

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT NO. 287

This is to certify that:

OWYHEE FARMING CO LLC
FRANK TIEGS
PO BOX 3350
PASCO, WA 99302

RECEIVED
APR 15 2019
DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
2-7237A	12/23/1976	SNAKE RIVER, Tributary of the Columbia River	5.90	1,475.0	295.0	0.02	5.0
2-10181	4/9/1970	SNAKE RIVER, Tributary of the Columbia River	3.20	640.0	160.0	0.02	4.0
2-7064	4/23/1970	SNAKE RIVER, Tributary of the Columbia River	6.36	1,590.0	318.0	0.02	5.0
2-10189	2/25/1963	SNAKE RIVER, Tributary of the Columbia River	2.83	473.6	141.5	0.02	3.4
Combined Rental Totals			18.29	4,178.6	914.5	0.02	4.6

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2019. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2019, whichever occurs last.

Annual Rental Fee:

2019: \$83,572.00

The full fee for the rental of the above-described right(s) is \$83,572.00 for 2019. The rental fee includes an administrative fee of \$8,357.20 for 2019.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	18.29	3,658.0	914.5	0.02	4.0
Total	18.29	3,658.0	914.5	0.02	4.0

The authorized water usage reflects a reduction from the water right elements rented, to account for enlargement concerns.

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Frank Tiegs 4/3/19
Signature of Renter Date

Frank Tiegs MANAGING MEMBER
Printed Name Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By Brian Patton 4/28/2019
BRIAN PATTON, Acting Administrator Date
Idaho Water Resource Board

Rental approved by IDWR May 1, 2019 4-28-2019
Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 287

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER SESE Sec. 4, Twp 06S, Rge 08E, OWYHEE County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
18.29 CFS

VOLUME
3,658.0 AF

SEASON OF USE

Water Right No.	From	To
2-7064	3/15	11/15
2-10181	3/15	11/15
2-7237A	3/15	11/15

RENTERS PLACE OF USE: 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	
06S	08E	5													31.7	16.0	32.6	31.0	111.3
06S	08E	8	10.0		23.0	14.0				5.4	13.0		4.1	36.0	7.6	40.0	29.0		182.1
06S	08E	9					14.0	37.0	40.0	21.0	28.9	21.0	22.0	26.0					209.9
06S	08E	10						8.0											8.0
06S	08E	16		0.6			25.0	40.0	38.0	23.0	24.0	39.0	1.7	0.1					191.4
06S	08E	17	13.0	32.0	2.0	11.0	39.0	6.0	10.0	36.0	29.0	29.0			4.8				211.8

Total Acres: 914.5

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from 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.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 287

8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
10. Use of water under this agreement 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. 02.
11. Rights 02-10189, 02-10181, 02-7064 and 02-7237A when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use described above.
12. The period of use for the irrigation under right 2-10189 and described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
13. The following rights are diverted through point of diversion described above: 02-2260, 02-7019B, 02-1019D, 02-7022B, 02-7023B, 02-7102B, 02-10422 and 02-10510.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 287

Effective until December 31, 2019

This map depicts the **rental place of use** pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



0 1 Miles

-  Authorized Rental Point of Diversion
-  Authorized Rental Place of Use
-  Township/Range
-  Sections

**STATE OF IDAHO
WATER RESOURCE BOARD**

**APPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK**

RECEIVED
OCT 18 2018
DEPARTMENT OF
WATER RESOURCES

Applicant Name: Owyhee Farming Company, LLC

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

Yes ☒ No ☐

If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

	Yes	
	☒	Completed <i>Application to Rent Water from the Board's Water Supply Bank</i>
	☒	Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank
Attachment	N/A	Yes
2	☒	A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request
3A	☐	☒ Detailed information on a proposed use of rental water
3F	☒	☐ Authorization from the owner/operator of the rental point(s) of diversion
3H	☒	☐ Water modeling to account for the impacts of the rental request
3J	☒	☐ Documents justifying a rate of flow greater than 0.02 cfs/acre
3K	☐	☒ Authorization from the owner/operator of the property at the proposed rental place(s) of use
4B	☐	☒ Explanation of how the rental water will sufficiently accomplish your rental purposes
4C	☒	☐ Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

2-7237A	2-7064
2-10181	2-10189

1208

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Owhyee Farming Company, LLC

Mailing Address P.O. Box 3350 Pasco, WA 99302

Street

City

State

Zip Code

Email Address _____

Phone Number 509-545-4545

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☐ No ☐

If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative Greg Sullivan

Professional Title Engineer

Organization Brockway Engineering

Relationship to Applicant Consultant

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301

Email Address greg.sullivan@brockwayeng.com

Phone Number 208-736-8543

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental 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 irrigate. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:

The rental water will be used for irrigation purposes.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
18.29 CFS	4179 AF	18.29 CFS	4179 AF	914.5 AC

* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
4/01/2019	6/01/2019	☒	☐	☐	☐	☐	☒ Process application as soon as possible	☐ Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):

Existing diversion structures, mainlines and delivery systems

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
06S08E Sec 4 SESE	Snake River	

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒
If yes, include documented consent as Attachment 3F.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- ☒ Irrigation 914.5 (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Other: _____ from: _____ (mm/dd) to: _____ (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☐ Yes ☐ No ☒
If yes, justify the rate of flow and attach any supporting documents as Attachment 3J. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☐ No ☒
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it Attachment 3K.

- L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:

2-2260, 2-7019B, 2-1019D, 2-7022B, 2-7023B, 2-7102B, 2-10422, 2-10510. Snake River

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the elements of the water rights you are requesting to rent. If no, continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via [IDWR's website](#).

