



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 4, 2015

HERNAN W & SUSAN BARROS
PO BOX 1575
EAGLE ID 83616

Re: Existing Well – Water Right No. 63-16116 – 4/17/15 Request for IDWR Letter

Dear Mr. & Mrs. Barros:

Your letter of April 17, 2015 seeks clarification of the application of the domestic use exemption (Idaho Code § 42-227) from an existing well for filling an irrigation pond during late fall and winter as well as "...to supplement the surface irrigation water (provided by the New Dry Creek Ditch Company)." if the use does not exceed 2,500 gallons per day. Idaho Code § 42-111(3) states:

Multiple water rights for domestic uses or domestic purposes, as defined in this section, shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use.

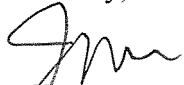
Therefore, a water user cannot combine multiple domestic uses described in Idaho Code § 42-111(a) and (b) to provide water for a single use that would otherwise require a permit.

Based on the information supplied in your letter, there is an existing water right associated with the well in question authorizing stockwater and domestic use for two homes not to exceed 13,000 gallons per day. If the use to fill the pond in the fall and winter along with the existing domestic and stockwater uses cannot be accomplished within the existing domestic right limitations (13,000 gallons per day), then adding a second domestic right to make up the difference would be prohibited under Idaho Code § 42-111(3), even if the additional use were less than 2,500 gallons per day.

Furthermore, Idaho Code § 42-111(1) defines domestic purposes as (a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or (b) any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. Your proposal to maintain the pond level or to supplement irrigation water in a pond suggests a total use in excess of these limits. In other words, the domestic exemption does not allow you to add a small amount of water to a larger non-exempt use, even if the additional amount of water is less than 2,500 gallons per day.

In conclusion, the water use as proposed in your letter requires a separate water right. IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Peppersack', written over the printed name.

Jeff Peppersack
Interim Western Region Manager