

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1095

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

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

RECEIVED
OCT 02 2020
DEPT 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, 2019.
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	125.0	8.3
Combined Lease Totals			0.34	125.0	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)	Volume Per Acre (AF/AC)
63-14	0.34	125.0	8.3	0.04	4.5
Combined Limit Totals	0.34	125.0	8.3	0.04	4.5

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, 2020. 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. 1095

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1095

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 Barnette Edwards
Title owner
Date 10/2/2020

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 10/07/20

Lease approved by IDWR HP

Date 10/07/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1095

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	0.33 cfs	Not Stated
	COMMERCIAL	01/01	to	12/31	0.34 cfs	125.0 AF
	HEATING	01/01	to	12/31	0.34 cfs	125.0 AF
Totals:					0.34 cfs	125.0 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

Total Acres: 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

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. 1095

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 .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 125.0 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

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

RECEIVED

SEP 18 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.
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63-14	0.30	125.0	8.3	0.04	4.5
Combined Limit Totals	0.30	125.0	8.3	0.04	4.5

**The amount rentable diversion rate has been reduced from the amount leased, to account for enlargement concerns.*

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

SCANNED
Page 1 of 5
SEP 22 2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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DEPARTMENT OF WATER RESOURCES

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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 9/18/2020

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 09/21/22

Lease approved by IDWR Phum

Date 09/21/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1095

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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.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 23 2019

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

DEPARTMENT OF
WATER RESOURCESDesignated 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 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | <input type="checkbox"/> | <input checked="" type="checkbox"/> | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank. |
| 3 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Written consent from irrigation district or water delivery company. |
| 4G | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>Ku</u>	Date Received: <u>12-23-19</u>	Receipt # <u>C108149</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (Route W-9 to Fiscal)		Name on W-9: <u>Garnette Edwards</u>	

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

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

Designated Applicant 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 P.O. Box 1617, Boise, Idaho 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: 1/2020 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 1/1/2020 to 12/31/2020; 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

Garnette Edwards

Printed Name

12/23/19
Date


Signature of Authorized Representative

Dana L. Hofstetter

Printed Name

12/23/2019
Date

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



0003659489



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 #: 0003659489

Date Filed: 11/1/2019 8:10:26 AM

Entity Name and Mailing Address:

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 MONNIE	Manager	4106 SAND CREEK ST BOISE, ID 83703
GARNETTE MONNIE	Manager	4106 SAND CREEK ST BOISE, ID 83703
GARNETTE K EDWARDS	Manager	4106 SAND CREEK ST BOISE, ID 83703

