



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 14, 2012

JOHN M MARSHALL
JOHN MARSHALL LAW PLLC
575 W BANNOCK STE B
BOISE ID 83702

RE: APPLICATION TO LEASE WATER RIGHT NO. 63-123F TO THE WATER SUPPLY BANK

Dear Mr. Marshall:

On December 30, 2011, the Department received an application from you on behalf of your client to lease Right No. 63-123F to the Water Supply Bank. You and I spoke shortly after about a couple of questions I had. First, the application requires consent of the irrigation district if the irrigation district owns the point of diversion for the proposed lease. A letter accompanying the application said 63-123F is privately owned the canal company does not have any ownership in the right and that canal company consent would not be necessary to lease the right. However, since the point of diversion (POD) is owned by the Farmer's Union Canal Company, the Department will require consent from the canal company.

Second, the Department is concerned because of past proceedings for this right, about notifying past protestants of the lease and rental. It is my recollection that you were going to address the canal company authorization prior to addressing concerns over past protestants.

It is important, and required, the Department have the canal company's consent before attempting to move forward. Please submit the required information by March 1, 2012. If we do not have the information by that time, we will have to deny the lease application. Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Section 42-223, Idaho Code. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right. The form is available on our website. Please contact me at (208) 287-4907 if you have any questions.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

c: Lexington Hills Inc – 1815 E Stonybrook Ct; Eagle, ID 83616