

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1011

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

LESSOR: IDAHOAN FOODS LLC
PO BOX 130
LEWISVILLE, ID 83431-0130

RECEIVED
JUL 15 2019
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 May 16, 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)
31-7128	7/30/1974	GROUND WATER	0.20	64.1
31-7489	11/6/1987	GROUND WATER	0.80	541.0
Combined Lease Totals			1.00	605.1

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, 2019 to December 31, 2023. 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. 1011

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. 1011

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

LESSOR: IDAHOAN FOODS LLC
PO BOX 130
LEWISVILLE, ID 83431-0130

By *Lodd Scott*
Title *Director of Engineering*
Date *7-9-19*

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 *7/29/2019*

Lease approved by IDWR *Chris Wade*

Date *7-29-2019*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1011

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): 31-7128, 31-7489

GROUND WATER	NWNE	Sec. 28	Twp 09N	Rge 36E	CLARK County
GROUND WATER	NWNE	Sec. 28	Twp 09N	Rge 36E	CLARK County
GROUND WATER	NWNE	Sec. 28	Twp 09N	Rge 36E	CLARK County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
31-7128	COMMERCIAL	10/15	to	08/31	0.20 cfs	64.1 AF
31-7489	COMMERCIAL	01/01	to	12/31	0.80 cfs	541.0 AF
31-7128	DOMESTIC	01/01	to	12/31	0.02 cfs	64.1 AF
Totals:					1.00 cfs	605.1 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	36E	16			X											X			
09N	36E	21		X	X													X	
09N	36E	22							X	X	X	X	X	X					
09N	36E	27		X			X												
09N	36E	28	X	X											X			X	

PLACES OF USE TO BE IDLED UNDER THIS LEASE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	36E	28	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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1011

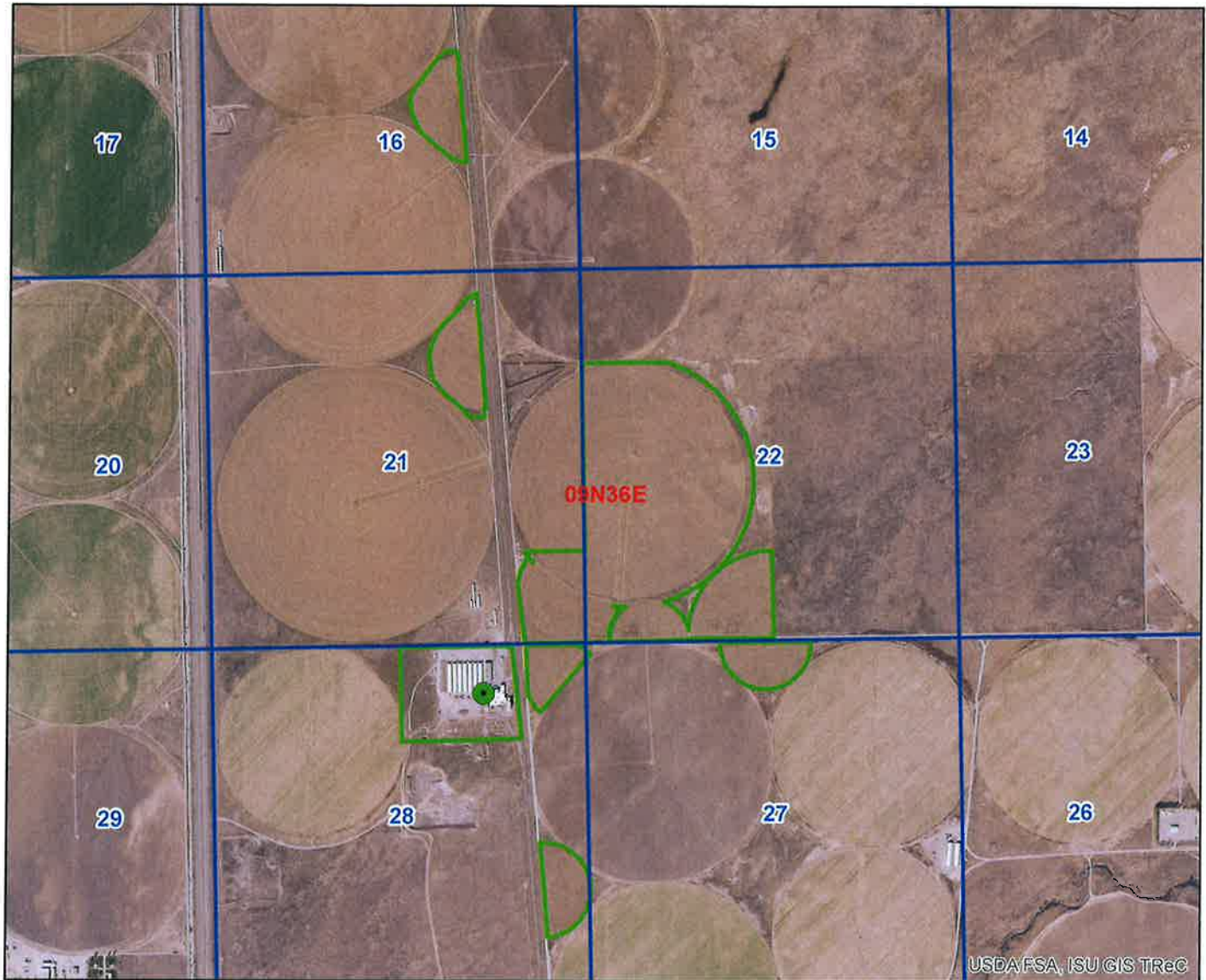
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
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 quantity of water for domestic use under this right shall not exceed 2,500 gallons per day.
13. Commercial use is for a potato processing plant.
14. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
15. Use of water under this right will 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. 110.
16. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the commercial facility as authorized by this water right.
17. Domestic use is for lavatories and a break area.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1011

