

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 50

This is to certify that:

BKC FARMS INC
1908 E 500 N
ST ANTHONY, ID 83445

RECEIVED

JAN 20 2017

DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
21-7007	12/2/1968	GROUND WATER	1.83	438.9	146.3	0.013	3.00
Rental Totals			1.83	438.9	146.3	0.013	3.00

Term of Rental: This rental shall take effect when all parties have signed it and shall continue in effect until December 31, 2017

Annual Rental Fee:

2017: \$746.13

The full fee for the rental of the above-described right(s) is \$7,461.30 for 2017. The rental fee includes an administrative fee of \$746.13 for 2017. Note that the renter is obligated to pay only the administrative fees associated with the water right(s) 21-7007.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement 50

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	1.83	438.9	146.3	0.013	3.00
Total	1.83	438.9	146.3	0.013	3.00

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

BKC Farms Inc. by Bruce K. Crapo 1/16/2017
Signature of Renter Date

BKC Farms Inc. Bruce K. Crapo President
Printed Name Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By Brian Patton Date 1/23/2017
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Rental approved by IDWR [Signature] Date 1-23-2017

WATER SUPPLY BANK RENTAL AGREEMENT No. 50

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENW Sec. 16, Twp 08N, Rge 41E, FREMONT County

Beneficial Use
IRRIGATION

Diversion Rate
1.83 CFS

Volume
438.9 AF

BENEFICIAL USE & SEASON OF USE

Water Right No. **From** **To** **Diversion Rate**
21-7007 5/1 9/30 1.83 CFS

RENTERS PLACE OF USE: 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	41E	16					0.6	0.36	29.0	35.0	29.0	29.0	31.0	2.8					156.7

Total Acres: 146.3

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from 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.
3. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
4. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
5. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
6. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date. This rental for mitigation by non-use may be ineffective if the mitigating water right is not in priority.
7. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
8. The rented portion of right 21-7007 is limited to the irrigation of 143.6 acres within the authorized place of use in a single irrigation season.
9. The rented portion and the unleased portion of right 21-7007 when combined shall not exceed a total diversion rate of 3.13 cfs, a total annual maximum diversion volume of 548.5 af at the field headgate, and the irrigation of 156.7 acres.

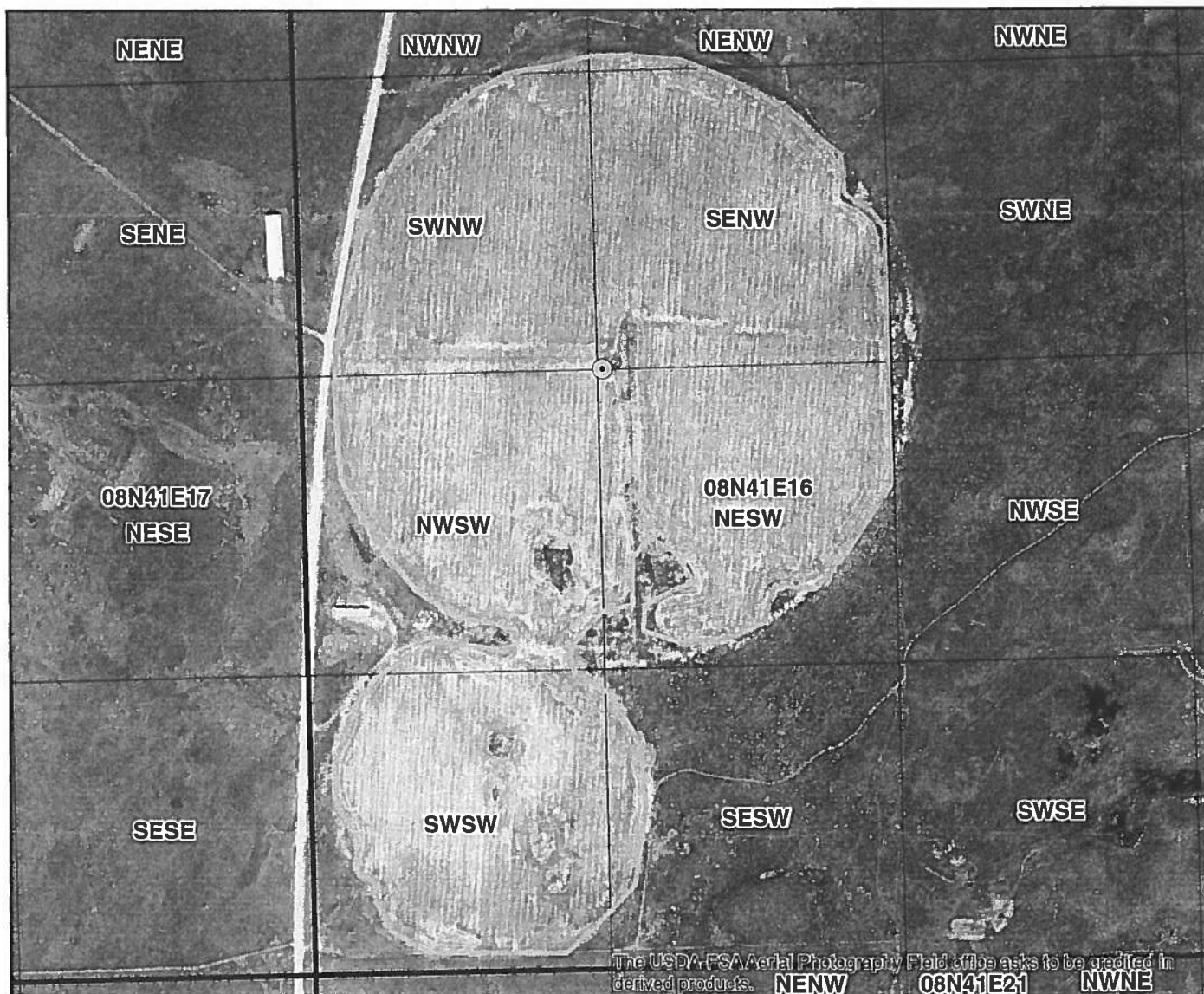
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
11. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
12. 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. 100.
13. 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. Section 42-1412(6), Idaho Code.



