

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED
AUG 01 2014
DEPARTMENT OF
WATER RESOURCES

This Lease Contract ("Lease") is effective April 30, 2014, between the Idaho Water Resource Board ("Board"), and

Lessor: MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC
399 N 500 W
BLACKFOOT ID 83221
208-317-3514

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>
33-14929	0.55 CFS	0.00	NA	70.3 AC
33-14931	0.46 CFS	0.00	NA	70.3 AC
Combined Lease Totals:	1.01 CFS	252.5	NA	70.3 AC

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

Authorized Period of Use under Lease: See Individual Water Rights

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, 2015.
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.

SUPPORT DATA

IN FILE # 33-14929

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.

MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC

399 N 500 W
BLACKFOOT ID 83221

By Jennifer Smith
Printed Name Jennifer Smith

Date 7-29-14
Title Owner

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date August 1, 2014

Lease approved by IDWR Cherie Palmer

Date August 1, 2014

ATTACHMENT A
WATER RIGHT NO. 33-14929
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC
399 N 500 W
BLACKFOOT ID 83221
208-317-3514

Priority Date: 05/25/1972

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	0.55 CFS	0.00
	Total:		0.55 CFS	0.00

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW¼NW¼SW¼ Sec. 26 Twp 06N Rge 29E BUTTE 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	
06N	29E	26									30.0	2.2	9.1	29.0					70.3

Total Acres: 70.3

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
33-14929 and 33-14931,	1.01 CFS	252.5	NA	70.3 AC

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 unleased portion of this right with water right 33-14931 is limited to a total combined diversion rate of 0.29 cfs and to a total combined annual diversion volume of 71.8 af and to the irrigation of a combined total of 20 acres in a single irrigation season.

ATTACHMENT A
WATER RIGHT NO. 33-14931
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC
 399 N 500 W
 BLACKFOOT ID 83221
 208-317-3514

Priority Date: 04/11/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/15	0.46 CFS	0.00
	Total:		0.46 CFS	0.00

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NW¼NW¼SW¼	Sec. 26	Twp 06N	Rge 29E BUTTE County
GROUND WATER	NW¼NW¼SE¼	Sec. 27	Twp 06N	Rge 29E BUTTE 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	
06N	29E	26									30.0	2.2	9.1	29.0					70.3

Total Acres: 70.3

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
33-14929 and 33-14931,	1.01 CFS	252.5	NA	70.3 AC

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 unleased portion of this right with water right 33-14929 is limited to the irrigation of a combined total of 20 acres in a single irrigation season.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 30 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.**

Make and Break Construction

Designated Applicant and Demolition, LLCWater Right No. 33-14929

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 *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>500.00</u>	Received By: <u>SC</u>	Date Received: <u>4/30/14</u>	Receipt # <u>E039785</u>
W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)		Name on W-9:	

**STATE OF IDAHO
WATER RESOURCE BOARD**

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.

Make and Break Construction

Designated Applicant and Demolition, LLC Email Address N/A
Mailing Address 399 N 500 W, Blackfoot, ID 83221 Phone Number 208-317-3514

☒ 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 Jared M. Harris Organization The Law Firm of Baker & Harris
Professional Title Attorney at Law Email Address jharris@bakerharrislaw.com
Mailing Address 266 W Bridge St., Blackfoot, ID 83221 Phone Number 785-2310

☐ 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 33-14929 ☒ 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.

Ground 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.
Water Right No. 33-14929 is a combined water right with Water Right No. 33-14931.

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

Yes ☐ No ☒

If yes, describe. N/A

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. N/A

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. N/A

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 March 1, 2014 to November 1, 2015 (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

Merlin Smith, Jr.

