



State of Idaho

DEPARTMENT OF WATER RESOURCES

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August 28, 2009

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

JENNIFER TINKEY
CITY OF COEUR D' ALENE
710 E. MULLAN AVENUE
COEUR D' ALENE ID 83814

RE: Transfer Application 75824, City of Coeur d' Alene

Dear Ms. Tinkey,

Thank you for your quick response to my August 20, 2009, letter. I have spoken with Jim Markley of Coeur d' Alene's Water Department and received the information I requested in my August 20th letter. As you are aware, Transfer Application No. 75824 proposes to utilize all of Right No. 95-2164 anywhere within Coeur d' Alene's water system service area. There is a problem with this proposal in that Right No. 95-2164 cannot be placed within a generally described place of use represented by a digital boundary, unless it meets certain provisions. Idaho Code (IC) § 42-219(2) says:

(2) If such use is for irrigation, such license shall give a description, by legal subdivisions, of the land which is irrigated by such water, except that the general description of a place of use described in accordance with subsection (5) or (6) of this section may be described using a digital boundary, as defined in section 42-202B, Idaho Code. If the use is for municipal purposes, the license shall describe the service area and shall state the planning horizon for that portion of the right, if any, to be used for reasonably anticipated future needs.

As an irrigation use, Right No. 95-2164 does not qualify for a general description of the place of use because it is not an irrigation district and does not cover 25,000 acres (subsection 5) and is not surface water (subsection 6). There are two alternatives to meet your request that Right No. 95-2164 be incorporated within Coeur d' Alene's water system service area, described below:

- To maintain Right No. 95-2164 as irrigation use, the land to be irrigated must be described by legal subdivision.
- Alternatively, Right No. 95-2164 can be placed within a generally described place of use if the nature of use is changed to municipal use through the water right transfer process. When a change in nature of use is sought, the extent of historic beneficial use under the right(s) must not be enlarged. Therefore, the annual diversion volume for the new use would be limited to the historic consumptive use of the right.

Ms. Tinkey
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An amended transfer application will need to be submitted with either of the two alternatives. If you have any questions feel free to contact me by phone at (208) 287-4949 or by email at nick.vandyke@idwr.idaho.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Van Dyke". The signature is fluid and cursive, with a prominent initial "N" and a long, sweeping underline.

Nicholas Van Dyke
Water Resource Agent, Sr.