



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

July 14, 2009

Dale and/or Jackie Van Es
c/o SPF Water Engineering, LLC
Attn: Lori Graves
300 E Mallard Dr. Ste 350
Boise, ID 83706

COPY

Re: Application for Transfer No. 74776

Dear Lori:

This office received your application for transfer to change a water right referenced above. Upon review of the application, there are areas of the application that require clarification and/or completion. Please submit the amended application and additional information to allow for further processing of the application.

Please submit an amended application with additional documentation to address the following:

- The application appears to propose an ownership change of water rights 57-2254, 2-10238, 2-10240, and 2-10242. A warranty deed or other appropriate documentation demonstrating current ownership of the rights and/or land the rights are appurtenant to must be submitted.
- The application proposes creation of a permissible place of use (PP/U) for all rights proposed for transfer. The applicant must provide ownership documentation demonstrating the applicant owns the PP/U property or has an agreement with existing land owner(s) authorizing use of the water right(s) on the property not owned by the applicant.
- The season of use listed on the application for rights 2-10242 and 2-10243 appears to be incorrect per current right records. The current season of use for these rights is 3/1 to 11/15 with a condition allowing additional use of the rights outside the authorized season under certain circumstances. If you do not intend to change the season of use to 3/15 to 11/15 as the application states, the application should be corrected. (Part 1 B no. 1)
- The source and tributary of right 57-2254 should be included in the description of the right(s) after the requested change portion of the application (Part 1 B no. 3).
- The PP/U described in Part 1 B no. 5 does not match the map provided. The map indicates the PP/U is to include 31 acres in the NW SW Sec 16, T2N, R4W not 31 acres

in the NE SW Sec 16, T2N, R4W. Either the map or the PP/U description needs to be corrected.

Please submit additional information to address the following:

- Information demonstrating the maximum extent of beneficial use and/or acceptable defenses to forfeiture of the water rights proposed for transfer within the last five years (2004 irrigation season thru 2008 irrigation season). 2004 and 2006 aerial photography indicates less irrigation has occurred than authorized for the rights particularly with regards to irrigation in the SW Sec 28, T2N, R4W and in the NW NE Sec 20, T2N, R4W.
- Information demonstrating the number of unique acres irrigated under the water rights. The PP/U of junior surface water irrigation rights 2-10238, 2-10240, and 2-10242 significantly overlaps the place of use (P/U) of senior ground water right 57-2254, which is considered a primary irrigation right to date. It appears a minimum of 62.3 acres of the surface and ground water rights P/Us overlap indicating all of the acres proposed as unique acres on the transfer application can not be uniquely irrigated with only one of the sources (without forfeiture of rights occurring). The total number of acres authorized for irrigation within the proposed PP/U must be amended once this information has been determined.

Additionally, a portion of the proposed PP/U includes land within the Gem Irrigation District service area. The application indicates 55 shares of Gem Irrigation District water will be used within the proposed PP/U. Unless Gem Irrigation District amends its current service area, water diverted under Gem Irrigation District water rights can not be applied outside the Gem Irrigation District service area, nor can it be mixed with other surface or ground water to be applied outside of the Gem Irrigation District service area.

Please submit an amended application along with the additional information requested to allow for further processing of this application. Your response, or a request for more time to make your response, must be received within 60 days from the date of this mailing. The application will be rejected without a timely written reply.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,



Angela M. Grimm
Water Resource Agent, Sr.