



State of Idaho

## DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

February 15, 2006

City of Jerome  
ATTN: Travis Thompson  
152 East Ave A  
Jerome, ID 83338

RE: App For Transfer Filed 11-2-2005

Dear Mr. Thompson;

This letter is being written per your request regarding Water Right 36-2526, which is the basis for your proposed transfer. Transfer 66910 converted a portion of the original irrigation right to commercial use on the ABC Agra property, and was approved on 5-29-2001; there was no deadline for the change to be completed. On 1-7-2002, this right was decreed in the Snake River Basin Adjudication. Sec. 42-222(2) of the Idaho Code states that water rights shall be lost and forfeited by a failure to apply it to the designated beneficial use for five year, subjected to the exceptions or defenses to forfeiture as described in Sec. 42-223 I. C.

IDWR has taken the position that the forfeiture clock starts once the SRBA decree is issued, as a previous SRBA judge determined that forfeiture is stayed as long as there is an active water claim on file. Since this right was decreed on 1-7-2002, it appears that forfeiture will not be a concern until January 7 of next year. The transfer will be reviewed and advertised long before then, so I would not expect this to be an issue in the review process. I suppose a protest and possible long delay could cause this to be an issue. There could be some wiggle room on the forfeiture date, as we do not normally declare a right to be forfeited for non-use if the non-use is due to a pending action before the Department.

It is impossible to determine when the review of your application will begin, but I will get to it as soon as possible. There are a number of applications ahead of yours also waiting for review.

Regards,

James E. Stanton  
Sr. Water Resource Agent