

WATER SUPPLY BANK LEASE CONTRACT No. 326

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

LESSOR: US DEPT OF AGRICULTURE
FOREST SERVICE
324 25TH ST
OGDEN, UT 84401

RECEIVED

DEC 20 2016

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 November 22, 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)
71-2004D	10/23/1909	FOURTH OF JULY CREEK, tributary to SALMON RIVER	0.500	35.10	11.70
71-10772	8/15/1933	FOURTH OF JULY CREEK, tributary to SALMON RIVER	0.400	35.10	11.70
Combined Limit Totals			0.900	35.10	11.70
Combined Lease Totals			0.900	35.10	11.70

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
71-2004D	0.380	23.40	11.70	0.032	2.00
71-10772	0.290	23.40	11.70	0.025	2.00
Combined Limit Totals	0.670	23.40	11.70	0.077	3.00

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

SUPPORT DATA

IN FILE # 71-2004D

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, 2021. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

LESSOR: US DEPT OF AGRICULTURE
FOREST SERVICE
324 25TH ST
OGDEN, UT 84401

By [Signature]
Title DIRECTOR OF LANDS & MINERALS
Date 12-16-16

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 12/22/2016

Lease approved by IDWR [Signature]

Date 12-22-2016

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 326**

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): 71-2004D, 71-10772

FOURTH OF JULY CREEK SESWSE Sec. 10 Twp 08N Rge 14E CUSTER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
71-2004D	IRRIGATION	5/01	to	10/31	0.500 cfs	35.10 AF
71-10772	IRRIGATION	5/01	to	10/31	0.400 cfs	35.10 AF
71-2004D	STOCKWATER	5/01	to	10/31	0.020 cfs	35.10 AF
Totals:					0.900 cfs	35.10 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	14E	9											0.1	11.6					11.7

Total Acres: 11.7

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER 71-2004D

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	14E	9											X	X					

ADDITIONAL CONDITIONS OF ACCEPTANCE

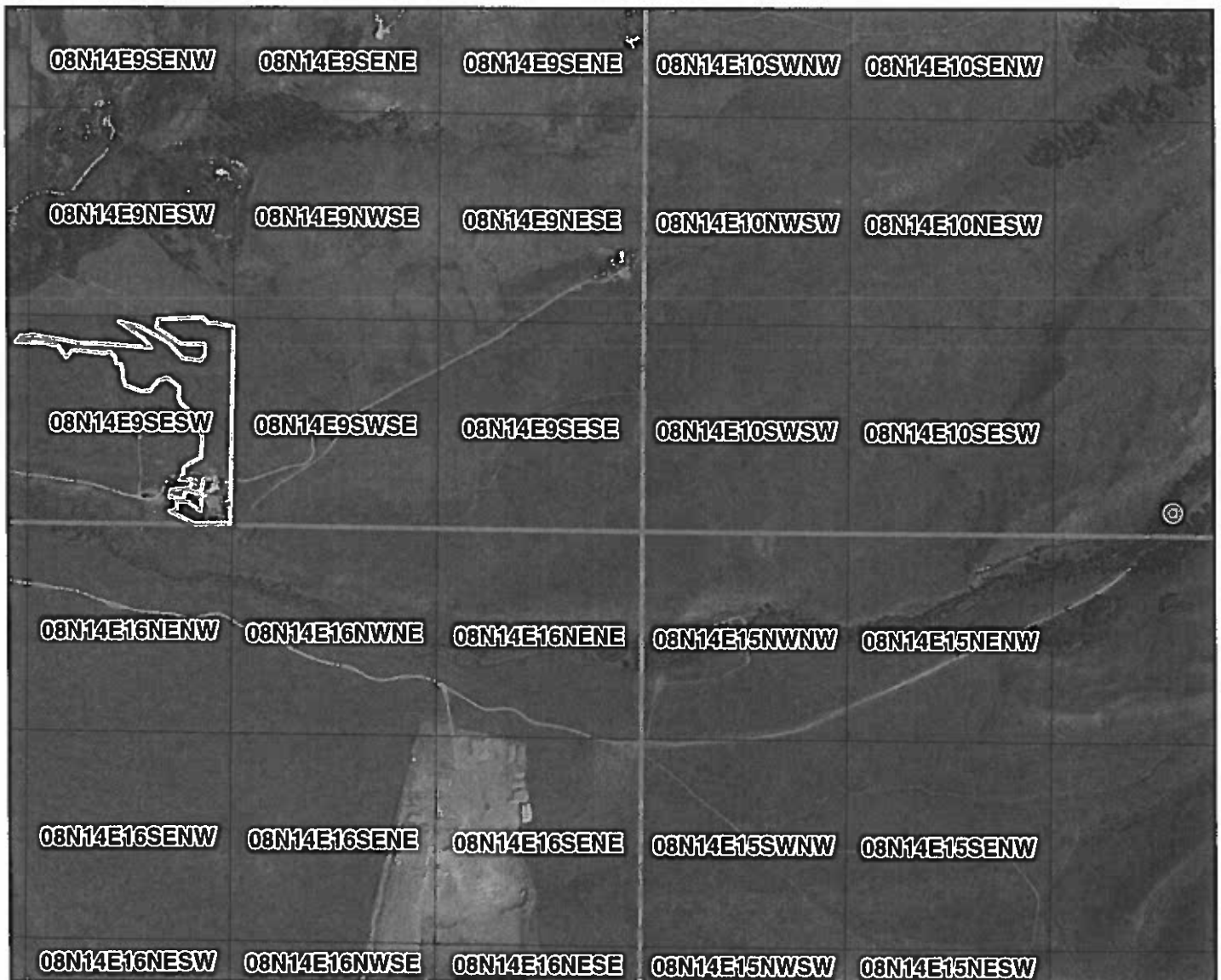
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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. Water Right nos. 71-02004D and 71-10772 are limited to the irrigation of a combined total of 11.7 acres in a single irrigation season.
13. The following rights are diverted through point of diversion described above: 71-02004D, 71-02014, 71-10772 & 71-10762. 0.04 cfs of this right is used for conveyance loss.
14. The following water rights from the following sources of water in Basin 71 shall be administered separately from all other water rights in Basin 71: water right no. Source none none the following water rights from the following sources of water in Basin 71 shall be administered separately from all other water rights in the Snake River Basin: water right no. Source none none all water rights within Basin 71 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
15. The following rights are diverted through point of diversion described above: 71-02004D, 71-02014, 71-10772 & 71-10762.
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. 71.

