

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1316

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

LESSOR: EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

RECEIVED

FEB 19 2021

**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 23, 2020.
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)
63-14	11/22/1926	GROUND WATER	0.34	100	8.3
Combined Lease Totals			0.34	100	8.3

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)
63-14	0.34	100	8.3	0.04
Combined Limit Totals	0.34	100	8.3	0.04

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, 2021. This Lease shall bind the parties and take effect when both parties have signed it.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1316

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.
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.

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

LESSOR: EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

By Garnette Edwards
Title OWNER
Date 2/17/2021

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 2-22-2021

Lease approved by IDWR 

Date Feb 22, 2021

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1316

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): 63-14

GROUND WATER SWNE Sec. 29 Twp 04N Rge 02E ADA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-14	IRRIGATION	03/01	to	11/15	0.34 cfs	Not Stated
	COMMERCIAL	01/01	to	12/31	0.34 cfs	100 AF
	HEATING	01/01	to	12/31	0.34 cfs	100 AF
Totals:					0.34 cfs	100 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	
04N	02E	29			8.3														8.3

PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL & HEATING

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02E	29			X														X

Total Acres: 8.3

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

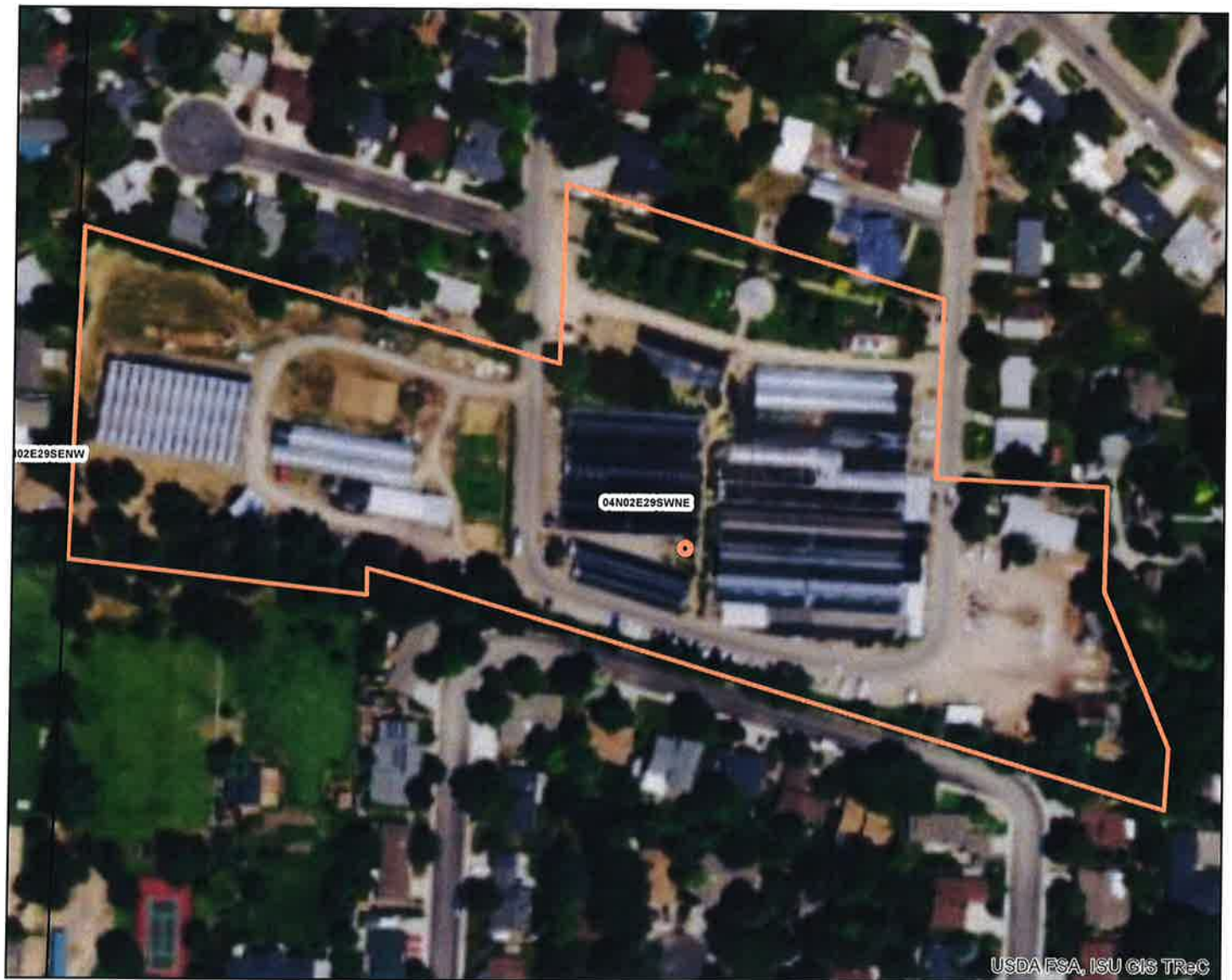
WATER SUPPLY BANK LEASE CONTRACT No. 1316

