

OCT 07 2015

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT**

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

Lessor: GINGERICH BROTHERS FARMS
47589 HWY 78
MOUNTAIN HOME ID 83647
(208) 845-2868

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed an application to lease the water right described below into the Water Supply Bank on September 4, 2015 on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
2-7071	0.80 CFS	180.5 AF	NA	40.1 AC
Combined Lease Totals:	0.80 CFS	180.5 AF	NA	40.1 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 04/01 to 10/31

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.

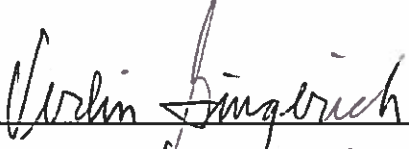
Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2019.
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.

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

GINGERICH BROTHERS FARMS
47589 HWY 78
MOUNTAIN HOME ID 83647

By



Date

10-7-15

Printed Name VERLIN GINGERICH

Title

Partner

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By



Date

10/7/2015

Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR



Date

10-7-2015

ATTACHMENT A
WATER RIGHT NO. 2-7071
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: GINGERICH BROTHERS FARMS
 47589 HWY 78
 MOUNTAIN HOME ID 83647
 (208) 845-2868

Priority Date: 11/07/1970

Source: SNAKE RIVER

Tributary to: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.80 CFS	180.5 AF
	Total:		0.80 CFS	180.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L6(NWNWSW) Sec. 31, Twp 05S, Rge 06E, OWYHEE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	05E	34									7.0	7.0	7.0	7.0					160.0
06S	05E	3							6.1	6.0									160.0

Total Acres: 40.1

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
13. Rights 2-2156, 2-2245A, 2-2298, 2-2355, 2-2356, 2-2376, 2-7055, 2-2245B, 2-7112A, 2-7112B, 2-7222 and 2-10317, 2-10318, 2-10426, 2-10427, 2-10432 and 2-10519 are also diverted through the point of diversion described above.
14. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 02.

RECEIVED

SEP 04 2015

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. 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. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant Gingerich Brothers Farms
(Select one owner – see item 1A on the application)

Water Right No. 2-7071
(One water right per application)

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ 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.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☒ | ☐ | Contact information for <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | | ☒ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 1E | ☒ | ☐ | 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. |
| 3E | ☒ | ☐ | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code . |
| 4 | | ☒ | 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 . |

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>J. Strange</u>	Date Received: <u>9-4-15</u>	Receipt # <u>C100967</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Gingerich Brothers Farms</u>	

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

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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 Gingerich Brothers Farms Email Address _____

Mailing Address 47589 State Hwy. 78, Mountain Home, ID 83647 Phone Number (208) 845-2868

☒ 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 completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

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 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 1D).

E. 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 1E).

Name of Representative Roxanne Brown Organization SPF Water Engineering LLC

Professional Title Water Right Specialist Email Address rbrown@spfwater.com

Mailing Address 300 E. Mallard Dr., Suite 350, Boise, ID 83706 Phone Number (208) 383-4140

☐ 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

Water Right Number 2-7071 ☐ 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

Existing diversion system is a pump station diverting water from the Snake River to canals, ditches, and pipelines to pivots.

- B. 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.

- C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☐ No ☒

Stacked water rights are water rights that are utilized 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.

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

Yes ☐ No ☒

If yes, describe. _____

E. 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 water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

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

If yes, describe. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

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 2019 (maximum lease period 5 years).
(Year) (Year)

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

current rental rate _____

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

The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant

Verlin Gingerich, Partner

Printed Name

Date

Signature of Authorized Representative

Roxanne Brown

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 2

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

<u>1. Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>2-7071</u>	<u>0.92 cfs/207 af</u>	<u>irrigation</u>	<u>3/15</u> to <u>11/15</u>
			to
			to
			to
			to
			to
Total Amount:		<u>0.92 cfs/207 af</u>	

