



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER - Governor
Gary Spackman - IDWR Director

May 16, 2014

Dear Parties:

During the pre-hearing conference held on April 30th in Malad, there were questions raised about the status of a ground water right used to irrigate property now owned by Blake Morgan (located between the applicant and the protestants). This letter is intended to provide a brief history of the Morgan water right and a description of other ground water rights in the immediate area. I hope this information will assist the parties in their ongoing discussions.

History of Water Right 15-7364

On June 30, 1961, Ralph Tovey filed an application with the state engineer, seeking a permit to divert 3.00 cfs (1,350 gpm) from ground water for the irrigation of 266 acres. The application stated that 2.22 cfs of the proposed ground water right would be used on land which was already covered by Deep Creek Irrigation shares. The application was approved and a permit was issued to Mr. Tovey in July 1961. The proposed ground water well was completed in September 1964. The well is 170 feet deep. The static water level (in 1964) was 70 feet below land surface and the well driller was able to pump 1,200 gpm (2.67 cfs) from the well during a pump test.

When Ralph Tovey provided proof of beneficial use for the permit in 1966, he indicated that there were no other water rights on the property. A field exam was completed by the state engineer's office in 1970. The examiner did not refer to any Deep Creek water being used on the property. The examiner found 266 acres being irrigated and found that the well only produced 1.92 cfs (860 gpm).

Water right license 15-2058 was issued to Ralph Tovey in March 1972. The license authorized the diversion of 1.92 cfs, 266 acres of irrigation, and an annual diversion volume of 816 acre-feet. The license did not require Mr. Tovey to use surface water first or to maintain Deep Creek Irrigation shares on the property.

In October 2010, Peoa River Valley Ranch LLC filed an application for transfer with the Department of Water Resources, seeking to rearrange the place of use for water right 15-2058. Peoa River demonstrated that it owned the entire place of use described in the license for 15-2058. As the owner of the entire right, Peoa River was allowed to rearrange the right to reflect current irrigation practices. Transfer 76813 was approved in January 2011. The attached map shows the approved place of use for the 266-acre water right.

Since the transfer approval, the property has been subdivided and sold by Peoa River. Ownership changes were filed by the new property owners. Consequently, water right 15-2058 has been split into four pieces:

15-7357	Martinez	23.9 acres	0.17 cfs
15-7363	Peoa River	6.3 acres	0.05 cfs
15-7364	Morgan	226.8 acres	1.64 cfs
15-7368	Warren	9.0 acres	0.06 cfs

The parties at the pre-hearing conference stated that they believe Mr. Morgan is diverting in excess of his authorized water right. After reviewing 2011 and 2013 aerial photos, I find that Mr. Morgan is not irrigating more acres than his water right allows. In fact, in 2013, it appears that Morgan only irrigated about 215 acres.

However, water right 15-7364 is limited to the diversion of 1.64 cfs on 226.8 acres. This equates to 0.007 cfs/acre (1/3rd of a miners inch per acre) which is considered very light, even for sprinkler irrigation. The state standard is 0.02 cfs/acre (1 miners inch per acre). It is possible that Mr. Morgan is diverting more from the well than his water right would allow. I have asked my staff to conduct an unannounced measurement of the Morgan well if they happen to be in the area this summer.

You should also be aware that all four water rights set forth above still list their authorized points of diversion as the Morgan well. Protestants Warren and Martinez should consider filing water right transfers to move their authorized points of diversion to ground water wells located on their own properties.

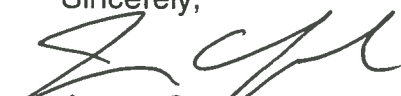
Other Water Rights

I found three other ground water rights in the immediate area that are worth mentioning. Water right 15-2020 carries a priority date of March 23, 1936 and authorizes the diversion of 0.75 cfs and the irrigation of 70 acres. This water right is primarily located on property now owned by Mr. Martinez. Documents in the water right backfile describe two flowing artesian wells that were used to flood irrigate the property.

Ground water rights 15-4080 and 15-4084 are located on property in the name of Stevton Living Trust (Steve Werk). These rights are statutory claims, meaning they have not been validated by a court or by the Department. Water right 15-4080 claims a priority date of November 1, 1919 and a diversion rate of 2.00 cfs for the irrigation of 274 acres. Water right 15-4084 claims a priority date of July 1, 1936 and a diversion rate of 0.05 cfs (??) for the irrigation of 145 acres. Both of these statutory claims describe flowing artesian wells used for irrigation and stockwater.

