



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 21, 2012

JERRY A KISER
ATTORNEY AT LAW
1703 HILL RD
BOISE, ID 83702

RE: Request for Notification for Water Right No. 63-123F

Dear Mr. Kiser:

The Department of Water Resources received a request from you to be notified in the event of any proposed change to water right 63-123F, currently in the name of Lexington Hill, Inc. The Department will include your letter in the file for water right 63-123F and will rely on this step to notify staff of your request. However the only way to guarantee notice is to complete a Notice of Security Interest pursuant to Idaho code 42-248(6). According to I.C., §42-248 (6):

"Any person having a security interest in a water right and desiring to be notified by the department regarding the filing of a change in ownership of that water right or of any proposed or final action to amend, transfer or otherwise modify that water right shall make a request upon a form provided by the department accompanied by a fee of twenty-five dollars (\$25.00) per right. The request shall be accompanied by evidence of the security interest including the expiration date of the security interest or other date defining the end of the period for which notification is requested. The request for notification shall expire at the end of the requested notification period unless renewed on a form provided by the department and accompanied by a renewal fee of twenty-five dollars (\$25.00) per right."

Enclosed you will find a Notice of Security Interest in a Water Right form in the event you wish to file a Notice of Security Interest on this water right. A security interest in a water right can be acquired through a mortgage, deed of trust, contract or other agreement where the property (i.e. the water right or land with associated water right) is used to secure payment of an obligation, such as a loan. Evidence of a security interest would be the mortgage, deed of trust, etc., identifying the property used as security. If no security interest exists, a private agreement between parties could be a solution.

There are a variety of other opportunities for you to check if some kind of application has been filed. All applications for transfer are published once each week for two weeks in the county newspaper in which the water right exists. In the case of water right 63-123F, it would be published in the Idaho Statesman. Protests may be filed on any application that is advertised. You may also check our web page to check for new Applications for Transfer, IDWR is required by law to post new transfer applications on the agency's website. Start at <http://www.idwr.idaho.gov> and click on the blue icon for "New Water Right Applications.

As for new Water Supply Bank lease requests, they are also posted on IDWR's web page, <http://www.idwr.idaho.gov/apps/ExtSearch/WSBSearch/WSBSearch.aspx> but there is no requirement for advertising or notification for this kind of filing.

IDWR did receive the enclosed Water Supply Bank lease application for water right 63-123F in December of 2011. As the enclosed letter dated February 14, 2012 shows, IDWR has not processed or posted the lease application in part due to a concern over compliance with the spirit of Water Supply Bank Rule 25.02.e (IDAPA 37.02.03.025.02.e), which says,

" The written consent of such company, corporation or irrigation district to the proposed sale or lease must accompany the application if the right to the use of the water, or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district."

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

A handwritten signature in black ink that reads "Jean Hersley". The signature is written in a cursive, flowing style.

Jean Hersley
Technical Records Specialist I