Printed Name

4-29-14
Date


Signature of Authorized Representative

Jennifer Smith

Printed Name

4-29-14
Date

Mail to:

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

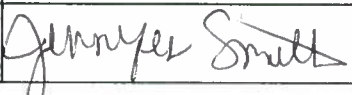
**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to a Water Supply Bank Lease Application however only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

Water Right No. 33-14929

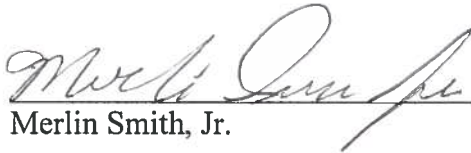
	Designated Applicant	Applicant #2	Applicant #3
Name	Merlin Smith, Jr.	Jennifer Smith	
Mailing Address	399 N 500 W Blackfoot, ID 83221	399 N 500 W Blackfoot, ID 83221	
Phone Number	208-317-3514	208-317-3514	
Email Address	N/A	N/A	
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

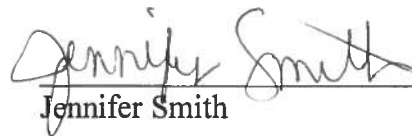
	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

AUTHORIZATION

We, MERLIN SMITH, JR. and JENNIFER SMITH, husband and wife, hereby authorize Jared M. Harris, of the law firm of BAKER & HARRIS, located at 266 W. Bridge St., Blackfoot, Idaho 83221, with the telephone number of 208-785-2310, to be our authorized representative in submitting Water Supply Bank Lease Applications for Make and Break Construction and Demolition in regards to Water Right Numbers 33-14929 and 33-14931 to the Idaho Department of Water Rights.

DATED this 24th day of April, 2014.


Merlin Smith, Jr.


Jennifer Smith

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

3. Point(s) of Diversion:

[illegible]

4. Lands irrigated or place of use:

[illegible]

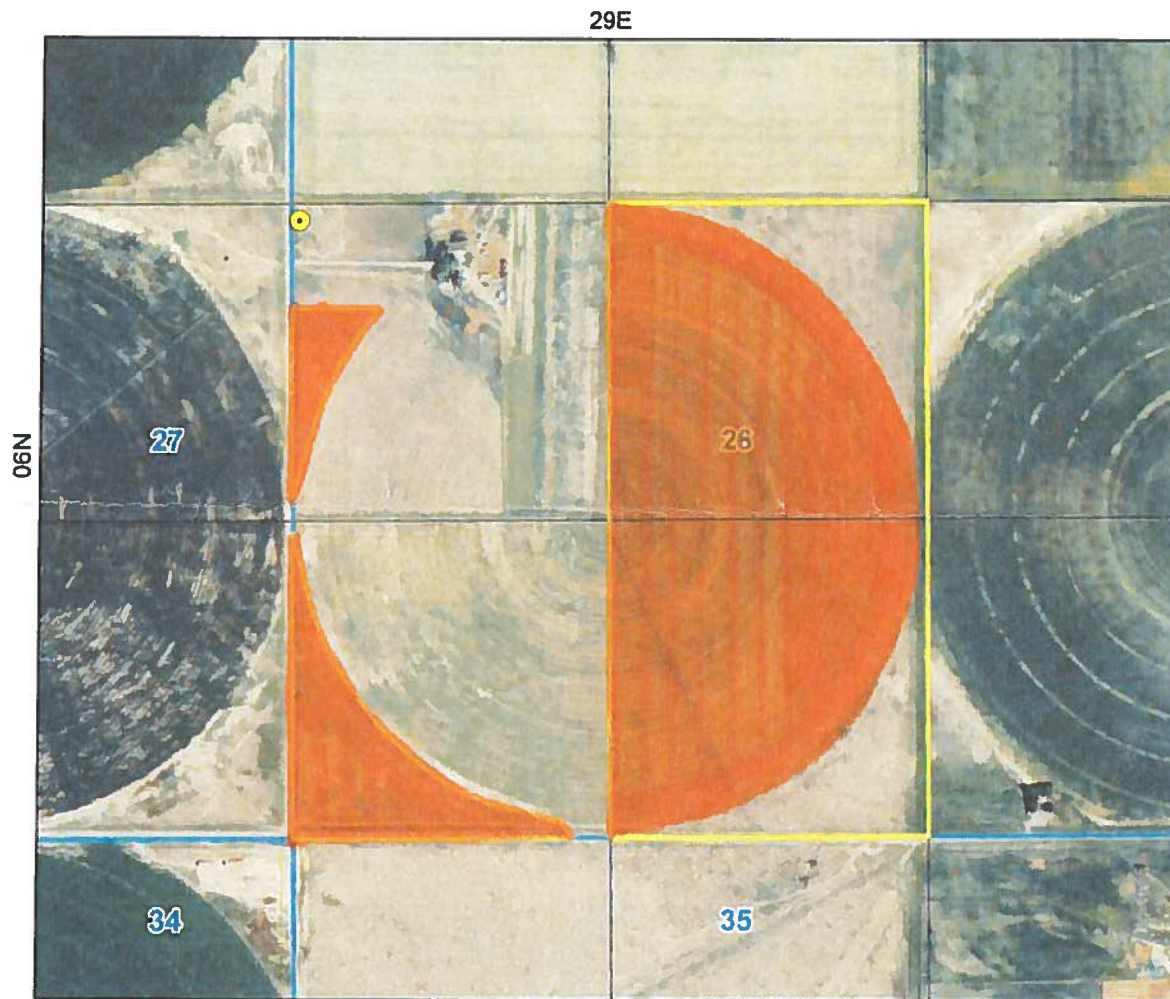
If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 70.3

