

WATER SUPPLY BANK LEASE CONTRACT No. 475

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

LESSOR: EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

RECEIVED

JAN 20 2017

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 30, 2016.
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)
63-14	11/22/1926	GROUND WATER	0.340	100.00	8.30
Combined Limit Totals			0.340	100.00	8.30
Combined Lease Totals			0.340	100.00	8.30

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
63-14	0.330	37.35	8.30	0.039	4.50
Combined Limit Totals	0.330	37.35	8.30	0.039	4.50

** The water right elements rentable have been reduced from the water right elements leased to account for "other" reasons. This irrigation portion is rentable as supplemental only.*

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

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

LESSOR: EDWARDS FAMILY LLC

4106 SAND CREEK

BOISE, ID 83703

By *Barnette Edwards*
Title *owner* Manager
Date *1/14/17*

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

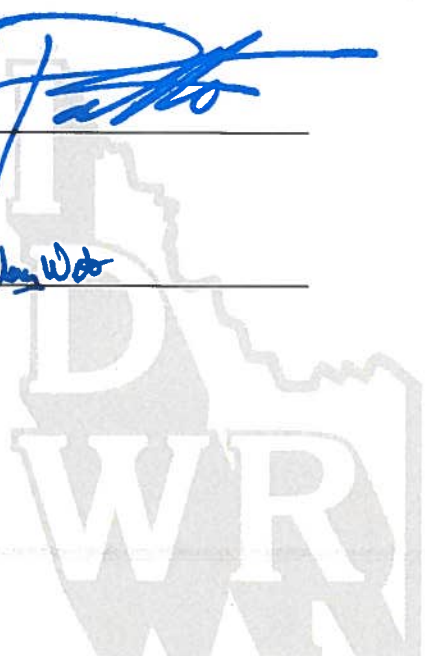
Boise, ID 83720-0098

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

Date *1/27/2017*

Lease approved by IDWR *Chay Weber*

Date *1-27-2017*



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

LESSOR: EDWARDS FAMILY LLC

4106 SAND CREEK

BOISE, ID 83703

By _____
Title _____
Date _____

IDAHO WATER RESOURCE BOARD

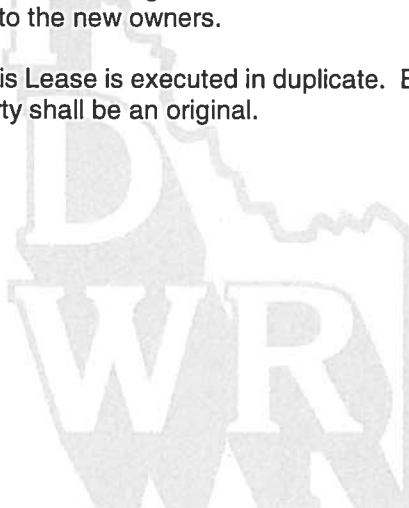
322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By _____
Brian Patton, Acting Administrator
Idaho Water Resource Board

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 to December 31, 2017. 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.
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.



**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 475**

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): 63-14

GROUND WATER SWNE Sec. 29 Twp 04N Rge 02E ADA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-14	IRRIGATION	03/01	to	11/15	0.330 cfs	37.35 AF
	COMMERCIAL	01/01	to	12/31	0.340 cfs	100.00 AF
	HEATING	01/01	to	12/31	0.340 cfs	100.00 AF
Totals:					0.340 cfs	100.00 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	
04N	02E	29			8.3														8.3

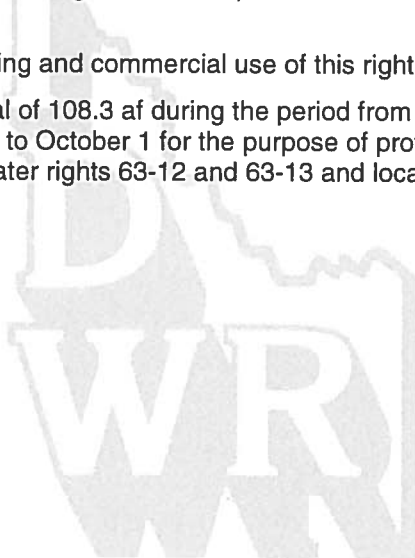
Total Acres: 8.3

HEATING & COMMERCIAL PLACE OF USE: Same as Irrigation

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.

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 irrigation portion under this right may only be rented for use as a supplemental right in conjunction with a primary surface water right.
13. Use of water under this water right will be regulated by the watermaster of State Water District No. 63-S, Stewart Gulch. Water District 63-S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.
14. The unleased portion of the heating and commercial use of this right is limited to 0.5 cfs and 150.0 af.
15. This right may be limited to a total of 108.3 af during the period from October 1 through April 1 and/or 145.2 af during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water rights 63-12 and 63-13 and located in T04N, R02E, Sec. 29 NENESE.



Idaho Water Resource Board
Water Supply Bank Lease

63-14

Effective until December 31, 2017

This map depicts the **irrigation 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
-  Townships
-  PLS Sections
-  Quarter Quarters



0 250 500 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 30 2016

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Edwards Family LLC

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

Water Right No. 63-00014

(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: VCDate Received: 12/30/16Receipt # C102845W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

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 Edwards Family LLC

Mailing Address c/o Garnette Edwards, 4106 Sand Creek, Boise 83703

Street

City

State

Zip Code

Email Address _____

Phone Number (208) 342-7548

☒ 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 Dana L. Hofstetter

Organization Hawley Troxell Ennis & Hawley, LLP

Professional Title Attorney at Law

Email Address dhofstetter@hawleytroxell.com

Mailing Address P.O. Box 1617, Boise 83701-1617

Phone Number (208) 344-6000

☐ 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.
well, pump, to pipelines

- 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 for primary use of heating

- 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. not for heating

- 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. See District 63-S Watermaster annual reports; Water Supply Bank Leases; SRBA Partial Decree dated 5/10/2011 attached

- 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. No

- 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: 1/2017 to * (maximum lease period 5 calendar years).
(Year) (Year)

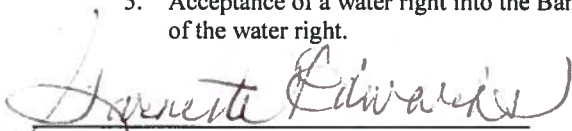
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

*lease period is 1/1/2017 to 12/31/2017; 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

Garnette Edwards

Printed Name

12/30/16
Date



Signature of Authorized Representative

Dana L. Hofstetter

Printed Name

12/29/2016
Date

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

No. W 13936	Due no later than Dec 31, 2016 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			GARNETTE EDWARDS 4106 SAND CREEK ST BOISE ID 83703 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
MANAGER	GARNETTE K MONNIE	4106 SAND CREEK ST	BOISE ID 83703
MANAGER	GARNETTE K EDWARDS	4106 SAND CREEK ST	BOISE ID USA 83703
5. Organized Under the Laws of: ID W 13936		6. Annual Report must be signed.* Signature: Garnette Edwards Name (type or print): Garnette Edwards Date: 11/14/2016 Title: Manager	
Processed 11/14/2016		* Electronically provided signatures are accepted as original signatures.	

Attachment #1D

**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)
<u>63-00014</u>	<u>Heating</u>	<u>0.34</u>	<u>100</u>	<u>N/A</u>
	<u>Commercial</u>	<u>0.34</u>	<u>100</u>	<u>N/A</u>
	<u>Irrigation</u>	<u>0.33</u>		<u>8.3</u>
	Total Amounts:	<u>0.34 cfs</u>	<u>100 af</u>	<u>8.3 ac</u>

2. Source of water Stewart Gulch Geothermal Aquifer tributary to _____

3. Point(s) of diversion:

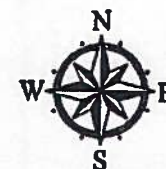
Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	2E	29			SW	NE	Ada



