

WATER SUPPLY BANK LEASE CONTRACT No. 372

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

LESSOR: GLOBAL AG PROPERTIES USA
LLC
C/O WESTCHESTER GROUP
INVESTMENT MANAGEMENT
2004 FOX DR STE L
CHAMPAIGN, IL 61820

RECEIVED
JAN 09 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 July 25, 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)
51-13005	12/17/1957	GROUND WATER	1.130	550.40	137.60
51-13011	12/17/1957	GROUND WATER	0.140	70.50	11.10
51-13006	11/21/1960	GROUND WATER	0.910	445.30	126.50
51-13014	11/21/1960	GROUND WATER	0.080	39.00	11.10
Combined Limit Totals			2.260	550.40	137.60
Combined Lease Totals			2.260	550.40	137.60

** The water right elements rentable have been reduced from the water right elements leased to account for combined limits.*

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

SUPPORT DATA

IN FILE # 51-13005

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 to December 31, 2021. 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.

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

LESSOR: GLOBAL AG PROPERTIES USA
LLC
C/O WESTCHESTER GROUP
INVESTMENT MANAGEMENT
2004 FOX DR STE L
CHAMPAIGN, IL 61820

By *Patrick Inaun*
Title *Executive Vice President*
Date *1-5-2017*

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 *1/9/2017*

Lease approved by IDWR *Chute*

Date *1-9-2017*

ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 372

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): 51-13005, 51-13006, 51-13011, 51-13014

GROUND WATER	NENESE	Sec. 34	Twp 09S	Rge 12E	TWIN FALLS County
GROUND WATER	SENESE	Sec. 34	Twp 09S	Rge 12E	TWIN FALLS County
GROUND WATER	SESWNW	Sec. 35	Twp 09S	Rge 12E	TWIN FALLS County
GROUND WATER	NWSESW	Sec. 2	Twp 10S	Rge 12E	TWIN FALLS County
GROUND WATER	SWSESE	Sec. 1	Twp 10S	Rge 12E	TWIN FALLS County
GROUND WATER	SWSESW	Sec. 1	Twp 10S	Rge 12E	TWIN FALLS County
GROUND WATER	SENE	Sec. 12	Twp 10S	Rge 12E	TWIN FALLS County
GROUND WATER	SWSESW	Sec. 1	Twp 10S	Rge 12E	TWIN FALLS County
GROUND WATER	SWNESW	Sec. 35	Twp 09S	Rge 12E	TWIN FALLS County
GROUND WATER	SWNESW	Sec. 35	Twp 09S	Rge 12E	TWIN FALLS County
GROUND WATER	SWNENW	Sec. 34	Twp 09S	Rge 12E	TWIN FALLS County
GROUND WATER	SWSESE	Sec. 2	Twp 10S	Rge 12E	TWIN FALLS County
GROUND WATER	SESENE	Sec. 30	Twp 09S	Rge 13E	TWIN FALLS County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
51-13005	IRRIGATION	03/15	to	11/15	1.130 cfs	550.40 AF
51-13006	IRRIGATION	03/15	to	11/15	0.910 cfs	445.30 AF
51-13011	IRRIGATION	03/15	to	11/15	0.140 cfs	70.50 AF
51-13014	IRRIGATION	03/15	to	11/15	0.080 cfs	39.00 AF
Totals:					2.260 cfs	550.40 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	
09S	12E	25										3.2	25.8	7.1			13.7	7.1	56.9
09S	12E	35													14.0				14.0
09S	13E	30									4.3			5.2		4.8	16.7		31.0
09S	13E	31					2.9												2.9
10S	12E	2		2.6 L2		1.0								6.3	2.9	4.3	7.5	8.2	32.8

