

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1219

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

LESSOR: LEXINGTON HILLS INC
1815 E STONYBROOK CT
EAGLE, ID 83616

RECEIVED

AUG 31 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 June 09, 2020.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
63-123F	6/1/1864	BOISE RIVER, tributary to SNAKE RIVER	1.39	Not Stated	136.8
Combined Lease Totals			1.39	Not Stated	136.8

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2020 to December 31, 2021. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1219

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

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

LESSOR: LEXINGTON HILLS INC
1815 E STONYBROOK CT

EAGLE, ID 83616

By Robert Lee Dargatzis
Title Lexington HOA Pres.
Date 8/28/2020

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 09/01/20

Lease approved by IDWR

Phmm

Date 09/01/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1219

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): 63-123F

BOISE RIVER NESENE Sec. 5 Twp 03N Rge 02E ADA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-123F	IRRIGATION	03/01	to	11/15	1.39 cfs	Not Stated
Totals:					1.39 cfs	Not Stated

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	01E	3			X				X	X	X	X	X	X		X	X		X

Total Acres: 136.8

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1219

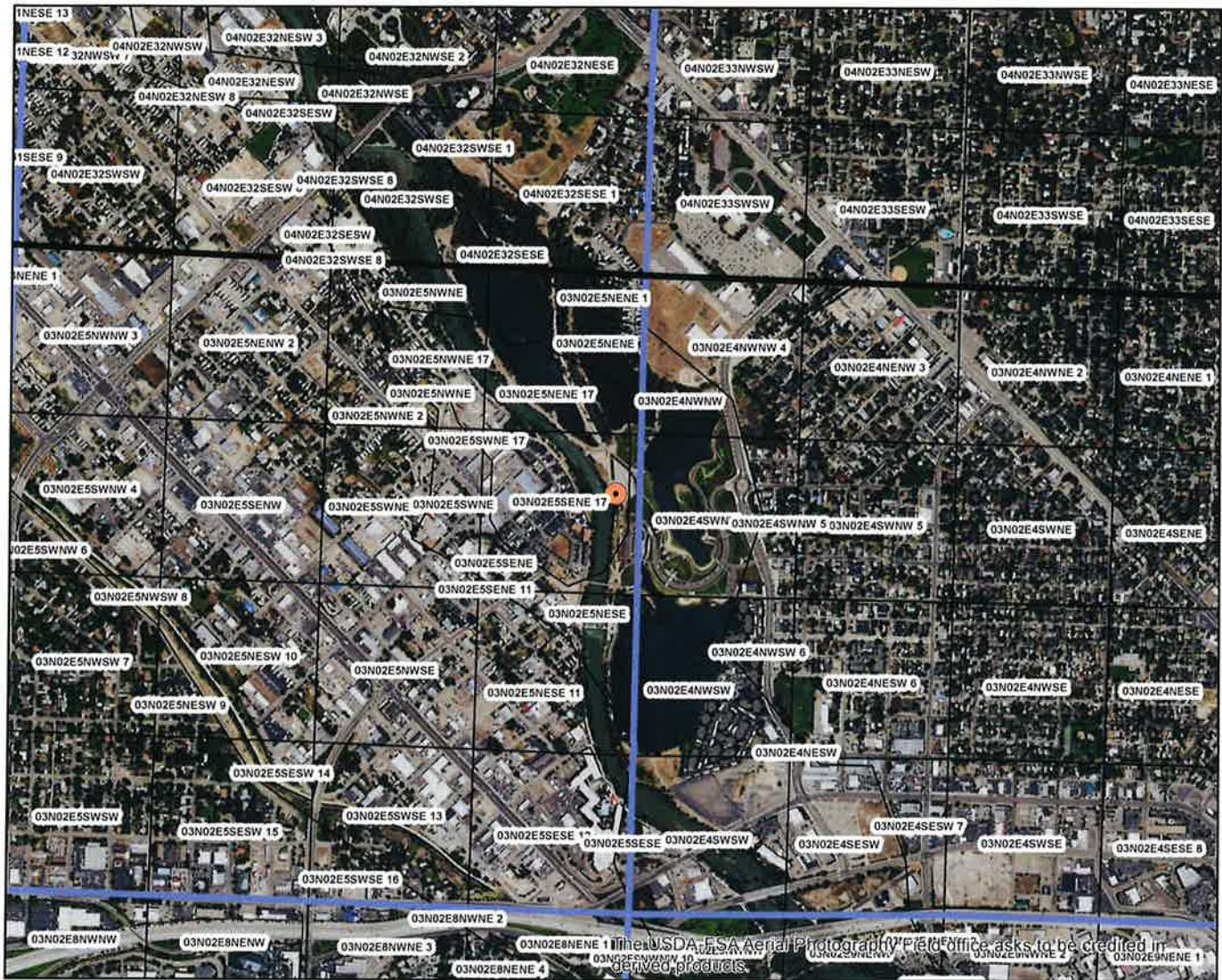
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into 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 FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-120G, 63-123C, 63-123D, 63-123E, 63-123G, 63-124Q, 63-125J, 63-126F, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-21729, 63-18700, 63-31832, 63-31937
13. Use for this right does not overlap with the place of use for Right No. 63-123G.
14. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
15. This right originated as all or part of right no. 2 in the Stewart Decree and the historic Boise River Water Masters records.
16. WATER IS DELIVERED THROUGH THE FARMERS UNION CANAL
17. The right holder is entitled to the quantity of water decreed herein at the point of rediversion from the Farmers Union Canal.
18. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
19. Pursuant to Section 42-1412(6), Idaho Code, 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.
20. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.



Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1219

63-123F
Effective until December 31, 2021

This map depicts the **point of diversion** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 09 2020

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Lexington Hills, Inc.

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

Water Right No. 63-123F

(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 \$ <u>250.00</u>	Received By: <u>Ku</u>	Date Received: <u>6-9-2020</u>	Receipt # <u>C108871</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Duane Sturckle</u>	

1742

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 Lexington Hills, Inc.

Mailing Address 3319 Dewey St., Boise, ID 83703 w/ copy to John Marshall

Street City State Zip Code

Email Address 365dave@gmail.com

Phone Number 208-249-0032

☒ 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 John Marshall Organization John Marshall Law PLLC

Professional Title Attorney Email Address john@jmarshalllaw.com

Mailing Address 575 W. Bannock St., Boise, ID 83702 Phone Number 208-991-2701

☐ 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.
Right is appurtenant to hardscape surfaces in a developed residential subdivision and is no longer being used.
- 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. Right 63-123G is appurtenant to the irrigated portion of the subdivision, but the decreed places of use expressly do not overlap.
- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. _____
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Right has not been use in past 5 years. Right was granted an Extension of Time to Avoid Forfeiture on 12/31/2015, which will expire on 7/1/2020.
- 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. Right was granted an Extension of Time to Avoid Forfeiture on 12/31/2015, which will expire on 7/1/2020. Copy attached.
- 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 ☐
Transfer Application No. 82161 was filed on 2/5/2018. All protests have been resolved. The Applicant has provided IDWR with all requested information. IDWR's approval or denial is currently pending.

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 2021 (maximum lease period 5 calendar years).
(Year) (Year)

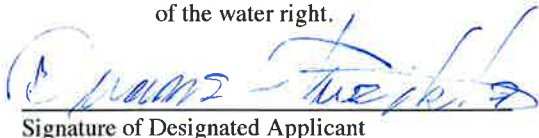
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Dianne Stueckle
Printed Name

5/26/2020
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**

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



Idaho Corporation Reinstatement Form

File online at: sos.idaho.gov

Return completed form to:
Idaho Secretary of State
Attn: Reinstatements
450 North 4th Street
Boise, ID 83720
Phone: (208) 334-2300

Reinstatement fee: \$30.00.

SOS Control Number: 288679

Filing Status: Inactive-Dissolved

General Business Corporation (D)

Date Formed: 08/13/1990

Formation Locale: ID

Name and Mailing Address:

LEXINGTON HILLS, INC.
3319 W DEWEY ST
BOISE, ID 83703-5825

(1) Add or Change Mailing Address:

Registered Agent (RA) and Registered Office (RO) Address:

DUANE STUECKLE
3319 DEWEY ST.
BOISE, ID 83703

(2) Change RA and/or RO Address:

Note: The Registered Office address must be a physical Idaho address (no postal box).

(3) New Registered Agent (RA) Signature:

If a new agent is appointed in item (2) above, the new agent must sign here to accept the appointment.

(4) Corporations: Enter names and business addresses (with zip code) of the President, Vice President, Secretary, Treasurer.

