



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 8, 2014

JAY BROWN
6379 SW DIVISION
MOUNTAIN HOME ID 83647

RE: Water Rights 61-2188 and 61-7151 Water Supply Bank Lease

*****IMPORTANT: A RESPONSE IS REQUIRED FROM YOU WITHIN 30 DAYS*****

Dear Mr. Brown:

On March 16, 2012, the Department of Water Resources (Department) sent you a letter requiring that you submit a map outlining the acres that remain leased to the water supply bank (copy enclosed). To date we have not received a response.

At this time we still require a response from you. In case you don't remember the details of your lease agreement I will provide a quick history of your water supply bank lease.

On August 28, 2003, you applied to lease 93 acres of water right 61-2188 and 70 acres of 61-7151 into the water supply bank. Water rights 61-2188 and 61-7151 were appurtenant to 287 acres within a 320 acre permissible place of use at the time of your application approval. Pursuant to your lease agreement 163 acres under your 320 acre permissible place of use were to be idled leaving 124 acres available for farming.

Since the approval of your lease agreement, it appears that portions of the 320 acre permissible place of use had been sold to two separate parties. In addition satellite imagery clearly indicates that nearly 100 acres have been irrigated on the land still owned by you. Consequently it has been difficult to decipher which acres still remain under the lease agreement.

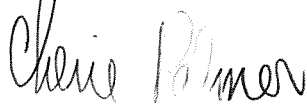
Please outline the acres that were meant to be dried up under your lease agreement. I have enclosed a map for your use. I have also enclosed a copy of your lease agreement for your reference. Pay close attention to Condition No. 3 of your agreement that states "the owner of the right may not use the right without approval of the department" while the right is leased to the bank.

If the Department does not receive a response from you within 30 days, the lease under right 61-2188 and 61-7151 will be removed from the water supply bank and your water rights will no longer be protected from forfeiture.

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Jay Brown
January 8, 2014

You may contact me at (208) 287-4944 if you have any questions regarding this matter or you may contact my supervisor, Pam Skaggs.

Sincerely,

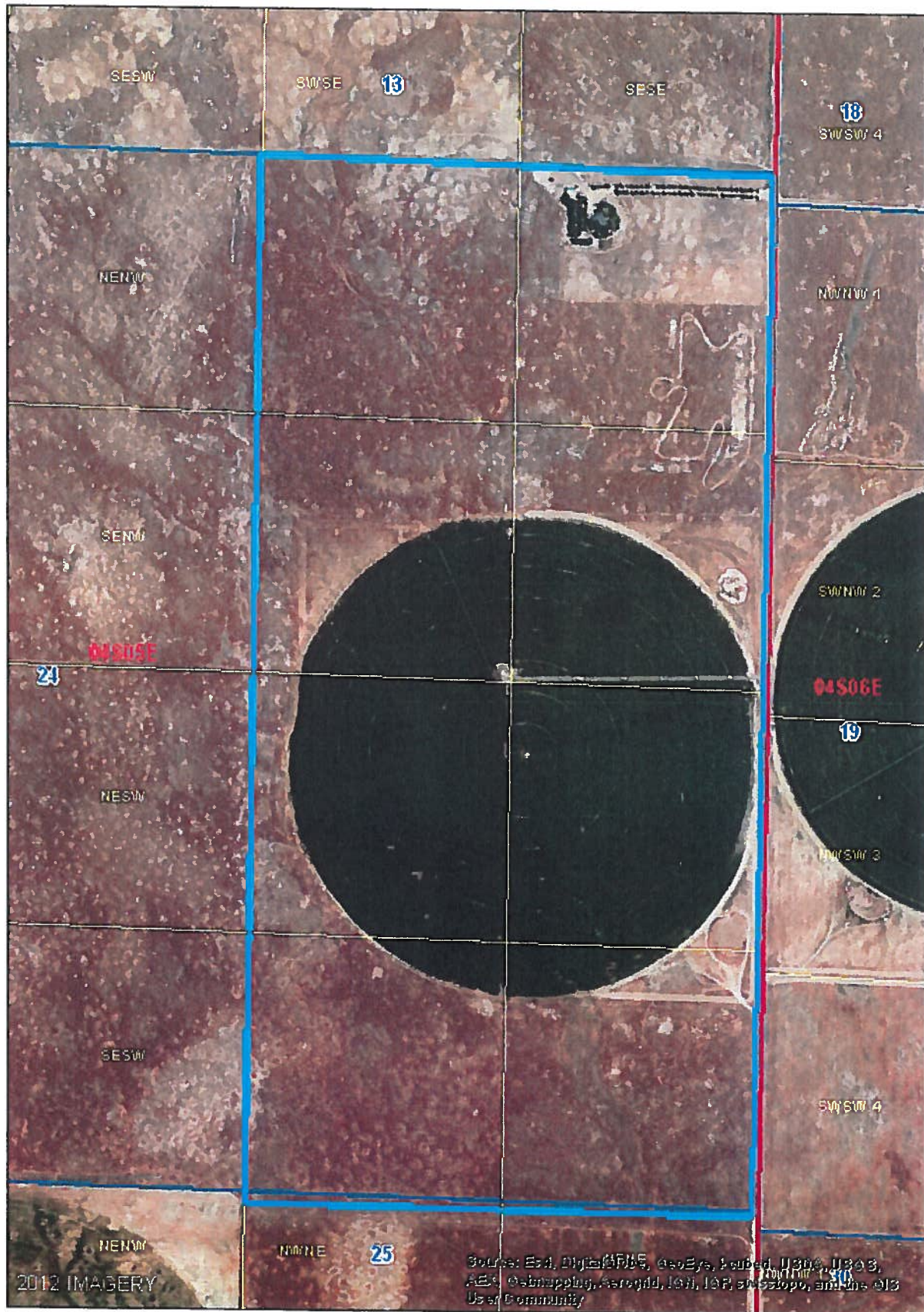
A handwritten signature in black ink that reads "Cherie Palmer". The signature is written in a cursive, flowing style.

