

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 991

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

LESSOR: FRANKLIN CUB RIVER PUMPING
CO
PO BOX 311
PRESTON, ID 83263

RECEIVED
JUN 17 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 March 04, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
13-2092	11/28/1919	CUB RIVER, tributary to BEAR RIVER	0.58	101.5	29.0
Lease Totals			0.58	101.5	29.0

Summary of Water Rights Elements Rentable From the Bank

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: \$1.00 / AF

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. 991

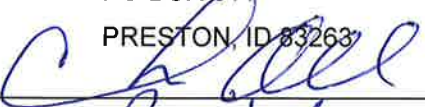
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

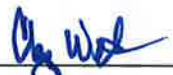
LESSOR: FRANKLIN CUB RIVER PUMPING
CO
PO BOX 311
PRESTON, ID 83263

By 
Title President
Date June 12 2019

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 6/21/2019

Lease approved by IDWR 

Date 6-21-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 991

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): 13-2092

CUB RIVER SENE Sec. 30 Twp 16S Rge 40E FRANKLIN County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
13-2092	IRRIGATION	4/01	to	11/01	0.58 cfs	101.5 AF
Totals:					0.58 cfs	101.5 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	40E	29			14.0					3.8					2.4				20.2
16S	40E	30														8.8			8.8

Total Acres: 29.0

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 991

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. 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. 13A.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 991

13-2092
Effective until December 31, 2023

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



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



0 0.1 0.2 0.4 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 04 2019

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Franklin Cub River Pumping Company, Inc.

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

Water Right No. 13-2092

(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.**

MIMUMUM 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 \$ 500Received By: [Signature]Date Received: 3/4/19Receipt # C106313W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Franklin Cub River Pumping Company Inc

1355

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 Franklin Cub River Pumping Company, Inc.

Mailing Address P.O. Box 311 Preston Idaho 83263
Street City State Zip Code

Email Address _____ Phone Number _____

☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ 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 will be delivered through the Applicant's existing delivery system.

- 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 13-2179

- 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. Water right leased to Bank through December 31, 2018.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 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.
Private lease agreement rental rate of \$1.00 per acre-foot.

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

Chris Allen, President

Printed Name

1-29-19

Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

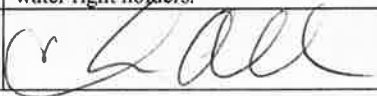
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

Water Right No(s). 13-2092, 13-2179

	Designated Applicant	Applicant #2	Applicant #3
Name	Chris Allen		
Mailing Address	12616 N. 1200 E. Cave, Utah 84320		
Phone Number	435-258-2529		
Email Address	allenseedgrain@gmail.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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>13-2092</u>	<u>Irrigation</u>	<u>0.58</u>	<u>N/A</u>	<u>29</u>
	Total Amounts:	<u>0.58</u>	<u>N/A</u>	<u>29</u>

2. Source of water Cub River tributary to Bear River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
16S	40E	30		SE	NE		FRANKLIN

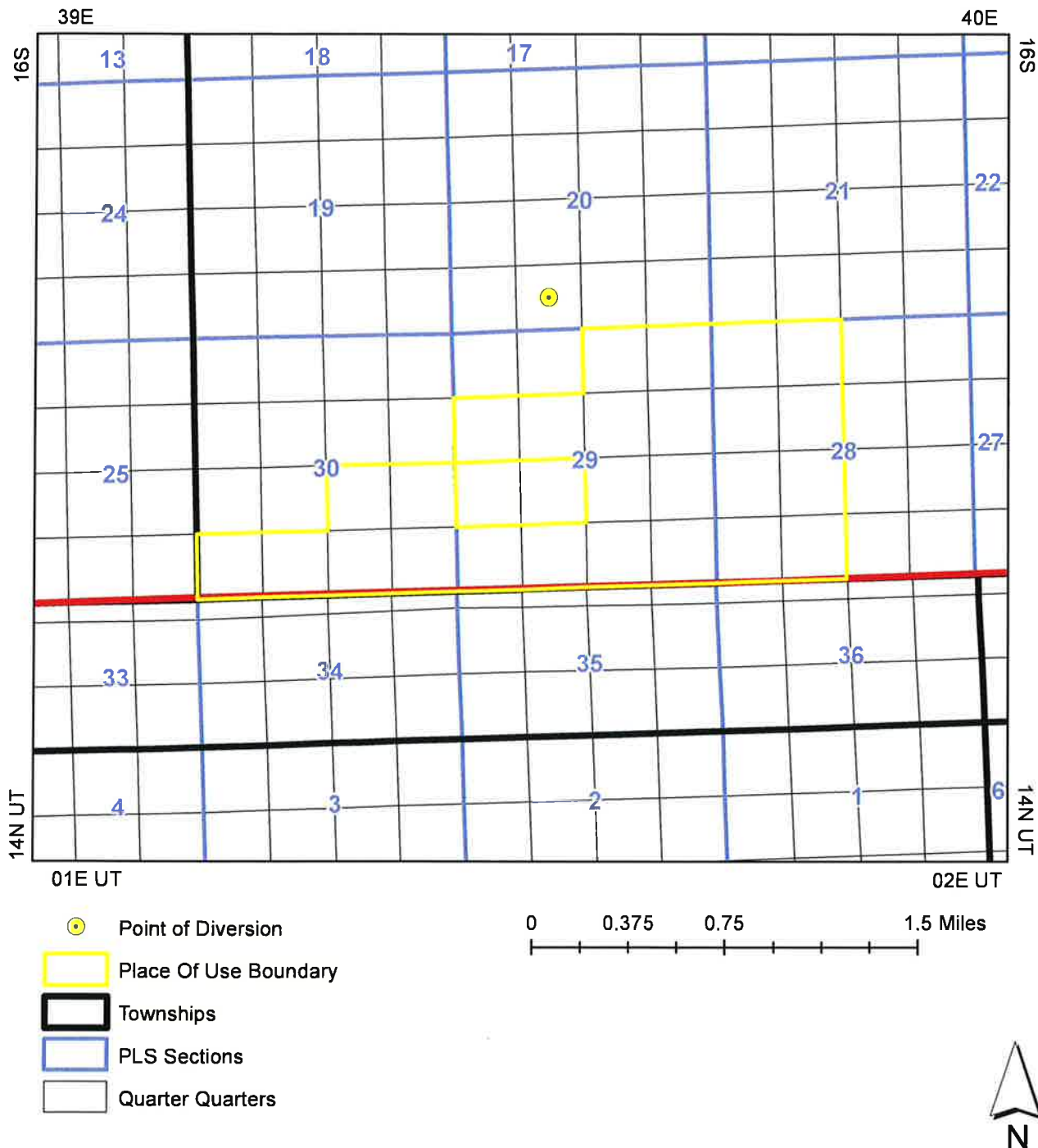
State of Idaho
Department of Water Resources

**Water Right
13-2179**

IRRIGATION

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DEPARTMENT OF
WATER RESOURCES

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.



IDAHO Department of Water Resources



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WATER RESOURCES

WATER RIGHT REPORT

3/14/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 13-2092

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRANKLIN CUB RIVER PUMPING CO PO BOX 311 PRESTON, ID 83263 4352582529

Priority Date: 11/28/1919

Basis: License

Status: Active

Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
CUB RIVER	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	/	/	20 CFS	
DOMESTIC	/	/		
Total Diversion			20 CFS	

Location of Point(s) of Diversion:

CUB RIVER | SENE | Sec. 30 | Township 16S | Range 40E | FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
16S	40E	28		NENW	40		NWNW	40		SWNW	40		SENW	40
				NESW	40		NWSW	40		SWSW	40		SESW	40

	29		NENE 40	NWNE 40	SWNE 40	SENE 40
			SWNW 40	SENE 40		
			SWSW 40	SESW 40		
			NESE 40	NWSE 40	SWSE 40	SESE 40
	30	4	SWSW 30	SESW 40		
			NESE 40	NWSE 15	SWSE 40	SESE 40

Place of Use Legal Description: DOMESTIC same as IRRIGATION

Total Acres: 1005

Dates:

Licensed Date: 03/22/1979

Decreed Date:

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

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:

Owner Name Connector:

Water District Number: 13A

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:

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DEPARTMENT OF
WATER RESOURCES

Lessor Name(s): FRANKLIN CUB RIVER PUMPING CO

Lease Status: Active

Lease Amount: .58

Rental Availability: None

Date Received: 1/1/2014

Lease Begin Date: 1/1/2014

Expiration Date: 12/31/2018

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MAR 14 2019

DEPARTMENT OF
WATER RESOURCES



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 21, 2019

FRANKLIN CUB RIVER PUMPING CO
PO BOX 311
PRESTON ID 83263

**RE: WATER SUPPLY BANK LEASE CONTRACT 991
FOR WATER RIGHT 13-2092**

Dear Lessor:

Water right **13-2092** was leased into the Water Supply Bank (Bank) as of March 4, 2019, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is 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 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. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is 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
Kirk Iverson - Water District 13A
T J Budge - Racine Olson

Hersley, Jean

From: Cefalo, James
Sent: Tuesday, June 04, 2019 10:03 AM
To: Hersley, Jean
Subject: RE: WSB Leases for Franklin Cub River Pumping

Jean,

I don't have any concerns with the proposed WSB lease/rental.

