



State of Idaho

DEPARTMENT OF WATER RESOURCES

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March 7, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

ERO RESOURCES CORP
C/O NORMAN YOUNG
3314 GRACE ST
BOISE ID 83703-5836

RE: Transfer #74253 for FirstFruits Foundation for Living Waters Ranch and Application for Permit

Dear Mr. Young:

The Department is reviewing application for transfer #74253 that proposes to create a permissible place of use of 20.2 acres and to mitigate the consumptive portions of rights 72-16624 and 72-16625. In addition, the Department is reviewing a related application for permit (copy enclosed) that was received by the Department on August 30, 2007 for 0.01 cfs from an unnamed spring for mitigation purposes. During a cursory review of the applications a few issues have become apparent that should be addressed before the Department can move forward with the processing of the applications.

Mitigation for Permit 72-16624 and License 72-16625

The issuance of permit 72-16624 and license 72-16625 authorized the mitigation as proposed in the transfer. Unless there is a need for mitigation above and beyond what is already authorized under those rights, the change in nature of use will not be addressed in this transfer. The transfer will be evaluated for the creation of a permissible place of use only, unless the Department is otherwise notified.

Land to be dried-up through Mitigation Plan for 72-16624

Water rights 72-106J, 72-109J, 72-4174C, and 72-10486C provide the mitigation for the permit discussed above. The total area that is dedicated for mitigation (the drying up 1.5 acres) is within the NENW of T13NR18E of Section 2. The attached map illustrates the area that has been designated for mitigation pursuant to a map that was submitted by your office labeled "Map to Accompany Transfer Application and Mitigation Plan". The entire area designated for mitigation uses should not be irrigated in order to stay in compliance with the conditions of approval of the permit. If the 1.5 acres have been re-located please submit a map that illustrates where the 1.5 acres have been dried up as required under the permit.

Transfer #74253

Possible Forfeiture

The authorized place of use for rights 72-106J, 72-109J, 72-10486C, 72-16730, 72-16732, 72-16734, 72-4174C, and 72-4174D partially covers an area at the ranch that do not appear to have been irrigated in the last five years.

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Transfer 74253 and Application for Permit

In addition, it appears that the entire authorized places of use under rights 72-106C and 72-106H have not been irrigated within the last five years. If you would like to change the current authorized place of use by drying up acres at one location and irrigating a different location you must explain how the acres have been irrigated at the current authorized place of use within the last five years or demonstrate how the above mentioned water rights haven't been partially forfeited. Please see the enclosed map that illustrates the possible forfeited area. Preliminary calculations indicate the possible forfeiture of 9.6 acres.

Permissible Place of Use

If you plan to shift the mitigated area than what was originally depicted in the transfer application, the permissible place of use for the irrigation rights will need to be shifted as well. Please submit an updated map so that Department can update our records and evaluate the transfer pursuant to the map.

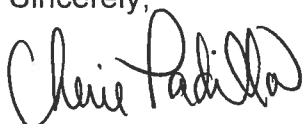
Application for Permit for Mitigation Purposes

The above mentioned application for permit has not been processed. The Department has evaluated your proposal and doesn't recognize the application as being sufficient to provide mitigation for the evaporative losses of the pond authorized by 72-16625 when the primary mitigated rights are out of priority. I have enclosed an evaluation memorandum by Department staff engineer Mat Weaver for your reference. Please let the Department know how you would like to move forward with the application. Keep in mind that the application will not be processed without further information that demonstrates that the spring(s) are not hydraulically connected with the groundwater or surface water of the Garden Creek drainage.

If you would like to move forward with the processing of the application for permit, the preference of the Department is not to issue new permits in which "mitigation" is the beneficial use since it is considered a non-use of water. Alternatively, I have enclosed a withdrawal of application for permit form for your use.

Thank you for your patience during this enduring process. Please respond to this notice within 30 days as I strive to bring these applications to a final resolution in a reasonable amount of time. If you need more time to prepare a response, please let me know so I can document the application file. You may contact me at (208) 287-4944 if you have any questions regarding this matter.

Sincerely,



Cherie Padilla, Sr. Water Resource Agent
Water Allocation Bureau

Enclosures

c FIRSTFRUIT FOUNDATION w/o encl.

Forfeiture Analysis for Xter 74253 Irrigated Place of Use for Living Water Ranch