Idaho Water Resource Board Water Supply Bank Rental Agreement

Effective until December 31, 2017

This map depicts the **rental place of use** pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



① Authorized Rental Point of Diversion

Authorized Rental Place of Use

Townships

PLS Sections

Quarter Quarters



0 0.25 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

**APPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK**

RECEIVED

DEC 19 2016

DEPARTMENT OF
WATER RESOURCESApplicant Name: BKC Farms, Inc.

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

Yes ☒ No ☐

If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

Yes

- ☒ Completed *Application to Rent Water from the Board's Water Supply Bank*
- ☒ Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

- | | | |
|----|-------------------------------------|--|
| 2 | ☒ | A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request |
| 3A | ☐ | ☒ Detailed information on a proposed use of rental water |
| 3F | ☒ | ☐ Authorization from the owner/operator of the rental point(s) of diversion |
| 3H | ☒ | ☐ Water modeling to account for the impacts of the rental request |
| 3J | ☐ | ☒ Documents justifying a rate of flow greater than 0.02 cfs/acre |
| 3K | ☒ | ☐ Authorization from the owner/operator of the property at the proposed rental place(s) of use |
| 4B | ☐ | ☒ Explanation of how the rental water will sufficiently accomplish your rental purposes |
| 4C | ☒ | ☐ Explanation of consumptive use amounts for water rights experiencing a change in nature of use |

Department Use Only – Proposed Water Right(s)

412

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant BKC Farms Inc.

Mailing Address <u>1908 E. 500 N.</u>	St. Anthony	ID	83445
Street	City	State	Zip Code
Email Address _____	Phone Number _____		

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☒ No ☐
 If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative <u>Robert L. Harris</u>	Professional Title <u>Attorney</u>
Organization <u>Holden, Kidwell, Hahn & Crapo, P.L.L.C.</u>	Relationship to Applicant <u>Attorney</u>
Mailing Address <u>P.O. Box 50130, Idaho Falls, ID 83405</u>	
Email Address <u>rharris@holdenlegal.com</u>	Phone Number <u>208-523-0620</u>

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental 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 irrigate. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:

The applicant wants to ensure that it has enough diversion rate to irrigate the two pivots on its property. The applicant placed a portion of 21-7007 into the WSB to ensure no issues with forfeiture due to non-irrigation of 146.3 acres. Applicant wants to lease the water and concentrate it to ensure no issues with diversion rate.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
1.83 CFS	438.9 AF	1.83 CFS	438.9 AF	146.3 AC

* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
4/1/2017	6/1/2017	☒ 1	☐ 2	☐ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):

Well and pump to pivots.

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
SENW, 16, 8N, 41E	GROUND WATER	NONE

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒
If yes, include documented consent as **Attachment 3F**.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- ☒ Irrigation 146.3 (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Other: _____ from: _____ (mm/dd) to: _____ (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☐ Yes ☒ No ☐
If yes, justify the rate of flow and attach any supporting documents as **Attachment 3J**. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

The portion of 21-7007 leased to the bank is proposed to be leased to concentrate all water under pivots to ensure adequate diversion rate. With concentration, the rate is .024 cfs/acre, which rounds down to .02 cfs/ac.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☒ No ☐
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it **Attachment 3K**.

- L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:

Portion of 21-7007 not leased by the Idaho Water Supply Bank.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the elements of the water rights you are requesting to rent. If no, continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via [IDWR's website](#).

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request.** For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
21-7007	IRRIGATION	1.83	438.9	146.3		1.83	438.9	146.3
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL			
						CFS	AF	AC

**Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

N/A

C. Does your rental request propose to change the nature of use for any water right(s) being rented?

Yes ☐ No ☒

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☒ No ☐
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒
If yes, describe:

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒
If yes, describe the date and location of the NOV.

- D. Additional Information

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

Signature of Applicant

Printed Name of Applicant

Date


Signature of Representative

Robert L. Harris
Printed Name of Representative

12/16/2016
Date

Mail to:

