

# WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective January 1, 2015, between the Idaho Water Resource Board ("**Board**"), and

**Lessor: DEER CREEK RANCH INC**  
PO BOX 3090  
NEWPORT BEACH CA 92658  
949-720-3400

RECEIVED

FEB 12 2015

DEPARTMENT OF  
WATER RESOURCES

## RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application 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>Total Leased Acres</u> |
|-------------------------------|-------------------|---------------------|---------------------------|
| 37-466                        | 3.65 CFS          | Not Stated          | 182.7 AC                  |
| 37-11329                      | 0.92 CFS          | Not Stated          | 53.4 AC                   |
| <b>Combined Lease Totals:</b> | <b>4.57 CFS</b>   | <b>Not Stated</b>   | <b>182.7 AC</b>           |

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

Authorized Period of Use under Lease: April 15 to October 31

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

**Minimum Payment Acceptable:** Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2019.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

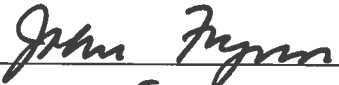
SUPPORT DATA

IN FILE # 37-466

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.

**DEER CREEK RANCH INC**  
PO BOX 3090  
NEWPORT BEACH CA 92658

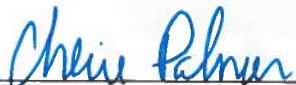
By   
Printed Name JOHN FLYNN

Date 2/10/2015  
Title EVP

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

By   
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Date February 12, 2015

Lease approved by IDWR 

Date 2/12/2015

**ATTACHMENT A**  
**WATER RIGHT NO. 37-466**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** DEER CREEK RANCH INC  
 PO BOX 3090  
 NEWPORT BEACH CA 92658  
 949-720-3400

**Priority Date:** 04/01/1880

**Source:** GROUND WATER  
 DEER CREEK

**Tributary to:** DEER CREEK  
 BIG WOOD RIVER

|                              |                    |                  |                              |
|------------------------------|--------------------|------------------|------------------------------|
| <b><u>BENEFICIAL USE</u></b> | <b><u>From</u></b> | <b><u>To</u></b> | <b><u>Diversion Rate</u></b> |
| IRRIGATION                   | 04/15              | to 10/31         | 3.65 CFS                     |
|                              | <b>Total:</b>      |                  | <b>3.65 CFS</b>              |

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

|              |           |         |         |         |               |
|--------------|-----------|---------|---------|---------|---------------|
| GROUND WATER | SE¼SE¼SW¼ | Sec. 30 | Twp 03N | Rge 18E | BLAINE County |
| GROUND WATER | NE¼NE¼SE¼ | Sec. 26 | Twp 03N | Rge 17E | BLAINE County |
| GROUND WATER | NW¼NE¼SW¼ | Sec. 30 | Twp 03N | Rge 18E | BLAINE County |
| DEER CREEK   | NE¼SE¼SE¼ | Sec. 30 | Twp 03N | Rge 18E | BLAINE County |
| GROUND WATER | NE¼SE¼SE¼ | Sec. 30 | Twp 03N | Rge 18E | BLAINE County |
| GROUND WATER | SE¼SE¼SE¼ | Sec. 30 | Twp 03N | Rge 18E | BLAINE 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 |        |
| 03N | 17E | 25  |    |    |    |     |    |    | 2.9 | 9.9 | 25.4 | 26.2 |      |      |      |      |      |    | 64.4   |
| 03N | 17E | 26  |    |    |    | 1.7 |    |    |     |     | 3.3  |      | 22.7 | 23.4 | 36.8 | 19.6 | 10.8 |    | 118.3  |

Total Acres: 182.7

**COMBINED LIMITS OF LEASED RIGHT:**

|                               |                          |                            |                          |                                  |
|-------------------------------|--------------------------|----------------------------|--------------------------|----------------------------------|
| <b><u>Combined Rights</u></b> | <b><u>Lease Rate</u></b> | <b><u>Lease Volume</u></b> | <b><u>Acre Limit</u></b> | <b><u>Total Leased Acres</u></b> |
| 37-466 and 37-11329           | 4.57 CFS                 | Not Stated                 | 182.7 AC                 | 182.7 AC                         |

**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. Diversion of groundwater is limited to those times water is available for diversion under this right and priority from Deer Creek.
13. The unleased portions of Rights 37-466 and 37-11329 when combined shall not exceed a total diversion rate of 5.21 cfs and the irrigation of 306.3 acres.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
15. Use of this water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
16. The diversion of up to 9.77 cfs of ground water shall be contingent upon an equivalent amount of water being measured at a point in Deer Creek within the SESW, S26, T03N, R17E.
17. If flows less than 9.77 cfs are measured, the ground water diversions shall be reduced accordingly. Such pumping reductions must be made within 24 hours of the measurement showing reduced flows.
18. Any subsequent transfer of the point of diversion described under this right will require the right holder to provide evidence that the new point of diversion has a direct and immediate hydraulic connection to Deer Creek.

