



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

October 9, 2009

NORTH HENRYS LAKE HOMEOWNERS ASSN
C/O LANA ESPLIN
3897 TETON RD
ISLAND PARK ID 83429

RE: APPLICATION TO LEASE WATER RIGHT 21-10015 TO THE WATER SUPPLY BANK

Dear Applicant:

On June 30, 2008, the Idaho Department of Water Resources (IDWR) received your application to lease a 1 cubic foot per second (cfs) portion of water right no. 21-10015 to the Water Supply Bank (Bank). IDWR reviewed your application and determined that additional information is needed. Applications to lease water rights to the Bank must include certain information and must be reviewed in accordance with Idaho Code § 42-1762(2) and the Department's Water Supply Bank Rule 25 (IDAPA 37.02.03.025). Among the information required to be submitted with the application is evidence to demonstrate the relative availability of water in the source to fill the water right. Review of the application requires consideration of, among other things, whether the application is in the local public interest and whether rental of the right would result in enlargement of use of the right.

Please provide:

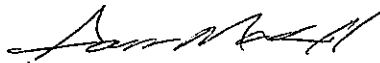
- 1) *Evidence to demonstrate the relative availability of water in the source to fill the water right.* Is 1 cfs available year-round from the surface water sources described by the offered water right?
- 2) *Information to show that leasing a 1 cfs portion of this right to the Bank is in the local public interest.* A water right leased to the Bank may not be used while in the Bank even if the right is not being rented. The offered water right provides water for municipal use at homes within the North Henry's Lake Homeowners Association service area. Are the homeowners using water under this right going to have access to water from another source? Or, by leasing this right to the Bank, will homeowners be deprived of water normally provided under this right?
- 3) *Information to confirm rental of this right from the Bank will not result in an enlargement of use of the right.* In order to rent this right from the Bank, IDWR must establish the average annual volume of water normally used under the portion of this right being offered to the Bank. An exception may be if the right is rented for municipal use or instream flow. For example, when an irrigation water right is leased to the Bank, lands normally irrigated under the right must not be irrigated during the lease period. The volume of water normally used on those lands must no longer be used. Concerning your application to lease a portion of this municipal water right to the Bank, how many homes will not be delivered water under this right while it is leased to the Bank? Are these homeowners willing to forgo the use of water in their homes?

Please provide the information requested above so IDWR can process your application. In accordance with Water Supply Bank Rule 25.04, if the requested information is not returned within thirty (30) days, the application will no longer be considered a valid request to place this right into the Bank.

If forfeiture of the right is a concern, you may apply for an extension of time to avoid forfeiture of the water right. I have enclosed the necessary application form for your convenience. Your right may also be protected from forfeiture based on exceptions or defenses to forfeiture described in Idaho Code § 42-223.

If you have any questions, please contact me at (208) 287-4943.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Marshall', written in a cursive style.

Aaron Marshall
Sr. Water Resource Agent

c: Lyle Swank – IDWR Eastern Regional Office
Jerry Rigby – Rigby Andrus & Moeller

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT**

Section 42-222, Idaho Code, provides that a water right shall be lost and forfeited and the water right revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

1. Name of water right holder _____
2. Mailing address _____ Email _____
3. The right was obtained or is evidenced by:
 - a. Decree to _____ in Case of _____
vs. _____, Dated _____ in _____
Court, _____ County of _____ Fully (Name of Court) describe decree _____
 - b. License No. _____
 - c. Claim No. _____
 - d. SRBA No. _____
4. Source of water _____ tributary to _____
(Name of stream or source)
5. Date of priority of right _____
6. Description of Right:
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
7. Point of Diversion _____ ¼ _____ ¼ of Sec. _____ Twp. _____ Rge. _____ County _____

8. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

9. Give the last date when water was put to beneficial use _____
Length of extension of time requested _____ years, or until _____
(Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use _____

The information contained in this application is true to the best of my knowledge.

(Signature of Applicant)

Subscribed and sworn to before me this _____ day of _____, 20 _____.

(Notary Public)

My commission expires _____ Residing at _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application subject to the following conditions or reasons:

Signed this _____ day of _____, 20 _____.

Chief, Water Allocation Bureau

FOR DEPARTMENT USE ONLY

Date Received _____ FEE Received by _____ Date _____ Receipt # _____

Preliminary T by _____ Publication prepared by _____ Pub. approved by _____ Date _____

Published in _____ Dates Published _____

Protests filed by _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____

Recommended for - APPROVAL / DENIAL By _____