



Agrium Conda Phosphate Operations*

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MAR 20 2012

DEPARTMENT OF
WATER RESOURCES

March 14, 2012
File No.: HSKY-MI-12-006

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Water Bank Application for Water Right # 27-7059, Justification for Period of Non-Use

To Whom It May Concern:

Nu-West Mining, Inc. is a wholly owned subsidiary of Nu-West Industries, Inc., which does business as Agrium Conda Phosphate Operations (CPO). As such, Agrium CPO is the current registered owner for Idaho Water Right No. 27-7059. This letter is an attachment to the application to lease this water right to the water supply bank, and details justification required in Part C.4. of the application. The following text justifies that the water right should not be forfeited due to non-use pursuant to Section 42-222(2), Idaho Code.

Section 42-222(2), Idaho Code states "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code".

In accordance with Idaho Code Section 42-223(11), this letter requests that water right #27-7059 not be forfeited due to non-use. The resource mined by Agrium CPO (phosphate) is defined as a valuable mineral in section 47-1205, Idaho Code, and Agrium CPO has maintained the property and mineral rights at the property where the water right was originally adjudicated for (Maybe Canyon Federal Phosphate Lease 1-04), as well as on an adjacent property (Husky 1 Federal Phosphate Lease I-05549) where the company plans to resume production.

The period of non-use of this water right is related to suspension of operations at the original site, due in part to mineral prices. Currently, Agrium CPO has submitted an updated Mine and Reclamation Plan to the Bureau of Land Management dated August 2011, which includes the resumed mining of ore reserves in the Maybe Canyon Federal Phosphate Lease which has now been determined to become economically feasible ore in today's market. Upon resuming production at the adjacent property, the use water right #27-7059 would be utilized in accordance with its prescribed beneficial use.

Please feel free to contact Katy McKinley at 208-547-4688 should you have any questions regarding this request.

Sincerely,

Jon Goode
Vice President, Nu-West Industries, Inc.