

JAN 15 2015

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

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

Lessor: SEAPAC OF IDAHO
PO BOX 546
BUHL ID 83316
208-837-6541

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>
36-7072	5.5 CFS	Not Stated	N/A	N/A
Combined Lease Totals:	5.5 CFS	Not Stated	N/A	N/A

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

Authorized Period of Use under Lease: 01/01 to 12/31

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, 2016.
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.

SCANNED

JAN 16 2015
Page 1 of 4

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

SEAPAC OF IDAHO
PO BOX 546
BUHL ID 83316

By [Signature]
Printed Name John Denny

Date 1/15/15
Title PRESIDENT

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

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date January 15, 2015

Lease approved by IDWR [Signature]

Date 1/15/2015

ATTACHMENT A
WATER RIGHT NO. 36-7072
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: SEAPAC OF IDAHO
 PO BOX 546
 BUHL ID 83316
 208-837-6541

Priority Date: 09/05/1969

Source: THOUSAND SPRINGS **Tributary to:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	01/01	to 12/31	5.5 CFS	Not Stated
	Total:		5.5 CFS	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

SPRINGS SE¼SE¼SE¼ Sec. 6 Twp 08S Rge 14E GOODING County

TWO POINTS OF DIVERSION LOCATED IN T08S, R14E, S06, LOT 8 SESESE

PLACE OF USE TO BE IDLED UNDER THIS LEASE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	14E	5											H						
08S	14E	6																H	
08S	14E	8						H										L8	

Total Acres:

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. The unleased portion of this right and water right 36-8356 are limited to a combined diversion rate of 142.7 cfs.
13. Fish propagation is for a commercial hatchery.

STATE OF IDAHO
WATER RESOURCE BOARDRECEIVED
DEC 15 2014
DEPARTMENT OF
WATER RESOURCESWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLIST

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant SeaPac of IdahoWater Right No. 36-7072One 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).
- 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.Received By: CSDate Received: 12/15/14Receipt # C0994693W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Sea Pac of Idaho, IncPage 1
SCANNED
JAN 16 2015

Robyn M. Brody (ISB No. 5678)
Brody Law Office, PLLC
P.O. Box 554
Rupert, ID 83350
Telephone: (208) 420-4573
Facsimile: (208) 260-5482
rbrody@cableone.net
robynbrody@hotmail.com

J. Justin May (ISB No. 5818)
May, Browning & May
1419 W. Washington
Boise, Idaho 83702
Telephone: (208) 429-0905
Facsimile: (208) 342-7278
jmay@maybrowning.com

Fritz X. Haemmerle (ISB No. 3862)
Haemmerle & Haemmerle, PLLC
P.O. Box 1800
Hailey, ID 83333
Telephone: (208) 578-0520
Facsimile: (208) 578-0564
fxh@haemlaw.com

Attorneys for Rangen, Inc.

RECEIVED
NOV 06 2014
DEPARTMENT OF
WATER RESOURCES

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF THE FOURTH
MITIGATION PLAN FILED BY THE
IDAHO GROUND WATER
APPROPRIATORS FOR THE
DISTRIBUTION OF WATER TO
WATER RIGHT NOS. 36-02551 & 36-
07694 IN THE NAME OF RANGEN,
INC.

"MAGIC SPRINGS PROJECT"

Docket No. CM-MP-2014-006

**RANGEN, INC.'S AMENDED
NOTICE OF ACCEPTANCE OF
DELIVERY OF WATER UNDER
IGWA'S FOURTH MITIGATION
PLAN**

WHEREAS, on October 29, 2014, the Director of the Idaho Department of Water Resources ("Director") issued an *Order Approving IGWA's Fourth Mitigation Plan* ("Order");

WHEREAS, the Order conditionally approved IGWA's Fourth Mitigation Plan subject to approval of IGWA's September 10, 2014 Application for Transfer of Water Right to add the Rangen Facility as a new place of use for up to 10 cfs from water right number 36-7072 or an

authorized lease through the water supply bank. Approval is also conditioned upon all necessary agreements or options contracts being reduced to final written agreements. (*Order*, p.20-21); and

WHEREAS, the Director ordered IGWA to deliver Magic Springs water to Rangen no later than January 19, 2015 (*Order*, p.21);

WHEREAS, over Rangen's objection to IGWA's Fourth Mitigation Plan, the Director ordered Rangen to accept this water and allow construction on its land related to placement of the delivery pipe, and if not accepted, IGWA's mitigation obligation would be suspended (*Order*, p. 21);

NOW THEREFORE, RANGEN HEREBY PROVIDES NOTICE that Rangen, Inc. will comply with the Director's Order and accept the water to be delivered under the Fourth Mitigation Plan and allow construction of the pipeline on its land. By delivering this Notice, Rangen does not waive any right to seek judicial review of the Order. Rangen also does not waive any cause of action it may have against IGWA, its Districts, the Department, or the State of Idaho including, but not limited to, compensation for the condemnation of its real property, damages resulting from the implementation of the Mitigation Plan such as fish loss or the introduction of disease, pathogens, parasites, or other organisms harmful to Rangen's operation, or damages resulting from the failure to deliver water for any reason whatsoever. Rangen also reserves the right to reject the water in the event it determines the delivery of water is causing harm to Rangen's operation.

DATED this 6th day of November, 2014.

MAY, BROWNING & MAY

By

J. Justin May

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 6th day of November, 2014, I caused a true and correct copy of the foregoing document to be served using the method indicated upon the following:

Director Gary Spackman Idaho Department of Water Resources P.O. Box 83720 Boise, ID 83720-0098 Deborah.Gibson@idwr.idaho.gov	Hand Delivery ☒ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☒
Garrick Baxter Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov emmi.blades@idwr.idaho.gov	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☒
Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 Pocatello, ID 83204-1391 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☒
Kathy McKenzie P.O. Box 109 Hagerman, ID 83332 knbmac@q.com	Hand Delivery ☐ U.S. Mail ☐ Facsimile ☐ Federal Express ☐ E-Mail ☒


J. Justin May

**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 SeaPac of Idaho Email Address seapac@seapacofidaho.com
Mailing Address PO Box 546, Buhl, ID 83316 Phone Number 208.837.6541

☒ 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 Thomas J. Budge Organization IGWA
Professional Title _____ Email Address rcb@racinelaw.net
Mailing Address P. O. Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☒ 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 36-7072 ☐ 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.

Pump and pipe system currently being installed to delivery water from the Magic Springs Fish Hatchery own by
SeaPac to the Rangen Fish Hatchery on Billingsley Creek.

- 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.

SeaPac water right no. 36-8356

Page 1
SCANNED
JAN 16 2015

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

If yes, describe. Magic Springs, under water right no. 36-8356 and the remaining portion of 36-7072 that is not being leased into the Bank.

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. IGWA's 4th Mitigation Plan; Application for Transfer No.79560.

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 1/19/15 to 1/19/16* (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / Year) *Terminable upon approval of Transfer 79560.

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

Current rental rate.

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

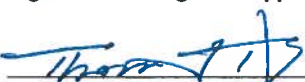
The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant

Printed Name

Date



Thomas J. Budge

12/12/14

Signature of Authorized Representative

Printed Name

Date

Mail to:

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

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

If yes, describe. Magic Springs, under water right no. 36-8356 and the remaining portion of 36-7072 that is not being leased into the Bank.

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. IGWA's 4th Mitigation Plan; Application for Transfer No. 79560.

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 1/19/15 to 1/19/16* (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / Year) *Terminable upon approval of Transfer 79560.

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate.

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

The Designated Applicant acknowledges the following:

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

[Signature]
Signature of Designated Applicant

KEO FORTNEY
Printed Name

1/15/15
Date

Thomas J. Budge
Signature of Authorized Representative

Thomas J. Budge
Printed Name

12/12/14
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. 36-7072

	Designated Applicant	Applicant #2	Applicant #3
Name	SeaPac of Idaho		
Mailing Address	PO Box 546, Buhl, ID 83316		
Phone Number	208-837-6541		
Email Address			
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			

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

The undersigned hereby appoints the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, my/our true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow them to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on my/our behalf.

DATED this 2nd day of May, 2014.

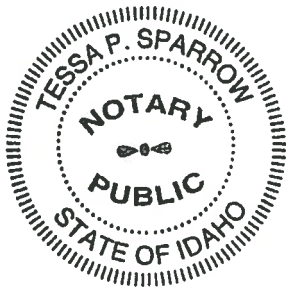
IDAHO GROUND WATER APPROPRIATORS, INC.
(IGWA) acting for and on behalf of its Ground
Water District members

By: [Signature]
Name: Tim Deeg
Title: President

STATE OF IDAHO)
County of Bannock)
:ss

On this 2nd day of May, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Tim Deeg, known or identified to me to be the President of the company that executed the instrument or the person who executed the instrument on behalf of said company, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, ID
Commission expires: 10/05/2015

LETTER OF INTENT

USE OF WATER FROM SEAPAC OF IDAHO, INC'S MAGIC SPRINGS FACILITY, CONSTRUCTION OF PUMP STATION AND PIPELINE IN EXCHANGE FOR WATER FROM THE AQUA LIFE FACILITY

This Letter of Intent ("LOI") is entered into by and between Idaho Ground Water Appropriators, Inc. ("IGWA"), acting for and on behalf of North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District (collectively "Districts"), and SeaPac of Idaho, Inc. ("SeaPac").

RECITALS

A. In response to Rangen, Inc.'s ("Rangen") water delivery call, the Idaho Department of Water Resources ("IDWR") determined in its January 29, 2014 order that holders of ground water rights junior to July 13, 1962 must provide 9.1 cfs of direct flow to Rangen. Other delivery calls are pending or may be filed by other Hagerman Valley water right holders seeking to curtail junior ground water users.

B. IGWA represents ground water districts whose members consist of irrigators, municipalities, and commercial and industrial entities with ground water rights. Many of the ground water districts' member's water rights are junior to Rangen and certain other water rights in the Thousand Springs reach of the Hagerman Valley and are subject to curtailment unless a mitigation plan is approved providing replacement water.

C. IGWA and SeaPac support the concepts and implementation of the State of Idaho's *Thousand Springs Water Supply Settlement Framework* designed to provide recharge and other means to stabilize the aquifer, to improve water supplies in the Hagerman Valley and to resolve conflicts between junior and senior water right holders.

D. The Idaho Water Resource Board ("IWRB") owns and operates the Aqua Life Aquaculture Facility Hatchery ("Aqua Life") and has entered into a Letter of Intent with IGWA to make available to IGWA by lease or purchase up to ten (10) cfs of its Aqua Life water rights from adjacent springs as needed to meet the mitigation obligation to Rangen and others in the Hagerman valley. IGWA has entered into negotiations with IWRB seeking to lease and acquire ownership of all of Aqua Life.

E. SeaPac currently has a short-term lease of Aqua Life from IWRB and desires to continue its Aqua Life operations by securing ownership and/or a long-term lease.

F. IGWA desires to secure water from SeaPac's Magic Springs to provide a supply of water for mitigation purposes to Rangen and to other senior rights in the Hagerman Valley.

G. IGWA and SeaPac desire to enter into this Letter of Intent ("LOI") to set forth their intent to commence negotiation of a final agreement providing for the exchange of Magic Springs water for Aqua Life water consistent with the terms set forth below.

TERMS

The Agreement shall have the following terms and conditions:

1. SeaPac will lease or sell to IGWA up to ten (10) cfs of first use water from its Magic Springs water right nos. 36-7072 and 36-8356 and also will provide access to allow IGWA to utilize all discharge water from its Magic Springs facilities as needed to provide mitigation to other water right holders in the Hagerman valley.

2. In exchange for water from Magic Springs, IGWA will secure ownership or control of Aqua Life water right nos. 36-1044, 36-2734, 36-15476, 36-2414, and 36-2338 by long-term lease or purchase from IWRB and make them available to SeaPac.

3. IGWA will pay all costs to design, construct, operate and maintain the water collection and intake system, pump station, pipeline and other facilities necessary to deliver up to 10 cfs of first use water together with discharge water from Magic Springs to the head of Billingsley Creek directly up gradient from the Rangen hatchery and/or other locations in the Hagerman valley for mitigation purposes. IGWA will ensure that the diversion and delivery facilities to be constructed will not interfere with the use of SeaPac's remaining water rights at Magic Springs.

4. IGWA shall be responsible to secure from IDWR approval of such mitigation plans, transfer applications and other permits as may be required to change the point of diversion and place of use to accomplish the delivery of Magic Springs water for mitigation purposes. SeaPac hereby grants consent to IGWA to file and process such mitigation plans, transfer applications based on this LOI, with the approvals made subject to this LOI and the contemplated final Agreement between the parties.

5. SeaPac will grant IGWA permanent easements at Magic to design, construct, operate and maintain the water intake and collection facilities, pump station, pipeline and other facilities as necessary for the delivery of water to other locations for mitigation purposes.

6. IWRB will cooperate with IGWA and provide all necessary documents to conduct such investigation as it shall deem appropriate.

7. The Agreement will be contingent upon: (a) IGWA securing an order from IDWR approving mitigation plans providing for the delivery SeaPac's Magic Springs water rights to satisfy the mitigation obligations to Rangen and/or others in the Hagerman valley; (b) IGWA

securing an order from IDWR approving the transfer of the point of diversion and place of use (as necessary) from SeaPac to Rangen and other locations for mitigation; (c) IGWA proceeding to construct and implement the pump and pipeline facilities pursuant to an approved mitigation plan; and IGWA securing ownership or control by long-term lease of Aqua Life and providing it to SeaPac.

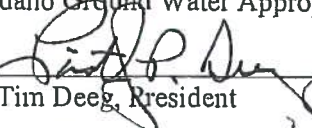
8. This LOI may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same agreement. Delivery of an executed counterpart of this LOI via facsimile transmission shall be as effective as delivery of an original signed copy. Thereafter, the parties shall exchange executed originals of this LOI.

9. This LOI is intended as a general expression of the terms and conditions, under which the parties are willing to proceed to prepare, negotiate and if acceptable to all parties in their respective sole discretion, execute a final Agreement. Neither this LOI nor the execution hereof as provided below, shall be binding on any party until the formal Agreement is executed by all parties.

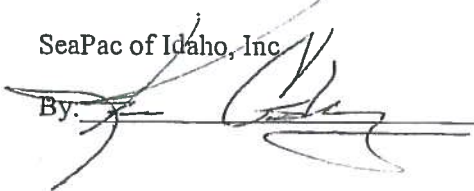
10. Upon execution of this LOI SeaPac will provide access to IGWA to begin engineering work, IGWA will proceed to file and process with IDWR mitigation plans and transfer applications as contemplated and the parties will proceed to negotiate a final Agreement incorporating the terms and conditions as outlined above.

Idaho Ground Water Appropriators, Inc.

By:


Tim Deeg, Resident

SeaPac of Idaho, Inc.

By: 





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 16, 2015

SEAPAC OF IDAHO
PO BOX 549
BUHL ID 83316

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 36-7072

Dear Lessor:

Water Rights **36-7072** 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 is 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, 2016**, 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 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: Racine Olson Nye Budge Bailey
IDWR Southern Region



RACINE
OLSON
NYE
BUDGE
BAILEY

201 E. Center St.
P.O. Box 1391
Pocatello, ID 83204
O 208.232.6101
F 208.232.6109
racinelaw.net

RANDALL C. BUDGE
rcb@racinelaw.net

December 12, 2014

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

RECEIVED

DEC 15 2014

DEPARTMENT OF
WATER RESOURCES

Re: Water Supply Bank Applications

To Whom It May Concern:

Enclosed are companion applications to lease and rent 5.5 cfs from Magic Springs to be delivered to the Rangen Fish Hatchery on Billingsley Creek pursuant to the *Order Approving IGWA's Fourth Mitigation Plan* issued by the Director on October 29, 2014. Page 20 of the Order explains that IGWA must obtain approval of Application for Transfer No. 79560 or the enclosed Water Supply Bank Applications by no later than January 19, 2015. We ask that the enclosed applications be approved immediately in case proceedings on Transfer No. 79560 are not completed by that date.

The lease submitted is for one year, with the ability to terminate upon approval of Transfer 79560 with the understanding that fees will be refunded pro rata.

Should you have any questions please give me a call.

Sincerely,

RANDALL C. BUDGE

RCB:ts
Enclosures

MEMORANDUM

To: Water Right No(s). 36-7072
From: Remington Buyer
Date: December 31, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: On December 15, 2014, an application was received from Thomas J. Budge, legal counsel for the Idaho Ground Water Appropriators (IGWA). Through Mr. Budge, IGWA is proposing to lease into the Bank 5.5 cfs from water right 36-7072 before renting it for mitigation and fish propagation purposes at the nearby Rangen fish facility (Rangen).

Mr. Budge has submitted an application for transfer (TX #79560) that proposes to split off 10 cfs of water from 36-7072 and utilize it for fish propagation and mitigation purposes at Rangen's facility. The transfer has been protested. This lease rental application is being submitted due to the protesting of the transfer application. As a matter of avoiding duplicative work, the Water Supply Bank tends not to consider lease and rental applications where transfers are pending, and the Bank avoids considering a lease/rental if an associated transfer is protested. This lease/rental transaction however is being proposed to accomplish mitigation activities approved by an order of the Director of IDWR (IGWA's Fourth Mitigation Plan) and the mitigation activities are sanctioned by the IWRB, thus the Bank will consider this transaction.

AUTHORITY TO FILE: The lease application has been completed and submitted by IGWA, acting through Mr. Budge, however the current owner of the water right is SeaPac of Idaho. A signed Letter of Intent between IGWA and SeaPac contemplates this lease proposal being submitted and has been included with the lease application. There are no concerns about the authority to file the application, however SeaPac's signature is missing from the lease application. Either SeaPac will need to sign the lease application and lease contract, or IGWA can sign the lease if they can provide evidence that they have in fact obtained through purchase or lease from SeaPac the 5.5 cfs from water right 36-7072.

WATER RIGHT VALIDITY: Water right was decreed in 1997 and SeaPac has been and continues to use water authorized under this right. Validity of the right is not a concern.

INJURY TO OTHER WATER RIGHTS: Water right 36-7072 authorizes diversion of water that emerges from the ESPA via nine springs, collectively known as Magic Springs. Water is diverted for fish propagation, a non-consumptive use of water, before flowing into the Snake River. Except for the lessor of water right 36-7072, there are no other known water users who divert water from the Magic Springs, nor are there any known downstream water users who use waste water from 36-7072 prior to it flowing into the Snake River. No injury is apparent from leasing this water right into the Water Supply Bank.

ENLARGEMENT OF USE: No enlargement is evident through the lease.

LOCAL PUBLIC INTEREST: The lease (and subsequent rental) of this water right through the Bank is in support of an IDWR approved and IWRB sanctioned mitigation plan (IDWR Order Approving IGWA's Fourth Mitigation Plan, October 29, 2014). IGWA's Fourth Mitigation Plan

contemplates a lease/rental through the Bank to accomplish their mitigation activities. The mitigation plan is approved by IDWR to address the curtailment of ESPA ground water rights. Approval of this lease (and associated rental) is in support of accomplishment of IGWA's mitigation plan and are thus in the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease is consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Water District 130 watermaster comments were obtained. There are no concerns with leasing this water into the Bank however there are additional considerations to be considered on the rental.