



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

April 23, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

KIRK M JACOBS
PO BOX 119
HAMER ID 83425

RE: APPLICATION TO LEASE WATER RIGHT NO. 31-11443 TO THE WATER
SUPPLY BANK

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of the Application to Sell or Lease Water Right(s) to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right 31-11443 into the Bank at this time. The reasons are described below.

The Water Supply Bank Rules, IDAPA 37.02.03, provide criteria to be considered when determining whether to accept a water right into the Bank. These criteria include; whether the applicant is the current owner of the water right, whether the information available to the Board indicates that the water right has been abandoned or forfeited, and the probability of selling or renting the water right from the Bank.

First, the current owners of record for water right no. 31-11443 are Kirk M. Jacobs AND Linda Jacobs. In order for this right to be acceptable for lease to the Bank, both owners are required to sign the application form.

Second, the right offered to the Bank, 31-11443, is limited to irrigation of 33 acres within a 295 acre permissible place of use. This right, when combined with water right no. 31-7014, is limited to a total of 289 acres. Water right no. 31-7014 is limited to the irrigation of 262 acres within the permissible place of use. The result is a 6 acre overlap of the two rights. Since the overlapping portion of water right no. 31-7014 is not offered for lease to the Bank, the total number of acres available for rent under water right no. 31-11443 is 27 acres.

Lastly, section 42-222(2), Idaho Code states, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure

to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.” Based on satellite imagery available to the Department, approximately 279 acres were irrigated in 2004 within the authorized place of use and even fewer in 2006. In order for all of this right to be accepted into the Bank, evidence is required to show that all of the 289 acres authorized for irrigation under the two combined rights has been irrigated within the past five years or qualifies under the exceptions or defenses to forfeiture.

If you still wish to lease this water right to the Bank, please make the necessary changes to the application, provide the additional information requested, and return the application.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Marshall", with a stylized flourish at the end.

Aaron Marshall
Water Allocation Bureau

c: Lyle Swank – IDWR Eastern Regional Office

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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APR 17 2008

DEPARTMENT OF
WATER RESOURCES

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

Name of Seller/Lessor Kirk M Jacobs Phone 208-243-3431
Post office address P.O. Box 119 Hamer, Id 83425

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No. _____ Decreed to _____
(Name)
in case of _____ vs _____
dated _____ in _____ county of _____
(Name of court)
- b. License No. 31-11443 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: .66 cubic feet per second &/or
99 acre-feet per annum
- b. Point of diversion: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section 7 Township 07N Range
37E, B.M. in Jefferson County.
Additional points _____

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Department of Water Resources
Eastern Region

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	
07N	37E	7	38	39	40	39	39	30	30	40									295

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 33 ←

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, 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.

I bought this right from Robert Bygones to legally water my corner arms. I have since removed corner arm and would like to put this right in the rental pool to keep it active. My intent is so Ryan Sanders can use it on his farm.

- 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).

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 a period from 1 April 2008 to 1 Nov 2008
(Day, month, year) (Day, month, 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 this right for sale or lease 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.

4/11/08
Date

Rich M. Jones
Signature

FOR DEPARTMENT USE ONLY

Received by NArave Date 4/11/08 Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

- 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.

- 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.

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

- f. If the right to the use of 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:
