

Jeff -
As per our conversation -
Please address, Thx,
Gary 12/12/2007

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DEPARTMENT OF
WATER RESOURCES

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Jennifer Reid Mahoney
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William F. Ringert, of Counsel
Allyn L. Sweeney, of Counsel
Samuel Kaufman (1921-1986)

December 7, 2007

Gary Spackman
Administrator
Water Rights Division
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: IDWR Policy Regarding Water Rights Accepted into the Idaho Water Supply Bank

Dear Gary:

I am writing to express my concerns on behalf of my client, Cottonwood Canal Company ("CCC"), regarding what I understand to be a changed policy regarding IDWR's treatment of water rights in the Idaho Water Supply Bank.

Earlier this week, CCC received a letter dated November 29, 2007 from Diana L. Ball of IDWR's Water Allocation Bureau. The letter explained that a recent transfer split my client's water right in two, and stated that if CCC desired the split water rights to remain in the bank, CCC needed to submit a current Application to Sell or Lease Water Right(s) to the Water Supply Bank or complete a Lease Term Extension and Release Form. After receiving the letter, I discussed the same with both Ms. Ball and her supervisor Aaron Marshall. Both Ms. Ball and Mr. Marshall explained that a recent unpublished policy memorandum mandates that water rights in the bank that are split must now have documentation submitted requesting that such rights remain in the bank.

This new policy is a change from what IDWR's policy in the past. It is my experience that when a water right in the bank has been split in the past due to a transfer of the same, both portions of the water right remain in the bank unless and until the owner(s) of such water right(s) request that the water right(s) be removed from the bank, and the Idaho Water Resources Board approves such removal by resolution. Relevant statutes and rules support this historic policy: "[t]he five(5) year period of nonuse for forfeiture of a water right shall begin to accrue upon removal of a right from the bank by the owner of the right" I.C. §42-1764(2); "[a] water right which has been accepted shall remain in the Board's water supply bank for the period designated by the Board unless removed by resolution of the Board" IDAPA 37.02.03.025.08.c.

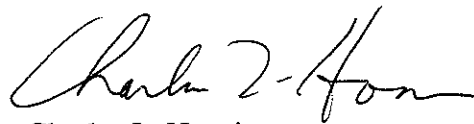
Obviously, the law does not require a water right owner to "reapply" to keep their water right in the bank, and a water right owner cannot divert and use a water right in the bank until they request its removal therefrom, and the Board approves a resolution for the same. The policy

Gary Spackman
December 7, 2007
Page 2

change is particularly disconcerting to CCC as most of the five-year forfeiture period for its water right has accrued, making the risk that it may be inadvertently forfeited particularly high. Moreover, as you are aware, portions of CCC's right have been transferred several times, and no requirement that an owner of any portion of that right must "reapply" to keep the right in the bank has ever been imposed.

We respectfully request, on behalf of CCC, that IDWR reconsider its policy change regarding the treatment of water rights that are split while in the Water Supply Bank. At this point, it is my intent to refrain from filing either a request or a new application to keep CCC's water right in the bank until we are able to discuss and resolve this issue. Please contact me at your convenience for discussion.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles L. Honsinger". The signature is fluid and cursive, with the first name "Charles" being the most prominent part.

Charles L. Honsinger

cc: Diana Ball
Aaron Marshall
Jeff Peppersack