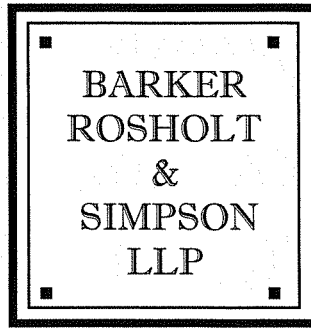


Albert P. Barker
John A. Rosholt
John K. Simpson
Travis L. Thompson
Shelley M. Davis
Paul L. Arrington
Scott A. Magnuson
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June 25, 2012

VIA EMAIL & U.S. MAIL

Gary Spackman
Interim Director, Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED

JUN 26 2012

DEPARTMENT OF
WATER RESOURCES

RE: Water Bank Application (Lance Funk)

Dear Director Spackman:

We represent several irrigation entities interested in the above-referenced matter.¹

On February 8, 2012, Lance and Lisa Funk ("Funk") filed five applications for permit with the Department (35-14240, 35-14241, 35-14242, 35-14243 and 35-14244). These Applications seek to appropriate up to 37.7 c.f.s. of groundwater for the irrigation of up to 1879.3 acres in Bingham County. There are currently no water rights appurtenant to the proposed place of use. On April 23, 2012, our clients and others filed protests to the Applications.

On or about April 24, 2012, Mr. Funk filed five rental applications with the Idaho Water Supply Bank. Apparently, the rental applications are intended to authorize irrigation of the up to 1879.3 acres until the protests to the Applications are resolved. It is our understanding that the rental applications are still being reviewed and processed by the Department. What is the status of the Department's review of the Funk water bank application? We intend to participate in this process and are concerned about injury to our clients' senior water rights that may be resulting from Mr. Funk's water use.

Even though there are no water rights appurtenant to the place of use, it has come to our attention that Mr. Funk has developed and is presently irrigating those acres this year. To our knowledge Mr. Funk has not received the necessary approvals to divert and use water on these lands.

¹ Our clients are A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, Twin Falls Canal Company and North Side Canal Company.

Director Spackman

June 25, 2012

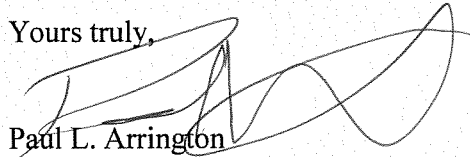
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As you are aware it is unlawful to divert water without "a valid water right to do so." I.C. § 42-201(2). Any diversion of water, therefore, to the place of use without a valid water right or authorization must not be permitted. Is the Department currently investigating the unauthorized use of water on the place of use? Will a Notice of Violation be issued?

The unauthorized use of water cannot be cured by approval of the rental applications. Indeed, each rental application, which was signed by Funk, expressly states that the "Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director."

Please advise as to the status of the Department's review of the rental application and any investigating of unauthorized diversions by Funk. We request a response as soon as possible.

Yours truly,

A handwritten signature in black ink, appearing to read "Paul L. Arrington", written over a horizontal line.

Paul L. Arrington

PLA/jn

cc: Nick Van Dyke
Lance and/or Lisa Funk, Partnership
Randall C. Budge
Dan Temple – A&B Irr. Dist.
Randy Bingham – Burley Irr. Dist.
Walt Mullins – Milner Irr. Dist.
Brian Olmstead – Twin Falls Canal Co.
Ted Diehl – North Side Canal Co.
W. Kent Fletcher