



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

November 29, 2021

C M LLC
CHAPMAN RANCH
737 N 7TH ST
BOISE IDAHO

RE: WITHDRAWAL OF APPLICATIONS TO LEASE WATER RIGHT NO(S). 63-5109, 63-5373 & 63-2472 TO AND FROM THE WATER SUPPLY BANK

Dear Applicant:

Per your request received on November 26, 2021, the Department of Water Resources ("Department") acknowledges your request to withdraw your Lease Applications for the rights listed above. Department resources were expended to provide a full review of the applications. Therefore, the lease application fee will not be refunded.

If you have any questions, please contact the Water Supply Bank at (208) 287-4800.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure: Lease Application(s)

WITHDRAWN

STATE OF IDAHO
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

RECEIVED
SEP 10 2021
DEPARTMENT OF
WATER RESOURCES

Designated Applicant C-M LLC
(Select one owner – see item 1A on the application)

Water Right No. 63-5109
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package? Yes ☒ No ☐

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☒ | ☐ | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☒ | ☐ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☐ | ☒ | Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>Ku</u>	Date Received: <u>9-10-21</u>	Receipt # <u>C110882</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>C-M LLC</u>	

2144

ST. THOMAS
WATER RESOURCES BOARD

WITHDRAWN

APPLICATION TO SELL OR LEASE A WATER RIGHT (Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant C-M LLC

Mailing Address 737 N 7th Street, Boise, ID 83702

Street

City

State

Zip Code

Email Address heather-marcus@hotmail.com

Phone Number 208-342-3563

- ☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

- ☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Barry Marcus

Organization C-M LLC

Professional Title Attorney-in-Charge

Email Address 737 N. 7th Boise Id, 83702

Mailing Address 737 N. 7th Boise Id, 83702

Phone Number 208-342-3563

- ☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

- ☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

- ☒ The full water right is being offered to the Bank.

OR

- ☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

WITHDRAWN
STATE OF IDAHO
WATER RESOURCES BOARD
APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).
- B. Please provide a description of the current water diversion and delivery system.
Gravity diversion from Thorn Creek

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. Water Right 63-5373 partially shares a place of use with the subject water right.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. _____
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The water right was leased to the Water Supply Bank through December 31, 2017.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. _____
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe. _____

WITHDRAWN
STATE OF IDAHO
WATER RESOURCE BOARD
APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2021 to 2025 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

By C-M LLC
Barry Marcus
Signature of Designated Applicant
managing member
Barry Marcus
Signature of Authorized Representative

