

WATER SUPPLY BANK LEASE CONTRACT

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

LESSOR: IDAHO SHAKESPEARE FESTIVAL
PO BOX 9365
BOISE ID 83407
208-429-9908

RECEIVED

JAN 25 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. On December 16, 2015, the Lessor filed an application to lease the water right 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 RIGHT:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water right described as follows:

Summary of Water Right or Portion Leased to the Bank

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
63-31833	6/1/1865	BOISE RIVER	SNAKE RIVER	0.19 cfs	42.8 af	9.5 ac

Lease Totals	0.19 cfs	42.8 af	9.5 ac
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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, 2016 to December 31, 2020. 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. **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.

IDAHO SHAKESPEARE FESTIVAL

PO BOX 9365
BOISE ID 83407

By 

Printed Name MARK HOFFLUND

Date 1/21/16

Title MANAGING DIRECTOR

IDAHO WATER RESOURCE BOARD

322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

By 

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 1/26/2016

Lease approved by IDWR 

Date 1-26-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO. 63-31833

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

Lessor: IDAHO SHAKESPEARE FESTIVAL
PO BOX 9365
BOISE ID 83407
208-429-9908

Location of Point(s) of Diversion for Water Right 63-31833

BOISE RIVER SESE Sec. 29, Twp 03N, Rge 03E, ADA County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
63-31833	IRRIGATION	03/01	to 11/15	0.19 cfs	42.8 af
Total:				0.19 cfs	42.8 af

Place of Use to be Idled Under This Lease: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	03E	28											2.7 L2						2.7
03N	03E	28										0.2	0.5						0.7
03N	03E	29																3.4 L1	3.4
03N	03E	29													0.4			2.3	2.7

Total Acres: 9.5

Conditions Applicable to Leased Water Right

1. The water right 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. 63.
13. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
14. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.
15. 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.
16. Transfer No. 71032 transferred 10 acres under this right to be used within a 30.5 acre permissible place of use at the Idaho Shakespeare Festival grounds in the SWSW, Sec. 28, and SESE, Sec 29, T3n, R3E. These acres are within the digital boundaries for the Boise Valley Irrigation Ditch Company.
17. The unleased portion of this right is limited to the irrigation of 0.5 acres and a diversion rate of 0.01 cfs in a single irrigation season.

Idaho Water Resource Board
Water Supply Bank Lease

63-31833

Effective until December 31, 2020

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



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

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

DEC 16 2015

DEPARTMENT OF
WATER RESOURCES

Designated Applicant Idaho Shakespeare Festival
(Select one owner – see item 1A on the application)

Water Right No. 63-31833
(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 <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☐ | ☒ | Written consent from irrigation district or water delivery company. |
| 4G | ☐ | ☒ | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ 250.00Received By: J. StrangeDate Received: 12-16-15Receipt # C101303W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Idaho Shakespeare Festival

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 Idaho Shakespeare Festival, Inc.

Mailing Address <u>520 South 9th Street, PO Box 9365</u>	Boise	ID	83707
Street	City	State	Zip Code
Email Address <u>mark@idahoshakespeare.org</u>	Phone Number <u>(208) 429-9908</u>		

☐ 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 <u>Michael C. Creamer</u>	Organization <u>Givens Pursley LLP</u>
Professional Title <u>Attorney</u>	Email Address <u>mcc@givenspursley.com</u>
Mailing Address <u>601 W. Bannock St, Boise, ID 83702</u>	Phone Number <u>208-388-1247</u>

☐ 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.

Metered pump diversion from Barber Pool to pressurized irrigation system serving Shakespeare Festival venue

- 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 63-31198 also is authorized for irrigation of up to 5.5 acres within the 30.5 acre permissible place of use at the Idaho Shakespeare Festival grounds in the SWSW, S28 and SESE, S29, T3N, R1E

- 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.

- 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. The offered water right has been in the IWRB Water Supply Bank for the previous five 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 water rights have been in the IWRB Water Supply Bank for the previous five years.

- 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: 2015 to 2020 (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. ISF requests prior notice from IWRB if this right is to be rented for a period greater than one year at a time.