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

ATTACHMENT 2

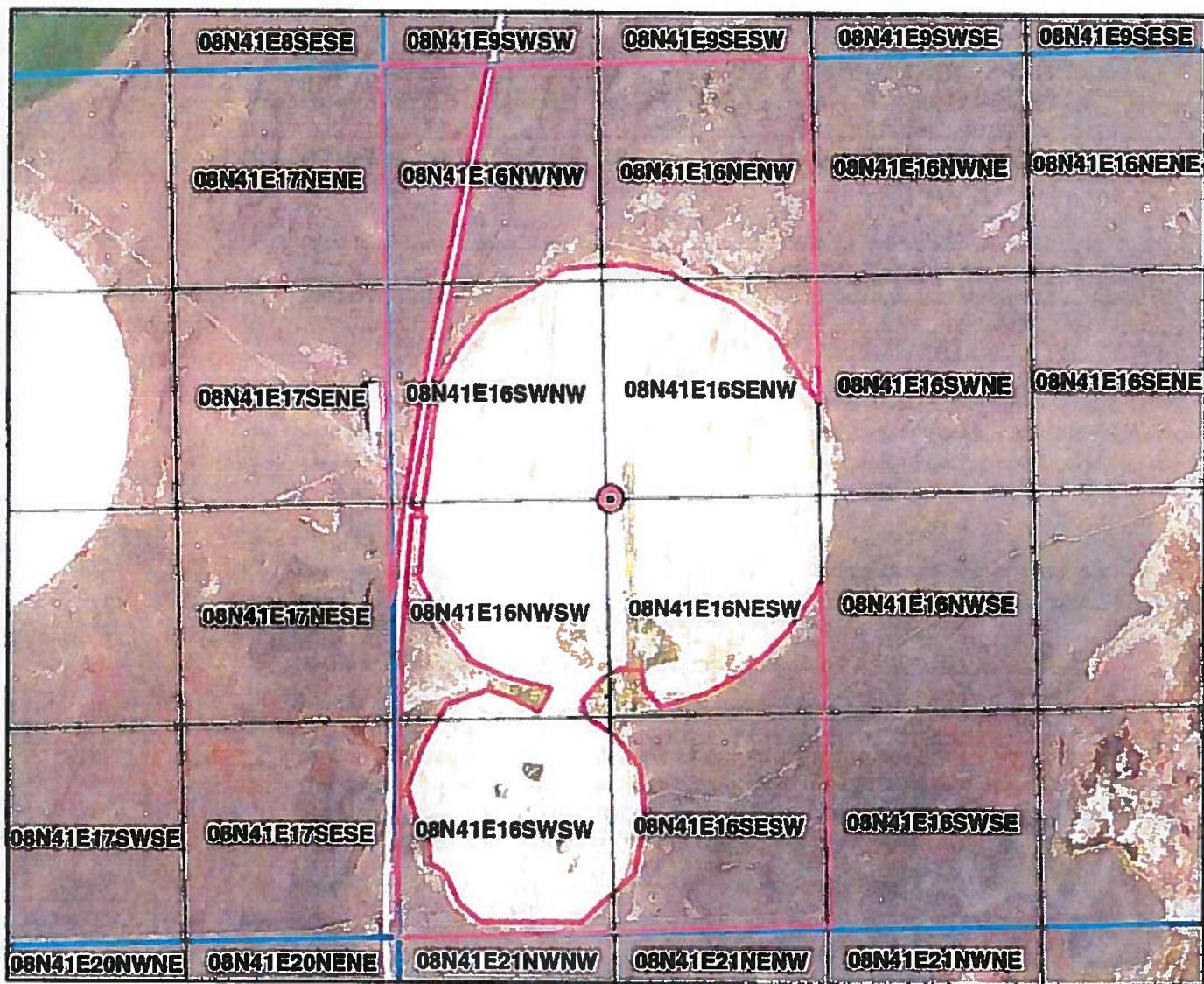
GIS Map

Idaho Water Resource Board Water Supply Bank Lease

21-7007

Effective until December 31, 2018

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.



2013 USDA-FSA Aerial Photography

- ⊙ Approved Lease Point of Diversion
- Approved Lease Place of Use
- Townships
- PLS Sections
- Quarter Quarters



0 Miles
0.25

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED
NOV 23 2015
DEPARTMENT OF
WATER RESOURCES

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

LESSOR: BKC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445
208-313-6303

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. On October 20, 2015, the Lessor filed an application to lease the water right(s) described below into the Water Supply Bank.
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 the 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	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
21-7007	12/2/1968	GROUND WATER	NA	1.83 cfs	438.9 af	146.3 ac

Annual Lease Totals 1.83 cfs 438.9 af 146.3 ac

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:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2018.
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. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

WATER SUPPLY BANK LEASE CONTRACT

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

BKC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445

By Bruce K Crapo
Printed Name Bruce K. Crapo

Date 11/16/15
Title Pres.

IDAHO WATER RESOURCE BOARD
322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

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

Date 11/24/2015

Lease approved by IDWR [Signature]

Date 1-5-2016

ATTACHMENT A

WATER RIGHT NO. 21-7007 WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: BKC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445
208-313-6303

Location of Point(s) of Diversion for Water Right 21-7007.

GROUND WATER SENW Sec. 16, Twp 08N, Rge 41E, FREMONT County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
21-7007	IRRIGATION	05/01 to 09/30		1.83 cfs	438.9 af
Total:				1.83 cfs	438.9 af

Place of Use to be Idled Under This Lease: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Total s
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	41E	16					39.0	31.5	8.0	5.0	7.8	10.0	8.0	37.0					146.3

Total Acres: 146.3

Conditions Applicable to All Leased Water Rights

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, nor does it improve the status of the right or accomplish the 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.

