

SEP 29 2021

DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1416

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

LESSOR: FLYING H FARMS PARTNERSHIP
518 OLD HIGHWAY 30
MOUNTAIN HOME, ID 83647-6289

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 April 22, 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)
2-7065C	5/14/1970	SNAKE RIVER, tributary to COLUMBIA RIVER	1.58	394	78.8
Combined Lease Totals			1.58	394	78.8

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, 2021 to December 31, 2025. 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. 1413

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. 1413

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

LESSOR: FLYING H FARMS PARTNERSHIP

518 OLD HIGHWAY 30

MOUNTAIN HOME, ID 83647-6289

By Jeff Harper

Title Managing Partner

Date 9/27/21

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 10/13/21

Lease approved by IDWR [Signature]

Date 10/13/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1413

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): 2-7065C

SNAKE RIVER NWNW Sec. 6 Twp 06S Rge 08E OWYHEE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
2-7065C	IRRIGATION	04/01	to	10/31	1.58 cfs	394 AF
Totals:					1.58 cfs	394 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	
06S	08E	18	5.2	15.3	15.7	3.1	4	10	10.3	4.7	2	5.5	2			1			78.8

Total Acres: 78.8

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.
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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

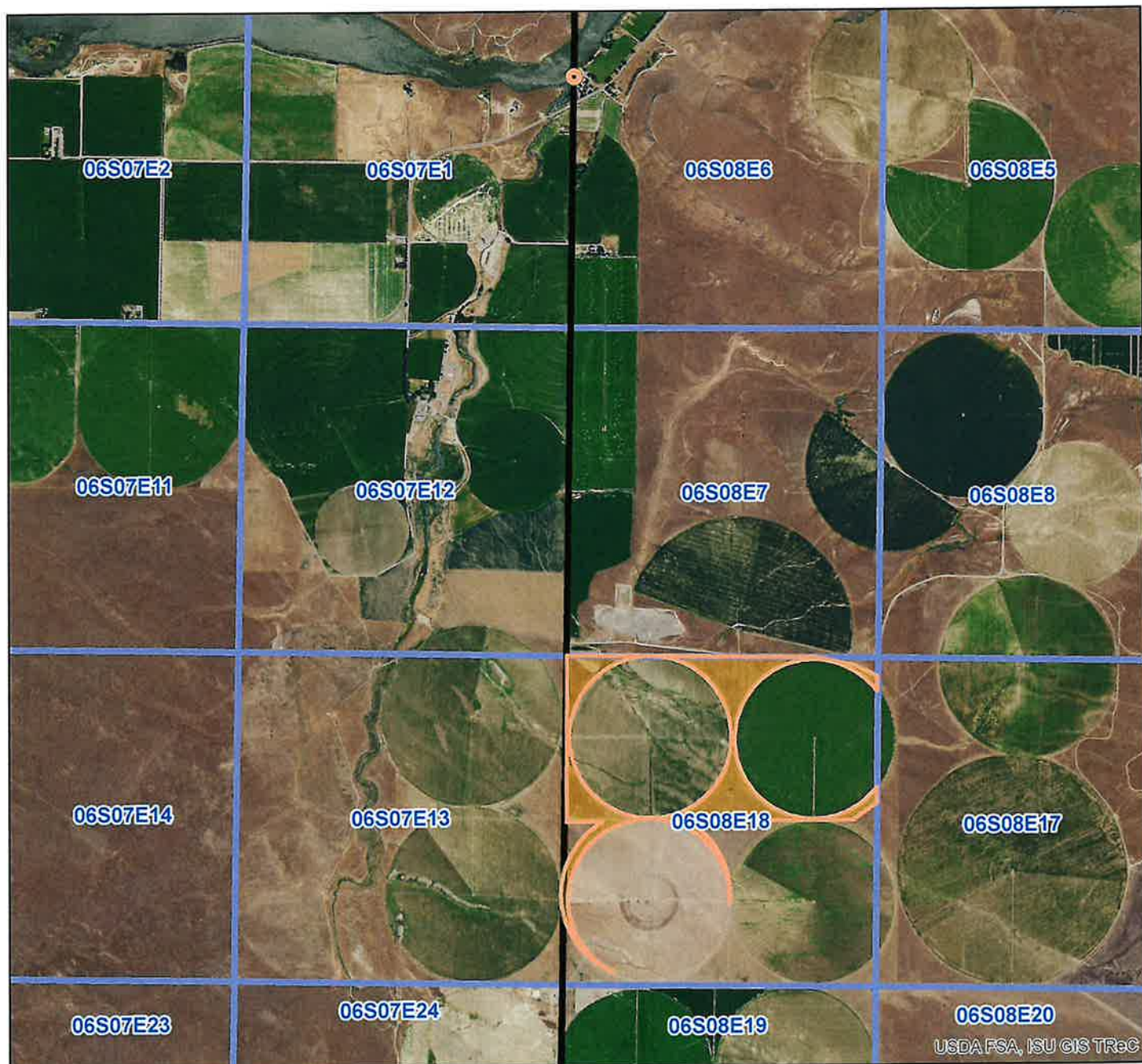
WATER SUPPLY BANK LEASE CONTRACT No. 1413