Total Acres: 137.6

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. When combined with all other rights, the leased rights shall provide not more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
13. Unleased portions of rights 51-2258, 51-2259, 51-2444, 51-2445, 51-7108A, 51-7108B, 51-7127A, 51-13005, 51-13006, 51-13007, 51-13008, 51-13009, 51-13011, 51-13014, 51-130259, 51-13030, 51-13031, 51-13032, 51-13033, 51-13034, 51-13035 and 51-13037 are limited to irrigation of a combined total of 3787.7 acres in a single irrigation season, a total combined diversion rate of 46.43 cfs, and a total combined annual diversion volume of 14,041.7 af.
14. The period of use for the irrigation described in this approval for water right 51-13008 may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 9/28/2007.
15. The unleased portion of water right 51-13005 is limited to the irrigation of 397.4 acres, the unleased portion of water right 51-13006 is limited to the irrigation of 365.5 acres, the unleased portion of water right 51-13011 is limited to the irrigation of 31.9 acres and the unleased portion of water right 51-13014 is limited to the irrigation of 31.9 acres within the authorized place of use in a single irrigation season.

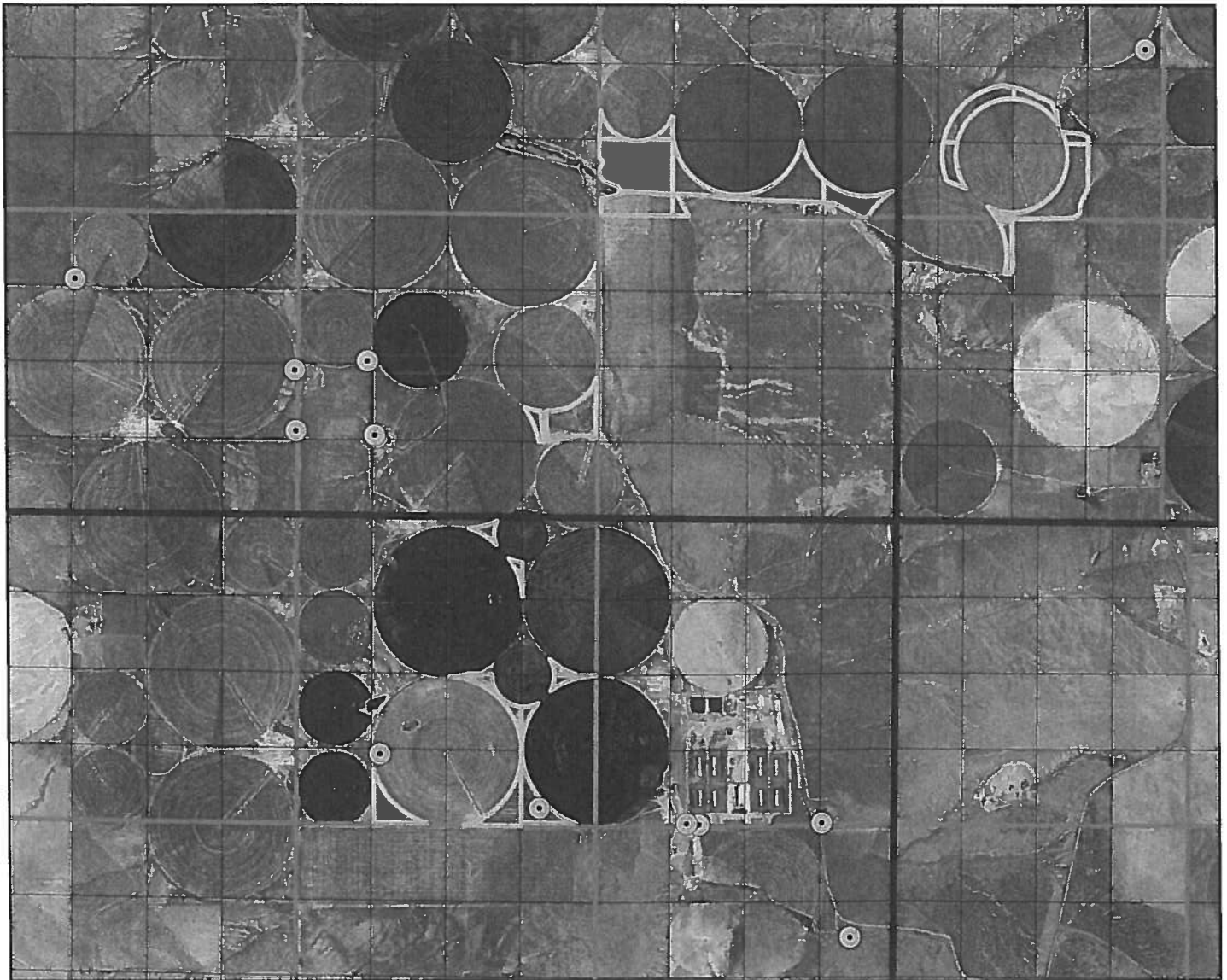
16. The unleased portions of water rights 51-13005, 51-13006, 51-13011 and 51-13014 when combined shall not exceed a total annual maximum diversions volume of 1589.6 af at the field headgate and the irrigation of 397.4 acres.



