

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("Lease") is effective June 11, 2014, between the Idaho Water Resource Board ("Board"), and

Lessor: DIAMOND/SOLDIER PROPERTIES LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009
425-460-2542
GREGV@PISTOLCREEK.COM

RECEIVED
AUG 11 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>Acres Limit</u>	<u>Total Leased Acres</u>
37-570A	0.10 CFS			5.0 AC

Combined Lease Totals: 0.10 CFS

5.0 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 04/15 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: 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.

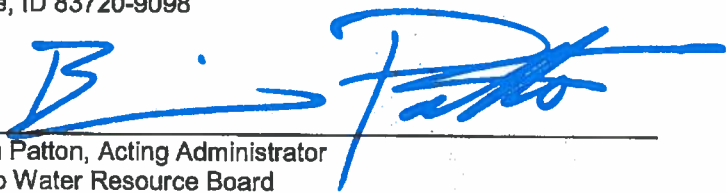
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

DIAMOND/SOLDIER PROPERTIES LLC
c/o Gregory Vik
PO Box 1607
Bellevue, WA 98009

By 
Printed Name GREG VIK

Date 8/8/14
Title PRESIDENT

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 11, 2014

Lease approved by IDWR 

Date August 11, 2014

ATTACHMENT A
WATER RIGHT NO. 37-570A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: DIAMOND/SOLDIER PROPERTIES LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009
(425)460-2542

Priority Date: 6/1/1892

Source: SOLDIER CREEK **Tributary to:** CAMAS CREEK

<u>BENEFICIAL USE</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15 to 10/31	0.10 CFS	
	Total:	0.10 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SOLDIER CREEK NESESW Sec. 29 Twp 02N Rge 14E CAMAS 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	
02N	14E	29												5.0					5.0

Total Acres: 5.0

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 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.

STATE OF IDAHO
WATER RESOURCE BOARD

WATER SUPPLY BANK LEASE OR SALE APPLICATION CHECKLIST

RECEIVED
JUN 11 2014
DEPARTMENT OF
WATER RESOURCES

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 Diamond/Soldiers Properties LLCWater Right No. 37-570A

One water right per application

All 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 <i>all owners</i> 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 | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 OnlyFee Amount \$ 250.00Received By: [Signature]Date Received: 06/11/14Receipt # C098981W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Diamond/Soldiers Properties LLC

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
JUN 11 2014
DEPARTMENT OF
WATER RESOURCES

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 Diamond/Soldiers Properties LLC Email Address gregv@pistolcreek.com
Mailing Address c/o Gregory Vik, PO Box 1607, Bellevue, WA, 98009 Phone Number (425) 460-2542

☒ 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 37-570A ☒ 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 in creek, mainline, sprinklers

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. _____

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 12/31/2018 (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

Gregory Vik, Manager
Printed Name

6/4/14
Date

Signature of Authorized Representative

Printed Name

Date

Mail to:

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

State of Idaho
Department of Water Resources

Water Right
37-570A

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

14E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters
-  Taxlots

0 0.03 0.06 0.12 Miles





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 12, 2014

C.L. "BUTCH" OTTER

Governor

GREGORY VIK
DIAMOND SOLDIER PROPERTIES
PO BOX 1607
BELLEVUE WA 98009

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-570A

Dear Lessor:

Water Right 37-570A was leased into the Water Supply Bank on June 11, 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,

Cherie Palmer

Water Rights Supervisor

WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James P Speck – Speck & Aanestad
Allen Merritt – IDWR Southern Regional Manager
Rusty Kramer – Water District 37B



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

August 7, 2014

GREGORY VIK
DIAMOND/SOLDIER PROPERTIES LLC
PO BOX 1607
BELLEFUE WA 98009

RE: APPLICATION TO LEASE WATER RIGHT 37-570A 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.

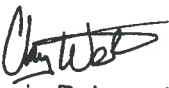
The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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."

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

Enc: Proposed Lease Contract
Receipt # C098981

C: James Speck – Speck & Aanestad

Rushing, Emalee

From: Rusty Krame [idahotrapguy@hotmail.com]
Sent: Wednesday, August 06, 2014 1:34 PM
To: Rushing, Emalee; Merritt, Allen
Subject: RE: Water Supply Bank Lease Application for Water Right 37-570A

I have reviewed this and have no objections.

Thank You,

Rusty Kramer
Water District 37B Watermaster

From: Emalee.Rushing@idwr.idaho.gov
To: idahotrapguy@hotmail.com; Allen.Merritt@idwr.idaho.gov
Subject: Water Supply Bank Lease Application for Water Right 37-570A
Date: Wed, 6 Aug 2014 19:13:10 +0000

I am currently reviewing a water supply bank lease application for water right 37-570A which was submitted by James Speck on behalf of Diamond/Soldier Properties LLC. The lease requests that the entire water right be placed into the Bank.

I have attached a copy of the water right report and draft review memo for your convenience.

Please let me know if you have any objections or concerns. I will hold processing of this application for 15 days to allow time for your response.

Thank you,

Emalee Rushing
Administrative Assistant II
Water Allocation Bureau
208-287-4952

Rushing, Emalee

From: Merritt, Allen
Sent: Wednesday, August 06, 2014 1:27 PM
To: Rushing, Emalee
Subject: RE: Water Supply Bank Lease Application for Water Right 37-570A

No comment

From: Rushing, Emalee
Sent: Wednesday, August 06, 2014 1:13 PM
To: idahotrapguy@hotmail.com; Merritt, Allen
Subject: Water Supply Bank Lease Application for Water Right 37-570A

I am currently reviewing a water supply bank lease application for water right 37-570A which was submitted by James Speck on behalf of Diamond/Soldier Properties LLC. The lease requests that the entire water right be placed into the Bank.

I have attached a copy of the water right report and draft review memo for your convenience.

Please let me know if you have any objections or concerns. I will hold processing of this application for 15 days to allow time for your response.

Thank you,

Emalee Rushing
Administrative Assistant II
Water Allocation Bureau
208-287-4952

MEMORANDUM

To: Water Right No. 37-570A
From: Emalee Rushing
Date: 7/29/2014
Re: Review of Application to Lease Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received the application to lease this entire water right into the WSB on June 11, 2014.

AUTHORITY TO FILE: The application was signed by Greg Vik, Manager. The IDSOS website indicates that Diamond/Soldier Properties LLC is managed by Investments Manager LLC with Greg Vik listed as manager.

WATER RIGHT VALIDITY: This water right was partially decreed on October 20, 2009 and forfeiture is not an issue.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

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 within Water District 37-B.

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

June 10, 2014

Remington Buyer
Water Supply Coordinator
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

RECEIVED
JUN 11 2014
DEPARTMENT OF
WATER RESOURCES

Re: Diamond/Soldiers Properties LLC - Applications to Lease Water Right No. 37-570A to Water Supply Bank

Dear Remington:

Enclosed you will find the original and one copy of the above-referenced Application together with my firm's check payable to the Department for the \$250 filing fee. Please receipt date-stamp the copy and return it to me in the postage prepaid self-addressed envelope I have included for that purpose. Kindly call me right away if you have any questions.

Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: _____


James P. Speck

JPS:jef
Enclosures
cc: Client w/encl.