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

The Designated Applicant acknowledges the following:

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


Signature of Designated Applicant

Idaho Shakespeare Fest. by Mark Hofflund
Printed Name

12/15/15
Date


Signature of Authorized Representative

Michael C. Creamer
Printed Name

12/15/15
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

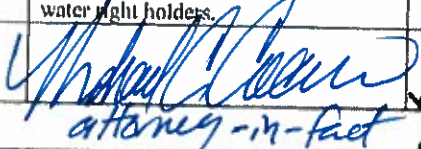
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 63-31833

	Designated Applicant	Applicant #2	Applicant #3
Name	Idaho Shakespeare Festival, Inc.	Boise Valley Irrigation Ditch Co	
Mailing Address	PO Box 9365 Boise, ID 83707	~~8730 N. Bogart Lane~~ 8850 Horseshoe Bend Rd Boise, ID 83714	
Phone Number	(208) 429-9908	(208) 853-5288	
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature	 <i>attorney-in-fact</i>	 <i>Pres.</i>	

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

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

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>63-31833</u>	<u>Irrigation</u>	<u>0.19</u>	<u>22.4</u>	<u>9.5</u>
	Total Amounts:	<u>0.19</u>	<u>22.4</u>	<u>9.5</u>

2. Source of water Boise River tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
3N	3E	29	1	SE	SE		Ada

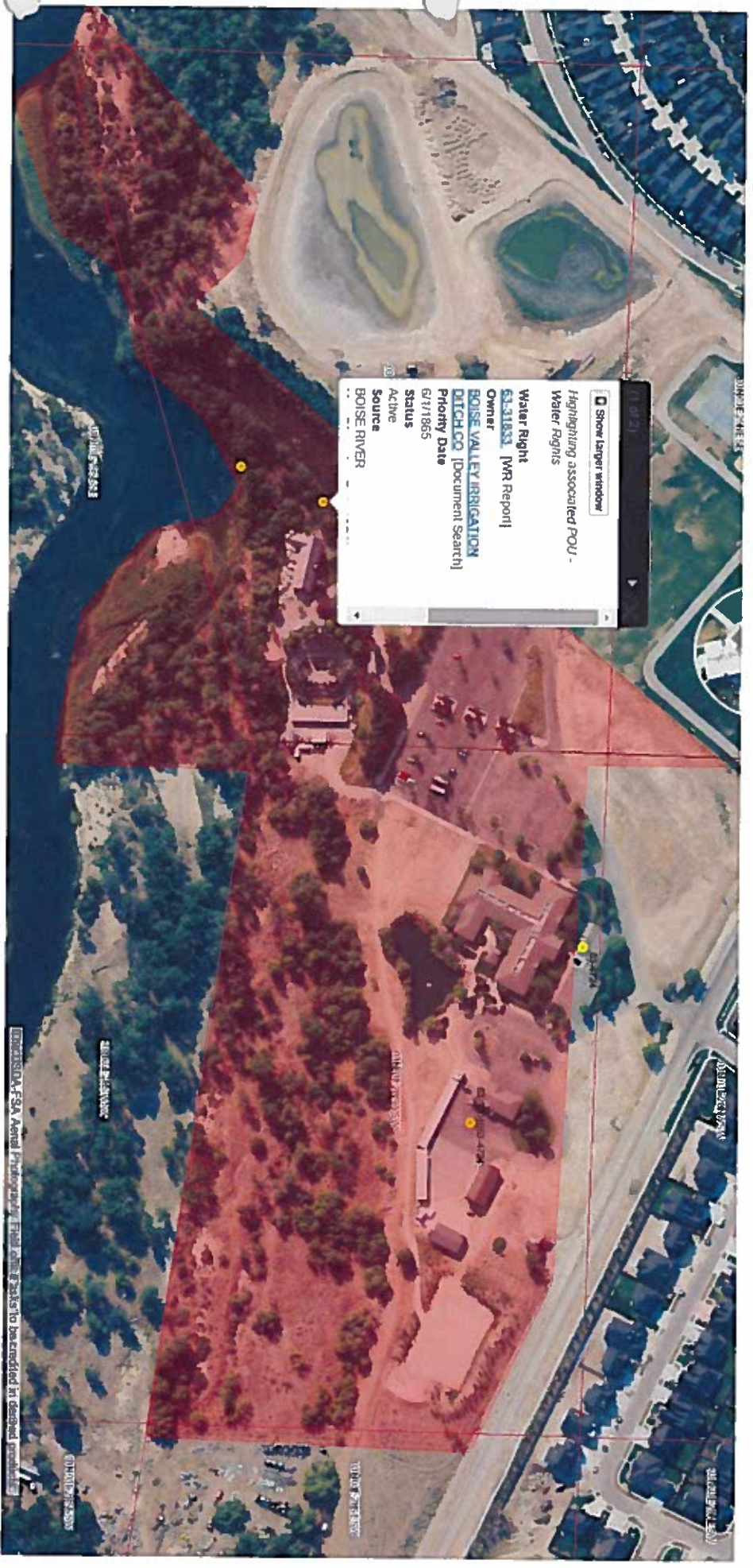
Attachment 3(A)
Water Bank Application
63-81833

