

Favreau, Danielle

From: Favreau, Danielle
Sent: Wednesday, October 23, 2013 1:58 PM
To: 'rjdeurloo@gmail.com'
Cc: Nelson, Dan
Subject: Regarding Water Permit 75-7602

Hello Mr. Deurloo,

In review of water right 75-7602, we found an issue that needs to be resolved before licensing can move forward. The issue is that water right 75-13967 from the Salmon River directly overlaps this place of use.

Generally, when ground water rights are used on the same land as surface water rights, the ground water right is only used as a **supplemental water right**. A **supplemental water right** is a water right that is only used when the associated surface water right is not available. In essence, the **supplemental ground water right** is only used at the beginning of the year before water is turned into the ditch and after the surface water has been shut off from the ditch. This process permanently ties the surface water right and the ground water right to each other, so that one of the rights can't be sold or moved without the other water right.

Permit 75-7602 was filed in 1993, and there was no evidence that surface water was used on this property in 1993. Therefore, it was permitted as a **primary water right** or as the only water source for this property. In 2001, a Snake River Basin Adjudication (SRBA) claim (75-13967) was filed and subsequently decreed in the SRBA for the same property.

It now appears as though the ground water right should have been permitted as a **supplemental water right** and cannot be licensed as a **primary water right**. Surface water is always the preferred method of irrigation, and Idaho Code does require that all surface water be utilized before ground water is used on a property. Therefore, ground water will always be considered a **supplemental water right**.

Please confirm that you are using the surface water out of the Salmon River (Water Right 75-13967).

If you are doing so, the ground water use under Water Permit 75-7602 is a **supplemental water use**.

If you are not using the surface water out of the Salmon River (Water Right 75-13967) then the Right 75-13967 can be considered **forfeited** or **abandoned**.

A water right that is **forfeited**, is a water right that hasn't been used within a 5 year period and will injure other water users if the owner of that water right resumes it use. An **abandoned** water right is a water right that has been purposely relinquished by the owner of the property. If you no longer wishes to use the Salmon River water and want it to be turned back over to the State for other water users to appropriate (**abandon** a water right), please complete the form that is downloadable from <http://www.idwr.idaho.gov/RulesStatutesForms/WaterRights/PDFs/abandonment.pdf> and return it to Idaho Department of Water Resources.

If you have any questions regarding supplemental and primary water rights or forfeited or abandoned water rights, please contact Dan Nelson, Staff Hydrologist at (208) 287-4856 or email Dan.Nelson@idwr.idaho.gov

Respectfully,

Danielle Favreau