



STATE OF IDAHO
WATER DISTRICT 130
C/O IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE ST, STE 200
TWIN FALLS, ID 83301-3380
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IDWR INTERIM DIRECTOR
GARY SPACKMAN

WATERMASTER
CINDY YENTER
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December 29, 2010

ROTH INVESTMENTS LLC
PO BOX 634
JEROME ID 83338

RE: Enlargement of Use Concerns, Transfers 76184 and 76617

Dear David:

IDWR is reviewing the above transfers. Transfer 76184 proposes the conversion of irrigation acres from two different farms to commercial use at the Si-Allen Dairy. Transfer 76617 describes a reconfiguration of remainder irrigation acres on one of the farms, located in T09S R18E Section 4. As Watermaster of Water District 130, I have concerns with transfer 76184 (commercial use) and have recommended that this transfer not be approved as filed. Specifically, I believe that the split of water right no 36-7349 to commercial use, without any modification to the associated enlargement right no. 36-15222, would cause an enlargement of use under the balance of 36-7349, which will remain an irrigation right.

IDWR has determined in this situation that no enlargement of use will occur due to the disproportionate split of right no 36-7349, so long as the diversion rate which is assigned to the remainder irrigation rights is not exceeded. According to the transfer application, this diversion rate would be 2.63 cfs for irrigation on the above described farm. If transfer 76184 is approved as filed, you will need to identify the steps that will be taken to reduce or restrict the capacity of the irrigation system on this farm, to 2.63 cfs.

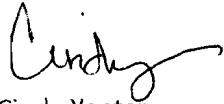
Water District 130 records indicate that discharges from the irrigation well in NWNWSW Section 4, T09S R18E, which will be used to irrigate the remainder acres under transfer 76617, were measured in 2008 at 2.9 cfs and in 2005 at slightly over 3.0 cfs. This is in excess of the 2.63 cfs on the transfer, and so the pumping plant would be required to be physically restricted or otherwise regulated to prevent enlargement under the present transfer scenario. This would mean that the well discharge would need to be valved down and locked at 2.63 cfs, or that the pumping plant would need to be reconfigured to a lesser discharge capacity.

An option to avoid this type of regulation would be to modify the transfer application 76184 so that it also includes a portion of right no. 36-15222. If the two rights are split proportionately and transferred together, the potential for enlargement of use is eliminated. Since enlargement rights offer no additional rate of flow, the total diversion rate to commercial use from the pair of rights would decrease slightly. However, total volume transferred would not be affected. If the transfer is amended to utilize this option, re-advertising will not be required.

My conversations with Greg Sullivan at Brockway Engineering indicate that there may be adequate diversion rate for the dairy under the existing and transferred rights, and that the additional volume procured through the transfer is more critical than the additional flow, even with an added well. I believe Mr. Sullivan is conducting a water rights and system analysis to see if this is true.

Please consult with Mr. Sullivan and ask him to advise IDWR how to proceed.

Regards,

A handwritten signature in black ink, appearing to read "Cindy", with a stylized flourish extending from the end.

Cindy Yenter
Watermaster
Water District 130

cc: Greg Sullivan, Brockway Engineering