

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED
JAN 05 2016

DEPARTMENT OF
WATER RESOURCES

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

LESSOR: JAMES HART
PO BOX 5321
CHUBBUCK, ID 83202
(208) 251-7092

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 November 9, 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
29-2395	2/28/1958	Ground Water	NA	2.82 cfs	1,148 af	287 ac

Lease Totals

2.82 cfs 1,148 af 287 ac

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2016 to December 31, 2018. 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

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JAN 05 2016
DEPARTMENT OF
WATER RESOURCES

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

JAMES HART
PO BOX 5321
CHUBBUCK, ID 83202

By James Hart
Printed Name JAMES HART

Date Jan 1, 16
Title partner

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

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

Date 1/7/2016

Lease approved by IDWR Chris Wiles

Date 1/7/2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO. 29-2395

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

Lessor: JAMES HART
PO BOX 5321
CHUBBUCK, ID 83202
(208) 251-7092

Location of Point(s) of Diversion for Water Right 29-2395

GROUND WATER SENESW Sec. 1, Twp 06S, Rge 34E, BANNOCK County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
29-2395	Irrigation	04/01	to 10/31	2.82 cfs	1,148 af
Total:				2.82 cfs	1,148 af

Place of Use to be Idled Under This Lease:

IRRIGATION within BANNOCK County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	34E	1									40.0	39.0	39.0	38.0		15.0			171.0
06S	34E	2													25.0	32.0	31.0	28.0	116.0

Total Acres: 287

Conditions Applicable to Leased Water Right

1. The water right referenced above will be rented from the bank at the current rental rate. 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.
2. 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.
3. 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.
4. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
5. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
6. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
7. 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.

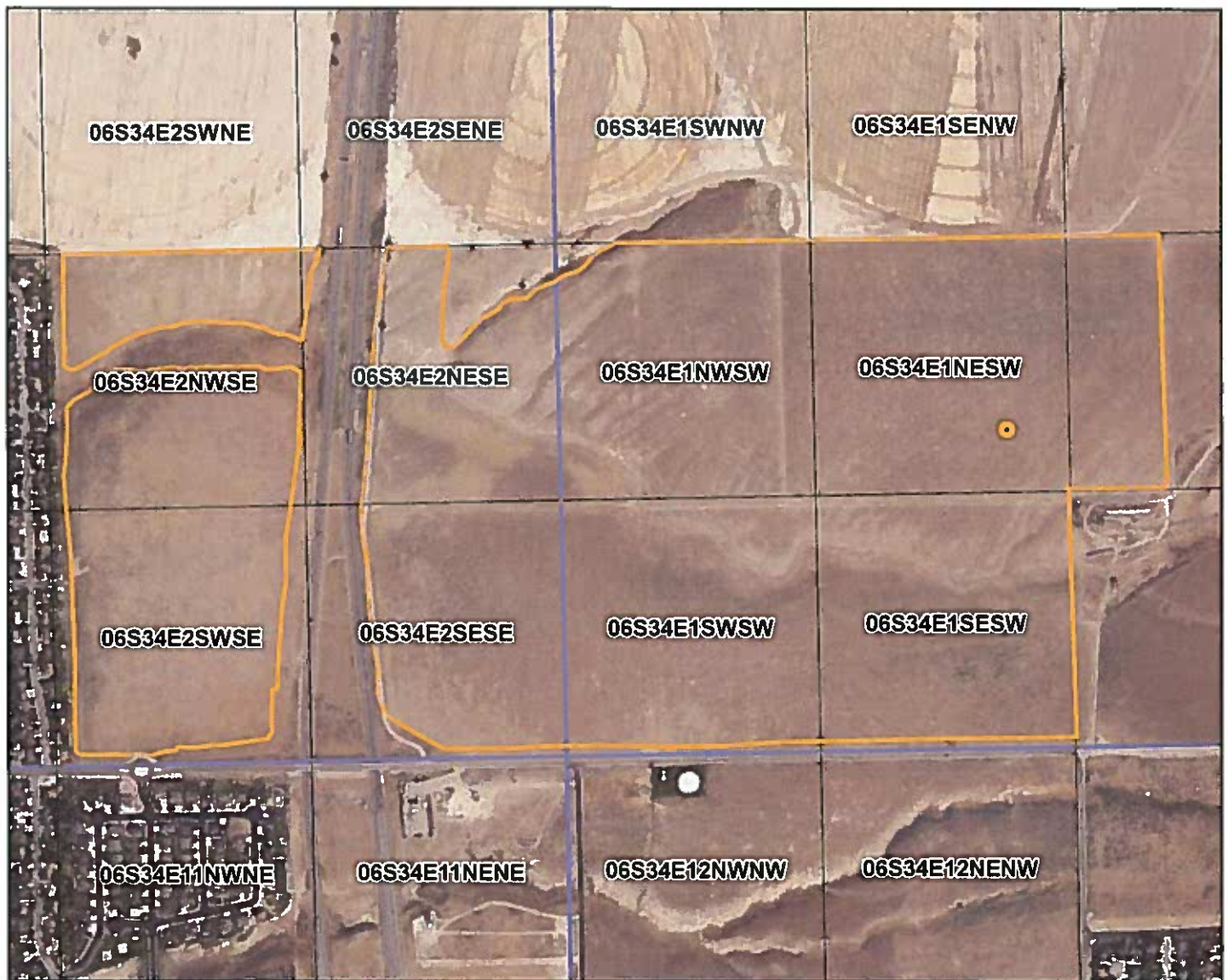
8. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
9. If a water right leased into 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.
10. 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.

Idaho Water Resource Board Water Supply Bank Lease

29-2395

Effective until December 31, 2018

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



2013 USDA-FSA Aerial Photography

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



0 0.25 0.5 Miles

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED

NOV 09 2015

DEPARTMENT OF
WATER RESOURCESDesignated Applicant David J. Hart, James W. Hart, Robert E. Hart

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

Water Right No. 29-2395

(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).
- 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 Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$

Received By:

Date Received:

Receipt #

W-9 received? Yes ☐ No ☐

(Route W-9 to Fiscal)

Name on W-9:

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 David J. Hart, James W. Hart, Robert E. Hart

Mailing Address <u>P.O. Box 5321</u>	<u>Chubbuck</u>	<u>ID</u>	<u>83202</u>
Street	City	State	Zip Code

Email Address _____ Phone Number (208) 251-7092

☒ 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 Monty Funk Organization County Line Farms

Professional Title Managing member Email Address monty@countylinefarms.com

Mailing Address P.O. Box 360 American Falls, ID 83211 Phone Number (208) 226-5207

☐ 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.

Existing well and distribution piping

- 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. none

- 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. 29-2395 authorizes 2.82 cfs and 1,148 afa for irrigation of 287 acres

- 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.

- 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
DEPARTMENT OF WATER RESOURCES

LESSOR DESIGNATION FORM

When multiple individuals or business entities jointly own property to which a water right is appurtenant, the parties can use this form to nominate a designated lessor to represent their common interests on a Water Supply Bank lease contract. The signatures of all water right holders are required on this form to elect a designated lessor. The designated lessor is required to provide a completed IRS Form W-9 to receive any payment associated with the rental of a water right under a Water Supply Bank lease contract. All correspondence and any financial payment associated with the rental of this water right will be directed to the designated lessor. If additional space is needed to list any other water right holders, attach a second copy of this Lessor Designation Form.

Water Right No(s). _____

	Designated Lessor	Water Right Co-owner	Water Right Co-owner
Name	James W Hart	David J. Hart	Robert E. Hart
Mailing Address	P.O. Box 5321 Chubbuck, ID 83202	Route 2 North Pocatello, ID 83202	4848 Pleasant View Drive Chubbuck, ID 83202
Phone Number	208-251-7092	_____	801-449-3645
Email Address	_____	_____	grandpa bob hart@gmail.com
Water Right Owner Declaration	As designated lessor, I will represent the interest of all other water right owners on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.
Signature	James W. Hart	Dave J Hart	Robert E Hart

	Water Right Co-owner	Water Right Co-owner	Water Right Co-owner
Name			
Mailing Address			
Phone Number			
Email Address			
Water Right Owner Declaration	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.
Signature			

RECEIVED

OCT 29 2015

 WSB No. 2041560
 Receipt No. 10/21/15 - SC
 Date/by 10/21/15 - SC
 (For Department Use Only)

RECEIVED

OCT 21 2015

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK
 Name of Seller/Lessor County Line Farms, C/O Monty & Carolene Funk Phone (208) 201-1200
 Mailing address P.O. Box 360 American Falls, ID 83211 Email mfunk@hostidaho.com

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, check here ☐, list the water right number, and skip to Part B.