State of Idaho
Department of Water Resources

Water Right
33-14929

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.



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

0 0.075 0.15 0.3 Miles



Map produced on March 10, 2014

STATE OF IDAHO
WATER RESOURCE BOARD

WATER 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.**

Make and Break Construction

Designated Applicant and Demolition, LLC

Water Right No. 33-14931

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 <u>Internal Revenue Service (IRS) Form W-9</u> 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 Only

Fee Amount \$ 500

Received By: SC

Date Received: 5/1/2014

Receipt # 2039785

W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Merlin Smith Jr

**STATE OF IDAHO
WATER RESOURCE BOARD**

**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.

Make and Break Construction

Designated Applicant and Demolition, LLC Email Address N/A

Mailing Address 399 N 500 W, Blackfoot, ID 83221 Phone Number 208-317-3514

☐ 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 Jared M. Harris Organization The Law Firm of Baker & Harris

Professional Title Attorney at Law Email Address jharris@bakerharrislaw.com

Mailing Address 266 W Bridge St., Blackfoot, ID 83221 Phone Number 785-2310

☐ 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 33-14931 ☒ 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.

Ground 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.
Water Right No. 33-14931 is a combined water right with Water Right No. 33-14929.

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

Yes ☐ No ☒

If yes, describe. N/A

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. N/A

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. N/A

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 March 1, 2014 to November 1, 2015 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / Year)

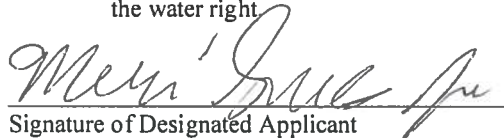
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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:

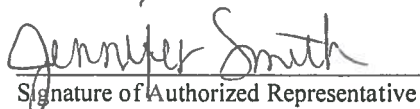
1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the 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

Merlin Smith, Jr.

Printed Name

4-29-14
Date


Signature of Authorized Representative

Jennifer Smith

Printed Name

4-29-14
Date

Mail to:

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

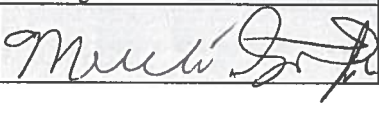
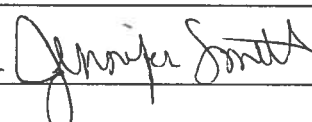
**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to a Water Supply Bank Lease Application however only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

Water Right No. 33-14931

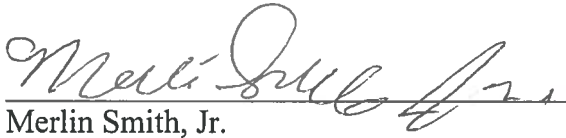
	Designated Applicant	Applicant #2	Applicant #3
Name	Merlin Smith, Jr.	Jennifer Smith	
Mailing Address	399 N 500 W Blackfoot, ID 83221	399 N 500 W Blackfoot, ID 83221	
Phone Number	208-317-3514	208-317-3514	
Email Address	N/A	N/A	
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

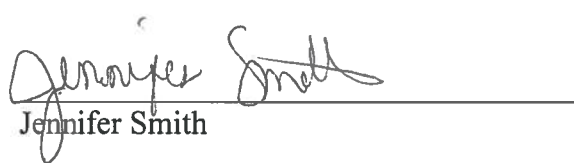
	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

AUTHORIZATION

We, MERLIN SMITH, JR. and JENNIFER SMITH, husband and wife, hereby authorize Jared M. Harris, of the law firm of BAKER & HARRIS, located at 266 W. Bridge St., Blackfoot, Idaho 83221, with the telephone number of 208-785-2310, to be our authorized representative in submitting Water Supply Bank Lease Applications for Make and Break Construction and Demolition in regards to Water Right Numbers 33-14929 and 33-14931 to the Idaho Department of Water Rights.

