



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 25, 2014

DANIAL & JENNIFER LISTER
227 SUNRISE RIM RD
NAMPA ID 83686

RE: Water Right 63-32060

Dear Danial & Jennifer:

I received your 11-21-2014 letter requesting an extension of a condition of your water right related to approved Transfer 71811. The condition required the accomplishment of the change authorized by the transfer within one year of the approval. Two previous extension requests were approved extending the date to complete the transfer seven (7) years. Your current request for an extension will not be approved.

The last order granting the extension included language noting that the extension does not stay the accumulation of the 5-year period associated with forfeiture of a water right for nonuse. The new well authorized under Transfer 71811 has not been constructed and you note that the land has not been irrigated from the original well.

Under Idaho law, a water right may be lost and forfeited by a failure to apply the water to beneficial use for a period of five (5) or more years, Section 42-222(2), Idaho Code. The statutes also describe some exceptions or defenses to forfeiture under Section 42-223. While rights are part of an active adjudication, the forfeiture clock is stayed. Once the right has been decreed the nonuse period begins to accrue towards forfeiture.

A partial decree for Right 63-32060 was issued by the Snake River Basin Adjudication court on 04-29-2009. Department policy for evaluation of the forfeiture period does not count the year the partial decree was issued. Years 2010 through 2014 are counted as the 5-year period associated with forfeiture. Unless you resume irrigation use during the 2015 irrigation season or take some other action to protect the right it could be subject to forfeiture.

You may want to apply to lease your right to the Water Supply Bank. When a right is leased to the Bank, it is protected from forfeiture by staying the forfeiture clock. You cannot use your right while it is leased to the bank and may want to consider how long you propose leasing the right (1 to 5 years), ending the lease when you are prepared to resume use. To maintain the validity of the right resumption of use would need to occur the next irrigation season when the right is released from the bank since 5-years of nonuse have already accrued.

I have included a copy of Section 42-223, Idaho Code describing other possible forfeiture defenses and a Water Supply Bank Lease application for your consideration.

I hope this will provide you with a suitable option to protect your decreed water right.
If you require additional information regarding this matter, please contact me directly at (208) 287-4951, pam.skaggs@idwr.idaho.gov or return mail.

Sincerely,

Pamela S. Skaggs
Water Rights Supervisor

Enclosures