

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective January 13, 2014, between the Idaho Water Resource Board ("**Board**"), and

Lessor: TIMBERLINE DEVELOPMENT LLC
C/O OLSON & CO CPA'S
132 SW 5TH AVE STE 100
MERIDIAN ID 83642
(208) 315-0991

RECEIVED
APR 18 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>
65-23370	1.49 CFS	NA	NA	78.7 AC
65-23372	1.49 CFS	NA	NA	78.7 AC
Combined Lease Totals:	1.57 CFS	NA	NA	78.7 AC

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

SUPPORT DATA

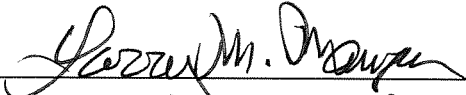
IN FILE # 65-23370

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.

TIMBERLINE DEVELOPMENT

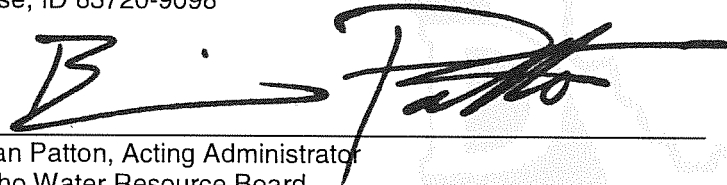
C/O OLSON & CO CPA'S
132 SW 5TH AVE STE 100
MERIDIAN ID 83642

By 
Printed Name LARRY M. MANGUM

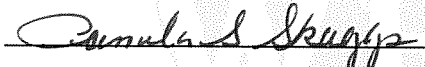
Date 4-17-2014
Title Manger

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 04-18-2014

Lease approved by IDWR 

Date 04-18-2014

ATTACHMENT A
WATER RIGHT NO. 65-23370
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: TIMBERLINE DEVELOPMENT LLC
C/O OLSON & CO CPA'S
132 SW 5TH AVE STE 100
MERIDIAN ID 83642
(208) 315-0991

Priority Date: 09/09/1936

Source: MUD CREEK

Tributary to: NORTH FORK PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/15	1.49 CFS	NA
	Total:		1.49 CFS	NA

LOCATION OF POINT(S) OF DIVERSION:

MUD CREEK NW¼SE¼ Sec. 32 Twp 17N Rge 03E VALLEY 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	
16N	03E	17		36.7	40.0	2.0													78.7

Total Acres: 78.7

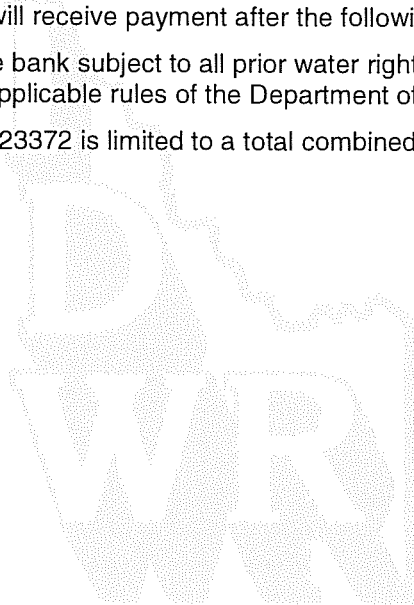
COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
65-23370 and 65-23372	1.57 CFS	NA	NA	78.7 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. Use of this right with right no. 65-23372 is limited to a total combined diversion rate of 1.62 cfs.



ATTACHMENT A
WATER RIGHT NO. 65-23372
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: TIMBERLINE DEVELOPMENT LLC
C/O OLSON & CO CPA'S
132 SW 5TH AVE STE 100
MERIDIAN ID 83642
(208) 315-0991

Priority Date: 08/18/1919

Source: LAKE FORK

Tributary to: NORTH FORK PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01	to 09/15	1.49 CFS	NA
	Total:		1.49 CFS	NA

LOCATION OF POINT(S) OF DIVERSION:

LAKE FORK	NW¼SE¼	Sec. 32	Twp 17N	Rge 03E	VALLEY County (R)
LAKE FORK	NW¼NE¼	Sec. 32	Twp 17N	Rge 03E	VALLEY County (I)
LAKE FORK	SE¼NE¼	Sec. 3	Twp 17N	Rge 03E	VALLEY 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	
16N	03E	17		36.7	40.	2.0													78.7

Total Acres: 78.7

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>
65-23370 and 65-23372	1.57 CFS	NA	NA	78.7 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. Point of injection into and point of diversion from Mud Creek.
13. Use of this right with right no. 65-23370 is limited to a total combined diversion rate of 1.62 cfs.

STATE OF IDAHO
WATER RESOURCE BOARD
WATER SUPPLY BANK
REQUEST TO EXTEND LEASE TERM

RECEIVED

JAN 13 2014

DEPARTMENT OF
WATER RESOURCES

ONE FORM PER WATER RIGHT

This form is a statement that the lessor requests an extension of a Water Supply Bank ("Bank") lease for the water right identified below. A water right remains in the Bank for the accepted lease period unless released earlier by the Water Resource Board or until the lessor submits a request in writing to the Department of Water Resources to release the right from the Bank. However, if a water right is currently rented, the portion of the right being rented must remain in the Bank for the duration of the rental agreement.

