

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: TWIN CITY FOODS INC
PO BOX 699
STANWOOD WA 98292
(206) 515-2400

RECEIVED

SEP 21 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. The Lessor has filed an application on August 17, 2015 to lease the water right described below into the Water Supply Bank 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>
85-4194	6.95 CFS	NOT STATED
Combined Lease Totals:	6.95 CFS	NOT STATED

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: 1/1 to 12/31

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.

TWIN CITY FOODS INC
PO BOX 699 10120 PL NW
STANWOOD WA 98292

By 

Date 9/17/2015

Printed Name Virgil S. Roehl

Title VP Finance

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 9/22/2015

Lease approved by IDWR 

Date 9-22-2015

ATTACHMENT A
WATER RIGHT NO. 85-4194
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: TWIN CITY FOODS INC
 PO BOX 699
 STANWOOD WA 98292
 (206) 515-2400

Priority Date: 09/25/1952

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
COMMERCIAL	1/1	to 12/31	6.95 CFS	NOT STATED
	Total:		6.95 CFS	NOT STATED

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L2(SW¼NE¼) Sec. 36 Twp 36N Rge 06W NEZ PERCE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

COMMERCIAL NA

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
36N	06W	36		X	X														NA
				L2	L2														

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.

RECEIVED

AUG 7 2015

DEPARTMENT OF
WATER RESOURCES

RECEIVED

AUG 18 2015

DEPARTMENT OF
WATER RESOURCES

APPLICATION 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 Twin City Foods, Inc.
(Select one owner – see item 1A on the application)

Water Right No. 85-04194
(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>8-17-15</u>	Receipt # <u>C100899</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Twin City Foods Inc</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 Twin City Foods, Inc. Email Address VirgilR@twincityfoods.com
Mailing Address P.O. Box 699, 10120 PL NW, Stanwood, WA 98292 Phone Number 206-515-2400

☒ 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 Christopher H. Meyer Organization Givens Pursley LLP
Professional Title Attorney Email Address chm@givenspursley.com
Mailing Address 601 W. Bannock St., Boise, ID 83702 Phone Number 208-388-1294

☐ 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 85-04194 ☒ 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.

Well - 24" casing - pump electric motor 200 hp. - electric with seven stage turbine pump at 300 ft.
3,000 gpm - depth 630 ft. - year drilled 1952

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](#). Water right has been in the water bank since December 11, 2009 (see attached water supply bank lease acceptance).

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 2020 (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.

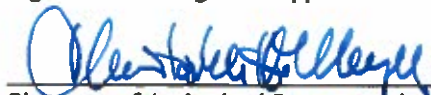
Current rental rate

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



Signature of Authorized Representative

Printed Name

CHRISTOPHER H. MEYER

Printed Name

Date

8-17-2015

Date

Mail to:

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

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](#). Water right has been in the water bank since December 11, 2009 (see attached water supply bank lease acceptance).

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 2020 (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

CHRISTOPHER H. MEYER
Printed Name

8-17-2015
Date

Signature of Authorized Representative

Printed Name

Date

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

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Twin City Foods, Inc. whose mailing address is P.O. Box 699, Stanwood, WA 98292, hereby appoints the attorneys of Givens Pursley LLP, 601 West Bannock Street, P.O. Box 2720, Boise, ID, 83701 as its true and lawful attorneys for the purpose of signing on its behalf the following forms, pleadings, and other documents for submission to the Idaho Department of Water Resources ("IDWR"), the Idaho Water Supply Bank, and/or any Court undertaking an adjudication or judicial review of water rights held by Twin City Foods, Inc.

IDWR Forms

1. Affidavit for Water Rights To Be Used for Power Purposes;
2. Application for Amendment of Permit to Appropriate the Waters of the State of Idaho;
3. Application for Exchange of Water;
4. Application for Extension of Time to Avoid Forfeiture of a Water Right;
5. Application for Permit to Appropriate the Waters of the State of Idaho;
6. Application for Temporary Approval of a Water Application;
7. Application for Transfer of a Water Right;
8. Assignment of Permit To Change the Ownership of a Permit;
9. Change of Address;
10. Notice of Change in Water Right Ownership;
11. Notice of Diversion as an Alternative to Instream Stockwater Use;
12. Notice of Resumption of Beneficial Use;
13. Notice of Protest;
14. Notice of Security Interest in a Water Right – Request for Notification of Change in Ownership or Action to Amend, Transfer or Modify a Water Right
15. Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit;
16. Proof of Beneficial Use;
17. Relinquishment of Permit;
18. Statement of Completion for Submitting Proof of Beneficial Use;
19. Statutory Claim to a Water Right;
20. Temporary Change Application;

21. Withdrawal of Application for Amendment of Permit;
22. Withdrawal of Application for Permit;
23. Withdrawal of Application for Transfer of Water Right(s);

Idaho Water Supply Bank

24. Application to Rent Water from the Water Supply Bank (including a rental pool);
25. Application to Sell or Lease a Water Right to the Water Supply Bank (including a rental pool); and

Adjudication or Judicial Review

26. Any Notice of Claim to a Water Right (including late claims and/or amendments of claims), petition, pleading, motion, notice, objection, petition, brief, stipulation, or settlement submitted to any Court undertaking a general or special adjudication of water rights held by Twin City Foods, Inc.;
27. Any petition, pleading, motion, notice, objection, petition, brief, stipulation, or settlement submitted to any Court undertaking a judicial review or appeal of any action by IDWR respecting any water rights held by Twin City Foods, Inc.;

Miscellaneous

28. Any other pleading or document in support, furtherance, or settlement of any of the above.

All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Twin City Foods, Inc.

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

IN WITNESS WHEREOF, the undersigned has executed this Special Power of Attorney effective as of the last date noted.

Dated: Nov. 12, 2009



Ronald H. Keolker
Vice President, Finance
And Secretary
Twin City Foods, Inc.

ACKNOWLEDGMENT

State of Washington)
) ss.
County of Snohomish)

On this 12th day of November, 2009, before me, the undersigned, a notary public in and for said county and state, personally appeared Ronald H. Keolker, known or identified to me (or proved to me on his/her oath) to be the Vice President of Finance and Secretary of Twin City Foods, Inc., the corporation that executed the above instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.



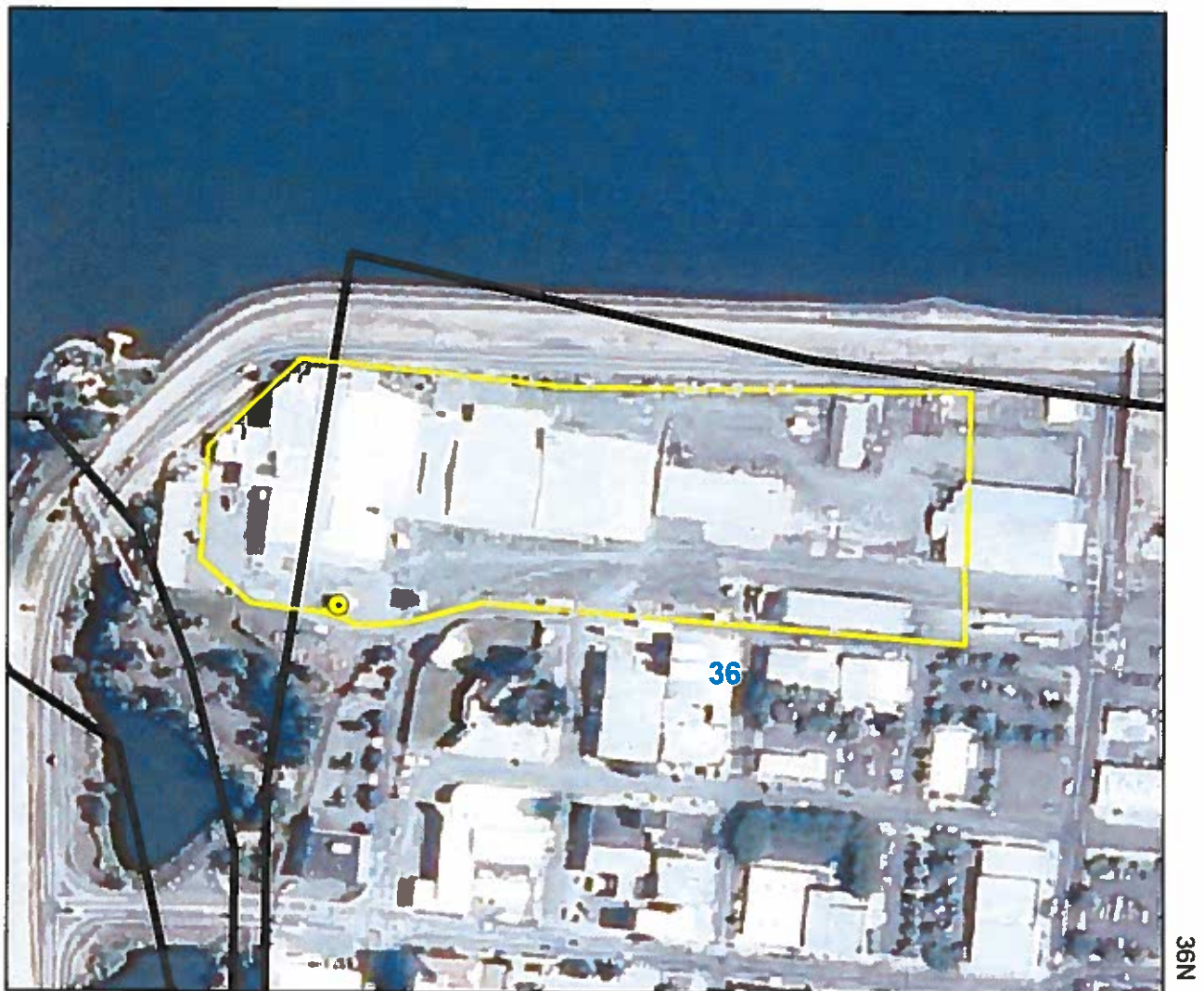
Raquel J. Gliessman
Notary Public for Washington
Residing at Arlington
My Commission Expires 04/04/13

