

# WATER SUPPLY BANK LEASE CONTRACT No. 417

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

**LESSOR:** IDAHOAN FOODS LLC  
PO BOX 130  
LEWISVILLE, ID 83431-0130

**RECEIVED**

**JAN 10 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 16, 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)  |
|------------------------------|---------------|--------------|----------------------|-----------------------|-------------|
| 31-7128                      | 7/30/1974     | GROUND WATER | 0.220                | 64.10                 | 0.00        |
| <b>Combined Limit Totals</b> |               |              | <b>0.220</b>         | <b>64.10</b>          | <b>0.00</b> |
| <b>Combined Lease Totals</b> |               |              | <b>0.220</b>         | <b>64.10</b>          | <b>0.00</b> |

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

**Minimum Payment Acceptable:** Current Rental Rate

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



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

**LESSOR:** IDAHOAN FOODS LLC

PO BOX 130

LEWISVILLE, ID 83431-0130

By Leo Herbert  
Title Corporate Environmental Manager  
Date 1-9-17

**IDAHO WATER RESOURCE BOARD**

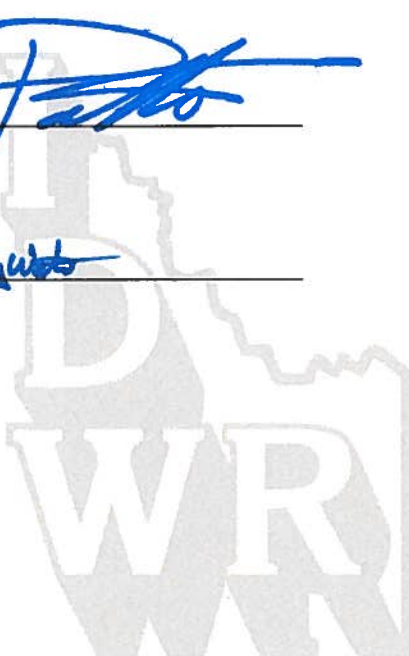
322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By Brian Patton Date 1/13/2017  
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Lease approved by IDWR August Date 1-13-2017



**ATTACHMENT A**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**  
**FOR LEASE CONTRACT NO. 417**

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): 31-7128**

GROUND WATER      NWNW      Sec. 28      Twp 09N      Rge 36E      CLARK County

| Water Right    | Beneficial Use | Season of Use |    |       | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
|                |                | From          |    | To    |                      |             |
| 31-7128        | COMMERCIAL     | 10/15         | to | 08/31 | 0.200 cfs            | 63.50 AF    |
|                | DOMESTIC       | 01/01         | to | 12/31 | 0.020 cfs            | 0.60 AF     |
| <b>Totals:</b> |                |               |    |       | 0.220 cfs            | 64.10 AF    |

**PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 09N | 36E | 16  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.0    |
| 09N | 36E | 21  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.0    |
| 09N | 36E | 22  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.0    |
| 09N | 36E | 27  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.0    |
| 09N | 36E | 28  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.0    |

**PLACES OF USE TO BE IDLED UNDER THIS LEASE: DOMESTIC**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 09N | 36E | 28  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 0.0    |

**ADDITIONAL CONDITIONS OF ACCEPTANCE**

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).

6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
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 quantity of water for domestic use under this right shall not exceed 2,500 gallons per day.
13. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
14. Commercial use is for a potato processing plant.
15. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the commercial facility as authorized by this water right.
16. 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. 110.

# Idaho Water Resource Board Water Supply Bank Lease

31-7128 and 31-7489  
Effective until December 31, 2017

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 0.25 0.5 Miles

STATE OF IDAHO  
WATER RESOURCE BOARDRECEIVED  
DEC 16 2016  
DEPARTMENT OF  
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT  
TO THE WATER SUPPLY BANKDesignated Applicant Idahoan Foods LLC

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

Water Right No. 31-7128

(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](http://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](http://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: 12/16/16Receipt # C102791W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

407

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 Idahoan Foods LLC

|                                   |                   |                      |          |
|-----------------------------------|-------------------|----------------------|----------|
| Mailing Address <u>PO Box 130</u> | <u>Lewisville</u> | ID <u>83431-0130</u> |          |
| Street                            | City              | State                | Zip Code |

Email Address \_\_\_\_\_ Phone Number 208-754-4600

☒ 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 Kristin Moore Organization Rocky Mountain Environmental Associates

Professional Title Senior Water Right Analyst Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

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

OR

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

**2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK**

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

OR

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

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

**3. MAP**

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

STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**4. GENERAL INFORMATION**

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

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

- B. Please provide a description of the current water diversion and delivery system.  
Water has been diverted from wells and used in a potato processing plant. Wastewater is then delivered through mainline to adjacent fields for irrigation.

