



State of Idaho

DEPARTMENT OF WATER RESOURCES

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June 22, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

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C/O RANDALL C BUDGE
201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO ID 83204-1391

RE: REQUEST FOR ADDITIONAL INFORMATION REGARDING THE IGWA REPLACEMENT WATER PLAN

Dear Mr. Budge:

On May 6, 2005, the Idaho Department of Water Resources ("department") issued an order requiring additional information about a replacement water plan ("plan") submitted by the Idaho Ground Water Appropriators, Inc. ("IGWA"). The order asked for additional information about private leases from storage water, a private lease of water rights owned by FMC Corporation, dry-year leases of water rights diverted from ground water, and leases of natural flow water from high-lift pumpers on the Snake River to be exchanged with storage water held by the US Bureau of Reclamation ("Reclamation").

On May 23, 2005, IGWA submitted information requested by the May 6, 2005 order. On June 3, 2005, IGWA supplemented the initial submittal with additional information.

This letter is issued simultaneously with an Order Approving IGWA's Replacement Water Plan for the Surface Water Coalition's Delivery Call. The order approves the plan on the basis that the major components of the plan have been verified and that the smaller tasks for final implementation can be accomplished. This letter outlines the details that must be completed to process the replacement water offered through ground water leases and the natural flow water from the Snake River.

FMC Private Lease:

1. IGWA filed an application to lease water right numbers 29-2284, 29-2301, and claim no. 29-11342 to the board's water supply bank ("bank"), as well as an application to rent the water rights from the bank. Claim no. 29-11342 was disallowed by the Snake River Basin Adjudication ("SRBA") Court. FMC is presently attempting to obtain leave of the court to file a late claim for a similar amount of water that was transferred by the City of Pocatello under water right no. 29-2338. The validity, ownership, and historical place of use must be established prior to recognition of the

claim as a basis for providing replacement water to the Surface Water Coalition. As discussed in the order, the volume of replacement credit for the FMC lease is limited to 6,024 acre-feet

2. Copies of ground water district checks paying FMC for the 2005 lease is sufficient documentation that the lease between FMC and the ground water districts has been executed in 2005.
3. The application to rent water should identify the location of the point of diversion and delivery to one or more of the members of the Coalition. The nature of use of the water rights does not authorize storage. The water associated with the rights will be delivered as natural flow during the irrigation season for irrigation use.
4. A payment of \$2,011.90 was received with the water supply bank application for the administrative fee associated with the rental of water from the bank. In accordance with Water Supply Bank rules, ten percent (10%) of the gross amount received from the sale or rental of a water right from the water supply bank is credited to the department for administrative fees. The remaining ninety percent (90%) is issued back to the lessor or owner of the water rights. According to documents supplied with the applications, the amount paid to FMC was \$20,119.00 at \$2.95 per acre-foot for 6819.87 acre-feet of water. If all of the water rights offered for lease were accepted into the bank, the total amount associated with the transaction would be \$22,354.44 (\$20,119.00 divided by 90%) for a total administrative fee of \$2,235.44. However, the volume of replacement credit is limited to 6,024 acre-feet. The fee for rental of the water is reduced to \$1,974.57, and a refund of \$37.33 will be issued back once the rental agreement is executed.

Dry-year Leases:

1. Applications to lease and rent the water associated with the dry-year leases should be filed with the department to authorize the change in place of use and point of diversion, and to provide for delivery of the water as natural flow to members of the Surface Water Coalition.
2. The location of the place of use associated with the leased portions of the rights should be clearly identified on the application to lease to the bank. The location of the new point of diversion and to whom the water will be delivered should also be identified on the rental applications.
3. Rental fees will apply based the gross amount received for rental of water rights from the water supply bank. Pursuant to the Order Approving IGWA's Replacement Water Plan for the Surface Water Coalition's Delivery Call, 435 acre-feet of water will be credited to mitigation.

High-lift water rights lease and exchange:

Applications to lease and rent water rights authorizing diversion of natural flow from the Snake River below Milner dam were submitted by IGWA and received on June 9, 2005. Copies of executed private lease agreements ("private agreements") between IGWA and

the water right owners were attached to the applications or subsequently sent by facsimile. The private agreements give IGWA the authority to lease portions of water rights to the water supply bank for the 2005 irrigation season.

