



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 15, 2004

MICHAEL SIRUCEK
1000 E 472A S
JEROME ID 83338

RE: Water Right License 36-8569

Dear Mr. Sirucek:

The Department of Water Resources (IDWR) has received your letter inquiring about the possibility of changing Water Rights 36-4193 and 36-8569 to authorize the irrigation of 110 acres. The Snake River Basin Adjudication (SRBA) court decreed Water Right 36-4193 in 1997. A change to the decree would have to be pursued with the SRBA court in Twin Falls. Water right 36-8569 was licensed by IDWR in 1995, and any corrections would have to be made by IDWR.

Idaho Code § 42-219 requires IDWR to ensure that water right licenses do not authorize more water use than was established during the development period for the permit. The development period for Permit 36-8569 ended on January 13, 1994, when you submitted your proof of beneficial use statement. In 1994 an IDWR field inspector verified the beneficial use of water established in connection with your permit, and IDWR issued the license for Water Right 36-8569 in accordance with the recommendations of the field examiner. For IDWR to consider a correction to your license, you must show that IDWR made a substantial factual error when quantifying the beneficial use of water established in connection with the permit. Your documentation must show that you made additional beneficial use of ground water over and above the amounts authorized by Right 36-4193 and the existing version of Right 36-8569 by the end of the 1993 irrigation season.

The documentation submitted with your letter has been reviewed to determine if an error was made on the license. The estimate and sales agreement you submitted to show the purchase date of the pivot was signed on October 15, 1993, leaving little time before the end of the 1993 irrigation season for beneficial use to have been established. The statement from Don Ford indicates that the pivot system was "operational" in the fall of 1993, but it does not state that the pivot system was actually used in the fall of 1993. Moreover, the report of IDWR's field examiner says, "The pump, pivot, motor and system are new and installation had just been completed at the time of the exam. It was being tested at the time of the exam." The exam was done in March of 1994. Finally, because the aerial photograph that you submitted is from the 1994 irrigation season, it does not establish that the larger pivot was in use during the 1993

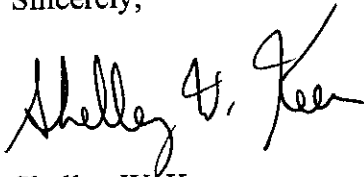
Mike Sirucek
October 15, 2004
Page 2

irrigation season. Because of these discrepancies, additional information will be necessary to show that the license should be corrected.

IDWR will review any additional documentation you submit in connection with your license. It may also be to your advantage to explore other options that could be available to you. Since the Eastern Snake River Plain moratorium went into effect in 1992, there has been little opportunity to establish a new ground water right for irrigation purposes in your area, and most of the "new" ground water development in recent years has resulted from water right transfers changing the authorized place of use for pre-existing water rights. I noted that you are pursuing a late SRBA claim for wastewater to irrigate the land covered by your pivot. It also appears that North Side Canal Company delivers surface water to your area. If you have not already done so, you may want to contact North Side to determine if you can obtain water from them to cover the full operation of your pivot.

If you have any questions, please call me at 208-287-4947, or email me at shelley.keen@idwr.idaho.gov.

Sincerely,



Shelley W. Keen
Water Rights Supervisor