1. Water Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use
29-2395	2.82 / 1148.0	Irrigation	4/1 to 10/31
			to
			to

Total Amount: 2.82 / 1148.02. Source of water Ground Water tributary to ESPA

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06S	34E	1		SE	NE	SW	Bannock

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	34E	1									40	39	39	38		15			171
															25	32	31	28	116

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 287

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☐ No ☒
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. 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 to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Existing well & distribution piping.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

none

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

Yes ☐ No ☒

If yes, describe. _____

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

Yes ☒ No ☐

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. Land was placed into CRP in 1997 through 2007 and the contract was extended through 2010 see attached CRP contract.

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

If yes, describe. _____

D. REQUIRED ITEMS

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

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

If lease, for a period from 04/01/2016 to 10-31-2016 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. 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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Signature of Applicant

Signature of Applicant

Monty Funk, Partner

Printed Name and Title*

Carolene Funk, Partner

Printed Name and Title*

Date

Date

10-14-201510-15-2015

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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

1. 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.

Dates:

Licensed Date:

Decreed Date: 03/22/2004

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Water Supply Bank:

DAVID J HART

HARRY R HARTWIGSEN

Lessor Name(s): JAMES W HART

LAUREL H TAYLOR

ROBERT E HART

Lease Status: Active

Lease Amount: 2.82