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request.** For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
2-7237A	Irrigation	5.9	1475	295		5.9	1475	295
2-10181	Irrigation	3.2	640	160		3.2	640	160
2-7064	Irrigation	6.36	1590	318		6.36	1590	318
2-10189	Irrigation	2.83	473.6	141.5		2.83	473.6	141.5
	Irrigation							
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	18.29	4179	914.5
						CFS	AF	AC

**Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

N/A

C. Does your rental request propose to change the nature of use for any water right(s) being rented?

Yes ☐ No ☒

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☐ No ☒

If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:
Permanent water rights have not been secured for this farm.

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental?

If yes, describe:

Yes ☐ No ☒

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV?

Yes ☐ No ☒

If yes, describe the date and location of the NOV.

- D. Additional Information

None

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

Frank Trigg
Signature of Applicant

Frank Trigg President Asa Farm Inc
Sole Member
Printed Name of Applicant

10-10-18
Date

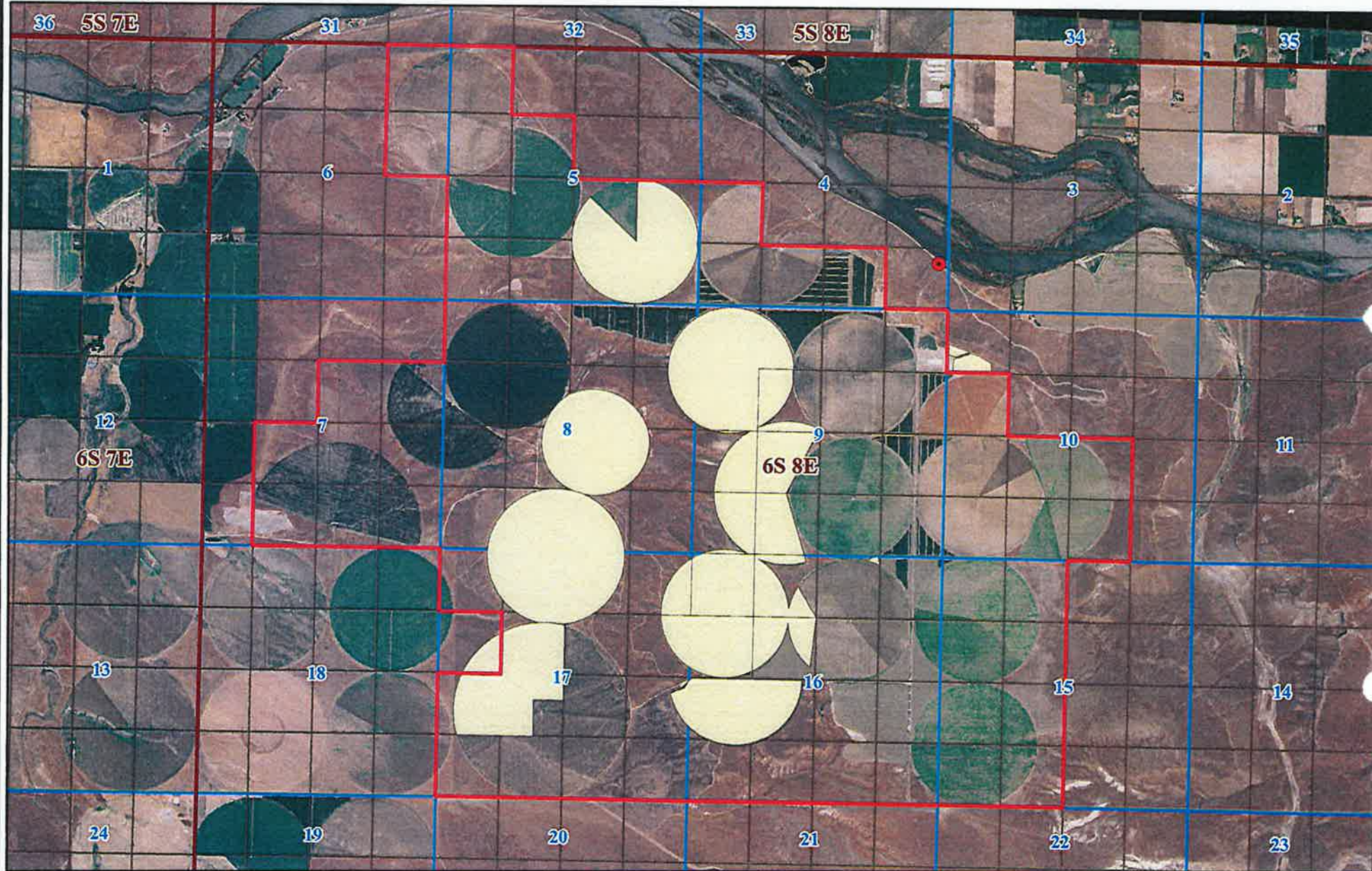
Signature of Representative

Printed Name of Representative

Date

Mail to:

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



HOODCO FARM

Owhyee Farming Rentals
NAIP 2017 AERIAL

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 10/3/2018

Legend

- POD
- Hoodco Farm PPU
- 2019_Crown_Rental

N

2019-2021 Rental

Water Right Number	Contract Start	Contract End	WRowner	Source	Rate	Volume	Acres	Combined Rate Limit	Combined Volume Limit	Combined Total Acres	2019 Rental CFS	2019 Rental AFA	2019 Rental Acres
2-10395	1/1/2019	12/31/2021	MURPHY LAND CO LLC	SNAKE RIVER	6.7	1426.5	317	6.7	1426.5	317	5.32	1132.7	251.7
2-10398	1/1/2019	12/31/2021	MURPHY LAND CO LLC	SNAKE RIVER	0.78	175.5	39	0.78	175.5	39	0.78	175.5	39.0
2-7001	12/31/2016	12/30/2021	MURPHY FLATS WATER CO INC	SNAKE RIVER	3.66	13	255.3	11.98	1218.6	270.8	11.98	1218.6	270.8
2-2361	12/31/2016	12/30/2021	MURPHY FLATS WATER CO INC	SNAKE RIVER	3.2	1228	215	11.98	1218.6	270.8			
2-2370	12/31/2016	12/30/2021	MURPHY FLATS WATER CO INC	SNAKE RIVER	0.09	22	4.4	11.98	1218.6	270.8			
2-10020	12/31/2016	12/30/2021	MURPHY FLATS WATER CO INC	SNAKE RIVER	3.66	4	251.8	11.98	1218.6	270.8			
Totals											18.08	2526.8	561.5

