

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 894

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

LESSOR: BLUEWATER DEVELOPMENT LLC
ATTN JOHN MAGNUSON
PO BOX 2350
COEUR D ALENE, ID 83816-2350

RECEIVED

APR 08 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 December 13, 2018.
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)
95-2112	6/16/1955	GROUND WATER	2.24	480.0	160.0
Lease Totals			2.24	480.0	160.0

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2019. 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. 894

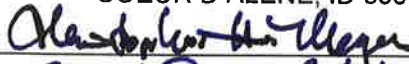
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

LESSOR: BLUEWATER DEVELOPMENT LLC
ATTN JOHN MAGNUSON
PO BOX 2350
COEUR D ALENE, ID 83816-2350

By 
Title Special Power of Attorney dated 11-28-2007
Date 4-5-2019

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 4/12/2019

Lease approved by IDWR 

Date 4-12-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 894

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): 95-2112

GROUND WATER	SWNW	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County
GROUND WATER	NWNW	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County
GROUND WATER	NENW	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County
GROUND WATER	SEnw	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
95-2112	IRRIGATION	03/15	to	11/15	2.24 cfs	480.0 af
Totals:					2.24 cfs	480.0 af

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
51N	04W	28					40.0	40.0	40.0	40.0									160.0

Total Acres: 160.0

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.
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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 894

not preclude the opportunity for review of the validity of this water right in the ongoing NORTHERN IDAHO ADJUDICATION or 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. 1 P/D center of NW1/4, S28, T51N, R4W.

Effective until December 31, 2019

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



A horizontal scale bar labeled "Feet" with markings at 0, 500, and 1,000.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 13 2018

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Bluewater Development, LLC

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

Water Right No. 95-2112

(One water right per application)

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

Yes ☐ No ☒

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

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

Department Use Only

Fee Amount \$

250

Received By:

AW

Date Received:

12.13.18

Receipt #

C105975

W-9 received?

Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Bluewater Development LLC

1271

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 Bluewater Development, LLC

Mailing Address PO Box 2350, Coeur d'Alene, ID 83816-2350

Street City State Zip Code

Email Address john@magnusononline.com

Phone Number (208) 667-0100

☒ 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 Christopher H. Meyer

Organization Givens Pursley LLP

Professional Title Attorney

Email Address chrismeyer@givenspursley.com

Mailing Address PO Box 2720, Boise, ID 83701-2720

Phone Number (208) 388-1236

☐ 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.
See Report of Engineer dated July 29, 1959 (Permit G-25758 in backfile for 95-2112) for description of well and works. The diversion system provided irrigation water for bluegrass production. Last crop harvested in 2004.

- 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. Nos. 95-2112 and 95-2200 provided irrigation water for bluegrass production in adjacent quarter sections. Both rights diverted from the same well located on the quarter-quarter section boundary within the NW quarter of section 28 of T51N, R4W, BM. The location of the former well is shown incorrectly on IDWR's website map.

- 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. The land that previously was used for bluegrass production has been converted to a residential subdivision. The property was annexed into the city, and is now supplied with municipal water.

- 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. No water has been diverted under this water right during the previous five years. The right has been leased to the Idaho Water Supply Bank, and it has not been rented out. Information about diversion when the right was in use (1955-2004) is contained in the water right file. Rate=2.24 cfs. Vol. = 560 af (160 x 3.5).

- 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. Water right Nos. 95-2112 and 95-2200 were used from 1955/1967 until 2004/2003 for bluegrass production. No. 95-2200 was acquired by the current owner in 2003, and No. 95-2112 was acquired by the current owner in 2006. (See attachments to Notice of Change in Water Right Ownership dated 2-19-2008.) Both rights were placed in the Idaho Water Supply Bank in 2008, where they remain.

- 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 2019 (maximum lease period 5 calendar years).
(Year) (Year)
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate. (The Applicant would prefer to set a minimum rental rate of \$80,000 (\$500/acre), but the undersigned Representative was advised previously that his is not allowed. Please advise if this has changed.)

