



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 18, 2011

JAY BARNETT
JONNA BARNETT
4664 N 18TH E
MOUNTAIN HOME ID 83647

RE: APPLICATION TO LEASE WATER RIGHT NOS. 61-11985 AND 61-11987 TO THE WATER SUPPLY BANK

Dear Applicant:

On March 30, 2011, the Department received your application to lease water right 35-7666 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."

During a review of Transfer 69815 in April of 2003, the reviewer found there had been two years of non-use prior to the approval. Eight years have elapsed since the approval of Transfer 69815. A review of aerial photography between 2003 and 2011 shows no evidence of irrigation on the acres proposed to be leased to the Bank. The water right was in the Bank from April 30, 2004, to April 30, 2006, meaning forfeiture was stayed during that period. You applied again in 2008 for a lease period of April 30, 2008, to April 30, 2010. The Department returned that application because it was not processed during the proposed lease period. However, even if we subtract those years, we are still left with 6 years of potential non-use. It might be best if I summarize it chronologically:

- 2001 – Review for Transfer 69815 indicates no use during this year
- 2002 – Review for Transfer 69815 indicates no using during this year
- 2003 – Aerial imagery does not support use during this year
- 2004 – Water Supply Bank lease; forfeiture stayed; this year does not count as non-use
- 2005 – Water Supply Bank lease; forfeiture stayed; this year does not count as non-use
- 2006 – Water Supply Bank lease ended prior to the beginning of the irrigation season; aerial imagery does not support using during this year
- 2007 – Aerial imagery does not support use during this year
- 2008 – Received a Water Supply Bank lease application that was not processed – we will not count this year as non-use
- 2009 – This year would have been covered by the lease if it had been granted – we will not count this year as non-use
- 2010 – Aerial imagery does not support use during this year
- 2011 – Application for lease received March 30, 2011

If we count up the years of non-use (2001, 2002, 2003, 2006, 2007, 2010), 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 application. 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 extending to the right.

Monica Van Bussum
Sr. Water Resource Agent

C: John Westra – IDWR Western Regional Office