31-7128 & 31-7489

Effective until December 31, 2023

This map depicts the **commercial place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.

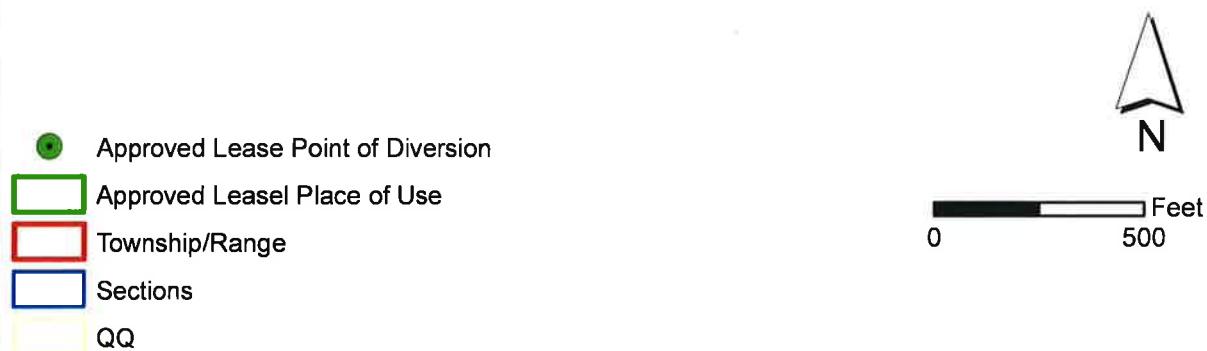


-  Approved Lease Point of Division
-  Approved Lease Place of Use
-  Township/Range
-  Sections

 Feet
0 500

31-7128

This map depicts the **domestic place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK MAY 06 2019DEPARTMENT OF
WATER RESOURCESDesignated Applicant Idahoan Foods LLC

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

Water Right No. 31-7128

(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 \$ 250.00Received By: DABDate Received: 5-6-2019Receipt # C106754W-9 received? Yes ☒ No ☐(Route W-9 to Fiscal) ☒Name on W-9: Idahoan Foods LLC

1415

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 Idahoan Foods LLC

Mailing Address P.O. Box 130 Lewisville ID 83431-0130
Street City State Zip Code

Email Address dleikam@idahoan.com Phone Number (208) 525-2294

☐ 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 T.J. Budge Organization Racine Olson, PLLP

Professional Title Attorney Email Address tj@racineolson.com

Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☐ 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.

Water has been diverted from wells and used in a potato processing plant. Wastewater is then delivered through mainline to adjacent fields for irrigation.

- 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. Water right no. 31-7489 is also being offered to the Bank. Both rights are described for the same facility and the same acreage for delivery of wastewater. Water right 31-12446 was split from 31-7489 and may continue to be used at the processing plant.

- 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. BLF Land LLC owns the acreage where wastewater is applied. There are other water rights appurtenant to those acres. The processing plant may receive water under 31-12446.

- 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. The facility has not been in operation for several years.

- 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. The facility has not been in operation for several years. However, the water rights have been protected through the Water Supply Bank to prevent forfeiture.

- 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: 2019 to 2023 (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.
No rent being charged as this right is being self-leased for use at Idahoan's Idaho Falls plant

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.

TJ Budge
Signature of Designated Applicant

TJ Budge
Printed Name

4/11/2019
Date

Signature of Authorized Representative

Printed Name

Date

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

**SPECIAL POWER OF ATTORNEY
FOR WATER RIGHTS**

IDAHOAN FOODS, LLC, an Idaho limited liability company, hereby appoints the law firm of Racine, Olson, Nye & Budge, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, its attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow them to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on its behalf.

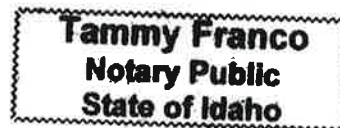
IDAHOAN FOODS, LLC, an Idaho limited liability company

By: Todd Scott 6-11-18
Todd Scott, Director of Engineering

STATE OF Idaho)
County of Bonneville) :ss

This recorded was acknowledged before me on June 11, 2018, by Todd Scott, Director of Engineering of Idahoan Foods, LLC.