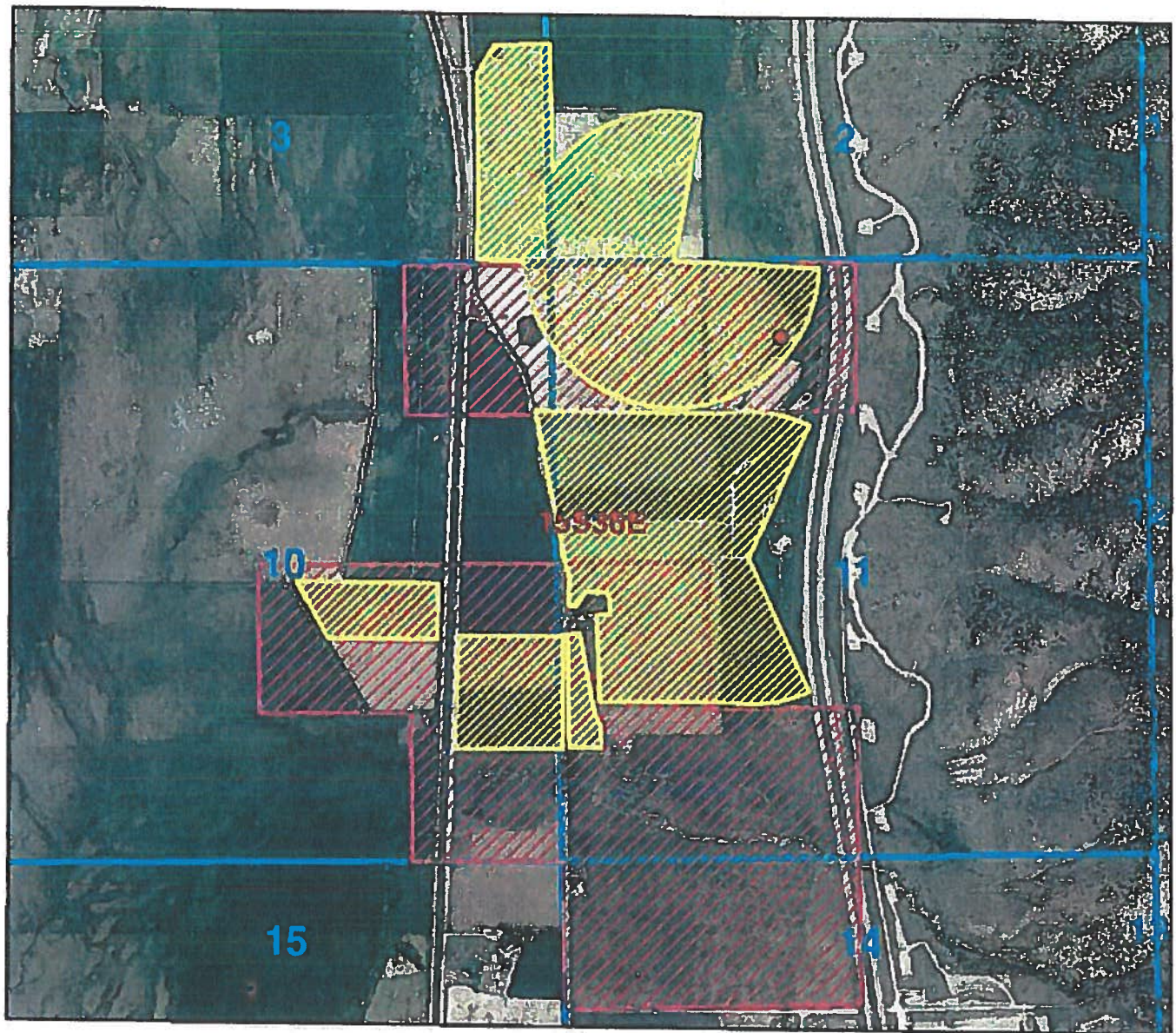
I hope this information is useful. I look forward to meeting again on June 4th. Feel free to contact me if you have questions or concerns about these water rights.

Sincerely,



James Cefalo

Application for Transfer No. 76813 Peoa River Valley (Water Right 15-2058)



Legend

- Water Right POD
- Existing Right POU
- Transfer Right POU
- Township/Range
- Sections

0 0.25 0.5 1 Miles



Map prepared by James Cefalo on September 15, 2010

2009 Aerial Photography

76813