



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

January 8, 2012

DANFORD L CRANE
3772 N 3600 E
KIMBERLY, ID 83341

RE: Non-Development of Transfer No. 73369, **Unauthorized Irrigation Use**; Right Nos. 45-2075, 45-2176, 45-2220, 45-2408, 45-10107, 45-14038, 45-14039, 45-14040, 45-14041, 45-14042, and 45-14043

Dear Mr. Crane:

The Department of Water Resources (IDWR) has become aware you have not developed the commercial and stockwater use at a new dairy facility as authorized under Transfer 73369, which was approved October 31, 2007. The dairy was to be located within the SESE of Section 6, T12S R20E. Transfer 73369, dried up 39 acres of irrigation under existing irrigation water rights to accomplish a change to commercial use described under new Right Nos. 45-14039, 45-14041, and 45-14043. In 2009 you requested and received an extension of time to October 31, 2012, to complete this change.

Your water rights have been redefined by the above transfer. Because the development period of the transfer has now expired, continued irrigation under the changed portions of the irrigation rights is an unauthorized use of water. Most of the transferred acres were located in NWSW Sec 6 and along the south edge of the N½ SE¼ in the same section. Review of recent aerial photography indicates these acres continue to be irrigated, and additional acres have also been developed on the southwest edge of the farm, within the N ½SW¼ Section 6. In 2010 a pivot was extended into SESE Section 6.

At this time, IDWR finds total irrigation on this farm at about 382 acres, 82 acres in excess of the 300.7 acres you are presently authorized to irrigate after the approved transfer under irrigation Right Nos. 45-14038, 45-14040, and 45-14042. **You are hereby ordered that irrigation of 82 unauthorized acres must cease and desist, and may not be resumed until valid irrigation water rights have been obtained for those acres. Your farm is within Water District 140 and this order will be enforced by the Watermaster of this District.**

The Watermaster of Water District 140 advises us that you still wish to develop the dairy, but are unsure when you will be able to do so. IDWR will not issue an additional extension of time to develop under the above transfer. If the dairy is not developed, the commercial rights could forfeit, or could revert to irrigation use. Another transfer would then have to be filed to build the dairy.

Your options to protect the commercial rights from forfeiture *and* bring your total irrigation use into compliance will likely require more than one step to complete. However, you may be more interested in

bringing your irrigation use into compliance first and then pursuing a commercial option. I've listed some options you might consider individually or in combination:

1. All indications are that *no* changes have been made pursuant to the approved transfer 73369; that is, the new well has not been drilled, irrigated acres have not been reduced, and no work has commenced on the dairy site. Upon your request, the approved transfer may be rescinded and all commercial use will revert to the prior 39 acres of irrigation, at the original place of use. If you desire to develop a dairy in the future, you would need to file for a transfer.
2. The commercial and stockwater rights (45-14039, 45-14041 and 45-14043) could possibly be leased to the Water Supply Bank, and then application may be made to rent those rights back for 39 acres irrigation. This action would protect the commercial/stock rights from forfeiture until the rights were withdrawn from the Bank.

NOTE: Whether leased to the Water Supply Bank, or reverted back to irrigation, the dairy rights 45-14039, 45-14041, and 45-14043 will only provide **39 acres** of irrigation, leaving a shortfall of **43 acres** within the 82-acre violation area. If you decide to pursue the Water Supply Bank option and want to continue irrigating the additional acres:

1. Portions of the irrigation rights (45-14038, 45-14040 and 45-14042) from pivot corners or other specific acres may be leased to the Water Supply Bank. This would require that the designated acres be dried up on the farm, but would allow the rights to be rented for use on other acres.
2. A Water Supply Bank rental application may be filed seeking to rent water from rights you have leased to the Water Supply Bank, and/or from other rights already in the Bank, to irrigate all or part of the 82 unauthorized acres.
3. A water right transfer may be filed which permanently modifies the place of the use of the remaining irrigation rights (45-14038, 45-14040 and 45-14042). The above rights are limited to 300.7 acres, so some acres would still be required to be dried up unless other rights were added to the system.

Please contact IDWR within 30 days to discuss the options described above and determine your choice of actions to bring your water use into compliance with your water rights. If no action is taken to address these issues, our Water Compliance Bureau will be informed of the unauthorized uses to pursue enforcement options.

Respectfully submitted,



Monica Van Bussum
Sr. Water Resource Agent

Cc: Brian Higgs, Watermaster WD140
Allen Merritt – IDWR Southern Regional Office
Tim Luke – IDWR Compliance Bureau