



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Ray Jackson
2448 N. 700 E.
Castleford, ID
83321

April 18, 1994

RE: Letter to Jack Eastman Dated 4-11-1994

Dear Mr. Jackson;

There seems to be some confusion concerning the above-referenced letter, which was written at your request in an effort to obtain water for your stock pond. The Watermaster tells me that the only water that was ever available to fill this pond has been wastewater from upstream irrigators. Irrigation runoff (wastewater) is often referred to an "unnamed stream" on water licenses; your License 47-02452 lists the water source as "unnamed stream". Wastewater rights are only as good as the water supply, in that water cannot be demanded to fill such rights. No water is available unless upstream irrigators are allowing their excess water to leave their property. If these irrigators switch to more-efficient irrigation systems that do not produce any wastewater, the holder of a downstream wastewater right is out of luck.

The reason that your license shows diversion to storage and stockwater storage as water uses is due to the pond that collects the wastewater. If water is held in a pond for more than one day, the use is considered to be storage rather than direct flow (stockwater). If the water was coming from Cedar Creek Reservoir, this would show up in the source listing rather than in the water use listing.

Our records show no right for the use of Cedar Creek water to fill this pond. If you wish to use some of your Cedar Creek Reservoir stored water to fill this pond, the Canal Company should file an application for transfer on Water Right 47-00042A to add the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 1 T. 12S R. 13E as a place of use for stockwater. As long as the water going to the pond is part of your normal allotment from the Reservoir, this would not be considered to be an expansion of your existing right. Any ditch losses required to move your water the additional distance to the pond would be borne by you, not by the Canal Company. Upon approval of the transfer, the Watermaster would be directed to deliver Reservoir water to your pond up to the limits of your allotment and upon your request.

Please disregard my previous letter on this matter, as it was based on incomplete information. I have done little work in the Roseworth tract in the past, so am just starting to understand how things work in your area.

Sincerely,

James E. Stanton
Sr. Water Resource Agent

cc: Jack Eastman