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



Printed Name

Christopher H. Meyer, Attorney-in-Fact

Date

December 13, 2017

Signature of Authorized Representative

Printed Name

Date

Mail to:

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

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Bluewater Development, LLC, an Idaho Limited Liability Company, hereby appoints the attorneys of Givens Pursley LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho, 83701 as its true and lawful attorneys for the purpose of signing on its behalf the following forms for submission to the Idaho Department of Water Resources and/or any Idaho court adjudicating these rights:

1. Notice of Claim to a Water Right;
2. Application for Amendment of Permit to appropriate the Waters of the State of Idaho;
3. Notice of Change of Water Right Ownership;
4. Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit;
5. Notice of Protest;
6. Application for Transfer of a Water Right;
7. Proof of Beneficial Use;
8. Application for Exchange of Water;
9. Application for Extension of Time to Avoid Forfeiture of a Water Right;
10. Application to Sell or Lease a Water Right to the Water Supply Bank;
11. Application for Temporary Approval of a Water Application;
12. Application for Permit to appropriate the Waters of the State of Idaho;
13. Pleadings submitted to any Idaho court adjudicating the water rights of Bluewater Development, LLC; and
14. Any other document in support or furtherance of any of the above.

In addition, Givens Pursley LLP is hereby given authority to request and obtain aerial photographs, crop records, ownership and financial information, and related information from the U.S. Department of Agriculture Farm Service Agency related to property irrigated by water rights owned by Bluewater Development, LLC.

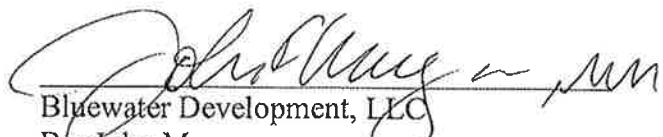
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Bluewater Development, LLC.

For purposes of the exercise of the powers herein granted, the facsimile signature of said attorneys shall be lawful and binding and any person may rely upon such facsimile signature as if it were an original.

[End of text]

IN WITNESS WHEREOF, Bluewater Development, LLC has executed this Special Power of Attorney effective as of the date noted.

Dated: 11-28-07


Bluewater Development, LLC
By: John Magnuson
Its: Managing Member

ACKNOWLEDGMENT

STATE OF Idaho
County of Kootenai) ss.

On this 28th day of November, 2007, before me, a Notary Public in and for the State of Idaho, personally appeared John F. Magnuson, known or identified to me to be the member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires 3/8/2010

**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). 95-2112

	Designated Applicant	Applicant #2	Applicant #3
Name	Bluewater Development, LLC		
Mailing Address	PO Box 2350 Coeur d'Alene, ID 83816-2350		
Phone Number	(208) 667-0100		
Email Address	john@magnusononline.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

<u>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
95-2112	Not applicable.			
	Only entire water right			
	offered for rent.			
	Total Amounts:			

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

State of Idaho
Department of Water Resources

Water Right 95-2112

IRRIGATION

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

04W



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

0 0.075 0.15 0.3 Miles





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 15, 2019

BLUEWATER DEVELOPMENT LLC
ATTN JOHN MAGNUSON
PO BOX 2350
COEUR D ALENE ID 83816-2350

RE: WATER SUPPLY BANK LEASE CONTRACT 894 FOR WATER RIGHT 95-2112

Dear Lessor:

Water right **95-2112** was leased into the Water Supply Bank (Bank) as of December 13, 2018, 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, 2019**, 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,


for Water Supply Bank

Enclosure: Executed Lease Contract

c: Doug Jones - IDWR Northern Region
Christopher Meyer – Givens Pursley



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 5, 2019

BLUEWATER DEVELOPMENT LLC
ATTN JOHN MAGNUSON
PO BOX 2350
COEUR D ALENE ID 83816-2350

**RE: APPLICATION TO LEASE WATER RIGHT 95-2112 TO THE WATER SUPPLY BANK
CONTRACT 894**

******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, 2019**, 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
Receipt # C105975

c: Christopher Meyer – Givens Pursley

RECEIVED
APR 08 2019
DEPARTMENT OF
WATER RESOURCES

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
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Kenneth R. McClure
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Deborah E. Nelson
W. Hugh O'Riordan, LL.M.