Title	Name	Business Address	City, State, Zip
PRESIDENT	DUANE STUECKLE	3319 DEWEY ST.	BOISE, ID 83703
SEC/TREAS.	DENNIS WHITMORE	✓	✓

(5) Board of Directors names and business address (with zip code). Attach additional sheet if necessary.

Name	Business Address	City, State, Zip
DENNIS WHITMORE	3319 DEWEY ST. BOISE, ID	83703
DUANE STUECKLE	3319 DEWEY ST.	BOISE ID 83703
HARVEY IVEF	✓	✓
DAVE ROYLANSE	✓	✓

(5) Signature: Dennis J. Whitmore

(6) Date: 12/12/2019

(7) Type/Print Name: DENNIS J. WHITMORE

(8) Title: SEC/TREASURER

Instructions: Legibly complete the form above. Enclose a check made payable to the Idaho Secretary of State for \$30.00. Sign and date this form and return to the address provided above.

ATTACHMENT 1D
to WSB Lease
Application

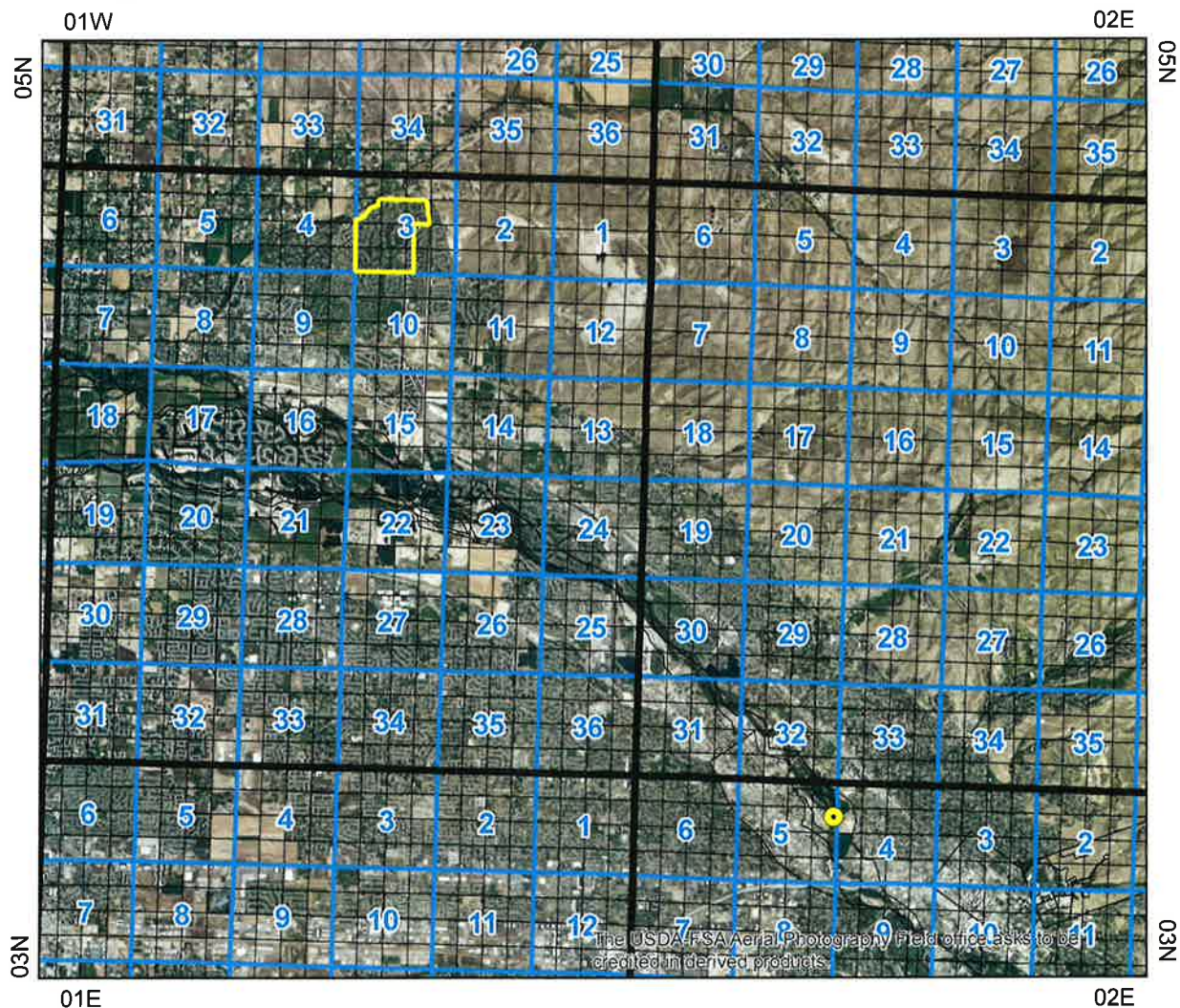
B0421-1944 12/12/2019 2:05 PM Received by ID Secretary of State Lawrence Denney