2. Source of water Snake River tributary to Columbia River

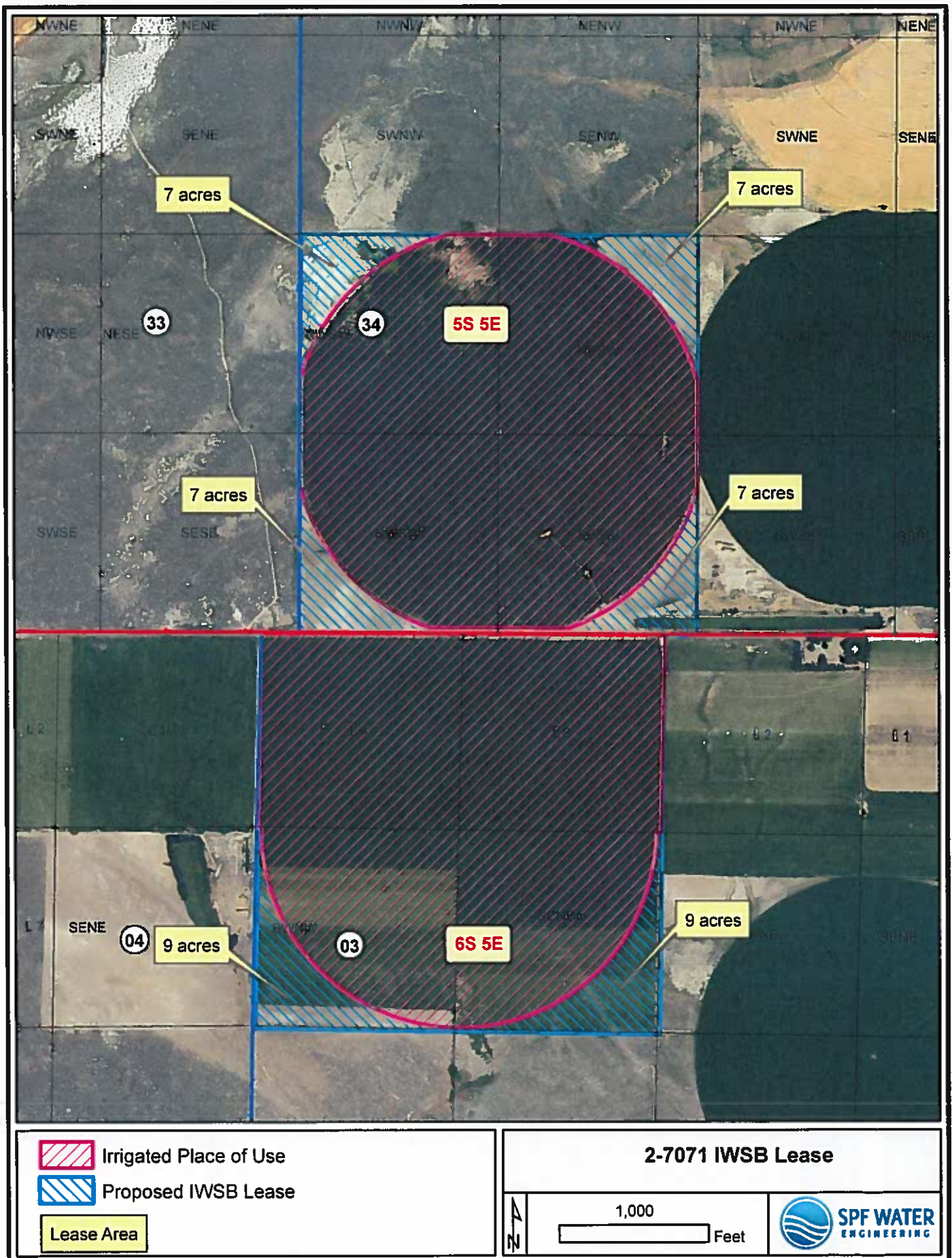
3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5S	6E	31	6	NW	NW	SW	Owyhee

4. Acres to be idled within the place of use:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5S	5E	34									7	7	7	7					28
6S	5E	3							9	9									18

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 46



May 28, 2015

Remington Buyer
Idaho Water Supply Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Bank Rental Application for Frank and Cindy Bachman

Dear Mr. Buyer:

Gingerich Brothers Farms owns portions of water rights 2-7071 and 2-2356 being leased to the Idaho Water Supply Bank (IWSB). Gingerich Brothers Farms would like the IWSB to rent water from the leased acres to Frank and Cindy Bachman, for irrigation of 80 acres in the SWSW, SESW and SWSE, Section 27; and the NWNW and Lot 1, Section 34, all in Township 5S, Range 6E.

Sincerely,

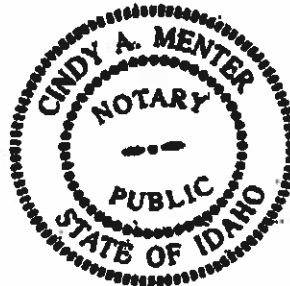
Verlin Gingerich (Partner)
Gingerich Brothers Farms
Verlin Gingerich, Partner

JUNE 2-2015
Date

State of Idaho

County of Elmore

} ss.



Subscribed and sworn (or affirmed) before me this 2 day of June, 2015.

Cindy A. Menter
Notary Public

Residing at 15th Home Idaho
My Commission Expires Aug 7, 2019.



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

October 8, 2015

GINGERICH BROTHERS FARMS
47589 HWY 78
MOUNTAIN HOME ID 83647

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 02-2245B & 02-7071

Dear Lessor:

Water Rights **02-2245B & 02-7071** were leased into the Water Supply Bank on September 4, 2015 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** 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. This form is available from our public website at www.idwr.idaho.gov.

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: Executed Lease Contract

c: Roxanne Brown – SPF Water Engineering, LLC
Angie Grimm - IDWR Western Region
Corbin Knowles – Water District #2



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

September 25, 2015

GINGERICH BROTHERS FARMS
47589 HIGHWAY 78
MOUNTAIN HOME ID 83647

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 02-07071 AND 02-02245B 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 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, 2019**, 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. Roxanne Brown – SPF Water Engineering

Webster, Clay

From: Webster, Clay
Sent: Friday, September 25, 2015 12:59 PM
To: 'Roxanne Brown'
Subject: RE: Lease Applications for Gingerich Brothers Farms and Verlin Gingerich 02-10519, 02-7071 and 02-2092A
Attachments: Leased_acres.cpg; Leased_acres.dbf; Leased_acres.prj; Leased_acres.shp; Leased_acres.shx

Roxanne,

This is the shapefile for 02-7071.

Clay

From: Roxanne Brown [<mailto:RBrown@spfwater.com>]
Sent: Friday, September 25, 2015 12:40 PM
To: Webster, Clay
Subject: RE: Lease Applications for Gingerich Brothers Farms and Verlin Gingerich 02-10519, 02-7071 and 02-2092A

Clay - Please provide shapefiles so I can review discrepancies. Thanks!

From: Webster, Clay [<mailto:Clay.Webster@idwr.idaho.gov>]
Sent: Friday, September 25, 2015 8:33 AM
To: Roxanne Brown
Subject: Lease Applications for Gingerich Brothers Farms and Verlin Gingerich 02-10519, 02-7071 and 02-2092A

Roxanne,

I wanted to give you a head's up on these issues I found with these leases.

02-10519 proposed to lease 2 acres into the WSB. Of the 2 acres offered, 1 acre is not part of the water right per the map from the adjudication and the other part is for the yard for the house and tree line. That area was not idled in 2015. This lease cannot be approved for 2015.

02-7071 proposed to lease 46 acres into the WSB. However, only 40.1 acres were idled in 2015.

02-2092A proposed to place 2.8 acres into the WSB. However, only 2.4 acres were idled in 2015.

Sincerely,

Clay Webster

Water Resource Agent
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098
208-287-4800
www.idwr.idaho.gov

Webster, Clay

From: Webster, Clay
Sent: Thursday, September 24, 2015 10:16 AM
To: Knowles, Corbin
Subject: Gingerich Bros Farms and Verlin Gingerich Leases 02-2092A and 02-7071
Attachments: Lease Review Memo Gingerich 2-2092A.docx; Lease Review Memo Gingerich Bros Farms 2-7071.docx

Corbin,

We are processing leases for portions of these water rights. Do you have any concerns with these? Thanks.

Clay

MEMORANDUM

To: Water Right No. 2-7071

From: Clay Webster

Date: 9/15/2015

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on September 4, 2015 for Gingerich Brothers Farms from Roxanne Brown from SPF Water Engineering. The application proposes to place 46 acres of this right into the WSB. These will be the corners outside of the pivot. However, an evaluation of the acres dried up for this season shows that only 40.1 acres are available for lease at this time. See attached.

AUTHORITY TO FILE: This application was signed by Verlin Gingerich. He is listed as one of the partners of the Gingerich Brothers Farms on the Idaho SOS website.

WATER RIGHT VALIDITY: This water right was decreed in 2012. Forfeiture is not an issue.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: Place of use comparison shows no overlap. No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right is subject to Water District #2.