Tammy Franco
NOTARY PUBLIC FOR IDAHO
Commission expires: 1.13.2022



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: 2019 to 2023 (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

Dennis Liskam

Printed Name

04/18/19

Date

Signature of Authorized Representative

T.J. Budge, Attorney

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name	Idahoan Foods, LLC		
Mailing Address	PO Box 130 Lewisville, ID 83431-0130		
Phone Number	(208) 525-2294		
Email Address	dleikam@idahoan.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

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

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
31-7128	Commercial	0.20	63.5	
	Domestic	0.02	0.6	
	Total Amounts:	0.22	64.1	

2. Source of water Groundwater tributary to _____

3. Point(s) of diversion:

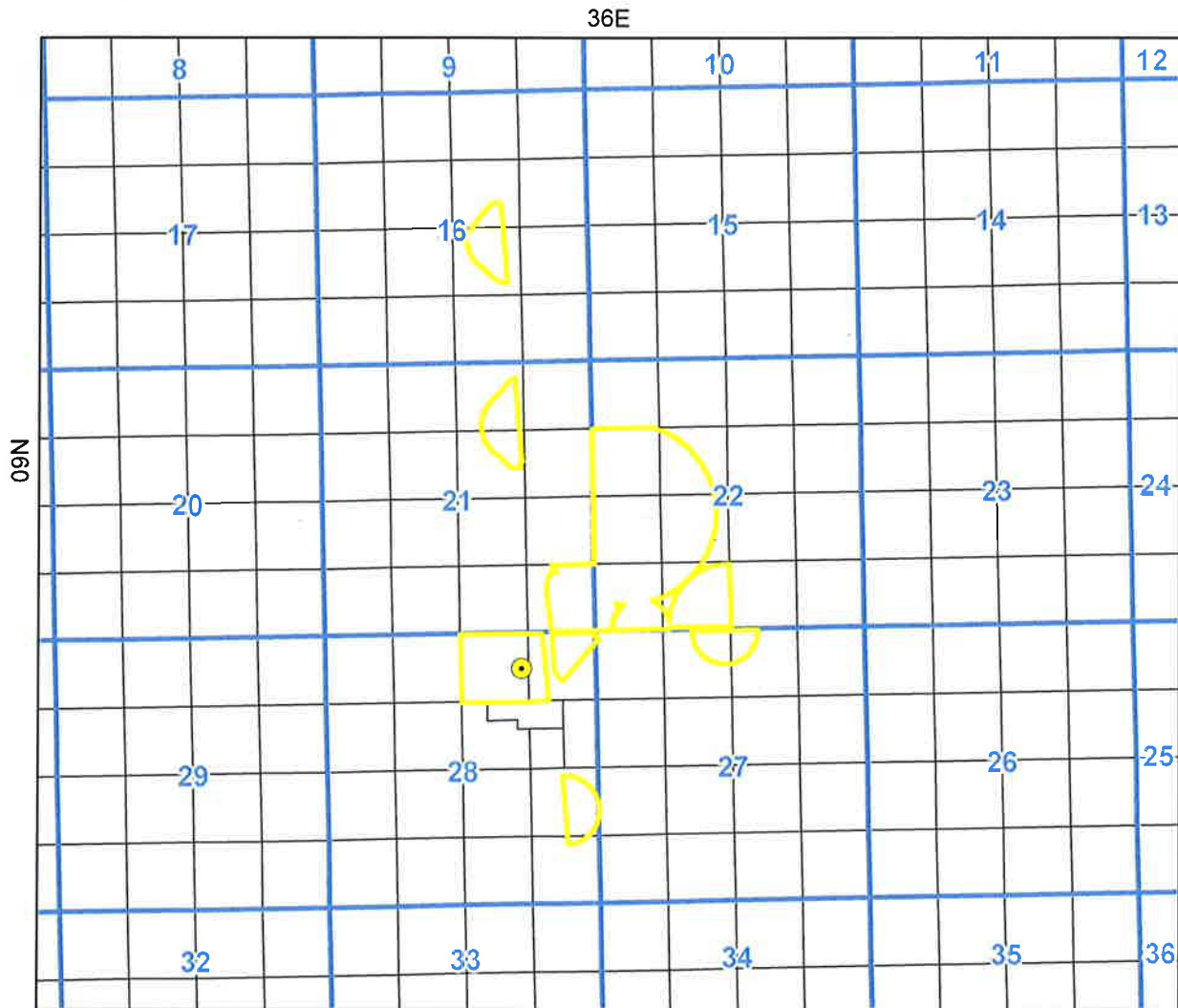
Twp	Rge	Sec	Lot	¼	¼	¼	County

State of Idaho
Department of Water Resources

Water Right 31-7128

COMMERCIAL

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



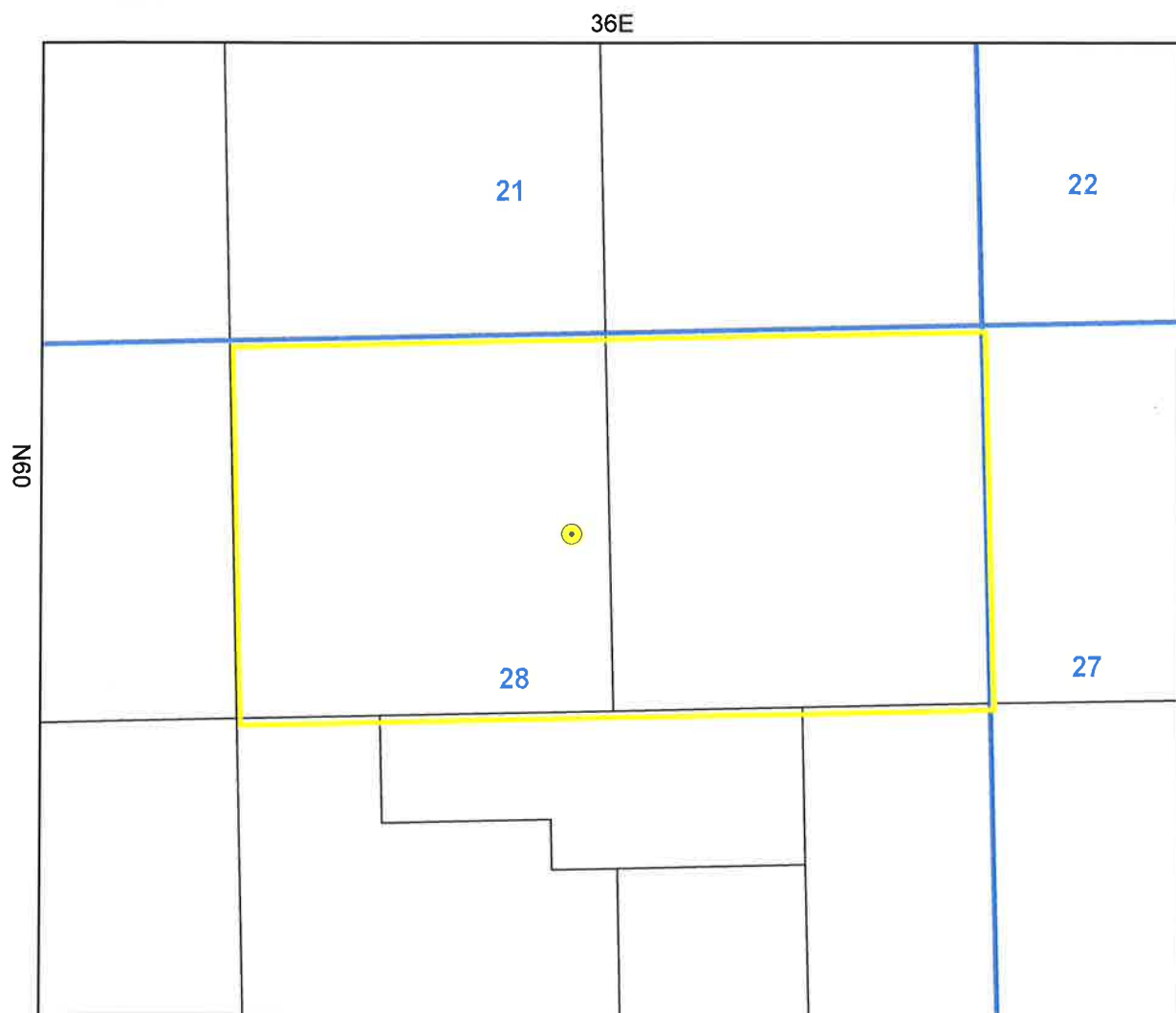
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.425 0.85 1.7 Miles

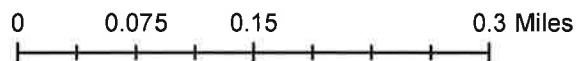


Water Right
31-7128

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



IDAHO Department of Water Resources



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WATER RIGHT REPORT

5/2/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 31-7128

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	IDAHOAN FOODS LLC PO BOX 130 LEWISVILLE, ID 83431-0130 2083745600