Barry Marcus
Printed Name

8/30/2021
Date

Barry Marcus
Printed Name

8/30/2021
Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

WITHDRAWN

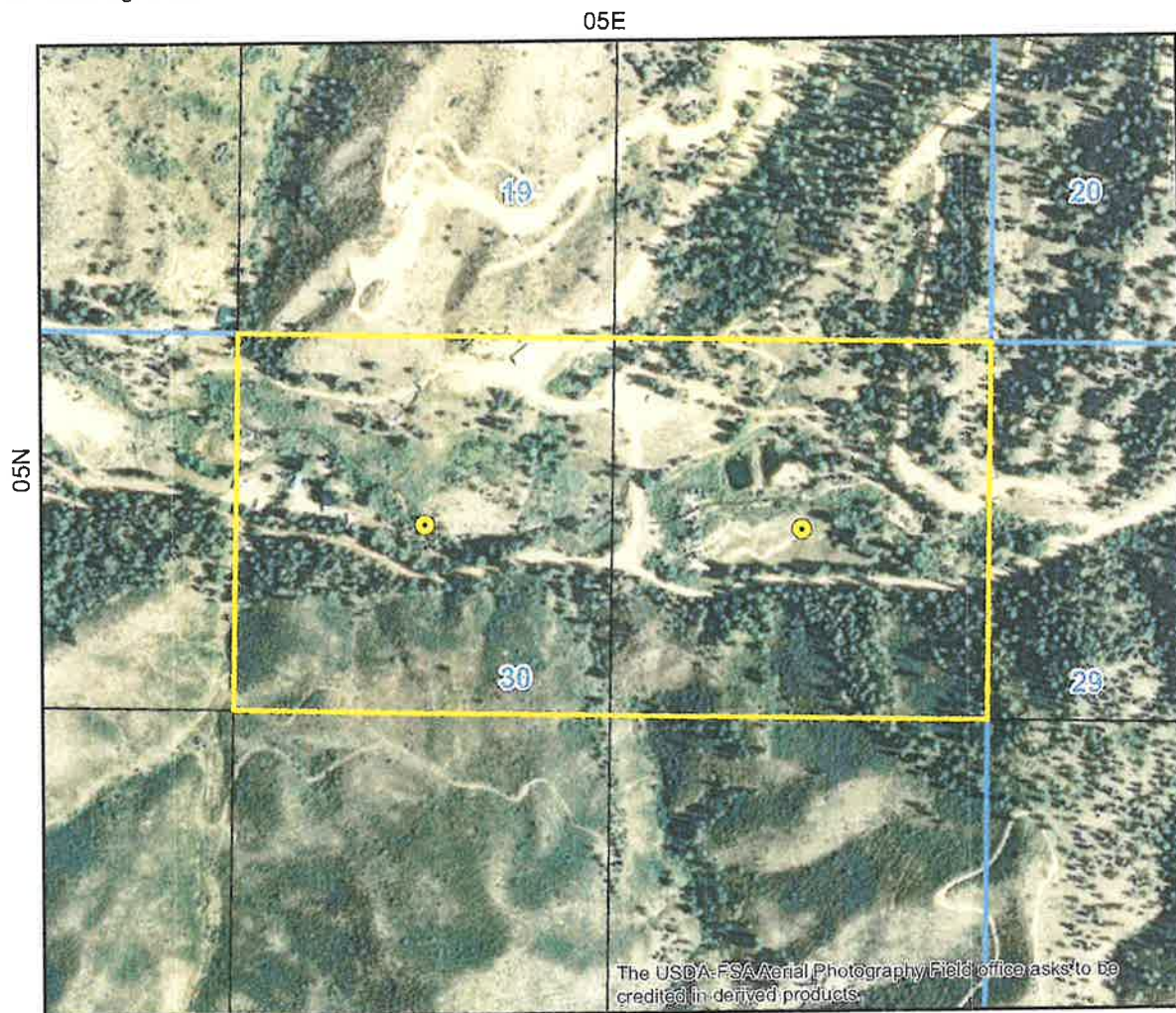
State of Idaho
Department of Water Resources

Water Right

63-5109

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.075 0.15 0.3 Miles



WITHDRAWN

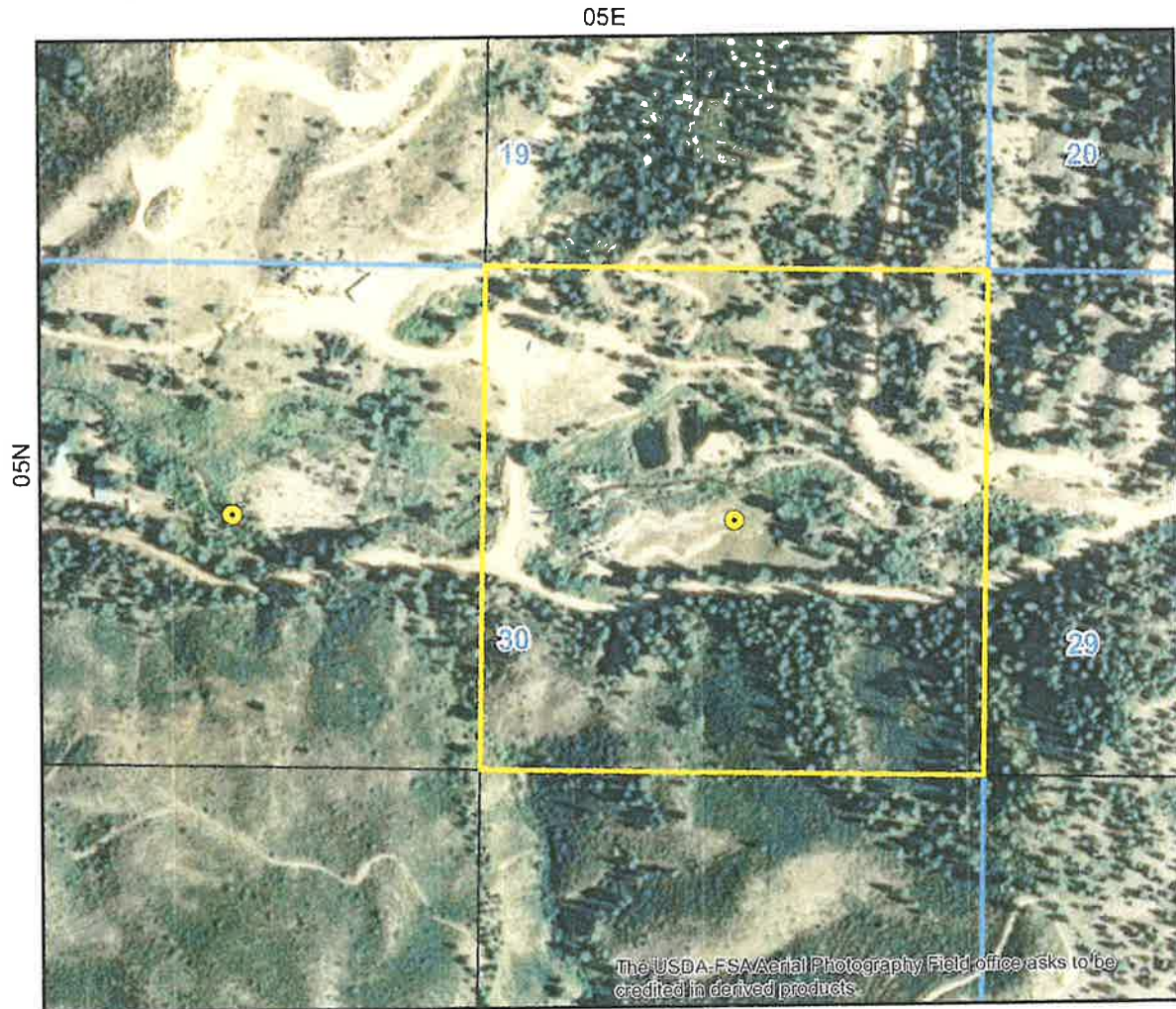
State of Idaho
Department of Water Resources

