

WATER SUPPLY BANK LEASE CONTRACT

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JAN 26 2015

DEPARTMENT OF
WATER RESOURCES

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

Lessor: CALVIN CLARK JR
PO BOX 1816
RANCHO SANTA FE CA 92067
(858) 449-7982
Diana-Clark@SBCGlobal.Net

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>Acre Limit</u>	<u>Total Leased Acres</u>
63-32952	0.13 CFS	36.0 AF	NA	8.0 AC
Combined Lease Totals:	0.13 CFS	36.0 AF	NA	8.0 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 03/15 to 11/15

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.

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JAN 28 2015

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

CALVIN CLARK JR

PO BOX 1816

RANCHO SANTA FE CA 92067

By Calvin Clark Jr
Printed Name Calvin Clark Jr.

Date 1/18/15
Title _____

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-9098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date January 24, 2015

Lease approved by IDWR Chris Palmer

Date 1/24/2015

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ATTACHMENT A
WATER RIGHT NO. 63-32952
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: **CALVIN CLARK JR**
 PO BOX 1816
 RANCHO SANTA FE CA 92067
 (858) 449-7982

Priority Date: 09/29/1978

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	0.13 CFS	36.0 AF
	Total:		0.13 CFS	36.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SW¼SE¼ Sec. 25 Twp 05N Rge 01W ADA County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	01W	25															8.0		8.0

Total Acres: 8.0

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.

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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 all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
13. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
14. Property is also known as Lot 3, Block 1, Bella Vista Estates Subdivision.

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STATE OF IDAHO
WATER RESOURCE BOARD

**WATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLIST**

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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 Diana G. Clark and
Calvin Clark Jr.Water Right No. 63-32952
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 # C099596W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Calvin Clark Jr.

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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 Diana G. Clark and Calvin Clark Jr. Email Address Diana-Clark@SBCGlobal.Net
Mailing Address P.O. Box 1816, Rancho Santa Fe, CA 92067 Phone Number 858-449-7982

☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 63-32952 ☒ 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.

A well

- 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

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JAN 28 2015

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

Yes ☐ No ☒

If yes, describe. _____

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

Yes ☐ No ☒

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

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

If yes, describe. _____

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 Jan. 1, 2015 to Dec. 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.

Market Rate (current rental rate)

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

The Designated Applicant acknowledges the following:

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

Diana G. Clark
Signature of Designated Applicant

Diana G. Clark
Printed Name

10/21/14
Date

Calvin Clark Jr.
Signature of Authorized Representative

Calvin Clark Jr.
Printed Name

10/25/14
Date

Mail to:

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

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JAN 28 2015

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

- | 1. <u>Water Right Number</u> | <u>Amount (cfs/ac-ft)</u> | <u>Nature of Use</u> | <u>Period of Use</u> |
|------------------------------|---------------------------|----------------------|--------------------------------------|
| <u>63-32952</u> | <u>0.13 CFS/36.0 AF</u> | <u>Irrigation</u> | <u>Jan. 1, 2015 to Dec. 31, 2015</u> |
| | | | to |
| | | | to |
| | | | to |
| | | | to |

Total Amount: 0.13 CFS/36.0 AF

2. Source of water Ground water tributary to _____
3. Point(s) of Diversion: _____

[illegible]

4. Lands irrigated or place of use:

[illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** 8.0

SCANNED
11/28/2015



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 27, 2015

CALVIN CLARK JR
PO BOX 1816
RANCHO SANTA FE CA 92067

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 63-32952

Dear Lessor:

Water Right **63-32952** was leased into the Water Supply Bank on January 1, 2015 in accordance with the executed original Lease Contract enclosed. **Your water right as described on the Lease Contract are considered leased into the Bank and should remain unused until it is formally released from the Bank.**

The right will automatically be released from the Bank on **December 31, 2015**, unless the right is released earlier by the Board, or upon your request. **Please note your right may not be available for immediate release if it has been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

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

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

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: IDWR Western Region Office

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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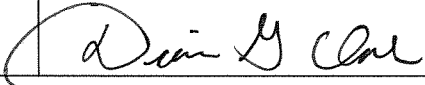
JAN 26 2015

DEPARTMENT OF
WATER RESOURCES

LESSOR DESIGNATION FORM

When multiple individuals or business entities jointly own property to which a water right is appurtenant, the parties can use this form to nominate a designated lessor to represent their common interests on a Water Supply Bank lease contract. The signatures of all water right holders are required on this form to elect a designated lessor. The designated lessor is required to provide a completed IRS Form W-9 to receive any payment associated with the rental of a water right under a Water Supply Bank lease contract. **All correspondence and any financial payment associated with the rental of this water right will be directed to the designated lessor.** If additional space is needed to list any other water right holders, attach a second copy of this Lessor Designation Form.

Water Right No(s). 63-32952

	Designated Lessor	Water Right Co-owner	Water Right Co-owner
Name	Calvin Clark Jr.	Diana G. Clark	
Mailing Address	P.O. Box 1816 Rancho Santa Fe, CA 92067	P.O. Box 1816 Rancho Santa Fe, CA 92067	
Phone Number	(858) 756-6299	(858) 449-7982	
Email Address	Chip-Clark@SBCGlobal.Net	Diana-Clark@SBCGlobal.Net	
Water Right Owner Declaration	As designated lessor, I will represent the interest of all other water right owners on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.
Signature			

	Water Right Co-owner	Water Right Co-owner	Water Right Co-owner
Name			
Mailing Address			
Phone Number			
Email Address			
Water Right Owner Declaration	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.
Signature			

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JAN 28 2015

Skaggs, Pam

From: Grimm, Angie
Sent: Friday, January 16, 2015 1:31 PM
To: Skaggs, Pam
Subject: RE: WESTERN REGION COMMENT REQUEST-Water Supply Bank Lease -Clark 63-32952

Pam,

Good afternoon! Steve asked me to respond to this request. No local area concerns come to mind for this lease.

Looks like you mentioned in your memo that this lease is just outside the Bs 63 GW Restricted area, limiting the concerns should this right be rented in the future. Only other thing to note, not of significant consequence but noteworthy, is the POU property is within the proposed service area boundary for the City of Eagle's pending applications 63-33876 (non-RAFN) and 63-33878 (RAFN) for municipal use (both protested). Should be interesting to see how far the City of Eagle expands their service area in the future.

All that aside, again, no concerns on our end. Thank you for the opportunity to comment.

Sincerely,
Angie

Angela M. Grimm, P.G.
Water Resources Agent, Sr.
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

From: Skaggs, Pam
Sent: Tuesday, January 06, 2015 11:59 AM
To: Lester, Steve
Subject: WESTERN REGION COMMENT REQUEST-Water Supply Bank Lease -Clark 63-32952

Steve,

This is a 3rd year lease renewal for Right 63-32952. I have attached a copy of the lease review memo for your convenience.

Please provide your comments as soon as possible so processing can be completed.

Thanks,
Pam

Pamela S. Skaggs
Water Rights Supervisor
Idaho Department of Water Resources

Skaggs, Pam

From: Skaggs, Pam
Sent: Tuesday, January 06, 2015 11:59 AM
To: Lester, Steve
Subject: WESTERN REGION COMMENT REQUEST-Water Supply Bank Lease -Clark 63-32952
Attachments: Lease Review Memo-Clark 63-32952.docx

Steve,

This is a 3rd year lease renewal for Right 63-32952. I have attached a copy of the lease review memo for your convenience.

Please provide your comments as soon as possible so processing can be completed.

Thanks,
Pam

Pamela S. Skaggs
Water Rights Supervisor
Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
Phone (208) 287-4951
Fax (208) 287-6700

MEMORANDUM

To: Water Right No. 63-32952
From: Pam Skaggs 
Date: 1/6/2015
Re: Review of Application to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE:

An application to lease all of irrigation Right 63-32952 was received on 11-10-2014 for the 2015 season. This right authorizes 8 acres of irrigation from ground water in Ada County. This lease application is for a third consecutive single year lease for the right.

AUTHORITY TO FILE:

Both current right holders of record signed the application. An IRS W-9 form was submitted for Calvin Clark Jr as the designated applicant.

WATER RIGHT VALIDITY:

This right was partially decreed in the Snake River Basin Adjudication on 05-13-2009 and has been leased to the Bank in years 2012 and 2013. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS:

No injury through this lease is apparent. Note this water right is located just outside (across the road) of the Basin 63 Ground Water Restricted Area which may be a consideration for possible rentals.

ENLARGEMENT OF USE:

Place of use overlap review identified overlapping stockwater Right 63-18956, but no irrigation use overlaps. 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 right proposed for lease is not subject any Water District. Western Region comment will be requested.

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JAN 28 2015