**ATTACHMENT A**  
**WATER RIGHT NO. 37-11329**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** DEER CREEK RANCH INC  
PO BOX 3090  
NEWPORT BEACH CA 92658  
949-720-3400

**Priority Date:** 07/21/1956

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> |
|-----------------------|---------------|-----------|-----------------------|
| IRRIGATION            | 04/15         | to 10/31  | 0.92 CFS              |
|                       | <b>Total:</b> |           | <b>0.92 CFS</b>       |

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

GROUND WATER NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 26 Twp 03N Rge 17E BLAINE 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 |        |
| 03N | 17E | 25  |    |    |    |    |    |    | 2.9 | 9.9 | 25.4 | 15.2 |    |    |    |    |    |    | 53.4   |

Total Acres: 53.4

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u> | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|------------------------|-------------------|---------------------|-------------------|---------------------------|
| 37-466 and 37-11329    | 4.57 CFS          | NA                  | 182.7 AC          | 182.7 AC                  |

**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. This right when combined with other right shall provide no more than 0.02 cfs per acre.
13. The unleased portions of the right listed below are limited to the irrigation of a combined total of 306.3 acres in a single irrigation season. Combined Right No. 37-466 and 37-11329.
14. The right holder shall make full beneficial use of right 37-466 prior to diversion and use under this right. The right holder shall limit the diversion of ground water under this right to those time when right 37-466 is not available or is not reasonable sufficient to irrigate the place of use authorized under this right.
15. The unleased portion of the rights listed below are limited to a total combined diversion rate of 5.21 cfs. Combined right nos. 37-466 and 37-11329.
16. The unleased portion of this right is limited to the irrigation of 89.6 acres within the place of use described above in a single irrigation season.

STATE OF IDAHO  
WATER RESOURCE BOARD

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DEC 08 2014

DEPT OF WATER RESOURCES  
SOUTHERN REGIONWATER 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 DEER CREEK RANCH, INC.Water Right No. 37-466 & 37-11329  
One water right per applicationAll 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](http://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 \$ 500-Received By: DMDate Received: 12.8.2014Receipt # 5034438W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Deer Creek Ranch Inc.

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**RECEIVED****DEC 08 2014**DEPT OF WATER RESOURCES  
SOUTHERN REGION

## 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 DEER CREEK RANCH, INC. Email Address \_\_\_\_\_  
Mailing Address PO BOX 3090, NEWPOERT BEACH, CA 92658 Phone Number 949-720-3400

☒ 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 PAUL ARRINGTON Organization BARKER ROSHOLT & SIMPSON, LLP  
Professional Title \_\_\_\_\_ Email Address PLA@IDAHOWATERS.COM  
Mailing Address 195 RIVER VISTA PLACE, SUITE 204, TWIN FALLS, ID Phone Number 208-733-0700

☐ 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 37-466 & 37-11829 ☐ 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.

WATER IS PUMPED FROM WELLS AND DIVERTED THROUGH PIPELINES TO PIVOTS AND OTHER  
SPRINKLERS THROUGHTOUT PLACE OF USE

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.  
NONE

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

Yes ☐ No ☒

..... describe. \_\_\_\_\_

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

Yes ☐ No ☒

..... describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. WATER RIGHTS WERE DECREED IN 2009

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

..... describe. APPLICANT IS CREATING A PPU WITH THE WATER RIGHTS. THE TRANSFER APPLICATION WAS FILED CONCURRENTLY WITH THIS APPLICATION

#### 4. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

..... for a period from 12/15/2015 <sup>14</sup> to 12/31/2020 (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

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.

John Flynn  
Signature of Designated Applicant

JOHN FLYNN  
Printed Name

12/5/2014  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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

February 13, 2015

DEER CREEK RANCH INC  
PO BOX 3090  
NEWPORT BEACH CA 92658

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-466 and 37-11329**

Dear Lessor:

Water Rights **37-466 and 37-11329** were leased into the Water Supply Bank on January 1, 2015 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,

for Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Paul Arrington- Barker Rosholt Simpson LLP  
IDWR Southern Region  
Kevin Lakey – Water District No. 37

## Deer Creek Ranch

### Memo

**To:** Idaho Department of Water Resources  
**From:** John Flynn  
**Date:** 2/11/2015  
**Re:** Deer Creek Ranch Water Supply Bank Lease Contract (effective 1/1/2015)

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FEB 12 2015

DEPARTMENT OF  
WATER RESOURCES

Attached are two signed originals of the Deer Creek Ranch Water Supply Bank Lease Contract effective January 1, 2015.