Water Right

63-5109

MINING

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.05 0.1 0.2 Miles



WITHDRAWN

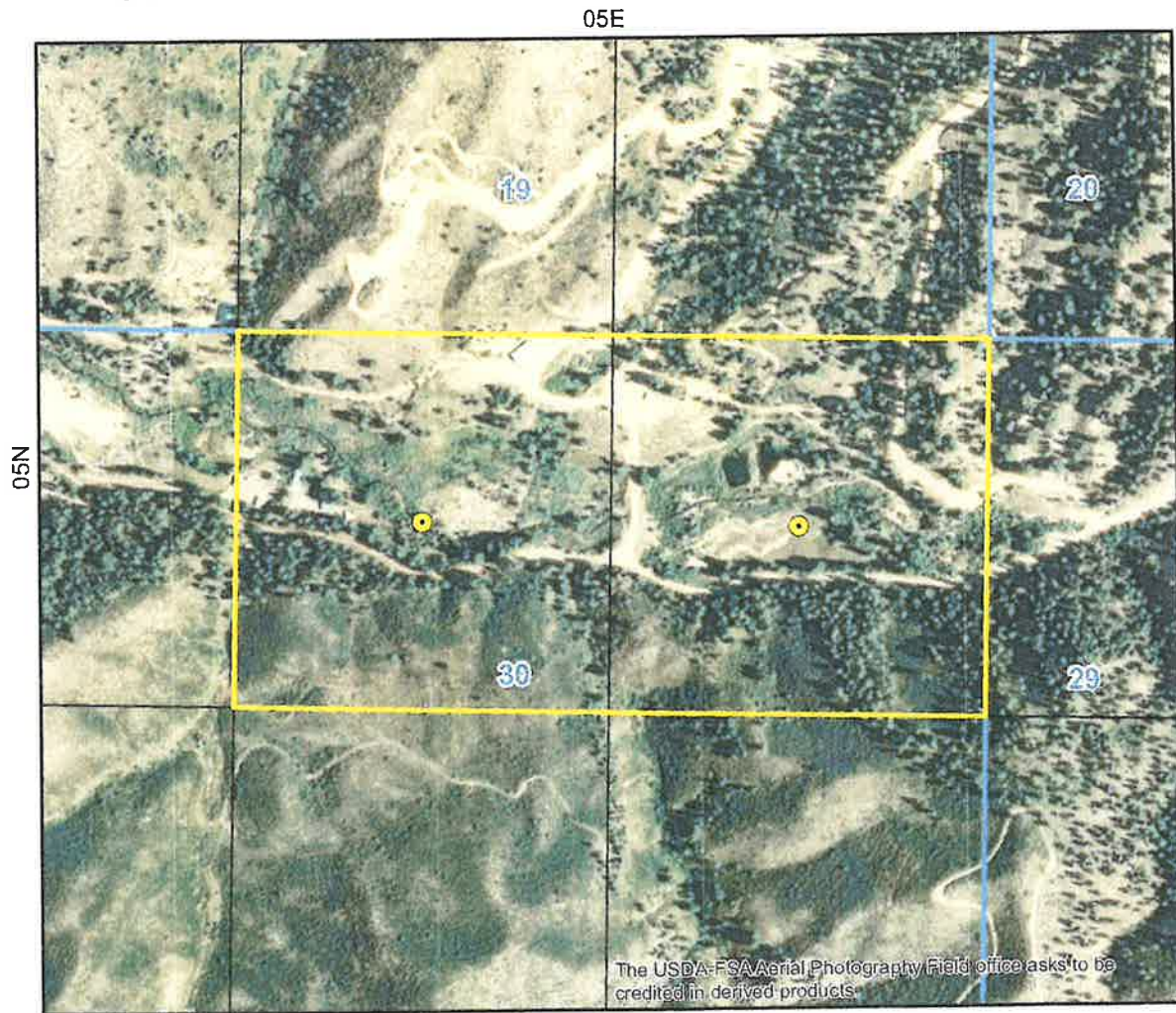
State of Idaho
Department of Water Resources

