

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: LISA IRIGOYEN FUNK
PO BOX 310
AMERICAN FALLS ID
(208) 226-9976

RECEIVED
APR 25 2014
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
35-07618	1.48 CFS	316.0 AF	NA	79.0 AC
35-07621	0.87 CFS	168.0 AF	NA	42.0 AC
Combined Lease Totals:	2.35 CFS	484.0 AF	NA	121.0 AC

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

Authorized Period of Use under Lease: 04/01 to 10/31

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

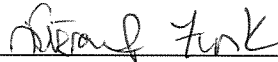
3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2015.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

SUPPORT DATA
IN FILE # 35-7618

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.

LISA IRIGOYEN FUNK
PO BOX 310
AMERICAN FALLS ID

By 

Date 4-24-14

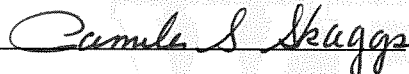
Printed Name Lisa I Funk

Title owner

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

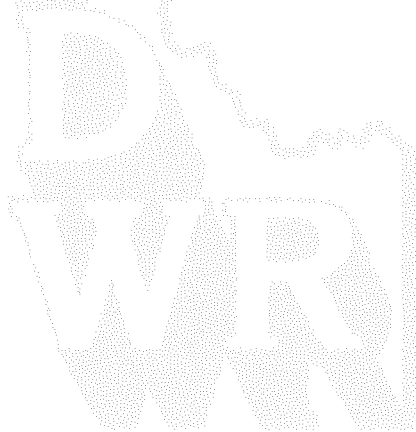
By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 04-28-2014

Lease approved by IDWR 

Date 04-28-2014

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. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.



ATTACHMENT A
WATER RIGHT NO. 35-07621
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: LISA IRIGOYEN FUNK
 PO BOX 310
 AMERICAN FALLS ID
 (208) 226-9976

Priority Date: 12/29/1969

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.87 CFS	168.0 AF
	Total:		0.87 CFS	168.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWSW Sec. 35, Twp 05S, Rge 31E, BINGHAM County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	31E	35										39.0	3.0						42.0
													L4						

Total Acres: 42.0

Limited to acres within place of use described above: NA

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. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.



RECEIVED

DEC 23 2013

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARD

WSB No. _____

Receipt No. 0098102Date/by 12-23-13 HP

(For Department Use Only)

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKName of Seller/Lessor Lisa Funk Phone 208-226-9976Mailing address P.O. Box 310 American Falls, Idaho 83211 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>35-7618</u>	<u>1.48/316</u>	<u>Irrigation</u>	<u>4/01</u> to <u>10/31</u>
			to _____
			to _____
Total Amount: <u>1.48/316</u>			

2. Source of water _____ Ground Water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
05S	31E	26		SE	SW	SE	Bingham

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	
5S	31E	26														40	39		79.0

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 79.0

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 point of diversion for the water right owned or managed by an irrigation district? 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.

Diversion, pumps and piping

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. Aberdeen Springfield Canal ground water

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.

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 1/1/2014 to 12/31/2015 (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

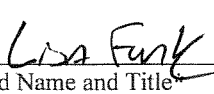
I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