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.
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 well that is the point of diversion is known locally as the Edwards well.
13. This water right is subject to the terms of a private Agreement dated January 24, 2002, recorded at the Ada County Recorder's Office on August 27, 2002 as Instrument No. 102097169.
14. Use of this right with Right No. 63-5067 is limited to a total combined diversion rate of 0.33 cfs for outside irrigation.
15. Diversion of low temperature geothermal water under this right for outside irrigation and watering of plants shall, to the extent possible, occur only when the cold water under Water Right No. 63-5067 is insufficient or cannot be used.
16. This right may be limited to a total of 108.3 af during the period from October 1 through April 1 and/or 145.2 af during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water rights 63-12 and 63-13 and located in T04N, R02E, Sec. 29 NENESE.
17. The unleased portion of the heating, commercial, and domestic uses of this right are limited to 0.50 cfs and 150 af.
18. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch. Water District 63-S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.

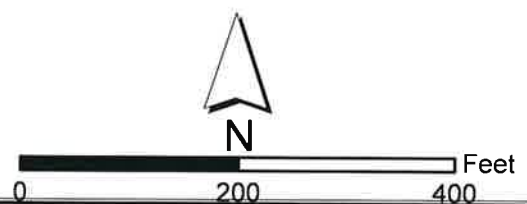
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1316

63-14
Effective until December 31, 2021

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
-  QQ



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
DEC 23 2020
DEPARTMENT OF
WATER RESOURCES

Designated Applicant Edwards Family LLC

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

Water Right No. 63-00014

(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 <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 \$ 250Received By: KMDate Received: 12.23.2020 Receipt # C109714W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

1846

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 Edwards Family LLC

Mailing Address c/o Garnette Edwards, 4106 Sand Creek, Boise, Idaho 83703

Street

City

State

Zip Code

Email Address _____

Phone Number (208) 342-7548

☒ 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 Dana L. Hofstetter

Organization Hawley Troxell Ennis & Hawley LLP

Professional Title Attorney at Law

Email Address dhofstetter@hawleytroxell.com

Mailing Address PO Box 1617, Boise, ID 83701-1617

Phone Number (208) 344-6000

☐ 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, pump, to pipelines

- 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 for primary use of heating

- 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. not for heating

- 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. See District 63-S Watermaster annual reports; Water Supply Bank Leases; SRBA Partial Decree dated 5/10/2011 attached

- 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: 1/2021 to * (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.
*lease period is 1/1/2021 to 12/31/2021; 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.

Garnette Edwards
Signature of Designated Applicant

Garnette Edwards
Printed Name

12/22/2020
Date

Dana Hofstetter
Signature of Authorized Representative

Dana L. Hofstetter
Printed Name

12/22/2020
Date

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



0004047448



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 #: 0004047448

Date Filed: 11/3/2020 7:56:29 AM

Entity Name and Mailing Address:

Entity Name: EDWARDS FAMILY LLC
The file number of this entity on the records of the Idaho Secretary of State is: 0000056018
Address: 4106 W SAND CREEK ST
BOISE, ID 83703-4028

Entity Details:

Entity Status: Active-Existing
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: W13936

The registered agent on record is:

Registered Agent: GARNETTE EDWARDS
Registered Agent
Physical Address
4106 SAND CREEK ST
BOISE, ID 83703
Mailing Address

