



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 25, 2009

GREG SULLIVAN
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

RE: APPLICATIONS TO THE WATER SUPPLY BANK IN THE NAME OF PETER M
THOMAS TRUST LP, WATER RIGHT NO. 37-22255

Dear Mr. Sullivan:

On July 31, 2009, the Department of Water Resources (Department) received the Water Supply Bank (Bank) applications you submitted on behalf of Peter M. Thomas Trust LP. The applications propose leasing water right no. 37-22255 to the Bank and renting this right from the Bank to change the point of diversion from its present location to the Big Wood River. The Bank applications propose the same change as requested by water right transfer application no. 75052. The transfer is not moving forward due to questions raised by objections in the Snake River Basin Adjudication (SRBA) concerning the validity of the right and questions about the potential enlargement of the right that would result from the proposed change. Changing from the present point of diversion where water is not currently available to a point of diversion on the Big Wood River where water is available may enlarge the use of water under the right unless it can be shown that the Purdum Slough historically received water more directly from the Big Wood River. This type of change may also result in injury to other rights that would otherwise be entitled to this water. A review of the Bank applications raised the same questions. The Department would like to avoid duplicate review of this proposal and continue processing the transfer application once questions about the validity of the right are resolved in the SRBA.

I understand that the applicant is not currently receiving water, possibly due to upstream activity in the Purdum Slough. If the enlargement concerns can be addressed, the Department will process the lease and rental applications as proposed. However, the rental agreement may limit water use to a diversion rate of one miner's inch per acre to avoid conflict with concerns in the SRBA.

An alternative may be to rent water from the Bank under a different right from the Big Wood River. If either rental from the Bank is approved, this would be a temporary authorization and the renter may be required to install a removable pump at the point of

diversion as a condition of the agreement. Please respond within thirty (30) days and inform me if the applicant would like to pursue one of these options.

Please note that applications for rental of water must be reviewed in accordance with Idaho Code § 42-1763 and the Department's Water Supply Bank Rules (IDAPA 37.02.03). This includes consideration of whether there will be injury to other water rights, whether the proposal would constitute an enlargement of the water rights, whether the water will be put to a beneficial use, whether the water supply available from applicable rights in the Bank is sufficient for the use intended and whether the proposal is in the local public interest. While a one-year rental usually involves a general review of the water rights and proposed use, rental of water over multiple years may require more comprehensive review, notice to advise anyone who desires to protest the proposed water use, and approval by the Idaho Water Resource Board.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Peppersack', with a stylized flourish at the end.

Jeff Peppersack, Chief
Water Allocation Bureau

c: Allen Merritt – IDWR Southern Regional Office
Kevin Lakey – State Water District No. 37
Peter M Thomas Trust LP – PO Box 642, Sun Valley, ID 83353