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

Garnette Edwards

Sign Here

11/01/2019

Date

Signer's Title: Manager

B0393-1210 11/01/2019 8:10 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

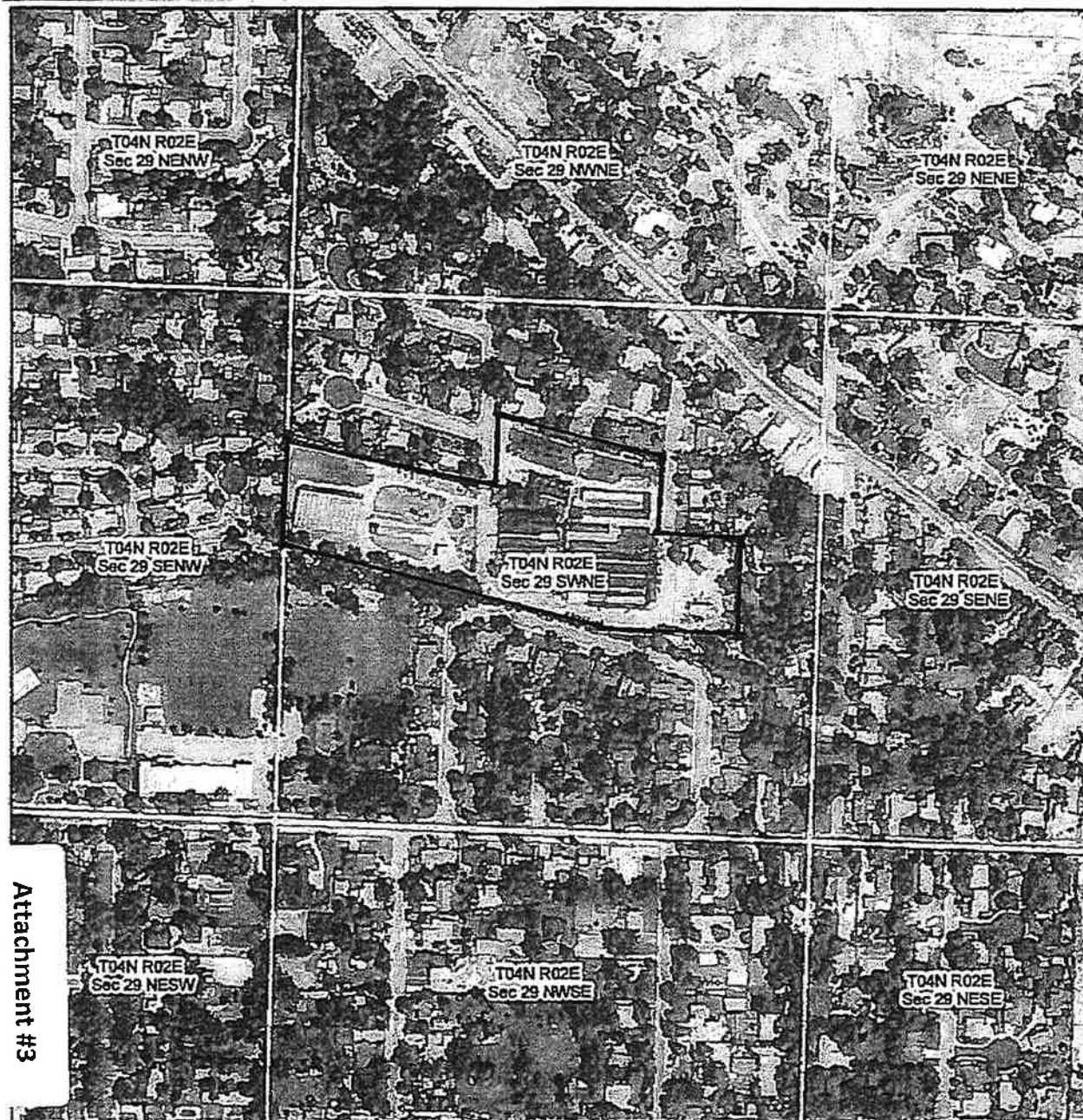
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

<u>1. 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>	<u>Heating</u>	<u>0.34</u>	<u>125</u>	<u>N/A</u>
	<u>Commercial</u>	<u>0.34</u>	<u>125</u>	<u>N/A</u>
	<u>Irrigation</u>	<u>0.33</u>		<u>8.3</u>
	<u>Total Amounts:</u>	<u>0.34</u>	<u>125</u>	<u>8.3</u>

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

3. Point(s) of diversion:






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

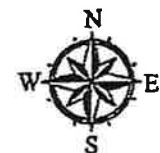


Attachment #3

0 170 340 680 1,020 1,360 Feet

Legend

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



Attachment #4G

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 42-1425, 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. 102097169.

THIS PARTIAL DECREE IS SUBJECT TO SUCH OTHER 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, UNREVOKED DECREE. I.R.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. Wyman
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

October 8, 2020

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

RE: CORRECTED WATER SUPPLY BANK LEASE CONTRACT 1095
FOR WATER RIGHTS 63-14

Dear Lessor:

Water rights **63-14** 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, 2020**, 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. 63S
Dana Hofstetter – Hawley Troxell Ennis & Hawley LLP



ATTORNEYS AND COUNSELORS

Hawley Troxell Ennis & Hawley LLP
877 Main Street, Suite 1000
P.O. Box 1617
Boise, Idaho 83701-1617
208.344.6000
www.hawleytroxell.com