Limited Liability Company Managers and Members

Name	Title	Business Address
+ Garnette K Edwards	Manager	4106 W SAND CREEK STREET BOISE, ID 83703

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

Garnette Edwards

Sign Here

11/03/2020

Date

Job Title: Manager

B0547-6167 11/03/2020 7:56 AM Received by ID Secretary of State Lawrence Denney

**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)
<u>63-00014</u>	Heating	0.34	100	N/A
	Commerical	0.34	100	N/A
	Irrigation	0.33		8.3
	Total Amounts:	0.34	100	8.3

2. Source of water Stewart Gulch Geothermal Aquifer tributary to _____

3. Point(s) of diversion:

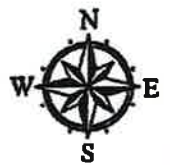
Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	2E	29			SW	NE	Ada



Attachment #3

Legend

-  ESPA
-  GCDB Township/Range
-  GCDB Section
-  GCDB Quarter-Quarter
-  Counties



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 63-00014

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 10 2011

NAME AND ADDRESS: EDWARDS FAMILY LLC
4186 SAND CREEK
BOISE, ID 83703

SOURCE: GROUND WATER

QUANTITY: 0.84 CFS
250.00 AFT

By

Clerk

Deputy Clerk

Use of this right with Right No. 63-5067 is limited to a total combined diversion rate of .33 cfs for outside irrigation. The quantity of water under this right for domestic use shall not exceed 12,000 gallons per day. This right may be limited to a total of 100.3 AF during the period from October 1 through April 1 and/or 145.2 AF during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water rights 63-12 and 63-23 and located in T04N R02E Section 29 NENESE.

PRIORITY DATE: 11/22/1936

POINT OF DIVERSION: T04N R02E S29 SWNE Within Ada County

Water is low temperature geothermal water.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 12-31	0.33 CFS
Commercial	01-01 TO 12-31	0.84 CFS
		250.00 AFT
Heating	01-01 TO 12-31	0.84 CFS
		250.00 AFT
Domestic	01-01 TO 12-31	0.04 CFS

Commercial use is for all uses within the greenhouses, shop, retail shops, and watering of plants, except heating. Irrigation use is for areas outside of the greenhouses. Domestic use is for heating in the apartment. Diversion of low temperature geothermal water under this right for outside irrigation and watering of plants shall, to the extent possible, occur only when the cold water under Water Right No. 63-5067 is insufficient or cannot be used.

PLACE OF USE:	Irrigation	Commercial	Heating	Domestic
T04N R02E S29	SWNE 8.3			
8.3 Acres Total				
Commercial		T04N R02E S29	SWNE	
Heating		T04N R02E S29	SWNE	
Domestic		T04N R02E S29	SWNE	

Use of this right with Right No. 63-5067 is limited to the outside irrigation of a combined total of 8.3 acres.

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT.

Commercial use is included as an accomplished transfer pursuant to Section 43-1423, Idaho Code.

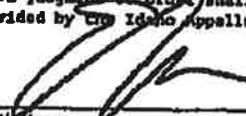
The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

This water right is subject to the terms of a private Agreement dated January 24, 2002, recorded at the Ada County Recorder's Office on August 27, 2002, as Instrument No. 107097169.

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 43-1412(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.


Eric J. Witsman
Presiding Judge of the
Snake River Basin Adjudication



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

February 25, 2021

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

RE: **WATER SUPPLY BANK LEASE CONTRACT 1316
FOR WATER RIGHTS 63-14**

Dear Lessor:

Water right **63-14** were 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, 2021**, 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 63S
Dana Hofstetter



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

February 10, 2021

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

**RE: APPLICATION TO LEASE WATER RIGHTS 63-14 TO THE WATER SUPPLY BANK
CONTRACT 1316**

******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, 2021**, 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
Receipt: C109714

C: Dana Hofstetter

Parker, Cody

From: McVay, Michael
Sent: Friday, January 29, 2021 11:28 AM
To: Ferguson, Justin
Subject: RE: WSB Lease - Edwards Family
Attachments: Lease Review Memo_Edwards_mm.docx

Hello Justin, good morning back at chya!

I hope you are doing well, it really does seem like it has been years. I have attached the lease review memo with my comments. Looks good to me, I just want measurements if it is rented.