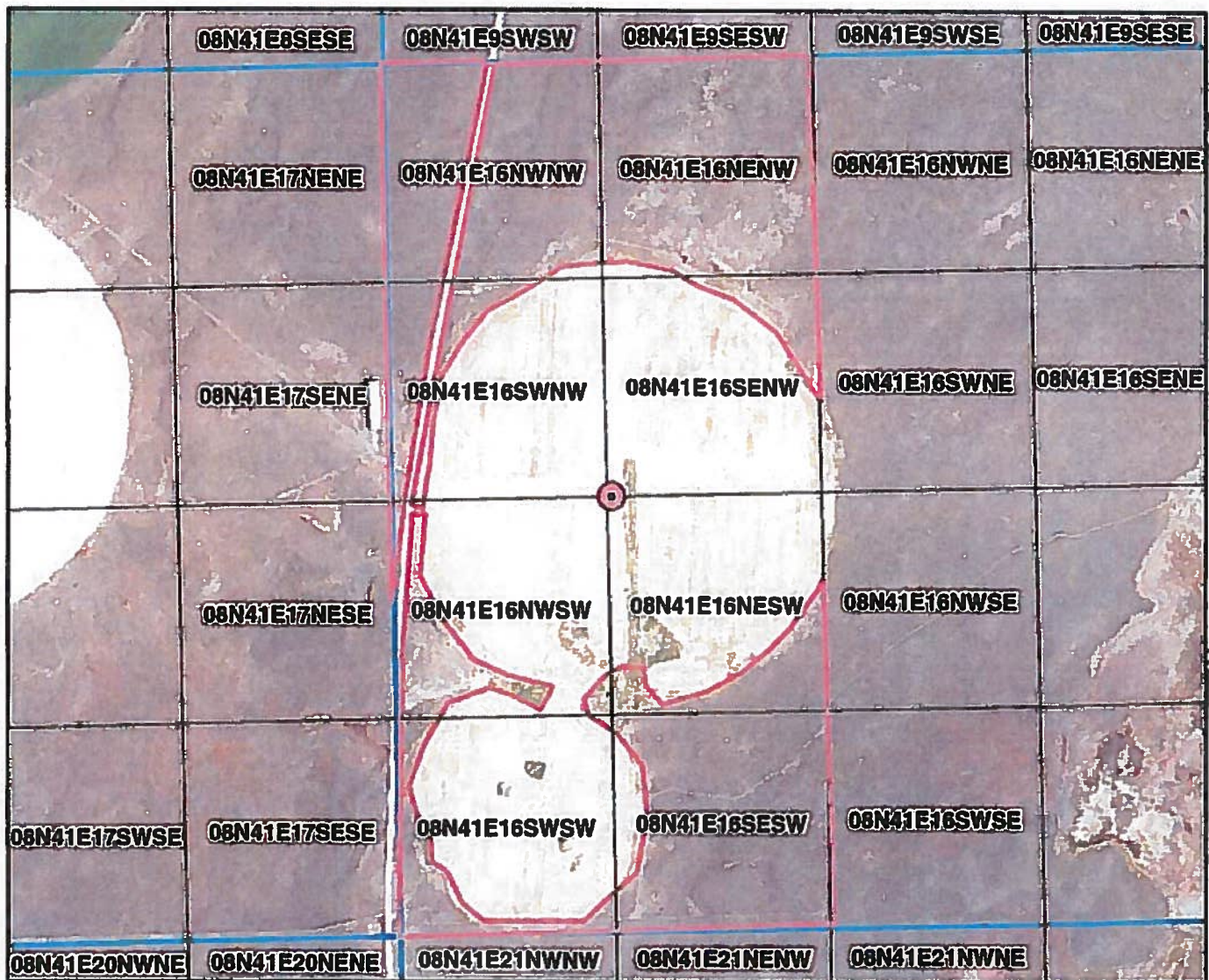
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments 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 after the following rental season.
11. The water right leased to the bank is 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. Use of water under this right is 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. 100.

Idaho Water Resource Board Water Supply Bank Lease

21-7007

Effective until December 31, 2018

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.



2013 USDA-FSA Aerial Photography

⊙ Approved Lease Point of Diversion

Approved Lease Place of Use

Townships

PLS Sections

Quarter Quarters



0 0.25 Miles



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 24, 2017

BKC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 21-7007**

Dear Renter:

Please find enclosed a receipt in the amount of **\$746.13** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 438.9 acre-feet of water for irrigation of 146.3 acres during 2017. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you are the owner of the right.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

for Water Supply Bank

Enclosures: Receipt No. C102922
Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office/Water District # 100
Rob Harris – Holden Kidwell Hahn & Crapo



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 9, 2017

BKC FARMS INC
1908 E 500 N
ST ANTHONY ID 83445

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 21-7007**

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

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of **\$7,461.30** was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 438.9 acre-feet. Since you are both the lessor and the renter of the right, **you are only obligated to pay the 10% administrative fee or \$746.13.** An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please send a check for \$746.13 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

for Water Supply Bank

Enclosure

c: IDWR Front Desk
Robert Harris – Holden Kidwell Hahn & Crapo PLLC

MEMORANDUM

To: Right(s) 21-7007
From: Michele Edl
Date: January 5, 2017
Re: Review & Analysis of BKC Farms Inc Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: This application replaces the April 21, 2016 rental application submitted by Mr. Robert Harris (attorney with Holden, Kidwell, Hahn & Crapo PLLC) on behalf of Unit 2 LLC.

This application proposes to rent a portion of 21-7007 for the 2017 irrigation season. The applicant, BKC Farms Inc, also owns the right and has leased a portion of it into the WSB for 2016-2018.

AUTHORITY TO FILE: The proposed place-of-use is property owned by BKC Farms LLC. The proposed POD is within that property and is WMIS well #200636 (Neagle Place). Mr. Harris signed the application as representative for BKC Farms Inc.

WATER RIGHT VALIDITY: A portion Water Right 21-7007 is proposed for rent from the bank for the 2017 irrigation season. A sufficient quantity of the irrigation use appears to have been idled.

INJURY TO OTHER WATER RIGHTS: No injury is anticipated. In essence, the lease-rental of WR 21-7007 by BKC Farms will concentrate the decreed rate of 0.01 cfs/ac up to the standard rate of 0.02 cfs. The rented water (1.83 cfs, and 438.9 af, appurtenant to 146.3 acres) will be stacked to supply two pivots on an existing 156.7-acre PPU.

ENLARGEMENT OF USE: No enlargement is anticipated. The decreed, the leased and the rental locations have the same NOU and the same non-standard SOU. Only the quantities of WR 21-7007 which are idled will be authorized for use at the rental POU.

The proposed POU is within the authorized POU for Egin Bench Canals Inc and could potentially be irrigated by surface water.

