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DEPARTMENT OF
WATER RESOURCES

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April 22, 2008

Aaron Marshall
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0003

Re: Water Supply Bank/ Application to Rent Water
B & H Matter No: 5843

Dear Mr. Marshall:

I have two clients, one of whom, Alan Funk, owns a water right for land presently in the Conservation Reserve Program (CRP). The land is not in the Conservation Reserve Energy Program (CREP). Alan advises me that he was told by the Idaho Department of Water Resources' office in Idaho Falls, person unknown, that it was permissible for him to lease water appurtenant to land in the CRP program.

Mr. Funk owns a 190 acre parcel to which there is an appurtenant 2.47 cfs water right, and as to which he has a contingent obligation for .5 cfs. He therefore wants to lease to the water bank the remainder of the water right, consisting of 1.97 cfs, which prorated against the 760 acre feet would result in a 605.72 acre feet being subject of the lease proposal. I have also indicated the acres of land that would be included within the lease obligation.

The Application to Lease the Water to Water Bank is accompanied with an Application to Lease the same water back from the Water Bank, for Wulf Lebrecht. In order to assure that there is adequate water for Mr. Lebrecht, I have computed Mr. Lebrecht's needs for 60.6 acres at .02 cfs per acre, resulting in a total of 1.212 cfs, and which represents 373 acre feet of the Funk lease. I am assuming there is no mitigation loss resulted from the proposed lease, given the proximity of the parcels. If I am incorrect, please advise and we will address the mitigation needs, which the parties understand and are prepared to address.

I have noted under the remark section of both applications that the applications are intended to accompany each other.

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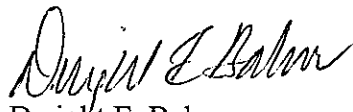
This letter will also confirm our phone conversation of Monday, April 21st, when we discussed any limitations imposed by the Conservation Reserve Program. I am enclosing Mr. Funk's information regarding the CRP for your assistance. I doubt that information specifically answers your question, i.e., as to whether water rights appurtenant to land committed to the CRP are nevertheless subject to leasing to the Water Bank.

If additional information is needed, please let me know as soon as convenient. If there is a way to expedite the request, we would greatly appreciate your cooperation accordingly.

Thank you in advance to your attention to this matter.

Very truly yours,

BAKER & HARRIS



Dwight E. Baker

DEB/lb

Enclosures

cc: Wulf Lebrecht
H. Alan Funk