



State of Idaho

DEPARTMENT OF WATER RESOURCES

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

October 22, 2014

MICKY VANHULLE
PO BOX 597
DUVALL WA 98099

Re: Water Right 37-7064E

Dear Ms VanHulle:

On October 10, 2014 you called the Idaho Department of Water Resources (IDWR) about two water rights that are appurtenant to a property near Bellevue Idaho. You indicated that you want to know the status of the water rights before purchasing the property. As we discussed, right 37-102B from the Big Wood River for irrigation was disallowed in the Snake River Basin Adjudication (SRBA). It is no longer a valid water right. Right 37-7064E for ground water was decreed by the SRA court on October 1, 2013 with the following conditions:

The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.

If the surface water right appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

These conditions make it clear that right 37-7064E is a supplemental water right. A supplemental right can provide additional water in conjunction with a primary source, or it can be used at times of the year when the primary source is unavailable, such as during a priority cut. However, supplemental rights are not authorized to be used exclusively.

Since surface water is no longer available, right 37-7064E may not be used as is. It might be possible, however, to transfer this right so that it may be used as a primary source. An application for transfer proposing to change a supplemental irrigation right to use as a primary right for irrigation is usually presumed to be an enlargement of the supplemental right, which IDWR cannot authorize. An exception might be made when the applicant can clearly demonstrate, using historical diversion records, that there would be no enlargement of the water right being changed. This usually requires reducing the total land area irrigated so that the future consumptive use of ground water matches the historic consumptive use contributed by the supplemental ground water right.

The extent of ground water use can be determined by looking at cropping patterns, power records for the diversion pump, curtailment dates for the surface water during five consecutive years when both the Big Wood River water and ground water were both used on the property, and other related data sources. An analysis of the crops can determine the evapotranspiration, or consumptive use, during the time when both sources were used for irrigation. Pumping records can help determine the amount of ground water used for irrigation. There are a number of consultants in Idaho who could help you conduct the analysis necessary to file the transfer application.

According to water master records the last year that water was delivered for surface water right 37-102B was 2006. During our phone conversation you said that there is no ditch to the property and that the only source of water is the well for the past eight years. The pump or crop records needed for the analysis should include five consecutive years before 2006.

Please contact me if you have any other questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sandra Thiel".

Sandra Thiel, Sr. Water Resource Agent
Water Allocation Bureau

cc: Allen Merritt - IDWR Southern Regional Manager
Kevin Lakey - State Water District No. 37