



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

June 13, 2017

MPH FARMS
2935 W 2050 S
ABERDEEN ID 83210

**RE: WATER SUPPLY BANK LEASE APPLICATION(S) FOR WATER RIGHT
NO(S). 35-8791**

Dear Applicant:

On March 15, 2017 the Idaho Department of Water Resources (Department) received your application(s) to lease a portion of water right no(s). 35-8791 to the Water Supply Bank (Bank).

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on June 5, 2017. On June 13, 2017, the Department received notification from your consultant at Brockway Engineering PLLC, stating that you fully intend to use water right 35-8791 this irrigation season and no portion is available to lease to the Bank.

Please discard the drafted Lease Contract(s) since they are no longer valid. This letter is notice that **the attached application(s) to lease water to the Bank are returned.**

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form.

You can reapply to lease the water right(s) in the future by submitting new application form(s) along with applicable fees. Water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

for 
Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure(s): Lease Application(s)

c: Greg Sullivan-Brockway Engineering PLLC

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

MAR 15 2017

DEPARTMENT OF
WATER RESOURCESDesignated Applicant MPH Farms

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

Water Right No. 35-8791

(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 \$

250Received By: UCDate Received: 3/15/17Receipt # C103192W-9 received? Yes ☐ No ☒

(Route W-9 to Fiscal)

Name on W-9:

110

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 MPH Farms

Mailing Address 2935 W 2050 S ABERDEEN, ID 83210

Street

City

State

Zip Code

Email Address _____

Phone Number (208)221-4352

☒ 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 Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address Consultant

Mailing Address greg.sullivan@brockwayeng.com

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.
Existing well, mainlines and delivery system.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. No other water rights in this particular quarter quarter description.

- 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. Canal shares from the Aberdeen Springfield Canal shares.

- 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. WMIS data provides evidence of use. The ground water well was pulled from this system in the winter of 2015. Canal shares were applied to this property in 2016.

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

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

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: 2017 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

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

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**

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)
35-8791	Irrigation	0.64	115.6	28.9
	Total Amounts:	0.64	115.6	28.9

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06S	31E	17			SW	NW	Bingham



0 125 250 500 Feet

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 3/9/2017

MPH FARMS
Ray Funk Farm #1 Lease Acres
NAIP 2015 AERIAL PHOTO.

Legend

- Ray Funk #1 Farm POD
- 35-8791_Lease_Acres



No. W 114896 Return to: SECRETARY OF STATE 450 N 4th STREET PO BOX 83720 BOISE, ID 83720-0080 REINSTATEMENT FEE DUE: \$30.00	Reinstatement Annual Report Form ADMIN DISSOLVED 10/04/2016 1. Mailing Address: Correct in this box if needed. MPH FARMS, LLC DARYL J KLASSEN 2935 W. 2050 S. ABERDEEN ID 83210	2. Registered Agent and Office (NOT A P.O. BOX) DARYL KLASSEN 2935 W 2050 S ABERDEEN ID 83210 3. New Registered Agent Signature.																																			
4. Limited Liability Companies: Enter Names and Addresses of Managers OR Members. See Instructions. <table border="1"> <thead> <tr> <th>Manager or Member</th> <th>Name</th> <th>Street or PO Address</th> <th>City</th> <th>State</th> <th>Country</th> <th>Postal Code</th> </tr> </thead> <tbody> <tr> <td>Manager ☐ Member ☐</td> <td>DARYL KLASSEN</td> <td>2935 W 2050 S</td> <td>ABERDEEN</td> <td>ID</td> <td></td> <td>83210</td> </tr> <tr> <td>Manager ☐ Member ☐</td> <td>PHILLIP KLASSEN</td> <td>"</td> <td></td> <td></td> <td></td> <td>"</td> </tr> <tr> <td>Manager ☐ Member ☐</td> <td>MICHAEL KLASSEN</td> <td>"</td> <td></td> <td></td> <td></td> <td>"</td> </tr> <tr> <td>Manager ☐ Member ☐</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Manager or Member	Name	Street or PO Address	City	State	Country	Postal Code	Manager ☐ Member ☐	DARYL KLASSEN	2935 W 2050 S	ABERDEEN	ID		83210	Manager ☐ Member ☐	PHILLIP KLASSEN	"				"	Manager ☐ Member ☐	MICHAEL KLASSEN	"				"	Manager ☐ Member ☐						
Manager or Member	Name	Street or PO Address	City	State	Country	Postal Code																															
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Manager ☐ Member ☐	MICHAEL KLASSEN	"				"																															
Manager ☐ Member ☐																																					
5. Organized Under the Laws of: IDAHO W 114896	6. Signature:  Date: <u>10-12-2016</u> Name (type or print): <u>Daryl J. Klassen</u> Title: <u>Member</u>																																				
Issued 10/12/2016 by online																																					

INSTRUCTIONS FOR THE IDAHO ANNUAL REPORT FORM

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, June 13, 2017 9:49 AM
To: 'Greg Sullivan'
Subject: Cancellation of WSB Lease for 35-8791
Attachments: DOC000

Thank you for the information.

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

Hersley, Jean

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Tuesday, June 13, 2017 9:05 AM
To: Hersley, Jean
Subject: FW: WSB Lease Contracts for MPH Farms
Attachments: DOC016.pdf

Jean,

I received a phone call from the farm owner pertaining to water right 35-8791. The water use plans changed for this year and the intent is to fully use water right 35-8791. So no portion of this ground water right can be legally leased into the Water Supply Bank.

