

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1512

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

LESSOR: BKC FARMS INC
680 N 2100 E
ST ANTHONY, ID 83445-5323

RECEIVED
FEB 28 2022
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on December 17, 2021.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
21-7007	12/2/1968	GROUND WATER	1.83	438.9	146.3
Lease Totals			1.83	438.9	146.3

2. **COMPENSATION:** The Lessor shall accept, and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2022 to December 31, 2022. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

WATER SUPPLY BANK LEASE CONTRACT No. 1512

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1512

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: BKC FARMS INC
680 N 2100 E
ST ANTHONY, ID 83445-5323

By Coy Crapo
Title partner
Date 2/23/22

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 3/25/22

Lease approved by IDWR HP

Date 3/25/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1512

ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 21-7007

GROUND WATER SENW Sec. 16 Twp 08N Rge 41E FREMONT County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
21-7007	IRRIGATION	5/01	to	9/30	1.83 cfs	438.9 AF
Totals:					1.83 cfs	438.9 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	41E	16					39.0	31.5	8.0	5.0	7.8	10.0	8.0	37.0					146.3

Total Acres: 146.3

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1512

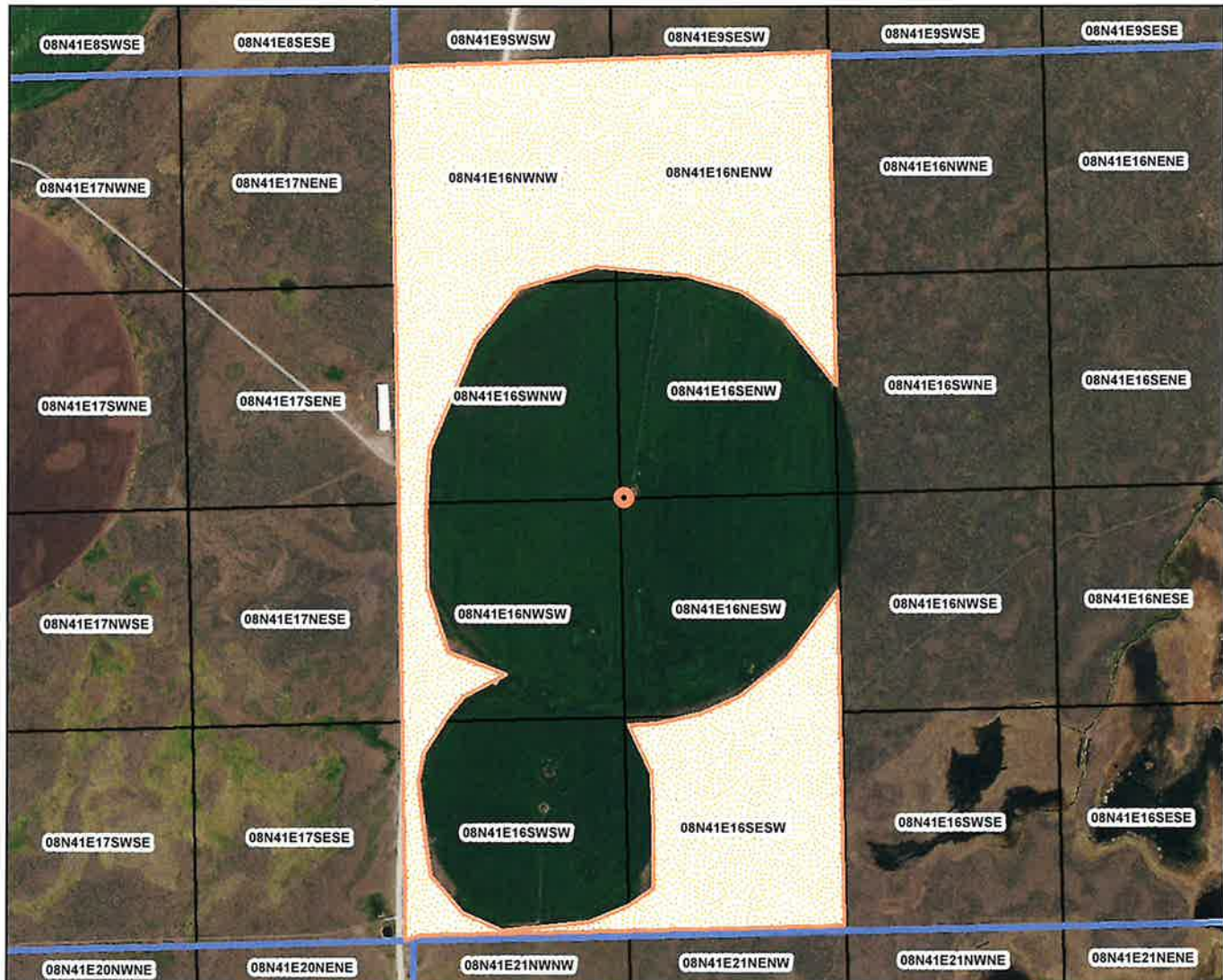
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Use of water under this right is regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of the approval, this water right is within State Water District No. 100.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1512