2019-2019 Rental

2-7237A	1/1/2019	12/31/2019	CROWN FARM OUTBACK LLC	SNAKE RIVER	5.9	1475	295	5.9	1475	295	5.9	1475	295.0
2-10181	1/1/2019	12/31/2019	CROWN FARM OUTBACK LLC	SNAKE RIVER	3.2	640	160	3.2	640	160	3.2	640	160.0
2-7064	1/1/2019	12/31/2019	CROWN FARM OUTBACK LLC	SNAKE RIVER	6.36	1590	318	6.36	1590	318	6.36	1590	318.0
2-10189	1/1/2019	12/31/2019	CROWN FARM OUTBACK LLC	SNAKE RIVER	2.83	473.6	141.5	2.83	473.6	141.5	2.83	473.6	141.5
Totals											18.29	4179	914.5
Total Combined Amounts											36.37	6705.4	1476.0

RECEIVED

OCT 18 2018

DEPARTMENT OF
WATER RESOURCES

COPY



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

April 29, 2019

OWYHEE FARMING CO LLC
FRANK TIEGS
PO BOX 3350
PASCO WA 99302

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 2-7064, 2-7237A, 2-10181, and 2-10189, AGREEMENT 287**

Dear Renter:

Please find enclosed a receipt in the amount of **\$83,572.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 4,178.6 acre-feet of water for irrigation of 914.5 acres during 2019. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, 90% or \$75,214.80 of the rental fee will be paid to the lessor(s) and 10% or \$8,357.20 will be retained by the Department to offset administrative costs.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,


for Water Supply Bank

Enclosures: Receipt No. C106573
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Nick Miller – IDWR Western Regional Office
Rob Whitney – State Water District No. 02
Jes Erling – State Water District No. 02
Greg Sullivan – Brockway Engineering



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

April 2, 2019

OWYHEE FARMING CO LLC
FRANK TIEGS
PO BOX 3350
PASCO WA 99302

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 2-7064, 2-7237A, 2-10181, and 2-10189, AGREEMENT 287

TIME SENSITIVE RESPONSE REQUIRED

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of \$83,572.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 4,178.6 acre-feet.

Please send a check for \$83,572.00 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

Pursuant to the Water Supply Bank Rules, 90% or \$75,214.80 of the rental fee will be paid to the lessor(s) and 10% or \$8,357.20 will be retained by the Department to offset administrative costs.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,



Water Supply Bank

Enclosure

c: IDWR Front Desk
Greg Sullivan – Brockway Engineering

Storms, Scott

From: Storms, Scott
Sent: Friday, January 25, 2019 10:29 AM
To: Whitney, Rob; Miller, Nick
Subject: Rental Review Owyhee Farming
Attachments: Rental Review Memo Owhyee Farming.docx; Rental_Lease_PODs.pdf; Rental_Owyhee_Farming.pdf

Please see the attached review memo and maps for a rental of rights 2-10189, 2-10181, 2-7064 and 2-7237A by Owyhee Farming and let me know if you in the next 7 days if you see any issues.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

NO Response
2/4/19
H

Storms, Scott

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Wednesday, January 23, 2019 11:24 AM
To: Storms, Scott
Subject: RE: Owyhee Farming Rental Application Shapefile
Attachments: 2019_Crown_Rental.dbf; 2019_Crown_Rental.prj; 2019_Crown_Rental.sbn; 2019_Crown_Rental.sbx; 2019_Crown_Rental.shp; 2019_Crown_Rental.shx; 2019_Owhyee_Rental.dbf; 2019_Owhyee_Rental.prj; 2019_Owhyee_Rental.sbn; 2019_Owhyee_Rental.sbx; 2019_Owhyee_Rental.shp; 2019_Owhyee_Rental.shx; Hoodco Farm Midnight Sun Rental .dbf; Hoodco Farm Midnight Sun Rental .prj; Hoodco Farm Midnight Sun Rental .sbn; Hoodco Farm Midnight Sun Rental .sbx; Hoodco Farm Midnight Sun Rental .shp; Hoodco Farm Midnight Sun Rental .shx; Hoodco WR POU QQ.dbf; Hoodco WR POU QQ.prj; Hoodco WR POU QQ.sbn; Hoodco WR POU QQ.sbx; Hoodco WR POU QQ.shp; Hoodco WR POU QQ.shp.xml; Hoodco WR POU QQ.shx

Scott,

See the attached shape files. Let me know if you have any issues with them.

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Storms, Scott [mailto:Scott.Storms@idwr.idaho.gov]
Sent: Wednesday, January 23, 2019 10:47 AM
To: greg.sullivan@brockwayeng.com
Subject: Owyhee Farming Rental Application Shapefile

Hello Mr. Sullivan,

I am currently reviewing the rental application for Owyhee Farming Co. of rights 2-10189, 2-10189, -7064 and 2-7237A from Crown Farm Outback. In the cover letter you submitted, you mentioned that shapefiles for the proposed POU can be provided upon request. Can you send me the shapefile associate with this particular rental? It will save me some time in creating my own and allow me to quickly calculate acres for the proposed POU.

