



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 30, 2011

NOTCH BUTTE FARMS LLC
PO BOX 486
JEROME ID 83338

RE: WATER SUPPLY BANK LEASE APPLICATIONS FOR WATER RIGHT NOS. 37-20811,
37-20813, 37-20815 AND 37-20817

Dear Applicant:

On October 22, 2009, the Department received your applications to lease portions of the above 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."

A review of aerial photography between 2004 and 2009 shows no evidence of irrigation on at least some of the acres proposed to be leased to the Bank. Because of this evidence of more than five years of non-use, the requirements of Water Supply Bank Rule 25 cannot be met and we must deny your lease application. If you wish to reapply to lease portions of these water rights to the Bank, please include evidence of use on the proposed acres and a map or maps showing the specific acres to be idled.

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 you would still like to offer the water right for lease to the Bank, please submit new applications along with evidence that the offered right has been used within the previous five years.

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

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure: Lease Applications (copies)

C: Allen Merritt – IDWR Southern Regional Office
Greg Sullivan – Brockway Engineering PLLC