21-7007

Effective until December 31, 2022

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Place of Use
-  Approved Lease Point of Diversion
-  Township/Range
-  Sections
-  QQ



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

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

DEC 17 2021

DEPARTMENT OF
WATER RESOURCES

Designated Applicant BKC Farms, Inc.

(Select one owner – see item 1A on the application)

Water Right No. 21-7007

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from <u>www.idwr.idaho.gov</u>). |
| 1D | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: <u>www.idwr.idaho.gov</u> . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☒ | ☐ | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>250 -</u>	Received By: <u>Ku</u>	Date Received: <u>12.17.21</u>	Receipt # <u>C111528</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>BKC Farms INC</u>	

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant BKC Farms, Inc.

Mailing Address c/o Bruce Crapo 680 N. 2100 E. St. Anthony Idaho 83404-7974
Street City State Zip Code

Email Address bruce@sunglo-idaho.com Phone Number (208) 313-6303

- ☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

- ☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Robert L. Harris Organization Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Professional Title Attorney Email Address rharris@holdenlegal.com

Mailing Address P.O. Box 50130, Idaho Falls, Idaho 83405 Phone Number (208) 523-0620

- ☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

- ☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

- ☐ The full water right is being offered to the Bank.

OR

- ☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).
- B. Please provide a description of the current water diversion and delivery system.
Well and pump into pivots.
- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.
- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The same portion of Water Right No. 21-7007 offered into the Water Supply Bank now was placed in the Idaho Water Supply Bank in 2016 after 21-7007 was decreed in September of 2011.
- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☒ No ☐
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. The portion of Water Right No. 21-7007 being offered into the Water Supply Bank was previously leased into the Water Supply Bank from 2016 through 2020. See Idaho Code section 42-223(5).
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2022 to 2022 (maximum lease period 5 calendar years).
(Year) (Year)

- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate. _____

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 water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Robert L. Harris
Signature of Designated Applicant

Robert L. Harris, Attorney
Printed Name

12/13/2021
Date

Signature of Authorized Representative

Printed Name

Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 21-7007

	Designated Applicant	Applicant #2	Applicant #3
Name	BKC Farms, Inc.		
Mailing Address	1908 E. 500 N. St. Anthony, ID 83445		
Phone Number	208 313-6303		
Email Address	bruce@sunglo-idaho.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			



0003398553



STATE OF IDAHO
Office of the secretary of state, Lawrence Denney
ANNUAL REPORT
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

For Office Use Only

-FILED-

File #: 0003398553

Date Filed: 1/16/2019 2:51:34 PM

Entity Name and Mailing Address:

BKC, INC.

The file number of this entity on the records of the Idaho Secretary of State is:

0000388502

Address

680 N 2100 E
SAINT ANTHONY, ID 83445-5323

Entity Details:

Entity Status

Active-Good Standing

This entity is organized under the laws of:

IDAHO

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was:

C126893

The registered agent on record is:

Registered Agent

BRUCE K CRAPO
Registered Agent

Physical Address

680 N 2100 E
ST ANTHONY, ID 83445

Mailing Address

Corporate Officers and Directors:

Names of officers and directors	Title	Address
BRUCE K CRAPO	President	680 N 2100 E ST. ANTHONY, ID 83445

The annual report must be signed by an authorized signer of the entity.