Thank you,

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

MEMORANDUM FOR AGREEMENT # 287

To: Water Right(s) 2-10181, 2-10189, 2-7064, 2-7237A
From: Scott Storms
Date: January 23, 2019
Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: Application was for rental of water was received as a package on October 18, 2018 from Greg Sullivan of Brockway Engineering on behalf of Owyhee Farming Company LLC. The application proposed to rent the entirety of rights 2-7064, 2-7237A, 2-10181 and 2-10189 from Crown Farm Outback, LLC. The point of diversion (POD) for 2-7064, 2-10181 and 2-7237A are all from the same POD located just above the CJ Strike dam. The POD for 2-10189 is located about 13 river miles upstream of Glens Ferry. The POD for the proposed rental is about 10 river miles downstream of Glens Ferry. The rental application included a map of the proposed place of use (POU) but did not include any PLS description, including acreage, of the POU. A cover letter submitted with the application stated that a shapefile of the POU could be submitted upon request. I have emailed Mr. Sullivan of Brockway Engineering to request that shapefile.

During overlap analysis it was determined that WSB rental agreements 85 and 86 overlap a portion of the declared place of use for this agreement (287). Only a very small portion of about 0.6 acres of agreement 85 overlaps. The entire 250 acres of agreement 86 overlaps agreement 287. The 2019 season rental rates for both 85 and 86 have already been paid for.

AUTHORITY TO FILE: The rental application was signed by Frank Tiegs. Review of the Secretary of State Business Search shows Mr. Tiegs as a managing member of Owyhee Farming Company LLC. According to the Owyhee County parcel data, the land on which the POU is located is owned by Midnight Sun Inc. The review memo of a 2018 rental application from Owyhee Farming mentions a lease agreement between Midnight Sun Inc. and Owyhee Farming allowing Owyhee Farming to operate on the land through the 2019 growing season. I found a copy of this agreement scanned into the file of right 2-7064 under the Rental Application to Agreement Owyhee Farming 2018 file. No concerns of authority.

WATER RIGHT VALIDITY: Rights 2-10181, 2-7064 and 2-7237A were all decreed on 5/12/2009. Right 2-10189 was decreed on 12/6/2011. All of these rights have been leased to the Bank since 1999. All four rights were deeded separately from the land to Robert and Connie Smith in December 2000 and January 2001. There were purchased by Crown Farm Outback in November, 2016 and placed back in the Bank in 2017 and 2018. There are no water right validity concerns at this time.

INJURY TO OTHER WATER RIGHTS: No injury apparent.

ENLARGEMENT OF USE: No anticipated enlargement.

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 rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District # 02. Emailed to Rob Whitney and Nick Miller for review on January 24, 2019. No response by February 4, 2019.

LEASE AND SECURITY AGREEMENT

THIS LEASE AND SECURITY AGREEMENT, made this 28th day of August 2017 by and between **Midnight Sun, Inc. VIII**, hereinafter referred to as "Lessor", and **Owyhee Farming Company LLC**, hereinafter referred to as "Lessee".

WITNESSETH:

1. **PROPERTY.** Lessor leases to Lessee the Property in Owyhee County, Idaho, described in Exhibit A attached here to, also referred to as **MSI(8)68, Danskin (Hood Co) Farm**, together with all water rights and irrigation equipment and improvements located thereon, described in Exhibit B, hereinafter referred to as "Demised Premises". The Demised Premises may be used only for agricultural and related purposes. The Lessor reserves for itself all oil, gas, hydrocarbon, geothermal, mineral, recreational and hunting rights.
2. **TERM.** The term of this lease shall be for the period **commencing November 1, 2017, and expiring on October 31, 2019 (2 crop years)**, provided that Lessee shall have up to thirty (30) days after expiration to complete the harvest of any annual crops then growing on said Demised Premises.
3. Provided that Lessee is not in breach of this Lease, Lessee shall have the option to extend this Lease for an additional two year (2-year) term (the "Option Term") by giving Lessor written notice of Lessee's election to exercise such option at least ninety (90) days prior to the expiration of the initial term of this Lease. All of the terms and conditions of this Lease shall continue to apply during the Option Term; however, the annual rent shall be adjusted to reflect the fair market rent for such property for the Option Term. Following Lessee's exercise of the Option Term, the parties agree to meet and to negotiate in good faith in order to arrive at the fair market rent for the Option Terms. If the parties are unable to reach agreement as to such rent within thirty (30) days of the expiration of the initial term of this Lease, then all of Lessee's rights in connection with the option to extend this Lease for the Option Term shall terminate and shall be of no further force or effect.
4. **CASH RENT.**
 - 4.1. Lessee agrees to pay as annual rental the sum of [REDACTED], plus all sales taxes imposed upon the rental herein provided, payable as follows, to wit:

For the Lease Years ending 2018 & 2019:

(1) [REDACTED] due on or before December 1, 2017 &
(2) [REDACTED] due on or before December 1, 2018.
 - 4.2. Lessee agrees to submit a cropping plan for approval on or before April 1 showing the location, number of acres and crops to be planted during the term of the Lease on the Demised Premises. It is agreed that the crops and acreages listed on that plan will be planted unless an amended plan is submitted and approved by Lessor in writing prior to planting. Lessee also agrees to annually report the actual acres and yield of each crop harvested no later than December 1.
 - 4.3. Any amounts due and unpaid hereunder shall bear interest at the annual rate of 12%, or the highest rate permitted under Idaho law, whichever is less, from the date due until the date received by Lessor. All amounts paid in excess of the cash rents stated herein are deemed to be additional rent under the terms of this Lease. Such delay interest shall be payable along with the delinquent rental payment. Unless otherwise directed by Lessor all rental and other amounts due hereunder shall be payable to **Midnight Sun, Inc. VIII** and delivered to UBS Farmland Investors LLC, P.O. Box 53, Nampa, ID 83653.
5. **LESSOR SHALL:**
 - 5.1. Pay all state and county real estate taxes on the Demised Premises.
 - 5.2. Warrant and defend the Lessee's possession against any and all persons as long as this lease remains in effect and the Lessee is not in default under the terms of this Lease.
 - 5.3. Pay the reasonable cost to repair and/or maintain the underground parts and portions of the existing irrigation pumps and pipelines, unless the repairs are the result of damages to the equipment and pipelines caused by negligence or intentional acts on the part of the Lessee in which case the Lessee shall pay the reasonable cost to repair the damaged equipment and pipelines. For purposes of this paragraph, major repair expenses shall be those repair items in excess of [REDACTED] per occurrence.