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

Attachment #3



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-00014

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 10 2011

NAME AND ADDRESS: EDWARDS FAMILY LLC
4306 SAND CREEK
BOISE, ID 83703

SOURCE: GROUND WATER

QUANTITY: 0.84 CFS
250.00 AFT

By _____
Clerk
Deputy Clerk

Use of this right with Right No. 63-5067 is limited to a total combined diversion rate of .33 cfs for outside irrigation. The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day. This right may be limited to a total of 100.3 AF during the period from October 1 through April 1 and/or 145.2 AF during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water rights 63-13 and 63-23 and located in T04N R02E Section 29 NEMUSE.

PRIORITY DATE: 11/27/1936

POINT OF DIVERSION: T04N R02E S29 SWNE Within Ada County

Water is low temperature geothermal water.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	01-01 TO 12-31	0.33 CFS
Commercial	01-01 TO 12-31	0.84 CFS
		250.00 AFT
Heating	01-01 TO 12-31	0.84 CFS
		250.00 AFT
Domestic	01-01 TO 12-31	0.00 CFS

Commercial use is for all uses within the greenhouses, shop, retail shops, and watering of plants, except heating. Irrigation use is for areas outside of the greenhouses. Domestic use is for heating in the apartment. Diversion of low temperature geothermal water under this right for outside irrigation and watering of plants shall, to the extent possible, occur only when the cold water under Water Right No. 63-5067 is insufficient or cannot be used.

PLACE OF USE:

Irrigation	T04N R02E S29	SWNE S.3	Within Ada County
	S.3 Acres Total		
Commercial	T04N R02E S29	SWNE	Within Ada County
Heating	T04N R02E S29	SWNE	Within Ada County
Domestic	T04N R02E S29	SWNE	Within Ada County

Use of this right with Right No. 63-5067 is limited to the outside irrigation of a combined total of S.3 acres.

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Commercial use is included as an accomplished transfer pursuant to Section 42-1425, Idaho Code.

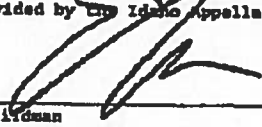
The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

This water right is subject to the terms of a private Agreement dated January 24, 2002, recorded at the Ada County Recorder's Office on August 27, 2002, as Instrument No. 102097169.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

Hersley, Jean

From: Neely, Ken
Sent: Tuesday, January 17, 2017 1:04 PM
To: Hersley, Jean
Subject: RE: WSB Lease Application for 63-14

Jean,

Looks good to me.

Ken

Kenneth W. Neely
Hydrology Section Supervisor
208-287-4852
Ken.neely@idwr.idaho.gov
www.idwr.idaho.gov

From: Hersley, Jean
Sent: Monday, January 09, 2017 1:13 PM
To: Neely, Ken <Ken.Neely@idwr.idaho.gov>
Subject: WSB Lease Application for 63-14

The Edwards Family LLC is wanting to place water right 63-14 in the Bank. I followed the same lease we have used for the past two seasons. Please let me know within 7 days if you have any comments or concerns. Thank you.

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



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 30, 2017

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE ID 83703

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 63-14

Dear Lessor:

Water right **63-14** was leased into the Water Supply Bank (Bank) as of December 30, 2016, 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, 2017**, 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: Dana Hofstetter – Hawley Troxell Ennis & Hawley LLP
Angie Grimm - IDWR Western Region
Ken Neely – Water District 63S



ATTORNEYS AND COUNSELORS

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877 Main Street, Suite 1000
P.O. Box 1617
Boise, Idaho 83701-1617
208.344.6000
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DANA L. HOFSTETTER
MAIL: DHOFSTETTER@HAWLEYTROXELL.COM
DIRECT DIAL: 208-388-4867
DIRECT FAX: 208-954-4867

RECEIVED

JAN 20 2017

DEPARTMENT OF
WATER RESOURCES

January 20, 2017

VIA HAND DELIVERY

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street
Boise, ID, 83720

Re: *Water Supply Bank Lease Contract No. 475 – Water Right No. 63-14*

Dear Mr. Buyer,

As requested by the January 9, 2017, letter from Jean Hersley for the Water Supply Bank, enclosed are two (2) original Water Supply Bank Lease Contracts No. 475 executed by Edwards Family, LLC. As we discussed, I understand that the attached maps will be replaced with new maps. Please let me know if you need anything further.