Original Owner	RDO PROCESSING LLC PO BOX 265 DUBOIS, ID 83423 2083745600
Original Owner	BLAINE L LARSEN
Original Owner	CONNIE L LARSEN PO BOX 188 HAMER, ID 83425-0188 2086625501

Priority Date: 07/30/1974

Basis: Decreed

Status: Active

Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
COMMERCIAL	10/15	08/31	0.2 CFS	63.5 AFA
DOMESTIC	01/01	12/31	0.02 CFS	0.6 AFA
Total Diversion			0.2 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWNE|Sec. 28|Township 09N|Range 36E|CLARK County

GROUND WATER|NWNE|Sec. 28|Township 09N|Range 36E|CLARK County

GROUND WATER|NWNE|Sec. 28|Township 09N|Range 36E|CLARK County

Place(s) of use:

Place of Use Legal Description: COMMERCIAL CLARK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09N	36E	16		SWNE										
		21		NWSE										
				NWNE			SWNE							
				SESE										
		22		SWNW			SENE							
				NESW			NWSW			SWSW			SESW	
		27		NWNE										
				NENW										
		28		NENE			NWNE							
				NESE			SESE							

Place of Use Legal Description: DOMESTIC CLARK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09N	36E	28		NENE			NWNE							

Conditions of Approval:

1. T19 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
2. Domestic use is for lavatories and a break area.
3. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
5. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. R05 Use of water under this right will 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. 110.
7. N06 The quantity of water for domestic use under this right shall not exceed 2,500 gallons per day.