- 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. Water right no. 31-7489 is also being offered to the Bank. Both rights are described for the same facility and the same acreage for delivery of wastewater.

- 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. BLF Land LLC owns the acreage where wastewater is applied. There are existing water rights appurtenant to those acres. The facility will not receive water from any other source.

- 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. This right is fully consumptive when the facility is in operation. However, the facility has not been in operation for several years.

- 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. The facility has not been in operation since 2009. However, the water rights have been protected through the Water Supply Bank to prevent forfeiture.

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

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

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

The Designated Applicant acknowledges the following:

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

Leo Herbert  
Signature of Designated Applicant

Leo Herbert  
Printed Name

12-13-16  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: IDAHOAN FOODS LLC

RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.  
482 Constitution Way 303  
Idaho Falls, ID 83402  
(208) 524-2353 / (208) 524-1795 Fax

The following are designated representative of Rocky Mountain Environmental Associates, Inc.:

John R. Rice, Jr. \_\_\_\_\_ President  
W. Roger Warner \_\_\_\_\_ Vice-President  
Keith C. Wilson \_\_\_\_\_ Senior Water Rights Analyst  
Kristin M. Moore \_\_\_\_\_ Senior Water Rights Analyst \_\_\_\_\_ (PRIMARY CONTACT)  
Chad Jensen \_\_\_\_\_ Staff Water Rights Analyst

This authorizes these individuals to act as Representatives on behalf of Idahoan Foods LLC. These representatives may submit information for Idahoan Foods LLC but are not authorized to sign on their behalf. This designation is only for the Water Banking of the following water rights:

- 31-7128
- 31-7489

Leo Herbert

Signature

Leo Herbert

Printed Name

12-13-16

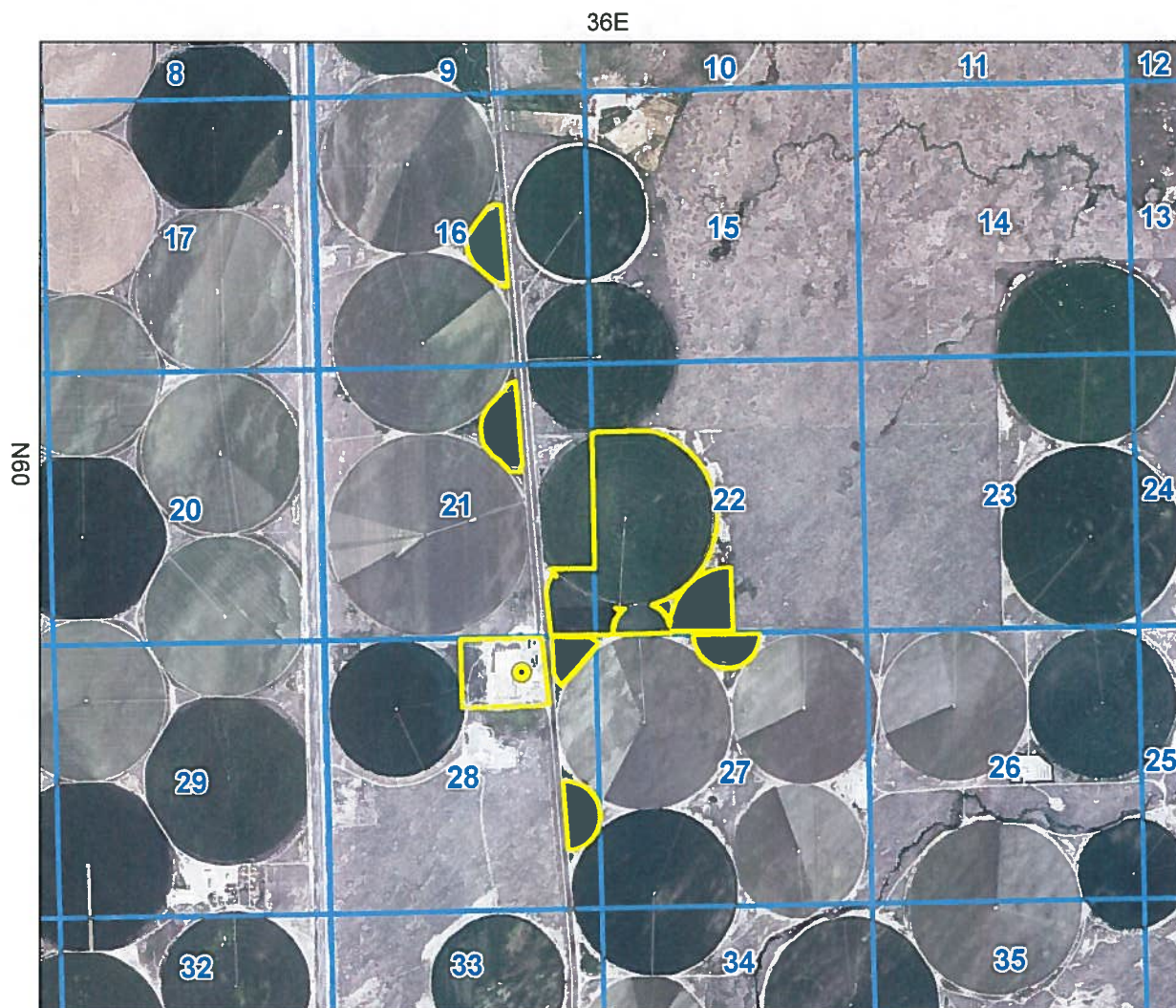
Date

State of Idaho  
Department of Water Resources

**Water Right**  
**31-7128**

COMMERCIAL

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



0 0.425 0.85 1.7 Miles

- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections



State of Idaho  
Department of Water Resources

**Water Right**  
**31-7128**

DOMESTIC

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

January 18, 2017

IDAHOAN FOODS LLC  
PO BOX 130  
LEWISVILLE ID 83431-0130

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 31-7128**

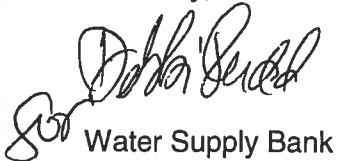
Dear Lessor:

Water right **31-7128** was leased into the Water Supply Bank (Bank) as of December 16, 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](http://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: Kristin Moore – Rocky Mountain Environmental  
James Cefalo - IDWR Eastern Region/Water District 110



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

December 30, 2016

IDAHOAN FOODS LLC  
PO BOX 130  
LEWISVILLE ID 83431-0130

### RE: APPLICATIONS TO LEASE WATER RIGHT 31-7128 and 31-7489 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,

*Jan Hershby*  
for Water Supply Bank

Enclosure: Proposed Lease Contracts

c: Rocky Mountain Environmental Assoc. Inc

## Hersley, Jean

---

**From:** Cefalo, James  
**Sent:** Tuesday, January 03, 2017 8:54 AM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease Applications for Idahoan Foods

Jean,

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

James

**From:** Hersley, Jean  
**Sent:** Friday, December 30, 2016 9:59 AM  
**To:** Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Subject:** WSB Lease Applications for Idahoan Foods

Please let me know if you have any comments or concerns. Thank you.