6. LESSEE SHALL:

- 6.1. Farm said Demised Premises and care for and cultivate said crops and land in a good and farmerlike manner, and in accordance with the best standards of Owyhee County, and keep said Demised Premises and the whole thereof, free and clear of weeds and noxious plants, and further, mow all roadsides, ditch banks, and fence rows between the dates of April 15 and November 1, and disk all set aside and fallow lands not planted to subject to FSA requirements.
- 6.2. Comply with and abide by all of the mandatory provisions and regulations of any acreage control or crop support program set forth by the United States Government, and maintain the base acreages on said Demised Premises at not less than the same number of base acres as existed at the inception of this Lease as established by the United States Government.
- 6.3. Use the Demised Premises solely for lawful purposes. Lessee shall, at all times in the use of the Demised Premises and in the performance of this Lease, comply with all laws, ordinances, decrees, orders, rules, and regulations, including but not limited to all environmental laws, statutes, rules, regulations, and ordinances, of any lawful authority, agency or governmental unit having jurisdiction over the Demised Premises.
- 6.4. If a Conservation Plan has been required on the Demised Premises, then a copy of such plan will be provided to the Lessor for Lessor's prior approval. Lessee agrees to strictly abide by the terms, requirements and conditions of the Conservation Plan approved by Lessor.
- 6.5. Comply with State Workmen's Compensation requirements on all employees.
- 6.6. Furnish at its own cost and expense, all finance, labor, tools, power, utilities, irrigation water, fuel, materials, supplies, machinery and equipment necessary or convenient in the farming of said Demised Premises, and in the production, harvest and sale of the crops grown thereon.
- 6.7. At all times during the term of this Lease and at Lessee's expense, Lessee will procure, maintain and keep in force general public liability insurance of not less than [REDACTED] insuring against bodily injury, death, or property damage occurring on or about the Demised Premises as the result of the Lessee's occupancy and farming of the Demised Premises; and name the Lessor and UBS Farmland Investors LLC as additional insured
insured Lessor with a copy of the endorsement and of all renewals and replacement policies.
- 6.8. Maintain federal crop insurance on all insurable crops grown and assign all rights under the insurance proceeds to Lessor in the case of a default under any of the terms and conditions of the Lease.
- 6.9. Pay all expenses and liabilities incurred in farming the Demised Premises and not allow any liens to attach to or be filed against said Demised Premises as a result of the Lessee's farming or operation thereof.
- 6.10. Lessee shall keep the improvements on the Demised Premises insured against physical loss by fire and such other coverages as are covered by the extended coverage endorsement (with Lessor named as an additional insured, and provide Lessor with a copy of the insurance policy covering the improvements).
- 6.11. Lessee shall be obligated to disk all the cropland on the Demised Premises at the termination of the lease.
- 6.12. Lessee will strictly follow label restrictions in the use of pesticides, herbicides, fertilizers and other toxic or hazardous substances. Lessee shall handle and dispose of all hazardous substances in a manner approved by the U.S. Environmental Protection Agency and applicable state laws and regulations.
- 6.13. Lessee shall not apply any pesticide, herbicide or chemical product on the Demised Premises which may leave a residue that will adversely affect the growing of crops which may be planted on the Demised Premises following the termination of this lease. Upon the termination of this lease, Lessee shall furnish to Lessor a written list of the chemicals applied to the Demised Premises, the quantity and dates of application. Lessee shall also use care in the application of chemicals to the crops grown on the Demised Premises so as to avoid damage to crops grown on adjacent parcels of land owned by third parties. Lessee shall indemnify and hold harmless the Lessor from any claims, liability, penalties,

finer, loss, damage or expenses, including attorney's fees, resulting from the Lessee's use, application, or storage of chemicals, pesticides, or herbicides on the Demised Premises.