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 Applicant



Printed Name and Title*

12-13-13

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

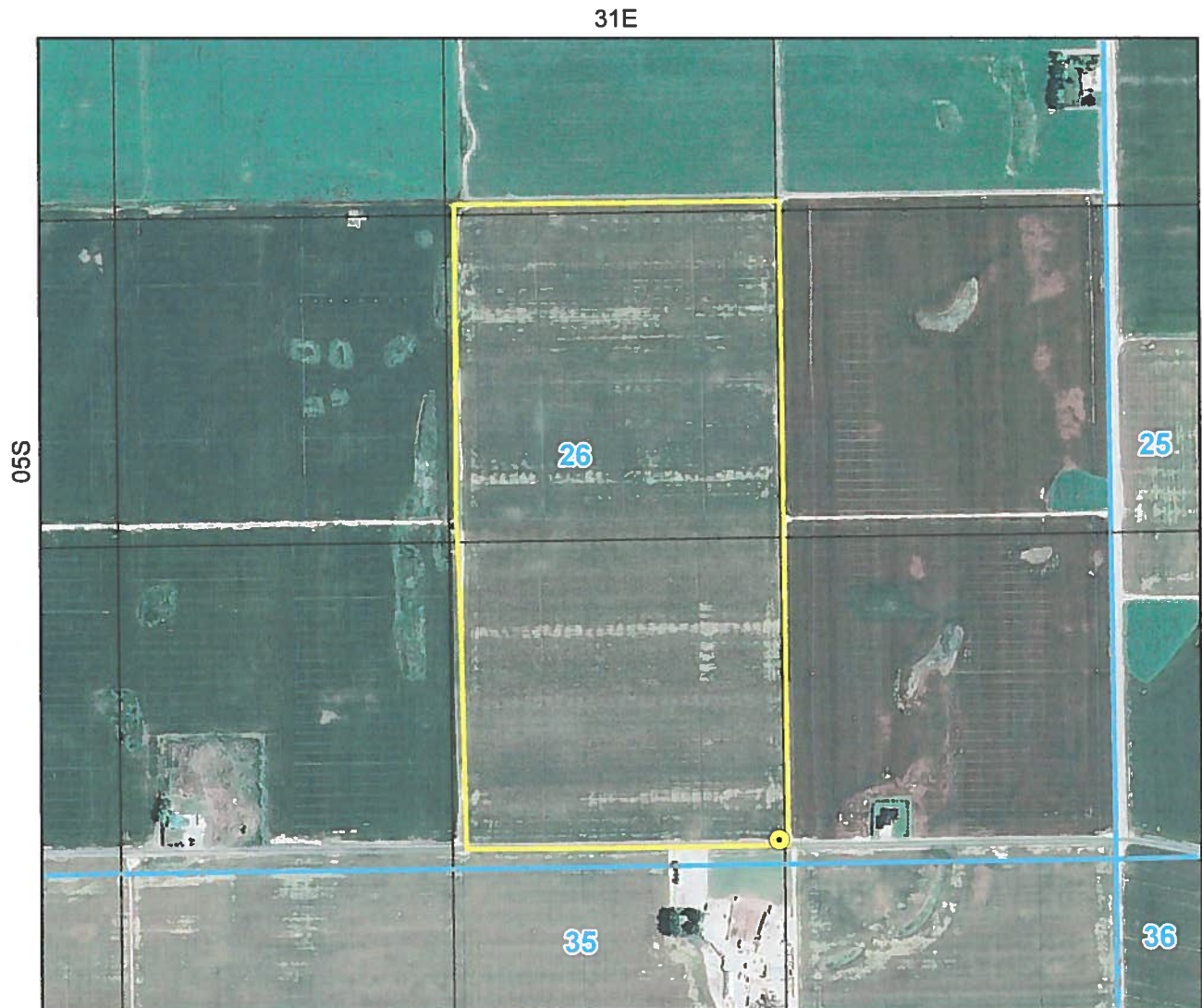
Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right
35-7618

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



RECEIVED

DEC 23 2013

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARD

WSB No. _____

Receipt No. 0098102Date/by 12-23-13 HP

(For Department Use Only)

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKName of Seller/Lessor Lisa Funk Phone 208-226-9976Mailing address P.O. Box 310 American Falls, Idaho 83211 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. Water Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>35-7621</u>	<u>0.87/168</u>	<u>Irrigation</u>	<u>4/01</u> to <u>10/31</u>
			to _____
			to _____
Total Amount: <u>0.87/168</u>			

2. Source of water _____ Ground Water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
05S	31E	35			SW	SW	Bingham

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	
5S	31E	35										7	35						42.0

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 42.0

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 point of diversion for the water right owned or managed by an irrigation district? 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.

Diversion, pumps and piping

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. Aberdeen Springfield Canal ground water

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.

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 1/1/2014 to 12/1/2015 (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.

David Funk
Signature of Applicant

LSA Funk
Printed Name and Title*

12-13-13
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

Water Right
35-7621

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.





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

April 28, 2014

LISA IRIGOYEN FUNK
PO BOX 310
AMERICAN FALLS ID 83211

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 35-07618 & 35-07621

Dear Lessor:

Water Rights 35-07618 and 35-07621 were leased into the Water Supply Bank on January 1, 2014 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The 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 287-4910.

Sincerely,

Clay Webster
Technical Records Specialist

Enclosure: Executed Lease Contract

c: Greg Sullivan – Brockway Engineering
James Cefalo – IDWR Eastern Regional Office



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

March 20, 2014

LISA IRIGOYEN FUNK
3853 RAST RD
AMERICAN FALLS ID 83211

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION(S) TO
LEASE WATER RIGHT NO(S). 35-7618 & 35-7621 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to lease the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right(s) is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application(s) has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information within 14 days of the date of this letter or the application will be returned: (Insert items

- A map showing acres to be dried up for water right 35-07621
- Clarification on question # 3 on application. "Will present place of use continue to receive water from any source?" You answered no, however you then filled in the name of Aberdeen Springfield Canal ground water.

The department will continue processing your application(s) once you have submitted the requested information. Water right forms are available from the Department's web site at www.idwr.idaho.gov. If you have any questions, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Technical Records Specialist

c: Greg Sullivan – Brockway Engineering



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

April 22, 2014

LISA IRIGOYEN FUNK
PO BOX 310
AMERICAN FALLS ID 83211

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 35-07618 AND 35-07621 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 287-4910.

Sincerely,

Clay Webster
Technical Records Specialist

Enclosure: Proposed Lease Contracts

c. Greg Sullivan – Brockway Engineering

MEMORANDUM

To: Water Right No(s). 35-7618 and 35-7621

From: Clay Webster

Date: April 17, 2014

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received applications to lease these water rights on December 23, 2013. The application for 35-7618 is for the entire right. I found a discrepancy between acres described and map provided by consultant (see e-mail chain dated April 17, 2014). The application for 35-7621 is for 39.0 acres in the NWSW and 3 acres of the right in the SWSW. 35-7618 was leased into the bank in its entirety in 2013. 35-7621 had 37 acres leased into the bank in September 2013.

AUTHORITY TO FILE: The applications are signed by Lisa Funk, the current owner of these water rights.

WATER RIGHT VALIDITY: These rights were partially decreed by the SRBA in March 2012 and have had leases on them since September 2013. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS. No injury is apparent.

ENLARGEMENT OF USE: Upon review of satellite imagery, it was noted that 35-7621 was irrigated in July and August of 2013. See Memo Dated 4/14/2014. 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 # 120. Comments were requested via e-mail from the watermaster on 4/17/2014.

Webster, Clay

From: Greg Sullivan [greg.sullivan@brockwayeng.com]
Sent: Thursday, April 17, 2014 8:46 AM
To: Webster, Clay
Subject: RE: Lease Application for 35-7621

Clay,

The intent is to lease 42.0 acres of water right 35-7621.

It was an error to label the map 34-7621.

There is a lease application to move 42.0 acres off of this property and a rental application to move 42.0 acres to this property for 2014. The lease and rental acres need to be identical. The lease acre amounts need to be 39.0 acres in the NWSW and 3.0 acres in the SWSW. The rental acre amounts need to be 39.0 acres NWSW and 3.0 acres in the SWSW.

Transfers are being prepared to move the current ground water rights on these properties off and to transfer in water right 35-2824.

Greg Sullivan
Brockway Engineering
2016 N. Washington St. Suite 4
Twin Falls, Id 83301
208-736-8543

From: Webster, Clay [<mailto:Clay.Webster@idwr.idaho.gov>]
Sent: Wednesday, April 16, 2014 7:28 AM
To: greg.sullivan@brockwayeng.com
Subject: FW: Lease Application for 35-7621

Greg,

We have some confusing information going on with these, that I need to clear up. On the application that you submitted for 35-7621 you identified 7 acres in the NW SW and 35 acres in the SW SW. When I look at the map you sent, it seems that the numbers are reversed. Also the Water right number identified on your map is titled Water Bank Lease 2014, 34-7621. Could you clear these issues up for me please? Thanks.

