



State of Idaho

DEPARTMENT OF WATER RESOURCES

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August 21, 2007

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

DAVID J MILAN  
PUBLIC WORKS DIRECTOR  
CITY OF EAGLE  
EAGLE ID 83616

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK**

Dear Applicant:

The Department of Water Resources ("department") has reviewed your Application to Rent Water Right(s) from the Water Supply Bank ("bank"). Rule 30 of the Water Supply Bank Rules, IDAPA 37.02.03, provide criteria to be considered when evaluating applications for the rental of water rights from the bank. Criteria for consideration include whether there will be injury to other 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. The department is concerned that the above criteria may not be satisfied by the current rental application for two reasons.

First, according to the department's analysis, the bank currently does not contain any water rights that are authorized to divert ground water that is hydraulically connected to ground water at the points of diversion identified on your rental application. The department cannot approve a rental that changes the source of a water right because it may cause injury to water users who rely on the new source. The department is willing to revisit this conclusion if you can provide substantial evidence of hydraulic connectivity between water at the point of diversion of a water right available for rent from the bank and the proposed rental point(s) of diversion.

Second, even if a suitable water right were available for rent, the rental application appears to duplicate the water appropriations proposed in Applications 63-32089 and 63-32090, which were protested. The issues that the department must address for the two applications – the sufficiency of the water supply and the potential for injury to other water rights – would also have to be addressed in the review of the rental application. Because a decision on the appropriations proposed in the two contested applications is imminent, the department is reluctant to address the same issues in another forum unless there is an immediate water supply problem for existing patrons of the City of Eagle water system.

The department will hold your rental applications for 30 days to allow you time to decide how to proceed. If you have questions regarding this matter, please feel free to contact me at (208) 287-4943.

Sincerely,

Aaron Marshall  
Water Allocation Bureau

c: Bruce Smith – Moore Smith Buxton & Turke, Chtd.