



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 • Web Site: www.idwr.idaho.gov

C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

August 21, 2012

IDAHO WATER CO LLC
1135 VALLEY RD S
EDEN ID 83325

RE: RELEASE OF LEASED WATER RIGHT NO. 35-14250 FROM THE WATER SUPPLY BANK; FORMERLY RIGHT NO. 35-14162

Dear Lessor:

This letter is notice that as of June 14, 2012, all of the above-mentioned water right is considered released from the Water Supply Bank.

Transfer 76986 was approved on June 14, 2012, which split Right No. 35-14162 into 35-14249 and 35-14250. A 20-acre portion of Right No. 35-14162 was assigned to Right No. 35-14249. All of 35-14162 had been leased to the Bank beginning in 2007 for an indefinite period. Correspondence with our Eastern Regional Office indicates the water right ownership should be in the name of Merlin Smith and this portion of the water right is being used.

Condition 3 of the lease acceptance says, "While a right is in the bank, the lessor may not use the right without approval of the department even if the right is not rented from the bank...."

Additionally, Transfer 76986 moved Right No. 35-14250 into what is commonly called a "stack" of water rights. A stack of water rights means the rights as a group are limited by diversion rate, acreage or diversion volume. Because of this, moving all or a portion of one water right without moving proportionate shares of the other water rights can create enlargement. The Water Supply Bank Rules (also known as IDAPA 37.02.03) specifically prohibit enlargement of water use through the Water Supply Bank.

Because of the ambiguity regarding water right ownership, use of leased water in violation of the lease agreement, and the potential for enlargement when renting 35-14250, we must release the water right as June 14, 2012, the date Transfer 76986 was approved. If you have questions, please contact me at (208) 287-4907.

Sincerely,

A handwritten signature in cursive script that reads "Monica Van Bussum".

Monica Van Bussum
Sr. Water Resource Agent

c: Blake Jordan – IDWR Eastern Regional Office
Merlin Smith Sr.; 833 S Stout; Blackfoot, ID 83221