

MEMORANDUM

To: File(s) 36-4148A and 36-16236

From: Cynthia Bridge Clark

Date: February 13, 2006

Re: Review/Analysis for Applications to Lease and Rent Water Right(s) through the State Water Supply Bank

PURPOSE/NARRATIVE:

Companion applications to lease and rent water through the water supply bank (bank) were filed by Clear Lake Ranch PUD Master Association, Inc. (lessor) and Clear Springs Foods, Inc. (renter). The two entities entered into a private agreement (Exchange of Water Rights Agreement) to subordinate a portion of water right 36-2703 (Clear Springs Foods) to use of water under 36-4148 (Clear Lake Ranch) in exchange for an agreement to allow use of a portion of a right 36-4148A (Clear Lake Ranch) by Clear Springs Foods for irrigation of landscape areas. In order to accomplish the change, the parties filed companion applications to the bank. The lease application offered a portion of water right no. 36-4148A to the bank for an indefinite period of time for rental by Clear Springs Foods.

Both applications indicate the transaction is revenue neutral and that Clear Springs Foods agrees to pay administrative expenses. Consequently, the rental fee was calculated based on the current rental rate. The renter is obligated to pay only the administrative fee (\$35.20 annually or a lump sum \$176.00 for the five-year rental period). The first payment should cover both the 2005 and 2006 irrigation seasons.

The rental application specified a rental period of "indefinite". I spoke with Randy MacMillan with Clear Springs Foods about the water supply bank rules that require the department to give notice and obtain approval from the Idaho Water Resource Board for a rental of more than five years. He indicated that approval of the rental for five years would be sufficient for now.

Additionally, transfer no. 71435 split water right 36-4148A into two new water rights. The portion offered for lease is now described by a portion of right 36-16236. The approved lease and rental reference the split water right number.

AUTHORITY TO FILE:

The water right is currently in the name of the applicant.

WATER RIGHT VALIDITY:

The referenced right was decreed in the Snake River Basin Adjudication on August 27, 2001.

INJURY TO OTHER WATER RIGHTS:

Staff is unaware of any possible injury by the proposed lease and rental. Water master Cindy Yenter is aware of the transaction.

ENLARGEMENT OF USE:

The proposed leases and subsequent rental do not appear to constitute an enlargement of use.

LOCAL PUBLIC INTEREST:

Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

The leases and rental appear to be consistent with conservation of water resources in Idaho.

RENTAL CONSIDERATIONS:

The right is leased to the bank specifically for rental by Clear Springs Foods. See private agreement: "Exchange of Water Rights Agreement."