

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: BLUEWATER DEVELOPMENT LLC
1250 NORTHWOOD CENTER CT
PO BOX 2350
COEUR D ALENE ID 83816-2350
208-667-0100
john@magnusononline.com

RECEIVED

JAN 29 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>
95-2112	2.24 CFS	560.0 AF	160.0 AC
Combined Lease Totals:	2.24 CFS	560.0 AF	160.0 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: March 15 to November 15

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2015.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

BLUEWATER DEVELOPMENT
1250 NORTHWOOD CENTER CT
PO BOX 2350
COEUR D ALENE ID 83816-2350

By 
Printed Name CHRISTOPHER H. MEYER

Date 1-27-2015
Title Attorney

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 January 30, 2015

Lease approved by IDWR 

Date 1/30/2015

ATTACHMENT A
WATER RIGHT NO. 95-2112
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: BLUEWATER DEVELOPMENT
 1250 NORTHWOOD CENTER CT
 PO BOX 2350
 COEUR D ALENE ID 83816-2350
 208-667-0100

Priority Date: 06/16/1955

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	2.24 CFS	560.0 AF
	Total:		2.24 CFS	560.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NW¼NW¼	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County
GROUND WATER	NE¼NW¼	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County
GROUND WATER	SW¼NW¼	Sec. 28	Twp 51N	Rge 04W	KOOTENAI County
GROUND WATER	SE¼NW¼	Sec. 28	Twp 51N	Rge 04W	KOOTENAI 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	
51N	04W	28					40.0	40.0	40.0	40.0									160.0

Total Acres: 160.0

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.

STATE OF IDAHO
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLISTRECEIVED
NOV 10 2014
DEPARTMENT OF
WATER RESOURCES

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 Bluewater Development, LLCWater Right No. 95-2112

One water right per application

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ Application filing fee of \$250.00. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is \$500.00.

Attachment N/A YES

- 1A ☒ ☐ Contact information for *all owners* of the water right that is being leased or sold on this application.
- 1B ☒ ☐ An [Internal Revenue Service \(IRS\) Form W-9](#) for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☒ ☐ Written consent from irrigation district or water delivery company.
- 1E ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☒ ☐ Description of a water right portion offered to the Water Supply Bank.
- 3D ☒ ☐ Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
- 4 ☒ ☐ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (<http://maps.idwr.idaho.gov/mapall/>) to locate a water right place of use or point of diversion.

Department Use Only

Fee Amount \$ 250.00Received By: CSDate Received: 11/10/14Receipt # C099598W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Bluewater Development LLC

**STATE OF IDAHO
WATER RESOURCE BOARD**

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Bluewater Development, LLC Email Address john@magnusononline.com
Mailing Address PO Box 2350, Coeur d'Alene, ID 83816-2350 Phone Number (208) 667-0100

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

B. Has the designated applicant completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

D. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 1D).

E. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1E).

Name of Representative Christopher H. Meyer Organization Givens Pursley, LLP
Professional Title Attorney Email Address chrismeyer@givenspursley.com
Mailing Address PO Box 2720, Boise, ID 83701-2720 Phone Number 208-388-1236

☐ 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 95-2112 ☒ 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.
See Report of Engineer (Permit G-25758) dated July 29, 1959 for description of well and works. Diversion system provided irrigation water for bluegrass production. Last crop harvested in 2005.
- 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.
No. 95-2200 was used for irrigation of bluegrass production in the adjacent quarter section. It used the same well.

C. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐

If yes, describe. The land has been converted to a residential subdivision that is irrigated with municipal water.

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒

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

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

If yes, describe. _____

4. SALE/LEASE AGREEMENT

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

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

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
\$80,000 per year (\$500 per acre); only entire right may be rented.

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

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the ank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant

Printed Name

Date



Christopher H. Meyer, Attorney-in-Fact

November 10, 2014

Signature of Authorized Representative

Printed Name

Date

Mail to:

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

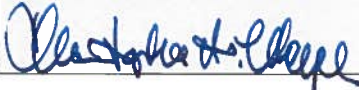
**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to a Water Supply Bank Lease Application however only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

Water Right No. 95-2112

	Designated Applicant	Applicant #2	Applicant #3
Name	Bluewater Development, LLC		
Mailing Address	PO Box 2350 Coeur d'Alene, ID 83816-2350		
Phone Number	(208) 667-0100		
Email Address	john@magnusononline.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

State of Idaho
Department of Water Resources

Water Right
95-2112

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.075 0.15 0.3 Miles



SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

Bluewater Development, LLC, an Idaho Limited Liability Company, hereby appoints the attorneys of Givens Pursley LLP, 601 West Bannock Street, P.O. Box 2720, Boise, Idaho, 83701 as its true and lawful attorneys for the purpose of signing on its behalf the following forms for submission to the Idaho Department of Water Resources and/or any Idaho court adjudicating these rights:

1. Notice of Claim to a Water Right;
2. Application for Amendment of Permit to Appropriate the Waters of the State of Idaho;
3. Notice of Change of Water Right Ownership;
4. Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit;
5. Notice of Protest;
6. Application for Transfer of a Water Right;
7. Proof of Beneficial Use;
8. Application for Exchange of Water;
9. Application for Extension of Time to Avoid Forfeiture of a Water Right;
10. Application to Sell or Lease a Water Right to the Water Supply Bank;
11. Application for Temporary Approval of a Water Application;
12. Application for Permit to Appropriate the Waters of the State of Idaho;
13. Pleadings submitted to any Idaho court adjudicating the water rights of Bluewater Development, LLC; and
14. Any other document in support or furtherance of any of the above.

In addition, Givens Pursley LLP is hereby given authority to request and obtain aerial photographs, crop records, ownership and financial information, and related information from the U.S. Department of Agriculture Farm Service Agency related to property irrigated by water rights owned by Bluewater Development, LLC.

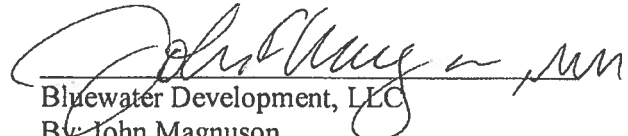
All may rely on such authority. This Special Power of Attorney shall be effective until revoked in writing by Bluewater Development, LLC.

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

[End of text]

IN WITNESS WHEREOF, Bluewater Development, LLC has executed this Special Power of Attorney effective as of the date noted.

Dated: 11-28-07


Bluewater Development, LLC
By: John Magnuson
Its: Managing Member

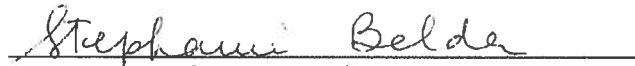
ACKNOWLEDGMENT

STATE OF Idaho
County of Kootenai) ss.

On this 28th day of November, 2007, before me, a Notary Public in and for the State of Idaho, personally appeared John F. Magnuson, known or identified to me to be the member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company 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.




Notary Public for Idaho
Residing at Coeur d'Alene
My Commission expires 3/8/2010



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 30, 2015

BLUEWATER DEVELOPMENT LLC
1250 NORTHWOOD CENTER CT
PO BOX 2350
COEUR D ALENE ID 83816-2350

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 95-2112 and 95-2200

Dear Lessor:

Water Rights **95-2112 and 95-2200** 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, 2015**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

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

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

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

Sincerely,


for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Christopher Meyer- Givens Pursley
IDWR Norther Region

RECEIVED

JAN 29 2015

DEPARTMENT OF
WATER RESOURCES

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

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

Gary G. Allen
Peter G. Barton
Christopher J. Beeson
Clint R. Bolinder
Erik J. Bolinder
Jeff W. Bower
Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson
Brian Holleran

Don E. Knickrehm
Neal A. Koskella
Deborah K. Kristensen
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
Emily L. McClure
Kenneth R. McClure
Kelly Greene McConnell
Alex P. McLaughlin
Melodie A. McQuade
Christopher H. Meyer
Patrick J. Miller
L. Edward Miller

Judson B. Montgomery
Deborah E. Nelson
W. Hugh O'Riordan, LL.M.
Michael O. Roe
P. Mark Thompson
Jeffrey A. Warr
Robert B. White

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

January 28, 2015

Mr. Clay Webster
Water Resource Agent
WSB Process Point of Contact
Idaho Department of Water Resources
The Idaho Water Center
PO Box 83720
Boise ID 83720-0098

Re: Bluewater Development, LLC — Water Right Nos. 95-2112 and 95-2200

Dear Mr. Webster:

Per your letter of January 22, 2015, I am returning to you two originals of the Water Supply Bank Lease Contracts for the above-referenced water rights. I have executed these contracts on behalf of Bluewater Development LLC per a special power of attorney authorizing me to do so (which you have on file).

I look forward to receiving one of the originals for each of the contracts once they are executed by the Department.

My thanks to you, to Cherie Palmer, and to Jean Hersley.

Sincerely,


Christopher H. Meyer

CHM/rgm
2343909_2 / 8925-1

Mr. Clay Webster
Idaho Department of Water Resources
January 28, 2015
Page 2

Encl: Water Supply Bank Lease Contracts for 95-2112 and 95-2200 (two originals of each)

cc: Keith Franklin, Regional Manager, Northern Regional Office
John F. Magnuson, Managing Member, Bluewater Development, LLC



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 22, 2015

BLUEWATER DEVELOPMENT LLC
ATTN: JOHN MAGNUSON
1250 NORTHWOOD CENTER CT
PO BOX 2350
COEUR D'ALENE ID 83816-2350

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 95-2112 and 95-2200 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 of each original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

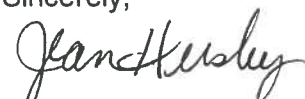
The rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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,


for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts
Receipt # C099597 and C099598

c. Givens Pursley LLP- Christopher Meyer

MEMORANDUM

To: Water Right No(s). 95-2112 and 95-2200
From: Jean Hersley
Date: 1/21/2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: These applications were received on November 10, 2014. The applicant wishes to place the water rights in the Bank for the 2015 irrigation season. A letter was sent asking for clarification on the acceptable payment for the rental of these rights. Lessor and his attorney agree to rent these rights at the current rental rate without the condition requiring renting of the entire right.

AUTHORITY TO FILE: Christopher Meyer of the law firm Givens Pursley, has power of attorney to sign for the applicant.

WATER RIGHT VALIDITY: These water rights have been recommended in the Northern Idaho Adjudication process.

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. The land has been converted to a residential subdivision that is irrigated with municipal water.

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 not subject any Water District.

RECEIVED

JAN 20 2015

DEPARTMENT OF
WATER RESOURCES

GIVENS PURSLEY^{LLP}

Attorneys and Counselors at Law

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

Christopher H. Meyer
208-388-1236
chrismeyer@givenspursley.com

Gary G. Allen
Peter G. Barton
Christopher J. Beeson
Clint R. Bolinder
Erik J. Bolinder
Jeff W. Bower
Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson
Brian Holleran

Don E. Knickrehm
Neal A. Koskella
Debora K. Kristensen
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
Emily L. McClure
Kenneth R. McClure
Kelly Greene McConnell
Alex P. McLaughlin
Melodie A. McQuade
Christopher H. Meyer
Patrick J. Miller
L. Edward Miller

Judson B. Montgomery
Deborah E. Nelson
W. Hugh O'Riordan, LLM.
Angela M. Reed
Michael O. Roe
P. Mark Thompson
Jeffrey A. Warr
Robert B. White

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

January 16, 2015

Cherie Palmer
Water Rights Supervisor
Water Allocation Bureau
Idaho Department of Water Resources
The Idaho Water Center
PO Box 83720
Boise, ID 83720-0098

Re: Bluewater Development, LLC — Water Right Nos. 95-2112 and 95-2200

Dear Ms. Palmer:

I am responding to your letter of January 8, 2015 directed to my client, Bluewater Development LLC. Thank you for copying me on that letter. I believe you already have a copy of my special power of attorney authorizing me to provide this response on behalf of my client.

The above water rights have been accepted into the Water Supply Bank for a number of years now with conditions requested by the lessor that (1) set a minimum rental price and (2) require that the entire right be rented. According to your letter, changes in policy now preclude the rights being accepted into the bank with those conditions in the absence of a private agreement with a renter.

Given that the lessor does not currently have a private agreement with a renter, it does not appear that there is any room to negotiate on this with the Department.

Accordingly, I am authorized by my client to agree to the lease of these rights at the current rental rate and without the condition requiring rental of the entire right.

Please let me know if you need anything further from me. Thank you for your assistance in processing these applications.

Cherie Palmer
December 16, 2015
Page 2 of 2

Sincerely,



Christopher H. Meyer

cc: John F. Magnuson

8925-1/2335161_1

Hersley, Jean

From: Hersley, Jean
Sent: Friday, January 09, 2015 7:45 AM
To: Franklin, Keith
Cc: Goodwin, Chad
Subject: WSB Leases for 95-2112 and 95-2200
Attachments: Lease Contract.docx; Lease Review Memo.docx; Letter Requesting Information Regarding Rental Rate Acceptable Version 2.docx

Bluewater Development is asking to keep their water rights in the Bank. I have attached the review memo, a draft contract and a letter to Bluewater requesting information on the Rental Rate Acceptable for these water rights. Please let me know if you have any questions or concerns about leasing these water rights to the Bank.

I cc'd Chad since these are active recommendations also.

*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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 8, 2015

BLUEWATER DEVELOPMENT LLC
PO BOX 2350
COEUR D'ALENE ID 83816-2350

RE: WSB Lease Applications for Water Rights 95-2112 and 95-2200

Dear Applicant:

The Department of Water Resources (Department) received your applications to lease water rights 95-2112 and 95-2200 to the Water Supply Bank (Bank) for the 2015 irrigation season. After reviewing these applications, the Department determined item #4B of the application requires clarification. You requested "\$80,000 per year (\$500 per acre); only entire right may be rented" for water right 95-2112 and "\$78,500 per year (\$500 per acre); only entire right may be rented" for water right 95-2200.

Pursuant to Water Supply Bank Rules 025.06.d, one of the criteria of the Water Resource Board to accept water rights into the Bank is whether the offering price or requested rental rate is reasonable. The current rental rate is \$17.00 per acre foot. Unless you have a private agreement with a renter, the Department does not see a reason why leases should be accepted into the Bank at a rental rate other than the current rental rate.

However, you may provide justification of the rental rate you are requesting in your lease applications and the Department will determine if your request is reasonable.

Lastly, the Department will not accept a lease into the Bank that cannot be rented in any fashion that may be required. The statement on your application that states, "only the entire right may be rented" will not be part of the conditions of the lease contract. The manner in which water right leases are rented is at the discretion of the Department.

Please provide the Department with the requested information within 14 days or a Bank Lease Contract will be sent out with the current rental rate as the minimum payment acceptable.

If you have any questions regarding this letter, please contact me at (208) 287-4944. Thank you.

Sincerely,


for Cherie Palmer
Water Rights Supervisor

c: Givens Pursley- Christopher Meyer

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

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PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
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William C. Cole
Michael C. Creamer
Amber N. Dina
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson
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November 10, 2014

RECEIVED

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DEPARTMENT OF
WATER RESOURCES

Cherie Palmer
Water Rights Supervisor
Water Allocation Bureau
Idaho Department of Water Resources
The Idaho Water Center
PO Box 83720
Boise, ID 83720-0098

Re: Bluewater Development, LLC — Water Right Nos. 95-2112 and 95-2200

Dear Ms. Palmer:

Thank you for your letter of September 30, 2014 addressed to Bluewater Development, LLC. By the way, I would very much appreciate being copied on any future correspondence regarding the above-captioned water rights.

As noted in your letter, these water rights are currently leased to the Idaho Water Supply Bank. My client, Bluewater Development, LLC, wishes to extend the terms of the lease for another year beginning on January 1, 2015. It is my understanding, however, that the Department no longer accepts the *Request to Extend Lease Term* form which we have used in prior years. Accordingly, I am enclosing for each of the two rights the following documents:

1. Application checklist
2. *Application to Sell or Lease a Water Right to the Water Supply Bank* (with Attachments 1A and 2)
3. *Request for Taxpayer Identification Number and Certification* (form W-9)
4. *Special Power of Attorney for Water Rights*
5. Two checks, one for each application, in the amount of \$250

Cherie Palmer
November 10, 2014
Page 2 of 2

Please do not hesitate to contact me if you have any questions or if you need additional information. Thank you in advance for your assistance in processing these applications. I look forward to hearing from you.

Sincerely,



Christopher H. Meyer

Encl: Water bank applications and supporting materials as noted

cc: John F. Magnuson

2265100_1 / 8925-1