Sincerely,

Clay Webster

Technical Records Specialist
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)
208-287-4800
www.idwr.idaho.gov

From: Greg Sullivan [<mailto:greg.sullivan@brockwayeng.com>]
Sent: Monday, March 24, 2014 8:40 AM
To: Webster, Clay
Subject: Lease Application for 35-7621

Clay,

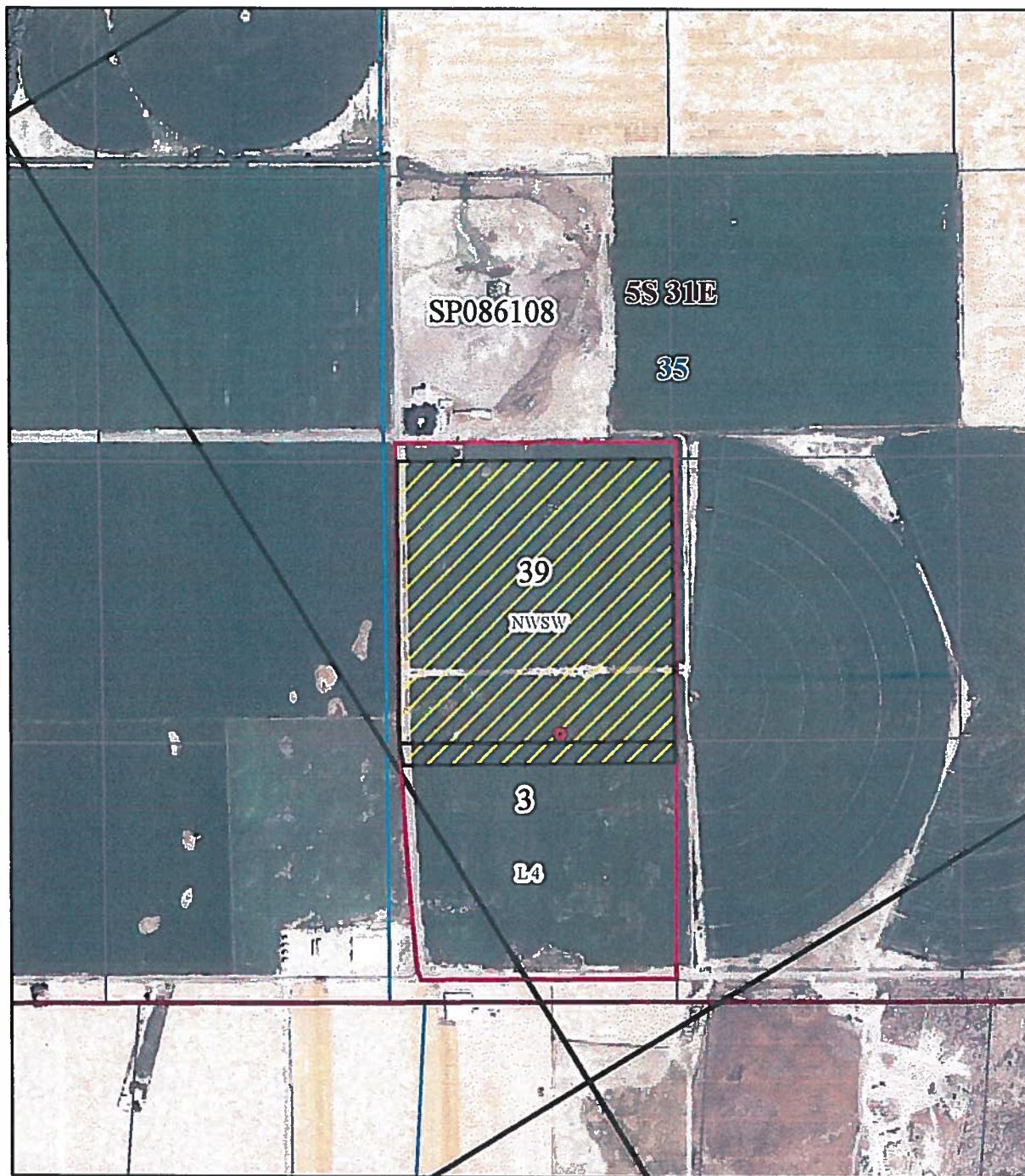
I have attached your letter and an aerial map identifying the 42.0 acres to be leased to the Water Supply Bank.

On question #3, I should have answered "yes", because the 42.0 acres will be covered by some rented irrigation water that we plan on transferring there permanently this summer/fall.

Please let me know if there are any more questions that I can help with.

Greg Sullivan
Brockway Engineering
2016 N. Washington St. Suite 4
Twin Falls, Id 83301
208-736-8543

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2012.0.2247 / Virus Database: 3722/6848 - Release Date: 04/15/14



0 600 1,200 Feet

**FUNK, LANCE
WATER BANK LEASE 2014, 34-7621
NAIP 2013 AERIAL**

Legend

-  POD_35-7621
-  Lease 35-7621
-  WR_POU_35-7621
-  Model Grid
-  Township
-  Sections
-  QQ Lines



MEMO

TO: 35-7618 and 35-7621

FROM: Cherie Palmer

DATE: April 14, 2014

RE: WSB Lease Applications – continued processing

While reviewing lease applications for 35-7618 and 35-7621 for the 2014 season, Clay Webster found that irrigation had occurred in 2013 at the place of use of those rights. That's problematic because both the rights were leased and then rented out to a different location during 2013. Apparently, the Funk's submitted a rental application to put water rights 35-2543 and 35-4246 on the acres in question. It appears that it was completely an oversight that the Department didn't process or act on those two rental applications. In addition, the Funk's did not discover that the rental application did not get approved and consequently irrigated 116 acres without a water right in 2013. Although their intent was to legally apply water to those 116 acres in 2013.

Processing of the 2014 lease applications was held up while a resolution developed in regard to the 2013 activity. At this time, the compliance bureau has given the "go ahead" to move forward and process any bank application in front of us so not to get the Funk's in a compliance quandary for the 2014 season.

For informational purposes I have attached a chronology of last year's events.

Chronology of 35-7618 and 35-7621 (water rights owned by Lisa Funk)

9/12/2013: An email was sent from Greg Sullivan to Nick Van Dyke that states that water rights 35-7618 and 35-761 under the name of Lisa Funk will be leased to the bank for 116 total (79 acres under 35-7618 and 37 acres under 35-7621). These rights are being leased into the bank to provide 116 acres on Northern Agriculture land that is outside of the ASCC delivery area.

9/19/2013: A cover letter from Greg Sullivan was received at the Department. The cover letter encloses lease applications for 35-7618 and 35-7621, maps, and ESPA modeling. At the present time, these two lease applications are physically located in their respective water right files. The cover letter also states that there are two rental applications enclosed. For the first rental application, Lance Funk proposes to rent water 116 acres of rights 35-7618 and 7621 to irrigate at Northern Agriculture LLC's land. This application is physically located in water right file 35-7621. For the second rental application, Lisa and Lance Funk proposed to rent 116 acres of ground water from ASCC. An application to rent 37 acres on Lisa Funk's land is physically located within file 35-7621. A second application from Lance Funk is located within file 35-7618. This application proposes to rent 79 acres on Lisa Funk's land for a total of 116 acres. (NO ACTION WAS EVER TAKEN ON THESE TWO RENTAL APS)

9/27/2013: An email was sent from Greg Sullivan to Nick Van Dyke that contained an agreement from Northern Agriculture LLC that acknowledges an irrigation agreement between Lance Funk and themselves through the 2016 season.

10/3/2013: The processing fee of \$500 was received for lease applications 35-7618 and 35-7621.

10/4/2014: The Department sent a letter to Lisa Funk requesting she sign the lease contracts for 35-7618 and 35-7621. Additionally, a letter was sent to Lance Funk that enclosed rental agreements for 35-7618 and 35-7621. The Department asked that they sign the contracts and agreements and return them with the appropriate rental fee.

10/31/2013: Lease contracts were executed for 35-7618 and 35-7621. In addition, rental agreements were executed that authorized 35-7618 and 35-7621 to be used on Northern Agriculture LLC's land. A letter was mailed that informed them of the executed agreements/contracts.

Chronology of 35-2543 and 35-4246 (Aberdeen Springfield water rights)

5/20/2013: Application to lease water right 35-2543 was received by the Department. Also, three applications to rent water were received. All the applications were submitted by ASCC. Individually the rental applications propose to rent 234 acres, 116 acres, and 223.5 acres all of which are located on Northern Agriculture's land.

June: Conversations between John Homan, Nick Van Dyke, Greg Sullivan, and Rob Harris determining how much water is available under water rights 35-2543 and 35-4246 for lease/rental.

7/5/2013: Application to lease water right 35-4246 was received by the Department.

8/1/2013: The Department sent a letter to Greg asking him to identify acres that are dried-up in connection with 116 acres. The Department gave a 14 day deadline to get the information or the application would be returned.

9/12/2013: An email was sent from Greg Sullivan to Nick Van Dyke that states that water rights 35-7618 and 35-7621 under the name of Lisa Funk will be leased to the bank for 116 acres total (79 acres under 35-7618 and 37 acres under 35-7621). These rights are being leased into the bank to provide 116 acres with water that is outside of the Aberdeen Springfield Canal Company. This is in lieu of using water rights 35-2543 and 35-4246 at the rental POU due to ASCC requirements that land be within their delivery area.

10/1/2013: A memo was written by Nick Van Dyke. The memo summarizes that because the "northern" piece of land owned by Northern Agriculture is not within ASCC's service area, rentals under water rights 35-2453 and 35-4246 cannot be used. In order to cover the 116 acres, water rights 35-7618 and 35-7621 were leased into the bank for coverage. He goes on to say that rights 35-2543 and 35-4246 (ASCC rights) *could* be used at the place of use for rights 35-7618 and 35-7621 since they do fall within the service area of ASCC.

10/4/2014: The Department sent a letter to ASCC requesting they sign the lease contracts for 35-2543 and 35-4246. Additionally, a letter was sent that enclosed rental agreements for 35-2543 and 35-4246 that represents 234 acres and 223.5 acres. The Department asked that they sign the contracts and agreements and return them with the appropriate rental fee.

10/31/2013: Lease contracts were executed for 35-2543 and 35-4246. In addition, rental agreements were executed that authorized 35-2543 and 35-4246 to be used on Northern Agriculture LLC's land (everything except 116 acres). A letter was mailed at that informed them of the executed agreements/contracts.



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

March 27, 2014

LISA FUNK
PO BOX 310
AMERICAN FALLS ID 83211

RESPONSE DEADLINE

April 7, 2014

RE: Water Supply Bank Lease Application – Additional Information Required

Dear Applicant,

The Idaho Department of Water Resources (Department) received your application to lease water right nos. 35-7618 and 35-7621 into the Idaho Water Resource Board's Water Supply Bank (bank), however, your applications cannot be processed at this time.

For the 2013 irrigation season, two bank Lease Contracts (contracts) were executed. This first contract accepted water right no. 35-7618 in its entirety, 79 acres, into the Bank. The second contract accepted 37 acres of water right no. 35-7621 per your request.

Review of your lease applications for this coming irrigation season brought forth many questions surrounding your 2013 contracts. 2013 aerial imagery, water district visits and pump records indicate that water was diverted and used on the place of use for water rights 35-7618 and 35-7621 in violation of Condition no. 3 of the contract that states in part, "While a right is in the bank, the lessor may not use the right without approval of the Department."

Because water right nos. 35-7618 and 35-7621 were tied-up in lease contracts for the 2013 season, there may be some other authorization that allowed the irrigation. However, the Department cannot locate records or authorizations that explain the apparent irrigation.

Please provide documentation that clearly demonstrates how points of diversion in connection with water right nos. 35-7618 and 35-7621 were used during the 2013 season. Also provide clear documentation that clearly demonstrates how you were able to irrigate 116 acres per the map I have enclosed.

The Department will hold your application for ten (10) days. If you do not fully respond to the concerns addressed in this letter your applications will be denied. You may contact me at (208) 287-4944 if you have any questions regarding this matter.

Sincerely,

Cherie Palmer, Sr. Water Resource Agent
Water Allocation Bureau

c: Greg Sullivan – Brockway Engineering

Legend

- Township/Range
- Sections
- QQ

2013 Aerial Imagery Map Created 3/27/2014 by CPalmer

2013 Aerial Imagery Map Created 3/27/2014 by CPalmer