- | | | |
|-----|-----|--|
| 8. | WD8 | The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the commercial facility as authorized by this water right. |
| 9. | 106 | Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture. |
| 10. | 115 | Prior to the diversion and use of water under Transfer approval 76848, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications. |
| 11. | | Commercial use is for a potato processing plant. |
| 12. | N10 | The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use. |

Dates:

Licensed Date:

Decreed Date: 06/14/2002

Permit Proof Due Date: 8/1/1979

Permit Proof Made Date: 1/1/1900

Permit Approved Date: 8/28/1974

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 110

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Water Supply Bank:

Lessor Name(s): IDAHOAN FOODS LLC

Lease Status: Active

Lease Amount: 64.10 AF

Rental Availability: 64.10 AF

Date Received: 12/16/2016

Lease Begin Date: 1/1/2017

Expiration Date: 12/31/2017

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAY 06 2019

**DEPARTMENT OF
WATER RESOURCES**

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

Designated Applicant Idahoan Foods LLC

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

Water Right No. 31-7489

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- | | | | |
|-----------|-------------------------------------|-------------------------------------|--|
| 1A | ☒ | ☐ | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☒ | ☐ | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ 250.00

Received By: DAB

Date Received: 5-6-2019

Receipt # C106754

W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal) ☒

Name on W-9: Idahoan Foods LLC

1415

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 Idahoan Foods LLC

Mailing Address P.O. Box 130 Lewisville ID 83431-0130
Street City State Zip Code

Email Address dleikam@idahoan.com Phone Number (208) 525-2294

☐ 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 T.J. Budge Organization Racine Olson, PLLP

Professional Title Attorney Email Address tj@racineolson.com

Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☐ 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.
Water has been diverted from wells and used in a potato processing plant. Wastewater is then delivered through mainline to adjacent fields for irrigation.

- 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. Water right no. 31-7218 is also being offered to the Bank. Both rights are described for the same facility and the same acreage for delivery of wastewater. Water right 31-12446 was split from 31-7489 and may continue to be used at the processing plant.

- 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. BLF Land LLC owns the acreage where wastewater is applied. There are other water rights appurtenant to those acres. The processing plant may receive water under 31-12446.

- 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. The facility has not been in operation for several years.

- 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. The facility has not been in operation for several years. However, the water rights have been protected through the Water Supply Bank to prevent forfeiture.

- 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: 2019 to 2023 (maximum lease period 5 calendar years).
(Year) (Year)

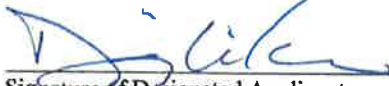
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Dennis Leileam

Printed Name

04/11/2019

Date

Signature of Authorized Representative

T.J. Budge, Attorney

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)
31-7489	Commercial	0.8	541	
	Total Amounts:	0.8	541	