Rental Availability: None

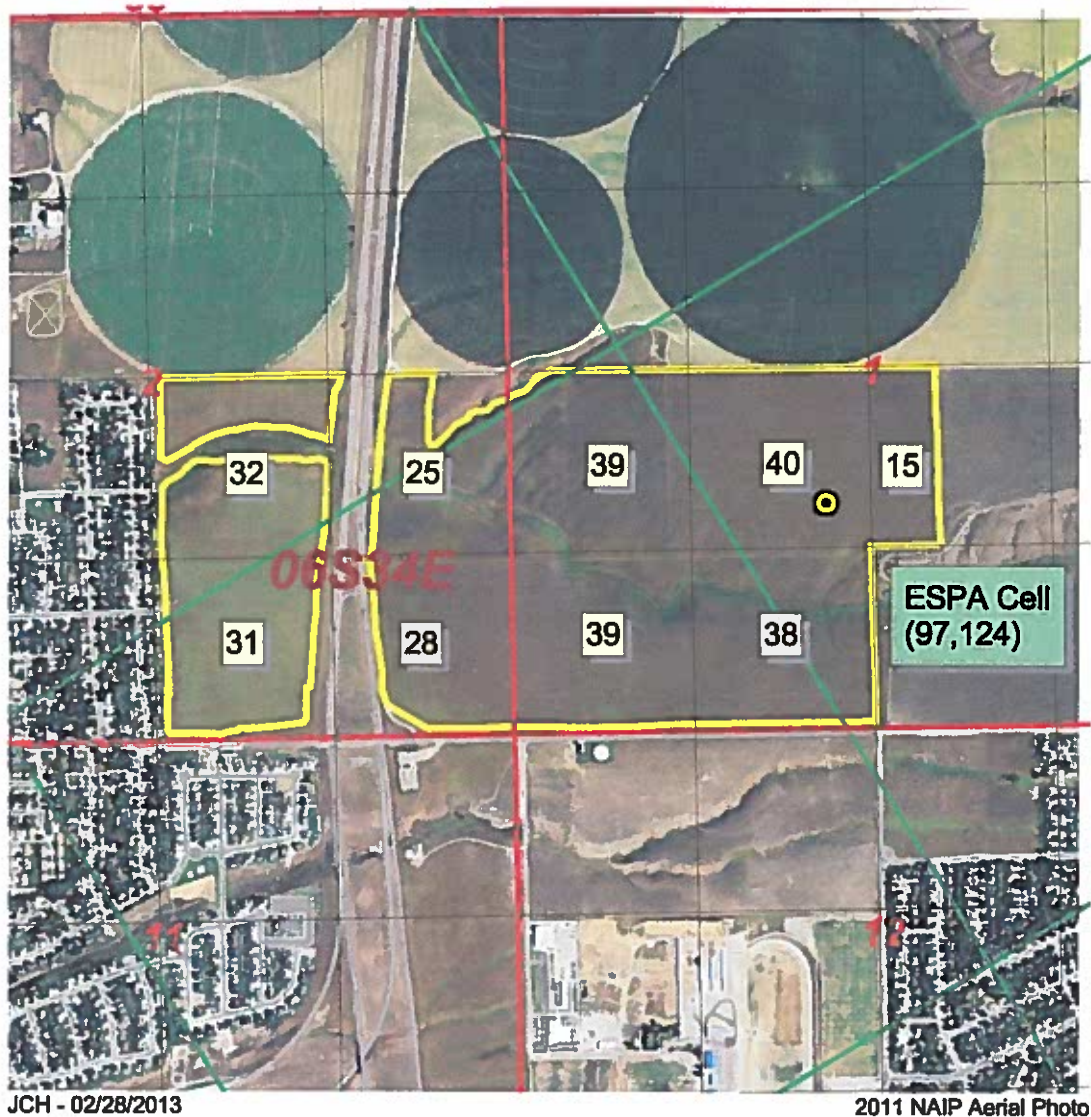
Date Received: 3/4/2013

Lease Begin Date: 3/4/2013

Expiration Date: 10/31/2015

Close

Application to Lease Water To The Water Supply Bank **29-2395, (6S, 34E, Section 1 & 2)**



0.25 0 0.25 0.5 0.75 Miles

- ⊙ Existing Point of Diversion
- Irrigation Place of Use (Yellow)
287.0 Total Acres
- ▬ Sections
- ▬ ESPA Model Grid
- ▬ 40s



**SPECIAL AGREEMENT ALLOWING AUTHORITY TO OFFER
A WATER RIGHT FOR LEASE TO THE IDAHO WATER SUPPLY BANK**

James W. Hart (Grantor1)

David J Hart (Grantor2)

Robert E Hart (Grantor3)

do hereby grant, unto County Line Farms sufficient authority to offer for lease to the Idaho Water Supply Bank the water rights (owned by the Grantors) as described in attached Exhibit 1 for a 2 year period beginning 4/1/2016 through the irrigation season ending 10/31/2018.

All proceeds resulting from rental of any portion of this water right are to be paid to the water right owner (Grantors).

IN WITNESS WHEREOF, the undersigned authorized officers of Grantor, acting on behalf of Grantor, have caused their names to be hereunto subscribed on the date shown by each name.

Grantor1 James W Hart

Signature

James W. Hart

Dated

10-15-2015

Grantor2 David J Hart

Signature

David J. Hart

Dated

10-15-2015

Grantor3 Robert E Hart

Signature

Dated

Exhibits: Attached

Exhibit 1: Water Right Report 29-2395

**SPECIAL AGREEMENT ALLOWING AUTHORITY TO OFFER
A WATER RIGHT FOR LEASE TO THE IDAHO WATER SUPPLY BANK**

James W. Hart (Grantor1)

David J Hart (Grantor2)

Robert E Hart (Grantor3)

do hereby grant, unto County Line Farms sufficient authority to offer for lease to the Idaho Water Supply Bank the water rights (owned by the Grantors) as described in attached Exhibit 1 for a 2 year period beginning 4/1/2016 through the irrigation season ending 10/31/2016.

All proceeds resulting from rental of any portion of this water right are to be paid to the water right owner (Grantors).

IN WITNESS WHEREOF, the undersigned authorized officers of Grantor, acting on behalf of Grantor, have caused their names to be hereunto subscribed on the date shown by each name.