Thank you.

Sincerely,

HAWLEY TROXELL ENNIS & HAWLEY LLP

Dana L. Hofstetter

DH:tas
Enclosures

Hersley, Jean

Subject: FW: Water Supply Bank Lease Contract No. 475 - 63-14 [IWOV-DMSMSG1.FID796903]

From: Buyer, Remington
Sent: Thursday, January 19, 2017 5:08 PM
To: 'Dana Hofstetter' <DHofstetter@hawleytroxell.com>
Cc: garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com
Subject: RE: Water Supply Bank Lease Contract No. 475 - 63-14 [IWOV-DMSMSG1.FID796903]

Dana,

Please see my answers to your questions below in red. We can produce a new map for you if you will be visiting the office to bring in the signed contracts tomorrow.

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street, Boise, ID, 83720
T: (208) 287-4918 | F: (208) 287-6700

From: Dana Hofstetter [<mailto:DHofstetter@hawleytroxell.com>]
Sent: Wednesday, January 18, 2017 1:03 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: garnette@edwardsgreenhouse.com; erin@edwardsgreenhouse.com
Subject: Water Supply Bank Lease Contract No. 475 - 63-14 [IWOV-DMSMSG1.FID796903]

Remington,

Edwards Family LLC has received Water Supply Bank Lease Contract No. 475 and before Edwards signs and returns it, I have a few questions.

1. I note that a new section is added on the first page "Summary of Water Rights Elements Rentable from the Bank." It appears that this section indicates that the rentable portion of the right is only associated with the irrigation use up to a total of 37.35 AF, not the right's other uses up to the total of 100 AF deposited into the Bank. I do not understand why this limitation is added to this year's Lease Contract. It seems that the entire 100 AF should be available for rent if someone wants it for commercial and/or heating purposes. **The Department has recently updated out lease contracts, adding a new section clarifying distinctions between the elements of a water right as leased to the Water Supply Bank, separate to the elements of a leased water right that may be rented from the Bank. My review of the backfile for the initial lease of this water right to the Bank (during 2015) shows that there were previously concerns about how much reduction in the beneficial use of heating and commercial would be occurring through a partial lease of these water rights to the Bank (review the following link). It appears there were concerns that the potential enlargement in the use of water could not be guaranteed if heating and commercial activities continued to occur while portions of water right 63-14 were leased to the Bank. This seems to be consistent with your fourth question below, which reflects that commercial and heating uses will continue to occur while the water right is leased to the Bank. As such, though heating, commercial and irrigation elements of water right 63-14 are being leased to the Bank (and protected from forfeiture), only the irrigation element is being made rentable.**

2. I was wondering if the words "retroactively to January 1, 2017" should be added after "take effect" in section 3 "Term of Lease" to ensure consistency with the lease term of January 1, 2017 to December 31, 2017. **If the water right is leased**

to the Bank during 2017, the lease term will be January 1, 2017 through December 31, 2017. Adding retroactive is not necessary.

3. Condition No. 12 describes the irrigation portion of this right as supplemental. I was wondering what irrigation right(s) are considered the primary irrigation rights for this place of use. Per our initial review of the lease of water right 63-14 during 2015, it was determined that irrigation undertaken via water right 63-14 was supplemental to irrigation authorized under water right 63-5067. As such, a supplemental condition was placed on the 2015 lease contract. In 2016, the supplemental condition was updated with additional language stating that the right could only be rented for irrigation supplemental to irrigation under a surface water right. It is not clear to me why this condition was updated with language relating to a surface water right and it seems that the condition can be returned to simply reflect supplemental irrigation without reference to a surface water source.

