

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 952

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

LESSOR: NIRVANA SPRINGS LLC
C/O HECHT FAMILY OFFICE
1114 STATE ST STE 310
SANTA BARBARA, CA 93101

RECEIVED

MAR 15 2019

**DEPARTMENT OF
WATER RESOURCES**

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on February 07, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
71-2078	9/11/1949	WARM CREEK, tributary to SALMON RIVER	2.5	135.0	45.0
Lease Totals			2.5	135.0	45.0

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, 2023. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

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

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

LESSOR: NIRVANA SPRINGS LLC
C/O HECHT FAMILY OFFICE 1114
STATE ST STE 310
SANTA BARBARA, CA 93101

By Margaret Hecht
Title Owner
Date 3-13-19

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 3/21/2019

Lease approved by IDWR Chy West

Date 3-21-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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**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): 71-2078

WARM CREEK	NWSE	Sec. 27	Twp 08N	Rge 14E	CUSTER County
WARM CREEK	NWSE	Sec. 27	Twp 08N	Rge 14E	CUSTER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
71-2078	IRRIGATION	5/01	to	10/31	2.5 cfs	135.0 AF
Totals:					2.5 cfs	135.0 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	
08N	14E	27									10.4			1.4		7.7	25.5		45.0

Total Acres: 45.0

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 not preclude the opportunity for review of the validity of this water right in any other Department application process.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The 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 diversions.
13. The unleased portion of this right is limited to the irrigation of 3.7 acres within the authorized place of use in a single irrigation season.
14. The unleased portion of this right is limited to the irrigation of 3.7 acres of a specific 48.7 acres within the 343 acre place of use authorized by this right in a single irrigation season. The specific 3.7 acres to be irrigated during the term of this lease by the right holder are the 3.7 acres not identified by the lease shape associated with this right in the geographic information system component of the water rights database maintained by the department.
15. During the term of this lease, the irrigation diversion occurring from the pond that is described by rights 71-2078 and 71-10972 shall not exceed the amount of water diverted into the pond from Warm Creek under this right for irrigation purposes (0.21 cfs) and shall only occur when water is being diverted into the pond from Warm Creek under this right for irrigation purposes. When irrigation diversion is not actively occurring from the pond, diversions to the pond under this right shall be limited to 0.16 cfs and when combined with right 71-10972 the total diversion for non-irrigation purposes is limited to a combined total of 0.61 cfs.
16. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
17. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 71.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 952

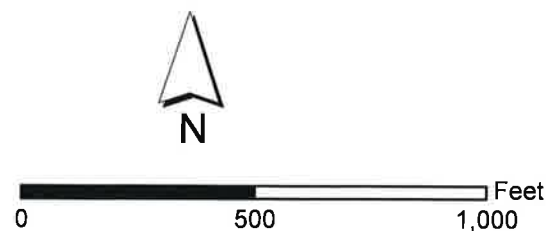
71-2078

Effective until December 31, 2023

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



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 07 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Nirvana Springs LLC

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

Water Right No. 71-2078

(One water right per application)

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

Yes ☐ No ☒

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

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

Department Use Only

Fee Amount \$ 250.00Received By: NRDate Received: 2/7/19Receipt # C106234W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Nirvana Springs LLC

1339

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 Nirvana Springs LLC c/o Hecht Family Office

Mailing Address 1114 State Street Suite 310 Santa Barbara, CA 93101

Street

City

State

Zip Code

Email Address _____

Phone Number 805-845-0253

☒ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Suite #4 Twin Falls, ID 83301

Phone Number 208-736-8543

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).

- B. Please provide a description of the current water diversion and delivery system.

Water can be diverted at the authorized POD's and distributed to the POU using an above ground pressurized irrigation system.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- 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. N/A.

- 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. 2015 WMIS data confirms 128.6 acre-feet of water was diverted under in 2015 for irrigation. See 5/16/16 Updated Memorandum from Bill Mills in Transfer 80786 File.

- 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. N/A.

- 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 ☒

N/A.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

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

If lease, specify the years when the use of water will be suspended: 2019 to 2023 (maximum lease period 5 calendar years).
(Year) (Year)

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

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Margaret Hecht
Signature of Designated Applicant

Margaret Hecht
Printed Name

1-31-19
Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

Water Right No(s). 71-2078

	Designated Applicant	Applicant #2	Applicant #3
Name	Nirvana Springs LLC c/o Hecht Family Office		
Mailing Address	1114 State Street Suite 310 Santa Barbara, CA 93101		
Phone Number	805-845-0253		
Email Address			
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	<i>Margaret Hecht</i>		

