



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

July 31, 2012

GREG SULLIVAN
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

RE: APPLICATIONS TO LEASE WATER RIGHT NO(S). 35-2072, 35-2306, 35-2543 35-4246, 35-7618, 35-7621, 35-7760, 35-7788A, 35-7788B, 35-8197, 35-8791, 35-14056 and 35-14058 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources has completed its review of the submitted applications to lease water rights to the Water Supply Bank. Based on that review, the Department cannot accept the above-mentioned water rights into the Bank. Since you are the consultant representing the potential lessors, as well as the consultant for the prospective renter, we are sending this letter to you and copying your clients. For convenience, I have separated the discussion of the rights by applicant.

Right No. 35-7788A (Bethke)

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. The criteria include assessing whether the right will be enlarged upon rental. The well(s) included on the water right have been pumped during this irrigation season and rental of this right in another area from another or other wells would result in enlargement. Therefore, the Department must **deny** this application. No lease application fees were received for this right, leaving a **balance of \$250**.

Right Nos. 35-2543 and 35-4246 (Aberdeen-Springfield Canal Co.)

Per telephone conversations with you, your client is **withdrawing** these applications for lease. These rights are still active in the Snake River Basin Adjudication (SRBA) and are still protected from forfeiture as a result. Also per a phone conversation with you, the \$500 in lease application fees received under Receipt C095253 will be applied to the Northern Agriculture II LLC lease application fees.

Right Nos. 35-7788B, 35-14056 and 35-14058 (Northern Agriculture II LLC)

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. The criteria include assessing whether the right will be enlarged upon rental. The well(s) included on the water rights have been pumped during this irrigation season and rental of these rights in another area from other wells would result in enlargement. Therefore, the Department must **deny** these applications. The Department has not received any of the \$750 in lease application fees, but will transfer the \$500 in lease fees received under Receipt C095253 to these applications, leaving a **balance of \$250**.

Right Nos. 35-7618 and 35-7621 (Funk)

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. The criteria include assessing whether the right will be enlarged upon rental. The well(s) included on the water rights have been pumped during this irrigation season and rental of these rights in another area from other wells would result in enlargement. Therefore, the Department must **deny** these applications.

Right Nos. 35-2072, 35-8197, 35-2306, 35-7760, and 35-8791 (MPH Farms)

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. The criteria include assessing whether the right will be enlarged upon rental. The well(s) included on the water rights have been pumped during this irrigation season and rental of these rights in another area from other wells would result in enlargement. Therefore, the Department must **deny** these applications.

As noted under the Bethke and Northern Agriculture II LLC portions of this letter, \$250 is due under each set of applications. **Please remit the total balance of \$500 to this office as soon as possible.**

Please note that a water right is not protected from forfeiture unless it 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 also consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right.

If you have any questions, please contact me at (208) 287-4907.

Sincerely,



Monica Van Bussum
Sr. Water Resource Agent

c: Lyle Swank – IDWR Eastern Regional Office
James Cefalo – Watermaster, Water District 120
David Bethke – 3149 Rast Rd; American Falls, ID 83211
Northern Agriculture II LLC – 301 E Main St; Turlock, CA 95380
Aberdeen-Springfield Canal Co. – PO Box 857; Aberdeen, ID 83210
Lisa Irigoyen Funk – 3853 Rast Rd; American Falls, ID 83211
MPH Farms – 2935 W 2050 S; Aberdeen, ID 83210