



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
7250 (340)

Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

RECEIVED

JAN 20 2006

Department of Water Resources
Eastern Region

Idaho Department of Water Resources:

The Bureau of Land Management (BLM) is hereby protesting Water Right **Application for Permit No. 74-15613**, filed by James and Paula Whittaker.

This application proposes to use a ditch that crosses BLM land for which no right-of-way exists. A right-of-way existed for this ditch but was abandoned when Whittaker transferred water rights out of the ditch in 1993. Based on this transfer, there has been no legal use of the ditch since then. Based on 43 CFR 2807.17(c), "...failure to use your right-of-way for its authorized purpose for any continuous 5-year period creates a presumption of abandonment."

If the Whittakers desire to obtain an authorization for this ditch, they should apply to the BLM based on current regulations under the Federal Land Policy Management Act (FLPMA) of 1976.

If you have any questions you can contact me at 756-5425 or Gloria Jakovac at 756-5421.

Sincerely,

Craig E. Nemeth
Acting Field Manager

Receipt
ED31584