

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1235

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

LESSOR: SELKEY BUHL LLC
323 S MAIN ST
CEDAR GROVE, WI 53013-1611

SUPPORT DATA
IN FILE # 47-2330

RECEIVED
OCT 22 2020
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 August 24, 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)
47-2330	2/26/1960	GROUND WATER	1.78	264
47-11236	4/1/1944	GROUND WATER	0.44	160.6
Combined Lease Totals			2.22	264

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, 2020 to December 31, 2024. 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.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1235

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: SELKEY BUHL LLC
323 S MAIN ST
CEDAR GROVE, WI 53013-1611

By [Signature]
Title MEMBER
Date 10/20/2020

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

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 10/26/20

Lease approved by IDWR [Signature]

Date 10/26/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1235

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): 47-2330, 47-11236
GROUND WATER L3NWSW Sec. 31 Twp 09S Rge 15E TWIN FALLS County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
47-2330	INDUSTRIAL	05/15	to	10/30	1.78 cfs	264 AF
47-11236	INDUSTRIAL	05/15	to	10/30	0.44 cfs	160.6 AF
Totals:					2.22 cfs	264 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	15E	28										X							X
09S	15E	29			X	X			X	X	X	X	X	X	X	X	X	X	X
09S	15E	30																X	X
09S	15E	31	X	X	X	X	X			X	X	X	L3 L4	X	X	X	X	X	X
09S	15E	32	X	X	X	X	X	X	X			X	X		X	X	X	X	X
09S	15E	33		X	X	X	X	X	X	X	X	X							X

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. 1235

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 industrial place of use authorized by this right includes land in T09S, R15E, S31, Lot 3 (NWSW) where the main industrial facility is located, and additional lands in T09S, R15E, S29, S31, S32 and S33 upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the industrial facility as authorized by this water right.
13. These rights, when combined with all other rights, shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
14. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
15. Water right Nos. 47-2330 and 47-11236 are limited to a total combined annual diversion volume of 264 af.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1235

47-2330 & 47-11236
Effective until December 31, 2024

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.

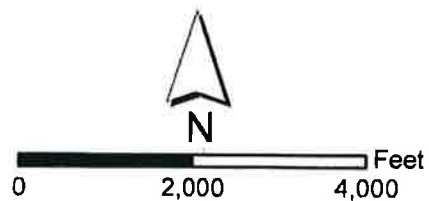


Approved Lease Point of Diversion

Approved Lease Place of Use

Township/Range

Sections



STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED

AUG 24 2020

DEPARTMENT OF
WATER RESOURCES

RECEIVED

AUG 20 2020

DEPT OF WATER RESOURCES
SOUTHERN REGIONDesignated Applicant Selkey Buhl, LLC

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

Water Right No. 47-2330

(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 [Internal Revenue Service \(IRS\) Form W-9](#) for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* 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 [Section 42-222\(2\), Idaho Code](#).

Department Use Only

Fee Amount \$ 500.00Received By: SGDate Received: 8/20/20Receipt # 5038092W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)Name on W-9: Selkey Buhl LLC

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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 Selkey Buhl, LLC

Mailing Address 323 South Main Street, Cedar Grove, WI 53013

Street

City

State

Zip Code

Email Address ray@cedargrovwarehouse.com

Phone Number 920-668-6016

☒ 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 Andrew J. Waldera

Organization Sawtooth Law Offices, PLLC

Professional Title Attorney

Email Address andy@sawtoothlaw.com

Mailing Address P.O. Box 7985, Boise, ID 83707

Phone Number 208-629-7447

☐ 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 piping to in-building industrial uses and mainline piping to sprinklers and pivot systems and ditches for wastewater land use application.

- 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. 47-11236

- 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. Potable water within the facility building(s) is supplied by the City of Buhl.

- 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. Last known use of water for industrial purposes occurred under prior facility owner Seneca Foods Corporation in 2015 for industrial/food processing purposes consistent with the water right partial decrees attached hereto (up to combined limit of 264.0 AFY).

- 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. Please see attachment.

- 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: 2020 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.

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.


Signature of Designated Applicant

RAYMOND E SELK
Printed Name

8/18/2020
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.

Not Applicable

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
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**

Not Applicable

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)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

**ATTACHMENT to
APPLICATION TO SELL OR LEASE A WATER RIGHT**

Selkey Buhl, LLC
Water Right Nos. 47-2330 and 47-11236

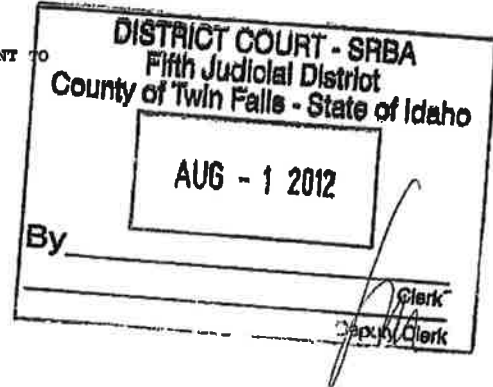
4.G.