DANA L. HOFSTETTER
OF COUNSEL
EMAIL: DHOFSTETTER@HAWLEYTROXELL.COM
DIRECT DIAL: 208.388.4867
DIRECT FAX: 208.954.5943

October 2, 2020

RECEIVED

OCT 02 2020

DEPARTMENT OF
WATER RESOURCES

VIA HAND DELIVERY

Amanda Johnson-Veibell
Technical Records Specialist I
Idaho Department of Water Resources
322 E. Front Street, Ste. 648
Boise, ID 83702

Re: *Water Supply Bank Lease Contract 1095 for Water Right 63-14*

Dear Ms. Johnson-Veibell:

Enclosed in duplicate original form is a corrected Water Supply Bank Lease Contract 1095 for Water Right 63-14 signed by Edwards Family, LLC. Please accept the enclosed originals, arrange for Mr. Patton's signature on both and substitute the fully-signed originals for the ones previously submitted on September 18, 2020.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

HAWLEY TROXELL ENNIS & HAWLEY LLP

Dana L. Hofstetter
of Counsel

DH:tas
Enclosures
cc: Remington Buyer
Justin Ferguson

SCANNED

OCT 08 2020

Veibell, Amanda

From: Ferguson, Justin
Sent: Thursday, October 1, 2020 7:57 AM
To: Dana Hofstetter; Buyer, Remington
Cc: Veibell, Amanda; Miller, Nick; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com
Subject: RE: 63-14 Lease Agreement No. 1095 [IWOV-IMANAGE.FID796903]
Attachments: Draft Lease Edwards Family LLC 63-14 Updated, version 3.0.pdf; RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Morning!

Please see the attached agreement with the 0.34 cfs diversion rate in the Summary table and 0.50 cfs in condition 17 on page 5, we can also accept a digital signature if that would work better for your clients. Let me know if anything comes up otherwise I can keep an eye out for them in the mail in the next couple days

Thank you!

Justin

From: Dana Hofstetter [mailto:DHofstetter@hawleytroxell.com]
Sent: Wednesday, September 30, 2020 5:14 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>; Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; Miller, Nick <Nick.Miller@idwr.idaho.gov>; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com
Subject: 63-14 Lease Agreement No. 1095 [IWOV-IMANAGE.FID796903]

Remington,

As you recall, Edwards recently inadvertently submitted the incorrect version of the signed Lease Agreement. After reviewing the matter, it appears that IDWR may have sent Edwards Family a prior version of the Lease Agreement for signature, not the final one we agreed upon with the 0.34 cfs diversion rate in the "Summary of Water Rights Rentable from the Bank" on page 1 of 5 and the 0.50 cfs figure in condition no. 17 on page 5 of 5. Could you arrange for IDWR to mail to Edwards 2 originals of the final version of Lease Contract No. 1095 that you and I agreed upon for signature with a copy to me? As soon as we receive the correct originals we will arrange for signature and submission to you. If you have any questions, please do not hesitate to let me know.

Thank you,
Dana

DANA L. HOFSTETTER
Of Counsel
direct 208.388.4867
fax 208.954.5943
email dhofstetter@hawleytroxell.com

HAWLEY TROXELL
Attorneys and Counselors



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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

September 22, 2020

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

**RE: WATER SUPPLY BANK LEASE CONTRACT 1095
FOR WATER RIGHTS 63-14**

Dear Lessor:

Water rights **63-14** 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, 2020**, 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. 63S
Dana Hofstetter – Hawley Troxell Ennis & Hawley LLP

Veibell, Amanda

From: Dana Hofstetter <DHofstetter@hawleytroxell.com>
Sent: Friday, September 11, 2020 5:32 PM
To: Buyer, Remington; Ferguson, Justin
Cc: Bank; Veibell, Amanda; 'christi@edwardsgreenhouse.com'; 'garnette@edwardsgreenhouse.com'; 'erin@edwardsgreenhouse.com'; Bank
Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Great! Have a wonderful weekend.

