



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

September 13, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

FRED MARTIN
50 W 100 N
BLACKFOOT, ID 83221

CHERYL BARTAUSKY
281 N COTTONWOOD DR
BLACKFOOT, ID 83221

Re: Complaint filed by Fred Martin regarding Water Right 27-7432

Dear Mr. Martin and Mrs. Burtousky,

After receiving Mr. Martin's complaint, a letter was sent to Tom Burtousky to notify him about the complaint and explain the conditions of water right 27-7432. Cheryl Burtousky called me once she received the letter to discuss this matter. The following is a summary of my interpretations of the conversations I had with both Mr. Martin and Mrs. Burtousky.

- Mr. Martin was unaware that an irrigation line was installed across his property for which he didn't give his permission to trespass. He is concerned that the water right is not being used as it was licensed. He wants the irrigation line removed and his property returned to the same state prior to the line installation.
- Mrs. Burtousky explained that Tom has passed away and the farm is now run by her son and herself. They had no knowledge of the Toms actions and are learning as they go. From previous conversations with Mr. Martin, it was her understanding that he would allow them to continue use the current irrigation system until the end of the season. They were planning on returning the irrigation system to the original practice once this irrigation season came to an end. After explaining the complaint to Cheryl, she said they would remove the irrigation line from Mr. Martin's property.

I also explained that this water right can only be used when the surface water is no longer available. When there is no surface water, the well can be used to pump water into the canal and then applied to the land they are leasing from Craig George. A copy of the back file for this water right will be sent to Mrs. Burtousky to help explain the limitation of this right.

In conclusion, Mr. Martin has agreed to allow the Burtousky's to continue to irrigation using the current delivery system for this irrigation season. Mrs. Burtousky states that they should be done irrigating by the end of September 2011. At some time after the end of the season, the irrigation line across Mr. Martin's property will be removed and the delivery system will return to its original design. If you have any further questions, please call me at the office.

Sincerely,

Denise Kidman
Water Resource Agent

I think that Tom Burtuski and his equiv are using well water illegally. According to what I have found on the computer he has the right to use water from the well only if there is not enough water in the cond. As far as I can tell he is only using water from the cond.

Fred Martin
8-17-11

Fred Martin
50 W 100N
Blackfoot, ID 83221

RECEIVED

AUG 17 2011

Department of Water Resources
Eastern Region

August 29, 2011

TOM BARTAUSKY
281 N COTTONWOOD DR
BLACKFOOT, ID 83221

RE: Water Right 27-7432

Dear Mr. Bartauskay,

It has been brought to the Departments attention that you may be using water that is not in compliance with the license issued to you on January 30, 1998. In reviewing the back file of this water right, the well located in T02S R35E SEC 25 SWSE, B.M., is to supplement the surface rights by pumping water into the Blackfoot Irrigation Canal Co. canal and rediverted for flood irrigation. This right was to be used *only* when water from the appurtenant surface water rights cannot be delivered. If the surface rights are sold, transferred, leased or used on any other place of use, this water right shall not be used. I have included a copy of the license issued to you for your reference.

Fred Martin filed a complaint with the Department requesting that we look into your water usage. Mr. Martin claims that a pipe was ran across his property from the well to the property you lease from LaVerl George and water is no longer discharged into the canal. Please contact me at your earliest convenience so we can discuss your irrigation practices.

Sincerely,

Denise Kidman
Water Resource Agent
Eastern Region

Enclosures

Cc: Fred Martin

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N

02S 35E Sec 25 SESW



IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 27-7432

WATER RIGHT NUMBER: 27-7432

Owner Type

Current Owner

Name and Address

TOM BARTAUSKY
281 N COTTONWOOD RD
BLACKFOOT, ID 83221
(208)785-2392

WMIS # 500574

Priority Date: 07/10/1987

Basis: License

Status: Active

Source

GROUND WATER

TributaryBeneficial Use

IRRIGATION

From To

4/01 to 10/31

Diversion Rate

0.700 CFS

Annual VolumeTotal Diversion:

0.700 CFS

Location of Point(s) of Diversion

GROUND WATER

SW1/4SE1/4

Sec. 25, Twp 02S, Rge 35E, B.M.

BINGHAM County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	35E	25									1.0		2.0	32.0					35.0

Total Acres: 35

Conditions of Approval:

- 049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
- This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual diversion volume of 140.0 af for the lands above.
The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount that can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
Right 27-07404 is also diverted through the point(s) of diversion described above.
- 065 The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
- R60 This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
- 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
- 079 This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.