



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

February 19, 2014

FIRST AMERICAN TITLE CO TRUST NO 8562
FOR BENEFIT OF AVIMORE PARTNERS LLC
18454 N MCLEOD AVE
BOISE ID 83714

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 63-5387

Dear Lessor:

Water Right 63-5387 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, 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 287-4910.

Sincerely,

Clay Webster
Technical Records Specialist

Enclosure: Executed Lease Contract

c: Steve Lester- IDWR Western Region

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: FIRST AMERICAN TITLE CO TRUST NO 8562
FOR THE BENEFIT OF AVIMOR PARTNERS LLC
18454 N MCLEOD AVE
BOISE ID 83714
(208) 286-7975

RECEIVED
FEB 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>
63-5387	1.01 CFS	NA	NA	36 AC
Combined Lease Totals:	1.01 CFS	NA	NA	36 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 03/15 to 11/15

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.
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.

**FIRST AMERICAN TITLE CO TRUST NO 8562
FOR THE BENEFIT OF AVIMOR PARTNERS LLC**
18454 N MCLEOD AVE
BOISE ID 83714

By 

Printed Name Dan Richter

Date Feb 14, 2014

Title Managing Member

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 02-18-2014

Lease approved by IDWR 

Date 02-18-2014

ATTACHMENT A
WATER RIGHT NO. 63-5387
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: FIRST AMERICAN TITLE CO TRUST NO 8562
 FOR THE BENEFIT OF AVIMOR PARTNERS LLC
 18454 N MCLEOD AVE
 BOISE ID 83714
 (208) 286-7975

Priority Date: 11/15/1890

Source: WILLOW CREEK **Tributary to:** BOISE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15 to	11/15	1.00 CFS	NA
STOCKWATER	02/01 to	12/01	0.01 CFS	NA
	Total:		1.01 CFS	NA

LOCATION OF POINT(S) OF DIVERSION:

WILLOW CREEK NESE Sec. 31, Twp 06N, Rge 02E, BOISE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	02E	6									3.0					2.0	31.0		36.0

Total Acres: 36 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 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. 63.



February 14, 2014

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

RECEIVED
FEB 18 2014
DEPARTMENT OF
WATER RESOURCES

Re: Application to lease Water Right 63-5387 to the Water Supply Bank

Dear Mr. Webster:

Thank you for approving our application to renew our Water Supply Bank lease. We signed the two "original" Water Supply Bank Lease Contracts. Please find them enclosed. Once IDWR executes its portion of the Contract, please send us a copy of the fully executed contract. Thank you for your assistance in the matter.

Sincerely,

Roberta Stewart
Avimor Planned Community
RobertaS@avimor.com
(208) 939-0343 ext. 209



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

February 11, 2014

FIRST AMERICAN TITLE CO TRUST NO8562
FOR BENEFIT OF AVIMOR PARTNERS LLC
18454 N MCLEOD AVE
BOISE ID 83714

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 63-5387 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 287-4910.

Sincerely,

Clay Webster
Technical Records Specialist

Enclosure: Proposed Lease Contracts
Receipt # C098169

MEMORANDUM

To: Water Right No(s). 63-5387

From: Clay Webster

Date: February 11, 2014

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

PURPOSE/NARRATIVE: This lease extension request was received by the department on January 13, 2014.

AUTHORITY TO FILE: This application was signed by Dan Richter General Manager authorization from First American Title Co was attached to the original Lease Application received by the department July 15, 2008.

WATER RIGHT VALIDITY: This water right was decreed in the SRBA in March 2007. It has been leased to the Water Supply Bank since July 2008. Forfeiture is not an issue.

INJURY TO OTHER WATER RIGHTS: Satellite imagery was viewed in Arc Map for these rights. There was no conclusive evidence that the water is being used under these 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 is subject to Water District # 63. Water master was not opposed to this approval.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

RECEIVED
FEB 11 2014
DEPARTMENT OF
WATER RESOURCES

WSB Lease Application Water Right No: 63-5387

Applicant's Name: First American Title Insurance Co. Trust No. 8562 for Benefit of Avimor Partners LLC

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 10 day of Feb, 20 14

Water District No. 63



Watermaster's signature



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

February 7, 2014

REX BARRIE
PO BOX 767
STAR ID 83669

RE: Water Supply Bank Lease Applications Water Right No(s). 63-5387

Dear Watermaster:

The Idaho Department of Water Resources received a request to extend lease term for this right to the Water Supply Bank from First American Title Insurance Co. Trust No. 8562 for Benefit of Avimor Partners LLC. They have requested this right in their entirety to be leased to the Bank until December 31, 2018.

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, IDWR 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,

Clay Webster
Technical Records Specialist

Enclosure

Webster, Clay

From: Webster, Clay
Sent: Friday, February 07, 2014 7:39 AM
To: Lester, Steve
Subject: RE: Processing WSB Lease Extension for 63-5387

Steve,

Thanks for the info, data entry will be done once every thing's final.

Clay

From: Lester, Steve
Sent: Thursday, February 06, 2014 4:26 PM
To: Webster, Clay
Subject: RE: Processing WSB Lease Extension for 63-5387

Hi Clay:

Avimor did have a controversial water right application history for ground water but problems now resolved.

63-5387 for Willow Creek source did have SRBA objection but now resolved.

No known complaints/problems at this time so no red flags. I assume approved extension will result in data entry update for proof reports purposes (status & WSB fields). Right now shows active status & n/a for wsb field.

Steve

From: Webster, Clay
Sent: Thursday, February 06, 2014 3:10 PM
To: Lester, Steve
Subject: Processing WSB Lease Extension for 63-5387

Good afternoon Steve,

I am processing a lease extension for this right. Do you have any concerns or comments?

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

W-9 received CS
1/13/14

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: 63- 5387 Telephone No: (208) 939- 0343 ext. 209

Name(s) of Lessor(s): First American Title Insurance Co, Trust No. 8562 for
benefit of Avimor Partners, LLC

Mailing Address: 18454 N. McLeod Wy

City: Boise State: ID Zip: 83714

Current Expiration Date: December 31, 2013

Requested Expiration Date: December 31, 2018 or preferably "indefinite"
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.

[Signature]
Signature of Lessor

Dan Richter, General Manager 1/8/2014
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: CS Date: 01/13/14 Receipt No: C098169

State of Idaho
Department of Water Resources

Water Right 63-5387

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.