DANA L. HOFSTETTER

Of Counsel

direct 208.388.4867

fax 208.954.5943

email dhofstetter@hawleytroxell.com

HAWLEY TROXELL

Attorneys and Counselors



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From: Buyer, Remington [mailto:Remington.Buyer@idwr.idaho.gov]
Sent: Friday, September 11, 2020 5:25 PM
To: Dana Hofstetter; Ferguson, Justin
Cc: Bank; Veibell, Amanda; 'christi@edwardsgreenhouse.com'; 'garnette@edwardsgreenhouse.com'; 'erin@edwardsgreenhouse.com'; Bank
Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Hi Dana,

Your requests are acceptable. We'll get the new contracts out for signature early next week.

Have a nice weekend,

Remington

From: Dana Hofstetter [mailto:DHofstetter@hawleytroxell.com]

Sent: Friday, September 11, 2020 2:21 PM

To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>

Cc: Bank <Bank@idwr.idaho.gov>; Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; 'christi@edwardsgreenhouse.com' <christi@edwardsgreenhouse.com>; 'garnette@edwardsgreenhouse.com' <garnette@edwardsgreenhouse.com>; 'erin@edwardsgreenhouse.com' <erin@edwardsgreenhouse.com>; Bank <Bank@idwr.idaho.gov>

Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Remington,

If the proposal in my email below is acceptable, please make these minor revisions to the Lease Agreement and email it to me for signature. If you have any questions, please let me know.

Thank you,
Dana

DANA L. HOFSTETTER

Of Counsel

direct 208.388.4867

fax 208.954.5943

email dhofstetter@hawleytroxell.com

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Attorneys and Counselors



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Please consider the environment before printing this email.

From: Dana Hofstetter

Sent: Thursday, September 10, 2020 4:58 PM

To: 'Buyer, Remington'; Ferguson, Justin

Cc: Bank; Veibell, Amanda; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com

Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Remington,

Thank you for answering my question. What you are saying makes sense. Could we change the rentable amount from 0.3 cfs to 0.34 cfs on page 1, and delete the asterisk comment on page 1 and also change the unleased amount from 0.54 cfs to 0.50 cfs in condition 17? This will still total the water right quantity of 0.84 cfs with the 0.04 cfs for domestic subsumed in the unleased amount. I would prefer to have the entire leased amount available for rent. If these revisions are acceptable, my client is ready to sign and submit two originals.

Thank you,
Dana

DANA L. HOFSTETTER
Of Counsel
direct 208.388.4867
fax 208.954.5943
email dhofstetter@hawleytroxell.com

HAWLEY TROXELL
Attorneys and Counselors



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Please consider the environment before printing this email.

From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]
Sent: Wednesday, September 09, 2020 6:31 PM
To: Dana Hofstetter; Ferguson, Justin
Cc: Bank; Veibell, Amanda; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com
Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Dana,

Only 0.34 cfs of heating and cooling use, and 0.33 cfs of irrigation use was proposed for lease. This necessarily leaves 0.5 cfs available for heating and cooling, along with 0.04 cfs for domestic uses. If all unleased diversion rates are realized during the term of the lease (0.54 cfs), then only 0.3 cfs could be rented from the lease portion of 63-14, without inducing enlargement.

If you have no further requests for consideration on this lease contract, our office can mail out the amended version for signature by Edwards Greenhouse.

Regards,

Remington

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]

Sent: Wednesday, September 9, 2020 5:45 PM

To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>

Cc: Bank <Bank@idwr.idaho.gov>; Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com

Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Remington,

This version looks a lot better. Until I realized that you and Justin thought the decreed provision was in effect, I was not able to properly address your concerns. I am glad that we were finally able to clear this up. Sorry it took awhile for me to understand the situation. I have just a final question about how you determined the rentable diversion rate of 0.3 cfs on page 1 and the 0.54 cfs unleased amount in condition No. 17?

