



State of Idaho

DEPARTMENT OF WATER RESOURCES

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May 3, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SHEILA RIGBY
1655 W 1000 S
PINGREE ID 83262

**RE: LEASE OF WATER RIGHT NO. 35-10460 TO THE WATER SUPPLY BANK; WATER
RIGHT NOS. 35-10460 AND 35-2204**

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease a portion of 35-10460 to the Water Supply Bank. Based on that review, the Department cannot accept water right 35-10460 into the Bank. The reasons are described below.

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. One of those criteria is a water right may not be rented from the Bank if the rental will result in enlargement of the water right. Water right 35-10460 is what is considered an enlargement right, meaning it enlarged the use of water under an earlier established right. The base right, or the right that was enlarged, is 35-2204. In your application under Section 3, part d, you stated the property would continue to use water under "primary water right 35-2204." Since water rights 35-2204 and 35-10460 are considered stacked by being a base and enlargement pair and 35-2204 is not offered to the Bank, rental of 35-10460 alone would constitute an enlargement.

If you still wish to offer the right for lease to the Bank, please submit a new application along with applications to lease the appropriate portions of both 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.

Please note a water right is not protected from forfeiture unless it is accepted into the Bank or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right. If you have any questions, please contact me at (208) 287-4907.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

c: Lyle Swank – IDWR Eastern Regional Office