Prior owner's industrial needs were crop contract yield and end product production volume dependent. Seneca Foods maximized its use of industrial water as needed to wash and produce frozen vegetable products up to 264.0 AFY. Any annual variations in water use were/are outside of control of current owner Selkey Buhl, LLC pursuant to Idaho Code Section 42-223(6). Regardless, Seneca Foods Corporation maintained full beneficial use of the water rights (47-2330 and 47-11236) based on full production of its finished vegetable products until its sale of the plant. According to Seneca Foods Corporation, the last full production vegetable processing year at the plant was 2015 processing season (May 15 to October 30, 2015).

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 47-02330



NAME AND ADDRESS: SENECA FOODS CORP
PO BOX 232
BUHL, ID 83316

SOURCE: GROUND WATER

QUANTITY: 1.78 CFS
264.00 AFY

The rights listed below are limited to a total combined annual
diversion volume of 264 af. Combined Right Nos.: 47-2330 and
47-11236.

PRIORITY DATE: 02/26/1960

POINT OF DIVERSION: T09S R15E S31 LOT 3 (SENWSW) Within Twin Falls County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Industrial	05-15 TO 10-30	1.78 CFS
		264.00 AFY

PLACE OF USE: Industrial Within Twin Falls County
T09S R15E S31 LOT 3 (NWSW)

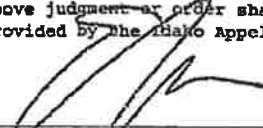
The industrial place of use authorized by this right includes
land in T09S, R15E, S31, Lot 3 (NWSW) where the main industrial
facility is located, and additional lands in T09S, R15E, S29,
S31, S32 and S33 upon which wastewater may be applied for
irrigation purposes to satisfy water quality requirements. Water
diverted under this approval shall not be used for irrigation
unless the water is first used in the industrial facility as
authorized by this water right.

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

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

RULE 54(b) CERTIFICATE

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


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

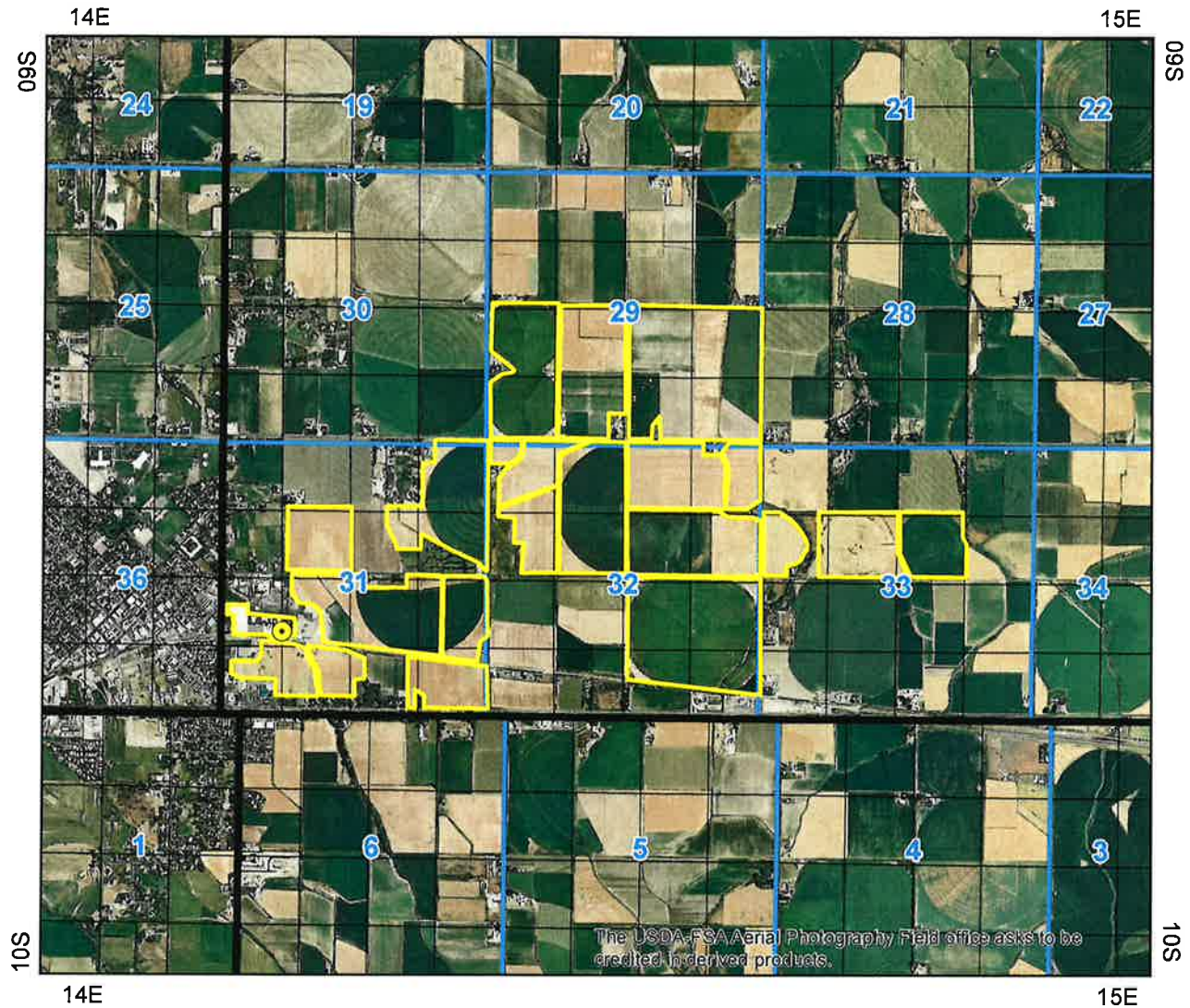
State of Idaho
Department of Water Resources

