



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

October 24, 2014

BROWN FARMS LLC
764 TROUTNER WAY
BOISE ID 83712

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 61-2154, 61-10378, 61-7005, 61-7119 AND 61-7396 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. You also provided a lease application for water right **61-2155**. This water right was found to be a stand-alone water right and was not needed to complete this lease. Therefore, the application for that right is being returned to you unprocessed. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2014**, 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 287-4944.

Sincerely,

Clay Webster
Water Resource Agent

Enclosure: Proposed Lease Contracts

c. John M Marshall – John Marshall Law PLLC

RECEIVED
JAN 27 2014
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

Receipt No. C098235
Fee Amount \$ 500.00
Date/by 1/27/14
(For Department Use Only)

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

Returned
10/24/14

Name of Seller/Lessor Brown Farms, L.L.C. Phone 208-386-9119
Mailing address 764 N Troutner Way, Boise, Idaho 83712 Email cliffbrown@cablone.net

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, check here ☐, list the water right number, and skip to Part B.

1. Water Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use
61-2155	1.74/365.4	Irrigation	3/15 to 11/15
			to
			to

Total Amount: 1.74/365.4

2. Source of water Ground water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
04S	06E	18		SE	SE	SE	Elmore
04S	06E	19		SE	NW	NW	Elmore
04S	06E	19		SW	NE	SW	Elmore
04S	06E	20		NW	SE	NE	Elmore

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	06E	17											15	15					30
04S	06E	18							43	40					9	9	9	9	119
04S	06E	19						44							40			10	94
04S	06E	20	40	40	5	5	9	9	9	9									126

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 369

B. OWNERSHIP

- Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☐ No ☒
If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
- 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 to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Five ground water wells, interconnected piping system, wheel lines and 5 pivots.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

Combined with 61-2154, 61-7005, 61-7119, 61-7396, and 61-10378

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

Yes ☐ No ☒

If yes, describe.

4. 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 right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

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

If yes, describe. Pending Transfer Application 78356. See attached consent to placing right into the Bank for 2014.

D. REQUIRED ITEMS

This form 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 by this lease application.
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. If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale
- ☐
- or lease
- ☐
- .

If lease, for a period from 01/01/2014 to 12/31/2014 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. 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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.



Signature of Applicant

Clifford Brown, manager

Printed Name and Title*

1-24-14
Date

Signature of Applicant

Printed Name and Title*

Date

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

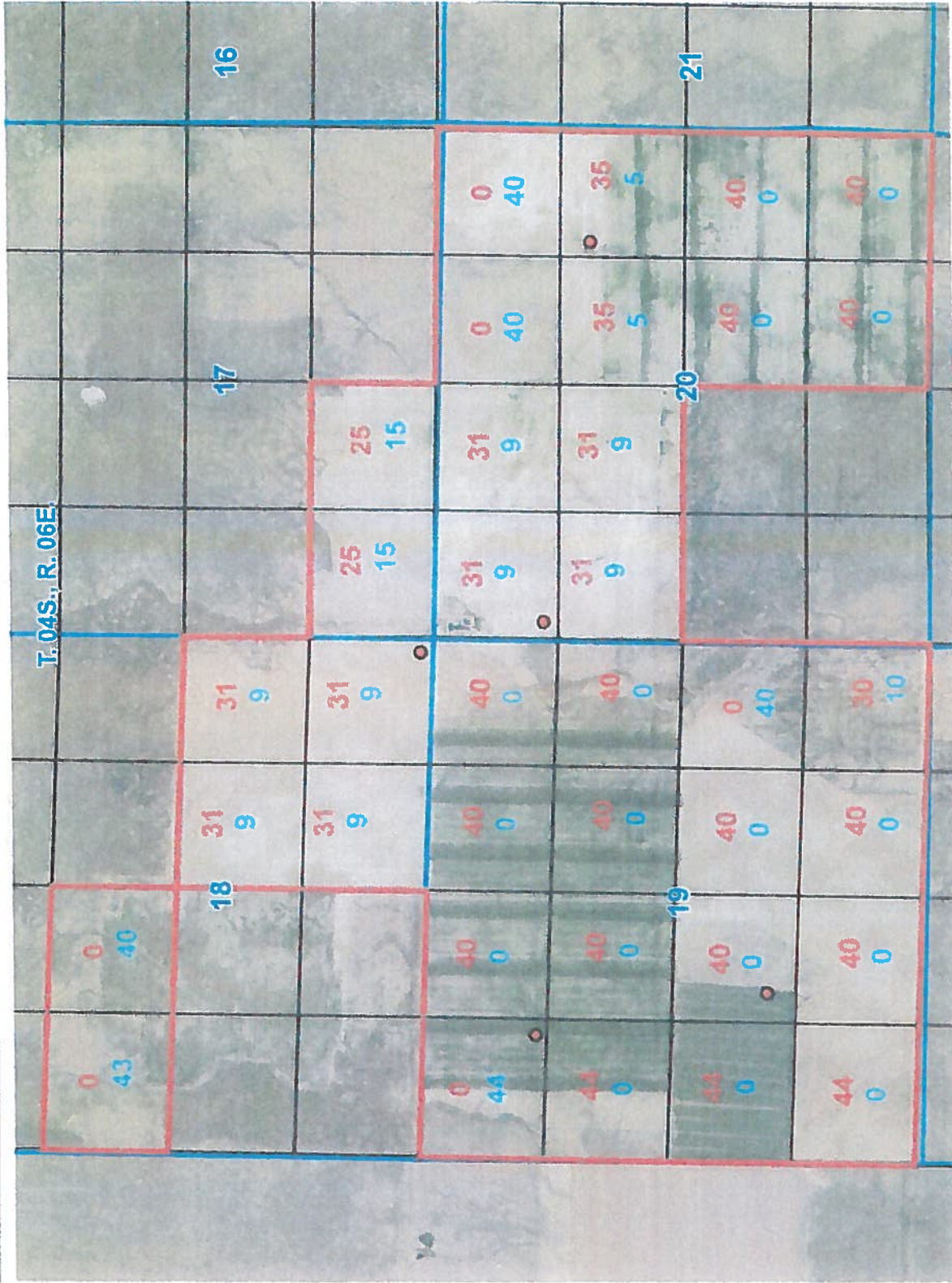
Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

Additional point of diversion

TWP	RGE	SEC	LOT	¼	¼	¼	County
4S	6E	20		SW	NW	NW	Elmore

Attachment D

T. 04S., R. 06E



Legend
 O WR_POD'S
 place of use
 Sec. Lines
 t04s06e

Idaho Water Company - (From, Bernard Brown)
 T.04S., R.06E. Elmore County, Idaho
 Naip 2004 Aerial Photo

00 Remaining Irrigation
 00 Acres to be dried up

BROCKWAY ENGINEERING, PLLC.
 ALR - Dec. 1, 2005

Water Right: 61-7119, 61-7398, 61-2154,
 61-10378, 61-7005, 61-2155