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. The unleased extent of water right 2-7065C is limited to the irrigation of a specific 352.2 acres within the 1,800 permissible place of use authorized by this right in a single irrigation season. The specific 352.2 acres to be irrigated by the right holder have been identified through submission of a land list and a representative electronic shape file. Before changing the 352.2 acres to be irrigated within the 1800 acre permissible place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 5.0 afa per acre at the field headgate for irrigation of the place of use.
14. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/01 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 9/1/2010.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1413

2-7065C
Effective until December 31, 2025

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 Point of Diversion

Approved Lease Place of Use

Township/Range

Sections



0 1 2 Miles

USDA FSA, ISU GIS TR&C

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

Designated Applicant Flying H Farms Partnership
(Select one owner – see item 1A on the application)

Water Right No. 2-7065C
(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.**

MIMUMUM 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 <i>all owners</i> 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 www.idwr.idaho.gov). |
| 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: www.idwr.idaho.gov . |
| 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 \$	Received By:	Date Received:	Receipt #
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9:	

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 Flying H Farms Partnership

Mailing Address 518 Old Highway 30 Mountain Home, ID 83647

Street

City

State

Zip Code

Email Address trent@flyinghfarms.net; jeff@flyinghfarms

Phone Number 208-587-8716

- ☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

- ☐ 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.
Four 250 HP pumps that deliver water to the acreage. Pumps are located on the Snake River at TWP 06S 08E
SEC 6 SW NW SW Owyhee County
- 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. 2-7369
- 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. Corners will be leased and rented to change place of use supplementing water right
2-7369
- 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.
- 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.
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

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: 2021 to 2025 (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.

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.

Jeff Harper
Signature of Applicant

Jeff Harper
Printed Name

4/1/2021
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**

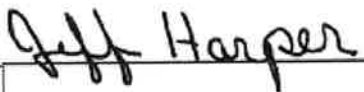
ATTACHMENT 1A

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). 2-7065C

	Designated Applicant	Applicant #2	Applicant #3
Name	JEFF HARPER	JOE HARPER	JOHN HARPER
Mailing Address	518 OLD HIGHWAY 30 Mountain Home, ID 83647	518 OLD HIGHWAY 30 Mountain Home, ID 83647	518 OLD HIGHWAY 30 Mountain Home, ID 83647
Phone Number	208-587-8716	208-587-8716	208-587-8716
Email Address	jeff@flyinghfarms.net	joe@flyinghfarms.net	john@flyinghfarms.net
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			

**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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
2-7056C	Irrigation	1.56	312.4	78.1
Total Amounts:				

2. Source of water Snake River tributary to Columbia River

3. Point(s) of diversion:

TwP	Rge	Sec	Lot	¼	¼	¼	County
06S	08E	6		NW	NW		Owyhee



Declaration

I, Jeff Harper, am writing this letter to indicate that I have signature authority for Flying H Farms Partnership. I am the President and Managing Partner for this entity. I, along with my two business partners, make up the ownership group for Flying H Farms Partnership.

Sincerely,

A handwritten signature in black ink that reads "Jeff Harper". The signature is written in a cursive, flowing style.

