



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

March 27, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

4 BROS DAIRY INC
C/O ANDREW FITZGERALD
427 N 250 W
SHOSHONE ID 83352

RE: WATER SUPPLY BANK APPLICATIONS TO LEASE AND RENT WATER
RIGHT NO. 37-20613

Dear Applicant:

The Department of Water Resources (Department) is returning your applications to lease water right no. 37-20613 to the Water Supply Bank (Bank) and rent water from the Bank. The applications were received on February 7, 2005, and are being returned since the applications were not processed prior to the end of the lease and rental periods.

Please submit new applications if you would still like to lease a water right to the Bank or rent water from the Bank. The Department regrets any inconvenience caused by the delay in processing the applications.

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

Sincerely,

Aaron Marshall
Water Allocation Bureau

c: Allen Merritt – IDWR Southern Regional Office
Cindy Yenter – State Water District No. 130
Zach Latham – Brockway Engineering

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 07 2005

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

DEPARTMENT OF WATER RESOURCES

Name of Seller/Lessor 4 Bros Dairy, Inc. C/O Andrew Fitzgerald

Phone (208) 886-7716 Post office address 427 N. 250 W. Shoshone, ID 83352

1. DESCRIPTION OF RIGHT:

Right as evidenced by:

a. Decree No. 37-20613 Decreed to Herbert McCowan
(Name)

in case of SRBA - Partial Decree vs _____

dated 12/11/2002 in Lincoln county of _____

(Name of Court)

b. License No. 37-7413 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: 1.12 cubic feet per second

& / or

309.6 acre-feet per annum

b. Point of diversion NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 20 Township 6S Range 18E

B.M. in Lincoln County

Additional points _____

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	
06S	18E	20													38.7			38.7	77.4

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 77.4

NOTE: Transfer 71607 in process

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

Purchased for transfer, formal transfer proceedings will be unlikely resolved before water is needed.

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.)

Water has been used, and review for transfer #71607 shows no known difficulties.

ESPAM analysis shows no increased reach depletions during first 35 years at new point of diversion.

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.

None. Land will not be irrigated while this right is accepted into the water bank.

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

f. If the right to use 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:

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 period from 03/15/2005 to 11/15/2005
(Month, Day, Year) (Month, Day, 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 the sale or lease of this right 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.

 2-1-05
Date

 Amber Fitzgerald SECRETES
Signature

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

Before the Idaho Water Resources Board

RECEIVED

FEB 07 2005

DEPARTMENT OF WATER RESOURCES

APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Applicant: 4 Bros Dairy, Inc. C/O Andrew Fitzgerald Phone No.: 208) 886-7716Address: 427 N. 250 W.City: Shoshone, State: ID Zip Code: 83352

A. DESCRIPTION OF WATER SOUGHT FOR RENTAL

1. Source of water Ground Water
Which is tributary to _____
2. Maximum volume of water sought 232.2 AF.
3. Maximum rate of diversion 1.12 cfs.

B. DESCRIPTION OF USE PROPOSED

1. Nature of use: Stock Water
2. Location of point of diversion: SE 1/4 SE 1/4, Section 5,
Township 5S, Range 17E, B.M. Lincoln County.
3. Season of use: From 1/1 to 12/31.
4. Description of diverting works:
Pump HP: 100 Lift: 200+? Pump type: Vertical Turbine+Cent.
Canal Name, if appropriate: _____
5. Place of use:
 - a. If water is for irrigation, describe the number of acres to be irrigated by 40-acre tract, section, township and range.

 - b. If water is not for irrigation, describe the nature of the intended use and place of use.
Provide water for stock water & commercial uses at the dairy.

6. Describe any other water rights used for the same purposes as rental water sought under this application.

37-8911, 37-10444, 37-10446

7. Who owns the property at the point of diversion?

4 Bros. Dairy, Inc.

8. Who owns the property at the place of use?

4 Bros. Dairy, Inc.

9. Are you seeking a rental for more than one (1) year? No

If so, how many years?

10. Remarks: Land to be served by existing Wells. Formal transfer #71607 pending for same purpose.

2-1-05

Date

Andrew Fitzgerald
Signature of Applicant

SECRET

FOR DEPARTMENT USE ONLY

Received by: Date: Time:

Published in: Publish Date:

Protests filed by:

Hearing held by:

Action recommended: