



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

September 21, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

BLACK CANYON BLISS
PO BOX 95
RUPERT ID 83350

RE: APPLICATION TO LEASE WATER RIGHT NO. 37-793 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources (Department) has completed its review of your application to lease water right 37-793 to the Water Supply Bank (Bank). Based on that review, the Department cannot accept the water rights into the Bank.

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. Since water right 37-793 is "stacked" with other water rights rental of this right alone would constitute an enlargement of the right. Therefore, water right no. 37-793 cannot be accepted into the Bank at this time and the Department is returning your application.

If you would still like to offer water right no. 37-793 for lease to the Bank, please submit a new application 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 contact me at (208) 287-4907 if you have any questions.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure(s): Lease Application (original)

c: Zach Latham – Brockway Engineering

RECEIVED

AUG 23 2010

DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

Name of Seller/Lessor Black Canyon Bliss

Phone 208-532-4119 Post office address PO Box 95 Rupert, Idaho 83350

1. DESCRIPTION OF RIGHT:

Right as evidenced by:

a. Decree No. 37-793 Decreed to _____
(Name)

in case of _____ vs _____

dated _____ in _____ county of _____
(Name of Court)

b. License No. _____ 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: 0.35 cubic feet per second

& / or

_____ acre-feet per annum

b. Point of diversion NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 17 Township 06S Range 13E
B.M. in Gooding County

Additional points NWNW Sec 17 T06S R13E and SESE Sec 17 T06S R13E

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	
06S	13E	7																12	12
		8											7						7
		17					8	29	20	5	1	5							68
		18	4			1													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 15.9*

NOTE: *15.9 Acres will no longer be irrigated within 92 acre place of use

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEROF, 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 partial decree

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.)

Water is used for irrigation purpose from 3/15 to 11/15 annually.

- 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.

NA

- 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.

37-793, 37-7216 and 37-21721

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

NA

- f. If the right to use 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: None

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 period from Indefinite to _____
(Month, Day, Year) (Month, Day, 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 the sale or lease of this right 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.

6/19/10
Date

Jack Johnston P.O.A.
Signature

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

No. W 47336	Due no later than Feb 28, 2010 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. BLACK CANYON BLISS, LLC DAVID C COATS PO BOX 95 RUPERT ID 83350 USA		DAVE COATS 224 READ AVE RUPERT ID 83350			
			3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MEMBER	ROD JENTZSCH	20106 5TH ST	RUPERT	ID	USA	83350
MEMBER	DAVE COATS	615 EAST 300 NORTH	RUPERT	ID	USA	83350
5. Organized Under the Laws of:		6. Annual Report must be signed.*				
ID W 47336		Signature: David Coats			Date: 01/12/2010	
		Name (type or print): David Coats			Title: Member	
Processed 01/12/2010		* Electronically provided signatures are accepted as original signatures.				

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/17/2010

WATER RIGHT NO. 37-793

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BLACK CANYON BLISS LLC PO BOX 95 RUPERT, ID 83350 208-532-4119
Directors Report Owner	BLACK CANYON FARMS INC C/O JERRY JARAMILLO 317 RIVER RD BLISS, ID 83314 (208)352-4687
Original Owner	JOSEPHINE BURKHARDT
Original Owner	WALTER BURKHARDT

Priority Date: 04/01/1888

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRINGS	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	2 CFS	
Total Diversion			2 CFS	

Location of Point(s) of Diversion:

SPRINGS	NENW	Sec. 17	Township 06S	Range 13E	GOODING County
SPRINGS	NENWNW	Sec. 17	Township 06S	Range 13E	GOODING County
SPRINGS	NESESE	Sec. 17	Township 06S	Range 13E	GOODING County

Place(s) of use:

Place of Use Legal Description: IRRIGATION GOODING County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06S	13E	7		SESE	12									
		8		SWSW	7									
		17		NENW	8		NWNW	29	1	SWNW	20		SENW	5
			2	NESW	1	2	NWSW	5						
		18	7	NENE	4	7	SENE	1						

Total Acres: 92

Conditions of Approval:

1. B01 Sources are also known as Montana Mining Company Ditch Spring No. 9, Montana Mining Company Ditch Spring No. 10 and Montana Mining Company Ditch Spring No. 11.
2. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
3. E51 Right nos. 37-793, 37-7216 and 37-21721 are limited to a total combined diversion rate of 4.857 cfs for irrigation.
4. E55 Right nos. 37-793, 37-7216 and 37-21721 are limited to the irrigation of a combined total of 92 acres in a single irrigation season.
5. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
6. In the event of a call in times of scarcity, the diversion of water for this right from the point of diversion located in T06S, R13E, S17, NESESE(also known as Montana Mining Company Ditch Spring No. 9) is junior to the diversion of water from the same spring for Water Right Nos. 37-7218 and 37-21222.

Dates:

Licensed Date:

Decreed Date: 03/12/2007

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector:
Water District Number: 130
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False
Close