DATED this 24th day of April, 2014.


Merlin Smith, Jr.

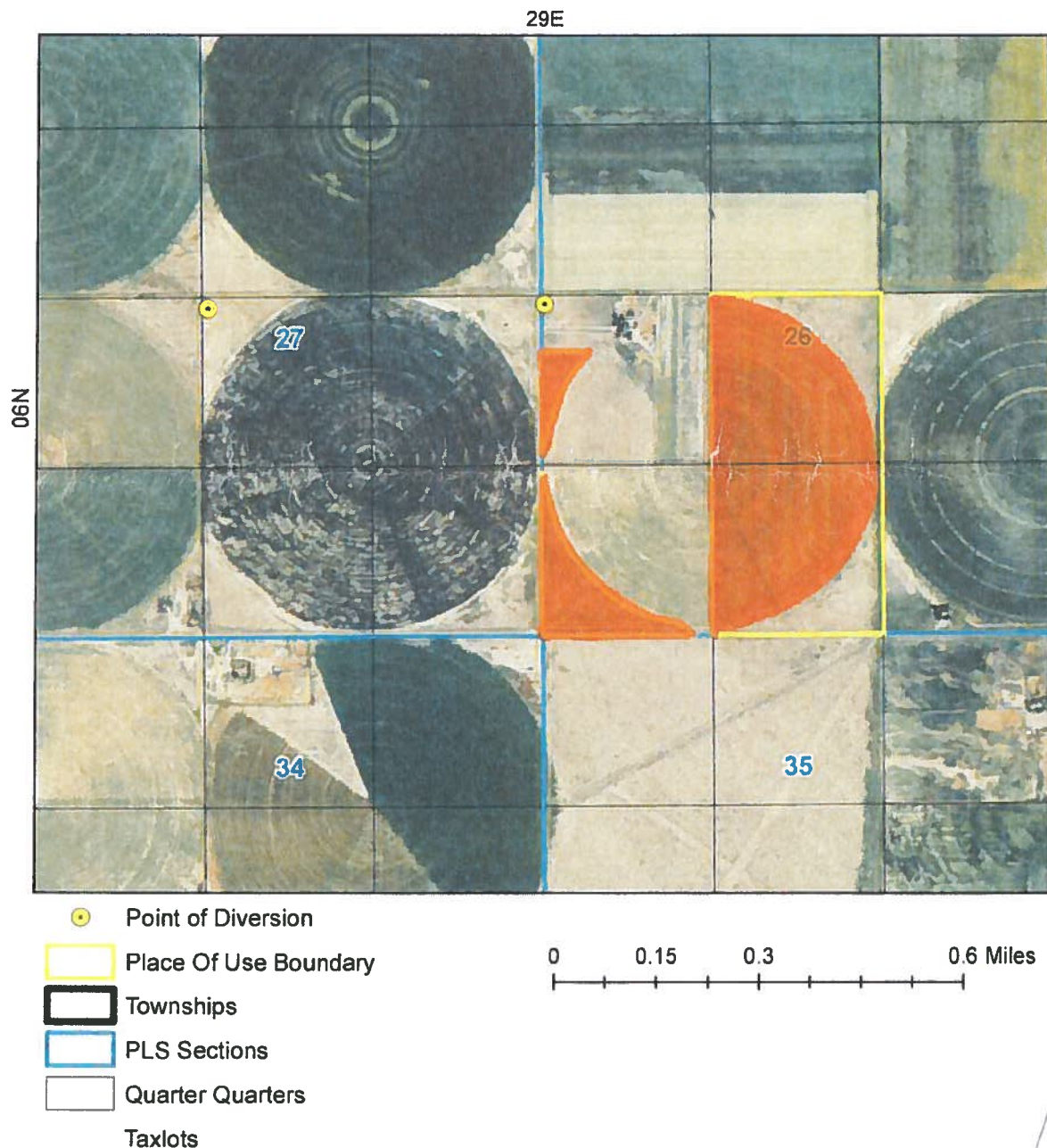

Jennifer Smith

State of Idaho
Department of Water Resources

Water Right
33-14931

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.



Map produced on April 24, 2014

RECEIVED

JAN 24 2012

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
33-14911	(Split) Yes ☒	into 33-14928	Yes ☐	33-14929	Yes ☐
33-14913	(Split) Yes ☒	into 33-14930	Yes ☐	33-14931	Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐
	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name: Merlin Smith

Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Make and Break Construction and Demolition, LLC

Name of each new owner as listed on the conveyance document

New owner continued

Name connector ☐ and ☐ or ☐ and/or266 W Bridge

Mailing address

BlackfootIdaho 83221

City

State

ZIP

208-785-2310jharris@bakerharrisllaw.com

Telephone

Email

4. If the water rights and/or adjudication claims were split, how did the division occur?

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☒ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: 01/18/2012

6. This form must be signed and submitted with the following **REQUIRED** items:

- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- Filing fee (see instructions for further explanation):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

7. Signature: [Signature]

Signature of new owner/claimant

Title, if applicable

Date

Signature: [Signature]

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by: [Signature]Date: 1/24/2012Receipt No. E087248Receipt Amt. \$200. -Approved by: [Signature]Processed by: [Signature]Date: 2/27/2012

SCANNED

SCANNED

FEB 29 2012

FEB 27 2012



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 4, 2014

MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC
399N 500 W
BLACKFOOT ID 83221

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 33-14929 and 33-14931

Dear Lessor:

Water Rights 33-14929 and 33-14931 were leased into the Water Supply Bank on April 30, 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, 2015**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,

for Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Baker & Harris
James Cefalo- IDWR Eastern Region
Water District No. 33

Law Offices of
BAKER & HARRIS

Dwight E. Baker
Jared M. Harris*
Jonathan W. Harris
* Also Admitted in Utah

266 W. BRIDGE STREET
BLACKFOOT, ID 83221
Telephone (208) 785-2310
Facsimile (208) 785-6749
E-Mail —jhharris@bakerharrislaw.com

July 30, 2014

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Lease Contract
B & H Matter No. 5921

RECEIVED
AUG 01 2014
DEPARTMENT OF
WATER RESOURCES

Dear Sir or Madam:

Enclosed, please find a duplicate original of the Water Supply Bank Lease Contract.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

BAKER & HARRIS



Jared M. Harris

JMH/jm

Enclosures

cc: Merlin and Jennifer Smith



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 28, 2014

MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC
399 N 500 W
BLACKFOOT ID 83221

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS FOR
WATER RIGHT(S) 33-14929 and 33-14931**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on July 9, 2014. The signed contracts have not been returned to the Department.

Please sign both original Lease Contracts and return them to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contracts are not received by the Department within the 10-day period, the lease application(s) will be returned, and the application fee will not be refunded. You can reapply to lease the water right(s) in the future by submitting new application form(s) along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have questions regarding this matter, please contact me at 287-4942.

Sincerely,

A handwritten signature in cursive script that reads "Jean Hersley".

Jean Hersley
Technical Records Specialist II

c: Baker and Harris

Law Offices of
BAKER & HARRIS

Dwight E. Baker
Jared M. Harris*
Jonathan W. Harris
* Also Admitted in Utah

266 W. BRIDGE STREET
BLACKFOOT, ID 83221
Telephone (208) 785-2310
Facsimile (208) 785-6749
E-Mail —@bakerharrislaw.com

July 22, 2014

RECEIVED

JUL 24 2014

Department of Water Resources
Eastern Region

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0003

Re: Water Supply Bank Lease Application
B & H Matter No. 5921

Dear Sir or Madam:

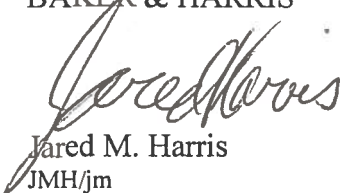
Enclosed, please find the following, which has now been signed.

