



State of Idaho

DEPARTMENT OF WATER RESOURCES

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November 24, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

EUGENE AND HEIDI MATTHEWS
1249 S HWY 27
OAKLEY ID 83346

ROBERT L BEDKE
1872 S 50 E
OAKLEY ID 83346

RE: Water Right Ownership Clarification Sought for Pending Water Right Transfers 66132 and 66133

Dear Water Right Holders:

In 2001, the Department of Water Resources (IDWR) received the above applications for transfer from Anderson Farms, proposing to consolidate a number of water rights diverting from Spring Creek, Mill Creek, Bedke Spring and ground water, onto a common farm. Because of review of the rights related to the Snake River Basin Adjudication, the applications for transfer were not approved at that time. A few years later, Eugene and Heidi Matthews purchased the lands from Trent Anderson, and the applications for transfer were assigned to them.

Presently, IDWR is again reviewing the applications for transfer, and have identified an ownership issue which should be clarified before final transfer approval.

In 1994, H & E Inc, the original owners of the subject water rights, conveyed 10 acres of land within SWNW Section 28, T13S R23E, to Robert L and Carol L Bedke, prior to the sale of the remainder of the property to Mr. Anderson. The lands were conveyed "together with all water and water rights...". Unfortunately, when water right ownership was changed to Mr. Anderson's name, the 10 acres sold to Bedke was never clearly identified, and the appurtenant water rights were not split to reflect the separate ownership. Consequently, the Bedke portion of the appurtenant rights appears to have been included in the Anderson transfer, presently being pursued by the Matthews. If the transfers were to be approved as proposed, all water rights would be moved from the Bedke property to the Matthews ranch.

Even though the owner of record of the rights was not properly changed, IDWR feels that documents contained in the water right files provide evidence that certain rights are still appurtenant to the Bedke property. Mr. Matthews also indicated to IDWR staff during a field visit on October 23, 2008, that Mr. Bedke continues to irrigate his 10 acres with Bedke Spring water. Consequently, the transfer will not be approved as proposed. The total water right acres moving to the Matthews ranch will be reduced by 10, in order that 10 acres may remain with Bedke.

The water rights which appear appurtenant in part to the Bedke property are 45-534 from Bedke Spring, 45-586, 45-587 and 45-588 from Mill and Spring Creeks, and 45-2406 from ground water. Mr. Matthews indicates that Mr. Bedke irrigates only with Bedke Spring water, using a separate pipeline from the new spring line. This is not consistent with the recommended rights, which still imply that Bedke is receiving commingled water. Re-allocation of the rights could occur as a part of the transfer approval process if IDWR receives adequate clarification and documentation from the right holders.

If Matthews and Bedke agree that Bedke will retain and use only Bedke Spring water for irrigation, then the parties must sign quitclaim deeds which convey an agreed portion of the Bedke Spring right no. 45-534 solely to Bedke, and the balance of the water right portions to Matthews. The balance of the other water rights would be consolidated on Matthews lands.

If no quitclaim deeds are executed, or if the water right holders do not otherwise respond, then water right nos. 45-534, 45-586, 45-587, 45-588 and 45-2406 will each be split, with a proportionate 10-acre share of each right remaining on the Bedke property.

Please respond within 30 days. After that time if no response is received, the transfers will be modified and forwarded for approval. Please contact Jean Robertson or Cindy Yenter at 208-736-3033 for more information.

Regards,

A handwritten signature in black ink, appearing to read "Allen Merritt", written in a cursive style.

Allen Merritt
Southern Region Manager