Please sign and return an original to:

Deer Creek Ranch  
Attn: John Flynn  
PO Box 3090  
Newport Beach, CA 92658

## Hersley, Jean

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**From:** Kevin Lakey [watermanager@cableone.net]  
**Sent:** Monday, February 09, 2015 12:51 PM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease applications for Deer Creek Ranch 37-466 and 37-11329

Jean,  
I am not a hydrologist, so I don't know what a water model would show as to a "hydraulic connection to Deer Creek". The well Deer Creek Ranch is trying to legalize is probably less than 30 yards from Deer Creek. I have no other comments concerning this application.

Kevin Lakey  
Water District 37

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**From:** Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]  
**Sent:** Tuesday, February 03, 2015 1:11 PM  
**To:** Merritt, Allen; Kevin Lakey  
**Subject:** WSB Lease applications for Deer Creek Ranch 37-466 and 37-11329

Attached is the review memo and a draft contract for the above mentioned water rights. Might be an issue for rental with the "hydraulic connection to Deer Creek" condition. Please let me know your comments of concerns within 10 days. Thank you.

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



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

February 5, 2015

DEER CREEK RANCH INC  
PO BOX 3090  
NEWPORT BEACH CA 92658

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-466 and 37-11329 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 BOTH 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.

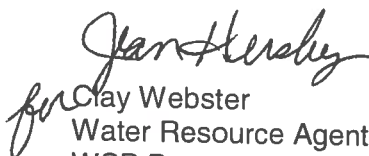
The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form.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

  
Jay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts  
Receipt # S034438

c. Paul Arrington- Barker Rosholt & Simpson LLP

## MEMORANDUM

**To:** Water Right No(s). 37-466 and 37-11329  
**From:** Jean Hersley  
**Date:** 2/3/2015  
**Re:** Review of Applications to Lease Water Rights to the State Water Supply Bank

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**PURPOSE/NARRATIVE:** These application(s) were received on December 08, 2014. Both water right numbers were on the same application. A new application for 37-11329 was requested and received on January 29, 2015. The applicant wishes to place 3.65 cfs and 182.7 acres of water right 37-466 into the Bank and 0.92 cfs and 53.4 acres of water right 37-11329.

There is a pending transfer on these rights to expand the PPU and add two wells to 37-11329. The wells that are being added are POD's for 37-466.

There is a condition of water right 37-466 that states, "Any subsequent transfer of the point of diversion described under this right will require the right holder to provide evidence that the new point of diversion has a direct and immediate hydraulic connection to Deer Creek." To be able to rent these water rights, the renters point of diversion would need a hydraulic connection to Deer Creek.

**AUTHORITY TO FILE:** John Flynn, director and executive VP signed the applications. He is listed on IDSOS as authorized delegate.

**WATER RIGHT VALIDITY:** Water rights were decreed in 2009. 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 # 37.

|                                                                                                                                                        |               |                                                                                                                                          |               |                                                                           |         |                         |  |                                                       |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------------------------------------------------------|---------|-------------------------|--|-------------------------------------------------------|--|
| No. <b>C 88971</b>                                                                                                                                     |               | <b>Due no later than Mar 31, 2014</b>                                                                                                    |               | <b>Annual Report Form</b>                                                 |         |                         |  | 2. Registered Agent and Address<br><b>(NO PO BOX)</b> |  |
| Return to:<br>SECRETARY OF STATE<br>700 WEST JEFFERSON<br>PO BOX 83720<br>BOISE, ID 83720-0080<br><br><b>NO FILING FEE IF<br/>RECEIVED BY DUE DATE</b> |               | 1. Mailing Address: Correct in this box if needed.<br>DEER CREEK RANCH, INC.<br>MICHELLE ADRIAN<br>PO BOX 3090<br>NEWPORT BEACH CA 92658 |               | C T CORPORATION SYSTEM<br>921 S ORCHARD ST STE G<br>BOISE ID 83705<br>USA |         |                         |  | 3. <u>New</u> Registered Agent Signature:*            |  |
|                                                                                                                                                        |               |                                                                                                                                          |               |                                                                           |         |                         |  |                                                       |  |
| 4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).                                      |               |                                                                                                                                          |               |                                                                           |         |                         |  |                                                       |  |
| Office Held                                                                                                                                            | Name          | Street or PO Address                                                                                                                     | City          | State                                                                     | Country | Postal Code             |  |                                                       |  |
| TREASURER                                                                                                                                              | JOHN A FLYNN  | PO BOX 3090                                                                                                                              | NEWPORT BEACH | CA                                                                        | USA     | 92658                   |  |                                                       |  |
| SECRETARY                                                                                                                                              | JOHN A FLYNN  | PO BOX 3090                                                                                                                              | NEWPORT BEACH | CA                                                                        | USA     | 92658                   |  |                                                       |  |
| PRESIDENT                                                                                                                                              | DONALD L BREN | PO BOX 3090                                                                                                                              | NEWPORT BEACH | CA                                                                        | USA     | 92658                   |  |                                                       |  |
| 5. Organized Under the Laws of:                                                                                                                        |               | 6. Annual Report must be signed.*                                                                                                        |               |                                                                           |         |                         |  |                                                       |  |
| <b>ID<br/>C 88971</b>                                                                                                                                  |               | Signature: Michelle Adrian                                                                                                               |               |                                                                           |         | Date: 02/05/2014        |  |                                                       |  |
|                                                                                                                                                        |               | Name (type or print): Michelle Adrian                                                                                                    |               |                                                                           |         | Title: Finance Director |  |                                                       |  |
| Processed 02/05/2014                                                                                                                                   |               | * Electronically provided signatures are accepted as original signatures.                                                                |               |                                                                           |         |                         |  |                                                       |  |

**Hersley, Jean**

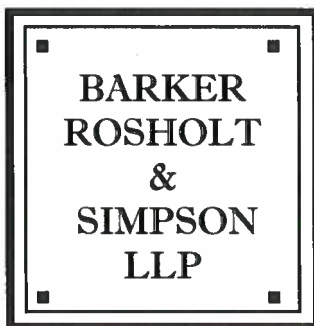
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**From:** Hersley, Jean  
**Sent:** Tuesday, February 03, 2015 1:11 PM  
**To:** Merritt, Allen; Kevin Lakey  
**Subject:** WSB Lease applications for Deer Creek Ranch 37-466 and 37-11329  
**Attachments:** APPROVAL DOCUMENT NO.docx; Lease Review Memo.docx

Attached is the review memo and a draft contract for the above mentioned water rights. Might be an issue for rental with the "hydraulic connection to Deer Creek" condition. Please let me know your comments of concerns within 10 days. Thank you.

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

Albert P. Barker  
John A. Rosholt  
John K. Simpson  
Travis L. Thompson  
Shelley M. Davis  
Paul L. Arrington  
Scott A. Magnuson



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

1010 W. Jefferson St., Suite 102  
Post Office Box 2139  
Boise, Idaho 83701-2139  
(208) 336-0700 telephone  
(208) 344-6034 facsimile  
brs@idahowaters.com

RECEIVED

JAN 29 2015

DEPARTMENT OF  
WATER RESOURCES

January 27, 2015

Idaho Department of Water Resources  
Attn: Jean Hersley  
P.O. Box 83720  
Boise, Idaho 83720-0098

Re: *Deer Creek Ranch, Inc. – Application to Sell or Lease Water Right to the Water Supply Bank*

To Whom it May Concern:

Enclosed, please find the *Application to Sell or Lease Water Right to the Water Supply Bank* regarding Deer Creek Ranch, Inc. water right number 37-11329.

Should you have any questions, please contact Paul L. Arrington at (208) 733-0700.

Thank you,

  
Jessica Nielsen  
Assistant for Paul L. Arrington

Enclosure  
PLA/jn

## Hersley, Jean

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**From:** Paul Arrington [pla@idahowaters.com]  
**Sent:** Friday, January 23, 2015 12:02 PM  
**To:** Hersley, Jean  
**Subject:** RE: Water Supply Bank Leases for Deer Creek Ranch INC

I have prepared the document. I need to get a signature from my client. Will get it to you ASAP.

Paul L. Arrington

**Barker Rosholt & Simpson, LLP**

208-733-0700 – Office

208-404-9436 – Cell

208-735-2444 – Fax

**From:** Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]  
**Sent:** Tuesday, January 20, 2015 12:30 PM  
**To:** Paul Arrington  
**Subject:** Water Supply Bank Leases for Deer Creek Ranch INC

The Department of Water Resources is in the process of reviewing the Applications to Lease a Water Right to the Water Supply Bank(Bank) for water rights 37-466 and 37-11329. However, it was determined a separate application is needed for water right 37-11329. Each water right that is to be leased to the Bank needs to have its own application. I will keep the one we have for water right 37-466 unless something has changed.

On the application for 37-11329, the POU needs to reflect the acres available under that water right. It looks like you proportioned the diversion rate (0.92 cfs) for 53.4 acres from this water right. We also need you to list the diversion volume. I have attached a copy of the application we received from Deer Creek Ranch and a copy of the water right report for your convenience.

Please send the required information within 14 days so the Department may continue processing these applications and these water rights will be available for rent for the upcoming irrigation season.

If you have any questions, please contact me at 208-287-4942. Thank you.

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

## Hersley, Jean

---

**From:** Paul Arrington [pla@idahowaters.com]  
**Sent:** Friday, January 23, 2015 11:35 AM  
**To:** Hersley, Jean  
**Cc:** Paul Arrington  
**Subject:** RE: Water Supply Bank Leases for Deer Creek Ranch INC

Will do.

However, we do not need to file any more filing fees. Correct?

Paul L. Arrington

**Barker Rosholt & Simpson, LLP**

208-733-0700 – Office

208-404-9436 – Cell

208-735-2444 – Fax

**From:** Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]  
**Sent:** Tuesday, January 20, 2015 12:30 PM  
**To:** Paul Arrington  
**Subject:** Water Supply Bank Leases for Deer Creek Ranch INC

The Department of Water Resources is in the process of reviewing the Applications to Lease a Water Right to the Water Supply Bank(Bank) for water rights 37-466 and 37-11329. However, it was determined a separate application is needed for water right 37-11329. Each water right that is to be leased to the Bank needs to have its own application. I will keep the one we have for water right 37-466 unless something has changed.

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Please send the required information within 14 days so the Department may continue processing these applications and these water rights will be available for rent for the upcoming irrigation season.

If you have any questions, please contact me at 208-287-4942. Thank you.

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

## Field, Christine

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**From:** Paul Arrington [pla@idahowaters.com]  
**Sent:** Friday, December 12, 2014 3:17 PM  
**To:** Field, Christine  
**Subject:** RE: Lease Begin date for Deer Creek Ranch Inc

I am sorry. Should begin on December 15, 2014.

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

**From:** "Field, Christine"  
**Date:** 12/12/2014 14:58 (GMT-07:00)  
**To:** Paul Arrington  
**Subject:** Lease Begin date for Deer Creek Ranch Inc

Dear Mr. Arrington:

My name is Christine and I process the data entry for documents in the Water Supply Bank for the Dept of Water Resources.

I have a question on the lease applications submitted on behalf of your client Deer Creek Ranch, Inc for W/R 37-466 and W/R 37-11329.

The application date listed on the application list the date of **December 15, 2015**.

Did you intend for the WSB leases for Deer Creek Ranch to begin at the end of *next year*?

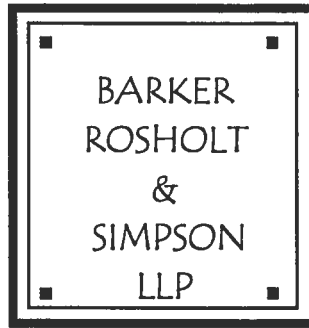
Please advise if the December 15, 2015 is the correct lease begin date for your client Deer Creek Ranch.

Kind Regards,

*Christine Field*  
*Water Supply Bank Support*  
*ID Dept of Water Resources*

Albert P. Barker  
John A. Rosholt  
John K. Simpson  
Travis L. Thompson  
Shelley M. Davis  
Paul L. Arrington\*  
Scott A. Magnuson

\* Licensed in Idaho & Washington



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(208) 336-0700 telephone  
(208) 344-6034 facsimile  
brs@idahowaters.com

Paul L. Arrington  
pla@idahowaters.com

December 8, 2014

RECEIVED

DEC 08 2014

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Cherie Palmer  
Idaho Department of Water Resources  
PO Box 83720  
Boise, ID 83720

RECEIVED

DEC 10 2014

DEPARTMENT OF  
WATER RESOURCES

RE: *Application to Lease Rights to the Water Bank*  
*(Deer Creek Ranch, Inc. – Water Rights 37-466 & 37-11329)*

Cherie:

Attached, please find an application to lease portions of Water Rights 37-466 and 37-11329 to the Water Supply Bank. Also included is a check for \$500 for the application fee.

This water bank application is part of a process involving these water rights. Concurrently with the filing of this application, Deer Creek Ranch has filed a transfer application to create a PPU with the above water rights. That PPU will better reflect the current use of the water rights.

The portions of the water rights that are not being used are being placed in the Water Bank.

If there are any questions, please don't hesitate to give me a call.

Yours Truly,

Paul L. Arrington

pla/JN

Encs.

cc: Client (via email)