

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective April 1, 2014, between the Idaho Water Resource Board ("**Board**"), and

Lessor: ABERDEEN SPRING FIELD CANAL CO
PO BOX 857
ABERDEEN ID 83210
(208) 397-4192

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SEP 05 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>Total Leased Acres</u>
35-02543	0.08 CFS	140 AF	35.0 AC
Combined Lease Totals:	0.08 CFS	140 AF	35.0 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 04/01 to 10/31

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: Negotiated Rental Rate, see rental agreement on file with the Department.

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2014.
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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SEP 08 2014
Page 1 of 4

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

ABERDEEN SPRING FIELD CANAL CO

PO BOX 857
ABERDEEN ID 83210

By 

Date 8/28/2014

Printed Name Steven T. Hawser

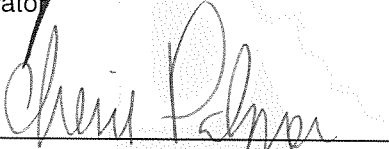
Title General Manager

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 September 5, 2014

Lease approved by IDWR 

Date September 5, 2014

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SEP 08 2014

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

Priority Date: 8/7/1958

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to	10/31	0.08 CFS	140 AF
		Total:	0.08 CFS	140 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NWNESEW Sec. 11, Twp 05S, Rge 31E, BINGHAM County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Aberdeen Springfield Canal Company Service Area (See condition #6)

Total Acres: 35.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water right referenced above is accepted into the bank and rented in accordance with a private agreement formulated between the lessor and the renter.
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. Through execution of this lease, the remaining use of water right 35-2543 is reduced by 140 AF and 35 acres. The remaining portion of water right 35-2543 not leased to the Bank is limited to irrigation of 2514 acres within the boundary of Aberdeen Springfield Canal Company pursuant to Section 42-219, Idaho Code.
7. Use of rights 35-2543, 35-4246, 1-23B and 1-297 are limited when combined to one or more of the following in accordance with the conditions of approval on the water rights: 61,772.6 total acres authorized for irrigation.

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SEP 18 2014

8. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
9. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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 120.



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STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 13 2014

DEPARTMENT OF
WATER RESOURCESAPPLICATION 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 Aberdeen-Springfield Canal Compar Email Address steveh@ascanal.org
Mailing Address P.O. Box 857, Aberdeen, ID 83210 Phone Number (208)397-4192

☒ 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 Steven T. Howser Organization Aberdeen-Springfield Canal Company
Professional Title General Manager Email Address steveh@ascanal.org
Mailing Address P.O. Box 857, Aberdeen, ID 83210 Phone Number (208)39704192

☒ 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 35-2543 ☐ 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.
Water is currently diverted via a ground water 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.
1-23B, 1-297, 35-4246

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

If yes, describe. Water rights 1-23B, 1-297,35-4246, and a portion of 35-2543

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 ☒?

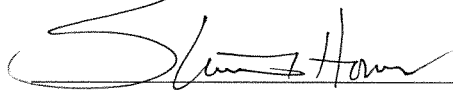
If lease, for a period from 04/01/2014 to 10/31/2014 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / Year)

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.

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

Steven T. Hawser, General Mgr. 8/7/2014
Printed Name Date

Signature of Authorized Representative

Printed Name

Date

Mail to:

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

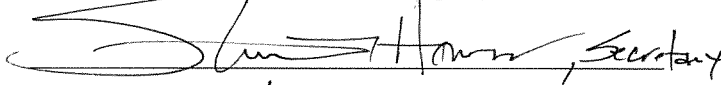
CONTRACT OF AGREEMENT

To Whom It May Concern,

Lance Funk and Aberdeen Springfield Canal Company have entered into an agreement concerning water right 35-2543. Aberdeen Springfield Canal Company will submit a lease application for 35.0 acres or 140.0 acre feet of irrigation water under 35-2543 for the 2014 irrigation season. Lance Funk intends to rent the 35.0 acres or 140.0 acre feet for the 2014 irrigation season.

Lance Funk has agreed to pay \$51.0 per acre foot or \$7,140.00 as a rental payment to utilize the 35.0 acres of irrigation for the 2014 irrigation season. Lance Funk will pay any required fees relating to this rental by IDWR.

Aberdeen Springfield Canal Company:

 Secretary

Date: 8/8/2014

Lance Funk:



Date: 8/8/2014



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

September 8, 2014

C.L. "BUTCH" OTTER

Governor

ABERDEEN SPRINGFIELD CANAL CO
PO BOX 857
ABERDEEN ID 83210

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 35-2543

Dear Lessor:

Water Right **35-2543** was leased into the Water Supply Bank on April 1, 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 right will automatically be released from the Bank on **December 31, 2014**, unless the rights are 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,

Clay Webster

Water Resource Agent

Enclosure: Executed Lease Contract

c: James Cefalo – IDWR Eastern Regional Office/Water District #120



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

August 25, 2014

ABERDEEN SPRINGFIELD CANAL CO
PO BOX 857
ABERDEEN ID 83210

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 35-2543 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 to the Water Supply Bank. **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 287-4910.

Sincerely,

Clay Webster
Technical Records Specialist

Enclosure: Proposed Lease Contracts
Receipt # C099290

Webster, Clay

From: Cefalo, James
Sent: Sunday, August 24, 2014 5:50 PM
To: Webster, Clay
Subject: RE: Water Supply bank Lease for Aberdeen Springfield Canal Co.

Clay,

I don't have any concerns about the proposed lease/rental.

James

From: Webster, Clay
Sent: Friday, August 22, 2014 8:30 AM
To: Cefalo, James
Subject: Water Supply bank Lease for Aberdeen Springfield Canal Co.

James,

I am currently processing this lease for 35 more acres of 35-2543. Michele Edl is processing the rental for the Funks. This lease will cover a portion of that rental. Do you have any concerns or comments on this one? Thanks.

Sincerely,

Clay Webster

Technical Records Specialist
clay.webster@idwr.idaho.gov

208-287-4910

Idaho Department of Water Resources (IDWR)

322 E. Front Street

P.O. Box 83720

Boise, ID 83720-0098

208-287-4800

www.idwr.idaho.gov

MEMORANDUM

To: Water Right No(s). 35-02543
From: Clay Webster
Date: August 22, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received an application to lease 35 acres/140 acre feet for the 2014 season for Lance Funk to rent. They have a private agreement between Aberdeen Springfield Canal Company and Lance Funk.

AUTHORITY TO FILE: This application was signed by Steven T. Houser, he is listed as the agent and Secretary for the Aberdeen Springfield Canal Company on the IDSOS web site. Aberdeen Springfield Canal Co is the current owner of this water right.

WATER RIGHT VALIDITY: This right was partially decreed by the SRBA in February 2012. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: Aberdeen Springfield Canal Company's use of water right 35-2543 shall be reduced by an amount in volume and flow equal to that accepted into the Bank in order to avoid an enlargement of the use of water right 35-2543. The place of use identified for rental of this water right is within the permissible place of use of Aberdeen Springfield Canal Company, thus no enlargement will occur through rental of this water right by Mr. Funk.

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 is subject to Water District # 120.