2. Source of water Groundwater tributary to _____

3. Point(s) of diversion:

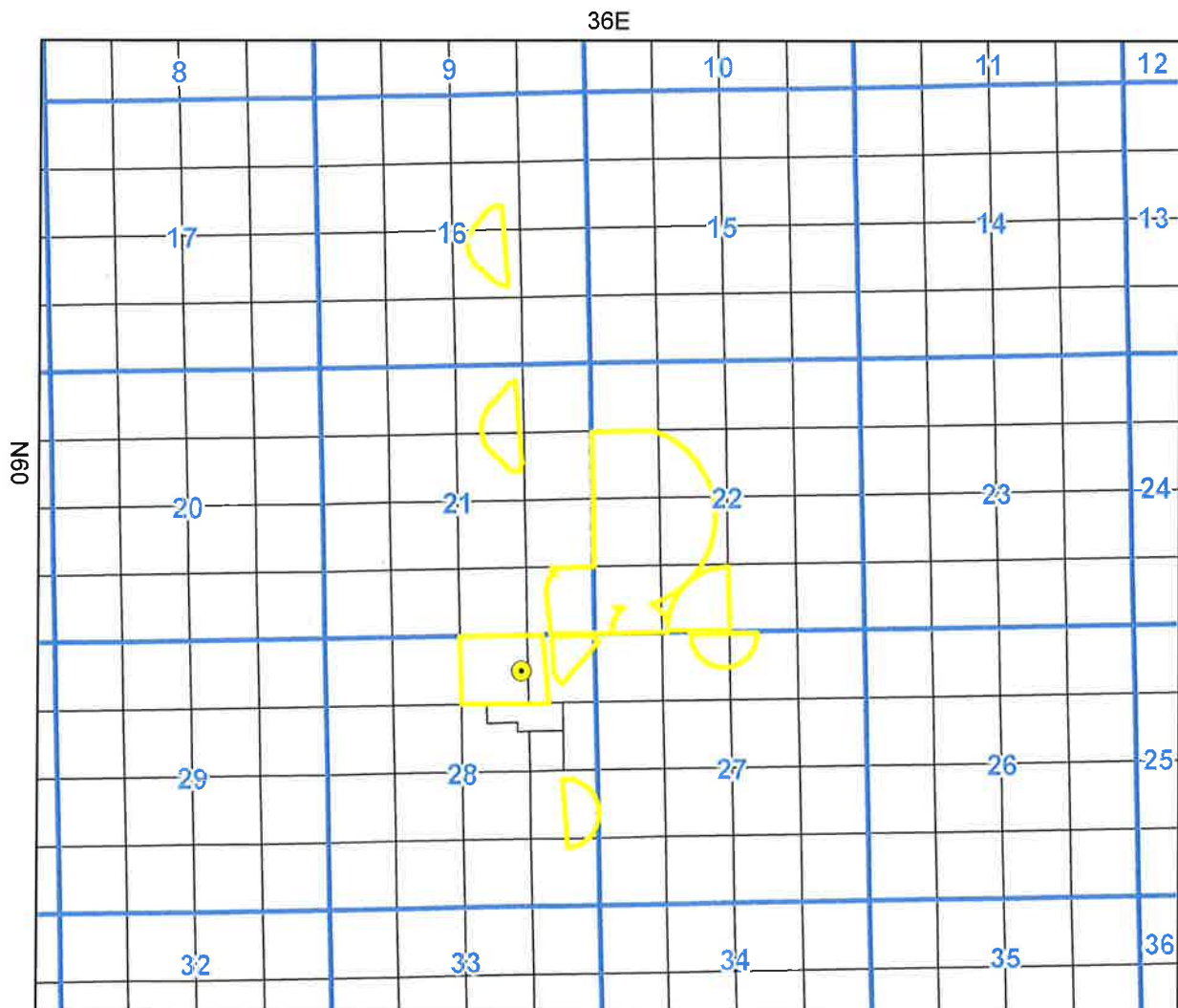
Twp	Rge	Sec	Lot	¼	¼	¼	County

State of Idaho
Department of Water Resources

Water Right 31-7489

COMMERCIAL

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



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

0 0.425 0.85 1.7 Miles



IDAHO Department of Water Resources



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WATER RIGHT REPORT

5/2/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 31-7489

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	IDAHOAN FOODS LLC PO BOX 130 LEWISVILLE, ID 83431-0130 2083745600
Original Owner	RDO PROCESSING LLC PO BOX 265 DUBOIS, ID 83423 2083745600
Original Owner	BLAINE LARSEN FARMS INC PO BOX 188 HAMER, ID 83425 2086625295

Priority Date: 11/06/1987

Basis: License

Status: Active

Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
COMMERCIAL	01/01	12/31	0.8 CFS	541 AFA
Total Diversion			0.8 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWNE|Sec. 28|Township 09N|Range 36E|CLARK County
 GROUND WATER|NWNE|Sec. 28|Township 09N|Range 36E|CLARK County
 GROUND WATER|NWNE|Sec. 28|Township 09N|Range 36E|CLARK County

Licensed Diversion Capacity: 1.66

Place(s) of use:

Place of Use Legal Description: COMMERCIAL CLARK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09N	36E	16		SWNE										
				NWSE										
		21		NWNE			SWNE							
				SESE										
		22		SWNW			SENE							
				NESW			NWSW			SWSW			SESW	
		27		NWNE										
				NENW										
		28		NENE			NWNE							
				NESE			SESE							

Conditions of Approval:

1. Commercial use is for a potato processing plant.
2. WD8 The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the commercial facility as authorized by this water right.
3. R05 Use of water under this right will 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. 110.
4. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
5. 115 Prior to the diversion and use of water under Transfer approval 76848, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
6. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dates:

Licensed Date: 05/27/1997

Decreed Date:

Permit Proof Due Date: 4/1/1990

Permit Proof Made Date: 2/22/1990

Permit Approved Date: 3/27/1989

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 11/06/1987

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 110

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Water Supply Bank:

Lessor Name(s): IDAHOAN FOODS LLC

Lease Status: Active

Lease Amount: 676.0 AF

Rental Availability: 676.0 AF

Date Received: 12/16/2016

Lease Begin Date: 1/1/2017

Expiration Date: 12/31/2017



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

July 29, 2019

IDAHOAN FOODS LLC
PO BOX 130
LEWISVILLE ID 83431-0130

**RE: WATER SUPPLY BANK LEASE CONTRACT 1011
FOR WATER RIGHTS 31-7128 and 31-7489**

Dear Lessor:

Water rights **31-7128 and 31-7489** were leased into the Water Supply Bank (Bank) as of May 16, 2019, 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, 2023**, 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 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Blake Jordan – Water District 120
Jefferson Clark GWD
T J Budge – Racine Olson

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, July 02, 2019 7:41 AM
To: dleikam@idahoan.com; 'TJ Budge'
Subject: Request for Return of WSB Lease Contract 1011

July 2, 2019

IDAHOAN FOODS LLC
PO BOX 130
LEWISVILLE ID 83431-0130

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACT 1011 FOR
WATER RIGHTS 31-7128 & 31-7489**

*****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 June 17, 2019. 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 287-4800.