Jeff Harper
President / Managing Partner
Flying H Farms Partnership



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

November 1, 2021

FLYING H FARMS PARTNERSHIP
518 OLD HIGHWAY 30
MOUNTAIN HOME, ID 83647--6289

**RE: WATER SUPPLY BANK LEASE CONTRACT 1413
FOR WATER RIGHTS 2-7065C**

Dear Lessor:

Water right **2-7065C** was leased into the Water Supply Bank (Bank) as of January 1, 2021, 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, 2025**, 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Western Region
Water District No. 02



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

September 22, 2021

FLYING H FARMS PARTNERSHIP
518 OLD HIGHWAY 30
MOUNTAIN HOME, ID 83647

**RE: APPLICATION TO LEASE WATER RIGHTS 2-7065C TO THE WATER SUPPLY BANK
CONTRACT 1413**

******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, 2025**, 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

Memorandum

To: Water Right 2-7065C
From: Remington Buyer
Date: June 15, 2021
Re: Water Supply Bank Lease Applications 2062

Purpose/Narrative: An application was received on April 22, 2021 from Flying H Farms offering portions of water right 2-7065C for lease to the Bank, so that the leased portions might be rented back elsewhere for irrigation of lands not presently associated with the irrigation place of use for water right 2-7065C. Rental application 1821 precipitated this lease. Through a review of rental application 1821, it was determined that some lands presently identified as the specific acres authorized to be irrigated under water right 2-7065C would not be irrigated in 2021, and the irrigation extent of water right 2-7065C specific to these unirrigated lands might be relocated elsewhere.

Water right 2-7065C authorizes the irrigation of 431 acres within a 1,800 acre permissible place of use (PPU). Per a 2012 transfer (Transfer 77667), a specific 426.8 acres in the NE, NW and SW quarter-quarters of Section 18 were identified as being the place of use (POU) for this water right. The 1,800 acre PPU and 426.8 acre POU specified for this water right are as follows:

PPU For Water Right 2-7065C																				
Twp	Rge	Sec	NE				NW				SW				SE				Row Total	Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
06S	07E	11	40	40	40	40													160	1,800
06S	07E	12									40	40	40	40	40	40	40	40	320	
06S	07E	13	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640		
06S	08E	17					40												40	
06S	08E	18	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640		

POU For Water Right 2-7065C																				
Twp	Rge	Sec	NE				NW				SW				SE				Row Total	Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
06S	08E	18	36.8	40.0	39.8	37.9	40.0	31.9	31.7	40.0	38.5	28.5	22.1	32.7	0.0	4.3	2.6	0.0	426.8	427

Recently, through rental application 1821, Flying H Farms affirmed that they would only be irrigating approximately 352.2 acres of the specified POU for water right 2-7065C during the term of the lease, as follows:

POU For Water Right 2-7065C That Will Be Irrigated During the Term of the Lease																				
Twp	Rge	Sec	NE				NW				SW				SE				Row Total	Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
06S	08E	18	34.8	24.7	24.2	34.8	36.0	22.2	21.4	35.3	36.5	23.0	20.5	32.7	3.5	2.6			352.2	352.2

Accordingly, the remaining balance of 78.8 irrigable but not irrigated acres under 2-7065C are proposed for lease into the Bank through lease application 2062.

Authority to File: The applications were prepared and submitted by Mr. Trent Cummins on behalf of Flying H Farms. Review if the Idaho Secretary of State information affirms Mr. Cummins as an agent for the Farm, no concerns at this time.

Water Right Validity/Forfeiture Evaluation: Based on a review of the specific acreage being offered for lease to the Bank, it appears active irrigation of these lands has not occurred during the last several years. However, Flying H Farms appears to have been irrigating up to 1,219 acres annually during recent years, of which a majority of the irrigation was presumed to have been accomplished under water right 2-7065C (as

well as water right 2-7369). Lands not authorized to be irrigated under these two water rights appears to have been irrigated, which is a compelling reason to consider this water right to be fully valid.

Injury Evaluation: No injury is apparent through the lease.

Enlargement of Use: Transfer 77667 specified a 426.8 acre POU for water right 2-7065C, leaving an undefined balance of approximately four acres that could be irrigated somewhere within the PPU for the water right. Through rental application 1821, Flying H Farms has affirmed that they will irrigate 352.2 of the 426.8 acre POU for water right 2-7065C, leaving an unirrigated balance of 74.6 acres within the specified POU. Further, if 352.2 acres are irrigated under 2-7065C during the term of this lease, then 78.8 acres overall can be leased into the Bank without causing enlargement.

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

Beneficial Use/Conservation of Water Resources: The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Water right 2-7065C is subject to administration by Water District 02. Watermaster comments were originally requested on May 3, 2021. Following an update to this lease review on June 15, 2021, Watermaster comments were again requested on June 15, 2021.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for Flying H Farms through the end of 2025.