Thank you,
Dana

DANA L. HOFSTETTER

Of Counsel

direct 208.388.4867

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email dhofstetter@hawleytroxell.com

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Please consider the environment before printing this email.

From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]

Sent: Tuesday, September 08, 2020 4:32 PM

To: Dana Hofstetter; Ferguson, Justin

Cc: Bank; Veibell, Amanda; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com

Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Hi Dana,

Thanks for providing clarification that it may not be necessary to limit diversion volumes seasonally under water right 63-14, to protect against injury to water rights 63-12 and 63-13. In light of the potential for up to 250 af of water to be

diverted under water right 63-14, it is not necessary for the Water Supply Bank to limit the rentable diversion volume under the lease contract.

However, to aid us in administration of the lease contract, it will be useful to retain condition 16 on the lease contract; inclusion of condition 16 on the lease contract will ensure consistency in language between the lease contract and the partial decree for the water right 63-14, and it will assist our office with the evaluation of a potential rental request of water right 63-14 from the Water Supply Bank.

Additionally, because a diversion rate of up to 0.54 cfs is possible under the unleased extent of 63-14, the attached, updated lease contract features a maximum rentable diversion rate to 0.30 cfs, as this will ensure no enlargement is permitted through a rental of water right 63-14. As stated in my prior email, if diversions will be limited to less than 0.54 cfs under the unleased extent of water right 63-14, we can raise the maximum rentable diversion rate under the leased extent of 63-14.

An updated version of the lease contract is attached to this email. Please let me know if you have any further questions or proposed clarifications about the contract, as proposed.

Thanks,

Remington

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]

Sent: Friday, September 4, 2020 3:59 PM

To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>

Cc: Bank <Bank@idwr.idaho.gov>; Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com

Subject: RE: Water Supply Bank Lease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Remington,

There appears to be some confusion about the effect of this decreed provision. The provision is not currently in effect – there is no requirement that the use of the water be limited seasonally currently. Thus, 125 af are in the Bank without any seasonal restriction. Can we just put the decreed language in the Lease Agreement as we have done in previous years?

Please call me to discuss (208-424-7800), thank you,
Dana

DANA L. HOFSTETTER

Of Counsel

direct 208.388.4867

fax 208.954.5943

email dhofstetter@hawleytroxell.com

HAWLEY TROXELL

Attorneys and Counselors



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From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]
Sent: Friday, September 04, 2020 3:48 PM
To: Dana Hofstetter; Ferguson, Justin
Cc: Bank; Veibell, Amanda; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com
Subject: RE: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Dana,

Thank you for your email. Please find attached an amended draft lease contract for water right 63-14.

Here is some information on the amounts specified in the amended lease contract:

- Edwards Greenhouse is authorized to divert as much as 125 af during 2020 under the unleased extent of the water right, at a rate as high as 0.54 cfs (0.5 cfs for commercial/heating purposes, and 0.04 cfs for domestic purposes),
- Edwards Greenhouse is authorized to fully divert the 125 af under the 145.2 af diversion volume limit, between April through October,
- Edwards Greenhouse is authorized to divert 108.3 af of the 125 af unleased volume, between October through December 2020 (the term of the contract will conclude at the end of this year),
- The leased extent of water right 63-14, protected from forfeiture will be 0.34 cfs and 125 af (for irrigation, heating and commercial purposes).

During April through October, Edwards Greenhouse can either fully divert the unleased 125 af diversion volume amount, or, it could divert as much as 16.7 af during April-October, and then divert the remaining 108.3 af diversion volume amount between October through April, or it could divert different amounts in both seasons. Because of this flexibility afforded to Edwards Greenhouse regarding when it might choose to divert, it is uncertain as to how much of the leased extent of water right 63-14 might remain available for rental from the Water Supply Bank without causing enlargement, and without violating the agreed upon, conditional 108.3 and 145.2 seasonal diversion volume amounts.

