



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

10/2/2017

Idaho Division of Veterans Services
351 Collins Road
Boise, ID 83702

Dear Jake,

I am in receipt of your proposed transfer of a portion of water rights 27-7478 and 27-7084. The transfer proposes to change the point of diversion for 40 acres of both rights, and to remove the supplemental conditions on the split portion of right 27-7478.

While reviewing the transfer application, two issues presented themselves. The first is the lack of evidence to support the removal of the supplemental conditions from right 27-7478's split portion. The second is that it is unclear that all 40 acres proposed for transfer are covered by the water rights.

With respect to the removal of the supplemental conditions, I am required to analyze the effects of the proposed transfer in accordance with Idaho Code 42-222, which states in relevant part that

"[t]he department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided...the change does not constitute an enlargement in use of the original right..."

The applicant bears the burden of proof for the criteria listed above.

Taken at face value, the proposal to remove the supplemental conditions from the split portion of right 27-7478 would constitute an enlargement of use of the original right. However, if you can prove that no surface water shares were on the portion of the right that you are proposing for transfer during the right's development period and at the time of licensing, the proposal will be considered. This letter formally requests that information.

Further, it is uncertain that the 40 acres purchased are covered by 40 acres of rights 27-7478 and 27-7084. Both rights describe a 39 acre place of use in the 40 acres located within each the SESE and SWSE of Section 2, Township 03 South, Range 35 East. The field examinations for the two water rights indicate that the land uncovered by the water rights is located in the SW corner of the SESE and the SE corner of the SWSE of Section 2. This would indicate that the purchased land contains 38 acres covered by the rights.

This letter therefore also serves to formally request evidence that the Idaho Division of Veterans Services owns 40 acres of rights 27-7478 and 27-7084.

Please submit the requested information by 11/1/2017. If additional time is necessary, please notify me. If I do not received any comment from you by 11/1/2017, I will assume that you have no additional information to offer and will proceed with processing the transfer.

Sincerely,

Cooper Fritz
Water Resources Agent