Bruce Crapo

Sign Here

01/16/2019

Date

Signer's Title: President

B0147-1403 01/16/2019 2:51 PM Received by ID Secretary of State Lawrence Denney

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 28 2021

DEPARTMENT OF
WATER RESOURCES

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
21-7007	Irrigation	1.83	438.9	146.3
	Total Amounts:			

2. Source of water Ground water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8N.	41E.	16			SE	NW	FREMONT

AMENDED

ATTACHMENT A

WATER RIGHT NO. 21-7007 WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: BKC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445
208-313-6303

Location of Point(s) of Diversion for Water Right 21-7007.

GROUND WATER SENW Sec. 16, Twp 08N, Rge 41E, FREMONT County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
21-7007	IRRIGATION	05/01	to 09/30	1.83 cfs	438.9 af
Total:				1.83 cfs	438.9 af

Place of Use to be Idled Under This Lease: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Total s
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	41E	16					39.0	31.5	8.0	5.0	7.8	10.0	8.0	37.0					146.3

Total Acres: 146.3

Conditions Applicable to All Leased Water Rights

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department, even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.

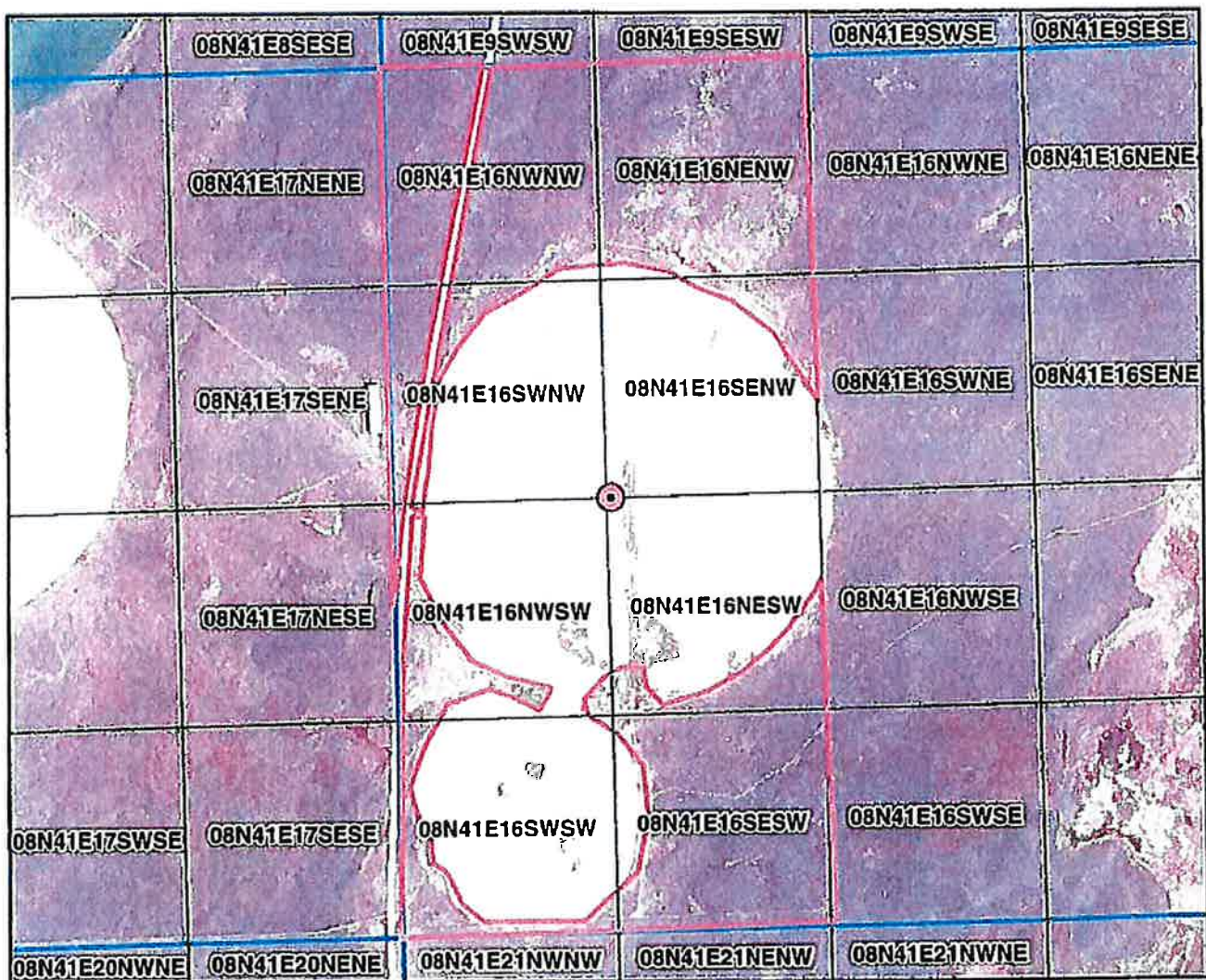
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment after the following rental season.
11. The water right leased to the bank is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Use of water under this right is regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.