IGWA intends to exchange the natural flow with storage water held by Reclamation to provide deliverable water to the surface water coalition. In the May 6, 2005 Order, the department required submittal of an approved exchange of the water rights. To accomplish the exchange, the rights should be leased to and rented from the board's water supply bank in accordance with Idaho Code § 42-1763B, and temporarily exchanged with Reclamation storage water. The following information is required for the processing of these applications:

1. To review the eligibility of the portions of the water rights offered for lease and subsequent exchange, IGWA is required to identify the specific lands proposed to be idled through the private agreements. The department cannot determine whether the lands meet the eligibility criteria set forth in the private agreements without a clear understanding of the field locations. To expedite the application process, the department provided general maps of the entities identified in the private agreements with public land survey information and background images. IGWA representatives asked that the maps be provided to Craig Castagneto with Grindstone Butte Mutual Canal Company to disperse to the other entities.

All of the maps were returned to the department by June 15, 2005 with the exception of the lands associated with water rights owned by United Water Idaho, Inc. IGWA, acting as the lessor of water rights to the bank, must provide documentation of the lands proposed to be idled by United Water Idaho, Inc. prior to acceptance of the associated water rights into the bank. For your convenience, a map of the appurtenant lands is attached.

2. Additional information regarding use of the United Water Idaho, Inc. water rights is required for acceptance into the bank. Criteria under which the water rights are determined to be eligible as replacement water includes diversion of the water for irrigation purposes during the 2004 irrigation season. Initial review of the lands appurtenant to the rights indicates they were not irrigated in 2004. As required under the exchange approval, documentation of the exchange of water from the Boise River with Reclamation must be provided to determine the extent of use in 2004. Additionally, the extent to which this water was used for irrigation purposes should be described.
3. Application for temporary exchange with the appropriate fee should be filed with the department. It is our understanding that Reclamation would like to wait until the volume of water available for exchange is finalized. This application will be considered based on the amount of water available through the approved rental(s) and any additional criteria set forth in the temporary exchange application.
4. A provision of the loan contract agreement between the water districts associated with IGWA and the Idaho Water Resource Board ("board") requires the districts to

first rent below-Milner water placed into the bank by the board for the 2005 irrigation season. A rental application should be submitted to account for this water. A separate rental agreement will be formulated for these water rights for rental of 4644.9 acre-feet at \$20.60 per acre-foot. A summary table of the rights is attached.

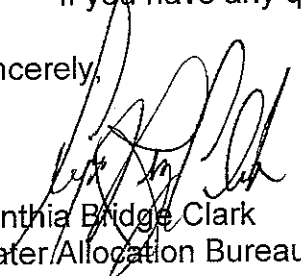
5. The following payment procedures will be described in each of the rental agreements. For the rental of water rights associated with the private agreements, IGWA is considered to be the lessor and the renter and is only required to pay the administrative fee to the department. Since funding for the rental will be issued to the water districts and IGWA in two parts, the administrative fee for the rental will also be collected in two parts. The administrative fee for fifty percent of the estimated volume of water rented should be provided with the execution of the rental agreement between the Water Supply Bank and the lessor (IGWA). The remainder should be provided after compliance with the private leases is verified after the end of the irrigation season. IGWA is responsible for payment to the individual entities in accordance with the private agreements

The rental fee for the water rights leased to the bank through the board can also be paid to the department in two parts. However, IGWA is responsible for payment of the entire gross amount of the transaction (the administrative fee and the payment to the lessor) with each payment. The department will issue individual payments to the lessors or the water right holders.

Please note information described above must be received before the department can make a final determination of the amount of water available for exchange with Reclamation storage water.

If you have any questions please contact me or Jeff Peppersack at 287-4800.

Sincerely,



Cynthia Bridge Clark
Water Allocation Bureau

C: Lynn Tominaga – Idaho Water Policy Group
Michael Creamer - Givens Pursley LLP
Gail McGarry – US Bureau of Reclamation

Encl: 2

TABLE OF WATER RIGHTS TO BE LEASED TO THE IDAHO WATER RESOURCE BOARD

APPLICANT	WATER RIGHT NO.	PRIORITY DATE	ESTIMATED ELIGIBLE ACRES	ESTIMATED VOLUME (AF)
Little Valley Mutual Irrigation Co.	2-2442	8/12/1963	199.2	597.6
	2-2443	8/12/1963		
	2-7030	3/23/1969		
	2-7068	8/14/1970		
	2-7221	3/2/1976		
	57-2202	5/5/1952		
	57-2203	5/14/1952		
Montierth, Edward Ray, Susan & Herbert R	2-2191B	1/11/1963	587.7	1763.1
Snake River Ranch, Ltd	2-2379	9/3/1965	761.4	2284.2
TOTALS:			1548.3	4644.9