Sincerely,

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

c: TJ Budge



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

June 17, 2019

IDAHOAN FOODS LLC
PO BOX 130
LEWISVILLE ID 83431-0130

**RE: APPLICATION TO LEASE WATER RIGHT 31-7128 & 31-7489 TO THE WATER SUPPLY BANK
CONTRACT 1011**

******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.

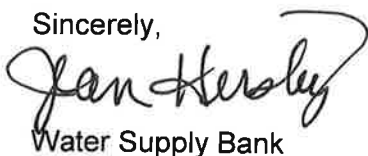
The right will automatically be released from the Bank on **December 31, 2023**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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 287-4800.

Sincerely,



Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Racine Olson- TJ Budge

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, June 11, 2019 11:25 AM
To: 'TJ Budge'
Cc: dleikam@idahoan.com; Webster, Clay
Subject: RE: WSB Lease Applications for Idahoan Foods LLC

I have one other question. Dennis Leikam is not listed on the Idaho Secretary of State page as a member. We will need documentation that gives Dennis the authority to sign the applications on behalf of Idahoan Foods, LLC. As soon as I get this information, the Department will continue processing the lease applications.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

From: TJ Budge [mailto:tj@racineolson.com]
Sent: Tuesday, May 28, 2019 5:58 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: dleikam@idahoan.com; Webster, Clay <Clay.Webster@idwr.idaho.gov>
Subject: RE: WSB Lease Applications for Idahoan Foods LLC

Hi Jean,

These water rights were developed by Idahoan Foods for commercial purposes at a potato processing plant. Wastewater from the plant was land applied to the nearby property that is now owned by Brown Alpha II and Brown Delta II. However, the owners of the real property where the land application occurred had no ownership in the water rights. Rather, Idahoan would allow their use of its wastewater.

IDWR has had different policies over time concerning land application of waste water. Sometimes IDWR has simply added a condition stating that the right may be used for land application. Other times IDWR has required that the land application place of use be identified, even if the water right owner did not own the land application place of use. This is the case with the Idahoan rights.

What is important is that Brown Alpha II and Brown Delta II have no ownership interest in these water rights. Therefore, their consent to the water supply bank lease is not required.

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
W: (208) 232-6101 | C: (208) 705-0826 | F: (208) 232-6109
www.racineolson.com

CONFIDENTIALITY NOTICE - This email and its attachments may contain information that is confidential, privileged, or otherwise protected from disclosure. If you believe this email may have been sent to you in error, please notify me immediately.

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Tuesday, May 28, 2019 12:10 PM
To: TJ Budge <tj@racineolson.com>

Cc: dleikam@idahoan.com; Webster, Clay <Clay.Webster@idwr.idaho.gov>

Subject: WSB Lease Applications for Idahoan Foods LLC

The Department of Water Resources (Department) received your request to place water rights 31-7128 and 31-7489 in the Water Supply Bank (Bank) for the 2019-2023 seasons. The land these water rights are appurtenant to is now owned by Brown Alpha II, LLC and Brown Delta II, LLC. Were the water rights withheld in the sale of the land to these entities? The Department will need documentation showing you have the authority to place the water rights in the Bank or an ownership change and Bank applications from Brown Alpha II, LLC and Brown Delta II, LLC.

Please submit the requested information within 30 days or the applications will be returned and not processed. Please let me know if you have any questions. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