Idaho Water Resource Board
Water Supply Bank Lease

21-7007

Effective until December 31, 2018

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



2013 USDA-FSA Aerial Photography

⊙ Approved Lease Point of Diversion

Approved Lease Place of Use

Townships

PLS Sections

Quarter Quarters



0 0.25 Miles

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
21-7007	Irrigation	1.98	477	159
Total Amounts:				

2. Source of water Ground water tributary to

3. Point(s) of diversion:

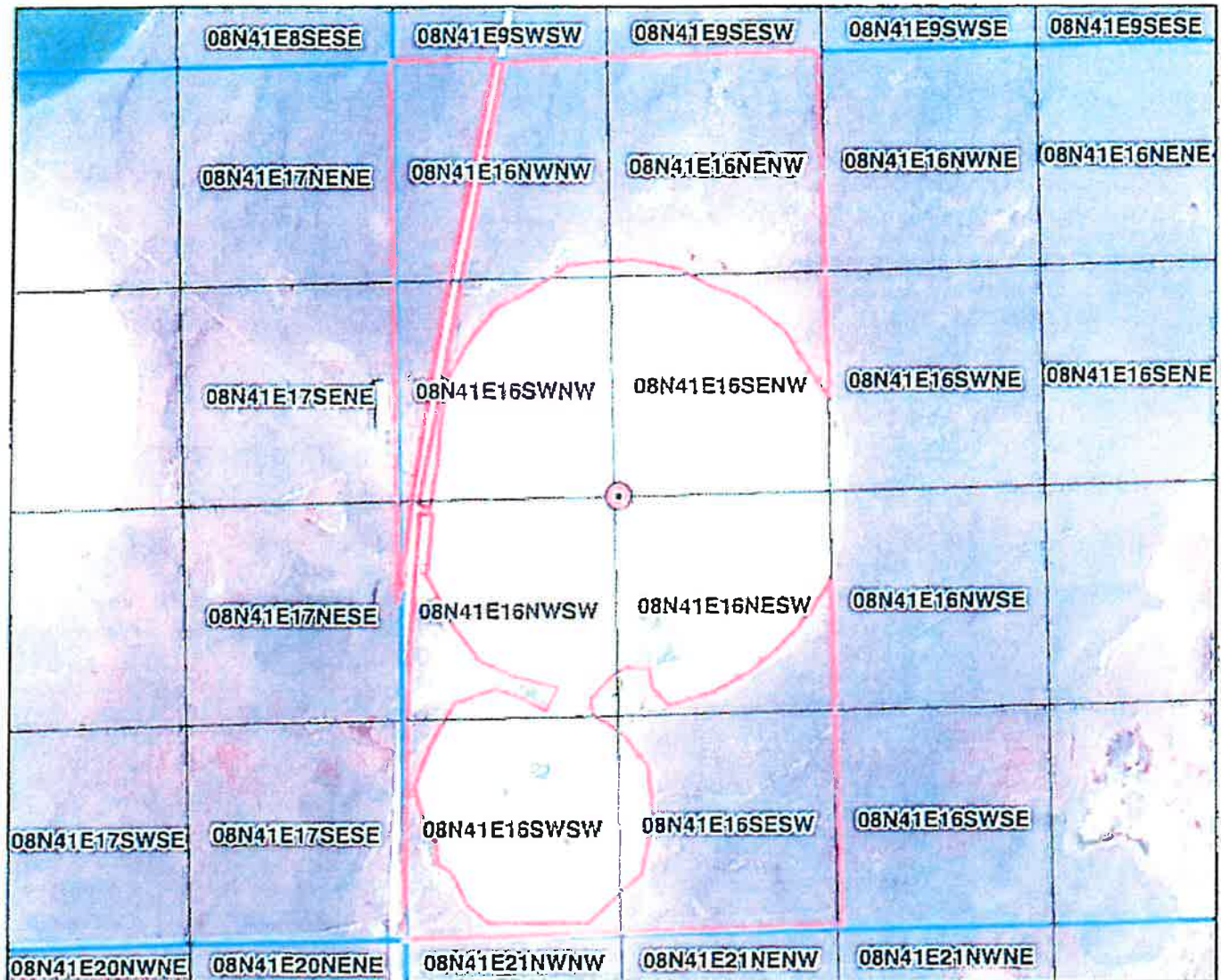
Twp	Rge	Sec	Lot	¼	¼	¼	County
8N.	41E.	16			SE	NW	FREMONT

