



State of Idaho

DEPARTMENT OF WATER RESOURCES

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April 11, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Telford Lands LLC
1850 N 1450 W
Paul, ID 83347

COPY

RE: *Water Bank lease of water rights 34-618, 34-2330B, 34-7077, 34-7080B, 34-7092, 34-7121A, 34-7121B, 34-7179, 34-12376, 34-13559, 34-13661, 34-13840, and 34-13842*

Ladies and Gentlemen:

The Idaho Water Resource Board has received several applications from your organization. I have been asked to review each of these applications. To avoid confusion, I will be dealing with each application separately. The application I am currently working on is for the above water rights. These water rights were recently associated with water right transfers 74921 and 71254. In these water right transfers the water rights were combined into a permissible place of use with each of the water rights overlapping one another.

In my review of the water rights, water right 34-7179 overlaps all of the other water rights and has a place of use of 2,124 acres. Water Right 34-618 is for 139 acres within the same permissible place of use of 2,124 acres as water right 34-7179. Water Rights 34-618, 34-2330B, 34-7077, 34-7080B, 34-7092, 34-7121A, 34-7121B, 34-7179, 34-12376, 34-13559, 34-13661, 34-13840, and 34-13842 are listed in a 1,985 acre permissible place of use that is included in the place of use described by water rights 34-7179 and 34-618.

To remove or place any portion of any of these water rights into the water bank, you will need to place a proportionate share of each water right into the water bank, or we would need a combination of water specific water rights that would not enlarge the use of water rights at the current place of use and at a new place of use if the water rights are rented. You may want to consult with a water right consultant to determine which path would work best for your needs. Either way, a clear explanation will be needed to show how you split up the water rights for the water bank lease.

Each water right submitted to the water bank will need a separate water bank application. Each of these applications will need the following:

1. The portion of the acres for that particular water right being placed into the water bank.
2. The portion of the diversion rate and volume for that particular water right being placed into the water bank.
3. A map showing the acres that will be retired for that particular water right being placed into the water bank. (A common map for all of the water rights can be used as long as it or an attached spreadsheet designates which acres go to which water rights.)
4. A description of how the combined conditions of the water rights will be met and related to the water rights that will be placed in the water bank and those water rights that will continue to be used. This can be done in spreadsheet format that shows the number of acres per water right, legal descriptions, diversion rates, volumes, overlapping water rights, and the totals of acres and diversion rates.

The combination of these water rights are not additive (all of the diversion rates and acres do not add up to the combined limits required in the conditions). Therefore, you will need to make sure you address these issues to avoid enlargement of the water rights. This is generally done by going back through the history of the water rights to find out which water rights were licensed to common acres to prove that there will not be an enlargement of these water rights if placed in the water bank. This process can be cumbersome, so I would recommend that you retain a water right consultant to assist you with this information.

Fortunately, were you have already started the lease process, so **you will not** be subject to the new rules that require a \$250 per water right fee with a limit of \$500 for overlapping water rights. However, you will be subject to the 5 year limitation on water bank leases. Please keep this in mind when you are completing the term of the water bank lease that we can only allow a 5 year period for the lease. Your application was received on November 2, 2009, so we can choose any 5 year period starting with that date for the term of your water bank lease.

If we do not receive the above information by April 25, 2010, we will return your current application until you can provide all of the information required. If you have any questions or concerns please contact me at the above address.

Respectfully,



Daniel A. Nelson
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Planning Bureau
Idaho Department of Water Resources
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