- 6.14. No toxic or hazardous substances will be disposed of on the Demised Premises; however, all hazardous substances will be disposed of in a manner approved by applicable County, State and Federal Environmental Protection Agency regulations.
- 6.15. Lessee will not bury any tanks, equipment or substances of any type on the premises without the prior written consent of the Lessor.
- 6.16. Global Positioning. Any and all data obtained through global positioning on the property is jointly owned by Lessor and Lessee. Lessee agrees to provide to Lessor or Lessor's agent, a copy of any and all global positioning information they have on paper, computer disk(s), or other electronic media.
7. **SALE OF DEMISED PREMISES.** In the event that Lessor enters into a sale agreement with regard to all or any portion of the demised premises during the term of this lease, then Lessor shall give Lessee notice of the intended sale and the expected date of closing. In the event the sale closes, the lease shall expire at the end of the crop year during which the notice is first received, and possession of individual tracts shall revert to Lessor as harvest is substantially completed on each tract. Once Lessee receives such notice of intended sale, Lessee shall not perform any additional work in preparation of the succeeding crop year, such as seeding or fertilizing, without the specific, written permission of Lessor.
8. **CONDEMNATION.** In the event of the appropriation or condemnation by any competent authority, for a public or quasi-public use or purpose, of the entire Demised Premises, then and in that event, the term of this Lease shall cease and terminate from the date when the possession of the Demised Premises shall be required for such use or purpose. In the event of such an appropriation or of an appropriation of only part of the Demised Premises, there shall be no apportionment of the award, but the entire award shall go to the Lessor. The current rental shall, however, be prorated.
9. LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE DEMISED PREMISES, THE LOCATION OF ITS BOUNDARIES, OR AS TO THE FITNESS OR SUITABILITY OF THE DEMISED PREMISES FOR ANY USE WHICH LESSEE MAY INTEND TO MAKE THEREOF AND LESSEE ACCEPTS THE DEMISED PREMISES IN "AS IS" CONDITION.
10. **LESSOR'S ACCESS.** Lessor or persons designated by Lessor shall have access to said Demised Premises at all times for the purpose of inspecting the same and crops growing thereon.
11. **ASSIGNMENT AND SUBLETTING.** Lessee shall not, without first obtaining the written consent of the Lessor, assign this Lease, or any interest herein, or sublet all or any part of the Demised Premises. The Lessor may withhold its consent to the assignment of this Lease, and to any sublease, in its sole and absolute discretion. In the event of a permitted assignment or subletting, Lessee shall remain liable for the prompt payment of all rent required to be paid hereunder and for the performance of all of the terms, covenants and conditions herein undertaken by Lessee.
12. **WATER.** Lessee shall have the right to pump and use the underground flow of water and any Snake River water that may be available to the Demised Premises for use on the Demised Premises only. Neither party shall be liable for the failure or shortage thereof, nor for the failure of gas, electrical or other power or energy. The Lessee agrees to make reasonable use of the water available to said Demised Premises, and, except in emergencies, to prevent the waste of the same. The Lessor does not warrant the initial or continued accessibility or supply of the irrigation water or its suitability for any purpose.
13. **RE-ENTRY.** In the event Lessee neglects or abandons the crops growing on the Demised Premises or any fallow land or "set-aside" land, Lessor or persons designated by Lessor shall have the right to immediately re-enter upon the Demised Premises and care for, grow and harvest the crops and/or care for the fallow land or "set-aside" land, and charge against Lessee's interest, if any, in said crops or charge Lessee the additional cost for all expenses incurred by Lessor in caring for, growing and/or harvesting said neglected or abandoned crops or fallow land or "set-aside" land.
14. **ATTORNEY'S FEES: EXPENSES.** Lessee agrees to pay upon demand all of Lessor's costs and expenses, including attorneys' fees and Lessor's legal expenses incurred in connection with the enforcement of this Lease & Security Agreement. Lessor may pay someone else to help enforce this Agreement and Lessee shall pay the costs and expenses of such enforcement. Costs and expenses include Lessor's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgement

collection services. Lessee also shall pay all court costs and such additional fees as may be directed by the court.

15. **BINDING EFFECT.** This lease shall be binding upon and inure to the benefit of the parties hereto, their representatives, heirs, administrators, successors and assigns as herein limited. The obligations of the Lessee hereunder shall further be joint and several.
16. **LANDLORD AND TENANT RELATIONSHIP.** The relationship hereby created is that of landlord and tenant and no other. Nothing contained in this Lease shall create or be construed as creating a partnership, joint venture, or employment relationship between Lessor and Lessee. Neither Lessor nor Lessee shall be liable, except as otherwise expressly provided in this Lease, for any obligations or liabilities incurred by the other. Lessee expressly agrees to indemnify and hold Lessor and this property of Lessor, including said Demised Premises, free and harmless from any and all obligations and liabilities incurred by Lessee in conducting farming or other operations, whether conducted pursuant to this lease or otherwise, on said Demised Premises.
17. **LIABILITY.** It is further understood and agreed that Lessor shall not be liable for debts or liabilities contracted or incurred by Lessee, nor shall Lessee allow any labor, mechanic or material liens to attach to said Demised Premises and improvements. The Lessor shall not be liable for any accident to persons or properties which may occur on the Demised Premises during the term of this lease, and the Lessee hereby agrees to indemnify and save harmless the said Lessor from any and all such liability.
18. **MAINTENANCE OF EQUIPMENT AND IMPROVEMENTS.** It is hereby agreed that Lessee has inspected the equipment and all improvements located on said Demised Premises, including, but not limited to wells and pumping plants herein described, if any, prior to the signing of this lease and hereby acknowledges the condition of the same, and hereby accepts the same as such, as is, where is without warranty by Lessor. Lessee hereby agrees to at all times maintain the above ground portions of said equipment and improvements at its own expense; and, upon the termination of this lease to return the same to the Lessor in as good condition and repair as they now are, usual wear and tear and acts of God alone excepted. Lessee further agrees to accept full charge of said equipment and other improvements and agrees to meet with a representative of the Lessor and a third party for the inspection of said equipment and other improvements at the time possession is returned to said Lessor.
19. **IMPROVEMENTS, ALTERATIONS AND ADDITIONS.** The Lessee shall not make any improvements, alterations or additions to the Demised Premises without the Lessor's prior written consent. The Lessee agrees that any improvements, additions or alterations, made during the term of the Lease, shall become and remain the property of the Lessor.
20. **DEFAULT.** Lessee shall be in default under this Lease if (i) Lessee fails to pay, on or before the day such payment is due, any installment of rent or any other payment of money required by this Lease to be paid; or (ii) Lessee fails to keep or perform any covenant or condition, other than the payment of money, required to be kept or performed by the Lessee under this Lease and said failure continues for thirty (30) days after written notice thereof is given by Lessor, provided that Lessee shall not be in default if Lessee shall commence in good faith to remedy said failure within said thirty (30) day period and thereafter diligently pursues such remedy. Upon default, Lessor may reenter the Demised Premises or any part thereof, either with or without process of law, and expel or remove the Lessee or any person or persons occupying the Demised Premises. Lessor shall have the right upon such reentry to remove from the Demised Premises all or any of the personal property of Lessee's located therein and may place the same in storage in a public warehouse at the expense of Lessee. Lessor may exercise said right of reentry or taking possession of the Demised Premises with or without terminating this Lease. No such reentry or taking of possession of the Demised Premises by Lessor shall be construed as an election on its part to terminate this Lease unless written notice of such election is given by Lessor to Lessee or unless such termination is decreed by a Court of competent jurisdiction. Lessor may relet the Demised Premises, or any part thereof, upon reentry for all or any part of the remainder of the term of this Lease at such rental and upon such terms and conditions as Lessor deems commercially feasible. Rentals collected by Lessor from such reletting shall be applied first to the reasonable expenses which may be incurred by Lessor in reletting the Demised Premises, and next, to the expenses of retaking possession of the Demised Premises, including attorney's fees, and next to the payment of rent of any other indebtedness past due or which becomes due from Lessee to Lessor pursuant to this Lease. Should the rentals collected from such reletting be insufficient to cover the foregoing items, Lessee shall pay the deficiency to Lessor upon written demand by Lessor. The specific remedies contained in this paragraph are in addition to any other remedies provided at law or in equity in the State of Idaho.