State of Idaho
Department of Water Resources

**Water Right
63-123F**

IRRIGATION

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 1 2 4 Miles



**ATTACHMENT 3
to WSB Lease
Application**

CONSENT

TO WHOM IT MAY CONCERN:

Farmer's Union Ditch Company, Limited, an Idaho non-profit corporation ("Farmer's Union"), to the extent required by the Idaho Department of Water Resources or Idaho Water Resource Board, and in furtherance of that certain Settlement and Release Agreement dated January 28, 2019, by which Farmer's Union discharged, released, and acquitted all claims, counterclaims, cross-claims, actions, causes of action, judgments, findings of fact and conclusions of law, demands, liabilities, suits, liens, damages, indemnification and subrogation claims, costs, fees, expenses, and compensation of any kind or nature which Farmer's Union has or may have relating to Water Right No. 63-123F, hereby consents to the lease of Water Right No. 63-123F into the State of Idaho's Water Supply Bank, and its rental therefrom, upon any terms and conditions acceptable to the right holder, in its sole discretion.

Dated this 27th day of May, 2020.

FARMER'S UNION DITCH COMPANY, LIMITED



Sam Rosti, President

FEE \$100.00

RECEIVED

DEC 30 2011

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPARTMENT OF
WATER RESOURCESAPPLICATION FOR EXTENSION OF TIME TO AVOID
FORFEITURE OF A WATER RIGHT

Section 42-222, Idaho Code, provides that a water right shall be lost and forfeited and the water right revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

1. Name of water right holder Lexington Hills, Inc.
2. Mailing address 3319 Deway St., Boise, ID 83703 w/ copy to John Marshall Email 365dave@gmail.com
3. The right was obtained or is evidenced by:
 - a. Decree to _____ in Case of _____
 - vs. _____, Dated _____ in _____
 - Court, _____ County of _____ Fully (Name of Court) describe decree
- b. License No. _____ c. Claim No. _____
- d. SRBA No. 63-123F
4. Source of water Boise River (Name of stream or source) tributary to Snake River
5. Date of priority of right June 1, 1864
6. Description of Right:

amount 1.385 CFS (cfs/ac-ft) for Irrigation purposes from 3-01 to 11-15

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
7. Point of Diversion SE 1/4 NE 1/4 of Sec. 05 Twp. 3N Rge. 2E County Ada

8. Lands Irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres Digital boundarySCANNED
NOV 11 2011

9. Give the last date when water was put to beneficial use Decreed in SRBA in 2009
Length of extension of time requested 5 years, or until _____ (Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use Right is appurtenant to the hardscape surfaces in a developed residential subdivision and is no longer being used. Right will eventually be transferred and used in another location.

The information contained in this application is true to the best of my knowledge.

(Signature of Applicant)

5th

day of

April

2017

ANGELINA LONG
Notary Public
State of Idaho

(Notary Public)

My commission expires

09/14/2015

Residing at

150 W. State St. Eagle, ID 83625

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby Approve said application subject to the following conditions or reasons:

The right holder shall resume beneficial use of water on or before July 1, 2020.

Signed this 31st day of December, 2015

Shelley W. Keen, Water Rights Section Manager
~~Chief, Water Rights Section~~

FOR DEPARTMENT USE ONLY

Date Received 12-30-11 FEE Received by _____ Date _____ Receipt # 1094513

Preliminary T by _____ Publication prepared by _____ Pub. approved by _____ Date _____

Published in _____ Dates Published Nov 5 & 12, 2015

Protests filed by _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____

Recommended for - APPROVAL / DENIAL By _____

ATTACHMENT 4G
to WSB Lease
Application



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 2, 2020

LEXINGTON HILLS INC
2267 N ALDERCREST PL
EAGLE, ID 83616

**RE: WATER SUPPLY BANK LEASE CONTRACT 1219
FOR WATER RIGHTS 63-123F**

Dear Lessor:

Water rights **63-2750** 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, 2021**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Amanda Johnson-Weibull

for

Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Western Region
John Marshall – John Marshall Law PLLC

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CHANGE IN ADDRESS

RECEIVED

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

AUG 31 2020

DEPARTMENT OF
WATER RESOURCESWater Right Number(s): 63-123FName(s): Lexington Hills INC.Old Mailing Address: 1815 E. STONYBROOK CT.Eagle, Id. 83616New Mailing Address: 2267 N. Aldercrest Pl.Eagle, Id. 83616Telephone Number: 208-861-3200Email: lee.dougal@aol.comSignature(s) of Owner(s) Robert Lee DougalLexington Hills HOA President
(Include your title if on behalf of company or organization.)Date: AUGUST 28, 2020

Send a signed original to your closest regional office:

IDWR Northern Region
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815-7763
(208) 762-2800IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161IDWR Southern Region
650 Addison Ave W, Suite 500
Twin Falls, ID 83301-5858
(208) 736-3033



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 10, 2020

LEXINGTON HILLS INC
1815 E STONYBROOK CT
EAGLE, ID 83616

RE: APPLICATION TO LEASE WATER RIGHT 63-123F TO THE WATER SUPPLY BANK CONTRACT 1219

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

Dear Applicant:

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

The right will automatically be released from the Bank on **December 31, 2021**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,


Amanda Johnson-Vahel
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108871

Memorandum

To: Water Right 63-123F
From: Justin Ferguson
Date: June 11, 2020
Re: Water Supply Bank Lease Application 1742

Purpose/Narrative: An application was received by the Department on June 9, 2020 on behalf of Lexington Hills Inc. in response to a notice of resumption of use issued April 22, 2020. A transfer application is currently being processed by the Department however, more time is needed to complete the process. As such, the full portion of the water right is being offered to further protect the water right from forfeiture.

Per the information provided in the transfer application, and again in the lease application, the acreage covered by this water right has become completely hardscaped and is no longer irrigable. Spatially, the authorized place of use is overlapped by water right 63-123G however, per the decrees for both water rights, they expressly do not overlap.

Authority to File: The application was signed by Mr. Duane Stueckle as an agent for Lexington Hills Inc. The applications were prepared and submitted on their behalf by their authorized representative, Mr. John Marshall. No concerns at this time.

Water Right Validity/Forfeiture Evaluation: Historically, this right was decreed through the SRBA in 2009 and an application for an extension filed with the Department in 2011. Upon approval in 2015, the right was protected from forfeiture through June 30, 2020. As such, because a full period of non-use has not elapsed, the right remains valid and can be leased to the Bank.

Injury Evaluation: No injury is apparent as it would appear the right has not been used, in full, since the time of the decree. Further, the authorized place of use has become hardscaped and can no longer be irrigated. No concerns at this time.

Enlargement of Use: No enlargement is evident as the applicant intends to continue to idle the acreage associated with this right. Should a rental, with a high consumptive use be proposed, further review of the historic use may be necessary to prevent enlargement.

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

Beneficial Use/Conservation of Water Resources: Irrigation is an accepted beneficial use. The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Watermaster for District 63 and IDWR Western Region comments were requested

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the application be approved through the end of 2021.

RECEIVED

JUN 09 2020

DEPARTMENT OF
WATER RESOURCES

John Marshall Law PLLC

575 W Bannock, Suite B
Boise, ID 83702

phone 208-991-2701
fax 208-906-8043
john@jmarshalllaw.com

June 2, 2020

Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Re: 63-123F Water Bank Lease Application

To Whom It May Concern:

Enclosed please find an executed Water Bank Application for water right 63-123F. I've also enclosed a check for \$250.00 to cover the required fee. Right 63-123F is subject to an approved Application for Extension of Time to Avoid Forfeiture that expires July 1, 2020. Right 63-123F is also the subject of a pending transfer application for which all protests were resolved over a year ago, but for which an order from the Department has not been issued. Because of the delay in processing the transfer, the right would not be subject to forfeiture because the delay represents "circumstances over which the water right owner has no control." Idaho Code § 42-223(6). However, because recent Department communication states that the right must be returned to beneficial use by July 1, 2020, we are submitting the enclosed application to further ensure the right is not subject to forfeiture while the Department continues its administrative process. If the Department believes that the right must be diverted and used, then please let me know immediately, and we will follow up with a corresponding rental application.

Thank you,



John M. Marshall

cc: client
Michael Lawrence

1742