Areas that will continue
to be irrigated outlined
in yellow



Attachment 3(B)
Water Bank Application
63-31833

30.5 acre PPU for
63-31833 and 63-31198



ORIGINAL

**SPECIAL POWER OF ATTORNEY
FOR WATER RIGHTS**

Idaho Shakespeare Festival, Inc. ("ISF"), whose mailing address is P.O. Box 9365, Boise, Idaho 83707, hereby appoints the attorneys of Givens Pursley LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho, 83701, as its true and lawful attorneys for the purpose of signing on its behalf any of the following documents submitted by ISF to the Idaho Department of Water Resources, including any amendments thereto:

1. Notice of Change of Water Right Ownership;
2. Request for extension of time to commence an appropriation, to submit proof of beneficial use for a water right permit, to avoid forfeiture or to satisfy any other condition or requirement affecting a water right or permit;
3. Notice of Protest;
4. Application for Transfer of a Water Right;
5. Proof of Beneficial Use;
6. Mitigation plans;
7. Application to Sell or Lease a Water Right to the Water Supply Bank;
8. Application for Temporary Approval of a Water Application;
9. Application for Permit to Appropriate;
10. Any pleading, letter or other document in support or furtherance of any of the above.

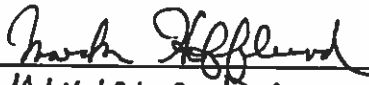
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by ISF.

For purposes of the exercise of the powers herein granted, the facsimile signature of said attorneys shall be lawful and binding and any person may rely upon such facsimile signature as if it were an original.

IN WITNESS WHEREOF, I have executed this Special Power of Attorney on behalf of Idaho Shakespeare Festival, Inc., effective as of the last date noted.

Idaho Shakespeare Festival, Inc.

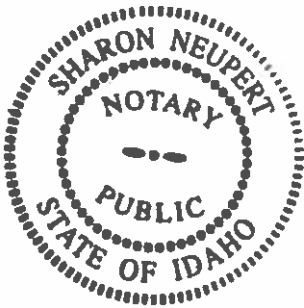
Dated: 12/3/15

By: 
Its: MANAGING DIRECTOR

ACKNOWLEDGMENT

State of Idaho)
) ss.
County of ADA)

On this 3 day of DECEMBER, in the year of 2015, before me Sharon Neupert, a notary public, personally appeared Mark Hofflund, known or identified to me to be the Managing Director of **IDAHO SHAKESPEARE FESTIVAL, INC.**, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Sharon Neupert
Notary Public for GIVENS PURSLEY - STATE OF IDAHO
Residing at BOISE ID
My Commission Expires FEB 22, 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

January 27, 2016

GARY SPACKMAN

Director

IDAHO SHAKESPEARE FESTIVAL

PO BOX 9365

BOISE ID 83707

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 63-31833

Dear Lessor:

Water right **63-31833** was leased into the Water Supply Bank (Bank) as of December 16, 2015, 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, 2020**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.

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

Sincerely,

Clay Webster

Water Resource Agent

WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Michael Creamer – Givens Pursley
Angie Grimm - IDWR Western Region
Rex Barrie – Water District 63 Boise River

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
Facsimile: 208-388-1300
www.givenspursley.com

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Neal A. Koskella
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Christopher H. Meyer
L. Edward Miller

Patrick J. Miller
Judson B. Montgomery
Deborah E. Nelson
W. Hugh O'Riordan, LL.M.
Michael O. Roe
P. Mark Thompson
Jeffrey A. Warr
Robert B. White

Angela M. Reed, of counsel

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

January 22, 2016

RECEIVED

JAN 25 2016

DEPARTMENT OF
WATER RESOURCES

Jean Hersley
Technical Records Specialist II
Idaho Department of Water Resources
The Idaho Water Center
322 E Front Street
Boise, ID 83702

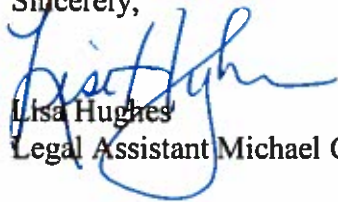
Re: *Idaho Shakespeare Festival – Water Supply Bank Lease Contract*

Dear Jean:

Enclosed please find two (2) executed Water Supply Bank Lease Contracts regarding Idaho Shakespeare Festival's water supply bank lease for water right No. 63-31833

Please contact Mike Creamer if you have any questions concerning this application.

Sincerely,



Lisa Hughes
Legal Assistant Michael C. Creamer

:lah
8000-23 / 6203743-1

Enclosures

cc: Mark Hofflund, Idaho Shakespeare Festival

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, January 13, 2016 1:53 PM
To: mcc@givenspursley.com
Subject: WSB Lease Contracts for Idaho Shakespeare Festival
Attachments: Idled Acres.pdf; Lease contract.docx

Mike,

Attached is the updated contract and map. Please print TWO of each and have your client sign both contracts and return them to the Department within 14 days. Below is the proposed contract letter that accompanies the contracts we send out. Thanks for your help with these contracts.

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

January 14, 2016

IDAHO SHAKESPEARE FESTIVAL
PO BOX 9365
BOISE ID 83407

RE: APPLICATIONS TO LEASE WATER RIGHT 63-31833 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, 2020**, 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 me at 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
Water Supply Bank Point of Contact

Enclosure: Proposed Lease Contracts
 Maps

c: Givens Pursley

Hersley, Jean

From: Michael C Creamer <mcc@givenspursley.com>
Sent: Wednesday, January 13, 2016 1:24 PM
To: Hersley, Jean
Subject: RE: WSB Lease for Idaho Shakespeare Festival [IWOV-GPDMS.FID405805]
Attachments: Lease contract (mcc highlights).DOCX

Jean,

I think this looks fine w/ the exceptions of the two items I have highlighted in the attached lease. The application was filed December 16, 2015. Also, the source is surface water from the Boise River, not groundwater.

If you would make those changes, I will forward to Mark Hofflund for signature and return to your attention.

Re: the mapping, I did not have a way to draw a map showing what was NOT to be irrigated within the PPU other than drawing one showing only what was to be irrigated within the PPU.

Mike

Michael C. Creamer
Givens Pursley LLP
601 W. Bannock St.
Boise, ID 83702
Direct: 208-388-1247
Main: 208-388-1200
Fax: 208-388-1300
www.givenspursley.com

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Wednesday, January 13, 2016 11:43 AM
To: Michael C Creamer
Subject: WSB Lease for Idaho Shakespeare Festival

Attached is a draft contract and a map outlining the idled acres for this lease. The map that accompanied the lease application had the acres that would continue to be irrigated. The Department needs a map of the idled acres so I created this hoping it was mostly correct. Please let me know how close I got. Thank you.

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

WATER SUPPLY BANK

Agent Lease Review Checklist

Applicant(s) Name: Idaho Shakespeare Festival

Memo Date: January 12, 2016

Water Right Number(s): 63-31833

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
2			Reason for lease of water rights (Brief description of lease proposal in narrative)
	☒		Portion of right
			All of right
3	☒		Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)
	☒	☐	Yes No
4	☒		Rentable? If no explain in comments
5			Authority to file
	☒		Current owner or designated applicant
		☒	SOS Web site checked for business entity
			Other (explain in comments)
6			Water Right validity
			Decreed/Licensed/Statutory claim date (write in comments section)
			Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)
	☒		Has this right previously been leased to the bank or in CREP?
7			Injury to other water rights
			If the POD is through a delivery entity, was consent provided?
			If the POD is through a delivery entity, was holdback required? (percentage in comments)
8			Enlargement concerns
	☒		Complete a POU comparison overlap analysis
	☒		Complete a combined limits review
	☒		Complete POD overlap analysis (if there is an overlap add condition to lease)
	☒	☐	Yes No
		☒	Are there overlapping rights that need to be placed in the bank also?
	☒		Will the place of use continue to receive water?
			portions not leased
9			Local Public Interest
		☒	Does the processor know of any problems this action will cause for the local public?
10	☒		Have you contacted regional office and watermaster for comment/concerns?
	☒		Send the watermaster comment request form or e-mail request
11			Area Headgate requirement
			4.5
12		☒	Is water right involved in any other department action? Pull file and check database
			() Ownership Change () Transfer () Mitigation () Other - Explain in comments
13			Narrative: Idaho Shakespeare Festival has filed on behalf of Boise Valley Irrigation Ditch Co. Mark Huffland, managing director, signed the application. Transfer 71032 transferred 10 acres under this right to be used within a 30.5 acre PPU at the Idaho Shakespeare Festival grounds. These acres are within the digital boundaries for this ditch company. Water right 63-31198 is also within the large POU but does not overlap with this right. Water right 63-31198 is limited to 5.5 acres within a 30.5 acre POU within a large PPU. Applicant wishes to place 9.5 acres in the Bank. Between water right 63-31833 and 63-31198, 6 acres will continue to be irrigated. Idaho Shakespeare Festival is the designated applicant. This right was decreed in 2009 but this portion has been in the Bank since 2010. Forfeiture is not an issue. Currently, this water right is within WD 63.