James

From: Hersley, Jean
Sent: Tuesday, June 04, 2019 10:01 AM
To: farmerkirk@hotmail.com; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: WSB Leases for Franklin Cub River Pumping

Please let me know within 7 days if you have any comments or concerns with the attached leases. Thank you.

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



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 4, 2019

FRANKLIN CUB RIVER PUMPING CO
PO BOX 311
PRESTON ID 83263

RE: APPLICATION TO LEASE WATER RIGHT 13-2179- CONTRACT 989 & WATER RIGHT 13-2092- CONTRACT 991 TO THE WATER SUPPLY BANK

******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,

for 
Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Racine Olson, PLLP

MEMORANDUM FOR APPLICATION # 1356

To: Water Right(s) 13-2179, 13-2093

From: Alex Dalgleish

Date: May 24, 2019

Re: Review & Analysis of Application to Lease and Rent Water to and from the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received a lease/rental companion package on March 4, 2019. There are two applications to lease rights from Franklin Cub River Pumping Co (FCRPC) and 1 rental package from Travell Enterprises, INC (TEI). A portion, 29 acres, of rights 13-2179 and 13-2092 will be leased into the Bank for from 2019-2023.

According to prior memos, the recreational storage pond where the rental water will be used, has been in existence for some time. Water rented under rights 13-43, 13-44, 13-45 and 13-46 provided water for the initial fill. The prior lease/rental from 2014-2018 provided maintenance of the pond level. A permanent storage right before the Department (13-7694), is currently in the draft application for permit stage.

The Pond is expanding in size and additional water is needed to compensate for evaporation and seepage loss. Development of roads and homes in the area will also cause a decrease in the surrounding irrigation of lands by 29 acres, according to a 2008 water management plan provided with the rental. According to this plan, the drying up of those acres will offset the depletion of water from the pond.

On 5/6/19, shapefiles were requested from TJ Budge showing the location of acres to be leased and the corresponding location those acres would be rented. He had the shapefiles sent over on 5/22/19. The lease shapefile represented 43.2 acres, not 29 acres proposed on the lease applications. A map was created by the Department to represent 29 acres at the lease POU. On 5/23/19, this map was sent to Mr. Budge and he responded promptly confirming he was ok with the lease shape represented on the map.

AUTHORITY TO FILE: Chris Allen, President of FCRPC, signed both lease applications and Travis McNiven, manager for TEI signed the rental application. The rental application was completed by attorney TJ Budge, of Racine Olson PLLP. IDSOS confirms Chris Allen as president. Travell Enterprises Inc. did not appear on the IDSOS search. A google search provided that TI is located in Lander, Wyoming. The Wyoming SOS site (<https://wyobiz.wy.gov/Business/FilingSearch.aspx>) shows Travis McNiven as president/director. Both are authorized to sign. An agreement, included with the lease authorizes Chris Allen to submit the lease applications on behalf of all other water right holders. A private lease agreement requests a rental rate of \$1.00 per acre-foot.

According to Department records and Franklin County parcel search, the property at the POD for leased right 29-2179 does not have an owner listed. Department records show the property at the POU for both leased rights covers various parcels. The property at the POD for right 13-2092 is owned by Valenge Etux Olsen.

The rental map lists four POD's, one from the Cub River Pump Co. Canal in the SWNW QQ of Sec 29, Twp16S, Rge 40E and the other from Maple Creek Irrigation Co. Pipeline in the SWSE QQ of Sec 20, TWP 16S, Rge40E. The other two POD's are represented by the discharge locations from the canal and pipeline into Morrison Reservoir. Both are located in the NWSE QQ Sec 29 Twp 16S Rge 40E. Morrison Reservoir is now called Legacy Lake.

WATER RIGHT VALIDITY: According to prior memos, rights 13-2179 and 13-2092 were licensed in 1927 and 1921 respectively. They have been continuously leased and rented to the Bank since April 2008. Forfeiture is not an issue.

INJURY TO OTHER WATER RIGHTS: No injury is apparent from the lease or rental of rights 13-2179 and 13-2092. Modeling is not required.

