

WATER SUPPLY BANK LEASE CONTRACT

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

LESSOR: BLUE WATER DEVELOPMENT LLC
PO BOX 2350
COEUR D' ALENE ID 83816-2350
208-667-0100

RECEIVED

DEC 23 2015

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 3, 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
95-2112	6/16/1955	GROUND WATER	NA	2.24 cfs	480.0 af	160.0 ac

Lease Totals 2.24 cfs 480.0 af 160.0 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, 2016. 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.

BLUE WATER DEVELOPMENT LLC
PO BOX 2350
COEUR D' ALENE ID 83816-2350

By 

Date 12-23-2015

Printed Name CHRISTOPHER H. MEYER
PER SPECIAL POWER OF ATTORNEY

Title ATTORNEY IN FACT

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 12/24/2015

Lease approved by IDWR 

Date 12-24-2015

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO. 95-2112

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

Lessor: BLUE WATER DEVELOPMENT LLC
PO BOX 2350
COEUR D' ALENE ID 83816-2350
208-667-0100

Location of Point(s) of Diversion for Water Right 95-2112

GROUND WATER	SWNW	Sec. 28, Twp 51N, Rge 04W, KOOTENAI County
GROUND WATER	NWNW	Sec. 28, Twp 51N, Rge 04W, KOOTENAI County
GROUND WATER	NENW	Sec. 28, Twp 51N, Rge 04W, KOOTENAI County
GROUND WATER	SEnw	Sec. 28, Twp 51N, Rge 04W, KOOTENAI County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
95-2112	IRRIGATION	3/15	to 11/15	2.24 cfs	480.0 af
Total:				2.24 cfs	480.0 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	
51N	04W	28					40.0	40.0	40.0	40.0									160.0

Total Acres: 160.0

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.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 03 2015

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Bluewater Development, LLC
(Select one owner – see item 1A on the application)Water Right No. 95-2112
(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 \$ <u>250.00</u>	Received By: <u>J. Strange</u>	Date Received: <u>12-3-15</u>	Receipt # <u>C101262</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Bluewater Development LLC</u>	

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 Bluewater Development, LLC

Mailing Address PO Box 2350, Coeur d'Alene, ID 83816-2350

Street City State Zip Code

Email Address john@magnusononline.com Phone Number (208) 667-0100

☒ 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 Christopher H. Meyer

Organization Givens Pursley LLP

Professional Title Attorney

Email Address chrismeyer@givenspursley.com

Mailing Address PO Box 2720, Boise, ID 83701-2720

Phone Number (208) 388-1236

☐ 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.
See Report of Engineer dated July 29, 1959 (Permit G-25758 in backfile for 95-2112) for description of well and works. The diversion system provided irrigation water for bluegrass production. Last crop harvested in 2004.
- 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. Nos. 95-2112 and 95-2200 provided irrigation water for bluegrass production in adjacent quarter sections. Both rights diverted from the same well located on the quarter-quarter section boundary within the NW quarter of section 28 of T51N, R4W, BM. The location of the former well is shown incorrectly on IDWR's website map.
- 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. The land that previously was used for bluegrass production has been converted to a residential subdivision. The property was annexed into the city, and is now supplied with municipal water.
- 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. No water has been diverted under this water right during the previous five years. The right has been leased to the Idaho Water Supply Bank, and it has not been rented out. Information about diversion when the right was in use (1955-2004) is contained in the water right file. Rate=2.24 cfs. Vol. = 560 af (160 x 3.5).
- 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. Water right Nos. 95-2112 and 95-2200 were used from 1955/1967 until 2004/2003 for bluegrass production. No. 95-2200 was acquired by the current owner in 2003, and No. 95-2112 was acquired by the current owner in 2006. (See attachments to Notice of Change in Water Right Ownership dated 2-19-2008.) Both rights were placed in the Idaho Water Supply Bank in 2008, where they remain.
- 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: 2016 to 2016 (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. (The Applicant would prefer to set a minimum rental rate of \$80,000 (\$500/acre), but the undersigned Representative was advised that his is not allowed at this 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

Printed Name

Date


Signature of Authorized Representative

Christopher H. Meyer, Attorney-in-Fact

December 3, 2015

Printed Name

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). 95-2112

	Designated Applicant	Applicant #2	Applicant #3
Name	Bluewater Development, LLC		
Mailing Address	PO Box 2350 Coeur d'Alene, ID 83816-2350		
Phone Number	(208) 667-0100		
Email Address	john@magnusononline.com		
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			

