



United States
Department of
Agriculture

Forest
Service

Intermountain Region

324 25th Street
Ogden, UT 84401
801-625-5605

File Code: 2540-1

Date: DEC 09 2008

Mr. David Tuthill
Director
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

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Department of Water Resources

Dear Mr. Tuthill:

Enclosed are 19 Applications to Lease Water Rights to the Water Supply Bank for the following water right numbers: 71-00041, 71-00042B, 71-00043B, 71-00049B, 71-00050, 71-00059, 71-00061, 71-00064B, 71-00066, 71-00068, 71-02004D, 71-02053A, 71-07002, 71-10277, 71-10278, 71-10728, 71-10766, 71-10772 and 71-10871.

In 1992, the Forest Service purchased the Busterback Ranch and five water rights for 3.2 million dollars. The Bonneville Power Administration (BPA) contributed \$769,000 toward the purchase in order to dedicate the water rights to instream flows for the purpose of enhancing flows for salmon migration. The Forest Service also obtained 14 other water rights in the Upper Salmon River Basin for the same purpose. Unfortunately, Idaho State law provided no mechanism for the Forest Service to convert these irrigation water rights to instream flow water rights.

Under Idaho State law, water rights have to be applied to beneficial use at least once every five years to prevent forfeiture. The Forest Service worked with the State of Idaho over the past 10 years to protect these water rights in accordance with State and Federal law. In 1999, all of these water rights were decreed to the United States on behalf of the Forest Service in the Snake River Basin Adjudication. In March 2004, the Forest Service received 5-year extensions of time to avoid possible forfeiture for non-use. Those extensions will expire in March 2009, and there are no provisions under State law for further extensions.

I appreciate the opportunity that the Forest Service had on September 22, 2008, to discuss our current options with you and Phil Rassier, Randy Bramer of the Office of the General Counsel, and our Assistant Regional Water Rights Program Manager Jamie Gough. It appears that the best available option for protection of these valuable federal property interests is to lease them into the Idaho Water Supply Bank for use downstream. The Forest Service seeks to condition this lease such that water made available for use is available only for current or future non-consumptive use rental opportunities, such as to the Salmon Wild and Scenic River, a designated State Minimum Streamflow, or to a consumptive use below the confluence at Thompson Creek.



We understand that these conditions may require review by the Idaho Water Resources Board. Please know that we will be happy to provide any information we can to assist in that process. It is also our understanding that the forfeiture clock will stop on the date the applications are filed. If that is not the case, please notify us accordingly.

We look forward to your decision regarding these applications. Please contact Jamie Gough at 801-625-5809 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanne A. Evenden". The signature is fluid and cursive, with the first name "Jeanne" being more prominent.

JEANNE A. EVENDEN
Director, Lands

Enclosures