Cherie Palmer
Water Supply Bank-Point of Contact
Water Allocation Bureau

Enclosures

c: Steve Lester- Western Regional Office
Augusta Sayoko D Mimoto Greenheart
Daniel D Lindstrom
CITY OF MOUNTAIN HOME
MICHAEL CREAMER-GIVENS PURSLEY LLP

ACRES ORIGINALLY UNDER WATER SUPPLY BANK LEASE AGREEMENT DATED 7/20/2003



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK LEASE ACCEPTANCE

This is to certify that: JAY BROWN
8445 WEST 54 SOUTH
MOUNTAIN HOME ID 83647
(208) 590-1744

has requested to lease the water right(s) listed below to the Water Supply Bank ("bank"). The Idaho Water Resource Board ("Board") being authorized to operate a bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director", department") the acquisition of water rights for the Board's bank, agrees to lease the water right to the bank as follows:

Summary of Water Rights or Portions Leased to the Bank

	<u>Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Total Leased Acres</u>
	61-2188	1.86 cfs	415.2 af	93.0 ac
COMBINED	61-7151	0.80 cfs	279.4 af	70.0 ac
LEASE TOTALS		1.86 cfs	694.6 af	163.0 ac

TERM OF LEASE:

Lease Begin Date: August 28, 2003

Expiration Date: Indefinite

RENTAL AVAILABILITY:

Season of Use: 61-2188 03/15 to 11/15
61-7151 04/01 to 10/31

MINIMUM PAYMENT ACCEPTABLE:

Current Rental Rate

Detailed Lease Acceptance attached

Dated this 20th day of July, 2006



Chief, Water Allocation Bureau

**WATER RIGHT NO. 61-2188
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: JAY BROWN
8445 WEST 54 SOUTH
MOUNTAIN HOME ID 83647
(208) 590-1744

Priority Date: 02/17/1966

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	1.86 CFS	415.2 AF
	Total: 1.86 CFS			415.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWNE Sec 24 Twp 04S Rge 05E ELMORE 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	
04S	05E	24	40.0	40.0	40.0	40.0									40.0	40.0	40.0	40.0	320.0

Total Acres: 320

Acre Limit within Place of Use described: 93

COMBINED LIMITS OF LEASED RIGHTS:

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
61-2188, 61-7151	1.86 CFS	694.6 AF	163 AC

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

**WATER RIGHT NO. 61-2188
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

- 3 While a right is in the bank, the owner of the right 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 Section 42-351, Idaho Code, for illegal diversion and use of water, and may include civil penalties pursuant to Section 42-1701B, Idaho Code
- 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
- 5 While a water right is in the bank, forfeiture provisions are stayed.
- 6 Use of rights 61-2188 and 61-7151 are limited when combined to one or more of the following in accordance with the conditions of approval on the water rights: total combined diversion rate, annual diversion volume, and total acres authorized for irrigation.
- 7 Rental of water under this right is subject to the limitations and conditions of approval of the water right
- 8 Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
- 9 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
- 10 In accordance with Sections 42-248 and 42-1409(6), Idaho Code, 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
- 11 Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance

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

Dated this 20th day of July, 2006


Chief, Water Allocation Bureau

**WATER RIGHT NO. 61-7151
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: JAY BROWN
8445 WEST 54 SOUTH
MOUNTAIN HOME ID 83647
(208) 590-1744

Priority Date: 04/09/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.8 CFS	279.4 AF
	Total: 0.8 CFS			279.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SWNE Sec 24 Twp 04S Rge 05E ELMORE 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	
04S	05E	24	40.0	40.0	40.0	40.0									40.0	40.0	40.0	40.0	320.0

Total Acres: 320

Acre Limit within Place of Use described: 70

COMBINED LIMITS OF LEASED RIGHTS:

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
61-2188, 61-7151	1.86 CFS	694.6 AF	163 AC

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.

**WATER RIGHT NO. 61-7151
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

- 3 While a right is in the bank, the owner of the right 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 Section 42-351, Idaho Code, for illegal diversion and use of water, and may include civil penalties pursuant to Section 42-1701B, Idaho Code
- 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
- 5 While a water right is in the bank, forfeiture provisions are stayed
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- 9 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
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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

Dated this 20th day of July, 2006



Chief, Water Allocation Bureau