Water Right

63-5109

STOCKWATER

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles



Map produced on May 06, 2021



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 14, 2013

C-M LLC
737 N 7TH ST
BOISE ID 83702

**RE: WATER SUPPLY BANK LEASE TERM EXTENSION
WATER RIGHT NO(S). 63-5373 AND 63-5109**

Dear Lessor:

As requested in your letter, received by the Department of Water Resources ("Department") on January 14, 2013, water right no(s) 63-5373 and 63-5109 will remain in the Water Supply Bank ("Bank"). The right will automatically be released from the Bank on **December 31, 2017**, unless the right is released earlier or the lease is extended. To release the right from the Bank or extend the lease period, please submit a written request to the Department prior to the release date. Be aware your rights may not be available for immediate release if they have been rented.

If you have any questions, please contact this office.

Sincerely,

Christine Field
Water Supply Bank Support

Enclosure(s) Receipts C096424 & C096425

c: John Westra - IDWR Western Regional Office

Hersley, Jean

From: Heather Marcus <heather-marcus@hotmail.com>
Sent: Friday, November 26, 2021 4:00 PM
To: Hersley, Jean
Subject: Re: Water Supply Bank Applications for 63-5109 & 63-5373

We would like to withdraw the the Applications to lease water right(s) 63-5109 & 63-5373 to the Water Supply Bank submitted for C-M LLC. We would also like to withdraw the Applications to lease water right 63-2472 to the Water Supply Bank submitted for Chapman Ranch LLC.

Thank you for you assistance,
Barry Marcus
Managing Member

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Monday, October 25, 2021 9:23 AM
To: heather-marcus@hotmail.com <heather-marcus@hotmail.com>
Subject: Water Supply Bank Applications for 63-5109 & 63-5373

On September 10, 2021, the Department of Water Resources (Department) received application(s) to lease water right(s) 63-5109 & 63-5373 to the Water Supply Bank (Bank) submitted for C-M LLC. Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which is was appropriated."

A review of aerial photography between 2003 when the right was partially decreed in the Snake River Basin Adjudication and 2007 when the rights were placed in the Bank, then from 2017 to 2020 when the rights were not protected shows no evidence of irrigation on the acres proposed to be leased to the Bank. That is a total of 6 years of apparent non-use. The forfeiture toll period does not reset after the rights were placed in the Bank. It also appears that C-M, LLC, does not own any land where the water rights are appurtenant. Were the water rights withheld in the sale of the land?

Because of this evidence of more than five years of non-use, the requirements of Water Supply Bank Rule 25 cannot be met, and the attached lease application(s) may be **denied**. If you can provide additional information to show beneficial use has occurred, please submit the additional information within **30 days** and the Department will continue processing the applications. If you cannot provide the additional information, the Department will deny the applications. Department resources were expended to provide a full review of the applications. Therefore, the lease application filing fee will not be refunded.

If you have any questions regarding this matter, please contact the Department of (208) 287-4800. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*