



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

June 15, 2011

SCOTT A STEVENSON
TAMARA LYNN STEVENSON
949 W 900 N
PAUL ID 83347

RE: APPLICATION TO LEASE A PORTION OF WATER RIGHT NO. 36-7651 TO THE WATER SUPPLY BANK

Dear Applicant:

On December 17, 2008, the Department received your application to lease a portion of the above-mentioned water rights to the Water Supply Bank (Bank). Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "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."

I have discussed the history of use for this water right with the watermaster of Water District 130, Cindy Yenter. Your water rights were partially decreed in the Snake River Basin Adjudication (SRBA) in December 1997. The issuance of the partial decree restarts the "forfeiture clock" and right holders have five years from the date of the partial decree to 1) use the water, or 2) protect the water through administrative action such as the Bank. If five years elapses without some type of protective action, the water right could potentially be forfeited. I reviewed aerial photography for your property between 2000 and 2008, when we received your application, and have not found evidence of use.

Some of the acres offered under your lease agreement were protected during 2006 by being accepted into the Magic Valley Ground Water District mitigation plan. Those acres are the 7 in the SESW.

It might be best if I summarize it chronologically:

- December 1997 – partial decree is issued in SRBA
- 1998 – no review necessary
- 1999 – Aerial imagery does not support use during this year
- 2000 – Aerial imagery does not support use during this year
- 2001 – Aerial imagery does not support use during this year
- 2002 – Aerial imagery does not support use during this year
- 2003 – Aerial imagery does not support use during this year
- 2004 – Aerial imagery does not support use during this year
- 2005 – Aerial imagery does not support use during this year

- 2006 – Some of the acres were accepted into the MVGWD mitigation plan; forfeiture stayed for those accepted acres; this year does not count as non-use for those accepted acres
- 2007 – Aerial imagery does not support use during this year
- 2008 – Aerial imagery does not support use during this year; Bank application received December 17

If we count up the years of non-use (1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007, 2008), you see it adds up to more than five years of non-use.

Because of this evidence of more than five years of non-use, the requirements of Water Supply Bank Rule 25 can not be met and we must deny your lease applications. If you wish to apply for a lease again, please submit evidence that the water right has not undergone a five-year period of non-use.

Please contact me at (208) 287-4907 if you have any questions.

Sincerely,

A handwritten signature in black ink, reading "Monica Van Bussum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Monica Van Bussum
Sr. Water Resource Agent

C: Allen Merritt – IDWR Southern Regional Office
Cindy Yenter – Watermaster, Water District 130