Idaho Water Resource Board
Water Supply Bank Lease

71-2004D & 71-10772
Effective until December 31, 2021

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



⊙ Approved Lease Point of Diversion

□ Approved Lease Place of Use

□ Townships

□ PLS Sections

□ Quarter Quarters



0 0.25 0.5 Miles

12/9/2016

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	US DEPT OF AGRICULTURE FOREST SERVICE 324 25TH ST OGDEN, UT 84401 (801) 625-5809

Priority Date: 8/15/1933
Basis: Deceased
Status: Active
Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
FOURTH OF JULY CREEK	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/31	0.400 CFS	
	Total Diversion		0.400 CFS	

<u>Source and Point(s) of Diversion</u>		
FOURTH OF JULY CREEK	SESWSE	Sec. 10, Twp 08N, Rge 14E, CUSTER County

Place Of Use
IRRIGATION within CUSTER County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
08N	14E	9											0.1	11.6					11.7

POU Total Acres: 11.7

Conditions of Approval:

- | | | |
|----|-----|--|
| 1. | | USE OF THIS RIGHT WITH RIGHT NO. 71-02004D IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 11.7 ACRES IN A SINGLE IRRIGATION SEASON. |
| 2. | C13 | THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 71: WATER RIGHT NO. SOURCE NONE NONE
THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN: WATER RIGHT NO. SOURCE NONE NONE ALL WATER RIGHTS WITHIN BASIN 71 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY. |
| 3. | C18 | 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. |
| 4. | | FOREST SERVICE RECORD ID = 041417060201490046 0 THE FOLLOWING RIGHTS ARE DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 71-02004D, 71-02014, 71-10772 & 71-10762. |

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 71-10772

12/9/2016

STOCKWATER IS FOR 20 HEAD OF RANGE CATTLE OR HORSES.
0.04 CFS OF THIS RIGHT IS USED FOR CONVEYANCE LOSS.

Comments:

1. AMERRITT 5/14/1998 COPIED FROM REMARKS
FOREST SERVICE RECORD ID = 04 14 17060201 49 0 0046 ADMINISTRATIVE PASTURE,
SAWTOOTH VALLEY WORK CENTER. USE OF THIS RIGHT WITH RIGHT NO. 71-02004D
IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 23.4 AF,
AND TO THE IRRIGATION OF A COMBINED TOTAL OF 11.7 ACRES IN A SINGLE
IRRIGATION SEASON. 0.11 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT AND 71-02004D. THE FOLLOWING RIGHTS ARE
DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE AND THE TOTAL
COMBINED RATE OF DIVERSION OF THESE RIGHTS IS LIMITED TO 5.32 CFS. RIGHTS:
71-02004D, 71-02014, 71-10762 & 71-10772.
2. AJU10-DS 7/21/1998 AJU10 CONDITION UPDATE
CONDITION CODE(S) C13 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.
3. AJU10-DS 6/19/2000 AJU10 CONDITION UPDATE
CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.
4. mcase 8/30/2004 POD
Correlated PODID 395365 from SpatialDataID 343663 to SpatialDataID 298999
5. kpickett 12/14/2005 POD
Correlated PODID 395365 from SpatialDataID 367635 to SpatialDataID 343663
6. dmaline 11/29/2016 Address Change
See additional info scanned under 71-41 regarding address change.

Dates and Other Information

Decreed Date: 3/16/1999
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 71
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		11.7
71-2004D ,71-10772		

SubCase:

N/A

Water Supply Bank:

Lessor Name: UNITED STATES OF AMERICA ACTING THROUGH

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 71-10772

12/9/2016

Lease Status: Active
Lease Amount: All
Rental Availability: All
Date Received: 12/11/2008
Lease Begin Date: 1/1/2009
Expiration Date: 12/31/2016