



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

June 21, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Lance Funk
2960 Cedar Lane
American Falls, ID 83211

Certified Mail

Dear Mr. Funk:

In February/March of this year, Greg Sullivan from Brockway Engineering, filed five water right applications (35-14240 thru 35-14244) on your behalf, seeking ground water rights for the irrigation of over 2,000 acres. The applications were protested by a number of groups. Permits have not been issued for these applications. Mr. Sullivan notified me that, because the protest resolution could take some time, you would pursue a Water Supply Bank (WSB) rental for the 2012 irrigation season. I told Mr. Sullivan that no irrigation could take place until the WSB rental was approved. As of today, the WSB rental has not been approved.

On June 14, 2012, Water District 120 conducted a field exam to see if irrigation was taking place on the acres listed in the five applications referenced above. We discovered that many of the acres are being irrigated. Given your knowledge that there are no water rights or approved WSB rentals covering the acres, irrigation of the acres constitutes an intentional illegal diversion of water pursuant to Idaho Code § 42-351.

You are hereby instructed to cease and desist any further irrigation of the acres listed in the pending applications until a WSB rental approval is issued. You are also instructed to limit your irrigation, after a WSB approval is issued, to the number of acres identified in the approval. Irrigation of acres beyond the total listed in the approval will also be considered an illegal diversion.

I have contacted the enforcement section of IDWR regarding the unauthorized use. After evaluating the evidence collected during the June 14th field exam and any other available information, IDWR will decide whether to pursue a civil enforcement action, which may result in civil penalties as much as \$300.00 per unauthorized irrigated acre. (Idaho Code § 42-1701B) You may contact me directly at (208) 525-7161 if you would like to discuss your irrigation practices for the 2012 irrigation season.

Sincerely,

James Cefalo
Water Resources Program Manager

Cc: Rob Whitney, IDWR Boise
WD120 Advisory Board