

AUG 27 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: EDWARDS FAMILY LLC
C/O GARNETTE EDWARDS
4106 SAND CREEK
BOISE ID 83703
208-342-7548

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 a completed application on May 8, 2015 to lease water rights 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>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
63-14	0.34 CFS	100.0 AF	NA	8.3 AC
Combined Lease Totals:	0.34 CFS	100.0 AF	NA	8.3 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: January 1 to December 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, 2015.
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.

EDWARDS FAMILY LLC
C/O GARNETTE EDWARDS
4106 SAND CREEK
BOISE ID 83703

By Garnette Edwards

Date 8/25/15

Printed Name Garnette Edwards

Title owner

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

By 

Date 8/28/2015

Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR Clay Weber

Date 8-28-2015

ATTACHMENT A
WATER RIGHT NO. 63-14
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: EDWARDS FAMILY LLC
C/O GARNETTE EDWARDS
4106 SAND CREEK
BOISE ID 83703
208-342-7548

Priority Date: 11/22/1926

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
HEATING	01/01 to	12/31	0.34 CFS	100.0 AF
COMMERCIAL	01/01 to	12/31	0.34 CFS	100.0 AF
IRRIGATION	03/01 to	11/15	0.33 CFS	Not Stated
	Total:		0.34 CFS	100.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼NE¼ Sec. 29, Twp 04N, Rge 02E, ADA County

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	
04N	02E	29			8.3														8.3

Total Acres: 8.3

HEATING & COMMERCIAL PLACE OF USE: Same as Irrigation

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. Use of water under this right will be regulated by the watermaster of State Water District No. 63S, Stewart Gulch. Water District 63S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.
13. The unleased portion of the heating and commercial use of this right is limited to 0.5 cfs and 150.0 af.
14. This right may be limited to a total of 108.3 af during the period from October 1 through April 1 and/or 145.2 during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water right 63-12 and 63-13 and located in T04N, R02E, Section 29, NENESE.
15. The irrigation use under this right can only be rented as a supplemental right.

RECEIVED

MAY 08 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 Edwards Family LLC
(Select one owner – see item 1A on the application)

Water Right No. 63-00014
(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 <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | 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 <u>Section 42-222(2), Idaho Code</u> . |
| 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>LSH</u>	Date Received: <u>5-8-15</u>	Receipt # <u>C100424</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Edwards Greenhouse 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 Edwards Family LLC Email Address _____

Mailing Address c/o Garnette Edwards, 4106 Sand Creek, Boise 83703 Phone Number (208) 342-7548

☒ 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 Dana L. Hofstetter Organization Hofstetter Law Office, LLC

Professional Title Attorney at Law Email Address dana@idahowaterlaw.com

Mailing Address 608 West Franklin Street, Boise, Idaho 83702 Phone Number (208) 424-7800

☐ 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 63-00014 ☐ 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 to pipelines

- 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 for primary use of heating

- 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. not for heating

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: 5/2015 to 5/2016 (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 - initial lease period is 5/10/2015 to 5/10/2016

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.

Garnette Edwards
Signature of Designated Applicant

GARNETTE EDWARDS
Printed Name

5-8-15
Date

Dana L. Hofstetter
Signature of Authorized Representative

Dana L. Hofstetter
Printed Name

5/8/2015
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

- | 1. <u>Water Right Number</u> | <u>Amount (cfs/ac-ft)</u> | <u>Nature of Use</u> | <u>Period of Use</u> |
|------------------------------|---------------------------|----------------------|----------------------|
| 63-00014 | 0.34 cfs/100 ac-ft | Heating | 1/1 to 12/31 |
| <i>off</i> | <i>0.34 cfs/100 ac-ft</i> | <i>Commercial</i> | <i>1/1 to 12/31</i> |
| <i>used</i> | <i>0.33 cfs</i> | <i>Irrigation</i> | <i>3/1 to 11/15</i> |
| | | | to |
| | | | to |
| Total Amount: | 0.34 cfs/100 ac-ft | | |

2. Source of water Stewart Gulch Geothermal Aquifer tributary to _____

3. Point(s) of diversion:

[illegible]

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

[illegible]

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

No. W 13936	Due no later than Dec 31, 2014 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. EDWARDS FAMILY LLC GARNETTE EDWARDS 4106 SAND CREEK ST BOISE ID 83703 USA		GARNETTE EDWARDS 4106 SAND CREEK ST BOISE 83703			
			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	GARNETTE K MONNIE	4106 SAND CREEK ST	BOISE	ID		83703
MANAGER	GARNETTE K EDWARDS	4106 SAND CREEK ST	BOISE	ID	USA	83703
5. Organized Under the Laws of: ID W 13936		6. Annual Report must be signed.* Signature: Garnette Edwards Name (type or print): Garnette Edwards Date: 10/15/2014 Title: Manager				
Processed 10/15/2014		* Electronically provided signatures are accepted as original signatures.				

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-00014

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 10 2011

By

Clerk

Deputy Clerk

NAME AND ADDRESS:

EDWARDS FAMILY LLC
4106 SAND CREEK
BOISE, ID 83703

SOURCE:

GROUND WATER

QUANTITY:

0.84 CFS
250.00 AFY

Use of this right with Right No. 63-5067 is limited to a total combined diversion rate of .33 cfs for outside irrigation. The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day. This right may be limited to a total of 108.3 AF during the period from October 1 through April 1 and/or 145.2 AF during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water rights 63-12 and 63-13 and located in T04N R02E Section 29 NENESE.

PRIORITY DATE:

11/22/1926

POINT OF DIVERSION:

T04N R02E S29 SWNE Within Ada County

Water is low temperature geothermal water.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-01 TO 11-15	0.33 CFS
Commercial	01-01 TO 12-31	0.84 CFS
		250.00 AFY
Heating	01-01 TO 12-31	0.84 CFS
		250.00 AFY
Domestic	01-01 TO 12-31	0.04 CFS

Commercial use is for all uses within the greenhouses, shop, retail shops, and watering of plants, except heating. Irrigation use is for areas outside of the greenhouses. Domestic use is for heating in the apartment. Diversion of low temperature geothermal water under this right for outside irrigation and watering of plants shall, to the extent possible, occur only when the cold water under Water Right No. 63-5067 is insufficient or cannot be used.

PLACE OF USE:

Irrigation	Within Ada County
T04N R02E S29	SWNE 8.3
8.3 Acres Total	
Commercial	Within Ada County
T04N R02E S29	SWNE
Heating	Within Ada County
T04N R02E S29	SWNE
Domestic	Within Ada County
T04N R02E S29	SWNE

Use of this right with Right No. 63-5067 is limited to the outside irrigation of a combined total of 8.3 acres.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Commercial use is included as an accomplished transfer pursuant to Section 42-1425, Idaho Code.

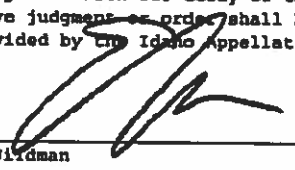
The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

This water right is subject to the terms of a private Agreement dated January 24, 2002, recorded at the Ada County Recorder's Office on August 27, 2002, as Instrument No. 102097169.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Eric J. Widdman
Presiding Judge of the
Snake River Basin Adjudication

Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties



Attachment #4



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

September 1, 2015

GARY SPACKMAN

Director

EDWARDS FAMILY LLC
C/O GARNETTE EDWARDS
4106 SAND CREEK
BOISE ID 83703

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 63-14

Dear Lessor:

Water Rights 63-14 was leased into the Water Supply Bank in accordance with the executed original Lease Contract enclosed. **Your water right as described on the Lease Contract is considered leased into the Bank and should remain unused until it is formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2015**, unless the right is released earlier by the Board, or upon your request. **Please note your right may not be available for immediate release if it has 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."

Please note, the Department received a check with the application on May 8, 2015 for \$250 to lease water right 63-14 to the Bank. We also received payment when the contracts were signed by you and returned to the Department. A refund of \$250 will be requested and sent to you under separate cover from the State Controller's Office.

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

Sincerely,

Jay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Hofstetter Law Office
IDWR Western Region
Ken Neely – Water District No. 63S

MEMORANDUM

TO: Sascha Marston
FROM: Jean Hersley *gmh*
DATE: August 31, 2015
RE: **Refund: Water Supply Bank Lease**

Please refund \$250.00. Applicant paid twice.

NAME: Edwards Greenhouse Inc.

ADDRESS: 4106 Sand Creek
Boise ID 83703

RECEIPT #:C100936

Thank you.

Jean



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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 18, 2015

EDWARDS FAMILY LLC
C/O GARNETTE EDWARDS
4106 SAND CREEK
BOISE ID 83703

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 63-14 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.

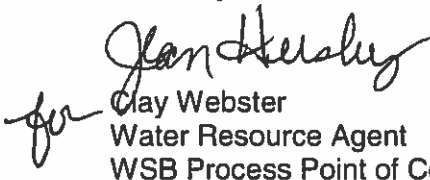
The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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,


Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts
Receipt # C100424

c. Hofstetter Law Office LLC

Hersley, Jean

From: Hofstetter Law Office <Dana@IdahoWaterLaw.com>
Sent: Thursday, August 13, 2015 3:29 PM
To: Hersley, Jean; Palmer, Cherie
Cc: Buyer, Remington
Subject: Re: FW: Lease 63-14; Edwards

Jean, Cherie and Remington,

We are getting close! Just a few more comments/questions:

1. On page 1 of 4, item 1, the total leased acres is 0 but on page 3 it is 8.3. Should these have the same number either 0 or 8.3? Also, please confirm that Edwards can continue to use the part of the right not leased to the Bank on the place of use for heating and/or commercial even if 8.3 acres is designated since acreage numbers typically concern the irrigation use only.

2. On page 1, item 3, should the lease term go until September 30, 2016, the end of the water year for District 63-5? Alternatively, if we keep it December 31, 2015, will it be straightforward later to extend the term to September 30, 2016?

3. On page 3, on the place of use chart, heating is listed twice - should one "heating" be replaced with irrigation? Should there also be symbols in the place of use chart in the SWNE for the heating and commercial uses? Can the words "to be idled" be deleted from the title of the place of use chart since the portions of the heating and commercial uses not in the Bank will continue to be used? Alternatively, can the word "irrigation" be added before the words "place of use" in the title of the chart to establish that it is the irrigation use acreage that is to be idled (in which case the heating and commercial uses should not be designated on the chart).

~~4.~~ Should condition 12 be deleted since the lease does not involve the domestic use?

5. I'm not clear on the meaning or need for condition 16. The portion of the right in the Bank should be rentable if it is not being diverted, subject to the water master's ongoing oversight.

Irrigation portion can only be used as supplemental.

Thank you,
Dana

To be idled: IRRIGATION
NE - - -

8.3	1	1
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Heating + Comm. same as irrigation
per

On 8/13/2015 9:17 AM, Hersley, Jean wrote:

Dana,

Attached is a copy of the revised contract. These will go out for signature to the Edwards Family LLC tomorrow morning. Just a reminder, this contract is for the 2015 season. It expires on December 31, 2015.

Jean

From: Hofstetter Law Office [<mailto:Dana@IdahoWaterLaw.com>]
Sent: Wednesday, August 12, 2015 7:28 PM
To: Palmer, Cherie

Cc: Buyer, Remington; Hersley, Jean
Subject: Re: FW: Lease 63-14; Edwards

Cherie,

After reviewing the draft conditions, I wonder if condition 12 is necessary since the domestic use is not being put in the Bank, but in any event this condition appears to omit a reference to "domestic use" being limited to 13,000 gallons per day. Also, in light of the amendments to the application that I made today, I wonder if condition 16 is necessary and condition 14 should be revised.

Thank you,
Dana

On 8/12/2015 12:36 PM, Palmer, Cherie wrote:

Dana,

I saw Jean's email to you earlier today. Please see my email to Jean below where you'll see my findings and conclusion in regard to the 63-14 lease application. Please let me know if you have any questions regarding my analysis.

Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau

322 E. Front Street (Front St. & Broadway Ave)

Mail: PO BOX 83720 Boise, ID 83720-0098

email: cherie.palmer@idwr.idaho.gov

phone: (208) 287-4944

fax: (208) 287-6700

From: Palmer, Cherie
Sent: Tuesday, August 11, 2015 4:28 PM
To: Hersley, Jean
Cc: Buyer, Remington; Webster, Clay
Subject: Lease 63-14; Edwards

Jean,

I have reviewed the adjudication documents associated with water right 63-14 and have the following suggestions for processing the lease application:

Version 1 of the AJ recommendation included a condition that said:

Commercial use is for a greenhouse business and includes all associated uses including use for retail offices and shop, heating, and irrigation inside and outside of the greenhouses.

A stipulation to partially resolve objections was filed on 9/27/2010 in the SRBA that modified that condition, among others, that ended up on Version 2 of the AJ recommendation. The above conditions was changed to say:

Commercial use is for all uses within the greenhouses, shop, retail shops and watering of plants, **except heating**. Irrigation use is for areas outside of the greenhouses. Domestic use is for heating in the apartment.

That conditions, among others that were modified through the objection appear on the final decree.

The condition was intentionally modified to clarify the two uses; making the commercial and heating uses independent of one another. Based on the claim for this right, the commercial use is for irrigating plants within the greenhouses, irrigation use is for the irrigation of outdoor plants, heating use is to heat the greenhouses and domestic use is to heat an apartment. Leasing just the heating component means that the right holder cannot heat the greenhouse but can still irrigating plants within the greenhouse.

Since the applicant did not apply to lease the domestic portion of the right, this means that right holder can still heat the apartment while leased.

In conclusion, you can lease this water right into the Bank for just commercial use. However, the lease could not easily be rented due to enlargement questions and should include a condition not allowing a rental.

Cherie

Jean,

Dana came in to discuss this rental + ~~she~~ she provided more information:

The diversion rate of 0.34cfs is not being used by Edwards. So they need to have 0.34cfs of water protected from forfeiture across the board.

Dana amended the application to reflect those changes.

Also she told me today that they do heat the apartment with water right 63-14 so we don't need to bring the domestic component into the lease.

Lastly, because 63-14 is supplemental to 63-5067 we can bring in the irrigation portion of this right w/o causing an enlargement.

Thanks! cp

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 quantity of water under this right shall not exceed 13,000 gallons per day.
13. Use of water under this right will be regulated by the watermaster of State Water District No. 63S, Stewart Gulch. Water District 63S regulates the water rights from wells within its boundary that produce from the low temperature geothermal aquifer known locally as the Stewart Gulch Geothermal Aquifer.
14. The unleased portion of the heating and commercial use of this right is limited to 0.5 cfs and 150.0 af. *added*
15. This right may be limited to a total of 108.3 af during the period from October 1 through April 1 and/or 145.2 during the period April 1 to October 1 for the purpose of protecting the artesian flow of water from the two wells used under water right 63-12 and 63-13 and located in T04N, R02E, Section 29, NENESE.
- ? 16. The heating and commercial uses under this right is not rentable due to possible enlargement issues. *added irrigation*
- ✓ 17. Use of this right with right no. 63-5067 is limited to the outside irrigation of a combined total of 8.3 acres.
- ✓ 18. Use of this right with right No. 63-5067 is limited to a total combined diversion rate of 0.33 cfs for outside irrigation.
- ✓ 19. Diversion of low temperature geothermal water under this right for outside irrigation and watering of plants shall, to the extent possible, occur only when the cold water under water right 63-5067 is insufficient or cannot be used.

Hersley, Jean

From: Hofstetter Law Office <Dana@IdahoWaterLaw.com>
Sent: Wednesday, August 12, 2015 7:28 PM
To: Palmer, Cherie
Cc: Buyer, Remington; Hersley, Jean
Subject: Re: FW: Lease 63-14; Edwards

Cherie,

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Dana

On 8/12/2015 12:36 PM, Palmer, Cherie wrote:

Dana,

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Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700

From: Palmer, Cherie
Sent: Tuesday, August 11, 2015 4:28 PM
To: Hersley, Jean
Cc: Buyer, Remington; Webster, Clay
Subject: Lease 63-14; Edwards

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In conclusion, you can lease this water right into the Bank for just commercial use. However, the lease could not easily be rented due to enlargement questions and should include a condition not allowing a rental.

Cherie

Palmer, Cherie

From: Palmer, Cherie
Sent: Wednesday, August 12, 2015 12:37 PM
To: 'Dana@IdahoWaterLaw.com'
Cc: Buyer, Remington; Hersley, Jean
Subject: FW: Lease 63-14; Edwards

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*Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
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Cherie

Hersley, Jean

From: Buyer, Remington
Sent: Wednesday, August 05, 2015 11:24 AM
To: Hersley, Jean
Subject: RE: Edwards Family Lease

Sure,

I told Dana that my reading of the partial decree and adjudication backfile for 63-14 is that the commercial and heating beneficial uses are one and the same, but for an unknown reason, they were called out separated during the SRBA decree process. (The original version of the Adjudication recommendation included the following condition: "Commercial use is included as an accomplished transfer pursuant to Section 42-1425, Idaho Code, to recognize all uses within the greenhouse, shop, and apartment including domestic, heating, retail shops and irrigation of plants" however version two of the recommendation is the one that went on the decree, in which heating was dropped from the commercial use condition).

Due to the original condition language, and the reality that these two B/Us appear to be utilized together, I told Dana that Edwards would likely also need to lease in 0.34 cfs and 100 AF of the commercial use to accompany 0.34 cfs and 100AF of heating use. Dana acknowledged that this sounded correct and she was going to consult with her 'engineer' as to why a lease only for heating was submitted. I told her that we would follow up with her as we concluded our lease review process and that we would likely require that the commercial be included, unless she had information indicating how and why commercial should be separate from the heating. I told her she could provide such information once we contacted her.

So, if you're ready to proceed on the lease contract, we could draft it for heating and commercial and submit it to Dana for review and signature by her client. Domestic is only 0.04 cfs, which is easily accomplishable under the 0.5 cfs total diversion rate for heating that Edwards will retain unleased, so it doesn't appear that domestic is required on the lease.

Remington
287-4918

From: Hersley, Jean
Sent: Wednesday, August 05, 2015 8:54 AM
To: Buyer, Remington
Subject: Edwards Family Lease

Could you please summarize, in writing, what you talked to Dana about on the Edwards Family WSB Lease? Thank you.

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

Hersley, Jean

From: Neely, Ken
Sent: Wednesday, August 05, 2015 8:37 AM
To: Hersley, Jean
Cc: Buyer, Remington
Subject: RE: Watermaster comments for WSB Lease Application for Edwards Family LLC 63-14

Jean,

I don't have any comments about this lease. Please let me know if anyone seeks to rent this water in 2015.

Thanks,

Ken

Kenneth W. Neely
Technical Hydrogeologist
Ground Water Quality and Quantity
Geothermal
208-287-4852
Ken.neely@idwr.idaho.gov
www.idwr.idaho.gov

From: Neely, Ken
Sent: Tuesday, August 04, 2015 1:58 PM
To: Buyer, Remington
Subject: FW: Watermaster comments for WSB Lease Application for Edwards Family LLC 63-14

Hi Remington,

One of the low-temperature geothermal water in the Boise area wants to place some water in the Bank. I talked to John Homan about this, and he suggested that I chat with you. Can I stop by your office sometime in the next day or two?

Ken

Kenneth W. Neely
Technical Hydrogeologist
Ground Water Quality and Quantity
Geothermal
208-287-4852
Ken.neely@idwr.idaho.gov
www.idwr.idaho.gov

From: Hersley, Jean
Sent: Tuesday, August 04, 2015 9:41 AM
To: Neely, Ken
Subject: Watermaster comments for WSB Lease Application for Edwards Family LLC 63-14

The Edwards Family LLC would like to place the hearing portion of the above mentioned water right into the Bank for the rest of this year. I have attached the review memo and DRAFT contract for your benefit. Please let me know within 7 days if you have any comments or concerns about this lease.

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

MEMORANDUM

To: Water Right No(s). 63-14

From: Jean Hersley

Date: August 4, 2015

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

PURPOSE/NARRATIVE: This application was received on May 8, 2015. This right is for irrigation, commercial, heating and domestic. The applicant wants to place a portion of the heating portion in the Bank until the end of 2015. 0.34 cfs, 100.0 af. Water is geothermal. After reviewing this application, it was determined that a portion of the commercial use needs to be placed in the Bank also.

AUTHORITY TO FILE: Garnette Edwards, manager, signed the application.

WATER RIGHT VALIDITY: The water right was decreed in 2010. Forfeiture is not an issue.

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(s) are subject to Water District 63S. Stewart Gulch Geothermal Aquifer.