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

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Monday, June 05, 2017 9:33 AM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: WSB Lease Contracts for MPH Farms

These contracts went out in today's mail. Please let me know if you have any questions. Thank you.

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



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State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

June 5, 2017

MPH FARMS
2935 W 2050 S
ABERDEEN ID 83210

RE: APPLICATIONS TO LEASE WATER RIGHT 35-8791 TO THE WATER SUPPLY BANK

****TIME SENSITIVE RESPONSE REQUIRED***

Dear Applicant:

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

The right will automatically be released from the Bank on **December 31, 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 rights may not be available for immediate release if they have 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,

Jean Hershey
for Water Supply Bank

Enclosure: Proposed Lease Contracts

c: Brockway Engineering PLLC

Hersley, Jean

From: Hersley, Jean
Sent: Monday, June 05, 2017 9:33 AM
To: 'Greg Sullivan'
Subject: WSB Lease Contracts for MPH Farms
Attachments: DOC016

These contracts went out in today's mail. Please let me know if you have any questions. Thank you.

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

WATER SUPPLY BANK

Agent Lease Review Checklist

Applicant(s) Name: MPH Farms

Memo Date: June 5, 2017

Water Right Number(s): 35-8791

Reviewers Name: Jean

Quick Tools

Decreed year	No Forfeiture Concerns Thru:
2010	2016
2011	2017
2012	2018
2013	2019
2014	2020

	Check box	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases	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	x	
5 Authority to file		
Current owner or designated applicant	x	Daryl Klassen
SOS Web site checked for business entity	x	
Other (explain in comments)		
6 Water Right validity		licensed 1996
Decreed/Licensed/Statutory claim date (write in comments section)		
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)		na %
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?		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	120
11 Area Headgate requirement		4
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x
13 Narrative: The Department received this application on March 15, 2017. Daryl Klassen, a registered agent for MPH Farms, signed the application. MPH Farms wishes to place a portion of the water right in the Bank. 28.9 acres in the SWSW. There are two active transfers that involve this water right. James Cefalo suggested we move forward with the lease as the transfers have been protested and it could be a while before they are settled. This right was licensed in 1996 and irrigation has taken place in the last 5 years. Forfeiture is not an issue. There are no overlapping rights with the portion to be placed in the Bank. This water right is currently within WD 120.		

Hersley, Jean

From: Cefalo, James
Sent: Monday, June 05, 2017 8:36 AM
To: Hersley, Jean; Fritz, Cooper
Subject: RE: Transfer 81338 & 81342

Jean,

These two transfer applications, and three other transfer applications filed by MPH Farms, have been protested. The parties have asked for time to negotiate a settlement agreements. It is possible that the pending applications would be amended as part of the settlement agreement. If no settlement is reached, it could be years before these transfer applications are addressed. There are other transfer applications proposing similar changes which have also been protested. The parties wanted to use two other applications (in the name of Kip Hunter) as test cases. If these test cases are appealed to the courts, the parties may not be prepared to hold a hearing on the MPH applications for a long time.

I would say move forward with the WSB lease. There are too many unknowns with the transfer applications to continue to delay the WSB work.

James

From: Hersley, Jean
Sent: Monday, June 05, 2017 8:10 AM
To: Fritz, Cooper <Cooper.Fritz@idwr.idaho.gov>
Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: FW: Transfer 81338 & 81342

I still haven't gotten a response from you on these transfers. If I place 28.9 acres of water right 35-8791 located in T06S, R31E, Sec 17, SWSW, in the Water Supply Bank, will that impact the transfers you are working on? Should I wait to place this right in the Bank until the transfers are approved? If we wait, do you have an idea of when the transfers will be approved? Please let me know how I should proceed with this lease request. Thank you.

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

From: Hersley, Jean
Sent: Thursday, March 23, 2017 9:57 AM
To: Fritz, Cooper <Cooper.Fritz@idwr.idaho.gov>
Subject: Transfer 81338 & 81342

The Department received a WSB Lease application for water right 35-8791. The applicant wants to place 28.9 acres located in T06S, R31E, Sec 17 SWSW, in the Bank. Will that conflict with the transfers that are pending? Should we wait to place this right in the Bank until the transfers are approved? If we wait, do you have an idea of when the transfers will be approved? Please let me know how I should proceed with this lease request. Thank you.

*Jean Hersley
Idaho Dept Water Resources*

Technical Records Specialist II
208-287-4942



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

March 14, 2017

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

RECEIVED

MAR 15 2017

DEPARTMENT OF
WATER RESOURCES

Re: MPH Farms

Dear Mr. Buyer:

MPH Farms desires to lease a 28.9 acre portion of water right 35-8791 into the Idaho Water Supply Bank for the years 2017, 2018 and 2019. The ground water pumps were pulled from the wells in early 2016 before the 2016 irrigation season began. The fields have continued to be irrigated with canal shares from the Aberdeen Springfield Canal Company.

This portion of water right 35-8791 is required to be leased into the Idaho Water Supply Bank until a permanent location can be identified and a transfer submitted and processed by IDWR.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

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

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

Cc: Daryl Klassen

Enc: Lease Application, Aerial Maps, Annual Report, W-9 Form, Brockway Engineering
Check # 13906 for \$250.00

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506