Grantor1 James W Hart Signature _____

Dated _____

Grantor2 David J Hart Signature _____

Dated _____

Grantor3 Robert E Hart Signature Robert Hart

Dated Oct 15, 2015

Exhibits: Attached

Exhibit 1: Water Right Report 29-2395



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 8, 2016

JAMES HART
PO BOX 5321
CHUBBUCK ID 83202

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 29-2395

Dear Lessor:

Water right 29-2395 was leased into the Water Supply Bank (Bank) as of November 9, 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, 2018**, 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,

Sandra Thiel
Sr. Water Resource Agent

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Monty Funk - County Line Farms



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 22, 2015

JAMES HART
PO BOX 5321
CHUBBUCK ID 83202

RE: APPLICATIONS TO LEASE WATER RIGHT 29-2395 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, 2018**, 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 287-4881.

Sincerely,

Sandra Thiel
Sr. Water Resource Agent

Enclosure: Proposed Lease Contracts

WATER SUPPLY BANK

Agent Lease Review Checklist

Applicant(s) Name: David, Robert and James Hart

Memo Date: December 10, 2015

Water Right Number(s): 29-2395

Reviewers Name: Sandra Thiel

Quick Tools

Decreed Year	Forfeiture Tolloed Thru
2009	2015
2010	2016
2011	2017
2012	2018
2013	2019

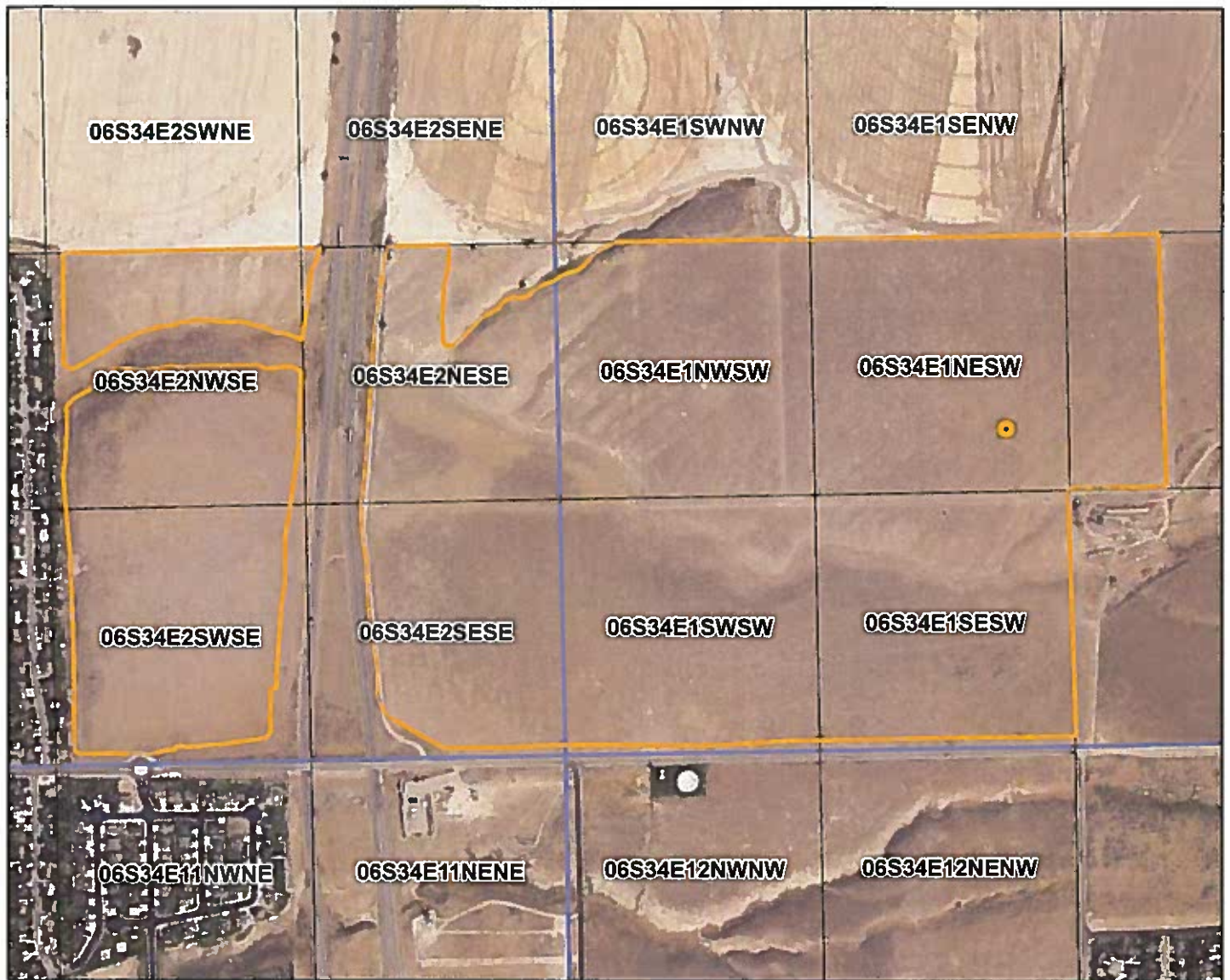
		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases	✓		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right			
	All of right	✓		
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	✓		Non Trust Water area
4	Rentable? If no explain in comments	Y		
5	Authority to file			
	Current owner or designated applicant	Y		See memo below
	SOS Web site checked for business entity	Y		
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			Decreed 2/28/1958
	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?	Yes		
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	✓		
	Complete a combined limits review	✓		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	✓		
	Are there overlapping rights that need to be placed in the bank also?		no	
	Will the place of use continue to receive water?		no	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?	No		
10	Have you contacted regional office and water master for comment/concerns?			
	Send the water master comment request form or e-mail request			
11	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments	None		
12	Narrative			
Monty Funk of County Line Farms represents the Harts for the purposes o this lease. He also plans to rent the water. The application is for the entire water right, 287 acres, for 2016 through 2018. The tax lot data lists James Hart and two others as the owners of the property. David, James and Robert Hart submitted the application. There is an existing partnership between James, David and Robert; the terms are spelled out in an agreement received by the Department December 19, 2013. Right 29-2395 was partially decreed in March of 2004. The right was enrolled in the CRP program from 1997 thru 2010. Documentation was provided. Forfeiture is not a concern.				