A review of 2016 satellite imagery indicates that the pivot corners were idled as proposed. The imagery also shows that the rental POU was irrigated.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased-rented right is subject to Water District 100. The WD 100 watermaster and the Eastern Region were not opposed to the rental.

Edl, Michele

From: Cefalo, James
Sent: Tuesday, January 03, 2017 8:56 AM
To: Edl, Michele
Subject: RE: Self-serve lease-rental 21-7007

Michele,

I don't have any concerns with the proposed WSB Lease/Rental.

James

From: Edl, Michele
Sent: Thursday, December 29, 2016 3:10 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Self-serve lease-rental 21-7007

James

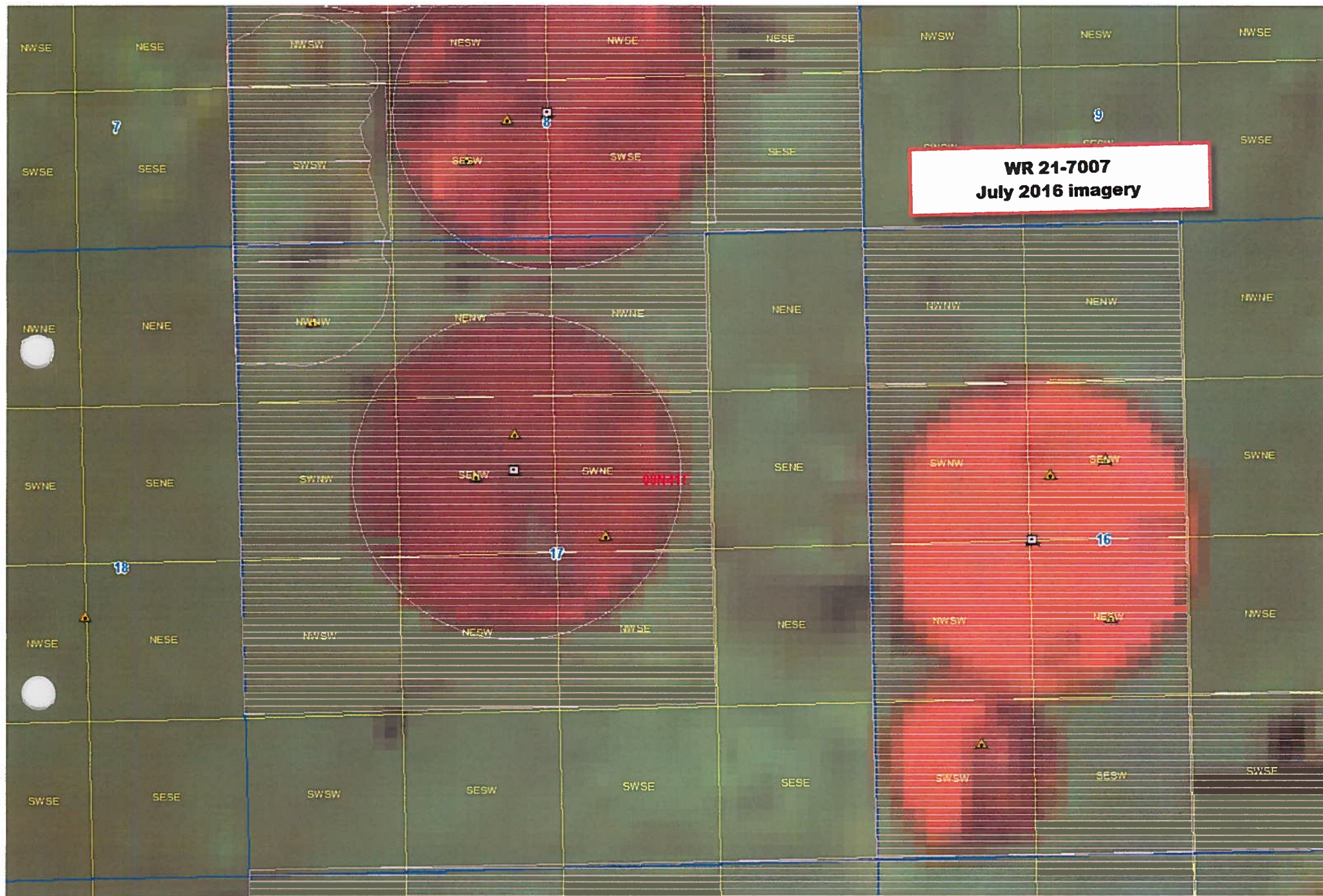
I have completed my review of the WSB rental package that Rob Harris submitted on behalf of BKC Farms. BKC Farms is in essence concentrating their own water right 21-7007 for diversion and use under 2 pivots located in sec 16, T8N, R41E.

I have attached my memo and a screenshot which shows the leased POU (colored pale green) surrounding the rental POU.

