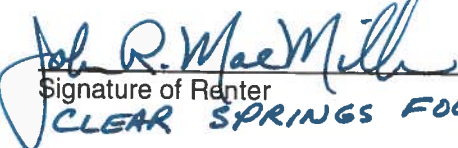


DEPARTMENT OF  
WATER RESOURCES

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**WATER SUPPLY BANK RENTAL AGREEMENT**

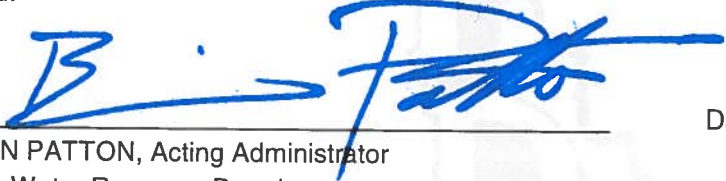
The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

 JOHN R. MACMILLAN, VP 3-30-15  
Signature of Renter Printed Name and Title\* Date  
CLEAR SPRINGS FOODS.

\_\_\_\_\_  
Signature of Renter Printed Name and Title\* Date

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

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By  Date April 1, 2015  
BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**WATER SUPPLY BANK RENTAL AGREEMENT**

**WATER USE DETAILS**

**LOCATION OF POINT(S) OF DIVERSION**

CLEAR SPRINGS      SE¼SE¼NE¼      Lot 5 Sec 02      Twp 09S      Rge 14E      GOODING County

**BENEFICIAL USE**

IRRIGATION

**SEASON OF USE**

03/15 TO 11/15

**RENTER'S PLACE OF USE:**      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 |        |
| 09S | 14E | 01  |    |    |    |           |    |    | 3.8<br>L5  | 0.1<br>L6 |    | 2.7<br>L12 |    |    | 0.2<br>L8 |    |    |    | 6.8    |
| 09S | 14E | 01  |    |    |    |           |    |    | 0.5<br>L12 |           |    |            |    |    |           |    |    |    | 0.5    |
| 09S | 14E | 02  |    |    |    | 0.7<br>L5 |    |    |            |           |    |            |    |    |           |    |    |    | 0.7    |

Total Acres:    8.0

**CONDITIONS APPLICABLE TO ALL RENTED WATER RIGHTS**

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from 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.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
5. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
6. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
7. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
8. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
9. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

11. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
12. The water right(s) referenced above is accepted into the bank and rented in accordance with a private agreement formulated between the lessor and the renter. Administrative fees will be paid based on the current rental rate.
13. The following rights are diverted through point(s) of diversion described above: 36-2659, 36-2708, 36-7004, 36-7218.



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

FEB 17 2015

DEPARTMENT OF  
WATER RESOURCES

## APPLICATION TO RENT WATER FROM THE BOARD'S WATER SUPPLY BANK

**Applicant Name:** Clear Springs Foods, Inc.

**Is this application being submitted with a lease application as a lease/rental package?** Yes ☒ No ☐

An *Application to Rent Water from the Board's Water Supply Bank* must be completed in accordance with the minimum requirement checklist below to be acceptable for processing by the Idaho Department of Water Resources (IDWR). This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Applications to rent water should be submitted well in advance of the desired start date for the use of water. Rental applications may be submitted as early as November 1 of the year prior to the intended use of rental water. Rental applications submitted more than one year in advance of the proposed start date for water use will not be accepted and will be returned to applicants. Rental applications will not be processed if they are received after the end of the rental season of use.

One rental application per beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources. For multiple beneficial uses of water, individual rental requests should be submitted for each unique beneficial use of water.

For additional instructions on completing a rental application, visit the Department's website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

| Checked All Items as Either Attached (Yes) or Not Applicable (N/A) |                                     |                                                                                                                                                              |                                                                                                       |
|--------------------------------------------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <b>YES</b>                                                         |                                     |                                                                                                                                                              |                                                                                                       |
|                                                                    | <input checked="" type="checkbox"/> | Completed <i>Application to Rent Water from the Board's Water Supply Bank</i>                                                                                |                                                                                                       |
| <b>Attachment</b>                                                  | <b>N/A</b>                          | <b>YES</b>                                                                                                                                                   |                                                                                                       |
| 2                                                                  | <input checked="" type="checkbox"/> | A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request |                                                                                                       |
| 3A                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Detailed information on a proposed use of rental water                                                |
| 3E                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Authorization from the owner/operator of the rental point(s) of diversion                             |
| 3G                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Water modeling to account for the impacts of the rental request                                       |
| 3J                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Documents justifying a need to rent water for irrigation at a rate of flow greater than 0.02 cfs/acre |
| 3K                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Authorization from the owner/operator of the property at the proposed rental place(s) of use          |
| 4B                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Explanation of how the rental water will sufficiently accomplish your rental purposes                 |
| 4C                                                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>                                                                                                                                     | Explanation of consumptive use amounts for water rights experiencing a change in nature of use        |

**Department Use Only – Proposed Water Right(s)**

36-16236

STATE OF IDAHO  
WATER RESOURCE BOARD

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant Clear Springs Foods, Inc.

Mailing Address P.O. Box 712, Buhl, Idaho 83316

Email Address randy.macmillan@clearsprings.com Phone Number 208-543-3462

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☒ No ☐

If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative John K. Simpson

Professional Title Attorney

Organization Barker Rosholt & Simpson

Relationship to Applicant Attorney

Mailing Address P.O. Box 2139, Boise, ID 83701

Email Address jks@idahowaters.com Phone Number 208-336-0700

**2. MAP**

Create a map of the proposed point(s) of diversion, place(s) of use, and water diversion, delivery and distribution systems. Make sure the place of use is outlined with an obvious, bolded line. For irrigation purposes, note that the place of use outlined on your map cannot exceed the number of acres you are proposing to rent. Attach the map to this application and label it **Attachment 2**.

**3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER**

A. Describe the purpose of your rental request. Include any anticipated rates of water application, water use practices or number of stock (if any). If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of rental water required. Attach additional sheets if required and label it **Attachment 3A**:

Irrigation

B. Enter the desired and/or minimum necessary rates of flow, volume, or irrigable acres requested for your rental purposes:

| Desired Rate<br>(Cubic Feet/Second) | Desired Volume<br>(Acre-Foot) | Minimum Rate*<br>(Cubic Feet/Second) | Minimum Volume*<br>(Acre-Foot) | Acres (if applicable)<br>(Acre) |
|-------------------------------------|-------------------------------|--------------------------------------|--------------------------------|---------------------------------|
| <b>0.16 CFS</b>                     | <b>32.0 AF</b>                | CFS                                  | AF                             | <b>8.0 AC</b>                   |

*Sometimes water rights available for rent provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.*

C. Enter the proposed start date and latest possible start date for using rental water. Also provide the number of years you would like to rent water:

| Proposed Start Date<br>(month/day/year) | Latest Possible Start<br>(month/day/year) | * Proposed Rental<br>Duration<br>(Max 5 Years) | ** For multi-year rentals, indicate whether you desire to rent<br>water for remaining years if a rental request cannot be<br>approved for the first year?                       |
|-----------------------------------------|-------------------------------------------|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3/15/15                                 | 11/15/15                                  | 5 years                                        | <input checked="" type="checkbox"/> Yes, approve rental for all<br>remaining future years. <input type="checkbox"/> No, return rental request if<br>first year is unapprovable. |

- \* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.
- \*\* Subject to the availability of rentable water. A multi-year rental that cannot begin during the first year requested may be approved for some or all remaining years, depending on availability. Rental requests will be returned if no water is available to rent in the first and/or subsequent years of the rental request.

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

- D. Refer to the map you created in item 2 and specify the location of the point(s) of diversion (POD) from which rental water is proposed to be diverted:

| Water Source | TWP | RGE | SEC | ¼  | ¼  | ¼  | County  | Other water rights for the same purpose diverted from this POD |
|--------------|-----|-----|-----|----|----|----|---------|----------------------------------------------------------------|
| Clear Spring | 09S | 14E | S02 | SE | SE | NE | Gooding |                                                                |
|              |     |     |     |    |    |    |         |                                                                |
|              |     |     |     |    |    |    |         |                                                                |
|              |     |     |     |    |    |    |         |                                                                |

The entry in this grid must match the map from item 2 on the application.

- E. Do you own and/or possess the authority to divert water from the above POD(s)? Yes ☒ No ☐  
If no, provide documentation from the owner/operator confirming your authorization to use the POD(s) and label it **Attachment 3E**.
- F. Do any POD(s) identified in Question 3D divert from a water source that may require water modeling? Yes ☐ No ☒  
*Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.*
- G. Has water modeling been provided with your rental request? Yes ☐ No ☒  
If yes, include as **Attachment 3G**. Otherwise please explain why modeling was not provided:

*Rental applications that require modeling will be returned if modeling is not provided.*

- H. Specify the proposed beneficial use: ☒ Irrigation ☐ Commercial ☐ Industrial ☐ Municipal  
☐ Groundwater Recharge ☐ Mining ☐ Stockwater ☐ Other: \_\_\_\_\_
- I. Refer to the map you created in item 2 and specify below the places you propose to use water. If for irrigation, specify the number of acres to be irrigated per ¼ ¼ tract. Otherwise indicate usage by marking the ¼ ¼ tracts with the first letter of your proposed use identified above:

| TWP                                                                       | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS                       |
|---------------------------------------------------------------------------|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|------------------------------|
|                                                                           |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |                              |
| 09S                                                                       | 14E | 01  |    |    |    |    |    |    | X  |    |    | X  |    |    |    |    |    |    |                              |
| 09S                                                                       | 14E | 02  |    |    |    | X  |    |    |    |    |    |    |    |    | X  |    |    |    | 8.0                          |
|                                                                           |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |                              |
|                                                                           |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |                              |
|                                                                           |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |                              |
|                                                                           |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |                              |
| The entry in this grid must match the map from item 2 on the application. |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | Total Acres (for irrigation) |
|                                                                           |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 8.0                          |

- J. For irrigation uses, do you propose a water diversion rate greater than 0.02 cfs/acre? N/A ☐ Yes ☐ No ☒  
If yes, explain the justification for this rate of flow and attach any supporting documents as **Attachment 3J**:
- K. Do you own the land at the proposed rental place of use (POU)? Yes ☒ No ☐  
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it **Attachment 3K**.
- L. Describe your water distribution system and how water will be delivered from the POD(s) to the proposed POU(s):  
Diversion and distribution occur through a sprinkler system

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

M. List all other water rights and sources of water at the rental place of use for the same purpose and explain why additional water is required. Include privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company, or any other water deliver entity:

n/a

**4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS**

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the water rights you are requesting to rent. Otherwise continue to Section 5 of this application form.

**Please note:** Diversion rates and volumes to be rented from a leased water right must be proportionate to the per acre diversion rates and per acre volume limits of the water right leased to the Bank. Applicants should query a water right's rental availability by reviewing active lease and rental documents, searchable via [IDWR's website](#), to ensure all elements of a water right remain available in sufficient quantity to satisfy a rental request.

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany the rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request.**

For leased rights with combined limits, applicants should request to rent against the combined limit diversion rate, volume or acre limits.

| Elements of Water Rights Leased to the Bank (Contract Details)                                                                                                                   |               |               |            |             |            |              |            | Rental Request |             |            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------|------------|-------------|------------|--------------|------------|----------------|-------------|------------|
| Water Right Number                                                                                                                                                               | Nature of Use | Water Source  | Rate (CFS) | Volume (AF) | Acres (AC) | Start (year) | End (year) | Rate (CFS)     | Vol. (AF)   | Acres (AC) |
| 36-16236                                                                                                                                                                         | Irrigation    | Clear Springs | 0.16       | 32.0        | 8.0        | 3/15         | 11/15      | 0.16           | 32          | 8.0        |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                |             |            |
| <b>Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre that have been leased to the Water Supply Bank</b> |               |               |            |             |            |              |            | <b>TOTAL</b>   | 0.16<br>CFS | 32.0<br>AF |
|                                                                                                                                                                                  |               |               |            |             |            |              |            |                | 8.0<br>AC   |            |

Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

n/a

STATE OF IDAHO  
WATER RESOURCE BOARD

Application to Rent Water (Continued)

C. Does your rental request propose to change the nature of use for any water right(s) being requested? Yes ☐ No ☒

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented, as well as the new consumptive use amount for your proposed beneficial use. Attach a separate page if space is insufficient and label it **Attachment 4C**:

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5. ADDITIONAL INFORMATION

A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☐ No ☒

If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

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B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒

If yes, describe: Not at this time

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C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒

If yes, describe the date and location of the NOV.

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DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws.

Signature of Applicant



Signature of Representative

J. Randy MacMillan

Printed Name of Applicant

Date

John K. Simpson

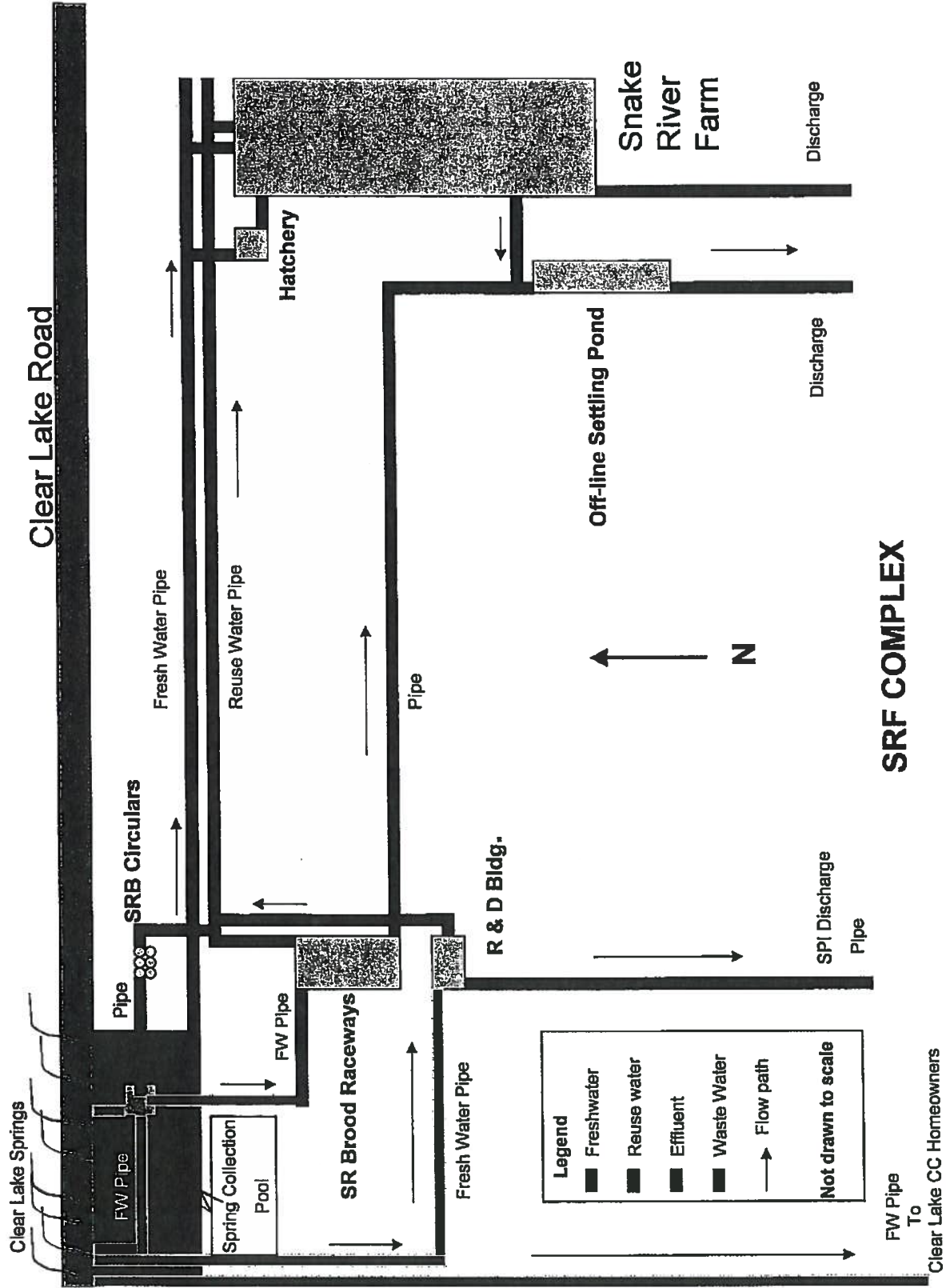
Printed Name of Representative

2/13/15  
Date

Mail to:

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







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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

April 2, 2015

CLEAR SPRINGS FOODS INC  
PO BOX 712  
BUHL ID 83316

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 36-16236**

Dear Renter:

Please find enclosed two receipts in the amounts of **\$9.60 and \$44.80** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 32.0 acre-feet of water for irrigation of 8 acres during 2015. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you have a private agreement with the lessor of the right(s).

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure(s): Receipt Nos. C098423 & C100225  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
Allen Merritt – IDWR Southern Regional Office  
Cindy Yenter – State Water District No. 130



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

March 25, 2015

CLEAR SPRINGS FOODS INC  
PO BOX 712  
BUHL ID 83316

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO. 36-16236

\*\*\*TIME SENSITIVE RESPONSE REQUIRED\*\*\*

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of **\$544.00** was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 32.0 acre-feet. Since you have a private agreement with the lessor, **you are only obligated to pay the 10% administrative fee or \$54.40.** An annual payment shall be received by the Department prior to the execution of this agreement and prior to February 15 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

**Please send a check for \$54.40** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact me at (208) 287-4933.

Sincerely,

*for Sarah S. Hedley*  
Patrick Kelly  
Water Resource Agent

Enclosure(s)

c: IDWR Front Desk

# MEMO

TO: Water Right 36-16236  
FROM: Cherie Palmer  
DATE: March 24, 2015  
RE: Fee Clarification for WSB Rental

---

Clear Springs Food rented water right 36-16236 in 2010-2014. The total fee for the entire rental period was \$224.00. The renter paid for the rental in one payment under receipt C092234.

Early 2014 the Department sent the renter a notice that payment was due in the amount of \$44.80. This notice was sent in error. However, the renter did submit the payment of \$44.80 under receipt no. C098423.

A refund was never initiated for the overpayment. At this time, the payment due for the new rental agreement is \$54.40 for 2015. The \$44.80 overpayment will be applied to the 2015 rental fee.

The total due remaining for 2015 is \$9.60.

## Kelly, Patrick

---

**From:** Merritt, Allen  
**Sent:** Friday, March 20, 2015 8:58 AM  
**To:** Kelly, Patrick; Yenter, Cindy  
**Subject:** RE: Water Supply Bank Rental Review

I do not have an issue with the rental. I'm not sure about the exchange from CS to CLR.... Maybe Cindy can shed some light.

---

**From:** Kelly, Patrick  
**Sent:** Wednesday, March 18, 2015 10:15 AM  
**To:** Merritt, Allen; Yenter, Cindy  
**Subject:** Water Supply Bank Rental Review

Hello,

Attached is a review memo for water supply bank rental 36-16236. Clear Springs Foods Inc and Clear Lake Ranch Pud Master Association Inc formed an exchange agreement to swap water through the bank. Please review and provide comment within 10 days.

Thank you,

*Patrick Kelly*

Water Resource Agent

*Idaho Department of Water Resources*

322 E. Front St.

Boise, Idaho 83702

d: 208.287.4933

f: 208.287.6700

[patrick.kelly@idwr.idaho.gov](mailto:patrick.kelly@idwr.idaho.gov)

## MEMORANDUM

**To:** Water Right(s) 36-16236

**From:** Patrick Kelly

**Date:** 3/18/2015

**Re:** Review & Analysis of Application to Rent Water from the State Water Supply Bank

---

**PURPOSE/NARRATIVE:** The rental application was received February 17, 2015 in the name of Clear Springs Foods, Inc. seeking water for five years through the 2019 season. This is a rental renewal from a 2010 rental agreement that expired at the end of the 2014 season. An exchange agreement was agreed upon by Clear Lakes Ranch (lessor) and Clear Springs Food (renter) to mutually benefit or share domestic and irrigation uses. The Ranch holds water right 36-16236 (36-4148A at the time of the 2005 exchange agreement, pre-transfer) which is the irrigation use. Clear Springs Food holds water right 36-2703 which is a domestic, fish prop use. The agreement proposes that the two parties swap portions of their respective water rights (below) in an effort to accommodate irrigation and domestic needs. This rental application is for irrigation of 8 acres of yard and shrub around the Clear Springs Food common areas.

| Exchange Agreement                                            |                                              |
|---------------------------------------------------------------|----------------------------------------------|
| RANCH                                                         | FOODS                                        |
| Gives up 0.16 cfs from WR36-16236 to WSB Lease for irrigation | Gives up 0.9 cfs from WR36-2703 to WR36-8329 |

It is unclear how the Ranch is receiving the 0.9 cfs from Clear Springs Foods. I was unable to find anything that suggests a lease, exchange or transfer has been completed for this portion of the exchange.

**AUTHORITY TO FILE:** John K Simpson signed the rental application. Mr. Simpson is the appointed representative and attorney to Clear Springs Foods Inc. The place of use for the common area is owned by Clear Springs Foods Inc. Point of diversion for WR 36-2703 is also on Clear Springs Foods Inc land.

**WATER RIGHT VALIDITY:** 36-16236 is an irrigation water right for Clear Lake Ranch Pud Master Assn Inc. The water right authorizes the irrigation of 44.7 total acres at 0.9 cfs (0.02 cfs/acre). Aerial photography shows that at least 8 acres of the POU has been idled indicating the lessor is in compliance with their active lease.

**INJURY TO OTHER WATER RIGHTS:** Parts of the rental place of use is within the same QQ to the water right's POU. Rental POD measures 670 ft downstream from the 36-16236 POD. No injury is apparent.

**ENLARGEMENT OF USE:** WR 36-16236 is the only water right to serve the Clear Lakes Ranch property. Large canal rights not pertinent to the land. Proper delivery management by water district 130 should prevent any 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 rental appears consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** The rented right(s) are subject to Water District # 130. Cindy Yenter of WD130 and Allan Merritt of IDWR Southern Region will be contacted for an opportunity to comment on the rental.

## EXCHANGE OF WATER RIGHTS AGREEMENT

This Exchange Agreement ("Agreement") is made and entered into this 20<sup>th</sup> day of July, 2005, by CLEAR SPRINGS FOODS, INC. ("Clear Springs Foods") that is a party to, beneficiary, or holder of interest in water right 36-02703 and CLEAR LAKE RANCH PUD MASTER ASSOCIATION, INC. ("Clear Lake Ranch") that is a party to, beneficiary, or holder of interest in water right 36-4148 A.

### RECITALS:

- A. Clear Springs Foods holds fish propagation water right 36-2703 dated Nov. 23, 1933 for 40 cubic feet per second (cfs) diverted from Clear Springs.
- B. Clear Lake Ranch holds an irrigation water right 36-04148 A dated Sept. 9, 1912 for 1.5 cfs diverted from Clear Springs of which 0.6 cfs has been sold to Clear Lake Country Club and for which a transfer application (71435) has been received by the Idaho Department of Water Resources dated Aug. 5, 2004.
- C. Clear Lake Ranch holds water right 36-8329 dated June 2, 1987 for 1.5 cfs diverted from Clear Springs of which 1.5 cfs is for fire protection, 0.7 cfs is for domestic residential use and 0.2 cfs is for commercial use.
- D. Clear Springs Foods made a water delivery call May 2, 2005 in which Clear Lake Ranch water right 36-8329 is junior and potentially subject to curtailment.
- E. Clear Springs Foods holds water right 36-07148 dated Jan. 1, 1971 for 1.67 cfs diverted from Clear Springs of which 0.8 cfs was, prior to adjudication, for commercial use but subsequent to adjudication is for fish propagation and domestic use only. Clear Springs Foods irrigates approximately 8 acres of visitor center grounds and shrubbery but does not have a decreed water right for irrigation.
- F. It is to the mutual benefit of the parties hereto that an exchange agreement be formalized that ensures the right of Clear Lakes Ranch to divert water from Clear Springs to satisfy their 0.7 cfs domestic residential use and 0.2 cfs for commercial use and further that the exchange agreement ensure the right of Clear Springs Foods to divert water from Clear Springs to satisfy their need to irrigate approximately 8 acres of visitor center grounds and shrubbery.

**NOW, THEREFORE**, in consideration of the mutual benefits accruing to the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Exchange: Clear Springs Foods hereby subordinates 0.9 cfs of their water right 36-2703 to Clear Lake Ranch for domestic residential and commercial use under water right no. 36-8329, in exchange for Clear Lake Ranch's lease of 0.16 cfs of their water right 36-04148 A to Clear Springs Foods for irrigation use. The parties to this Agreement acknowledge that Clear Springs' subordination identified herein constitutes adequate

consideration and payment for Clear Lakes Ranch's lease of water. Further, the parties agree that upon signing of this Agreement Clear Springs Foods shall submit this Agreement to the Watermaster for Water District 130 for approval in order to avoid administration of Clear Lake Ranch's water right. Clear Lake Ranch shall notify the Watermaster of the lease of 0.16 cfs of water right 36-04148 to Clear Springs Foods and ensure that any necessary submittals are made to the State for approval of the lease. This Agreement and the parties' obligations shall be subject to the above approvals required, if any.

2. **Term:** The term of this Agreement shall continue from year-to-year until both parties agree in writing to terminate said Agreement.
3. **Counterparts.** This Agreement may be executed in counterparts and as executed shall constitute one agreement binding on the parties hereto, even though the parties do not sign the original or the same counterpart.
4. **Entire Agreement.** This Agreement shall be the whole and only agreement with regards to the subordination of water rights held by Clear Springs Foods and lease of water right held by Clear Lake Ranch.
5. **Idaho Law.** This Agreement is governed by Idaho law, irrespective of its choice of law principles.
6. **Binding Effect.** This Agreement shall be binding on Clear Springs Foods and Clear Lake Ranch, and their respective heirs, legal representatives, successors and assigns.
7. **Severability; Waivers.** If any part of this Agreement is not enforceable, the remainder of the Agreement shall be void.
8. **Headings.** Article and paragraph headings are for reference only and shall not affect the interpretation or meaning of any provision of this Agreement.
9. **Notices.** Any notice, request, tender, demand, delivery, approval or other communication provided for, required, or arising under this Agreement shall be in writing and, unless sooner actually received, shall be deemed delivered three (3) business days after deposit in the United States mail, certified with receipt requested, postage prepaid, and addressed to the party as follows:

To Clear Springs:

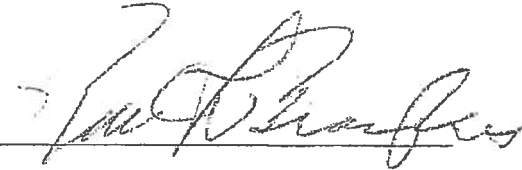
Clear Springs Foods, Inc.  
Attention: Chief Executive Officer  
P.O. B. 712  
Buhl, Idaho 83316

To Clear Lake Ranch

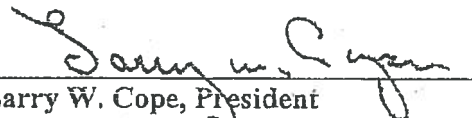
Clear Lake Ranch PUD Master  
Association, Inc.  
Attention: President  
307 Clear Lake Lane  
Buhl, Idaho 83316

IN WITNESS WHEREOF the parties hereunto set their hands the day and year first above written pursuant to resolutions of their respective boards of directors authorizing executing of this agreement.

CLEAR LAKE RANCH PUD MASTER ASSOCIATION, INC.

By 

CLEAR SPRINGS FOODS, INC.

By   
Larry W. Cope, President

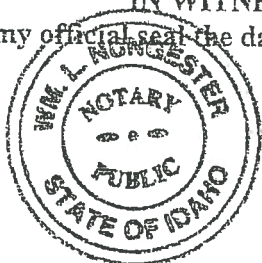
STATE OF IDAHO

County of Twin Falls

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)ss.  
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On the 18 day of July, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ronald L Brown, known or identified to me to be the President, respectively, of Clear Lake Ranch PUD Master Association, Inc., an Idaho Corporation, who subscribed said corporate name to the within instrument 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.



[Signature]  
NOTARY PUBLIC FOR Idaho  
Residing at Buhl, ID

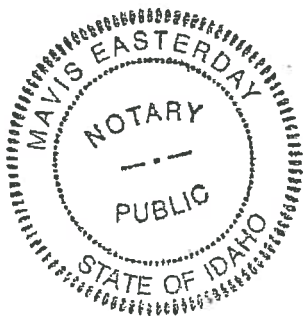
STATE OF IDAHO

County of Twin Falls

)  
)ss.  
)

On the <sup>th</sup>20 day of July, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared LARRY W. COPE, known or identified to me to be the President of CLEAR SPRINGS FOODS, INC., an Idaho corporation, who subscribed said corporate name to the within instrument 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.



[Signature]  
NOTARY PUBLIC FOR Idaho  
Residing at Buhl, ID

ALBERT P. BARKER  
JOHN A. ROSHOLT  
JOHN K. SIMPSON  
TRAVIS L. THOMPSON  
SHELLEY M. DAVIS  
PAUL L. ARRINGTON  
SCOTT A. MAGNUSON



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(208) 344-6034 facsimile  
brs@idahowaters.com

195 River Vista Place, Suite 204  
Twin Falls, ID 83301-3029  
(208) 733-0700 telephone  
(208) 735-2444 facsimile

John K. Simpson  
jks@idahowaters.com

February 13, 2015

**VIA U.S. MAIL**

Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

RECEIVED

FEB 17 2015

DEPARTMENT OF  
WATER RESOURCES

***Re: Application to Rent Water from the Board's Water Supply Bank***

Dear Clerk:

Please file the enclosed *Application to Rent Water from the Board's Water Supply Bank* submitted by Clear Springs Foods, Inc. Also enclosed is a copy of the document to conform with your file-stamp and return in the enclosed postage prepaid envelope. *JS*

Please contact our office if you have any questions. Thank you for your assistance.

Sincerely,

**BARKER ROSHOLT & SIMPSON LLP**

Jessica L. Witt,  
Assistant to John K. Simpson

/jlw  
Enc.