No Color Documents In File

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No 39576)
)

PARTIAL DECREE PURSUANT TO
I R.C.P. 54(b) FOR

Water Right 65-00585

-8 PM 2:19
DISTRICT COURT-SRBA
IDAHO

NAME AND ADDRESS: BOISE CASCADE CORP
REGION ENVIRONMENTAL ENGINEER
PO BOX 476
EMMETT, ID 83617

SOURCE GROUND WATER

QUANTITY. 0.67 CFS
40 40 AFY

PRIORITY DATE 06/01/1934

POINT OF DIVERSION T06N R02W S12 SENE Within Gem County

PURPOSE AND PERIOD OF USE

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.67 CFS 40.40 AFY

DOMESTIC USE IS DRINKING WATER & VARIOUS FACILITIES WITHIN COMPLEX ^^^

PLACE OF USE Domestic Within Gem County
T06N R02W S12 LOT 08 (SENE)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R C P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

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MAY 2 1 2003

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

March 11, 2004

BOISE CASCADE CORP.
REGION ENVIRONMENTAL ENGINEER
PO BOX 476
EMMETT ID 83617

RE: APPLICATION TO LEASE PART OF WATER RIGHT NO(S). 65-585, 65-586, 65-587, 65-593, 65-594, 65-595, 65-597, 65-2622, 65-2706, 65-2950, 65-5787, 65-7094, 65-7884, 65-8003, AND 65-12755 TO THE WATER SUPPLY BANK

Dear Lessor:

The Department of Water Resources ("department") has completed its review of the Applications to Sell or Lease Water Right(s) to the Water Supply Bank ("bank"). Please consider that the offered water right(s) are accepted into the bank

Several items to keep in mind in connection with the lease of a water right to the bank are as follows:

1. There is no rental payment to the owner of the water right if the right or a part thereof is not rented from the bank

2 While a right is in the bank, the owner of the right may not use the right even if the right is not rented from the bank.

3 While water rights authorized for domestic use from a groundwater source are leased to the bank, water may not be diverted at the place of use authorized under the rights for the same purpose to meet the exemption of section 42-227, Idaho Code.

4 A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease

5 While a water right is in the bank, forfeiture provisions are stayed

6 Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

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7. Rental of the right from the bank may require additional review to confirm the availability of the surface water sources and the extent of beneficial use available under the right.

8. In accordance with Transfer no. 69984, the diversion rate and volume available for lease under water right no. 65-587 is 18.28 cubic feet per second and 11541.8 acre-feet respectively.

9. The water rights referenced above will be rented from the bank at the current rental rate. However, the lessor reserves the right to negotiate a different rental rate for a multi-year rental agreement.

10. Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance.

Please consider that the rights will automatically be released from the bank on **December 31, 2008**, unless the rights are released earlier by the Water Resource Board, or upon a request from the owner of the rights. To change the term of the lease, the lessor must submit a request to the department in writing prior to the release date.

Enclosed is a copy of the Internal Revenue Service Request for Taxpayer Identification and Certification, Form W-9. The department is required to file an information return with the Internal Revenue Service ("IRS") for all rental payments issued to owners of water rights leased to the bank. Please return this form to my attention. Payments for the rental of a water right or a part thereof cannot be issued to the lessor unless the department has received a completed IRS W-9 form.

If you have questions, please feel free to contact me.

Sincerely,

Cynthia Bridge Clark
Water Allocation Bureau

Encl: 1

c: John Westra – IDWR Western Regional Office
Bruce Smith, Moore, Smith, Buxton & Tucke, Chartered.

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MEMORANDUM

File(s): 65-585, 65-586, 65-587, 65-593, 65-594, 65-595, 65-597, 65-2622, 65-2706, 65-2950, 65-5787, 65-7094, 65-7884, 65-8003, and 65-12755

From: Cynthia Bridge Clark

Date: March 9, 2004

Re: Lease of Water Right(s) to the State Water Supply Bank

Boise Cascade Corp Region Environmental Engineer filed separate applications to lease the above referenced water rights to the Water Supply Bank ("bank"). In addition to the standard conditions pertaining to rights leased to the bank, several specific conditions were applied to provide for their acceptance into the bank:

- Water rights 65-585, 65-5787 and 65-7094 authorize domestic use from a ground water source. Condition no. 3 specifies that a domestic exemption should not be exercised at the place of use described by these rights while they are leased to the bank.
- Many of these rights have a surface water source, including springs. Condition no. 7 specifies that additional information may be required to document the availability of the source prior to rental of the rights from the bank. Additionally, the uses authorized under these rights vary from industrial use, domestic, heating, commercial storage, etc. It may be necessary to determine the extent of beneficial use if a change in nature of use is required for rental from the bank.
- Water right 65-587 is subject to approved transfer 69984. The transfer recognizes an agreement between the protestant and the right holder in which 0.76 cfs of the right is designated to provide conveyance water for other water rights. The application to bank proposes that the remainder of the right be leased to the bank (19.04 cfs – 0.76 cfs = 18.28 cfs available for lease). Given that the diversion volume authorized under the right is for year round industrial use (11,912 af), the volume leased to the bank was determined by subtracting the volume associated with the diversion rate withheld for the length of the corresponding irrigation season: 11, 912 af – (0.76 cfs x 1.98 x 246 days) = 11541.8 af. (See Condition no. 8).
- The applicant's attorney, Bruce Smith, was informed of the review findings in a telephone conversation on 3/9/2004, and confirmed that the current rental rate would be acceptable for an annual rental agreement, but requests the opportunity to negotiate a different rental price for a multi-year rental agreement. (Condition no. 9).

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RECEIVED
JAN - 8 2004
Department of Water Resources

Form 42-1761
01/03

Water Supply Bank No _____

Water Right No. 65-00585
Emmett

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

Name of Seller/Lessor Boise Cascade Corp. Region Environmental Engineer Phone (208) 365-4431

Post office address P.O. Box 476 Emmett, Idaho 83617

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

a. Decree No 39576, Subcase 65-00585 Decreed to Boise Cascade Corp.
(Name)
in case of In Re SRBA

dated March 8, 2002 in 5th Judicial District of Idaho county of Twin Falls
(Name of court)

b License No _____ issued by the Idaho Department of Water Resources.

c Permit No._____issued by the Idaho Department of Water Resources.

2 DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease, show "all" on line a. below and skip the remainder of part 2.)

a. Amount of water under right: All cubic feet per second &/or ____ acre-feet per annum

b. Point of diversion: ___¼ of ___¼ of Section __ Township ___ Range __
B.M. in _____ County.

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Additional points_____

c. Place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres _____

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

a Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

See Partial Decree in In Re SRBA Case No. 39576, Subcase No. 65-00585

b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

See Partial Decree in In Re SRBA Case No. 39576, Subcase No. 65-00585

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c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

Not applicable

e. If the water right is a permit, describe the work accomplished toward developing the right.

Not applicable

f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

Not applicable

4 REMARKS:

5 SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

___X___ For lease for a period from date approved, 2003 to date approved, 2008
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or _____ As a gift to the state of Idaho.

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2 Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

Negotiable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.

2 While a right is in the bank, the owner of the right may not use the right even if the right is not rented.

3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.

4. While a water right is in the bank, forfeiture provisions are stayed

5 Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Date

Signature SENIOR VICE PRESIDENT

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by_____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval_____ denial by _____

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MAR 2 2 2004

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Roger Burdick

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MAR 22 2004