



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

December 11, 2007

John Shaw
823 S 2700 E
Hagerman, ID 83332

RE: App For Transfer 73742, Hagerman Wings Farm LLC

Dear Mr. Shaw;

Based on my review of your transfer to date, I have reached the following conclusions:

1. Your idea of simply replacing Billingsley Creek water with Snake River water when some of the creek water becomes unavailable due to a priority cutback would constitute an illegal expansion. The transfer as filed cannot be approved. We MAY be able to approve your transfer if Right 36-98 is added to the application.
2. If Rights 36-98 and 36-15467 are fully delivered into the Sands Ditch, only 0.60 cfs (270 gpm) can be pumped from the Snake River to irrigate 30 acres of your property under Right 2-10338. In order to increase the diversion rate of the Snake River pump to 1.11 cfs (500 gpm), the delivery of water into the Sands Ditch will have to be reduced by 2.81 cfs (140.5 inches). The reduction involves some of the excess flow that was decreed for conveyance losses through the Sands Ditch, but which will not be needed if the water is pumped directly to the property through a pipeline. At least 0.51 cfs of Billingsley Creek water will have to enter the Snake River for this process to work.
3. You cannot irrigate more than 91 acres under your Billingsley Creek rights. Your north and south pivots together cover about 84 acres, while your two north pivots and corner lines irrigate about 99 acres. Your south pivot covers about 36 acres. In order to irrigate 121 acres, you need to actually divert water from the Snake River under Right 2-10338.
4. Our 2006 aerial photo of your property shows about 136 acres being irrigated with your 3 pivots, 5 big guns on the north end of the farm, and various sprinklers on some landscaping near the SW corner of your middle pivot.
5. When all 3 of your water rights are being used, you are illegally irrigating about 15 acres under your present system. When the Snake River right is not being used, you are illegally irrigating about 45 acres. To be fully in compliance, you would have to stop using one of your 5-tower pivots any time you are not pumping Snake River water.
6. Illegal irrigation is subject to a potential fine of up to \$300 per acre per year under Sec. 42-351 and 42-1701B of the Idaho Code.
7. There is no aesthetic component to any of your water rights. You are not entitled to extra water just to have a waterfall on your property.
8. The above comments do not cover your use of water from the Big Bend Ditch, which is not the subject of this transfer.

9. Although not related directly to your pending transfer, I have noticed that you have created wildlife ponds in tracts not covered by your two wildlife water rights (36-7081 and 36-7229). Due to the additional seepage and evaporation losses occurring in the additional ponds, you have developed a new consumptive use that cannot be covered by simply adding the additional tracts to your existing water rights. A new water right is required in order for you to legally use these ponds, and such a right can only be granted if you provide sufficient water to mitigate for the additional consumption.
10. The Hagerman Duck Club has no right to use your wastewater for their wildlife ponds. They will also have to obtain a water right for their additional consumptive use, along with sufficient water for mitigation. Until they obtain such a right, your wastewater will need to be discharged into the Snake River by the shortest feasible route.

Regards,

James E. Stanton
Sr. Water Resource Agent