Idaho Water Resource Board
Water Supply Bank Lease

21-7007

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2013 USDA-FSA Aerial Photography

○ Approved Lease Point of Diversion

Approved Lease Place of Use

Townships

PLS Sections

Quarter Quarters



0 0.25 Miles



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

April 11, 2022

BKC FARMS
680 N 2100 E
ST ANTHONY ID 83445-5323

**RE: WATER SUPPLY BANK LEASE CONTRACT 1512
FOR WATER RIGHTS 21-7007**

Dear Lessor:

Water right **21-7007** was leased into the Water Supply Bank (Bank) as of January 1, 2022, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2022**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region
Water District No. 100
Henry's Fork GWD

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, March 29, 2022 11:48 AM
To: rharris@holdenlegal.com
Subject: BKC Farms WSB Lease Contract

The WSB Lease Contract to lease water right 21-7007 to the Bank has been executed and is ready to be sent out. It does not appear this right has been used in quite a few years. Since the Department received this application in December of 2021, we can lease the water for all of 2021 and 2022. As it stands, the contract is for 2022. Please let me know if your client would like to change the term of the lease to January 1, 2021 to December 31, 2022. I will hold off mailing the executed contract for 7 days. If I don't hear from you within 7 days, the term of the lease will remain for the 2022 season only.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

Hersley, Jean

From: Cefalo, James
Sent: Wednesday, February 16, 2022 3:30 PM
To: Hersley, Jean
Subject: RE: WSB Lease for BKC Farms 21-7007

Jean,

I don't have any comments or concerns with the proposed WSB Lease.

James

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Wednesday, February 16, 2022 3:14 PM
To: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: WSB Lease for BKC Farms 21-7007

These are the same 146.3 acres that were in the Bank from 2016-2020. Please let me know if you have any comments or concerns. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

Hersley, Jean

From: Jordan, Blake
Sent: Wednesday, February 16, 2022 3:34 PM
To: Hersley, Jean; Cefalo, James
Subject: RE: WSB Lease for BKC Farms 21-7007

Hi Jean,
I have no issues with this lease.