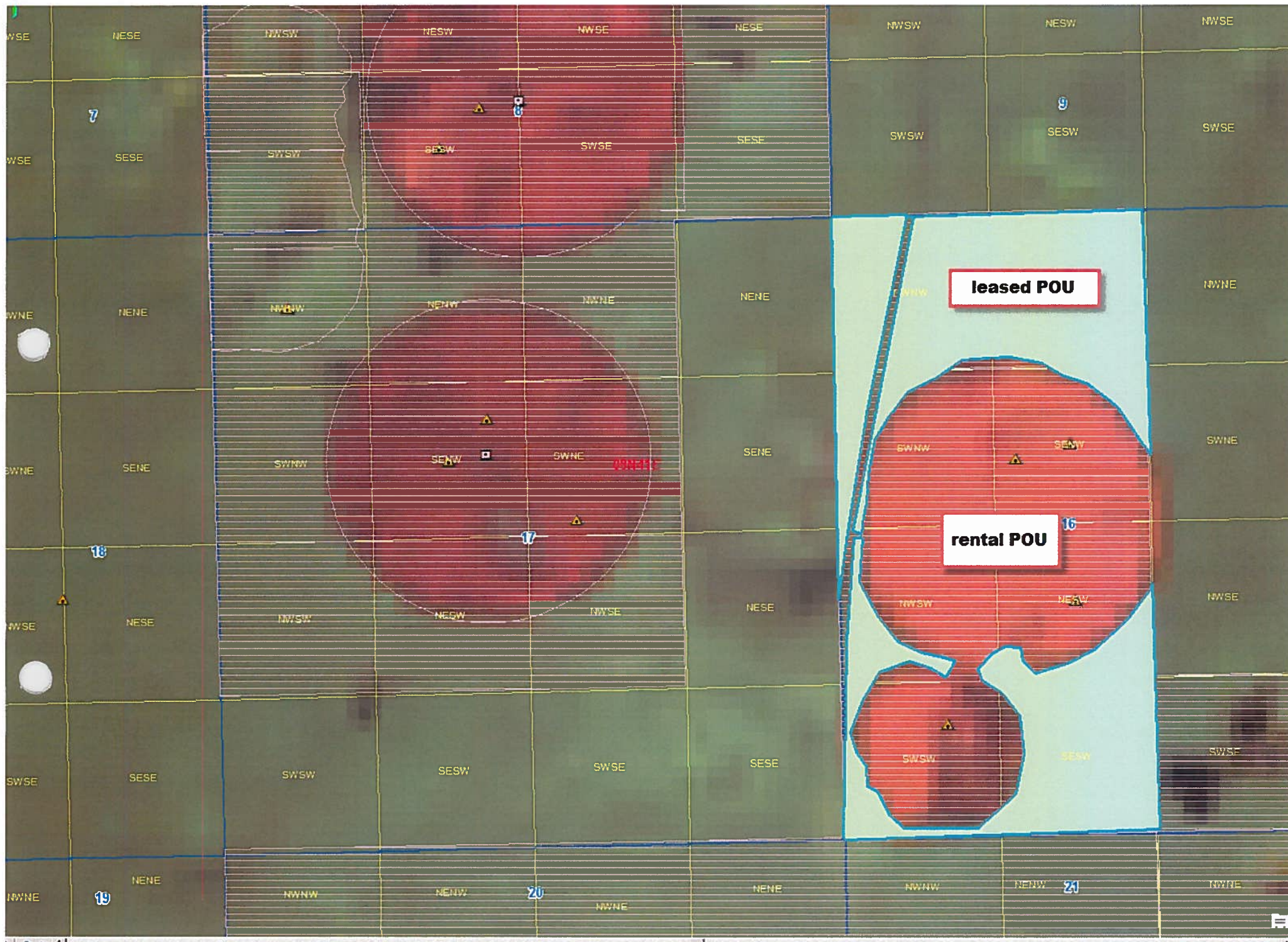
When you get a minute, please let me know if you have any concerns.

Michele Edl
208-287-4946

Water Right No.	Rented Vol (AF)	Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$17 (2017)	Rental Amounts			Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$20 (2018-2022)
					Rate	Acres				
21-7007	438.9	\$0.00	\$746.13	\$746.13	1.83	146.30				
Total	438.9	\$0.00	\$746.13	\$746.13	1.83	146.30		\$0.00	\$0.00	\$0.00
calculated by Michele Edl										
21-7007	rate	volume	acre	af/ac	cfs/ac	trimester vol				
dred	3.78	909	303	3.00	0.01			decreed rate is thin		
requested to lease	1.98	477	159	3.00	0.01			some acres were found not irrigable		
leased	1.83	438.9	146.3	3.00	0.013					
available	1.83	438.9	146.3							
Unit 2 LLC BKC FARMS	1.83	438.9	146.3							
remaining	0	0	0		rental availability depleted					



WR 21-7007
July 2016 imagery





Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

RECEIVED

DEC 19 2016

DEPARTMENT OF
WATER RESOURCES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

December 16, 2016

Michelle Edl
Idaho Water Supply Bank
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: *Application to Rent Water from the Idaho Water Supply Bank Submitted on Behalf of BKC Farms, Inc. to Rent 21-7007 That It Previously Leased to the Idaho Water Supply Bank.*

Dear Michelle:

Enclosed for processing is an *Application to Rent Water* from the Idaho Water Supply Bank. As described in the application, the applicant proposes to rent the 146.3 acre portion of the water right already offered into the Water Supply Bank. The applicant placed the water right portion in the Idaho Water Supply Bank to protect it from forfeiture due to uncertain application of forfeiture laws in the non-irrigation of the 146.3 acres. To ensure that there is still an adequate diversion rate associated with the remaining 156.7 acres, the applicant desires to rent the water back for a year until an appropriate measurement can be undertaken to ensure that the applicant is not violating any component of its water right.

Because the applicant is also the renter of the portion of Water Right No. 21-7007 that has already been accepted into the Idaho Water Supply Bank, we have indicated in the rental application that this is being submitted as a lease/rental package.

We previously submitted a rental request for mitigation purposes, and asked for additional time to see whether that application should be processed. Please replace that application with the enclosed application.

If you have any questions or concerns, please let me know. We appreciate your attention to this matter.