ENLARGEMENT OF USE: No enlargement is evident. The lease and rental share the same season of use from 4/1 to 11/1. They also share the same headgate requirement of 3.5 af/ac and consumptive use of 2.5 af/ac. The rental will change the nature of use from irrigation to recreation storage. The lease proposes to put 29 acres into the Bank and the rental is for 14 AF. The 2008 water management plan, included with the rental, suggests that Legacy Lake will need an estimated 9.85 AF annually to compensate for evaporation and seepage losses. The rental will be limited to 10 AF (requested 14 AF divided by 3.5af/ac headgate requirement multiplied by the consumptive use of 2.5af/ac = 10AF). This rental will be charged for the full headgate volume of the irrigation rights but will be limited to the consumptive use volume to avoid enlargement. This will require Travell Enterprises, Inc to rent 4 acres worth of irrigation.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease and rental appear consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased rights are subject to Water District 13A (Cub River). On 5/24/19, comments were submitted to Eastern Region and Watermaster of District 13A, Kirk Iverson. Water District 13A covers the POD's for rights 13-2092 and 13-2179 but not the rental POD's.

Dalgleish, Alex

From: TJ Budge <tj@racineolson.com>
Sent: Thursday, May 23, 2019 4:31 PM
To: Dalgleish, Alex
Subject: RE: Rental Dates

Sorry Alex, that is a clerical mistake. The prior rental ended December 31, 2018. The new rental should commence January 1, 2019. Please consider this email your authorization to process accordingly.

Thanks,

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

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From: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Sent: Thursday, May 23, 2019 4:22 PM
To: TJ Budge <tj@racineolson.com>
Subject: Rental Dates

TJ,

I have processed the lease and am now working on the rental. The rental application requests a start date of 01/01/2018 with a desired timeline of 5 years. Is this correct, or does the possible error need to be corrected?

Thanks,

Alex Dalgleish

Water Resource Agent

Phone (208) 287-4913

alex.dalgleish@idwr.idaho.gov

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Thursday, May 23, 2019 1:59 PM
To: 'TJ Budge'
Subject: RE: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Great, thank you.

From: TJ Budge [mailto:tj@racineolson.com]
Sent: Thursday, May 23, 2019 1:56 PM
To: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>; Bonnie Hill <bonnie@racineolson.com>
Subject: RE: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Your map works for us. Thanks Alex.

T.J. Budge

RACINE OLSON

201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204

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www.racineolson.com

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From: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Sent: Thursday, May 23, 2019 12:02 PM
To: Bonnie Hill <bonnie@racineolson.com>
Cc: TJ Budge <tj@racineolson.com>
Subject: RE: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Bonnie,

Thank you for sending me the shapefiles. Unfortunately, I have run into some issues. The lease shapefile covers 43.6 acres but the lease application requests only 29 acres. I have included a map that represents a place of use for those acres to be leased to the Water Supply Bank. Please confirm that the area on the map is the location and acreage to be leased. If the shape does not represent the location and acreage to be leased, please provide a correct shapefile representing 29 acres.

Also, the lease shapefile you provided includes acres in the NESW QQ Sec. 29 Twp 16S Rge 40E, represented by a road. Water rights 13-2092 and 13-2179 do not have irrigated acres in this location and therefore, no acres can be leased to the Bank from this QQ.

Please call or email if you have questions/concerns.

Thank you,

Alex Dalgleish

Water Resource Agent

Phone (208) 287-4913

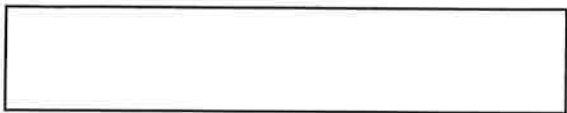
alex.dalgleish@idwr.idaho.gov

From: Bonnie Hill [<mailto:bonnie@racineolson.com>]
Sent: Wednesday, May 22, 2019 2:03 PM
To: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Cc: TJ Budge <tj@racineolson.com>
Subject: RE: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Shapefiles attached.

Bonnie K. Hill

Assistant to Patrick N. George



201 E. Center Street / P.O. Box 1391
Pocatello, Idaho 83204
(208)232-6101 - Phone
(208)478-3470 - Fax

www.racinelaw.net

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From: TJ Budge <tj@racineolson.com>
Sent: Wednesday, May 22, 2019 2:01 PM
To: Bonnie Hill <bonnie@racineolson.com>
Cc: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Subject: FW: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Bonnie,

Please email to Alex the shapefile for the Water Supply Bank map you prepared for McNiven.