(<http://idahoshakespeare.org/>)



Festival Management



Charles Fee

PRODUCING ARTISTIC DIRECTOR

24th season with Idaho Shakespeare Festival. This season he will direct Frederick Knott's, *Dial "M" for Murder*. In prior seasons, he has directed Shakespeare's: *Romeo and Juliet*, *The Comedy of Errors*, *All's Well that Ends Well*, *Macbeth*, *Twelfth Night*, *Much Ado About Nothing*, *Henry the Fourth Part One*, *A*

Midsummer Night's Dream, *The Winter's Tale*, *The ... [Read More »](#)*



Mark Hofflund

MANAGING DIRECTOR

☎ 208-429-9908 x202 [email » \(mailto:mark@idahoshakespeare.org\)](mailto:mark@idahoshakespeare.org)

In his 23rd year with the Festival, Mark continues to appreciate Idaho's proud, neighborly and generous way of life. Mark's career began at The Old Globe under artistic director Jack O'Brien, producing director Tom Hall, and founding director Craig Noel, where he also held a board position with San Diego Performing ... [Read More »](#)



Brad Cote

ASSISTANT BOX OFFICE MANAGER

☎ 208-336-9221 [email » \(mailto:brad@idahoshakespeare.org\)](mailto:brad@idahoshakespeare.org)

In his third season with ISF, Brad has enjoyed being involved in a variety of departments. From House Management to Education, and he is very excited to be assisting in the Box Office. Brad is originally from New England, specifically the great state of New Hampshire. He has lived in ... [Read More »](#)

Taylor Davis

ASSISTANT MASTER GARDENER

GIVENS PURSLEY^{LLP}

Attorneys and Counselors at Law

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PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
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Gary G. Allen
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Christopher J. Beeson
Clint R. Bolinder
Erik J. Bolinder
Jeff W. Bower
Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
Bradley J. Dixon
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson

Brian J. Holleran
Kersti H. Kennedy
Dan E. Knickrehm
Neal A. Koskella
Debora K. Kristensen
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
Kenneth R. McClure
Kelly Greene McConnell
Alex P. McLaughlin
Melodie A. McQuade
Christopher H. Meyer
L. Edward Miller

Patrick J. Miller
Judson B. Montgomery
Deborah E. Nelson
W. Hugh O'Riordan, LL.M.
Michael O. Roe
P. Mark Thompson
Jeffrey A. Warr
Robert B. White

Angela M. Reed, of counsel

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

RECEIVED

DEC 16 2015

DEPARTMENT OF
WATER RESOURCES

December 16, 2015

VIA HAND DELIVERY

Cherie Palmer
Idaho Department of Water Resources
The Idaho Water Center
322 E Front Street
Boise, ID 83702

Re: *Idaho Shakespeare Festival – Water Supply Bank Lease*

Dear Cherie:

I am enclosing for your review and action an application to renew Idaho Shakespeare Festival's ("ISF") water supply bank lease for water right No. 63-31833, which has been in the bank the previous five years. Also enclosed are:

- a check in the amount of \$250 to cover the filing fee;
- A copy of a special power of attorney authorizing my law firm to execute the application and any related documents;
- A W-9 for ISF, which should be the recipient of any rental payments;

This water right is held in the name of Boise Valley Irrigation Ditch Company ("BVIDC") and is represented by BVIDC shares held by ISF. As with the previous water bank lease, the president of BVIDC has signed as "Applicant # 2" on Attachment 1A authorizing ISF to submit the application.

63-31833 (10 authorized acres) together with right 63-31198 (5.5 authorized acres) authorize the irrigation of a combined total of 15.5 acres within a 30.5-acre permissible place of use ("PPU"). The PPU encompasses property owned by ISF, and portions of adjacent property owned by the Idaho Department of Water Parks and Recreation and the Idaho Foundation for Parks and Lands. Attachments 3(A) to the application shows the approximately six acres of land

Cherie Palmer
December 16, 2015
Page 2

within the PPU that are and will continue to be irrigated with water right 63-31198 and the
unleased portion of 63-31833. Attachment 3(B) shows the boundary of the PPU. During the
term of the water bank lease, only the currently irrigated six acres will be irrigated within the
PPU.

Please contact me if you have any questions concerning this application.

Sincerely,



Michael C. Creamer

MCC/lah
8000-23 / 4552272-1

Enclosures

cc: Mark Hofflund, Idaho Shakespeare Festival
Bryce Farris, Sawtooth Law