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

31-7128  
31-7489  
  
SCANNED

**WATER SUPPLY BANK**
**Agent Lease Review Checklist**
**Applicant(s) Name:** Idahoan Foods LLC

**Memo Date:** 12/30/2016

**Water Right Number(s):** 31-7128 & 31-7489

**Reviewers Name:** Jean

**Quick Tools**

| Decreed Year | No Forfeiture Concerns Thru: |
|--------------|------------------------------|
| 2009         | 2015                         |
| 2010         | 2016                         |
| 2011         | 2017                         |
| 2012         | 2018                         |
| 2013         | 2019                         |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Check box |    | COMMENTS/CONCERNS:                   |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----|--------------------------------------|
| 1  | Fill out WSB Data Entry Checklist for Leases                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | x         |    |                                      |
| 2  | Reason for lease of water rights (Brief description of lease proposal in narrative)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |           |    |                                      |
|    | Portion of right                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |           |    |                                      |
|    | All of right                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | x         |    |                                      |
| 3  | Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |    | ESPA                                 |
|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Yes       | No |                                      |
| 4  | Rentable? If no explain in comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | x         |    |                                      |
| 5  | Authority to file                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |           |    |                                      |
|    | Current owner or designated applicant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | x         |    |                                      |
|    | SOS Web site checked for business entity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | x         |    |                                      |
|    | Other (explain in comments)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | x         |    | Letter designating SPF to file these |
| 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?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |           | x  |                                      |
| 7  | Injury to other water rights                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |           |    |                                      |
|    | If the POD is through a delivery entity, was consent provided?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |           |    | na                                   |
|    | If the POD is through a delivery entity, was holdback required? (percentage in comments)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |           |    | na                                   |
| 8  | Enlargement concerns                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Check box |    |                                      |
|    | Complete a POU comparison overlap analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | x         |    |                                      |
|    | Complete a combined limits review                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | x         |    |                                      |
|    | Complete POD overlap analysis (if there is an overlap add condition to lease)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | x         |    |                                      |
|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Yes       | No |                                      |
|    | Are there overlapping rights that need to be placed in the bank also?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |           | x  |                                      |
|    | Will the place of use continue to receive water?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | x         |    | see narrative                        |
| 9  | Local Public Interest                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |           |    |                                      |
|    | Does the processor know of any problems this action will cause for the local public?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |           | x  |                                      |
| 10 | Have you contacted regional office and watermaster for comment/concerns?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | x         |    |                                      |
|    | Send the watermaster comment request form or e-mail request                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | x         |    | WD 110 James Cefalo                  |
| 11 | Area Headgate requirement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |    | 3.5                                  |
| 12 | Is water right involved in any other department action? Pull file and check database<br>( ) Ownership Change ( ) Transfer ( ) Mitigation ( ) Other - Explain in comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |           | x  |                                      |
| 13 | <b>Narrative:</b> This application was received from Rocky Mountain Environmental on behalf of Idahoan Foods LLC, the current water right owners. The applications offer the entire rights to the bank. The application was signed by Leo Hebert. He is the Corporate Environmental Manager at Idahoan Foods. The property where the company's waste water was applied for environmental compliance is owned by BLF Land LLC. This property will continue to be irrigated with the primary water rights for this land. These rights are commercial and domestic for the operation of a potato processing plant. These rights are fully consumptive when the facility is in operation but the facility has not been in operation since 2009. Water rights have been in the Bank so forfeiture is not an issue. |           |    |                                      |

## Field, Christine

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**From:** Kristin Moore [kristin.rmea@gmail.com]  
**Sent:** Tuesday, December 20, 2016 3:20 PM  
**To:** Field, Christine  
**Subject:** RE: W9 needed

Christine,

The W9 you have on file for the Idaho Falls address is the corporate office. That is the correct one. We use the Lewisville address for mailings because that is the office that handles all of the water right information.

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### Kristin Moore

Senior Water Rights Analyst

482 Constitution Way, Ste 303, Idaho Falls, ID 83402

E-Mail: [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)

VOICE: 208-524-2353 ||| FAX: 208-524-1795



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**From:** Field, Christine [<mailto:Christine.Field@idwr.idaho.gov>]  
**Sent:** Tuesday, December 20, 2016 3:15 PM  
**To:** [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)  
**Subject:** W9 needed

Hi Kristin,

The Lease that was submitted for W/R 31-7128 for Idahoan Foods LLC needs to submit a W9.

We have a W9 on file for Idahoan Foods in Idaho Falls, but not in Lewisville.

Please check with your client and see if the W9 in Idaho Falls address will work for the Lewisville address. It may be the same tax number or it may be a different reporting tax number.

We will need a current W9 or confirmation from you on the correct W9 before this lease can be processed.

A W9 form is attached for your convenience.

Regards,

*Christine field*  
*Water Supply Bank Support*