

COPY

September 13, 2011

GREG SULLIVAN
BROCKWAY ENGINEERING
2016 North Washington Street, SUITE 4
TWIN FALLS, ID 83301

RE: Application for Transfer 77431

Dear Greg:

For any application for transfer, the department must determine the validity of the water right(s), or part thereof, proposed to be transferred. This includes determining whether all or part of the right has been forfeited due to five or more consecutive years of non-use. According to Idaho Code 42-222 "all rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter...."

A review of 2006-2010 aerial photography and satellite imagery suggests that only 213.8 acres out of 229.0 acres appear to have been irrigated, leaving 15.2 acres that may have been forfeiture. Both the lands where the water rights existed at the time of their decrees and the lands described as the new place of use under the transfer application were reviewed and we have no clear evidence showing 229.0 acres being irrigated between 2006 and 2010. The proposed place of use appears to include areas heavily populated with trees and/or shrubbery which suggests the land may not be irrigable. Attached is a map illustrating the land that appears to have been irrigated.

Please provide evidence demonstrating that the 15.2 acres in question have been irrigated within the past 5 years. A list of acceptable documentation demonstrating water use can be found in the departments Transfer Processing Policies and Procedures memorandum #24. Please provide your evidence of water use within 30 days from the date of this letter. Failure to provide this information within the 30 days may result in the transfer application being approved for fewer acres. Feel free to contact this office if you have any questions.

Sincerely,

Blake Jordan
Sr. Water Resource Agent

CC: Notch Butte Farms LLC

Enclosures