

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED
FEB 03 2014
DEPARTMENT OF
WATER RESOURCES

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

Lessor: KBC FARMS LLC
3062 S FRONTAGE RD
AMERICAN FALLS ID 83211
(208) 226-9940

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>
35-14040	0.47 CFS	190.0 AF	NA	47.5 AC
Combined Lease Totals:	0.47 CFS	190.0 AF	NA	47.5 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: April 1 to November 1

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, 2014.
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.

KBC FARMS

3062 S FRONTAGE RD
AMERICAN FALLS ID 83211

By Klaren Koopman
Printed Name Klaren Koopman

Date Jan 29-2014
Title manag. partner

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 2/3/2014

Lease approved by IDWR Cherie Palmer

Date 2/3/2014

ATTACHMENT A
WATER RIGHT NO. 35-14040
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: KBC FARMS
3062 S FRONTAGE RD
AMERICAN FALLS ID 83211
(208) 226-9940

Priority Date: 10/16/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to	11/01	0.47 CFS	190.0 AF
	Total:		0.47 CFS	190.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW¼SE¼ Sec. 12 Twp 01S Rge 32E BINGHAM 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	
01S	32E	12			0.9			4.0	4.9	0.1	23.0		1.0	13.6					47.5

Total Acres: 47.5

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.



RECEIVED

DEC 23 2013

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

WATER SUPPLY BANK
REQUEST TO EXTEND LEASE TERM

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: 35-14040 Telephone No: 208-226-9940

Name(s) of Lessor(s): KBC Farms LLC

Mailing Address: 3062 Frontage Road

City: American Falls State: Idaho Zip: 83211

Current Expiration Date: 12/31/2013

Requested Expiration Date: 12/31/2014
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] Karen Keomphak Dec 18-2013
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: HP Date: 12-23-13 Receipt No: 0098099



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 4, 2014

KBC FARMS
3062 S FRONTAGE RD
AMERICAN FALLS ID 83211

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 35-14040

Dear Lessor:

Water Rights 35-14040 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, 2014**, 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.

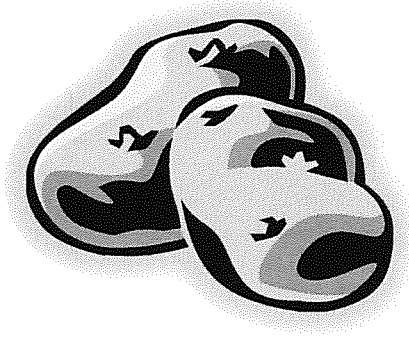
Sincerely,


for Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Brockway Engineering PLLC
James Cefalo- IDWR Eastern Region

Koompin Farms
KBC Farms, LLC
3010 McKinley St.
American Falls, ID 83211
Ph. 208-226-9940
Fax 208-226-2080



Memorandum

RECEIVED
FEB 03 2014
DEPARTMENT OF
WATER RESOURCES

To: IDWR

From: Amanda Givens for KBC Farms, LLC

Date: January 29, 2014

RE: Water Right #35-14040 Lease

Enclosed are two signed copies of the *Water Supply Bank Lease Contract* for water right 35-14040.

If you have any questions please call Amanda at (208) 226-9940.

Thank You.



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

January 22, 2014

KBC FARMS
3062 S FRONTAGE RD
AMERICAN FALLS ID 83211

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 35-14040 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 right will automatically be released from the Bank on **December 31, 2014**, unless the right is 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 right 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."

The Department also received a Water Supply Bank Request to Extend Lease Term of water right 35-13991. Water right 35-13991 is a split from 35-2426 which was leased to the Bank for an "indefinite" period and any splits of this water right have the same lease period. We are returning your application as "unprocessed". Brockway Engineering, PLLC, will receive a refund from the Department under separate cover from the State Controller's Office.

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: Proposed Lease Contracts
Water Supply Bank Request to Extend Lease Term for Water Right 35-13991

c: Brockway Engineering PLLC

MEMORANDUM

TO: Sascha Marston
FROM: Jean Hersley
DATE: January 22, 2014
RE: Refund: Water Supply Bank

Please refund \$250. A lease extension was submitted on a water right that has an “indefinite” lease period.

NAME: Brockway Engineering PLLC
ADDRESS: 2016 N Washington St Ste 4
Twin Falls ID 83301

RECEIPT #:C098099

Thank you.

Jean

MEMORANDUM

To: Water Right No(s). 35-14040

From: Jean Hersley

Date: January 16, 2014

Re: Review of Application to Lease Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: On December 23, 2013, the Department received a Water Supply Bank Request for an Extension of Lease Term until the end of 2014.

AUTHORITY TO FILE: The application was signed Klaren Kooppin, Manager of KBC Farms. Verified on the Secretary of State website.

WATER RIGHT VALIDITY: This water right has been in the Bank since 2008. A review of aerial imagery indicates irrigation has not occurred.

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.

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.
Contacted James Cefalo 1/16/2014. Reply attached, no objections.

Hersley, Jean

From: Cefalo, James
Sent: Thursday, January 16, 2014 12:17 PM
To: Hersley, Jean
Subject: RE: WSB Lease Extension 35-14040

I am not opposed to an extension of the WSB lease for the KBC rights.

From: Hersley, Jean
Sent: Thursday, January 16, 2014 11:04 AM
To: Cefalo, James
Subject: WSB Lease Extension 35-14040

KBC Farms is requesting to extend their lease to the end of 2014. I am seeking comments or concerns from you as Watermaster of Water District 120.

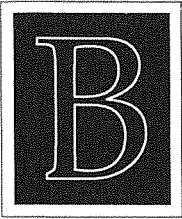
The entire right has been leased to the Bank since 2010. If I don't not hear from you within 14 days, I will assume you have no comments or concerns and will continue processing their request. Thank you.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

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DEC 23 2013

DEPARTMENT OF
WATER RESOURCES



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

December 19, 2013

Pam Skaggs
Idaho Department of Water Resources
Idaho Water Supply Bank
P.O. Box 83720
Boise, ID 83720-0098

Re: KBC Farms LLC

Dear Mrs. Skaggs:

KBC Farms desires to extend the lease of water rights 35-14040 and 35-13991 until 12/31/2014. Please see attached request to extend lease documents.

Sincerely,

Greg Sullivan, M.S.

Cc: KBC Farms

Enc: Water Supply Bank Request to Extend Lease Term, Brockway Engineering Check
#11774 for \$500.00

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
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