



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 8, 2010

LANCE D FUNK
DIANE B FUNK
PO BOX 310
AMERICAN FALLS ID 83211

RE: APPLICATION TO LEASE ALL OF PORTION OF WATER RIGHT NO. 35-7973 TO THE WATER SUPPLY BANK

Dear Applicant:

On June 19, 2008, the Department received your application to lease water right 35-7973 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."

A review of aerial photography between 2002 (when the right was partially decreed in the Snake River Basin Adjudication) and 2008 shows 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

C: Lyle Swank – IDWR Eastern Regional Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED

JUN 19 2008

DEPARTMENT OF
WATER RESOURCES

Name of Seller/Lessor Lance D. & Diane B. Funk Phone (208) 226-5207
Post office address P.O. Box 310 American Falls, ID 83211

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No. 35-7973 Decreed to Delon & Marilyn Huse
(Name)
In case of SRBA vs _____
dated 1/31/2002 in _____ county of _____
(Name of court)
- b. License No. 35-7973 issued by the Idaho Department of Water Resources
- c. Permit No. _____ issued by the Idaho Department of Water Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease, show "all" on line a. below and skip the remainder of part 2.)

- a. Amount of water under right: 0.66 cubic feet per second &/or
174 acre-feet per annum
- b. Point of Diversion SW ¼ of SE ¼ of Section 1 Township 7S Range
28E, B.M. in Power County
Additional points _____

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	28E	1	5.2	4.9	5.4	5.6	5.1	6.6	5.7	5.0									43.5

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 43.5

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

See attached C.O.O. & documentation.

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

See attached FSA Documentation

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

N / A

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

None

- e. If the water right is a permit, describe the work accomplished toward developing the right.

N / A

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

 X For lease for a period from INDEFINITE to _____
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho.

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

Current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

5-9-08
Date

[Signature]
Signature

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

Lance Funk Farms: TWP. 7S, RNG. 28,29E, Sections 1,7 (Fields 88-91)