Water Right

47-2330

INDUSTRIAL

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.425 0.85 1.7 Miles





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

October 27, 2020

SELKEY BUHL LLC
323 S MAIN ST
CEDAR GROVE, WI 53013-1611

**RE: WATER SUPPLY BANK LEASE CONTRACT 1235
FOR WATER RIGHTS 47-2330 & 47-11236**

Dear Lessor:

Water rights **47-2330 & 47-11236** was leased into the Water Supply Bank (Bank) as of January 1, 2020, 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, 2024**, 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-Weibull

for

Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Andrew J Waldera – Sawtooth Law Offices PLLC

Boise Office

1101 W. River St., Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Tel. (208) 629-7447

Challis Office

1301 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488

Twin Falls Office

236 River Vista Place
Suite 301
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)
(208) 629-7559



SAWTOOTH LAW OFFICES, PLLC

Thursday, October 22, 2020

David P. Claiborne *

S. Bryce Farris

Patxi Larrocea-Phillips

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Daniel V. Steenson

Matthew A. Sturzen

Katie L. Vandenberg

Andrew J. Waldera **

James R. Bennetts (retired)

*Attorneys licensed in Idaho
* Also licensed in Washington
** Also licensed in Oregon*

Brian Patton, Acting Administrator
Idaho Water Resource Board
322 E. Front Street
Boise, ID 83720-0098

Re: Water Supply Bank Lease No. 1235 – Selkey Buhl, LLC

Dear Brian:

Please find enclosed the Water Supply Bank Lease No. 1235 executed by Selkey Buhl, LLC.
Upon your review and execution, please provide a copy to our office.

If you have any questions, please contact us.

Very truly yours,

Andrew J. Waldera

AJW/dll
Enclosures

RECEIVED
OCT 22 2020
DEPARTMENT OF
WATER RESOURCES



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

October 15, 2020

SELKEY BUHL LLC
323 S MAIN ST
CEDAR GROVE, WI 53013-1611

RE: APPLICATION TO LEASE WATER RIGHT 47-2330 & 47-11236 TO THE WATER SUPPLY
BANK

CONTRACT 1235

****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, 2024**, 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 # S038092

C. Andrew J Waldera – Sawtooth Law Offices PLLC

Memorandum

To: Water Rights 47-2330 & 47-11236
From: Justin Ferguson
Date: August 26, 2020
Re: Water Supply Bank Lease Application 1770

Purpose/Narrative: An application was received by the Department August 24, 2020 offering the full portion of water rights 47-2330 and 47-11236 for lease to the Bank through the end of 2024. Historically the two rights were decreed for an industrial produce washing plant for Seneca Foods Corporation and the wastewater authorized to then be diverted for irrigation.

Authority to File: The applications were signed by Mr. Raymond Selk and submitted on behalf of Selkey Buhl, LLC. Review of Wisconsin Department of Financial Institutions data indicates Mr. Selk as an authorized agent for Selkey Buhl, LLC. No concerns at this time.

Water Right Validity/Forfeiture Evaluation: Both water right 47-2230 and 47-11236 were decreed in 2012 to Seneca Foods Corporation for industrial usage related to produce washing. Per the information provided in the application package, the applicant affirms that full use of the two water rights last took place in 2015 while still held by Seneca Foods Corp. While there appears to be no measurement data available, crop growth based on the wastewater can be used to infer the total usage of the water right. Specifically, the acreage located in 09S 15E Sec 32, falling within the authorized place of use, appears to have been irrigated as recently as 2017. Because there are no other irrigation water rights associated with the acres, the fields would have been irrigated with either the wastewater associated with the rights or shares within the Twin Falls Canal Co.

Injury Evaluation: No injury is apparent through the lease alone, further review of the historical industrial usage may be warranted should the water right be used to facilitate a rental

Enlargement of Use: No enlargement is evident in accepting the two water rights into the Bank. Without further affirmation from the previous water right holder, the rights may not be rentable without causing enlargement as the historic consumptive use has not been determined.

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

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

Department/Watermaster Comments: IDWR's Southern regional office comments were requested on 10/15/2020.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the application be approved.