

February 21, 2018

Michael Holiday
Water Right Supervisor
Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

RECEIVED
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Department of Water Resources
Eastern Region

**Re: Application for Transfer, Water Right No. 29-2426
Stan Wallerstedt**

Dear Michael:

I represent Bradley R. Hoggan who has entered into a Real Estate Purchase and Sale Agreement with Stanley A. and Marlene N. Wallerstedt to purchase a 40 acre parcel, SWNE Section 33, T11S, R37E, B.M., Bannock County, Idaho, together with water right no. 29-2426. The closing of the Agreement is conditional upon IDWR approval of the pending Transfer Application and issuance of a well drilling permit to enable the water right point of diversion to be moved to the property and Hoggan authorized to drill a new well.

Dennis Dunn's January 29, 2018 letter to Mr. Hoggan indicated that you were reviewing the transfer and asked for evidence that the water right has been used since June 2004, with forfeiture an issue. To respond I have discussed the matter with Stan Wallerstedt and his wife Marlene based upon which I have prepared and Stan has signed the enclosed Affidavit of Stan Wallerstedt to set forth the facts and circumstances of non-use. Based upon the Affidavit and these unique and unusual circumstances, please consider this letter a request for an exception to forfeiture pursuant to I.C. 42-223(6). It appears clear that the non-use "results from circumstances over which the water right owner has no control," an exception which "shall be determined on a case by case basis."

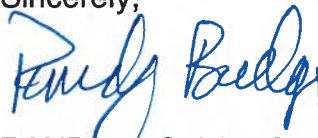
The circumstances justify an exception to forfeiture include:

1. Mr. Wallerstedt's total disability and limited ability to read or write as a result of being injured in the Vietnam War with a "Total Disability" Discharge.

2. Indications given to Mr. Wallerstedt by a Department Representative in the Eastern Region Office shortly after receiving information concerning his decreed right in 2004 indicating that he had a valid water right for irrigation purposes that went with the property, that it was a very good water right with an early priority date to irrigate the full 40 acres and that it could never be taken away and he not worry about it.
3. Representations made by different realtors with whom the property was listed for sale, indicating that Mr. Wallerstedt had a good water right and therefore listing the property for sale as an irrigated property.
4. Lack of notice or knowledge that the water right could be forfeited for non-use.
5. Discovery for the first time during the summer of 2017 when showing the property to the potential buyer, Mr. Hoggan, that the main line which delivered water from the well to the property had been cut and removed some time prior.
6. The fact that the water right was decreed in 2004 substantiating prior diversion and application to beneficial use.

I trust this is sufficient information to grant an exception to forfeiture and proceed with the processing of the Transfer Application. If you have any questions or need additional information, please contact me. Thank you for your consideration.

Sincerely,



RANDALL C. BUDGE

RCB:ts

Enclosures

c: Bradley R. Hoggan
Stan Wallerstedt