



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 19, 2014

CLOUD BERRY LLC
PO BOX 1359
CALDWELL ID 83606

RE: APPLICATION TO LEASE WATER RIGHT NO(S). 63-5092, 63-5093, 63-5098, 63-10700, 63-10557, 63-31970 and 63-32958 TO THE WATER SUPPLY BANK

Dear Applicant:

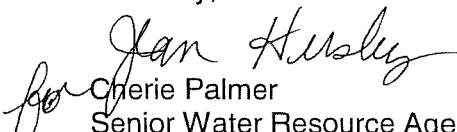
The Department of Water Resources ("Department") has completed its review of your application(s) to lease water right(s) to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right(s) 63-5092, 63-5093, 63-5098, 63-10700, 63-10557, 63-31970 and 63-32958 into the Bank.

This letter is notice that the attached application(s) to lease water to the Bank are **returned**. The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. On February 10, 2014 and February 27, 2014, the Department requested additional information regarding the applications and use of the water rights from SPF Engineering, LLC. As of today's date, no information has been received by the Department.

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

If you have any questions, please contact me at (208) 287-4944.

Sincerely,


Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: SPF Water Engineering, LLC- Lori Graves

1/8 2101

Receipt No. W0411637
 Fee Amount \$ 250.00
 Date/by 11/7/2013
 (For Department Use Only)

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

RECEIVED
NOV 07 2013

Name of Seller/Lessor Cloud Berry, LLC Phone 208-890-0451
 Mailing address PO Box 1359, Caldwell, ID 83606 Email _____

WATER RESOURCES
WESTERN REGION

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>63-10700</u>	<u>2.09 cfs/1019.7 af</u>	<u>Irrigation</u>	<u>3/15</u> to <u>11/15</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____

Total Amount: 2.09 cfs/1019.7 af

2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
4N	1W	10			NE	NE	Ada

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

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1W	3											10	12			2		24
		9	20																20
		10	37	36	33	38	37	37											218

If the right is for irrigation, show total number of acres offered to the bank. **Total Acres** 262

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.

Well

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

63-32960, Middleton Irrigation Association, New Dry Creek Ditch Co., Foothill Ditch Co.

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

Yes ☐ No ☒If yes, describe. Surface water from Middleton Irrigation Association, New Dry Creek Ditch Co. and Foothill Ditch CO.

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 submittal date to 5 years (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

Justin Martin Mgr

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

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

8/23/2013

WATER RIGHT NO. 63-10700

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLOUD BERRY LLC PO BOX 1359 CALDWELL, ID 83606 (208)890-0451
Original Owner	QUARTER CIRCLE DJ RANCH CO PO BOX 279 EAGLE, ID 83616 (208)286-7131

Priority Date: 09/12/1988

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	2.09 CFS	1019.7 AFA
Total Diversion			2.09 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NENE|Sec. 10|Township 04N|Range 01W|ADA County

Licensed Diversion Capacity: 2.09

Place(s) of use:

Place of Use Legal Description: IRRIGATION ADA County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	01W	3		SWSW 10			SESW 12							
				SWSE 2										
		9		NENE 20										
		10		NENE 37			NWNE 36			SWNE 33			SENE 38	
				NENW 37			NWNW 37							

Total Acres: 262

Conditions of Approval:

1. The right holder shall fully use all surface water rights appurtenant to the lands identified above prior to using water under this right.
This right when combined with Right 63-07847 shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.

Dates:

Licensed Date: 10/11/1994

Decreed Date:

Permit Proof Due Date: 1/1/1993

Permit Proof Made Date: 6/11/1992

Permit Approved Date: 12/20/1989

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 09/12/1988

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)