



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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March 31, 2011

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

JOHN HOLLAND  
JUDY HOLLAND  
1941 E 1100 S  
HAZELTON ID 83335

### RE: APPLICATION TO LEASE WATER RIGHT 36-7112 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of your application(s) to lease water right(s) to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right(s) 36-7112 into the 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."

On your application dated September 25, 2007, under item 3(b), you stated, "Haven't use[d] it for about 5 years." In a letter dated September 26, 2007, the Department asked for evidence of use between the date of partial decree in the Snake River Basin Adjudication (August 27, 2001) and the date of your application. The Department received no return correspondence. In your application, again under item 3(b), you stated you have canal water. Water Supply Bank Rule 25 also prohibits stacking of water rights and the timing of acquiring the canal shares and when you stopped using water under 36-7112 will be important. If you decide to apply for lease again, you will need to supply a narrative about the timing of water use on your property.

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. Please note that 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. You may also consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right. Please contact me at (208) 287-4907 if you have any questions.

Sincerely,

Monica Van Bussum  
Sr. Water Resource Agent

c: Allen Merritt – IDWR Southern Regional Office