Best Regards,

Robert L. Harris

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

Established in 1896

Edl, Michele

From: Edl, Michele
Sent: Friday, November 18, 2016 1:26 PM
To: 'Rob Harris'
Subject: RE: Unit 2 LLCs 2016 application to rent from the WSB
Attachments: DOC009.pdf

Rob Harris,

I have been instructed to grant this request for an extension of time, but we do need quite a bit of information before we can complete the processing of the rental. The attached PDF is an early-bird copy of a letter which will be mailed asap.

Sincerely,
Michele Edl

From: Rob Harris [<mailto:rharris@holdenlegal.com>]
Sent: Wednesday, November 16, 2016 11:32 PM
To: Edl, Michele
Subject: RE: Unit 2 LLCs 2016 application to rent from the WSB

Michelle:

Unit 2 LLC would like to lease 21-7007 in 2017, but is reviewing where it would like to have the water utilized. We do not want others to rent it, however, while the decisions are made on where to lease it. Is it possible for you to retain the application for 30 days while those decision are made? It is possible that they may want to rent it solely for mitigation purposes, but it may also be needed elsewhere.

Thanks,

Rob Harris

From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Monday, November 14, 2016 12:06 PM
To: Rob Harris
Subject: FW: Unit 2 LLCs 2016 application to rent from the WSB

Mr. Harris,

I have not received a response to this email from you, on behalf of Unit 2 LLC or from Unit 2 LLC. The rental application does not provide me with either phone number or email for Unit 2 LLC. So I left you a voice mail message this morning.

The attached PDF is an early-bird copy of a letter which will be mailed from the State Office of IDWR either later today or tomorrow.

Respectfully,
Michele Edl
208-287-4946

From: Edl, Michele
Sent: Monday, November 07, 2016 1:22 PM
To: 'Rob Harris'
Subject: Unit 2 LLCs 2016 application to rent from the WSB

Mr. Harris,

I have been assigned to review the application to rent water from that Water Supply Bank that you submitted on behalf of Unit 2 LLC. IDWR received it on April 21, 2016 but I have been assigned to process it for the 2017 season.

Before I begin, I wish to confirm your client's continued interest in this rental. At your next convenient minute, would you please either respond to this email or give me a call with a update of your clients interest.

Thank you.

Michele Edl

208-287-4946



State of Idaho

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER

Governor

November 18, 2016

UNIT 2 LLC
435 N 1500 E
ST ANTHONY ID 83445

RESPONSE DEADLINE

December 19, 2016

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO
RENT WATER FROM THE WATER SUPPLY BANK**

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

Dear Applicant:

On November 14, 2016, the Department of Water Resources ("department") requested confirmation of your continued interest in an application to rent water from the Water Supply Bank ("bank") for 2016.

On November 16, 2016, your representative Rob Harris, confirmed your continued interest in renting water rights during 2017. He also requested that the department retain your application for an additional thirty (30) days while you determine where to best utilize water in 2017.

The department is granting you 30 days to provide the following information that must be reviewed to continue processing your application:

- The reason why a rental is needed. How is Unit 2 LLC currently using water and for what purpose(s) is mitigation required? (If Unit 2 LLC's current use of water does not presently require active mitigation, the rental should be for mitigation.)
- The place(s) of use and point(s) of diversion where rented water rights will be used.
- Modeling of the impacts that the rental will have on the Eastern Snake Plain Aquifer. (If you are renting ground water rights, complete modeling of your rental using the ESPA Transfer Tool.)

Please provide the above required information within (30) days. If sufficient information is not received on or before December 19, 2016, your application will be returned and you will need to re-file your application for any future rental purposes.

Sincerely,

Michele D Edl
Senior Water Resource Agent

ec ROBERT HARRIS
HOLDEN KIDWELL HAHN & CRAPO

Edl, Michele

From: Rob Harris [rharris@holdenlegal.com]
Sent: Wednesday, November 16, 2016 11:32 PM
To: Edl, Michele
Subject: RE: Unit 2 LLCs 2016 application to rent from the WSB

Michelle:

Unit 2 LLC would like to lease 21-7007 in 2017, but is reviewing where it would like to have the water utilized. We do not want others to rent it, however, while the decisions are made on where to lease it. Is it possible for you to retain the application for 30 days while those decision are made? It is possible that they may want to rent it solely for mitigation purposes, but it may also be needed elsewhere.

Thanks,

Rob Harris

From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Monday, November 14, 2016 12:06 PM
To: Rob Harris
Subject: FW: Unit 2 LLCs 2016 application to rent from the WSB

Mr. Harris,

I have not received a response to this email from you, on behalf of Unit 2 LLC or from Unit 2 LLC. The rental application does not provide me with either phone number or email for Unit 2 LLC. So I left you a voice mail message this morning.

The attached PDF is an early-bird copy of a letter which will be mailed from the State Office of IDWR either later today or tomorrow.

Respectfully,
Michele Edl
208-287-4946

From: Edl, Michele
Sent: Monday, November 07, 2016 1:22 PM
To: 'Rob Harris'
Subject: Unit 2 LLCs 2016 application to rent from the WSB

Mr. Harris,

I have been assigned to review the application to rent water from that Water Supply Bank that you submitted on behalf of Unit 2 LLC. IDWR received it on April 21, 2016 but I have been assigned to process it for the 2017 season.

Before I begin, I wish to confirm your client's continued interest in this rental. At your next convenient minute, would you please either respond to this email or give me a call with a update of your clients interest.

Thank you.
Michele Edl
208-287-4946

Edl, Michele

From: Rob Harris [rharris@holdenlegal.com]
Sent: Monday, November 14, 2016 12:14 PM
To: Edl, Michele
Subject: RE: Unit 2 LLCs 2016 application to rent from the WSB

Michele:

I was out of the office all last week on vacation. I am getting through my emails and voicemails. If you could hold off on sending the letter, that would be great. I will look at this this afternoon.