Randall A. Peterman
Jack W. Relf
Michael O. Roe
Jamie Caplan Smith
Jeffrey A. Warr
Robert B. White

William C. Cole (Of Counsel)

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

April 5, 2019

Debbi Judd
Technical Records Specialist
Idaho Department of Water Resources
The Idaho Water Center
PO Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Lease – Water Right No. 95-2112

Dear Ms. Judd:

I am forwarding to you two originals of the Water Supply Bank Lease Contract No. 894 for Water Right No. 95-2112 which I have executed on behalf of my client, Bluewater Development, LLC. I am also enclosing two copies of the Special Power of Attorney authorizing me to act on behalf of Bluewater Development, LLC.

Please let me know if there is anything else you need. I look forward to receiving a copy of the lease once it is executed by IDWR.

Sincerely,



Christopher H. Meyer

Encl: Water Supply Bank Lease Contract No. 894

cc: John F. Magnuson, Bluewater Development, LLC

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Bluewater Development, LLC, an Idaho Limited Liability Company, hereby appoints the attorneys of Givens Pursley LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho, 83701 as its true and lawful attorneys for the purpose of signing on its behalf the following forms for submission to the Idaho Department of Water Resources and/or any Idaho court adjudicating these rights:

1. Notice of Claim to a Water Right;
2. Application for Amendment of Permit to Appropriate the Waters of the State of Idaho;
3. Notice of Change of Water Right Ownership;
4. Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit;
5. Notice of Protest;
6. Application for Transfer of a Water Right;
7. Proof of Beneficial Use;
8. Application for Exchange of Water;
9. Application for Extension of Time to Avoid Forfeiture of a Water Right;
10. Application to Sell or Lease a Water Right to the Water Supply Bank;
11. Application for Temporary Approval of a Water Application;
12. Application for Permit to Appropriate the Waters of the State of Idaho;
13. Pleadings submitted to any Idaho court adjudicating the water rights of Bluewater Development, LLC; and
14. Any other document in support or furtherance of any of the above.

In addition, Givens Pursley LLP is hereby given authority to request and obtain aerial photographs, crop records, ownership and financial information, and related information from the U.S. Department of Agriculture Farm Service Agency related to property irrigated by water rights owned by Bluewater Development, LLC.

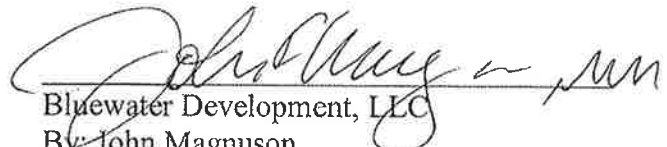
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Bluewater Development, LLC.

For purposes of the exercise of the powers herein granted, the facsimile signature of said attorneys shall be lawful and binding and any person may rely upon such facsimile signature as if it were an original.

[End of text]

IN WITNESS WHEREOF, Bluewater Development, LLC has executed this Special Power of Attorney effective as of the date noted.

Dated: 11-28-07


Bluewater Development, LLC
By: John Magnuson
Its: Managing Member

ACKNOWLEDGMENT

STATE OF Idaho
County of Kootenai) ss.

On this 28th day of November, 2007, before me, a Notary Public in and for the State of Idaho, personally appeared John F. Magnuson, known or identified to me to be the member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires 3/8/2010

