



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

February 26, 2009

V & L Dairy
ATTN: Frank Veenstra
2729A South 1600 East
Wendell, ID 83355

RE: App For Transfer 73740

Dear Mr. Veenstra:

This application was filed in 2002 to cover the existing water use at your dairy located about 7 miles west of Wendell. The application has been held without processing due to conflicts with the Snake River Basin Adjudication. Those issues have now been settled, and I am reviewing your application based on the SRBA decrees that were finally issued. Brockway Engineering originally filed the application for you, so I have been working with them to resolve some issues that make the application unacceptable in its current form. Chuck Brockway Jr. told me that he has tried to contact you without success, and suggested that I write to you directly.

There are several problems with your application. The water right that is proposed to be transferred no longer exists. Right 36-2352 was split in the SRBA, with your portion now numbered as 36-16637. However, this right is not appurtenant to the land that you are proposing to dry up to provide water for the dairy. Right 36-7274 covers some of the land to be dried up, and is owned by you. Rights 36-16507 & 36-16509 also appear to cover some of the land being dried up, but are owned by Luis Bettencourt. This is canal country, so the question of supplemental groundwater usage always comes up; the recommendation for 36-2352 (before the split) even states that canal shares are also used on the property; if the rights proposed to be transferred are actually co-mingled with canal water, more land will have to be dried up than what was originally proposed. The file contains no ESPA model analysis, even though this is required under our current policy.

Please contact me by March 30 so that processing of your application can continue. If I do not hear from you by then, your application will be rejected; your dairy will then be operating without sufficient legal water rights. If you need more time, it can be granted for sufficient cause.

Regards,

James E. Stanton
Sr. Water Resource Agent