

MEMORANDUM

To: File 63-31194

From: Cynthia Bridge Clark

Date: August 23, 2005

Re: Applications to Sell or Lease a Water Right to the Water Supply Bank Held

The department received Applications to Sell or Lease a Water Right to the Water Supply Bank ("bank") on November 19, 2004 and July 27, 2005. Both applications offer the above referenced water right for lease to the bank. Upon receipt of the original application, I spoke with representative and attorney Jon Gould about additional information required to process the application. I explained that documentation of the applicant's authority to file the application was required due to a dispute regarding ownership of the water right (see letter by Jeff Peppersack dated October 26, 2004). We discussed the possibility of refilling the application jointly by both parties involved in the ownership dispute (Darwin McKay and Sundance Investment Ltd.), amending the application to show both parties names and signatures, or providing documentation from Sundance Investment Ltd. recognizing Mr. McKay's authority to lease the right to the bank for protection from forfeiture. I notified Jon that the application would be held pending resolution of questions surrounding the ownership of the right or until documentation of the authority to lease the right was provided.

Scott King of SPF Water Engineering, LLC submitted a second application to lease the same right to the bank on behalf of Mr. McKay. As indicated in the cover letter submitted with the application, Scott was under the impression that the ownership issues surrounding the right had been resolved. After reviewing the available information, I informed him that the department had not received documentation clarifying the status of ownership, that additional information documenting Mr. McKay's authority to offer the right for lease would still be required for processing.