21. **SECURITY INTEREST.**

21.1. As additional security for sums due or becoming due Lessor hereunder, including rents, interest on unpaid rents, and the performance of all other covenants of Lessees set forth herein, whether or not all or any part thereof are secured by any landlord's lien, Lessees hereby grants to Lessor a security interest in all crops planted, growing, grown, or harvested on the premises during the term of this Lease. Lessee shall execute and deliver to Lessor any additional documentation that is reasonably necessary to perfect the Lessor's security interest, including UCC-1 Financing Statements. The security interest hereby granted shall survive the termination of this Lease if any of the Lease obligations secured thereby remain unsatisfied after such termination. Said lien shall secure:

21.1.1. The full and prompt payment by Lessee of all rents accruing hereunder, including interest on past due rentals, and

21.1.2. The performance of all other covenants of the Lessee set forth herein.

21.2. The Lessor agrees to release the UCC-1 Financing Statement securing the crop lien provided for on the crop then growing in the event:

21.2.1. Lessee prepays the total minimum annual cash rent for the applicable Lease Year, or;

21.2.2. Lessee furnishes adequate security in the form of an Irrevocable Letter of Credit from a banking institution to guarantee the payment of the rent due by Lessee to Lessor for the applicable Lease Year.

22. **INDEMNIFICATION.** The Lessee shall indemnify and hold the Lessor, UBS Farmland Investors LLC, and the property of the Lessor, including said Demised Premises, free and harmless from any and all claims, liability, loss, damage, or expenses resulting from Lessee's occupation and use of said Demised Premises including any claim, liability, loss or damage arising by reason of the injury to or death of any person or persons or by reason of damage to any property caused by the condition of said Demised Premises, the condition of any improvements or personal property in or on said Demised Premises, injury, illness or death of any person as a result of defective or contaminated crops, livestock or agricultural products, or the acts or omissions of Lessee or any person in or on said Demised Premises with the express or implied consent of Lessee. The duties of Lessee under this paragraph to indemnify and hold the Lessor, UBS Farmland Investors LLC, and the property of the Lessor free and harmless from any such claim, liability, loss, or damage shall extend to any claim, liability, loss, or damage arising by reason of the injury to or death of (1) the Lessee, (2) any agent, officer, or employee of the Lessee, or (3) any independent contractor hired by Lessee to perform work or render services on said Demised Premises.

The Lessee shall further indemnify and hold harmless the Lessor, its directors, officers, employees, agents, subsidiaries, and successors from and against any and all claims, costs, counsel fees, expenses, liabilities, obligations, losses, damages, fines, penalties, clean up costs, asbestos abatement costs and consequential damages by or on behalf of any person, corporation, entity or Federal, State or local government authority, arising in any manner whatsoever from or out of any environmental contamination or asbestos related problem of the subject property not caused by the Lessor, where such liability arises under any applicable Federal, State or local statutes, law, rule, regulation, or ordinance, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Clean Air Act and or any State or local equivalent to those Federal Laws.

23. **WAIVER.** Lessee hereby waives and releases any and all claims and causes of actions that it has or may have, now or in the future, against the Lessor, or any of the Lessor's officers, directors, employees, agents, subsidiaries, and successors for any and all liabilities, obligations, losses, damages, fines, penalties, clean up costs, asbestos abatement costs or consequential damages that may incur as a result of, or in relation to the Lessee's Lease and use of the subject property, including, but not limited to those arising from or relating to any environmental contamination of the subject property or otherwise arising from or relating to any applicable Federal, State or local statutes, law, rule, regulation, or ordinance, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recover Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Clean Air Act and or any State or local equivalent to those Federal Laws.

24. **NOTICES.** Any and all notices or demands by or from Lessor to Lessee, or Lessee to Lessor shall be in writing. They shall be served either personally or by certified mail or by telegraphic method. If served personally, service shall be conclusively deemed made at the time of service. If served by certified mail, service shall be conclusively deemed made 48 hours after deposit thereof in the United States mail, postage prepaid, addressed to the party to whom such notice or demand is to be given as hereafter provided. If served by telegraphic method, notice shall be conclusively deemed made at the time the telegraphic agency shall confirm to the sender delivery thereof to the addressee.

Any notice or demand to Lessor shall be given unto it at:

Midnight Sun, Inc. VIII
c/o UBS Farmland Investors LLC
10 State House Square, 15th floor
Hartford, CT 06103-3600
Attn: James B. McCandless

and to:

Midnight Sun, Inc. VIII
c/o UBS Farmland Investors LLC
P.O. Box 53
Nampa, ID 83653
Attn: Charles W. Bryan, Jr.