	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

<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)
95-2112	Not applicable.			
	Only entire water right			
	offered for rent.			
	Total Amounts:			

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

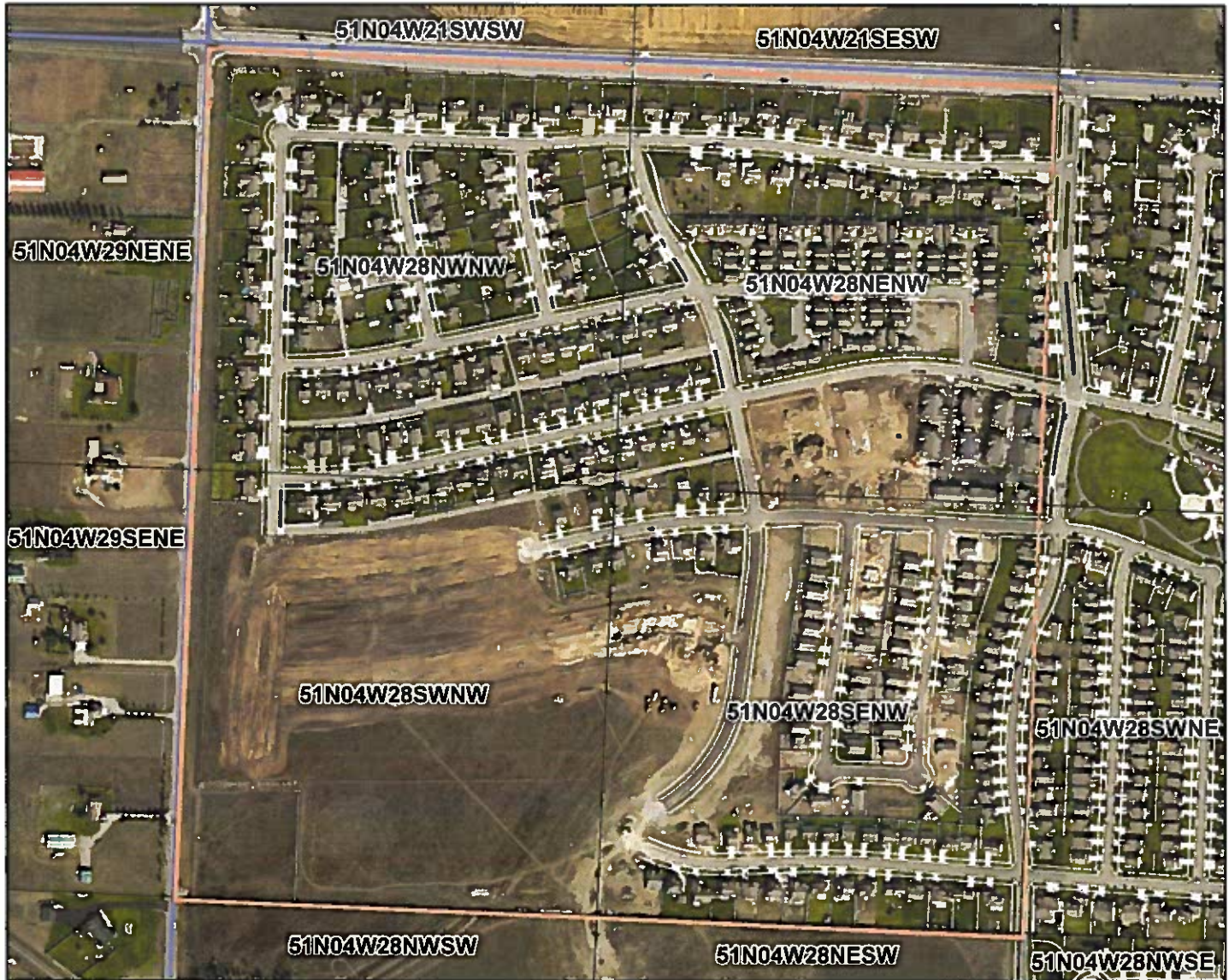
Twp	Rge	Sec	Lot	¼	¼	¼	County

Idaho Water Resource Board
Water Supply Bank Lease

95-2112

Effective until December 31, 2016

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



 Feet
0 10000

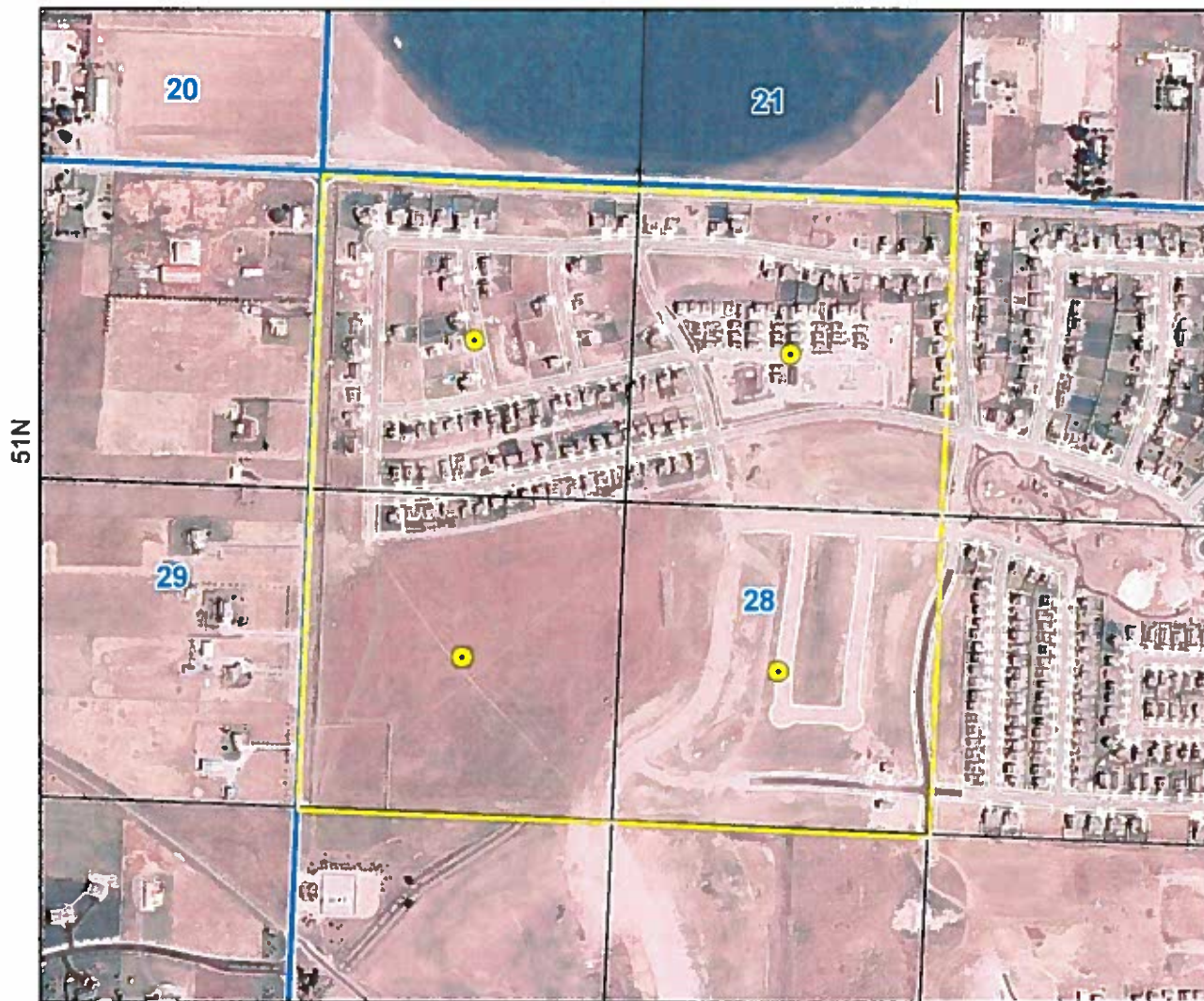
State of Idaho
Department of Water Resources

Water Right 95-2112

IRRIGATION

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.

04W



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

0 0.075 0.15 0.3 Miles



SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Bluewater Development, LLC, an Idaho Limited Liability Company, 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 the following forms for submission to the Idaho Department of Water Resources and/or any Idaho court adjudicating these rights:

1. Notice of Claim to a Water Right;
2. Application for Amendment of Permit to Appropriate the Waters of the State of Idaho;
3. Notice of Change of Water Right Ownership;
4. Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit;
5. Notice of Protest;
6. Application for Transfer of a Water Right;
7. Proof of Beneficial Use;
8. Application for Exchange of Water;
9. Application for Extension of Time to Avoid Forfeiture of a Water Right;
10. Application to Sell or Lease a Water Right to the Water Supply Bank;
11. Application for Temporary Approval of a Water Application;
12. Application for Permit to Appropriate the Waters of the State of Idaho;
13. Pleadings submitted to any Idaho court adjudicating the water rights of Bluewater Development, LLC; and
14. Any other document in support or furtherance of any of the above.

