



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

January 21, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Triple J Dairy
C/O Flint Jacobson
1291 E 3900 N
Buhl, ID 83316

COPY

Dear Mr. Jacobson:

We have recently received a transfer application, #76258, submitted by Brockway Engineering on your behalf, which seeks to split irrigation water right 47-7600 and convert 0.05 cfs and 17.0 AF for use as stock and commercial use on your dairy facility.

Page 29 of our transfer memo addresses Changing Supplemental Right to Primary Water Right and states that a supplemental irrigation right is a stacked water right authorizing the diversion of water for irrigation from a secondary source to provide a full supply for crops when used in combination with a primary right. Right 47-7600 is a supplemental right which is used along with surface water rights, namely canal shares. According to Conditions of Approval on right 47-7600, the groundwater cannot be diverted if the surface water rights have been sold, transferred, leased or used on any other place of use. The application stated that the canal shares have been leased to other property for the past several years.

The transfer memo also states that an application proposing to change a supplemental right to a use as a primary right for irrigation or other use will be presumed to enlarge the supplemental right, unless the applicant can clearly demonstrate, using historic diversion records for the supplemental right, that there will be no enlargement. It goes on to state that when determining use under a supplemental right, the information must be over an appropriate representative time period of not less than five years but may require greater than five years. Insufficient data will be grounds to reject the application because the department will not be able to ascertain if the right will be enlarged. There was no information provided that showed the well had been pumped consistently and a quick search of power records available to our department showed the well had not been pumped at all in a number of years.

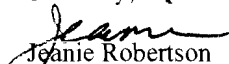
Lastly, right 47-7600 is for 0.67 cfs/327.0 AF on 301 acres, which equates to 0.002 cfs /1.08 Af per acre. The application seeks to dry-up only 6.2 acres and change 0.11 cfs and 36.0 Af to stock and commercial uses. How do you justify this rate and volume for only 6.2 acres?

The Department will hold processing of your application for 30 days to allow for the submittal of the information necessary to process transfer application # 76258. After that time, if adequate information is not received, the Department will initiate the issuance of an order rejecting transfer application # 76258, since the Department cannot ascertain that the change in water use proposed by transfer application # 76258 will not result in enlargement of right 47-7600.

As an alternative, you can withdraw pending transfer application, #76258 by submitting the enclosed form, completed with a notarized signature, to our office. Including a written request, will allow us to initiate a refund of the \$100.00 filing fee to Brockway Engineering (paid via Brockway Engineering check # 9114 per IDWR receipt # S031244).

If you have any questions, or if I can be of any further assistance, feel free to contact me at your convenience.

Sincerely, ,


Jeanie Robertson
Sr. Water Resource Agent

Enclosures

cc: Greg Sullivan – Brockway Engineering (w/o enclosures)
Del Kohtz – Idaho Water Company (w/o enclosures)