Thanks,
Blake

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Wednesday, February 16, 2022 3:14 PM
To: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: WSB Lease for BKC Farms 21-7007

These are the same 146.3 acres that were in the Bank from 2016-2020. Please let me know if you have any comments or concerns. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*



Governor Brad Little

Director Gary Spackman

February 17, 2022

BKC FARMS INC
680 N 2100 E
ST ANTHONY ID 83445-5323

RE: **APPLICATION TO LEASE WATER RIGHT 21-7007 TO THE WATER SUPPLY BANK
CONTRACT 1512**

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:
"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Holden Kidwell Hahn & Crapo

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, February 16, 2022 3:14 PM
To: Jordan, Blake; Cefalo, James
Subject: WSB Lease for BKC Farms 21-7007
Attachments: Idled Acres.pdf; Lease Application Review 21-7007.xls; Report - Lease Contract - 1512.docx

These are the same 146.3 acres that were in the Bank from 2016-2020. Please let me know if you have any comments or concerns. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: BKC Farms Inc

Memo Date: February 16, 2022

Water Right Number(s): 21-7007

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases (Front of File)	x	
2 Reason for lease of water rights (Brief description of lease proposal in narrative)		
Portion of right	x	
All of right		
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	Yes No	
4 Rentable? (If no explain in comments or narrative)	x	
5 Authority to file		
Current owner or designated applicant		Robert Harris attorney
SOS Web site checked for business entity		
Other (explain in comments)		
6 Water Right validity		
Decreed/Licensed/Statutory claim date (write in comments section)		2011
Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		
Has this right previously been leased to the bank or in CREP?	x	2016-2020
7 Injury to other water rights		
If the POD is through a delivery entity, was consent provided?		na
If the POD is through a delivery entity, was holdback required? (percentage in comments)		%
Any other concerns		
8 Enlargement concerns	Check box	
Complete a POU comparison overlap analysis	x	overlaps with rights from Egin Bench Canals, BLM, Fremont Madison Irrigation District & North Fork Reservoir Co
Complete a combined limits review	x	
Complete POD overlap analysis (if there is an overlap add condition to lease)	x	
	Yes No	
Are there overlapping rights that need to be placed in the bank also?		x
Will the place of use continue to receive water? (if yes explain in comments)		x
9 Local Public Interest		
Does the processor know of any problems this action will cause for the local public?		x
10 Have you contacted regional office and watermaster for comment/concerns?	x	
Send the watermaster comment request form or e-mail request	x	
11 Area Headgate requirement (write in Comments)		3.5
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x
13 Narrative: The Department received this application on December 17, 2021. An amended attached 2 was received on December 28, 2021. The applicant wishes to place 146.3 acres in the Bank for the 2022 season. This right was decreed in 2011 and these acres were placed in the Bank in 2016-2020. Robert Harris, attorney signed the application. This right overlaps with several rights from Egin Bench Canals, BLM, Fremont Madison Irrigation District & North Fork Reservoir Co. This right is currently within WD 100. According to aerial imagery, the acres proposed for lease have been idle since the partial decree was issued. Five years of non-use has occurred. 2012-2105 was years, then the right was leased from 2016-2020. The acres were again idle in 2021 which was the fifth year. Multiple Programs Memo No. 2 states, "the Department will presume that resumption of beneficial use or any defense or protection, including filing an extension of time to avoid forfeiture, initiated before the end of the sixth calendar year will prevent a finding of forfeiture by the Department." Application 2241 was received on 12/17/21 for a lease to begin in the 6th year of non-use. The acres can be accepted as valid into the water supply bank in 2022. Additional periods of non-use will require the permit holder to submit evidence the right has not been lost to forfeiture before another lease contract can be approved.		



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

RECEIVED

DEC 17 2021

DEPARTMENT OF
WATER RESOURCES

Established in 1896

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405
Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
rharris@holdenlegal.com

December 13, 2021

Idaho Department of Water Resources
Idaho Water Supply Bank
P O Box 83720
Boise, ID 83720-0098

Re: Application to Lease Water Right No. 22-7007 into the Water Supply Bank.

Dear Water Bank Agent:

Enclosed for processing is an application to lease a portion of Water Right No. 22-7007 into the Idaho Water Supply Bank. This portion of Water Right No. 22-7007 has been leased to the Bank from 2016-2020, and that lease expired at the end of 2020. The water right owner thought the prior lease went through 2021, but that does not appear to be the case. We have also included the required \$250 filing fee for this application. If you have any questions or concerns, please contact me at 208-523-0620.

Best regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

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