In addition, Givens Pursley LLP is hereby given authority to request and obtain aerial photographs, crop records, ownership and financial information, and related information from the U.S. Department of Agriculture Farm Service Agency related to property irrigated by water rights owned by Bluewater Development, LLC.

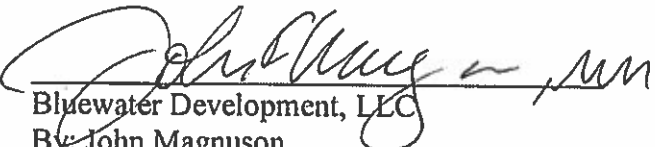
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Bluewater Development, LLC.

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.

[End of text]

IN WITNESS WHEREOF, Bluewater Development, LLC has executed this Special Power of Attorney effective as of the date noted.

Dated: 11-28-07


Bluewater Development, LLC
By: John Magnuson
Its: Managing Member

ACKNOWLEDGMENT

STATE OF Idaho
County of Kootenai) ss.

On this 28th day of November, 2007, before me, a Notary Public in and for the State of Idaho, personally appeared John F. Magnuson, known or identified to me to be the member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Stephanie Belden
Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires 3/8/2010



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 28, 2015

BLUE WATER DEVELOPMENT LLC
PO BOX 2350
COEUR D' ALENE ID 83816-2350

RE: WATER SUPPLY BANK LEASE CONTRACTS FOR WATER RIGHTS 95-2112 and 95-2200

Dear Lessor:

Water rights **95-2112 and 95-2200** were leased into the Water Supply Bank (Bank) as of December 3, 2015, in accordance with the enclosed executed lease contracts. **Your water rights, as described on the lease contracts, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2016**, unless the rights are 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 contracts upon your request. To release the water rights 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 rights may not be available for immediate release if they have been rented or are 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

Enclosures: Executed Lease Contracts

c: Chris Meyer – Givens Pursley
Keith Franklin - IDWR Northern Region

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
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Christopher H. Meyer
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Gary G. Allen
Peter G. Barton
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
Don 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)

December 23, 2015

Via Hand Delivery

Clay Webster
Water Resource Agent
WSB Process Point of Contact
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702

RECEIVED

DEC 23 2015

DEPARTMENT OF
WATER RESOURCES

Re: Bluewater Development, LLC — Water Right Nos. 95-2112 and 95-2200

Dear Clay:

Enclosed please find two Water Supply Bank Lease Contracts executed by me. I am also enclosing a copy of the Special Power of Attorney authorizing me to act on behalf of my client, Bluewater Development, LLC. Please let me know if you have any questions. Thank you.

Sincerely,



Christopher H. Meyer

Encl: Two Executed Water Supply Bank Lease Contracts

cc: John F. Magnuson, Bluewater Development, LLC

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

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5. Notice of Protest;
6. Application for Transfer of a Water Right;
7. Proof of Beneficial Use;
8. Application for Exchange of Water;
9. Application for Extension of Time to Avoid Forfeiture of a Water Right;
10. Application to Sell or Lease a Water Right to the Water Supply Bank;
11. Application for Temporary Approval of a Water Application;
12. Application for Permit to Appropriate the Waters of the State of Idaho;
13. Pleadings submitted to any Idaho court adjudicating the water rights of Bluewater Development, LLC; and
14. Any other document in support or furtherance of any of the above.

In addition, Givens Pursley LLP is hereby given authority to request and obtain aerial photographs, crop records, ownership and financial information, and related information from the U.S. Department of Agriculture Farm Service Agency related to property irrigated by water rights owned by Bluewater Development, LLC.

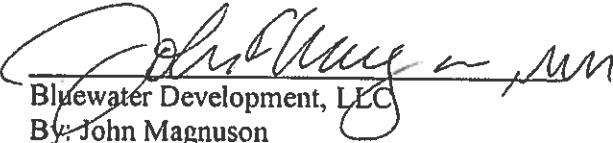
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Bluewater Development, LLC.

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.

[End of text]

IN WITNESS WHEREOF, Bluewater Development, LLC has executed this Special Power of Attorney effective as of the date noted.

Dated: 11-28-07


Bluewater Development, LLC
By: John Magnuson
Its: Managing Member

ACKNOWLEDGMENT

STATE OF Idaho
County of Kootenai) ss.