Thanks,

Rob Harris

From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Monday, November 14, 2016 12:06 PM
To: Rob Harris
Subject: FW: Unit 2 LLCs 2016 application to rent from the WSB

Mr. Harris,

I have not received a response to this email from you, on behalf of Unit 2 LLC or from Unit 2 LLC. The rental application does not provide me with either phone number or email for Unit 2 LLC. So I left you a voice mail message this morning.

The attached PDF is an early-bird copy of a letter which will be mailed from the State Office of IDWR either later today or tomorrow.

Respectfully,

Michele Edl
208-287-4946

From: Edl, Michele
Sent: Monday, November 07, 2016 1:22 PM
To: 'Rob Harris'
Subject: Unit 2 LLCs 2016 application to rent from the WSB

Mr. Harris,

I have been assigned to review the application to rent water from that Water Supply Bank that you submitted on behalf of Unit 2 LLC. IDWR received it on April 21, 2016 but I have been assigned to process it for the 2017 season.

Before I begin, I wish to confirm your client's continued interest in this rental. At your next convenient minute, would you please either respond to this email or give me a call with a update of your clients interest.

Thank you.

Michele Edl
208-287-4946



State of Idaho

DEPARTMENT OF WATER RESOURCES

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 14, 2016

RESPONSE DEADLINE

November 22, 2016

UNIT 2 LLC
435 N 1500 E
ST ANTHONY ID 83445

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO
RENT WATER FROM THE WATER SUPPLY BANK**

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

Dear Applicant:

The Department of Water Resources ("department") acknowledges receipt of your Application to Rent Water from the Water Supply Bank ("bank"). A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information within 7 days of the date of this letter or the rental application will be returned:

- Confirm continued interest in a rental of WR 21-7007 for the 2017 irrigation season.

Please provide the required information within seven (7) days. If sufficient information is not received on or before November 22, 2016, your application will be returned to you unprocessed and you will have to re-file your application.

Sincerely,

Michele Edl
Senior Water Resource Agent

ec: ROB HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC

Water Right No.	Rented Vol (AF)	Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$17 (2017)	Rental Amounts		Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$20 (2018-2022)
					Rate	Acres			
21-7007	438.9	\$6,715.17	\$746.13	\$7,461.30	1.83	146.30			
Total	438.9	\$6,715.17	\$746.13	\$7,461.30	1.83	146.30	\$0.00	\$0.00	\$0.00
regulated by Ele Edl									
21-7007	rate	volume	acre	af/ac	cfs/ac	trimester vol			
leased	1.83	438.9	146.3	3.00	0.012508544	146.30			
available	1.83	438.9	146.3						
Unit 2 LLC	1.83	438.9	146.3						
remaining	0	0	0		rental availability depleted				
					rate is thin				
					continued interest in 2017 rental not confirmed 11/8/2016				



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

October 4, 2016

UNIT 2 LLC
435 N 1500 E
ST ANTHONY ID 83445

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

On April 21, 2016 the Idaho Department of Water Resources (Department) received your application to rent water from the Water Supply Bank (Bank) for irrigation during 2016. A letter was sent on April 26, 2016 informing you it was unlikely the application would be processed. Since the Department was not able to process your application prior to the latest possible start date of the proposed rental period, your application will be retained by the Department to process for the 2017 season.

If you have any questions regarding this matter, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

c: Robert Harris – Holden Kidwell Hahn Crapo



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

April 26, 2016

UNIT 2 LLC
435 N 1500 E
ST ANTHONY ID 83445

RE: APPLICATION(S) TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of your application(s) to rent water from the Idaho Water Resource Board's Water Supply Bank (Bank) (for mitigation). Filing a Bank rental application does not automatically result in approval. Before a rental application can be approved, the rental request must be reviewed, a rental agreement must be prepared, the agreement must be approved by the applicant and the Department, and the rental fee must be paid. To maximize the number of rental applications processed while managing competing priorities, the Department begins accepting rental applications on November 1 for use in the next calendar year, and it processes as many applications as it can before the start of the irrigation season in March or April. Once the irrigation season begins, Department staff members are reassigned to address field work and other duties. Consequently, few rental applications are processed after May 1.

Because your application was received near the beginning of the irrigation season, which is now well underway, it is unlikely the Department will be able to process your application in time for approval in 2016 unless you have proposed a start date late in the year. If your application was for 2016 only and the latest possible start date on your application has passed, the application may be returned to you. If your application requests a rental for more than one year, the rental application may be retained by the Department and evaluated for 2017.

In future years, we encourage you to file your rental applications as soon as possible after November 1 to improve the chances that they will be processed.

Additional information about the Bank may be found on the Department's website at <http://idwr.idaho.gov/water-supply-bank/>.

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

Sincerely,

Water Supply Bank

C: Robert Harris – Holden Kidwell Hahn & Crapo



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

RECEIVED

APR 21 2016

DEPARTMENT OF
WATER RESOURCES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

April 18, 2016

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: *Application to Rent Portion of Water Right No. 21-7007 Filed on Behalf of Unit 2 LLC.*

Ladies and Gentlemen:

Enclosed for processing is an *Application to Rent Water from the Board's Water Supply Bank* filed on behalf of Unit 2 LLC. Unit 2 LLC seeks to rent the portion of Water Right No. 21-7007 that was accepted into the Idaho Water Supply Bank previously. The purpose for which the water will be rented is for mitigation purposes. This means that the water will not be moved anywhere, but the applicant would like to use the water for potential mitigation purposes associated with the Surface Water Coalition delivery call, if necessary.

If you have any questions or concerns, please do not hesitate to contact me at 523-0620.

Best Regards,

For

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

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