Idaho Water Resource Board
Water Supply Bank Lease

51-13005, 1-13006, 51-13011 and 51-13014
Effective until December 31, 2021

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
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters



0 0.5 1 Miles

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

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. 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. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant Global AG Properties USA LLC
(Select one owner – see item 1A on the application)

Water Right No. 51-13006
(One water right per application)

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

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ 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.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Contact information for all owners of the water right that is being leased or sold on this application. |
| 1B | | ☒ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 1E | ☐ | ☒ | 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. |
| 3E | ☐ | ☒ | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code . |
| 4 | | ☒ | 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 . |

Department Use Only

Fee Amount \$	Received By: <u>AO</u>	Date Received: <u>7-25-16</u>	Receipt # <u>C102304</u>
W-9 received? Yes ☒ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

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

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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 Global AG Properties USA LLC Email Address _____

Mailing Address 2004 Fox Dr STE L Champaign, IL 61820 Phone Number (208) 908-3848

☒ 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 completed an IRS Form W-9 (Attachment 1B)? Previously Submitted Yes ☒ No ☐

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 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 1D).

E. 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 1E).

Name of Representative Greg Sullivan Organization Brockway Engineering

Professional Title Engineer Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 North Washington St Ste 4, Twin Falls Idaho 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

Water Right Number 51-13006 ☐ 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

Existing wells, mainlines and delivery systems.

- B. 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.

51-13005 et al.

- C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☒ No ☐

Stacked water rights are water rights that are utilized 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.

D. Will the present place of use continue to receive water from any other source?

Yes ☐ No ☒

If yes, describe. _____

E. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

F. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

5. SALE/LEASE AGREEMENT

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

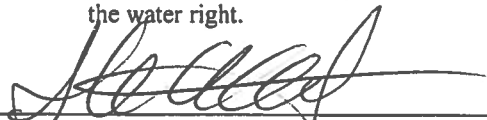
If lease, specify the years when the use of water will be suspended: 2017 to 2021 (maximum lease period 5 years).
(Year) (Year)

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.
normal 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 provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.


Signature of Designated Applicant

Skye A. Ruff Vice President
WBIM, Inc.
Printed Name

21 July 2016
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 2

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

1. <u>Water Right Number</u>	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>51-13006</u>	<u>0.91/222</u>	<u>Irrigation</u>	<u>4/01</u> to <u>11/01</u>
			to
			to
			to
			to
			to
Total Amount:			
	<u>0.91/222</u>		

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twsp	Rge	Sec	Lot	¼	¼	¼	County
See Exhibit A							

4. Acres to be idled within the place of use:

Twsp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9S	12E	25										3.2	25.8	7.1			13.7	7.1	56.9
		35													14				14
9S	13E	30									4.3			5.2		4.8	16.7		31.0
		31					2.9												2.9
10S	12E	2		2.6		1.0								6.3	2.9	4.3	7.5	8.2	32.8

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 137.6