On this 28th day of November, 2007, before me, a Notary Public in and for the State of Idaho, personally appeared John F. Magnuson, known or identified to me to be the member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Stephanie Belden
Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires 3/8/2010



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 9, 2015

BLUE WATER DEVELOPMENT LLC
PO BOX 2350
COEUR D'ALENE ID 83816-2350

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 95-2112 and 95-2200 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(s) to the Water Supply Bank. **I have enclosed two or each 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 rights will automatically be released from the Bank on **December 31, 2016**, unless the rights are 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,

for 

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Givens Pursley

WATER SUPPLY BANK

Agent Lease Review Checklist

Applicant(s) Name: BLUEWATER DEVELOPMENT LLC

Memo Date: December 8, 2015

Water Right Number(s): 95-2112

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?	na
		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?	x
	☒	Will the place of use continue to receive water?	
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?	
		Send the watermaster comment request form or e-mail request	
11		Area Headgate requirement	3
12	☒	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation (X) Other - Explain in comments	
13		Narrative: The applicant wishes to place the entire right in the Bank. 2.24 cfs and 160 acres. This right has been in the Bank since 2008. The water right hasn't been used since the land was annexed into and is supplied with municipal water from the City of Coeur d'Alene. This right is also active in the Northern Idaho Adjudication process. Givens Pursley has power of attorney to sign the application.	

No. W 25606	Due no later than Aug 31, 2015 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. BLUE WATER DEVELOPMENT, LLC JOHN F MAGNUSON 1250 NORTHWOOD CENTER CT STE A COEUR D ALENE ID 83814		JOHN F MAGNUSON 1250 NORTHWOOD CENTER CT STE A COEUR D'ALENE ID 83814			
			3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MANAGER	JOHN MAGNUSON	1250 NORTHWOOD CENTER CT STE A	COEUR D'ALENE	ID		83814
MANAGER	TOM ANDERL	2875 E SPYGLASS COURT STE A	COEUR D'ALENE	ID		83815
5. Organized Under the Laws of: ID W 25606		6. Annual Report must be signed.* Signature: JOHN F. MAGNUSON Name (type or print): JOHN F. MAGNUSON Date: 06/22/2015 Title: Manager				
Processed 06/22/2015		* Electronically provided signatures are accepted as original signatures.				

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

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Boise, ID 83701
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Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Ding
Bradley J. Dixon
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson

Brian J. Holleran
Kersti H. Kennedy
Don E. Knickrehm
Neal A. Koskella
Debora K. Kristensen
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
Kenneth R. McClure
Katy 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 03 2015

DEPARTMENT OF
WATER RESOURCES

December 3, 2015

Via Hand Delivery

Remington Buyer
Water Supply Bank Coordinator
Water Planning Bureau
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702

Re: Bluewater Development, LLC — Water Right Nos. 95-2112 and 95-2200

Dear Remington:

Enclosed please find two water supply bank applications for 2016, one for each of the above-referenced water rights. As we discussed today, these rights have been leased to the Idaho Water Supply Bank since 2008. I am submitting these new applications because the Department no longer has a form for extension of an existing lease.

Each application is accompanied by a W-9 Form, a map describing the water right, and a copy of the Special Power of Attorney authorizing me to act on behalf of my client, Bluewater Development, LLC.

Based on our discussion today regarding items 4(F) and 4(G) on the application, it is my understanding that the information provided is sufficient. The statements in those sections are supported by two affidavits of John F. Magnuson (dated December 15 and 17, 2008) on file with the Department. They were submitted via my letter of December 22, 2008 in connection with No. 95-2200. A follow-up affidavit further corroborating the evidence of use was prepared on December 30, 2008. However, I was advised by Aaron Marshall of the Department that it was not necessary to submit it, because the rights had already been accepted into the water supply bank as of that date.

Remington Buyer
December 3, 2015
Page 2

As noted on the application forms, the applicant agrees that the rights may be rented out at the current market rate. As we discussed, however, the Applicant would prefer to set a higher minimum threshold. In the event the Idaho Water Resource Board changes its policy to allow such flexibility, I would very much appreciate your letting me know.

Thank you very much for taking the time to work through my questions regarding this application today. It is my understanding that if this application is not approved until next year, it will be done retroactively effective January 1, 2016.

Sincerely,



Christopher H. Meyer

Encl: Two Water Supply Bank Applications

cc: John F. Magnuson, Bluewater Development, LLC