

Skaggs, Pam

From: Skaggs, Pam
Sent: Tuesday, December 23, 2014 3:21 PM
To: 'debaker@bakerharrislaw.com'
Cc: Palmer, Cherie
Attachments: Water_Supply_Bank_Lease_Application.pdf

Dwight,

I spoke with Cherie Palmer regarding your request to release Right 35-8362 from the Water Supply Bank (Bank) on behalf of Alan Funk. The criteria is a little more stringent than in the past to release a right from the contracted lease period as noted in the comment below from the Idaho Water Resource Board Bank page on our website at http://idwr.idaho.gov/WaterManagement/WaterRights/WaterSupply/ws_default.htm.

Regarding water rights leased into the Water Supply Bank, water right holders under Lease Contract must demonstrate justifiable need for the early release of their water right in order for the associated Lease Contract to be eligible for early termination by the Water Supply Bank.

The Lease for Right 35-8362 is for **1.97 cfs, 151.5 acres & 606.0 af** under and expires 12-31-2017. Two rental contracts expiring 12-31-2015 obligate **0.93 cfs, 71.0 acres and 284.0 af** of the leased right.

A release form requesting immediate release of the right will not be sufficient since portions of the leased right are committed by rental through 2015.

I suggest two options for your consideration:

- A Request to Release the right on 12-31-2015 when the entire leased portion of the right could be available for release when current rental end. No irrigation in 2015 season on the 151.5 acres.

OR

- A new Lease Application to amend the existing lease and identify the location of the 71.0 leased acres associated with the remaining rentals. The application will be evaluated in turn with other lease applications and may not be approvable when reviewed if other rental commitments have been received.

If you choose to request the currently unfettered portion of Right 35-8362 be released through a new Lease Application a map must be included to identify a specific 71.0 acres within the authorized place of use of 35-8362. If the amended lease is approved with the reduced amount, these 71.0 acres cannot be irrigated until the end of the amended lease contract, but the 80.5 acres released would be available for the 2015 season. You can request a new lease end date of 12-31-2015 to match the rentals expiration date.

Timing is very important in Bank processing. The lease is a valid contract and the right may be rented before action is taken on either of these possible submissions. Interrupting a lease contract is disruptive to Bank process and action cannot be guaranteed in the right holders favor. The right holder should not proceed with any irrigation of the leased acres until notification is received from the Department to insure he is compliant with the existing lease contract.

I hope this information is useful. I have attached a copy of the Lease Application for your convenience since I already provided the Request to Release form. If you have any further questions, please call me or Cherie Palmer (287-4944) for clarification. Because of holiday schedules it might be a little more difficult to connect, but I believe one of us will be here through the next couple of weeks.

Pam

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