If Edwards Greenhouse can confirm the exact diversion volumes that will be accomplished within the October-April and April-October seasons, then IDWR can make the maximum possible amounts of the leased extent of 63-14 available for rental. However, if Edwards can't confirm specific diversion volumes for these seasons, then IDWR will assume that 125 and 108.3 af might be diverted in either season, and we would restrict the rental of 63-14 to be only for 20.2 af during April-October, to avoid enlargement.

Additionally, if Edwards will not combine the domestic diversion rate with the heating/commercial rate, and instead, overall diversion rates for all three uses is limited to 0.5 cfs, then as much as 0.34 cfs might be rentable under the leased extent of 63-14. However, if Edwards will divert at a rate as high as 0.54 cfs, then we will necessarily limit the diversion rate of the leased extent of water right 63-14 to 0.3 cfs, to avoid enlargement.

The attached draft contract references the lower rental diversion rates and volumes. Again, we can raise these rentable diversion rates and volumes if additional information is provided by Edwards Greenhouse. Else, if the contracts are satisfactory to your clients, please advise, and we can immediately issue them for signature and execution.

Regards,

Remington Buyer

Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street, Boise, ID, 83720
T: (208) 287-4918 | F: (208) 287-6700

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]

Sent: Wednesday, September 2, 2020 3:29 PM

To: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>

Cc: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Bank <Bank@idwr.idaho.gov>; Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com

Subject: Water Supply BankLease Contract No. 1095 - 63-14 [IWOV-IMANAGE.FID796903]

Justin,

I just left you a voice mail message to follow up on my email below. I would like to work through mutually acceptable language for condition #16 so that we can get this lease agreement signed and finalized. I would prefer to continue to have the decreed language repeated in the lease agreement as has been done for many years. If the language as decreed can no longer be used, I have questions about the new quantities of 88.1 af and 125 af that have been put in the draft lease condition #16 language. If 50% of this right's af (125 af) are deposited in the Bank, why is greater than 50% of the decreed quantities in lease condition #16? I ask that you call me ((208) 424-7800) at your earliest convenience to discuss this further so that we can work out some mutually acceptable language.

Thank you,
Dana

DANA L. HOFSTETTER

Of Counsel

direct 208.388.4867

fax 208.954.5943

email dhofstetter@hawleytroxell.com

HAWLEY TROXELL

Attorneys and Counselors



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 Please consider the environment before printing this email.

From: Dana Hofstetter
Sent: Monday, August 31, 2020 6:43 PM
To: 'Ferguson, Justin'
Cc: Veibell, Amanda; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Justin,

Sorry but I'm still not tracking. I am ok with the condition from the decree being included on the Lease Contract. I am unclear on the need for the second provision though.

Page 1, term #1 "Water Rights" describes the amount of the water right that is being placed in the bank. Isn't this sufficient to explain what portion of the right is in the Bank? (We know from the decree that the right is for 250 af. We also know that 125 af were put in the Bank for 2020 and 125 af left out of the Bank for 2020.)

Since the proportion of the right in the bank is apparent and the right is not now being restricted by the terms of the decreed condition, and as explained in my email last week, probably never will be, why would a second condition be necessary?

Thank you,
Dana

DANA L. HOFSTETTER
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Please consider the environment before printing this email.

From: Ferguson, Justin [<mailto:Justin.Ferguson@idwr.idaho.gov>]
Sent: Monday, August 31, 2020 4:12 PM
To: Dana Hofstetter
Cc: Veibell, Amanda; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Dana,

Sorry for being unclear in my prior response, I am proposing to use both the language from the prior contract straight from the decree and adding a second condition to call out the amounts, under that water right, that are being accepted into the Bank.

I think, if we were to continue to use only the decreed language, it would may be an overstatement of what is being accepted into the Bank. While the right itself will not be affected, the amount being protected may be misinterpreted as the full volume when in fact it's only a portion while the Edwards' continue to use the remainder.