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Blue Water Development LLC

Memo Date: January 14, 2019

Water Right Number(s): 95-2112

Reviewers Name: Mary Condon

Quick Tools

Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases (Front of File)	x	
2 Reason for lease of water rights (Brief description of lease proposal in narrative)		
Portion of right		
All of right	x	
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	x	Rathdrum Prairie GWMA
	Yes No	
4 Rentable? (If no explain in comments or narrative)	x	
5 Authority to file		
Current owner or designated applicant	x	
SOS Web site checked for business entity	x	
Other (explain in comments)		
6 Water Right validity		
Decreed/Licensed/Statutory claim date (write in comments section)		1957, currently claimed in NIA
Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		
Has this right previously been leased to the bank or in CREP?	x	2008- 2018
7 Injury to other water rights		
If the POD is through a delivery entity, was consent provided?	n/a	
If the POD is through a delivery entity, was holdback required? (percentage in comments)		%
Any other concerns		
8 Enlargement concerns	Check box	
Complete a POU comparison overlap analysis	x	
Complete a combined limits review	x	
Complete POD overlap analysis (if there is an overlap add condition to lease)	x	shared POD with 95-2112
	Yes No	
Are there overlapping rights that need to be placed in the bank also?	x	
Will the place of use continue to receive water? (if yes explain in comments)	x	municipal by Coeur D Alene
9 Local Public Interest		
Does the processor know of any problems this action will cause for the local public?	x	
10 Have you contacted regional office and watermaster for comment/concerns?		
Send the watermaster comment request form or e-mail request	x	1/14/2019
11 Area Headgate requirement (write in Comments)		3
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation (x) Other - Explain in comments		claim in NIA - CSRBA

13 Narrative
Application to lease received on December13, 2018 for water right 95-2112, submitted on behalf of Blue Water Development LLC, by their law firm, Givens Pursley. Application was accompanied by a power of attorney to file lease applications. No concerns of authority to file. This is a repeat lease for 95-2112, going back annually from 2008. The POU was irrigated farm land until as late as 2004, then aquired by Blue Water Development in 2006. Municipal water was installed to support the house development and comingling of the two does not appear to have ocured. The POD is center of the NW quarter as in the conditions of the proof report. Shared POD with 95-2200, which is normally leased as well; however, there is not an application on file at this time and the lease expired 12/31/2018. No concerns of forfeiture or enlargement. Proper rental review should prevent injury.

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

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RECEIVED

DEC 13 2018

DEPARTMENT OF
WATER RESOURCES

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W. Hugh O'Riordan, LL.M.
Randall A. Peterman
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Jamie Caplan Smith
P. Mark Thompson
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Angela M. Reed, of counsel

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
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December 13, 2018

Via Hand Delivery

Mary Condon
Water Supply Bank Specialist
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702
mary.condon@idwr.idaho.gov

Re: Bluewater Development, LLC — Water Right No. 95-2112

Dear Ms. Condon:

I represent Bluewater Development, LLC, the owner of Water Right No. 95-2112. Its current lease to the Water Supply Bank is set to expire on December 31, 2018. Enclosed please find a Water Supply Bank application for the year 2019. I am submitting this new application because it is my understanding that the Department no longer has a form for extension of an existing lease.

Water Right Nos. 95-2112 and 95-2200 have been leased to the Idaho Water Supply Bank since 2008. Until recently, Bluewater Development, LLC owned both water rights. I am advised that Water Right No. 95-2200 recently was conveyed (or will soon be conveyed) by Bluewater Development, LLC to the City of Rathdrum. Accordingly, I am submitting a Water Supply Bank application only for No. 95-2112.

Because the accompanying application is modeled on prior applications (in which both water rights were submitted to the Water Supply Bank), today's application contains explanatory references to No. 95-2200 that track those in prior applications. I thought it would be simpler and less confusing to leave those descriptions unchanged from prior years. However, the two water rights are fully independent. Accordingly, the fact that one has been conveyed to the City

Mary Condon
December 13, 2018
Page 2

and the other has not has no bearing on the eligibility of No. 95-2112 for lease to the Water Supply Bank.

The application is accompanied by a W-9 Form, a map describing the water right, a copy of the Special Power of Attorney authorizing me to act on behalf of my client, Bluewater Development, LLC, and a check in the amount of \$250.00 to cover the application fee.

As noted on the application form, the applicant agrees that the right may be rented out at the current market rate. The Applicant would prefer to set a higher minimum threshold. In the event the Idaho Water Resource Board changes its policy to allow such flexibility, I would very much appreciate your letting me know.

I thank you for your assistance in processing these applications. It is my understanding that if the application is not approved until next year, the approval will be retroactive, effective January 1, 2019.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Meyer", with a stylized flourish at the end.

Christopher H. Meyer

Encl: Water Supply Bank Application (including W-9 Form, map, and Special Power of Attorney)
Application filing fee of \$250.00

cc: John F. Magnuson, Bluewater Development, LLC
Leon Duce, City Administrator, City of Rathdrum