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

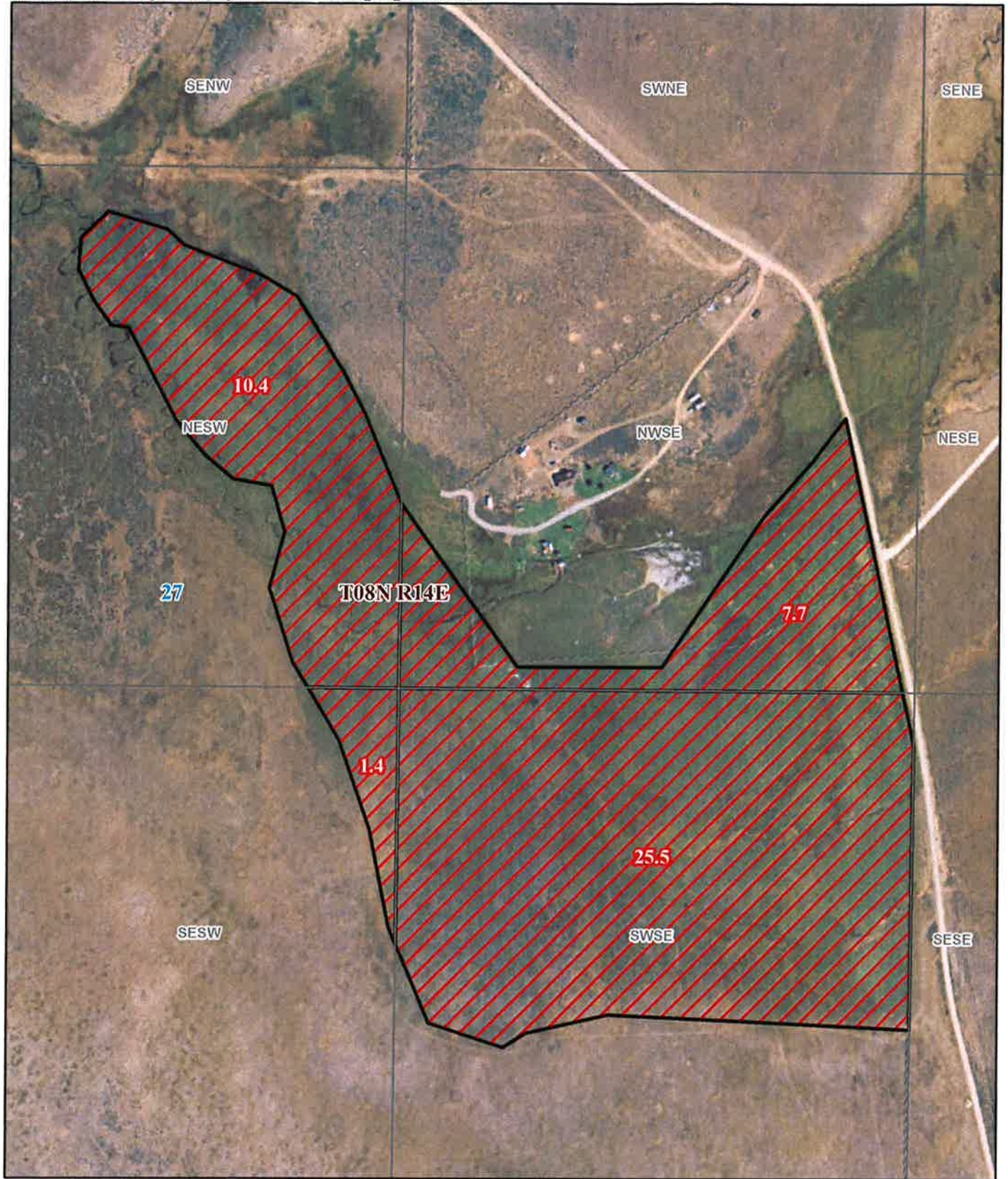
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>71-2078</u>	<u>Irrigation</u>	<u>2.50</u>	<u>157.5</u>	<u>45.0</u>
	Total Amounts:	<u>2.50</u>	<u>157.5</u>	<u>45.0</u>

2. Source of water Warm Creek tributary to Salmon River

3. Point(s) of diversion:

Twps	Rge	Sec	Lot	¼	¼	¼	County
8N	14E	27			NW	SE	CUSTER
8N	14E	27			NW	SE	CUSTER



0 100 200 400 Feet

NIRVANA SPRINGS LLC

WATER SUPPLY BANK LEASE MAP
NAIP 2015 AERIAL

BROCKWAY ENGINEERING, PLLC.
ICB - Date: 7/17/2017

 Lease area - 45.0 ac.





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 26, 2019

NIRVANA SPRINGS LLC
C/O HECHT FAMILY OFFICE
1114 STATE ST STE 310
SANTA BARBARA CA 93101

RE: WATER SUPPLY BANK LEASE CONTRACT 952 FOR WATER RIGHT 71-2078

Dear Lessor:

Water right **71-2078** was leased into the Water Supply Bank (Bank) as of February 7, 2019, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Morgan Miller – Water District 71
Cindy Yenter – Water District 170
Zach Latham – Brockway Engineering

Hersley, Jean

From: Yenter, Cindy
Sent: Friday, March 08, 2019 12:21 PM
To: Hersley, Jean; Morgan V Miller (mvm_32_rs@hotmail.com); Skinner, Corey
Subject: RE: WSB Lease for Nirvana Springs 71-2078

Jean, neither WD71 or WD170 object to this lease. 2015 is the last year that diversions occurred.

*Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*

From: Hersley, Jean
Sent: Thursday, March 07, 2019 2:07 PM
To: Morgan V Miller (mvm_32_rs@hotmail.com) <mvm_32_rs@hotmail.com>; Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: WSB Lease for Nirvana Springs 71-2078

Please let me know within 7 days if you have any comments or concerns with the proposed lease of water right 71-2078. Thank you.

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

Hersley, Jean

From: Skinner, Corey
Sent: Thursday, March 07, 2019 4:33 PM
To: Hersley, Jean
Subject: RE: WSB Lease for Nirvana Springs 71-2078

No concerns from me.

From: Hersley, Jean
Sent: Thursday, March 07, 2019 2:07 PM
To: Morgan V Miller (mvm_32_rs@hotmail.com) <mvm_32_rs@hotmail.com>; Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: WSB Lease for Nirvana Springs 71-2078

Please let me know within 7 days if you have any comments or concerns with the proposed lease of water right 71-2078. Thank you.

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 7, 2019

NIRVANA SPRINGS LLC
C/O HECHT FAMILY OFFICE
1114 STATE ST STE 310
SANTA BARBARA CA 93101

RE: APPLICATION TO LEASE WATER RIGHT 71-2078 TO THE WATER SUPPLY BANK CONTRACT 952

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

Dear Applicant:

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

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:
"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,


for Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Brockway Engineering PLLC
Water District No. 71 & 170

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, March 07, 2019 2:07 PM
To: Morgan V Miller (mvm_32_rs@hotmail.com); Yenter, Cindy; Skinner, Corey
Subject: WSB Lease for Nirvana Springs 71-2078
Attachments: Idled Acres.pdf; Lease Application Review Checklist July 2017.xls; Report - Lease Contract - 952.docx

Please let me know within 7 days if you have any comments or concerns with the proposed lease of water right 71-2078. Thank you.

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

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: Nirvana Springs

Memo Date: March 4, 2019

Water Right Number(s): 71-2078

Reviewers Name: Jean

Quick Tools

Decreed 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	x		
	All of right			
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? (If no explain in comments or narrative)	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity	x		
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			1999
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?		x	
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
	Any other concerns			
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request	x		
11	Area Headgate requirement (write in Comments)			3
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	

Narrative: The Department received this application on February 7, 2019. The application was signed by Margaret Hecht, registered agent. The applicant wishes to place 45 acres of the irrigation portion in the Bank. This right was decreed in 1999. Aerial and satellite imagery indicates the properties involved appear irrigated. See lease for conditions regarding combined conditions with permit 71-10972. WMIS records indicate 128.6 af of water was diverted from Warm Creek in 2015. There are no records before that or for 2016-2017. This right is currently within WD 71.

No. W 140102		Due no later than Jul 31, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. NIRVANA SPRINGS, LLC NIRVANA SPRINGS HECHT FAMILY OFFICE 1114 STATE ST #310 SANTA BARBARA CA 93101 USA		MARGARET HECHT 13490 HWY 75 KETCHUM ID 83340-9310	
				3. <u>New</u> Registered Agent Signature:*	
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.					
Office Held	Name	Street or PO Address	City	State	Country Postal Code
MEMBER	JENNA PEREZ	1114 STATE ST STE 310	SANTA BARBARA	CA	USA 93101
5. Organized Under the Laws of: ID W 140102		6. Annual Report must be signed.* Signature: JENNA PEREZ Date: 05/21/2018 Name (type or print): JENNA PEREZ Title: Office Manager			
Processed 05/21/2018		* Electronically provided signatures are accepted as original signatures.			



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

FEB 07 2019

DEPARTMENT OF
WATER RESOURCES

February 4th, 2019

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

Re: WSB Lease Application; Portion of 71-2078 on Behalf of Nirvana Springs LLC.

Dear Remington,

On behalf of Nirvana Springs LLC, Brockway Engineering is submitting one water supply bank lease application which proposes to lease 45.0 acres of water right 71-2078 to the Water Supply Bank for the 2019 through 2023 irrigation seasons. Attached to the lease is a map showing the location of the 45.0 acres that will be idled during 2019 through the end of 2023 upon lease approval.

Also enclosed is a check for \$250.00 to cover the cost of the lease application. Please copy our office on all correspondence regarding this lease application. Thank you for your assistance and if you have questions or comments, please don't hesitate to call.

Regards,

Zach Latham, M.S., Hydrologist

Enc: (1) Nirvana Springs LLC WSB Lease Application and Map.
(1) Brockway Engineering PLLC Check # 15160.

Cc: Nirvana Springs LLC c/o Hecht Family Office.

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

CHARLES G.
BROCKWAY,
PH.D., P.E.

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