



State of Idaho

DEPARTMENT OF WATER RESOURCES

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July 23, 2007

C. L. "BUICH" OTTER
Governor

DAVID R. IUTHILL, JR.
Interim Director

LEONARD HUTTERMAN
11900 E HWY 20
MOUNTAIN HOME ID 83647

RE: Inquiry about Application for Transfer of Water Right 72403
Right 61-12069

Dear Mr. Hutterman:

I am writing in response to your letter of 02-14-2007 regarding the transfer and water right referenced above. I have researched the water right files and find that Transfer 72403 was approved on 01-05-2006 with a standard transfer condition to accomplish the change within one year of the date of the approval.

This condition is to encourage right holders to cease use of water as described prior to the transfer while accomplishing the changes described on the transfer approval. Because a year has passed, continued use as originally described before the transfer is no longer authorized. Idaho Code 42-222(2) provides for the forfeiture of a water right if it is not used for five years when one of the defenses to forfeiture in Idaho Code 42-223 does not apply.

The current owner of Right 61-12069 has filed an Application to Sell or Lease a Water Right to the Water Supply Bank for an indefinite period of time. When a water right is leased to the Water Supply Bank, it can be rented from the bank for an alternative use. This would lead me to believe that they do not intend to physically divert the water under this right as currently authorized under the transfer approval anytime soon. Placing a right in the Water Supply Bank requires that the right holder not divert the water for the period of time it is in the bank. This pending application has not completed processing, and has not been accepted into the bank at this time. Enrollment in the Water Supply Bank is a defense to forfeiture.

If you would like to comment on the application to lease the water right to the Water Supply Bank, please respond in writing within 10 days. If you require additional information regarding this matter, please call me directly at (208) 287-4951, e-mail me at pam.skaggs@idwr.idaho.gov or contact me by mail, and I will be happy to assist you.

Sincerely,

Pamela S. Skaggs
Water Rights Supervisor