

MEMORANDUM

TO: Water Right File 63-7270B
FROM: Daniel A. Nelson
DATE: March 17, 2011
SUBJECT: The Snake River Dairies LLC Water Supply Bank Lease and Rental Applications

SUMMARY

Dylan B. Lawrence of Moffat Thomas Law Offices and Scott King of SPF Engineering filed an application to lease and rent to and from the Water Supply Bank (WSB) all of water right 63-7270B on behalf of Snake River Dairies LLC for a term of March 1, 2012 to December 31, 2016 for the lease and a rental of 5 years. Amended applications for the lease and rental were received on March 20, 2012. Water right 63-7270B allows 0.24 cfs and 75 af for stockwater use, 0.31 cfs and 95.5 af for commercial use, and 0.8 cfs and 382.4 af of water to irrigate 85 acres for a total of 1.39 cfs and 552.9 af. The rental requests 1.39 cfs and 629.9 af for the irrigation of 140 acres within a 164 acre permissible place of use.

This water right was subject to a water right transfer (transfer number 73927) on April 23, 2008 that changed the original decreed water right from 1.39 cfs and 629.9 af of water to irrigate 140 acres to 0.24 cfs and 75 af for stockwater use, 0.31 cfs and 95.5 af for commercial use, and 0.8 cfs and 382.4 af of water to irrigate 85 acres for a total of 1.39 cfs and 552.9 af. The stockwater and commercial uses described in this transfer were for a proposed dairy. The transfer required that the dairy be constructed within one year or the transfer would be rescinded. The aerial photos and the owner confirm that the dairy portion of this transfer has never been developed. In conversations with Idaho Department of Water Resources (Department) staff and administration, it has been determined that if the dairy portion of the water right was not developed and the irrigation use continued, then the water right could revert back to the original decree. Aerial photos and the owner confirm that the dairy was never constructed and there are no plans to construct the dairy portion of this water right in the future. The entire original irrigation portion of the water right has continued, so the diversion rate, volume, and acres irrigated can revert back to the original decreed amounts.

The transfer cannot be officially rescinded until it is confirmed that the proposed new irrigation well approved by the transfer was not developed. It is unclear at this time if the proposed new well described in the water right transfer was developed, so future investigation may be needed to determine if the transfer can be rescinded or if a transfer is required. The well search records do not show a well being drilled in this area after 1977. The current owner purchased this property in February of 2012, so he is still researching the history of the water development and possible future uses.

This WSB lease and rental can evaluate the right based on the continued historical irrigation use as described by the partial decree. The water right's authorized uses remain as described in water right transfer 73927 including dairy uses unless action is taken by the right holder to rescind the approval or file a transfer to modify uses.

There are no overlapping water rights. This water right was decreed in 2007, so forfeiture is not an issue. The owner requested a permissible place of use for this rental, which seems reasonable since he just purchased the property, and is not familiar with the land. The permissible place of use will allow him the opportunity to determine how best to farm the property.

AUTHORITY TO FILE

Jerry Tlucek signed the applications for lease and rental. Snake River Dairies LLC recently filed for a change of ownership with the Department including warranty deeds proving ownership showing Snake River Dairies LLC's ownership. Mr. Tlucek is listed in the Secretary of State's Business webpage as a member and registered Agent of Snake River Dairies LLC.

SUFFICIENCY OF SUPPLY

There is no evidence to suggest that the sufficiency of water supply would be an issue for this water bank lease.

INJURY

There is nothing to suggest that putting these water rights into the WSB bank would cause injury to other water users. The rental application only asks to allow the new owner the ability to move water around the property to determine the best farming and irrigation practices.

ENLARGEMENT

No enlargement is being proposed. Please see my discussion concerning water right transfer 73927.

BENEFICIAL USE

All uses comply with beneficial use requirements in Idaho.

LOCAL PUBLIC INTEREST

There is nothing to suggest that these are not in the local public interest.

WATER DISTRICT

There is no watermaster for ground water in this area.

RECOMMENDATION

I recommend that water right 63-7270B be leased to the WSB. I also recommend that 1.39 cfs, 629.9 af, and 140 acres from water right 637270B be rented from the WSB for use within a 164 acre permissible place of use. The recommended lease and rental term is from March 1, 2012 to December 31, 2016.

No. W 47607		Due no later than Feb 29, 2012 Annual Report Form		2. Registered Agent and Office (NOT A P.O. BOX) JERRY TLUCEK 15188 S CAN ADA RD MELBA ID 83641	
Return to: SECRETARY OF STATE 450 N 4th STREET PO BOX 83720 BOISE, ID 83720-0080		1. Mailing Address: Correct in this box if needed. SNAKE RIVER DAIRIES, L.L.C. JERRY TLUCEK 15188 S CAN ADA RD MELBA ID 83641		3. <u>New</u> Registered Agent Signature.	
NO FILING FEE IF RECEIVED BY DUE DATE					
4. Limited Liability Companies: Enter Names and Addresses of Managers OR Members. See Instructions.					
Manager of <u>Member</u> Name		Street or PO Address		City	State Country Postal Code
Manager Member (circle one) Jerry L. Tlucek Snake River Dairies LLC		15188 So. Can Ada Rd		Melba	ID Ada 83641
5. Organized Under the Laws of: IDAHO W 47607		6. Signature: <u>Jerry L. Tlucek</u> Name (type or print): <u>Jerry L. Tlucek (Registered Agent/Member)</u> Date: <u>2.25.12</u>			
Issued 02/22/2012 by SLD		106541			

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Block 1: Entity name may not be altered through the use of this form. Pay special attention to the mailing address. If the correct mailing address is not given in Block 1, strike it out and write in the correct address. **Note:** To ensure future mailings, the corrected address **must** be inside Block 1.

Block 2: To change the registered agent or office, strike the incorrect information and write in the correct information. **Note:** The office of the registered agent must be at a street address in Idaho; not a Post Office Box or Personal Mail Box.