



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 29, 2013

TRAVIS L THOMPSON
BARKER ROSHOLT & SIMPSON LLP
195 RIVER VISTA PL SUITE 204
TWIN FALLS ID 83301-3029

Re: Six S Ranch LLC (Water Rights 45-7024 and 45-7031)/Idaho Code §42-233

Dear Mr. Thompson:

On April 15, 2013, you wrote to Director Spackman regarding the use of low-temperature geothermal water for irrigation use by Six S Ranch LLC ("Six S"). The Director has asked me to respond to your letter.

Six S owns water right nos. 45-7024 and 45-7033, authorizing a combined diversion rate of 14.52 cfs from three wells for irrigation use. One of those wells, identified as the Section 11 well, diverts water from a low-temperature geothermal resource. The water right file documents a historic diversion capacity of 10.03 cfs from the Section 11 well. In your letter, you said the Section 11 well currently diverts about 3.56 cfs and the total diversion capacity of the three wells is about 5.34 cfs. You also said that Six S has drilled 3 test wells to find additional water without success, and Six S has no choice but to drill into the low-temperature geothermal resource to ensure an adequate water supply. I understand from discussion with Department staff that Six S has recently drilled a fourth test well with some success in finding a cold-water supply that may alleviate the need to drill into the low-temperature geothermal resource.

In the event that Six S is unable to find an adequate cold-water supply, Six S seeks confirmation from the Department that Idaho Code §42-233 does not apply to a new transfer application filed to add a point of diversion from the low-temperature geothermal resource. Water right nos. 45-7024 and 45-7033 were perfected prior to the enactment of Idaho Code §42-233, which requires low-temperature geothermal resources to be used primarily for heat value. It is the Department's position that Six S may divert up to 10.03 cfs, the amount previously authorized and actually put to beneficial use prior to the enactment of Idaho Code §42-233, from the low-temperature geothermal resource without utilizing the water primarily for its heat value, either through deepening of an existing well or by drilling a new well. Note also that deepening an existing well or drilling a new well into the low-temperature geothermal resource requires bonding and compliance with low-temperature geothermal resource rules and regulations to ensure well construction standards are met to protect the resource.

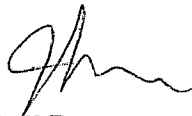
Any additional diversion of the low-temperature geothermal resource exceeding 10.03 cfs, not being utilized primarily for its heat value, would require an exemption by the Director if the requirements for exemption can be satisfied pursuant to Idaho Code §42-233. If an exemption under Idaho Code §42-233 is requested, the following criteria must be satisfied:

- 1) there is no feasible alternative use of the resource;
- 2) there is no economically viable source of water having a bottom hole temperature of eighty-five (85) degrees or less in a well available;
- 3) the exemption is in the public interest.

In your letter, you said that Six S meets the above criteria for an exemption and further explained regarding the first criteria that Six S has used the resource for over 30 years, is the only private landowner in the area, and it would not be feasible to use the water for other purposes due to the need to satisfy existing farming operations. The Department views the first criteria to be more expansive than consideration from the water right owner's perspective. Is there any viable alternative use of the resource by others, from the specific low-temperature geothermal aquifer in question? Regarding the third criteria, consideration of the public interest would include consideration of the impacts to the local agricultural economy as well as the interest of the public in protection of the resource for existing or future heating uses. These criteria would be evaluated at the time of request, if an exemption becomes necessary.

I hope this letter addresses your questions. Please feel free to contact me if you want to discuss further.

Sincerely,



Jeff Peppersack
Chief, Water Allocation Bureau

cc: IDWR Southern Region
Tim Luke, State Office, IDWR