

# WATER SUPPLY BANK LEASE CONTRACT

RECEIVED  
FEB 10 2014  
DEPARTMENT OF  
WATER RESOURCES

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

**Lessor:** IDAHO ACRES DAIRY  
897 N 700 E  
RUPERT ID 83350  
(208) 431-5093

## 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> |
|---------------------------------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 36-8412                                                 | 0.02 CFS          | 9.8 AF              | NA                | 6.0 AC                    |
| <b>Combined Lease Totals: 0.02 CFS 9.8 AF NA 6.0 AC</b> |                   |                     |                   |                           |

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

Authorized Period of Use under Lease: March 15 to November 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.

**IDAHO ACRES DAIRY**

897 N 700 E  
RUPERT ID 83350

By 

Printed Name Craig D. Hepworth

Date 2/6/2014

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 2/10/2014

Lease approved by IDWR 

Date 2/10/2014

Attachment A

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. 130.
13. The ground water supplied to the acres leased to the Water Supply Bank is supplemental to A & B Irrigation District Unit B rights.
14. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
15. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
16. This leased portion of right 36-8412 when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 24.0 af at the field headgate for the lands above.

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

W-9 received  
1/13/14 CS  
**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](http://www.idwr.idaho.gov).

Water Right No: 36-8412 Telephone No: 208-431-5093  
Name(s) of Lessor(s): Idaho Acres Dairy  
Mailing Address: 897 N. 700 E.  
City: Rupert State: Idaho Zip: 83350  
Current Expiration Date: Dec. 31, 2013  
Requested Expiration Date: Dec. 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.

Craig D. Hayward  
Signature of Lessor

Craig D. Hayward - Partner  
Printed Name and Title\*

1/10/2014  
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: C098170



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Imagery Date: 8/3/2013 42°44'15.50" N 113°32'16.02" W elev 4249 ft eye alt 101

Google



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

February 10, 2014

IDAHO ACRES DAIRY  
897 N 700 E  
RUPERT ID 83350

### RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 36-8412

Dear Lessor:

Water Right **36-8412** was 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](http://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: Allen Merritt- IDWR Southern Regional Manager  
Cindy Yenter- Water Master District #130

State of Idaho  
Department of Water Resources

**RECOMMENDATION OF WATERMASTER**

Application No: Water Supply Bank Lease  
Water Right No: 36-8412  
Applicant Name: Idaho Acres Dairy

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comment:

**Dated: February 7, 2014**

**Water District 130**

*submitted electronically*  
**Cindy J Yenter, Watermaster**



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

February 3, 2014

IDAHO ACRES DAIRY  
897 N 700 E  
RUPERT ID 83350

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 36-8412 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 #C098170

## MEMORANDUM

**To:** Water Right No(s). 36-8412  
**From:** Clay Webster  
**Date:** January 31, 2014  
**Re:** Review of Applications to Lease Water Rights to the State Water Supply Bank

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**GENERAL:** This lease is for 1.5 acres in the corners of a pivot. The right has some acres between the corners and the irrigated acres for this pivot in the National Resource Conservation Service's Agricultural Water Enhancement Program. See page three of AWEPP planning Review Memo in the WR file. Arc Map imagery indicates that these corners have not been watered since leased.

This right is one of the rights mentioned on the Notice of Potential Curtailment of Ground Water Rights in the ESPA that went out on January 28, 2014 and should be a consideration in any rental of the right in 2014.

**PURPOSE/NARRATIVE:** The department received the Water Supply Bank Request to Extend Lease Term on January 13, 2014. Lease review of Right 36-8412 found the rate and volume associated with 6 acres under this right should be more than originally leased. The renewal contract has been adjusted to reflect the changes.

**AUTHORITY TO FILE:** This application was signed by Craig D. Hepworth the water right is listed as Idaho Acres Dairy C/O Craig Hepworth

**WATER RIGHT VALIDITY:** This Water right was licensed in March 2002. The Acres had been in the Magic Valley Ground Water District's mitigation plan from 2004 to 2008. It has been in the Water Supply Bank since November 2008. Forfeiture is not an issue.

**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. This water right has combined right limits with Rights 36-2512 and 36-11110. 208 acres under Right 36-8412 do not overlap the other groundwater rights, but supplement A & B Irrigation District water. Renter must have A & B Irrigation District's Unit B rights also.

**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 #130.