

AUG 07 2015

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

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

Lessor: BROWN FARMS LLC
764 TROUTNER WAY
BOISE ID 83712
(208) 386-9119

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 an application to lease water rights described below on April 9, 2015 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 the conditions listed below.

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

1. **WATER 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

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Acre Limit	Total Leased Acres
61-02154	1/14/1963	Ground Water	NA	1.92 cfs	378.4 af	NA	94.6 ac
61-10378	4/30/1974	Ground Water	NA	0.25 cfs	Not Stated	NA	16.3 ac
Total Annual Combined Limit				1.92 cfs	378.4 AF	NA	NA

61-07005	8/23/1967	Ground Water	NA	1.81 cfs	445.2 af	NA	111.3 ac
61-07119	7/10/1972	Ground Water	NA	1.85 cfs	364.4 af	47.6 ac	91.1 ac
61-07396	1/4/1980	Ground Water	NA	0.76 cfs	222.8 af	NA	55.7 ac

Annual Combined Lease Totals

4.49 cfs 1302.3 af 325.5 ac 369.0 ac

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2015.

IN FILE # 61-2154

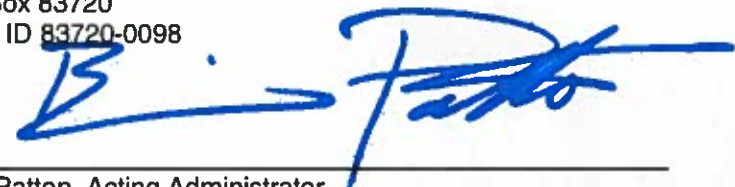
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. 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.

BROWN FARMS LLC
764 TROUTNER WAY
BOISE ID 83712
(208) 386-9119

By  Date 8/4/15
Printed Name Clifford L. Brown Title Member

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

By  Date 8/7/2015
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR  Date 8-7-2015

ATTACHMENT A

WATER RIGHT NOS. 61-02154, 61-07005, 61-07119, 61-07396 and 61-10378 WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: BROWN FARMS LLC
764 TROUTNER WAY
BOISE ID 83712
(208) 386-9119

LOCATION OF POINTS OF DIVERSION

GROUND WATER	L1(SENWNW)	Sec. 19, Twp 04S, Rge 06E, ELMORE County
GROUND WATER	SWNWNW	Sec. 20, Twp 04S, Rge 06E, ELMORE County
GROUND WATER	NWSENE	Sec. 20, Twp 04S, Rge 06E, ELMORE County
GROUND WATER	SWNESW	Sec. 19, Twp 04S, Rge 06E, ELMORE County
GROUND WATER	SESESE	Sec. 18, Twp 04S, Rge 06E, ELMORE County

BENEFICIAL USE IRRIGATION

SEASON OF USE 61-02154, 61-07119, 61-07396, and 61-10378
03/15 to 11/15

SEASON OF USE 61-07005
03/01 to 10/15

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	
04S	06E	17											15.0	15.0					30.0
04S	06E	18							43.0	40.0					9.0	9.0	9.0	9.0	119.0
									L2										
04S	06E	19						44.0							40.0			10.0	94.0
								L1	L2			L3	L4						
04S	06E	20	40.0	40.0	5.0	5.0	9.0	9.0	9.0	9.0									126.0

Total Acres: 369.0

CONDITIONS APPLICABLE TO ALL LEASED WATER RIGHTS

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, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.

5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment after the following rental season.
11. The water rights leased to the bank are subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

ADDITIONAL CONDITION APPLICABLE TO RIGHT 61-07005

12. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 2/27/2003.

ADDITIONAL CONDITIONS APPLICABLE TO RIGHT 61-10378

13. Right 61-10378 is an enlargement of Right 61-2154 pursuant to Section 42-1426, Idaho Code.
14. This right is for an enlargement of the place of use described above.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 09 2015

DEPARTMENT OF
WATER RESOURCESWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLIST

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 Brown Farms, LLCWater Right No. 61-7005

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. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is \$500.00.

Attachment N/A YES

- 1A ☒ ☐ Contact information for *all owners* 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 ☒ ☐ *Notice of Change in Water Right Ownership* 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.
- 3D ☒ ☐ 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. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (<http://maps.idwr.idaho.gov/mapall/>) to locate a water right place of use or point of diversion.

Department Use Only

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

APPLICATION TO SELL OR LEASE A WATER RIGHT 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 Brown Farms, LLC Email Address cliffbrown@cableone.net
Mailing Address 764 Troutner Way, Boise, Idaho 83712 Phone Number (208) 386-9119

☒ 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 Cliff Brown Organization _____
Professional Title Manager Email Address see above
Mailing Address _____ Phone Number _____

☒ 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 61-7005 ☐ 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.

Five ground water wells, interconnected piping system, wheel lines and five 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.

Combined with 61-2154, 61-2155, 61-7005, 61-7119, 61-7396, and 61-10378

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

Yes ☐ No ☒

If yes, describe. _____

D. 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. _____

E. 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. Pending transfer application no. 78356. A consent from the prospective owner is included in the file. _____

4. 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, for a period from 1/1/2015 to 12/31/2015 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / 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

Cliff Brown
Printed Name

April 8, 2015
Date

Signature of Authorized Representative

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

1. <u>Water Right Number</u>	Amount (cfs/ac-ft)	Nature of Use	Period of Use
61-7005	1.55/379.7	Irrigation	3-15 to 11-15
			to
			to
			to
			to
			to
Total Amount: 			

2. Source of water Ground water tributary to

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4S	6E	18		SE	SE	SE	Elmore
4S	6E	19		SE	NW	NW	Elmore
4S	6E	19		SW	NE	SW	Elmore
4S	6E	20		NW	SE	NE	Elmore
4S	6E	20		SW	NW	NW	Elmore

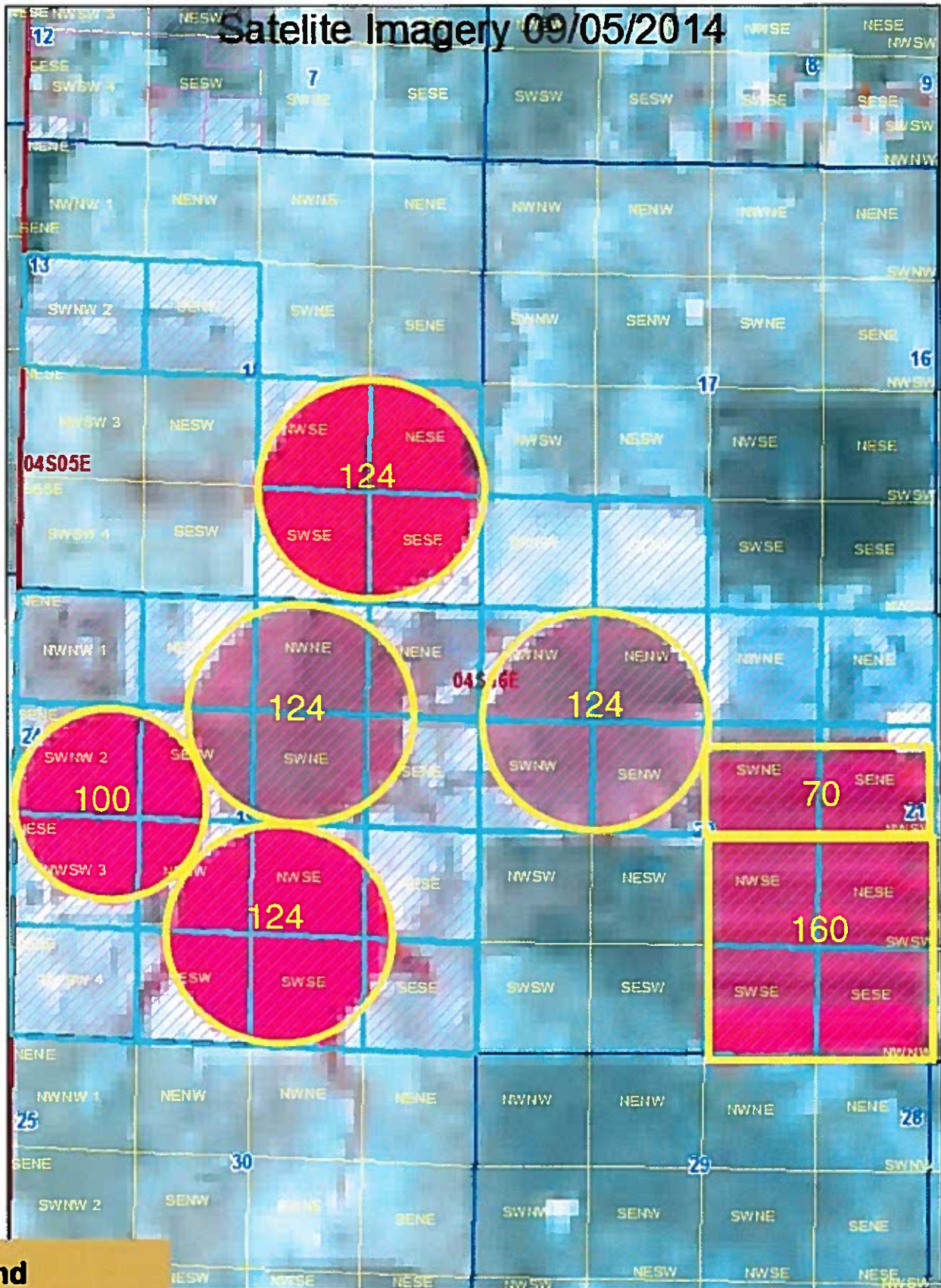
4. Lands irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4S	6E	17										15	15						30
4S	6E	18							43	40					9	9	9	9	119
4S	6E	19						44							40			10	94
4S	6E	20	40	40	5	5	9	9	9	9									126

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** 369

Brown Farms Lease 2014

Satellite Imagery 09/05/2014



Legend

- Township/Range
- Sections

Created by Clay Webster 10/7/2014:

Total acres irrigated: 826

Receipt No. 0099970
 Fee Amount \$ 500.00
 Date/by 2-26-15 LSH
 (For Department Use Only)

RECEIVED

FEB 26 2015

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

Name of Seller/Lessor Brown Farms, L.L.C. Phone 208-386-9119
 Mailing address 764 N Troutner Way, Boise, Idaho 83712 Email cliffbrown@cableone.net

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

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

1. Water Right Number 61-7005 Amount (cfs/ac-ft) 1.55/379.7 Nature of Use Irrigation Period of Use 3/15 to 11/15
 _____ to _____
 _____ to _____

Total Amount: 1.55/379.7

2. Source of water Ground water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
04S	06E	18		SE	SE	SE	Elmore
04S	06E	19		SE	NW	NW	Elmore
04S	06E	19		SW	NE	SW	Elmore
04S	06E	20		NW	SE	NE	Elmore

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

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	06E	17											15	15					30
04S	06E	18							43	40					9	9	9	9	119
04S	06E	19						44							40			10	94
04S	06E	20	40	40	5	5	9	9	9	9									126

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 369

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

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

Five ground water wells, interconnected piping system, wheel lines and 5 pivots.

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

Combined with 61-2154, 61-2155, 61-7119, 61-7396, and 61-10378

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

Yes ☐ No ☒

If yes, describe.

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

Yes ☐ No ☒

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

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

If yes, describe. Pending Transfer Application 78356. See attached consent to placing right into the Bank for 2015.

D. REQUIRED ITEMS

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

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

E. SALE/LEASE AGREEMENT

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

If lease, for a period from 01/01/2015 to 12/31/2015 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

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

Current rental rate

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

The owner/lessor acknowledges the following:

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



Signature of Applicant

Clifford Brown, manager

Printed Name and Title*

2/23/15
Date

Signature of Applicant

Printed Name and Title*

Date

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

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

Additional point of diversion

TWP	RGE	SEC	LOT	¼	¼	¼	County
4S	6E	20		SW	NW	NW	Elmore