

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("Lease") is effective April 29, 2014, between the Idaho Water Resource Board ("Board"), and

Lessor: VELIA DE GIULIO
1643 W 500 S
PINGREE ID 83262
(208)2684-4677

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>
35-7415	0.72 CFS	156.0 AF	NA	39.0 AC
Combined Lease Totals:	0.72 CFS	156.0 AF	NA	39.0 AC

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

Authorized Period of Use under Lease: April 1 to November 1

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.

SCANNED

AUG 19 2014

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

VELIA DE GIULIO
1643 W 500 S
PINGREE ID 83262

By Velia De Giulio

Date 08-13-14

Printed Name Velia De Giulio

Title _____

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 August 19, 2014

Lease approved by IDWR Cherie Palmer

Date August 19, 2014

ATTACHMENT A
WATER RIGHT NO. 35-7415
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: VELIA DE GIULIO
1643 W 500 S
PINGREE ID 83262
(208)2684-4677

Priority Date: 04/16/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.72 CFS	156.0 AF
	Total:		0.72 CFS	156.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 29 Twp 03S Rge 33E BINGHAM 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	
03S	33E	29		39.0															39.0

Total Acres: 39.0

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.
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 point of diversion identified for this water right may not be used to divert water for Aberdeen-Springfield shares.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 29 2014

Department of Water Resources
Eastern RegionWATER 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 Velia DeGiulioWater Right No. 35-7415One 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 \$ <u>250.00</u>	Received By: <u>sc</u>	Date Received: <u>4/29/14</u>	Receipt # <u>E639776</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal) ☒	Name on W-9: <u>Velia DeGiulio</u>	

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION 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 Velia DeGiulio Email Address _____
Mailing Address 1643 West 500 South, Pingree, Idaho 83262 Phone Number (208) 684-4677

☒ 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 35-7415 ☒ 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.
groundwater 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

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

If yes, describe. Applicant will utilize shares of stock in Aberdeen-Springfield Canal Company to irrigate this property

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 4/15/2014 to 10/15/2018 (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.

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

Signature of Authorized Representative

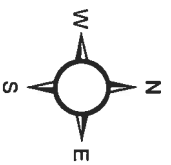
Printed Name

Date

Mail to:

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

Verid Learning Attachment 4



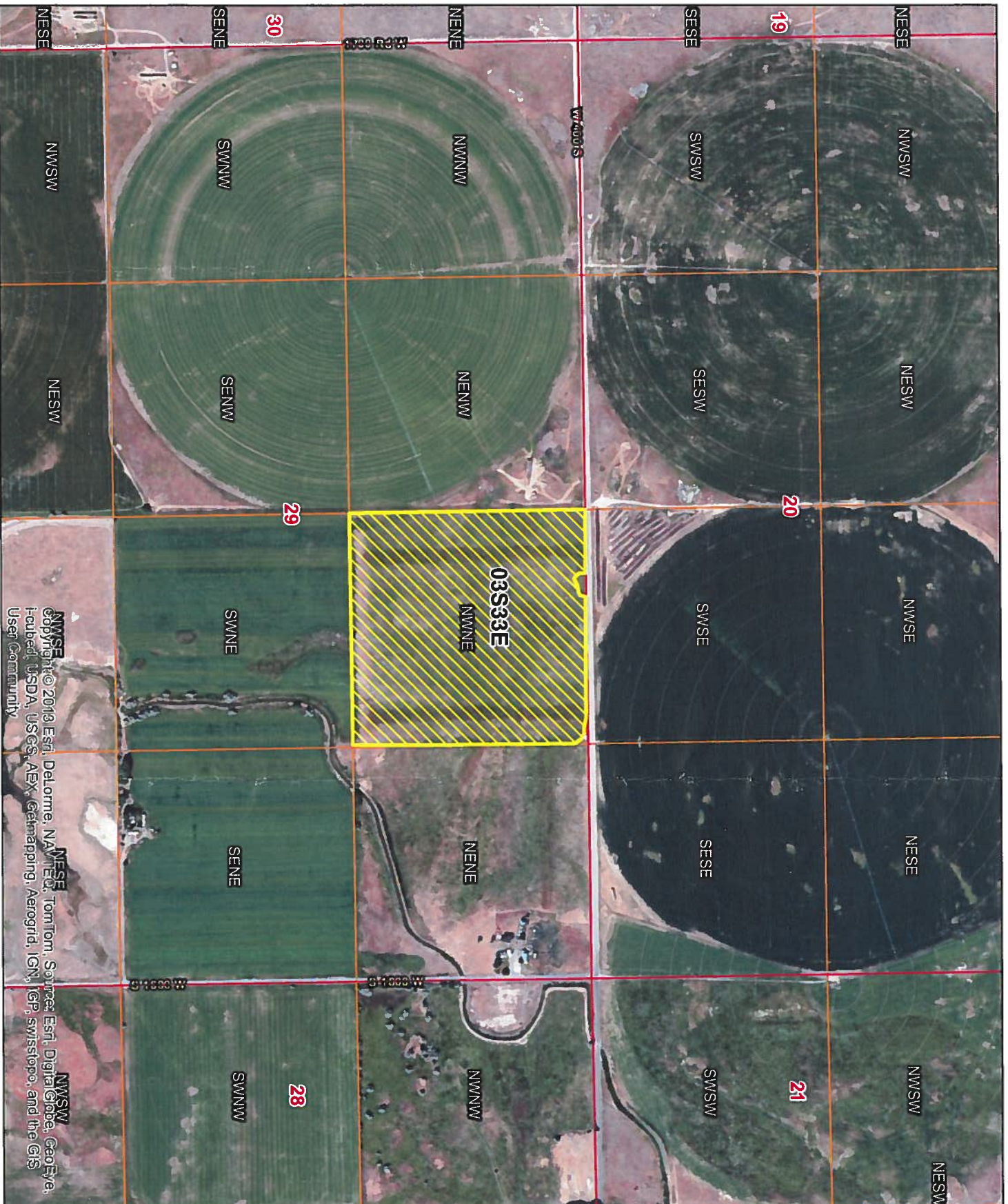
35-7415

TR Lines

Section Lines

Quarters

Legend



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 16th day of October, 2013.

Velia DeGiulio
(Signature)

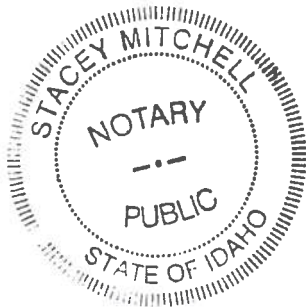
Velia DeGiulio
(Printed name)

(Address)

1643 W 500 S Pocatello ID 83262

STATE OF IDAHO)
County of Burham) :ss

On this 16th day of October, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Velia DeGiulio, known to me to be the person whose name is subscribed to the foregoing and acknowledged to me that she executed the same.



Stacey Mitchell
NOTARY PUBLIC FOR Leg. Bart
Commission expires: 12-19-15

RESOLUTION OF CONSENT TO TRANSFER

WHEREAS, Certificate No. 4816 Aberdeen-Springfield Canal Company water right for 170 shares of stock, dated February 14, 1991, therein representing water right of Billy and Velia DeGiulio for the irrigation of and appurtenant to:

The North Half of the Northeast Quarter (N½NE¼) less T8398 in Section Thirty-two (32) and the East Half of the Northwest Quarter (E½NW¼) of Section Thirty-two (32) in Township Three (3) South, Range Thirty-three (33) East, Boise Meridian in Bingham County, Idaho

has been surrendered to said Company and request made that consent of the Company be given to the transfer 80 shares of stock representing said water rights to Velia DeGiulio for the irrigation of the following described lands of which is/are the owner(s) to-wit:

The North Half of the Northeast Quarter (N½NE¼) of Section Twenty-nine (29), Township Three (3) South, Range Thirty-three (33) East, Boise Meridian in Bingham County, Idaho

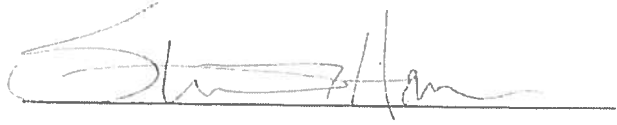
and with said application for consent to transfer is presented a deed to transfer, duly executed and acknowledged as conveyances of real estate are executed and acknowledged, and therein the use of said waters is duly abandoned upon the first described and said waters thereby dedicated to use upon and for the irrigation of the last described tract, and such transfer is subject to the right of the Company to operate, control and maintain its said canal system and to levy and collect usual tolls, charges and assessments against said water rights and to have a lien against said water rights and said tract last described therefore in the same manner and to the same extent as though said last described lands were first irrigated by said water rights sought to be transferred.

NOW THEREFORE, BE IT RESOLVED that said application for transfer be and it is hereby granted subject to all the terms and conditions as in said deed of transfer set forth.

- - - - -

I, Steven T. Howser, the undersigned, Secretary of the Aberdeen-Springfield Canal

Company do hereby certify that the foregoing is a full, true and correct copy of Resolution of Consent to Transfer, duly passed, approved and adopted by the Board of Directors of said Company on the 22nd day of October, 2013.

A handwritten signature in dark ink, appearing to be "S. H. H.", written over a horizontal line.

Secretary

524936

BINGHAM COUNTY RECORDER
BLACKFOOT, IDAHO
FEE *100.77*
DATE *APR 4 2003*

AFFIDAVIT OF VELIA DeGIULIO

2003 APR -4 PM 4:47

STATE OF IDAHO)
) ss.
COUNTY OF BINGHAM)

RECORDED AT THE REQUEST OF
Baker & Horns
PO Box 577
Blackfoot ID 83221

VELIA DeGIULIO, of Blackfoot, Bingham County, Idaho, being first duly sworn, deposes and says:

Affiant was formerly the spouse of Emilio DeGiulio, also known as Billy DeGiulio, of Bingham County, Idaho, who died in Bingham County, Idaho, on October 23, 1999, at the age of 80 years.

During Affiant's marriage to the said Emilio DeGiulio, he and Affiant purchased with their community funds and as community property certain real property consisting of:

Township 3 South, Range 33 E.B.M., Bingham County, Idaho
Section 20: S $\frac{1}{2}$
Section 21: W $\frac{1}{2}$ SW $\frac{1}{4}$
Section 32: E $\frac{1}{2}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NE $\frac{1}{4}$
Section 33: N $\frac{1}{2}$ NW $\frac{1}{4}$; Pingree Townsite, Block 4, Fractional Lots 12 and 13, and all of 14 and 15; part of vacated alley
Section 30: SE $\frac{1}{4}$
Section 29: N $\frac{1}{2}$ NW $\frac{1}{4}$; S $\frac{1}{2}$ NW; NE $\frac{1}{4}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ NE $\frac{1}{4}$
EXCEPTING that portion of the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 29, Township 3 South, Range 33 E.B.M., lying South of the Rockford Canal, being more particularly described as follows:
Beginning at the Southeast corner of the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of said Section 29, and running thence North 124 feet to the Southerly bank of the Rockford Canal; thence Southwesterly following the bank of said canal 475 feet more or less to the South line of the NW $\frac{1}{4}$ of said Section 29; thence East along said South line 222 feet more or less to the point of beginning.

which said lands were conveyed to Affiant and to the Decedent.

Upon the death of the said decedent, title to the aforesaid real property vested in Affiant as survivor of said marital community, and Affiant has continued to own, hold, claim and possess the same property as her own, free from all claims of others, and during all of said time Affiant has held the open, notorious and peaceable possession of said lands, and every part and parcel thereof.

Affiant further states that more than three years have passed since the death of the said decedent, there are no existing creditors or claims against Affiant, and that Affiant has paid all funeral expenses and all outstanding obligations of every kind and nature existing at the time of the death of said decedent.

Affiant further states that she was well and personally acquainted with the estate of said decedent as owned and held by decedent at the time of decedent's death, and the entire value of decedent's estate, including the real property

herein-mentioned, did not exceed the applicable estate tax exemption; that all of said property was the community property of said decedent and Affiant, and that there is no outstanding inheritance tax or federal estate tax due or unpaid by reason of the death of said decedent.

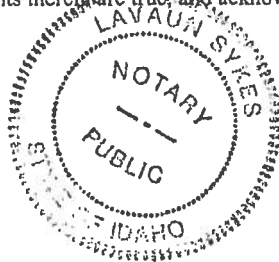
Affiant makes and records this Affidavit for the purpose of establishing her ownership of the real property herein-mentioned and the absence of any creditors' claims, inheritance taxes and federal estate taxes.

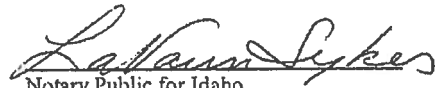
DATED this 3rd day of April, 2003.


Velia DeGiulio

STATE OF IDAHO)
 : ss.
COUNTY OF BINGHAM)

On, before me a Notary Public of said State, personally appeared Velia DeGiulio, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true and acknowledged to me that she executed the same.




Notary Public for Idaho
Residing at Blackfoot
Commission Expires 5-17-08

524936

Palmer, Cherie

From: Palmer, Cherie
Sent: Friday, April 08, 2016 5:07 PM
To: 'TJ Budge'
Cc: Webster, Clay
Subject: 35-7415-Options to have a portion released

TJ,

Here is a snapshot of the lease/rental activity for water right 35-7415:

Activity	Rate (cfs)	Volume (af)	Acres	Thru
Lease	0.72	156	39	12/31/2016 per the release request
Rental	0.31	66.4	16.6	12/31/2016
Rental	0.18	40	10	12/31/2016
Total uncommitted portion	0.23	49.6	12.4	As of today

As you can see from the chart, your client has 12.4 acres available to her as of today. She can:

- 1) Submit a new lease for the rented portion, 0.49 cfs, 106.4 af, 26.6 acres for \$250. This would free up the uncommitted portion. OR
- 2) Submit a one year rental for the uncommitted portion for 49.6 af x \$1.70 = \$84.32.

There are a few considerations for your client to be aware of:

- rentals are currently being de-prioritized and this rental may not be processed until mid-summer
- not sure what her rental will look like since it is meant to mitigate—her quickest, most worry-free option is to submit a lease
- timing is an issue; currently there are no rentals competing for this water right. If she would like use any portion of her right this year, a lease should be submitted right away

Let me know if you have any questions.

Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700

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APR 08 2016

DEPARTMENT OF
WATER RESOURCES

April 5, 2016

Clay Webster
Water Supply Bank
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098

Re: Leased Water Right No. 35-7415

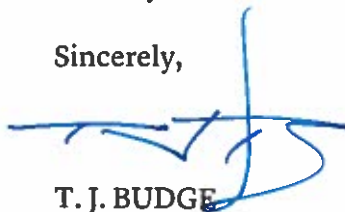
Dear Clay,

Velia Degiulio contacted me about your letter to her dated March 28, 2016, concerning water right no. 35-7415. That letter states this water right is rented from the Bank until December 31, 2017. Velia explained to me that she discussed this with you by phone, and the water right is actually rented only through December 31, 2016. I looked up the Rental Agreement with Lance Funk and see that it does expire December 31, 2016. This letter is sent to confirm your representation to Velia that this water right will be released from the Bank following the 2016 irrigation season as requested in the *Request to Release of Water Right from the Bank* I submitted on Velia's behalf last month.

Should you have any questions, please give me a call.

Thank you.

Sincerely,



T. J. BUDGE

c: Velia DeGiulio



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

December 17, 2014

VELIA DEGIULIO
1643 W 500 W
PINGREE ID 83262

RE: RENTAL OF WATER RIGHT(S) LEASED TO THE WATER SUPPLY BANK.
WATER RIGHT NO(S). 35-7415

Dear Lessor:

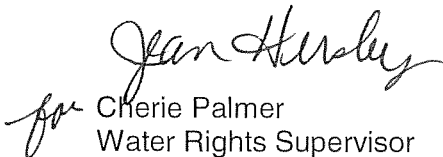
The Department of Water Resources is enclosing a state warrant in the amount of **\$2,386.80** as payment to you for the rental of the above referenced water right(s) from the Water Supply Bank managed by the Idaho Water Resource Board. Payment for the rental of your water rights is represented by multiple rental agreements as follows:

Receipt No.	Amount	Volume	Renter	Rate/AF
C099506	\$1,128.80	66.4 AF	Funk	\$17
C099358	\$1,523.20	89.6 AF	Funk	\$17

In accordance with Water Supply Bank rule 35.01, *IDAPA 37.02.03* return for the rental is ninety percent (90%) of the gross amount received at the rate per acre described above.

If you have questions regarding this matter, please contact me at (208) 287-4944.

Sincerely,



for Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Warrant Number: 127025864



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

August 19, 2014

C.L. "BUTCH" OTTER

Governor

VELIA DE GIULO

1643 W 500 S

PINGREE ID 83262

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 35-7415

Dear Lessor:

Water Right 35-7415 was leased into the Water Supply Bank on April 29, 2014 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, 2018**, 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 287-4944.

Sincerely,

Cherie Palmer

Water Rights Supervisor

WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Racine Olson Nye Budge Bailey

James Cefalo- IDWR Eastern Regional Office



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

Thomas J. Budge
tjb@racinelaw.net

August 14, 2014

Cherie Palmer
Sr. Water Resource Agent
Water Allocation Bureau
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: DeGiulio Lease Contracts

Dear Cherie:

Enclosed are the signature pages for Velia DeGiulio's lease of water right no. 35-7415 to the Water Supply Bank. Please send me a copy of the fully executed contract for my files.

Sincerely,

T. J. BUDGE

RECEIVED
AUG 18 2014
DEPARTMENT OF
WATER RESOURCES



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

July 29, 2014

RACINE OLSON NYE BUDGE BAILEY
ATTN: THOMAS J BUDGE
201 E CENTER ST
PO BOX 1391
POCATELLO ID 83204

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 35-7415 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, 2018**, 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."

Please note condition of acceptance # 12. The water the applicant will be receiving from the Aberdeen-Springfield shares may not be diverted from the point of diversion identified with this water right as it is not an authorized point of diversion for Aberdeen-Springfield Canal Company.

If you have questions regarding this matter, please contact me at 287-4944.

Sincerely,


for
Cherie Palmer

Water Rights Supervisor
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Velia De Giulio

MEMORANDUM

To: Water Right No(s). 35-7415
From: Clay Webster and Jean Hersley
Date: May 19, 2014/ June 18, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received the application to lease this entire water right into the WSB on April 29, 2014. The applicant wishes to place the entire water right in the Bank. Applicant recently acquired shares in the Aberdeen-Springfield Canal Co and will continue to irrigate with these shares. WMIS records show applicant has been using the full volume with this right. The applicant will be informed that the POD of this right cannot be used as the POD of the canal shares.

AUTHORITY TO FILE: This application was signed by Thomas J Budge of Racine, Olson, Nye, Budge, Bailey Law Firm. The current owner Velia De Giulio has given special power of attorney to this law firm. An Affidavit is attached to the application regarding ownership of property associated with water right. Billy DeGiulio will be removed as current owner.

WATER RIGHT VALIDITY: This right was partially decreed in January 2002. Satellite imagery shows that the property has been irrigated. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: On question 3C on Application the applicant indicated that the property would be continued to be irrigated via Aberdeen Springfield Canal Company shares. This is acceptable since the shares were recently acquired and are not associated with the water right.

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(s) are subject to Water District # 120. No comments or concerns were received from watermaster or region.