If requesting a change in lease amounts (reducing or increasing acreage, etc.), you must file an Application to Sell or Lease a Water Right to the Water Supply Bank. This form can be found on IDWR's website at: www.idwr.idaho.gov

Water Right No: 65-23370 Telephone No: 208-315-0991
Name(s) of Lessor(s): Timberline Development LLC / c/o Olson + Co CPAs
Mailing Address: 132 S.W. 5th Ave. Ste 100
City: Moridian State: ID. Zip: 83642
Current Expiration Date: 12/31/2013
Requested Expiration Date: 12/31/2018
Lease term not to exceed 5 years.

All lease extension request forms 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 for the duration of this lease.
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.

The lessor requests that the above water right remain in the Bank through the date referenced above.

Larry M. Mangum Larry M. Mangum / Mangum 1/6/2014
Signature of Lessor Printed Name and Title* Date

Signature of Lessor 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

FOR OFFICE USE ONLY

Filing fee received by: dy Date: 1/13/14 Receipt No: 0098162



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 21, 2014

TIMBERLINE DEVELOPMENT LLC
C/O OLSON & CO CPA'S
132 SW 5TH AVE STE 100
MERIDIAN ID 83642

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 65-8053, 65-23370 and 65-23372

Dear Lessor:

Water Rights 65-8053, 65-23370 and 65-23372 were leased into the Water Supply Bank on January 13, 2014 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

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

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

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

Sincerely,

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Timberline Development LLC- Donnelly
John Westra- IDWR Western Regional Manager



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 21, 2014

TIMBERLINE DEVELOPMENT LLC
C/O OLSON & CO CPA'S
132 SW 5TH AVE STE 100
MERIDIAN ID 83642

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 65-8053, 65-23370 and 65-23372 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

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

RECEIVED
MAR 14 2014
DEPARTMENT OF
WATER RESOURCES

WSB Lease Application Water Right No: 65-8053, 65-23370 + 65-23372

Applicant's Name: Timberline Development L.L.C.

Watermaster's Recommendation:

a) ☒ I do not oppose approval of this application.

b) ☐ I do not oppose approval of this application if conditioned as follows:

c) ☐ I oppose approval of this application for the following reasons:

d) ☐ Additional comments:

Dated this 13th day of March, 2014

Water District No. 65

Ken Shuttles
Watermaster's signature

MEMORANDUM

To: Water Right No(s). 65-23370 and 65-23372
From: Jean Hersley through Pam Skaggs
Date: March 11, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received these extension requests on January 13, 2014. Timberline Development requested the entirety of both rights to be extended until 2018.

AUTHORITY TO FILE: The applications were signed by Larry Mangum, manager of Timberline Development LLC.

WATER RIGHT VALIDITY: The original parent rights, 65-2399 (65-23370) and 65-3185 (65-23372), were decreed in 2000 and 2004 respectively, acres were clearly irrigated in 2004 imagery before any development, and the rights leased to the Bank from 2008-2013 prior to any forfeiture concerns. Aerial photography indicates partial irrigation has taken place.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: Aerial photography indicates partial irrigation has taken place. Review of ground water Permit 65-22888 records shows it was proposed to be the sole source for domestic developed property uses. The petition to remove supplemental conditions from the original permit approval in 2004 notes that surface water will not be used for the developed lots or domestic uses, but will be used to the extent available in the common areas with ground water. A portion of the leased acres under these rights were replaced by the ground water system as the property was developed and the surface water rights were placed in the bank before forfeiture was an issue.

The irrigated common areas around the developed lots of ?? acres within all the rights common place of use have not been included in the lease to avoid enlargement concerns. There are some large undeveloped areas remaining under these rights that don't appear to be currently irrigated by either the ground water permit or the leased surface water rights so these surface water acres are included in the lease to continue protection from forfeiture.

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 # 65.



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 11, 2014

RON SHURTLEFF
102 N MAIN ST
PAYETTE ID 83661

RE: Water Supply Bank Lease Applications Water Right No(s). 65-8053, 65-23370 and 65-23372

Dear Watermaster:

The Idaho Department of Water Resources received several Applications to Sell or Lease Water Rights to the Water Supply Bank from Timberline Development LLC. They have requested all rights in their entirety to be leased to the Bank until December 31, 2018. However, I reduced the amount of 65-8053 from 16 acres to 14 acres as the common areas are receiving water from a ground water source under water right permit 65-22888. We will allow the entirety of water rights 65-23370 and 65-23372 to be leased to the Bank.

Please let us know if you have any objections or concerns regarding this application within 10 days. Review can be completed as soon as your response is received. Prompt response to this request is appreciated so your recommendation can be considered during the review process. I have enclosed a recommendation form for your convenience.

If after 10 days from the date of this letter the department has not received your written recommendation, the Department will presume you do not oppose approval of the application and you have no comments for the department to consider.

If you have any questions about this application, please contact this office or the applicant.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure