

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED
JUN 27 2014
DEPARTMENT OF
WATER RESOURCES

This Lease Contract ("Lease") is effective April 3, 2014, between the Idaho Water Resource Board ("Board"), and

Lessor: BIG SKY DAIRY
PO BOX 407
JEROME ID 83338
(208) 934-9072

RECEIVED

RECITALS

JUN 20 2014

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>
45-7335	1.06 CFS	241.7 AF	NA	0.0 AC
45-7355*	2.05 CFS	434.3 AF	NA	0.0 AC
45-13549*	0.24 CFS	58.8 AF	NA	0.0 AC
*Lease Totals:	2.05 CFS	493.1 AF	NA	0.0 AC
Combined Lease Totals:	3.11 CFS	734.8 AF	NA	0.0 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: January 1 to December 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.

IN FILE # 45-7335

SCANNED

JUN 30 2014
Page 1 of 8

5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

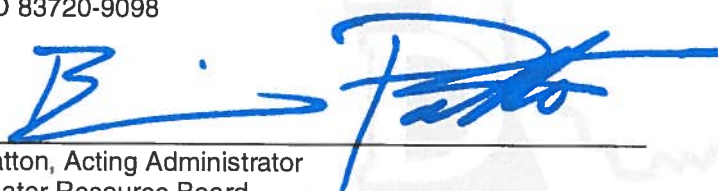
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

BIG SKY DAIRY
PO BOX 407
JEROME ID 83338

By 
Printed Name Michael Bosma

Date 6-25-14
Title Partner

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 June 27, 2014

Lease approved by IDWR 

Date June 27, 2014

ATTACHMENT A
WATER RIGHT NO. 45-7335
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: BIG SKY DAIRY
 PO BOX 407
 JEROME ID 83338
 (208) 934-9072

Priority Date: 09/19/1978

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01	to 12/31	1.06 CFS	241.7 AF
COMMERCIAL	01/01	to 12/31	1.06 CFS	241.7 AF
	Total:		1.06 CFS	241.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE¼SE¼SW¼	Sec. 23	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼SW¼	Sec. 24	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼SW¼	Sec. 24	Twp 12S	Rge 21E	CASSIA County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER & COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	21E	24									S	S	S	S		S	S		
12S	21E	24											C				C		

Total Acres: 0.0

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>
45-7335, 45-7355 and 45-13549	3.11 CFS	734.8 AF	NA	0.0 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 portions of water rights 45-7335, 45-4355 and 45-13549 when combined shall not exceed a total diversion rate of 9.97 cfs, a maximum diversion volume of 3548.0 af at the field headgate and the irrigation of 784.0 acres.
13. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.
14. Land application of wastewater under the authorized commercial use is limited to the same 784.0 acres authorized under combined rights 45-7335, 45-7355 and 45-13549 in any single irrigation season.

ATTACHMENT A
WATER RIGHT NO. 45-7355
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: BIG SKY DAIRY
 PO BOX 407
 JEROME ID 83338
 (208) 934-9072

Priority Date: 08/21/1978

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01 to	12/31	2.05 CFS	434.3 AF
COMMERCIAL	01/01 to	12/31	2.05 CFS	434.3 AF
	Total:		2.05 CFS	434.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 23	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 24	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 24	Twp 12S	Rge 21E	CASSIA County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER & COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	21E	24									S	S	S	S		S	S		
12S	21E	24											C				C		

Total Acres: 0.0

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>
45-7335, 45-7355 and 45-13549	3.11 CFS	734.8 AF	NA	0.0 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 portions of water rights 45-7335, 45-4355 and 45-13549 when combined shall not exceed a total diversion rate of 9.97 cfs, a maximum diversion volume of 3548.0 af at the field headgate and the irrigation of 784.0 acres.
13. The unleased portions of water rights 45-7355 and 45-13549 when combined shall not exceed a total diversion rate of 4.35 cfs, a total annual maximum diversion volume of 1536.4 af at the field headgate and the irrigation of 315.0 acres.
14. Land application of wastewater under the authorized commercial use is limited to the same 784.0 acres authorized under combined rights 45-7335, 45-7355 and 45-13549 in any single irrigation season.
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.

ATTACHMENT A
WATER RIGHT NO. 45-13549
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: BIG SKY DAIRY
 PO BOX 407
 JEROME ID 83338
 (208) 934-9072

Priority Date: 08/21/1978

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01	to 12/31	0.24 CFS	58.8 AF
COMMERCIAL	01/01	to 12/31	0.24 CFS	58.8 AF
	Total:		0.24 CFS	58.8 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE¼SE¼SW¼	Sec. 23	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼SW¼	Sec. 24	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼SW¼	Sec. 24	Twp 12S	Rge 21E	CASSIA County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER & COMMERCIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	21E	24									S	S	S	S		S	S		
12S	21E	24											C				C		

Total Acres: 0.0

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>
45-7335, 45-7355 and 45-13549	3.11 CFS	734.8 AF	NA	0.0 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 portions of water rights 45-7335, 45-4355 and 45-13549 when combined shall not exceed a total diversion rate of 9.97 cfs, a maximum diversion volume of 3548.0 af at the field headgate and the irrigation of 784.0 acres.
13. The unleased portions of rights 45-7355 and 45-13549 when combined shall not exceed a total diversion rate of 4.35 cfs, a total annual maximum diversion volume of 1536.4 af at the field headgate, and the irrigation of 315.0 acres.
14. Land application of wastewater under the authorized commercial use is limited to the same 784.0 acres authorized under combined rights 45-7335, 45-7355 and 45-13549 in any single irrigation season.
15. This right is based upon an enlargement of right 45-7355 pursuant to Section 42-1426, Idaho Code.
16. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier-priority right is the superior right.
17. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.

RECEIVED
APR 03 2014
 DEPARTMENT OF
 WATER RESOURCES

STATE OF IDAHO
 WATER RESOURCE BOARD

Receipt No. _____

Fee Amount \$ _____

Date/by _____

(For Department Use Only)

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

Name of Seller/Lessor BIG SKY DAIRY Phone (208) 934-9072Mailing address PO BOX 407 JEROME, ID 83338 Email _____

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

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

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>45-7335</u>	<u>1.06/241.7</u>	<u>STOCKWATER</u>	<u>01/01</u> to <u>12/31</u>
	<u>1.06/241.7</u>	<u>COMMERCIAL</u>	<u>01/01</u> to <u>12/31</u>
			to _____

Total Amount: 1.06/241.72. Source of water GROUND WATER tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
12S	21E	23		SE	SE	SW	CASSIA
12S	21E	24		SW	SW	SW	CASSIA
12S	21E	24		SW	SW	SW	CASSIA

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	21E	23													S	S	S	S	
12S	21E	24									S	S	S	S		S	S		
12S	21E	23															C	C	
12S	21E	24											C				C		

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

B. OWNERSHIP

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

2. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

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

Two wells provide water for the dairy system which is metered in the utility room on the West side of the milking barn.

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

NONE

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

Yes ☒ No ☐If yes, describe. One and 1/2 pivots will be irrigated with this same water rented from the bank.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

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

If yes, describe.**D. REQUIRED ITEMS**

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

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

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

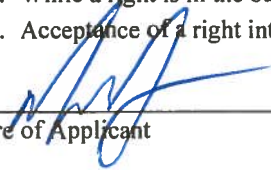
If lease, for a period from 04/01/2014 to 11/15/2018 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

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

CURRENT RENTAL RATE**I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.**

The owner/lessor acknowledges the following:

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


Signature of ApplicantMichael Bosma, Partner
Printed Name and Title*3-24-14
Date_____
Signature of Applicant_____
Printed Name and Title*_____
Date

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

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

RECEIVED
APR 03 2014
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

Receipt No. _____
 Fee Amount \$ _____
 Date/by _____
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**APPLICATION TO SELL OR LEASE A WATER RIGHT
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A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

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

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>45-7355</u>	<u>2.05/434.3</u>	<u>STOCKWATER</u>	<u>01/01</u> to <u>12/31</u>
	<u>2.05/434.3</u>	<u>COMMERCIAL</u>	<u>01/01</u> to <u>12/31</u>
			to _____

Total Amount: 2.05/434.3

2. Source of water GROUND WATER tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
12S	21E	23		SE	SE	SW	CASSIA
12S	21E	24		SW	SW	SW	CASSIA
12S	21E	24		SW	SW	SW	CASSIA

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	21E	23													S	S	S	S	
12S	21E	24									S	S	S	S		S	S		
12S	21E	23															C	C	
12S	21E	24											C				C		

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

B. OWNERSHIP

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

2. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

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

Two wells provide water for the dairy system which is metered in the utility room on the West side of the milking barn.

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

NONE

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

Yes ☒ No ☐If yes, describe. One and 1/2 pivots will be irrigated with this same water rented from the bank.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

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

If yes, describe.**D. REQUIRED ITEMS**

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

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
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3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

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

If lease, for a period from 04/01/2014 to 11/15/2018 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

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

CURRENT RENTAL RATE**I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.**

The owner/lessor acknowledges the following:

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

Signature of ApplicantMichael Bosma Partner
Printed Name and Title*3.24.14
Date

Signature of Applicant

Printed Name and Title*

Date

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

Receipt No. _____
 Fee Amount \$ _____
 Date/by _____
 (For Department Use Only)

**STATE OF IDAHO
 WATER RESOURCE BOARD**

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

Name of Seller/Lessor BIG SKY DAIRY Phone (208) 934-9072
 Mailing address PO BOX 407 JEROME, ID 83338 Email _____

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

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

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>45-13549</u>	<u>0.24/58.8</u>	<u>STOCKWATER</u>	<u>01/01</u> to <u>12/31</u>
	<u>0.24/58.8</u>	<u>COMMERCIAL</u>	<u>01/01</u> to <u>12/31</u>
			to _____

Total Amount: 0.24/58.8

2. Source of water GROUND WATER tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
12S	21E	23		SE	SE	SW	CASSIA
12S	21E	24		SW	SW	SW	CASSIA
12S	21E	24		SW	SW	SW	CASSIA

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	21E	23													S	S	S	S	
12S	21E	24									S	S	S	S		S	S		
12S	21E	23															C	C	
12S	21E	24											C				C		

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

B. OWNERSHIP

- Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
- Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

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

Two wells provide water for the dairy system which is metered in the utility room on the West side of the milking barn.

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

NONE

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

Yes ☒ No ☐If yes, describe. One and 1/2 pivots will be irrigated with this same water rented from the bank.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

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

If yes, describe.**D. REQUIRED ITEMS**

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

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

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

If lease, for a period from 04/01/2014 to 11/15/2018 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

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

CURRENT RENTAL RATE**I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.**

The owner/lessor acknowledges the following:

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

Signature of ApplicantMichael Bosma, Partner
Printed Name and Title*3-24-14
DateSignature of ApplicantPrinted Name and Title*Date

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

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



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

June 30, 2014

BIG SKY DAIRY
PO BOX 407
JEROME ID 83338

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 45-07335, 45-07355 & 45-13549

Dear Lessor:

Water Rights 45-07335, 45-07355 and 45-13549 were leased into the Water Supply Bank on April 3, 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 287-4879.

Sincerely,

for 

Sandra Thiel
Water Resource Planner

Enclosure: Executed Lease Contract

c: Allen Merritt – IDWR Southern Regional Manager
Brian Higgs – Watermaster District 140



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

June 18, 2014

BIG SKY DAIRY
PO BOX 407
JEROME ID 83338

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 45-7335, 45-7355 and 45-13549 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
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

MEMORANDUM

To: Water Right No(s). 45-7335, 45-7355 and 45-13549
From: Jean Hersley
Date: May 29, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received these applications on April 3, 2014. A transfer completed in 2006 added stockwater and commercial use to these water rights and was to include 2 milking barns, but only one barn was built. The applicant continued irrigation on the lands where the second facility was to be built assuming they could use their commercial and stockwater to irrigate. The water master suggested they bank the unused portions of the stockwater and commercial then rent it back for their irrigation.

AUTHORITY TO FILE: The applications were signed by Michael Bosma, partner.

WATER RIGHT VALIDITY: The water rights were decreed in 2006 and have continued to be used.

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(s) are subject to Water District # 140. See attached email for water master comments.

Hersley, Jean

From: Merritt, Allen
Sent: Thursday, May 29, 2014 4:00 PM
To: Hersley, Jean
Subject: RE: WSB Lease Applications for Big Sky Dairy 45-7335, 45-7355 and 45-13549

Looks ok to me.

From: Hersley, Jean
Sent: Thursday, May 29, 2014 3:26 PM
To: Merritt, Allen
Subject: WSB Lease Applications for Big Sky Dairy 45-7335, 45-7355 and 45-13549

See attached memo and email from water master. Please send your comments or concerns within 7 days. Thank you.

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



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

May 15, 2014

BIG SKY DAIRY
PO BOX 407
JEROME ID 83338

RE: APPLICATION(S) TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of your application(s) to rent water for from the Water Supply Bank (Bank). The Department will review your application(s) as time allows. If your application cannot be processed for the initial year specified on the application, it is possible that it may be approved for subsequent years.

Filing a rental application does not authorize diversion and use of water. It is unlawful to use water without a valid water right or an approved Water Supply Bank rental agreement. **You are not authorized to divert any water for the purposes described in your application until you have paid the rental fee and you and the Department have both signed and executed a rental agreement.**

You can check the status of your rental application by reviewing the Department's processing spreadsheet, accessible from the Water Supply Bank's website at:

http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterSupply/ws_default.htm

Regards,

Cherie Palmer
Sr. Water Resource Agent
Water Supply Bank Contact

Hersley, Jean

From: Jaxon Higgs [jaxon@waterwellconsultants.com]
Sent: Thursday, May 29, 2014 12:59 PM
To: Hersley, Jean
Subject: RE: Water Supply Bank Lease Applications for Big Sky Dairy

Hi Jean,

The well in 12S 21E 23 SESESW is a backup to the dairy and is also an irrigation well. Any of the water that goes to the dairy from this well is diverted through the same flowmeter as the main dairy well (WMIS #1000464). The irrigation data is collected in WMIS #900152. Does that clear it up at all?

Jaxon

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Thursday, May 29, 2014 12:44 PM
To: Jaxon Higgs
Subject: RE: Water Supply Bank Lease Applications for Big Sky Dairy

Thank you for the information. I am only finding usage data on the well in 12S 21E 24 SW SW SW. Do you have data on the well in 12S 21E 23 SE SE SW?

From: Jaxon Higgs [mailto:jaxon@waterwellconsultants.com]
Sent: Thursday, May 29, 2014 11:22 AM
To: Hersley, Jean
Cc: 'Brian Higgs'
Subject: RE: Water Supply Bank Lease Applications for Big Sky Dairy

Hi Jean,

This water bank application is in response to a potential curtailment. As watermaster we suggested they complete this application and helped them through the process. The original water right transfer application for the dairy was to include two milking barns, but only one barn was built. Big Sky has continued irrigation on the lands where the second facility was to be built assuming they could use their commercial and stock water to irrigate. So technically they have been using their commercial and stock right for the incorrect use. We can send you diversion volumes from the irrigation wells and usage from the commercial facility if that is what you need. The usage data is in the WMIS Database.

Before this process started rolling I contacted Shelly Keen there in your office to run the scenario through him and make sure they knew it was coming, but the application submission was delayed.

Let me know what we can do to help this get through. It will be a temporary solution until they build their second facility as they said they were planning in the near future.

Thanks,

Jaxon Higgs
WWC Inc.

From: Brian Higgs [mailto:brian@waterwellconsultants.com]
Sent: Thursday, May 29, 2014 10:52 AM

To: Jaxon Higgs

Subject: Fw: Water Supply Bank Lease Applications for Big Sky Dairy

From: [Hersley, Jean](#)

Sent: Thursday, May 29, 2014 9:46 AM

To: brian@waterwellconsultants.com

Subject: Water Supply Bank Lease Applications for Big Sky Dairy

Brian,

The Department received applications from Big Sky Dairy to lease part of the commercial and stockwater uses to the Bank. I've been looking for watermaster usage reports for the past 6 years but I can't locate them in the state office. We need to have evidence that the full potential of the stockwater and commercials uses have been met in the last 6 years.

The water right numbers are 45-7335, 45-7355 and 45-13549. If these rights are accepted into the Bank, Big Sky Dairy wants to rent out the water for irrigation for 182.5 acres, 3.35 cfs, 734.8 af in T12S, R21E, Section 24 in portions of the SW and SE qq.

If you have any records that might help, could you please send them to me? If you have any other comments or concerns, I would appreciate those too. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

Idaho Department of Water Resources

WMIS
Water Management Information System

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Search Method:

WMIS Number

WMIS Number

900152

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Point Of Diversion

You are viewing 900152; A0006858

WMIS Number	900152	Network Well	No
Reporting District	Goose Creek Irrigation District	Access Power	Yes
Measurement Option	Flowmeter (1)	Water District	140
Metal Tag Number	A0006858	Tag Location	power box frame
Followup Date	01/01/2014	Comments	2 BOOSTERS - also used for dairy, meter will be required on irrigation lines. for dairy diversions see 1000464. 9.10 cy
Diversion Name	12S 21E 23CDD1		

[Search Water Rights](#)[Contacts](#) [PLSS](#) [Spatial Data](#) [Water Source](#) [Water Rights](#)

Water Right Number	Owner Type	Owner Name	Address	Phone	City/State/ Zip	Email
45-7335	Current Owner	BIG SKY DAIRY	PO BOX 407	(208) 934-9072	JEROME, ID 83338	
45-7355	Current Owner	BIG SKY DAIRY	PO BOX 407	(208) 934-9072	JEROME, ID 83338	
45-13549	Current Owner	BIG SKY DAIRY	PO BOX 407	(208) 934-9072	JEROME, ID 83338	

Idaho Department of Water Resources

WMIS

Water Management Information System



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Flow Meter Water Usage

You are viewing 900152; A0006858

Report Year	Totalizer Start	Acre Feet Volume	Max Flow Rate (CFS)	Comments
2013	0.00	1800.52		measurement may represent multiple years. arm
Validated	Totalizer End	Adjusted Acre Feet	Adjusted Max Flow Rate	
	586701.00	1800.52		
Calibration Data		Acre Feet Qualifier	Preferred Method	
Date:	1/1/2013 12:00:00 AM	Erroneous Measurement	PCC	
Factor	1.00			
Vol. Multiplier:	1000.0000			
Vol. Unit	GAL			

Idaho Department of Water Resources

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Water Management Information System

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WMIS Number

WMIS Number

900152

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Data Summary

You are viewing 900152; A0006858

Report Year	Alternate	FM	PCC	Time Clock
2013		1800.52	1176.77	
2012			854.61	
2011			561.00	
2010			797.00	
2009			1305.00	
2008			1905.07	
2007			1186.29	
2006			915.74	
2005			857.30	
2004			1559.50	
2003			1292.30	
2002			1342.60	
2001			653.60	
2000				
1999			847.80	
1998			829.90	
1997			698.40	

Idaho Department of Water Resources



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Search Method:	Reporting District	▼
Reporting District:	Water District 140	▼
WMIS Number:	1000464	▼
Legal Description:	12S 21E 24 SW SW SW	▼
Metal Tag Number:	A0006859	▼

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Flow Meter Water Usage

You are viewing 1000464; A0006859

Report Year	Totalizer Start	Acre Feet Volume	Max Flow Rate (CFS)	Comments
2013	396.00	71.86		577103 meters cubed converted to AF. jbh
Validated	Totalizer End	Adjusted Acre Feet	Adjusted Max Flow Rate	
	467.87	71.86		
Calibration Data		Acre Feet Qualifier	Preferred Method	
Date:	1/1/2011 12:00:00 AM	No Monthly Recordings FM		
Factor	1.00			
Vol. Multiplier:	1.0000			
Vol. Unit	AF			

Report Year	Totalizer Start	Acre Feet Volume	Max Flow Rate (CFS)	Comments
2012	260.02	135.98		488436 meters cubed converted to af.
Validated	Totalizer End	Adjusted Acre Feet	Adjusted Max Flow Rate	
	396.00	135.98		
Calibration Data		Acre Feet Qualifier	Preferred Method	
Date:	1/1/2011 12:00:00 AM	Monthly Recordings	FM	
Factor	1.00			
Vol. Multiplier:	1.0000			
Vol. Unit	AF			

Report Year	Totalizer Start	Acre Feet Volume	Max Flow Rate (CFS)	Comments
2011	222.54	37.48		read 320735 on July 19, 2011. Units are listed as meters cubed. Converted to AF. jbh
Validated	Totalizer End	Adjusted Acre Feet	Adjusted Max Flow Rate	
	260.02	37.48		
Calibration Data		Acre Feet Qualifier	Preferred Method	
Date:	1/1/2011 12:00:00 AM	No Monthly Recordings FM		
Factor	1.00			
Vol. Multiplier:	1.0000			
Vol. Unit	AF			

Report Year	Totalizer Start	Acre Feet Volume	Max Flow Rate (CFS)	Comments
2010	0.00	0.00	0.00	Needs calibration.
Validated	Totalizer End	Adjusted Acre Feet	Adjusted Max Flow Rate	

	274503.00	0.00	0.00
Calibration Data	Acre Feet Qualifier	Preferred Method	

Idaho Department of Water Resources

WMIS
Water Management Information System

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Search Method:	Reporting District	▼
Reporting District:	Water District 140	▼
WMIS Number:	1000464	▼
Legal Description:	12S 21E 24 SW SW SW	▼
Metal Tag Number:	A0006859	▼

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Data Summary

You are viewing 1000464; A0006859

Report Year	Alternate	FM	PCC	Time Clock
2013		71.86		
2012		135.98		
2011		37.48		
2010		0.00		