land described by the right unless the right has been withheld from the property as ownership changed hands. If your property has remained irrigated from the well on or near your place and if the associated portion of license 63-2729 has never been legally withheld from your property, you might have a case to make before the SRBA Court on that matter.

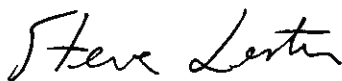
You could petition to Court to accept a late claim for that. You could seek to file a late claim for your portion of license 63-2729 that remains unrecognized in the SRBA. Again, you might want to seek help from an attorney on that matter. If the Court accepted a late claim, IDWR would work with you to determine if the late claim is valid. Validity would focus on determining if the irrigation has remained active for the property described by the late claim.

To file a late claim, please use the enclosed forms "Standard Form 4, Motion to File Late Notice of Claim" and "Notice of Claim to a Water Right." The filing fee would include \$50 for the claim, \$1 per irrigated acre claimed, and a \$100 late claim fee. If you complete those forms, please call this office at 334-2190 to get a claim number to add to your forms before you submit them to the Court.

It would be difficult for you to secure the balance of the original water right license for land other than your own unless you could show a legal basis for ownership of that balance of the original license. That would also involve the late claim process.

More IDWR information is available on the Internet at www.idwr.idaho.gov.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure