

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: TR CO LLC
250 S BEECHWOOD AVE STE 120
BOISE ID 83709
(208) 375-6666

RECEIVED

NOV 04 2014

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>Acre Limit</u>	<u>Total Leased Acres</u>
63-194	1.86 CFS	NOT STATED	NA	85.3 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: March 1 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, 2018.
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.

TR CO LLC
250 S BEECHWOOD, STE 120
BOISE ID 83709

By 

Date 10/31/14

Printed Name Dennis M. Baker

Title manager

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 November 5, 2014

Lease approved by IDWR 

Date 11/5/2014

ATTACHMENT A
WATER RIGHT NO. 63-194
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: TR CO LLC
 250 S BEECHWOOD AVE STE 120
 BOISE ID 83709
 (208) 375-6666

Priority Date: 6/1/1877

Source
 BOISE RIVER

Tributary
 SNAKE RIVER

Beneficial Use
 IRRIGATION

<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
03/01	11/15	1.86 CFS
<u>Total Diversion</u>		1.86 CFS

Source and Point(s) of Diversion
 BOISE RIVER

NWSE

Sec. 16, Twp 04N, Rge 01E, Ada County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

IRRIGATION within ADA County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	17			11.5	4.7				4.7	10.8			2.6	12.5	11.5	10.7	16.3	85.3

Total Acres: 85.3

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. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
13. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
14. Property is also known as Two Rivers Subdivision.
15. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and proceeding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and proceeding to the earliest, shall be reduced to 60 percent of their decreed quantities.
16. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
17. This right originated as all or part of right no. 63 in the Stewart Decree and the historic Boise River Water Masters records.
18. Use of this right is combined with water from the Mace-Catlin Ditch Company.

RECEIVED

DEC 06 2013

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD
WATER SUPPLY BANK
REQUEST TO EXTEND LEASE TERM

ONE FORM PER WATER RIGHT

This form is a statement that the lessor requests an extension of a Water Supply Bank ("Bank") lease for the water right identified below. A water right remains in the Bank for the accepted lease period unless released earlier by the Water Resource Board or until the lessor submits a request in writing to the Department of Water Resources to release the right from the Bank. However, if a water right is currently rented, the portion of the right being rented must remain in the Bank for the duration of the rental agreement.

If requesting a change in lease amounts (reducing or increasing acreage, etc.), you must file an Application to Sell or Lease a Water Right to the Water Supply Bank. This form can be found on IDWR's website at: www.idwr.idaho.gov.

Water Right No: 63-194 Telephone No: (208) 375-6666

Name(s) of Lessor(s): T R CO, LLC

Mailing Address: 250 S Beechwood, Ste 120

City: Boise State: ID Zip: 83709

Current Expiration Date: December 31, 2013

Requested Expiration Date: December 31, 2018

Lease term not to exceed 5 years.

All lease extension request forms must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled for the duration of this lease.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

The lessor requests that the above water right remain in the Bank through the date referenced above.

TR Company LLC
[Signature]
Signature of Lessor

Dennis M. Baker
Printed Name and Title*

12-4-13
Date

Signature of Lessor

Printed Name and Title*

Date

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

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

FOR OFFICE USE ONLY

Filing fee received by: [Signature] Date: 12-6-13 Receipt No: 0098040

TR CO Lease Proposal



Legend

- Lease_Acres
- Ponds
- POU_Extent
- Township/Range
- Sections
- QQ

0 0.05 0.1 0.2 Miles



40 Acre QQ

Acre Description			
		SESW	SENE
Acres authorized for ponds or irrigation			
Acres covered by ponds		8.6	15.2
Available irrigible (unponded) land		1.2	0.8
Acres proposed for lease to WSB		7.4	14.4
Acres under roads (client definition)		3.7	7.9
Acres under homes (client definition)		2.4	2.2
Acres identified available for lease		2.3	2.5
Acres accepted into WSB (as proposed)		4.7	4.7
Additional acres leased		3.7	4.7
Total acres leased		1	0
		4.7	4.7
		SESW	SENE
Acres authorized for ponds or irrigation			
Acres covered by ponds		29.4	34.9
Available irrigible (unponded) land		10	4.9
Acres proposed for lease to WSB		19.4	30
Acres under roads (client definition)		10.7	15.2
Acres under homes (client definition)		3.6	7.2
Acres identified available for lease		7.2	5.3
Acres accepted into WSB (as proposed)		10.8	12.5
Additional acres leased		10.7	12.5
Total acres leased		0.1	0
		10.8	12.5
		SESW	SENE
Acres authorized for ponds or irrigation			
Acres covered by ponds		6.2	35.2
Available irrigible (unponded) land		4.1	2.1
Acres proposed for lease to WSB		2.1	33.1
Acres under roads (client definition)		1.2	16.3
Acres under homes (client definition)		1.6	7.1
Acres identified available for lease		1	9.4
Acres accepted into WSB (as proposed)		2.6	16.5
Additional acres leased		1.2	16.3
Total acres leased		1.4	0
		2.6	16.3

Did a GIS analysis on each of the QQs
After cursary review, leasable acreage not sufficient, per clients information
Additional analysis revealed available acreage, but in different locations
Lease contract is drafted using best available data from IDWR analysis

Acres Confirmed	Acres Authorized
200	200
34.3	38
85.3	
85.5	
85.3	85.3



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

November 10, 2014

DENNIS BAKER
TR CO LLC
250 S BEECHWOOD AVE STE 120
BOISE ID 83709

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 63-194

Dear Lessor:

Water Right **63-194** was leased into the Water Supply Bank on November 5, 2014 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.**

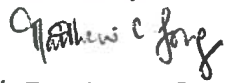
The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the 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 287-4944.

Sincerely,


for Remington Buyer

Idaho Department of Water Resources

Enclosure: Executed Lease Contract

c: Rachel Sommer – IDWR Western Region
Rex Barrie – Water District #63



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 23, 2014

TR CO LLC
C/O DENNIS BAKER
250 S BEECHWOOD AVE STE 120
BOISE ID 83709

RE: APPLICATION(S) TO LEASE WATER RIGHT 63-194 INTO THE WATER SUPPLY BANK

Dear Mr. Baker,

The Water Supply Bank has reviewed your application to renew the lease of a portion of water right 63-194 into the Water Supply Bank. Enclose are **two original Water Supply Bank Lease Contracts for your review and signature**. Please sign and return **BOTH Lease Contracts within 14 days**. Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is **not** considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2018**. You may request to release a right from the Bank prior to the release date by submitting to IDWR a Request to Release a Water Right from the Bank form. Your rights may not be available for release if they are being rented. To propose a new lease period, including a renewal of an expiring water right, please 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 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 287-4918.

Sincerely,

Remington Buyer
Idaho Department of Water Resources
208-392-7788

MEMORANDUM

To: Water Right No(s). 63-194

From: Remington Buyer

Date: October 2, 2014

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received a request to extend the lease terms for water right 63-194 in December 2013. Eighty five point three (85.3) acres were previously leased into the Bank however the lease contract expired on December 31, 2013. This review is to consider accepting 85.3 acres back into the Bank.

AUTHORITY TO FILE: The lease extension was filed by TR Co manager Dennis Baker. TR Co is the recognized owner of this water right.

WATER RIGHT VALIDITY: This right was previously in the Bank; validity is not a concern.

INJURY TO OTHER WATER RIGHTS: The lease proposes to idle 85.3 acres under the water right. Parts of the place of use for the portion of water right 63-194 proposed to be leased overlap with other irrigation water rights:

<u>Water Rights</u>	<u>Owner</u>	<u>Acre Limit</u>	<u>PPU Acres</u>	<u>Overlapping Acres</u>	<u>Non-Overlap Acres</u>
63-382B 63-33067 63-33069	Mace Catlin Ditch Co.	230.5 acres	454 acres	21.5 acres	432.5 acres

Though there is an overlap of 21.5 acres for these water rights, the Mace Catlin Ditch Co. water rights are not used at the place of use for 63-194 (they are not stacked) and the permissible place of use for Mace Catlin rights is sufficiently large to allow for the full use of those rights (230.5 acres) on the remaining 432.5 (non-overlapping) permissible place of use. Thus, 63-194 can be leased into the Bank without injuring other water rights.

ENLARGEMENT OF USE: A map of acres available for lease into the Water Supply Bank indicates no enlargement of the water right will occur through leasing this right into the Bank, or through renting it.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: IDWR Western Region staff reviewed the lease proposal and confirmed an avoidance of enlargement/injury through lease has been sufficiently considered. Watermaster comments were solicited but not provided. A copy of the lease contract will be forwarded to the Water District 63 Watermaster and IDWR water right accounting staff.