Any notice or demand to Lessee shall be given unto it at:

Owyhee Farming Company, LLC
c/o Frank Tiegs & Lance D. Funk
P.O. Box 3110
Pasco, WA. 99302

Said addresses may be changed from time to time by notice given in accordance with the provisions of this paragraph.

25. **TERMINATION.** On the last day of the term of this Lease, or on sooner termination as herein provided, Lessee shall peaceably and quietly leave and yield to the Lessor the Demised Premises together with the appurtenances all in good working order, condition and repair, reasonable wear and tear and damage caused by fire or other unavoidable casualty, and permitted alterations excepted. All permits and approvals which may be in the name of Lessee shall forthwith be assigned or transferred to Lessor. If Lessor leases all or any portion of the Demised Premises to another party after termination, the new Lessee or Lessees shall be entitled to take possession of the Demised Premises immediately following Lessee's completion of harvest thereon, notwithstanding the termination date.
26. This Lease shall be construed according to the laws of the State of Idaho.
27. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

LESSOR:
MIDNIGHT SUN, INC. VIII

By: Charles W. Bryan, Jr.
Charles W. Bryan, Jr.
Vice President

LESSEE:
OWYHEE FARMING COMPANY LLC

By: Frank Tiegs
Frank Tiegs

STATE OF IDAHO)

) ss. (City)

COUNTY OF CANYON)

On this the 31st day of August 2017, before me, Stephanie Przemielewski, the undersigned officer, personally appeared Charles W. Bryan, Jr., who acknowledged himself to be the Vice President of Midnight Sun, Inc. VIII, a corporation, and that he, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand.



Stephanie Przemielewski
Notary Public in and for the State of Idaho

My Commission expires:
04/17/2020

STATE OF Washington

) ss. (City)

COUNTY OF Franklin

On this the 8th day of September, 2017, before me, Teresa Fritz, the undersigned officer, personally appeared Frank Tieg, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.



Teresa M. Fritz
Notary Public

My Commission Expires:
4-29-18

EXHIBIT "B"

IRRIGATION EQUIPMENT

Eleven (11) Zimmatic pivots, 7 to 8 tower, new in 2012

River Pump Station:

500 hp Motor Pump (pump #4) US Motor Titan II
500 hp Motor Pump (pump #3) US Motor Titan II
500 hp Motor Pump (pump #2) US Motor Titan II
500 hp Motor Pump (pump #1) US Motor Titan II

Distribution Station:

125 HP Marathon Motor Berkeley Pump
150 HP Baldor Motor Berkeley Pump
150 HP Baldor Motor Berkeley Pump
125 HP Marathon Motor Berkeley Pump
100 HP Baldor Motor Berkeley Pump
100 HP Baldor Motor Berkeley Pump

Approximately 18,400 feet 12-20" buried PVC mainline
Approximately 1320 feet 24" above-ground mainline



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

OCT 18 2018

DEPARTMENT OF
WATER RESOURCES

October 16, 2018

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

Re: Lease and Rental Applications

Dear Mr. Buyer:

Several applications and documents are being submitted to the Idaho Water Supply Bank at this time.

Owyhee Farming Company, LLC desires to cancel the rental agreement No. 230. The rental agreement provided water for the 2018 and 2019 irrigation season. A copy of the rental agreement is attached to this letter.

It is proposed to rent 561.5 acres of water from water rights 2-10395, 2-10398, 2-7001, 2-2361, 2-2370 and 2-10020. These water rights are owned by Murphy Land Company and Murphy Flats Water Co Inc. It is proposed to rent the 561.5 acres for the 2019 irrigation season through the 2021 irrigation season.

Owyhee Farming Company, LLC desires to rent 914.5 acres from water rights 2-7237A, 2-10181, 2-7064 and 2-10189 for the 2019 irrigation season. These water rights are owned by Crown Farm Outback LLC. The lease applications for the 914.5 acres is attached to this letter.

The lease applications for water rights 2-10395 and 2-10398 are attached to this letter. It is proposed to lease 2-10395 and 2-10398 from 2019 through 2021. The applications were prepared by S. Bryce Farris.

Owyhee Farming Company, LLC has signed a contract with Murphy Land Company and Murphy Flats Water Co Inc. regarding the rental payment. A 10% rental payment will be made to the Idaho Water Supply Bank for processing the rental of the 561.5 acres. The 90% rental payment has already been paid in full to the water right owners.

CHARLES E.
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PH.D., P.E.

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**DEPARTMENT OF
WATER RESOURCES**

Owyhee Farming Company, LLC will pay 100% of the rental payment of the rental payment to the Idaho Water Supply bank for the rental of 2-10395 and 2-10398.

Also attached to this letter is an aerial map identifying the locations of the proposed 561.5 acre rental (2019-2021), the 914.5 acre rental (2019), the Midnight Sun Rental of 486.6 acres (2017-2020) and the allowed Midnight Sun water rights for 911.0 acres. An excel spreadsheet with a water right breakdown of the proposed rentals is attached to this letter.

The irrigation POU of the permanent 911.0 acres will be updated to reflect the attached aerial map. The rental POU for the 486.6 acres will also be updated. Electronic shape files for the of the water rights and rental groups can be provided by Brockway Engineering to the Idaho Water Supply Bank upon request.

Sincerely,



Greg Sullivan, M.S., Engineer

Cc: Jim McClelland

Enc: Rental Agreement No. 230 Withdrawal, Crown Farm Outback LLC lease applications and check, Lease Applications for 2-10395 and 2-10398, Rental Applications for 914.5 acres and 561.5 acres, Contract of Agreements with Owyhee Farming Company, LLC, Attachment 1A for 2-10395 and 2-10398, Aerial Maps, Excel Spreadsheet of Water Right to be Rented, Brockway Engineering Check # 14968 for \$500.00

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