



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 13, 2011

MIKE HENSLEE
C/O SALMON FALLS LAND & LIVESTOCK CO INC
95A BELL RAPIDS RD
HAGERMAN ID 83332

RE: Water Right Number 2-7249 and 2-7462 Salmon Falls Land & Livestock Co Inc,
Possible Future Forfeiture

Dear Mr. Henslee:

I have reviewed the map and land list sent by Brockway Engineering, dated March 23, 2010, intended to satisfy condition #9 on the approved IDWR transfer 76101. The map and list shows the "existing irrigation as 2038.0 acres" for 2010 using water rights 2-7249 and 2-7462. Transfer 76101 authorized irrigation of 2,432.0 acres, of which the March 23, 2010 map and land list does not include the entire acreage (394.0 acres of irrigation is not used).

In accordance with Idaho Code 42-222 (2). Change in point of diversion, place of use, period of use, or nature of use of water under established rights – Forfeiture and extension – Appeals. 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; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.

An example of forfeiture would be if the acreage was irrigated in 2009, then the acreage is not irrigated during 2010 – 2014. This time period of 2010 – 2014 would not be considered forfeited, but it would be considered forfeited if the acreage is not used at the beginning of the 2015 irrigation season.

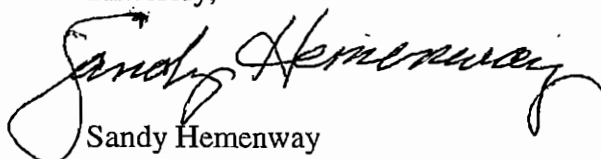
Besides resuming use, the most common actions to prevent forfeiture are obtaining an extension of time to avoid forfeiture, and leasing the water right to the Water Supply Bank. Based on the determination above, forfeiture would not occur if one of these actions were completed during the late fall or winter after the fifth season of nonuse.

T76101/2-7249 and 2-7462 Salmon Falls Land & Livestock Co Inc. (Possible future forfeiture)

Applying to lease a water right to the Water Supply Bank (WSB) is not protection against forfeiture. The water right must be accepted into the WSB to be protected from forfeiture, and there is no guarantee of acceptance. However, if a right is accepted into the WSB, the acceptance will be retroactive to the date the lease application was received by IDWR.

If you have any questions, please contact me directly at (208) 287-4920, or via my email: Sandy.Hemenway@idwr.idaho.gov

Sincerely,

A handwritten signature in black ink that reads "Sandy Hemenway". The signature is fluid and cursive, with the first name "Sandy" being more prominent and the last name "Hemenway" following in a similar style.

Sandy Hemenway
Sr. Water Rights Agent

Cc: Brockway Engineering