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, June 18, 2014 9:40 AM
To: Cefalo, James
Subject: WSB Lease 35-7415
Attachments: Lease Review Memo DeGiulio 35-7415.docx

Please submit any comments or concerns within 5 days. The review memo is attached.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



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RECEIVED

JUN 13 2014

DEPARTMENT OF
WATER RESOURCES

June 11, 2014

Cherie Palmer
Sr. Water Resource Agent
Water Allocation Bureau
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Application to Lease Water Right No. 35-7415 to the Water Supply Bank

Dear Cherie:

Thanks for your letter dated June 4, 2014. The assumption that water right 35-7415 is supplemental to water rights held by Aberdeen-Springfield Canal Company (ASCC) is mistaken. Until this year there has never been ASCC water on the land previously irrigated under water right 35-7415. Accordingly, the water right report for water right 35-7415 does not contain any condition indicating that it is a supplemental right. Enclosed with this letter, is a copy of minutes from the ASCC Board meeting approving the transfer.

Ms. Degiulio applied to ASCC last year to transfer unused shares of ASCC stock to use on the land previously designated under water right 35-7415.

In light of the foregoing, please proceed with processing the Application to Lease Water Right 35-7415 to the Water Supply Bank. I have enclosed a copy of the affidavit of heirship of Velia Degiulio confirming she owns the land to which water right 35-7415 is appurtenant.

Sincerely,

T. J. BUDGE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

June 4, 2014

THOMAS J BUDGE
RACINE OLSEN NYE BUDGE BAILEY
PO BOX 1391
POCATELLO ID 83204

RE: APPLICATION TO LEASE WATER RIGHT NO(S). 35-7415 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of your application to lease a water right to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right 35-7415 into the Bank. The reasons are described below.

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. Some of the criteria for consideration are the historic use of the water right and the probability of selling or renting the water right from the Bank. In addition, the rules prohibit enlargement of the use of the water right.

The application submitted indicates that the applicant intends to continue irrigating the present place of use utilizing shares from the Aberdeen-Springfield Canal Company. That statement indicates that water right 35-7415 is supplemental to water rights held by Aberdeen-Springfield Canal. Therefore, the value of the right for rental is questionable and there is little probability for rental without enlargement of the right.

Section III, part 1A(D)(4)(d) of the Water Supply Bank Processing Handbook states that:

An application proposing to lease a supplemental irrigation water right to the Bank for rental as a primary water right for irrigation or other use constitutes an enlargement. An exception is when the applicant can demonstrate there would be no enlargement of the water right being changed or other related water rights because the supplemental water right has been used on a regular basis and the extent of beneficial use under all associated rights prior to the lease will be proportionately reduced.

A supplemental water right can be rented from the Bank for a primary use only if historic beneficial use is established prior to the acceptance into the Bank, and the use of the primary water rights associated with the leased right is proportionately reduced.

Because your application to lease 35-7415 to the Bank has not met the provisions described above, the Department is preparing to deny your application.

However, if you have more evidence that can demonstrate how this water right is not supplemental, please submit the information within 14 days. If a response is not received within 14 days this application will be denied and returned to you.

Supplemental water rights are difficult to forfeit through 5 years of non-use through their very nature – they are only used when needed. However, if you are concerned about forfeiture, you might want to consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right. This form is available from the Department's web site at www.idwr.idaho.gov.

Also, a proof of authority to sign on behalf of Billy De Giulio was not included with the application. He is listed as a current owner of the water right so a proof of authority to sign on behalf of Billy will be required.

If you have any questions, please contact me at (208) 287-4944.

Sincerely,


for Cherie Palmer, Sr. Water Resource Agent
Water Allocation Bureau

c: Velia DeGiulio



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RECEIVED

APR 29 2014

Department of Water Resources
Eastern Region

April 4, 2014

Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Re: DeGiulio Application to Sell or Lease a Water Right to the Water Supply Bank

To Whom It May Concern:

Please find enclosed the original and one copy of an Application to Sell or Lease a Water Right to the Water Supply Bank, submitted on behalf of Velia DeGiulio, along with a check in the amount of \$250. Please file the original and conform stamp and return the copy to me in the enclosed envelope.

Should you have any questions, please give me a call.

Sincerely,

THOMAS J. BUDGE

TJB:bh
Enclosures