Idaho Water Resource Board
Water Supply Bank Lease

29-2395

Effective until December 31, 2018

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



2013 USDA-FSA Aerial Photography

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



0 0.25 0.5 Miles

Thiel, Sandra

From: Cefalo, James
Sent: Monday, December 07, 2015 1:06 PM
To: Thiel, Sandra
Subject: RE: Water supply bank lease review 29-2395

Sandra,

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

James

From: Thiel, Sandra
Sent: Monday, December 07, 2015 12:54 PM
To: Cefalo, James
Subject: Water supply bank lease review 29-2395

Hello, The attached documents provide the background for a lease application. Please let me know if you have any concerns.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

Thiel, Sandra

From: Jason Helms [jasoncivil@alumni.nd.edu]
Sent: Monday, November 09, 2015 10:41 AM
To: Thiel, Sandra
Subject: Re: water supply bankk lease applicaiton for County Line Farms right 29-2395
Attachments: 29-2395 Application to Lease a Water Right to the Water Supply Bank _ October 2015.pdf

Hi Sandra,
Please find attached the information transferred to the new form.
Let me know if this is adequate for your needs.
Thank you,
Jason C. Helms, P.E.
JCH Engineering & Consulting, PLLC
(208) 308-2109

On Fri, Nov 6, 2015 at 11:32 AM, Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov> wrote:

Hello, I am reviewing the water supply bank lease application for right 29-2395. The application that you submitted is on an older version of our application forms. I have attached a copy of the new application form. I have also included a copy of the application that you submitted. The new forms include more information that will help expedite the lease process. Please complete the new form and return it to me. Since we have received a signed copy and payment I would accept the application document electronically. Thank you for your help with this.

Sandra Beer Thiel

Idaho Department of Water Resources

322 East Front Street

Boise, Idaho 83720-0098

[\(208\)287-4881](tel:(208)287-4881)

sandra.thiel@idwr.idaho.gov