



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

May 16, 2011

JASON READING
3351 CHIMNEY PEAK
IDAHO FALLS ID 83404

RE: WATER SUPPLY BANK LEASE APPLICATION FOR WATER RIGHT NOS. 34-13873
AND 34-14047

Dear Applicant:

On August 8, 2008, the Department received your application to lease all 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."

Water right 34-13872 was partially decreed in the Snake River Basin Adjudication (SRBA) on January 29, 2002. Water right 34-14047 was partially decreed in the SRBA on July 10, 2002. The SRBA resets the forfeiture clock and water rights must be used or administratively protected through IDWR within five years of the SRBA partial decree. Five years from the date of partial decree would have been at the end of the 2006 season for 34-13872 and the end of the 2007 season for 34-14047. A review of aerial photography between 2006 and 2009 does not show evidence of irrigation.

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.

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 Application

C: Lyle Swank – IDWR Eastern Regional Office