Justin

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Monday, August 31, 2020 4:00 PM
To: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Cc: Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com;
erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Justin,

Sorry I missed your call – I tried calling you back again but it appears you're on another call again. I'm afraid I'm not tracking what you propose in your email below. The decree condition doesn't apply at this point so the quantity being leased to the bank at this time should not be affected at all by the decree condition. Can't we just handle this the same way it was handled last year in Water Supply Bank Lease Contract No. 912? Last year, the exact decree condition language was included as condition no. 13 of Lease Contract No. 912.

Thank you,
Dana
(208) 424-7800

DANA L. HOFSTETTER
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email dhofstetter@hawleytroxell.com

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 Please consider the environment before printing this email.

From: Ferguson, Justin [<mailto:Justin.Ferguson@idwr.idaho.gov>]
Sent: Monday, August 31, 2020 3:51 PM
To: Dana Hofstetter
Cc: Veibell, Amanda; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Dana,

Sorry I missed your call! I left you a voicemail but to summarize, if they would like we can add two conditions and break out the amounts more specifically. One that is copied straight over from the decree and a second with the specific amounts the Bank is leasing.

Since the conditions only apply to the period that the right is in the Bank, there will be no modifications to anything found through the SRBA. With the two I think we can call out the leased amounts while retaining what the decreed right looks like and will continue to look like after the lease concludes.

Let me know if that works and I can get the changes made,

Justin

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Monday, August 31, 2020 3:26 PM
To: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Cc: Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: FW: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Justin,

I just tried calling you to follow up on my email of last Thursday below but got your voice mail so I'm following up with this email. Please call me to discuss this (208-424-7800) at your earliest convenience.

Thank you,
Dana

DANA L. HOFSTETTER
Of Counsel
direct 208.388.4867
fax 208.954.5943
email dhofstetter@hawleytroxell.com

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 Please consider the environment before printing this email.

From: Dana Hofstetter
Sent: Thursday, August 27, 2020 6:29 PM
To: 'Ferguson, Justin'
Cc: Veibell, Amanda; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Justin,

I changed to the full amounts in the condition but I also changed the condition language to include both the leased and unleased portions of the right. I would like to mirror the decree language and quantities as much as possible. If my proposed language is not ok, can we just use the actual decree language? There are several problems with changing the language and apportioning the amounts associated with the leased portion, including:

1. A change in language can unintentionally change the meaning and create new ambiguities. We had a several day trial in the SRBA involving in part this language. We don't want to possibly open a new can of worms by modifying the language.
2. The artesian protection condition's legal status is in question, among other reasons, because I believe both wells referenced in the language either are used with pumps or are only used for monitoring. (The District 63-S watermaster - Mike McVay - may be able to confirm this.) In any event, the holder of rights 63-12 and 63-13 has not attempted to apply this language.
3. If this quantity limitation language ever would be applied (which is doubtful for reasons including but not limited to those in item 2 above), Edwards likely would not be in a position to lease much, if any, of 63-14 to the Water Supply Bank.
4. It is not clear why over 50% of the quantities are deemed in this draft of the condition to be associated with the leased portion of 63-14 when 125 af of a total of 250 af (50%) are being leased to the Water Supply Bank.

Please let me know if we can go with the decree language or its close cousin, the language I proposed involving the leased and unleased portions of the right.

Thank you,
 Dana

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Please consider the environment before printing this email.

From: Ferguson, Justin [<mailto:Justin.Ferguson@idwr.idaho.gov>]
Sent: Thursday, August 27, 2020 1:16 PM
To: Dana Hofstetter
Cc: Veibell, Amanda; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Those amounts were calculated to reflect the amount leased to the Bank leaving out the portion withheld by the applicant. If we were to change that to the full amounts we may run into the possibility of enlargement. If they would like to lease in the entire water right we could update that condition to match the decree as none would be withheld

Justin

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Thursday, August 27, 2020 1:02 PM
To: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Cc: Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Justin,

Thank you for providing the revised Lease Contract . I continue to have concerns with Condition no. 16 because it has language different from the SRBA Partial Decree Condition. Would it be ok to revise #16 to read as follows:

"The leased and unleased portions of 63-14 may be limited to a total of 108.3 af during the period of 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, Section 29 NENESE."

