



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

March 5, 2012

GARY B GARNER
BEVERLY GARNER
1458 N 300 E
RUPERT ID 83350

RE: WATER SUPPLY BANK LEASE APPLICATIONS FOR 36-2381A AND 36-12043

Dear Applicant:

The Department of Water Resources has completed its review of your applications to lease to the Water Supply Bank. Based on that review, we cannot accept the water rights into the Bank.

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. The criteria include assessing whether enlargement will occur upon rental of the right. Water right 36-12043 is an enlargement of 36-2381A and normally a proportional share of an enlargement is offered in conjunction with the amount offered under the "base" right. However, in your application, you sought to place a much larger share of the enlargement right into the Bank in proportion to the base right 36-2381A. If the rights were accepted as offered, rental would constitute enlargement. Additionally, the flow rate would be approximately 0.008 cfs/acre, which would be unable to be beneficially used and not a good rental candidate. Therefore, 36-2381A and 36-12043 cannot be accepted into the Bank at this time and we are returning your applications as denied.

If you still wish to offer the rights for lease to the Bank, please submit new applications along with an application to lease the appropriate portion of the associated stacked water rights. Future lease applications must be on current Department application forms and include all requested information including a map of the specific acres to be idled during the lease period and evidence that the offered rights have been used within the previous five years. Please note a water right is not protected from forfeiture unless accepted into the Bank or an exception or defense to forfeiture applies as described in Idaho Code § 42-223. If forfeiture is a concern, consider filing an Application for Extension of Time to Avoid Forfeiture. Please contact me at (208) 287-4907 with questions.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure – Lease Application (copy)

C: Allen Merritt – IDWR Southern Regional Office
Zach Latham – Brockway Engineering