WATER SUPPLY BANK		Quick Tools	
Lease Review Checklist		Decreed	No Forfeiture Concerns Thru:
		Year	
Applicant(s) Name: Idahoan Foods LLC		2011	2017
Memo Date: May 28, 2019		2012	2018
Water Right Number(s): 31-7128 & 31-7489		2013	2019
		2014	2020
		2015	2021
Reviewers Name: Jean			
		Check box	COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x	
2	Reason for lease of water rights (Brief description of lease proposal in narrative)		
	Portion of right		
	All of right	x	
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)		
		Yes	No
4	Rentable? (If no explain in comments or narrative)	x	
5	Authority to file		
	Current owner or designated applicant	x	
	SOS Web site checked for business entity	x	
	Other (explain in comments)		
6	Water Right validity		
	Decreed/Licensed/Statutory claim date (write in comments section)		2002
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		
	Has this right previously been leased to the bank or in CREP?	x	
7	Injury to other water rights		
	If the POD is through a delivery entity, was consent provided?		na
	If the POD is through a delivery entity, was holdback required? (percentage in comments)		%
	Any other concerns		
8	Enlargement concerns	Check box	
	Complete a POU comparison overlap analysis	x	
	Complete a combined limits review	x	
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x	
		Yes	No
	Are there overlapping rights that need to be placed in the bank also?		x
	Will the place of use continue to receive water? (if yes explain in comments)	x	
9	Local Public Interest		
	Does the processor know of any problems this action will cause for the local public?		x
10	Have you contacted regional office and watermaster for comment/concerns?	x	
	Send the watermaster comment request form or e-mail request	x	
11	Area Headgate requirement (write in Comments)		3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x
13	Narrative: This application was received from Rocky Mountain Environmental on behalf of Idahoan Foods LLC, the current water right owners. The applications offer the entire rights to the bank. The application was signed by Dennis Leikam and TJ Budge. Mr. Budge has power of attorney to sign on behalf of Idahoan Foods. The property where the company's waste water was applied for environmental compliance is owned by BLF Land LLC and will continue to receive water from other sources. The potato processing plant and water rights were conveyed to RDO Processing in 2006. The potato processing plant was conveyed to North American Foods in 2007. North American Foods changed their name to Idahoan Foods in 2008. This property will continue to be irrigated with the primary water rights for this land. These rights are commercial and domestic for the operation of a potato processing plant. These rights are fully consumptive when the facility is in operation but the facility has not been in operation since 2009. Water rights have been in the Bank so forfeiture is not an issue.		

No. C 89845 Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	Due no later than Jul 31, 2018 Annual Report Form 1. Mailing Address: Correct in this box if needed. CORPORATION SERVICE COMPANY 251 LITTLE FALLS DRIVE WILMINGTON DE 19808	2. Registered Agent and Address (NO PO BOX) UNITED STATES CORPORATION COMP 12550 W EXPLORER DR STE 100 BOISE ID 83713 3. <u>New</u> Registered Agent Signature:*				
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
PRESIDENT	RODMAN WARD III	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
TREASURER	JOHN FORTUNATO, JR.	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
SECRETARY	GEORGE A. MASSIH III	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	RODMAN WARD III	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	LALOR BURDICK	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	BRUCE R. WINN	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	SUKETU P UPADHYAY	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	MARJORIE STANFORD	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	WILLIAM A. SANTORA	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	F. MICHAEL DONOHUE IV	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	LISA BUTLER	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	JEFFREY D. BUTLER	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
DIRECTOR	DOUGLAS R. BUTLER	251 LITTLE FALLS DRIVE	WILMINGTON	DE	USA	19808
5. Organized Under the Laws of:		6. Annual Report must be signed.*				
DE C 89845		Signature: JOHN FORTUNATO, JR.		Date: 07/30/2018		
		Name (type or print): JOHN FORTUNATO, JR.		Title: TREASURER		
Processed 07/30/2018		* Electronically provided signatures are accepted as original signatures.				



0003337611

**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 #: 0003337611

Date Filed: 10/26/2018 12:19:27 PM

Entity Name and Mailing Address:

IDAHOAN FOODS, LLC

The file number of this entity on the records of the Idaho Secretary of State is: 0000273497

Address

357 CONSTITUTION WAY
IDAHO FALLS, ID 83402-3538

Entity Details:

Entity Status

Active - Existing

This entity is organized under the laws of:

DELAWARE

The file number of this entity on the records of the Idaho Secretary of State is: 0000273497

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: W87928

Registered Agent Name and Address

Current Registered Agent

CORPORATION SERVICE COMPANY
Commercial Registered Agent

Physical Address

12550 W EXPLORER DR STE 100
BOISE, ID 83713

Mailing Address

12550 W EXPLORER DR STE 100
BOISE, ID 83713☐ Check here if the registered agent needs to be changed

If the agent is an individual, do not put the individual's name on the attention line (then it will show in the address block twice).

The attention line is used for organizations *if* they wish to specify a particular individual within the organization to whose attention documents should be sent.

Limited Liability Company Managers and Members

Name of individual or organization	Title	Address
Kerry Buck	Manager	357 CONSTITUTION WAY IDAHO FALLS, ID 83402
Drew Facer	Manager	357 CONSTITUTION WAY IDAHO FALLS, ID 83402

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

Aaron Bagley

Sign Here

Signer's Capacity Accounting Manager

10/26/2018

Date

B0080-7913 10/26/2018 12:19 PM Received by ID Secretary of State Lawrence Denney



May 3, 2019

Remington Buyer
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
remington.buyer@idwr.idaho.gov

RECEIVED
MAY 06 2019
DEPARTMENT OF
WATER RESOURCES

Re: Applications to Lease Water Right Nos. 31-7489 and 31-7128

Dear Remington,

Enclosed are the originals and two copies of two sets of Applications to Lease water right nos. 31-7128 and 31-7489 into the Water Supply Bank. Also enclosed is a check in the amount of \$500.00 for the filing fees and a return envelope. Please process one set of Applications and conform stamp and return the second set.

Should you have any questions, please give me a call.

Sincerely,


TJ BUDGE