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

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From: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Sent: Wednesday, May 22, 2019 12:14 PM

To: TJ Budge <tj@racineolson.com>

Subject: RE: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

TJ,

Is it possible to send me the actual shapefiles so I can easily import them into ArcGIS?

Alex Dalglish

Water Resource Agent

Phone (208) 287-4913

alex.dalglish@idwr.idaho.gov

From: TJ Budge [<mailto:tj@racineolson.com>]

Sent: Wednesday, May 22, 2019 9:54 AM

To: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>

Subject: RE: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Here you go! Sorry about the wait.

T.J. Budge

RACINE OLSON

201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204

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From: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>

Sent: Wednesday, May 22, 2019 8:25 AM

To: TJ Budge <tj@racineolson.com>

Subject: Shapefiles for Franklin Cub River Pumping Co. and Travell Enterprises

Good Morning TJ,

I'm still holding the lease/rental package of rights 13-2179 and 13-2092 between Franklin Cub River Pumping Company and Travell Enterprises, Inc. I'm reaching out as a reminder that I need the shapefile representing the acres that will be dried up/ leased as well as the shapefile showing where the rented water will be used at Legacy Lake. The Department typically gives the applicant 30 days to provide additional requested information. After 30 days, the application(s) are returned and consequently go unprocessed.

Please send me the respective shapefiles so I can finish processing the lease/rental. Feel open to call or email me with questions/concerns.

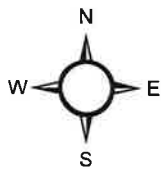
Thank you,

Alex Dalglish

Water Resource Agent

Phone (208) 287-4913

alex.dalglish@idwr.idaho.gov



Legend

- Lease POU
- Rental POU
- TR Lines
- Section Lines
- Quarter Quarters



50732

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community. Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Field, Christine

From: TJ Budge <tj@racineolson.com>
Sent: Thursday, March 14, 2019 12:28 PM
To: Field, Christine
Subject: RE: Map Request Needed for Lease and Rental
Attachments: Figure 1.pdf; 13-2179 Water Right Report.pdf; 13-2179 Map.pdf; 13-2092 Water Right Report.pdf; 13-2092 Map.pdf; Water Management Plan.pdf; 20140422 WSB Rental Agreement.PDF

Hi Christine –

Attached are water right reports and maps for 13-2092 and 13-2179. Also attached is a map of Legacy Lake along with the Water Management Plan which explains the basis for the 9.85 AF of evaporation that this rental seeks to cover.

I assume you are aware but this rental application seeks to extend a prior rental application under the same water rights. I've attached that rental agreement for reference.

Let me know if you have any further questions.

Thanks,

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

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From: Field, Christine <Christine.Field@idwr.idaho.gov>

Sent: Tuesday, March 12, 2019 2:42 PM

To: TJ Budge <tj@racineolson.com>

Subject: Map Request Needed for Lease and Rental

Hi TJ,

I am working on the Lease Applications for Franklin Cub River Pumping and Rental Application for Travell Enterprises that your firm recently submitted.

Please send the Maps for W/R 13-2092 and W/R 13-2179. The Map is needed to outline the specific areas that will be dried up.

Please send the Map showing proposed points of diversion, place of use and distribution systems proposed to be used with your Rental request.

The applications are considered incomplete until the maps are received.

You can scan the Maps for the Leases and Rental to my email address, please make sure the map is in color.

Regards,

Christine Field
WSB Support
ID Dept. of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 14, 2019

FRANKLIN CUB RIVER PUMPING
PO BOX 311
PRESTON ID 83263

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO(S) 13-2092 AND 13-2179 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

- **A map of acres to be idled according to this lease**

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

Christine Field

for Water Supply Bank

C: TJ Budge – Racine Olson



RECEIVED
MAR 04 2019
DEPARTMENT OF
WATER RESOURCES

January 2, 2019

Water Supply Bank
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Applications to Rent Water from the Water Supply Bank

To Whom It May Concern,

Enclosed please find for filing the original and extra copies of the following documents:

1. Application to Rent Water from the Water Supply Bank;
2. Two Applications to Sell or Lease a Water Right to the Water Supply Bank; and
3. Check in the amount of \$500.00 for the filing fees.

Please file the originals and conform stamp and return the extra copies in the enclosed stamped and addressed return envelope.

Thank you for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.J. Budge', with a stylized flourish at the end.

T.J. BUDGE