



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 23, 1999

Don Rigby
1226 Rigby Rd
Bancroft, ID 83217

Re: Water Rights 29-07636, 29-07637, 29-07001

Dear Mr. Rigby:

On April 9 of this year I made a water level measurement of the abandoned Pond well in the Ivins area southeast of Bancroft. The water level at this site was 70.1 feet below the land surface. While visiting this site, I noticed that you installed a new pivot in the adjacent field, which is just east of the Pond wells. It appeared that this particular field has increased in both the size and the number of irrigable acres. This field is located in the SE quarter of Section 16, T8S, R40E.

I corresponded with you and your attorney, Bruce Larson, on several occasions in 1996 regarding certain discrepancies between your water rights and your actual irrigation practices. I also met with you and Mr. Larson at Mr. Larson's office in Soda Springs. We reviewed and compared water rights points of diversions and places of use with the actual field points of diversions and places of use. During our meeting and through correspondence, I advised you that you would need to amend permits 29-07636 and 29-07637, and file a water right transfer on license 29-07001. You were advised that these amendments and the transfer would need to address changes in both the points of diversion and place of use. You were also advised of concerns that ground water is potentially being used on more land than described under your ground water rights.

Upon further review of the above water rights, I notice that amendments were filed and approved in 1997 for permits 29-07636 and 29-07637. These amendments only sought changes for points of diversion. The water right place of use discrepancies that we discussed in 1996 were not addressed by the amendments. Additionally, a water right transfer was never filed for license 29-07001. Based on my field inspection earlier this month, it appears that the ground water place of use and ground water irrigation infrastructure is much the same as in 1996, except for the possible expansion in Section 16, T8S, R40E.

As part of the water measurement and reporting process in the Bancroft-Lund Water District, the department received a report from Mr. Larson dated December 15, 1998 that summarizes crops grown and the number of acres irrigated under your ground water rights in the Ivins area. The total number of irrigated acres in the Ivins area described in this report is 1,980 acres. The total number of acres authorized by your ground water rights in this same area is only 1,372 acres.

Moreover, it appears you may be expanding your acres in Section 16, T8S, R40E.

The purpose of this letter is to notify you that you may be irrigating lands without proper authorization or valid ground water rights. You are further notified that you may still need to make certain water rights amendments and/or water right transfers in order to properly match your water rights with your actual irrigation practices. You may also need to limit the amount of land to which your ground water rights are appurtenant.

If you believe my understanding of this matter is incorrect or I have overlooked something, please contact me immediately. If you agree with my assessment of this matter, then you must contact this office by May 10 and advise the department as to what actions you will take to bring your diversions and water use in compliance with your water rights. Failure to timely respond to this inquiry may result in the department taking certain enforcement actions this irrigation season, including the issuance of a notice of violation and cease and desist order.

If you have specific questions regarding this matter, please contact me directly at 208-327-7864.

Sincerely,



Tim Luke
Manager, Water Distribution Section

Cc: Bruce Larson, Attorney
Harold Jones, Eastern Region
Terry Rindlisbaker

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