Thank you,
Dana

DANA L. HOFSTETTER
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email dhofstetter@hawleytroxell.com

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Please consider the environment before printing this email.

From: Ferguson, Justin [<mailto:Justin.Ferguson@idwr.idaho.gov>]
Sent: Wednesday, August 26, 2020 10:19 AM
To: Dana Hofstetter
Cc: Veibell, Amanda; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: RE: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Dana,

I apologize for the delay, attached is the updated version of the lease contract for Edwards Family

Justin

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Wednesday, August 26, 2020 9:18 AM
To: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Cc: Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>; christi@edwardsgreenhouse.com; erin@edwardsgreenhouse.com; garnette@edwardsgreenhouse.com
Subject: FW: Letter from Dept of Water Resources 8.21.20 [IWOV-IMANAGE.FID796903]

Justin,

Edwards recently received the attached letter from Amanda Johnson-Veibell indicating that the signed Water Supply Bank Lease Agreement was overdue. As you know, you were in the process of revising the Agreement and indicated that Edwards would have additional time to sign the revised document. Please confirm when we may expect the revised agreement and that my understanding about the extended timeframe for signing the revised agreement is correct.

Thank you,
Dana

DANA L. HOFSTETTER

Of Counsel
direct 208.388.4867

fax 208.954.5943
email dhofstetter@hawleytroxell.com

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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

August 21, 2020

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS 1095
FOR WATER RIGHT 63-14**

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

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on August 6, 2020. The signed contracts have not been returned to the Department.

Please sign both original Lease Contracts and return them to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contracts are not received by the Department within the 10-day period, the lease application will be returned, and the application fee will not be refunded. You can reapply to lease the water right in the future by submitting new application form along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

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

Sincerely,


Amanda Schen-Vakem
Water Supply Bank



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

August 6, 2020

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

RE: APPLICATION TO LEASE WATER RIGHT 63-14 TO THE WATER SUPPLY BANK
CONTRACT 1095

****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, 2020**, 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-Vahell
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108149

Memorandum

To: Water Right 63-14
From: Justin Ferguson
Date: February 24, 2020
Re: Water Supply Bank Lease Application 1569

Purpose/Narrative: An application was received December 23, 2019 offering a portion of water right 63-14 for lease. Portions of the right have been offered on single year contracts beginning in 2015 through the end of 2019. The application has offered the same portion, again for a single year ending in December 31, 2020.

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: No injury is apparent through the lease alone, proper rental review should protect against possible injury.

Enlargement of Use: Through a review of the previous lease contracts it had been determined that the heating and commercial portions of the right were able to be leased but would not be rentable. To further clarify the reasoning it may be best to break apart the water rights into its individual elements: commercial, heating, irrigation, and domestic.

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.

The applicants have not offered the domestic portion as they plan to continue to heat the residence. Because the irrigation portion of 63-14 is a supplemental to water right 63-5067, the amount leased for irrigation will only be available for rental as supplemental on the condition that the renter has a low temperature geothermal well, leaving the commercial and heating elements.

As the applicant has requested to protect an equivalent amount of water to 0.34 cfs, the entire irrigation right will be leased as will the commercial and heating. Because the right is supplemental as well as low temperature geothermal, the irrigation portion must be rented as such leaving the commercial and heating un-rentable without causing enlargement. The unleased portions of the commercial and heating will continue to be used within the greenhouse.

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: Watermaster and IDWR Western Region comments were requested January 8, 2020, *no concerns were received.*

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

Ferguson, Justin

From: Ferguson, Justin
Sent: Wednesday, January 8, 2020 1:00 PM
To: McVay, Michael; Miller, Nick
Subject: WSB Lease - Edwards Family LLC
Attachments: Draft Lease Edwards Family LLC 63-14.docx; Lease Edwards Family LLC 63-14.pdf; Lease Review Memo.docx

Mike and Nick,

Attached is the lease contract, map, and memo for Edwards Family LLC. Let me know if you have any comments or concerns in the next 7 days

Thanks!