



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

July 7, 2015

CLOUD BERRY LLC
6401 W FLOATING FEATHER RD
EAGLE ID 83616

RE: DENIAL OF APPLICATION(S) TO LEASE WATER RIGHT NO(S). 63-5093 and 63-5098 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of your application(s) to lease water right(s) to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right(s) 63-5093 and 63-5098 and the stockwater use of 63-31970 into the Bank. The irrigation portion of 63-31970 will be accepted into the Bank.

This letter is notice that the attached application(s) to lease water to the Bank are denied. The Bank rules provide criteria to be considered when determining whether to accept a water right into the Bank. One of the criteria for consideration is an issue of forfeiture. It doesn't appear these stockwater rights have been put to beneficial use in the last five (5) years.

Department resources were expended in order to provide a full review of your applications. Therefore, the lease application filing fees will not be refunded.

Lastly the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: SPF Water Engineering LLC

RECEIVED

DEC 16 2014

STATE OF IDAHO
DEPARTMENT OF
WATER RESOURCES
WATER RESOURCE BOARD

Receipt No. W0411637
 Fee Amount \$ 250.00
 Date/by 11/7/2013
 (For Department Use Only)

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

RECEIVED
NOV 07 2013

Name of Seller/Lessor Cloud Berry, LLC Phone 208-890-0451
 Mailing address PO Box 1359, Geldwell, ID 83606 Email 6401 W. FLOATING FEATHER RD., EAGLE ID 83616

WATER RESOURCES
WESTERN REGION**A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK**If the entire right is for sale or lease, check here ☐. list the water right number, and skip to Part B.

1. Water Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use
63-5093	0.11 cfs	Stockwater	1/1 to 12/31
			to
			to

Total Amount: 0.11 cfs2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	1W	11			NW	NE	Ada

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1W	11		S															

If the right is for irrigation, show total number of acres offered to the bank. Total Acres _____

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. 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 to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Well

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes
- ☐
- No
- ☒

If yes, describe.

D. REQUIRED ITEMS

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

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

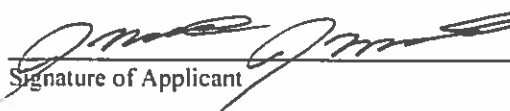
If lease, for a period from submittal date to 5 years (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. 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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.


Justin Martin mgr
 Printed Name and Title*

12-5-2014
 Date

Signature of Applicant

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/23/2013

WATER RIGHT NO. 63-5093

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLOUD BERRY LLC PO BOX 1359 CALDWELL, ID 83606 (208)890-0451
Representative	SHERI CHAPMAN 410 S ORCHARD STE 144 BOISE, ID 83705 (208)344-6690
Original Owner	QUARTER CIRCLE DJ RANCH CO PO BOX 279 EAGLE, ID 83616 (208)286-7131

Priority Date: 01/01/1962

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCK WATER	1/01	12/31	0.11 CFS	
Total Diversion			0.11 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWNE|Sec. 11|Township 04N|Range 01W|ADA County

Place(s) of use:

Place of Use Legal Description: STOCK WATER ADA County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	01W	11		NWNE										

Conditions of Approval

- | | | |
|---|-----|---|
| 1 | C18 | THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE. |
| 2 | N13 | THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY. |
| 3 | N11 | THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE. |
| 4 | | STOCKWATER, 500-700 RANGE CATTLE PARCEL NO. RP 50411110500 |

Dates:

Licensed Date:

Decreed Date: 12/30/1999

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)