State of Idaho
Department of Water Resources

Water Right
85-4194

COMMERCIAL

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.



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

0 0.0375 0.075 0.15 Miles



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 23, 2015

TWIN CITY FOODS INC
PO BOX 699
STANWOOD WA 98292

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT(S) 85-04194

Dear Lessor:

Water Right **85-04194** was leased into the Water Supply Bank on September 22, 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 287-4944.

Sincerely,

For -Cherie Palmer
Water Rights Supervisor

Enclosure: Executed Lease Contract

c: Christopher Meyer – Givens Pursley LLP
Keith Franklin – IDWR Northern Region



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 10, 2015

TWIN CITY FOODS INC
PO BOX 699
STANWOOD WA 98292

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 85-4194 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 287-4944.

Sincerely,


Fur Cherle Palmer
Water Rights Supervisor

Enclosure: Proposed Lease Contracts
Receipt # C100899

c. Christopher Meyer – Givens Pursley LLP

MEMORANDUM

To: Water Right No(s). 85-4194
From: Cherie Palmer
Date: August 27, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on August 17, 2015. This right was previously leased into the bank from December 11, 2009 thru August 18, 2015. Modern day leases now follow a yearly approval. For example, the previous rental would count 2009 and would have expired at the end of 2014 in order to stay within a 5 year term. To ensure the lessor is completely covered this lease will cover all of 2015 and span a 5 year term as requested. The lease will expire at the very end of 2019.

This water right is located within the newly established Lewiston Plateau Ground Water Management area. Caution should be exercised if a candidate surfaces to rent the water right to ensure the rental doesn't compromise the GWMA plan. Additionally, information will need to be collected that calculates historic volume.

AUTHORITY TO FILE: Christopher H. Meyer of Givens Pursley signed the rental application on behalf of their client. Mr. Meyer included a special power of attorney with the application that indicates the lessor has given any attorney at Givens Pursley the authorization to sign a lease application.

WATER RIGHT VALIDITY: Decreed in 2005 and leased into the Bank in 2009, this right is not forfeited.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: 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 not subject to any water district. Northern regional staff will be contacted for comments.

Palmer, Cherie

From: Palmer, Cherie
Sent: Thursday, August 27, 2015 4:19 PM
To: Franklin, Keith
Subject: 85-4194 Lease Application
Attachments: APPROVAL DOCUMENT NO 85-4194.docx; 85-4194 Lease Review Memo Template.docx

Keith,

Water right 85-4194 has been in the bank for the last 5 years. Applicant, Twin City Foods, is applying to put it into the bank for another 5 year term.

I completed a memorandum of my analysis and a draft approval for your information. You may comment if you have any information or concerns.

Please let me know if you have any feedback as soon as you have time. I plan on sending out the lease for signature by next week this time.

Thanks.
Cherie

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

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

www.givenspursley.com

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
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson
Brian J. Holleran

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

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

August 17, 2015

Via Hand Delivery

Mr. Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
The Idaho Water Center
322 East Front Street
Boise, ID 83702

RECEIVED

AUG 17 2015

DEPARTMENT OF
WATER RESOURCES

RECEIVED

AUG 18 2015

DEPARTMENT OF
WATER RESOURCES

RE: Water Supply Bank Lease Extension - Water Right No. 85-4194

Dear Mr. Buyer:

On behalf of this firm's client, Twin City Foods, Inc. ("Twin City"), and in accordance with the Department's October 11, 2010 letter accepting the above-referenced water right into the Water Supply Bank, I am submitting this request to extend the lease term for an additional five (5) years to August 18, 2020.

The water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. Twin City has never intended to abandon the water right. Twin City leased the water right into the Water Supply Bank on December 11, 2009, which was approximately eight months less than five years after the partial decree was issued on August 18, 2005. In other words, as of August 18, 2015, the standard five-year forfeiture has not expired by at least eight months.¹

The Water Supply Bank lease from December 11, 2009 through August 18, 2015 moots the Application of Extension of Time to Avoid Forfeiture approved by the Department on May 13, 2010. Twin City filed an Application for Extension of Time to Avoid Forfeiture of a Water Right in March 2010 as a "belt-and-suspenders" precaution because by that time the Department

¹ I say "at least" because Department policy may extend the forfeiture period calculation beyond a strict five-year timeframe. See *Administrator's Memorandum, Multiple Programs Memo No. 2, R: Forfeiture Review Period* (Mar. 5, 2012).

Mr. Remington Buyer
August 17, 2015
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had not yet approved the Water Supply Bank lease application. However, because the Water Supply Bank lease ultimately was accepted with a December 11, 2009 begin date, the water right has been protected from forfeiture. Twin City continues to actively seek a buyer for the property, including the water right, and/or a buyer or lessor of the water right alone.

This letter constitutes a request to change the term of the water right's Water Supply Bank lease consistent with the Department's October 11, 2010 lease acceptance letter, which stated that Twin City could "change the term of the lease . . . [by] submit[ting] a request in writing to the Department prior to the release date." However, because I understand that the Department may require a new Water Supply Bank lease application form, I have enclosed one with this letter, together with a check for the required application fee. If neither is required, please return them to me.

Also included is a copy of the *Special Power of Attorney for Water Rights* executed by Twin City, which authorizes this firm to sign this letter and the enclosed application on behalf of Twin City.

Please let me know if anything further is required. I will appreciate hearing from you to discuss the status of this Water Supply Bank Lease.

Sincerely,


Christopher H. Meyer

Encl: Water Supply Bank Lease Application form dated (8-17-2015) (original)
Check for Application filing fee (8-17-2015)
Unrevoked Special Power of Attorney (11-12-2009) (copy)

cc: Virgil S. Roehl, Twin City Foods, Inc. (with enclosures)

MEMORANDUM

Date: August 14, 2015
To: Water Right File 85-4194
From: Michele Edl
Re: WSB lease renewal

As an office day inquiry, I was forwarded a voice-mail message from Twin City Foods. They have water right 85-4194 leased to the WSB. The current lease is scheduled to expire on August 18, 2015. I returned the call and spoke to Virgil (206)515-2400. I learned that Twin City Foods would like to continue to lease right 85-4194 and that they intend to expedite their request to meet the upcoming deadline.

I provided the caller some direction for locating the online form, and filling it out. I also helped him update his contact information.

The purpose of this memo is to document the file. The Lessor intended to renew the lease before the current lease expired. Because the lease season-of-use has changed since 2010 when this right was accepted into the Bank, I believe that the Bank will allow Twin City Foods additional time within which to submit the required documents.