Let me know if you have questions or need more information.

Talk to you later,
Mike

From: Ferguson, Justin
Sent: Friday, January 29, 2021 10:19 AM
To: McVay, Michael <Michael.McVay@idwr.idaho.gov>
Subject: WSB Lease - Edwards Family

Morning!

Attached are the approval documents for Edwards Family LLC, please let me know in the next several days if you have any comments or concerns

Thanks!

Memorandum

To: Water Rights 63-14
From: Justin Ferguson
Date: January 20, 2021
Re: Water Supply Bank Lease Application 1846

Purpose/Narrative: An application was received by the Department December 23, 2020 on behalf of Edwards Family LLC offering a portion of water right 63-14 for lease to the Bank for a single year.

Authority to File: The application was signed by Garnette Edwards and submitted on behalf of Edwards Family LLC by their representative, Dana Hofstetter. Review of the IDSOS page indicates Ms. Edwards is an agent for Edwards Family LLC. No concerns about applicant's authority to file.

Water Right Validity/Forfeiture Evaluation: Initially the right was decreed in 2011 and the portion being offered to the Bank has been leased through 2015. No concerns about the validity of the water right.

Injury Evaluation: As evaluated in the prior year's rental, there is a remark on the decree for this water right which acknowledges that seasonal diversions of water might be regulated under this right, to ensure sufficient artesian pressure is maintained in the aquifer, to avoid injuring water rights 63-12 and 63-14. The remark specifically states that annual diversions between April and October may be limited to no more than 145.2 af, while the remainder of the season is limited to 108.3 af. Through correspondence with the applicant's representative, Ms. Dana Hofstetter, artesian pressure of the aquifer may be adequate and no injury is foreseeable.

If it is in fact true that seasonal diversions do not need to be regulated under water right 63-14 to protect water rights 63-12 and 63-13, then it will be permissible for annual diversions of up to 250 af to occur under this water right, through combined uses under the unleased and the leased extent of this water right, without causing injury to water rights 63-12 and 63-13. Should a rental be proposed to use the water right, it may be necessary to contact the water right holder to ensure no injury is permitted.

Enlargement of Use: As was outlined in the prior review, the applicants have offered portions of the commercial, heating, and irrigation while withholding the domestic to continue to heat the residence. As such, for the purposes of this review, the individual uses can be reviewed separately to further clarify the reasoning behind the approval limitations.

Per the water right decree, the domestic portion is limited to 0.04 cfs however, this was updated to the standard 13,000 gallons a day. Through correspondence and review of the prior lease documents, the irrigation portion was determined to be supplemental to 63-5067 and was decreed at 0.33 cfs. Both the commercial and heating elements were decreed to 0.84 cfs and, when all elements are combined, the overall water right is limited to 0.84 cfs.

Per the application information, Edwards Family LLC is withholding the domestic portion of the water right such that they can continue to heat the residence and possibly the greenhouse. Because the irrigation portion of the water right has been found to be supplemental, any renter will need to affirm they are able to draw from the Stewart Gulch Geothermal Aquifer.

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

Beneficial Use/Conservation of Water Resources: This lease, as with their prior approval, appears consistent with the conservation of water resources in Idaho. However, because the irrigation portion of the right was not decreed with a specific volume, in the event that an irrigation rental request is made for this water right, it may be prudent to enforce a diversion volume that does not exceed area headgate standard of 4.5 af/ac.

Department/Watermaster Comments: Per updated guidance, comments from IDWR Western Region are not necessary. As the place of use falls within water district 63S, watermaster comments have been requested January 29, 2021

Watermaster comment: I do not believe that increased diversions resulting from rental of this lease would cause injury to other water rights in Water District 63S. However, I recommend that the renter notify both the water-right holder and the watermaster of the rental. Furthermore, I recommend that the renter measure the diversion flow rate and totalized volume on a weekly basis, and report the data to the watermaster on a quarterly basis. Because rental of this lease may result in withdrawal at a location that is not currently monitored, I recommend, to the extent possible, that the renter or watermaster measure water levels/shut-in pressures weekly and report the data to the watermaster quarterly.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for Edwards Family LLC for a single year, through the end of 2021.