

Roda, Evan

From: Roda, Evan
Sent: Wednesday, May 17, 2017 10:52 AM
To: 'Mark Arce'
Cc: Goodwin, Chad
Subject: RE: Claim 95-14211

Mr. Arce,

As previously discussed, evidence must be submitted to prove the beneficial use of the water source for the purposes claimed. If that use is not proven to have begun prior to the mandatory permit statute for groundwater, then water right claim number 95-14211 will receive a limited use recommendation and 95-14212 will be recommended to the Court as disallowed. The permit system for establishing a water right became mandatory for uses developed from ground water after March 25, 1963 (except for domestic purposes as defined by Section 42-111, Idaho Code). Currently, 95-14211 can only be recommended under Section 42-111(1)(b), Idaho Code, which allows for a maximum diversion rate to 0.04 CFS and a maximum diversion volume of 2,500 gallons per day. The priority date for that recommendation would be August 10, 2009, based on the well access agreement previously provided as evidence.

A water use permit has never been applied for at this location, so we have no previous records of the water use on site. If it becomes necessary for you to file for new water use permits, then the date of application will become the priority date of the newly established water rights. If the aforementioned water right claims receive limited recommendations or are disallowed, continued use of water on the site to the extent claimed will be deemed illegal until a water right for that purpose has been established through the permit system and may be subject to regulatory action.

If you have any further questions or concerns, please contact our office and we will be happy to help. If you have any questions regarding the permit application or would like to schedule an appointment for assistance, please contact Shaun Maxey or Adam Frederick in our office and they will be happy to help. They can be reached by phone during business hours at 208-762-2800.

Regards,

Evan W. Roda
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From: Mark Arce [mailto:Mark@customalloy.com]
Sent: Wednesday, May 17, 2017 8:32 AM
To: Roda, Evan <Evan.Roda@idwr.idaho.gov>
Subject: Claim 95-14211

Mr. Roda,

Thank you for discussing our options yesterday and what we needed in respond to this adjudication. We're working to find the required information but I had a couple of questions following our discussion.

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1. What is the results of the judgement if we cannot locate data supporting our priority rights? Do we have to reapply and receive a lower priority?
2. Would there be any public records in Idaho that we could use to support our claim from prior 1963 that we could use, if the previous owners cannot be reached or do not have the records we require? Would the original permit request be on file somewhere with the Idaho state government? We doubt this is the first time this has happened to a business, so we're looking to see if there is a contingency plan in place to reestablish or prove priority.

Regards,

Mark Arce
Environmental Compliance Coordinator

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