



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 30, 2010

ALLEN FARMS INC
1596 W 3900 N
HOWE ID 83244

RE: APPLICATION TO LEASE PORTIONS OF WATER RIGHT NOS. 33-7173 AND 33-7175 TO THE WATER
SUPPLY BANK

Dear Applicant:

On July 10, 2006, the Department received your application to lease a portion of 33-7173 and 33-7175 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."

In a letter dated February 21, 2007, the Department asked for evidence of use between the date of partial decree in the Snake River Basin Adjudication (August 11, 2000) and the date of your application. The Department received no return correspondence.

A review of aerial photography between 2000 and 2006 shows the pivots in place and no evidence of irrigation on the acres proposed to be leased to the Bank. The proposed acres are commonly called the pivot corners, or corners that would no longer be irrigated when a pivot is installed.

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 contact me at (208) 287-4907 if you have any questions.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure: Lease Application - original

C: Lyle Swank – IDWR Eastern Regional Office
Robert L. Harris – Holden Kidwell Hahn & Crapo PLLC