1. Water Supply Bank Lease Contract.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

BAKER & HARRIS



Jared M. Harris

JMH/jm

Enclosures

cc: Merlin and Jennifer Smith



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 8, 2014

MAKE AND BREAK CONSTRUCTION AND DEMOLITION LLC
399 N 500 W
BLACKFOOT ID 83221

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 33-14929 and 33-14931 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, 2015**, 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
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Baker & Harris

Hersley, Jean

From: Jared M. Harris [jharris@bakerharrislaw.com]
Sent: Thursday, June 12, 2014 1:55 PM
To: Hersley, Jean
Subject: RE: Water Supply Bank Lease Applications for Make and Break Construction and Demolition LLC

I understand. That is what he wants to do. Jared

Jared M. Harris
BAKER & HARRIS
266 W Bridge St
Blackfoot ID 83221
p: (208) 785-2310
f: (208) 785-6749
e: jharris@bakerharrislaw.com

----- Original Message -----

From: "Hersley, Jean" <Jean.Hersley@idwr.idaho.gov>
To: "Jared M. Harris" <jharris@bakerharrislaw.com>
Sent: 6/11/2014 3:25PM
Subject: RE: Water Supply Bank Lease Applications for Make and Break Construction and Demolition LLC

If your client only wishes to put 70.3 acres into the Bank, he will need to irrigate 20 acres to avoid forfeiture. I have attached the map you sent with the leased acres marked in orange and the acres that will need to be irrigated in green. It seems odd to me that the client would want to irrigate the pivot corners only.

Jean

From: Jared M. Harris [<mailto:jharris@bakerharrislaw.com>]
Sent: Wednesday, June 04, 2014 3:25 PM
To: Hersley, Jean
Subject: RE: Water Supply Bank Lease Applications for Make and Break Construction and Demolition LLC

70.3 is what we wanted to put into the water bank. Jared

Jared M. Harris

BAKER & HARRIS

266 W Bridge St

p: (208) 785-2310

f: (208) 785-6749

e: jharris@bakerharrislaw.com

----- Original Message -----

From: "Hersley, Jean" <Jean.Hersley@idwr.idaho.gov>

To: "jharris@bakerharrislaw.com" <jharris@bakerharrislaw.com>

Sent: 5/27/2014 8:52AM

Subject: Water Supply Bank Lease Applications for Make and Break Construction and Demolition LLC

I have attached copies of page 2 and attachment 2 for the water rights recently submitted for lease to the Water Supply Bank. On page 2, number 2-Description of Water Right Offered to the Bank, the box that offers the entire right to the Bank was checked. However, on Attachment 2-Description of a Water Right Portion Offered to the Water Supply Bank- you only listed 70.3 acres to be offered to the Bank. The full acres on both water rights is 90.3. The Department will need clarification on the number of acres your client wishes to idle before we can proceed in reviewing these applications. Please respond within 14 days. If you have any questions, please contact me at the number below.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

RECEIVED

APR 30 2014

Department of Water Resources
Eastern Region

Law Offices of
BAKER & HARRIS

Dwight E. Baker
Jared M. Harris*
Jonathan W. Harris
* Also Admitted in Utah

266 W. BRIDGE STREET
BLACKFOOT, ID 83221
Telephone (208) 785-2310
Facsimile (208) 785-6749
E-Mail — @bakerharrislaw.com

April 29, 2014

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0003

Re: Water Supply Bank Lease Application
B & H Matter No. 5921

Dear Sir or Madam:

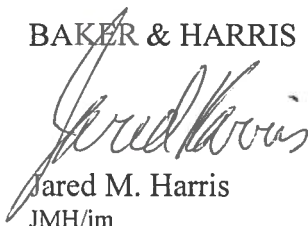
Enclosed please find the following:

1. Water Supply Bank Lease Application - Water Right No. 33-14929;
2. Water Supply Bank Lease Application - Water Right No. 33-14931; and
3. Check in the amount of \$500.00.

If you should require anything further, please advise.

Very truly yours,

BAKER & HARRIS



Jared M. Harris

JMH/jm

Enclosures

cc:

Check#\$11199/\$500.00

Merlin and Jennifer Smith