



State of Idaho

DEPARTMENT OF WATER RESOURCES

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February 1, 2011

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

BIG LOST RIVER HOMEOWNERS SUBDIVISION
C/O KIT CHRISTENSEN AND/OR DELL HARNEY
PO BOX 645
MOORE ID 83255

TROND A BJORNARD
RENEE M BJORNARD
5810 GLEN EAGLE DR
IDAHO FALLS ID 83401

KIVI LAND & LIVESTOCK LLC
PO BOX 645
MOORE ID 83255

ESTATE OF KAREN HARNEY
750 BAILEY RD
MADISON NC 27025

RE: APPLICATIONS TO LEASE WATER RIGHT NOS. 34-14037, 34-14038, 34-14039 AND 34-14087 TO THE WATER SUPPLY BANK; ASSOCIATED RIGHTS 34-126, 34-127, 34-7152 AND 34-14086

Dear Water Right Owners:

I am the new coordinator for the Idaho Water Resource Board's Water Supply Bank and I have been researching your applications for Bank lease and researching the trail of parent water right 34-14037. I have discovered some important issues which have resulted in me returning your lease applications unprocessed.

34-7152 was what we consider the "parent", or original, right. 34-7152 was split by change of ownership in October of 2008 when KIVI Land & Livestock filed a change of ownership with the Department. 34-7152 was split into water rights 34-14037 (Estate of Karen Harney), 34-14038 (KIVI Land & Livestock LLC) and 34-14039 (KIVI Land & Livestock LLC).

34-14037 was then split by Transfer 75521, approved on June 23, 2009, into 34-14086 (Estate of Karen Harney) and 34-14087 (Trond and Renee Bjornard). Therefore, we have 4 active water rights based on the original water right. They are:

- 34-14086 – Estate of Karen Harney
- 34-14087 – Trond and Renee Bjornard
- 34-14038 – KIVI Land & Livestock LLC
- 34-14039 – KIVI Land & Livestock

I have some correspondence between Kit Christensen, Dell Harney and the former Water Supply Bank coordinator Aaron Marshall, in the pile of water right files. Mr. Marshall indicates the Department received an application to lease water right 34-14037 (now 34-14086 and 34-14087) to the Water Supply Bank on February 3, 2009. I am unable to find that application.

However, on May 19, 2009, Keith Wilson of Rocky Mountain Environmental Associates filed an application to lease water right 34-14087 to the Water Supply Bank. As I said, I am unable to find the original lease application for 34-14037 but I do have a new application for one of the split water rights, 34-14087 (Bjornard). This essentially means I cannot find a lease application for 34-14086 (Estate of Karen Harney).

On December 2, 2010, the Department received a request to extend the lease term for 34-14038 and 34-14039 in the Water Supply Bank. I am unable to find a lease application or a lease approval for these two rights. These two water rights would not have been covered by the original lease application filing for 34-14037 because they are split from 34-7152 and not from 34-14037.

Additionally, the Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. The criteria include whether information available indicates that the water right has been forfeited, whether acquisition of the water right will be contrary to the State Water Plan, whether the application is in the local public interest, the probability of renting the right from the Bank, and other factors as determined by the Water Resource Board. **A water right may not be rented from the Bank if the rental will result in enlargement of the water right.**

Water rights 34-14038, 34-14039, 34-14086 and 34-14087 are stacked with water rights 34-126 and 34-127, both in the name of Big Lost River Homeowners Association. Since your water rights are "stacked" with other water rights, **rental of your rights alone would constitute an enlargement of the right. Therefore, your water rights cannot be accepted into the Bank at this time and the Department is returning the paperwork it has.**

If you would still like to offer the water rights for lease to the Bank, please submit new applications along with applications to lease the appropriate portions of associated "stacked" water rights. Future lease applications must be on current Department application forms and include all requested information including a description of the specific acres that will remain unirrigated during the lease period and evidence that the offered right(s) have been used within the previous five years.

Please review the conditions of acceptance listed on the Lease Acceptance and contact me if you have any questions at (208) 287-4907.

Sincerely,



Monica Van Bussum
Sr. Water Resource Agent

Enclosure(s)

c: Lyle Swank – IDWR Eastern Regional Office
Jay Jensen – Watermaster, Water District 34
Keith Wilson – Rocky Mountain Environmental Associates, Inc.