4. Could the word "irrigation" be inserted before "place of use to be idled" to the attached place of use map, as was done last year? We can produce for you a new map that includes the word irrigation.

Thank you,

DANA L. HOFSTETTER

Of Counsel

direct 208.388.4867

fax 208.954.5943

www.HawleyTroxell.com

HAWLEY TROXELL

Attorneys and Counselors

This e-mail message from the law firm of Hawley Troxell Ennis & Hawley, LLP is intended only for named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. Please notify us immediately at 208.344.6000 if you have received this message in error, and delete the message.



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

January 9, 2017

EDWARDS FAMILY LLC
C/O GARNETTE EDWARDS
4106 SAND CREEK
BOISE ID 83703

RE: APPLICATIONS TO LEASE WATER RIGHT 63-14 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, 2017**, 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,

for Jan Husley
Water Supply Bank

Enclosure: Proposed Lease Contracts

c: Hawley Troxell Ennis & Hawley

WATER SUPPLY BANK
Agent Lease Review Checklist
Applicant(s) Name: Edwards Family LLC

Memo Date: January 9, 2017

Water Right Number(s): 63-14

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			
2	☒		
Reason for lease of water rights (Brief description of lease proposal in narrative)			
	☒		
Portion of right			
	☐		
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			
5	☐		
Authority to file			
	☒		
Current owner or designated applicant			
	☒		
SOS Web site checked for business entity			
	☐		
Other (explain in comments)			
6	☐		
Water Right validity			
	☐		
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?			
7	☐		
Injury to other water rights			
	☐	na	
If the POD is through a delivery entity, was consent provided?			
	☐		%
If the POD is through a delivery entity, was holdback required? (percentage in comments)			
8	☐		
Enlargement concerns			
	☒		
Complete a POU comparison overlap analysis			
	☒		
Complete a combined limits review			
	☒		
Complete POD overlap analysis (if there is an overlap add condition to lease)			
	☐	☐	
	Yes	No	
	☐	☒	
Are there overlapping rights that need to be placed in the bank also?			
	☒		
Will the place of use continue to receive water?			
9	☐		
Local Public Interest			
	☐	x	
Does the processor know of any problems this action will cause for the local public?			
10	☒		
Have you contacted regional office and watermaster for comment/concerns?			
	☐		
Send the watermaster comment request form or e-mail request			
11	☐		4.5
Area Headgate requirement			
12	☐	x	
Is water right involved in any other department action? Pull file and check database			
() Ownership Change () Transfer () Mitigation () Other - Explain in comments			

13 **Narrative:** The WSB application is a renewal. This right was decreed in 2011 has been in the Bank since 2015. This right is supplemental to water right 63-5067 for irrigation. The irrigation portion of this right is only rentable as a supplemental right and will be a condition on the lease. The commercial portion is not rentable due to enlargement concerns. This right is currently within WD 63S.

No. W 13936	Due no later than Dec 31, 2016 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. EDWARDS FAMILY LLC GARNETTE EDWARDS 4106 SAND CREEK ST BOISE ID 83703		GARNETTE EDWARDS 4106 SAND CREEK ST BOISE ID 83703			
			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
MANAGER	GARNETTE K MONNIE	4106 SAND CREEK ST	BOISE	ID		83703
MANAGER	GARNETTE K EDWARDS	4106 SAND CREEK ST	BOISE	ID	USA	83703
5. Organized Under the Laws of: ID W 13936		6. Annual Report must be signed.* Signature: Garnette Edwards Name (type or print): Garnette Edwards Date: 11/14/2016 Title: Manager				
Processed 11/14/2016		* Electronically provided signatures are accepted as original signatures.				