

Water Supply Bank No. _____
(For Department Use Only)

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 02 2012

DEPARTMENT OF
WATER RESOURCES

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

Name of Renter Midnight Sun Inc. VIII Phone 208-466-0419

Mailing address 1314 12th Ave. S., Suite 5, Nampa, ID. 83651 Email charles.bryan@ubs.com

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs)	Maximum Volume (ac-ft)	Nature of Use	Period of Use
<u>WD# 2-7157C</u> 7.37	1660	Irrigation	03-15 to 11-15
<u>2-706Z</u> 2.36	590	Irrigation	03-15 to 11-15
Total: 9.73	2250.5		

2. Source of water Snake River tributary to Columbia

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
06S	08E	4	8				Owyhee

4. Lands to be irrigated or 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	
06S	08E	4										40	40	40			40		160
		5						44	40	40	40	40	40	40	40	40	40	40	444
		6	44			40													84
		7	40		40						40			40	40	40	40	40	320
		8	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		9	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640

If the use is for irrigation, show total number of acres proposed through rental. Total Acres _____

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☒ No ☐

If no, list owner, contact information, and provide documentation of the authority to use the proposed point of diversion. _____

2. Do you own the land at the proposed place of use? Yes ☒ No ☐

If no, list owner, contact information, and provide documentation of the authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

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STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

Name of Renter Midnight Sun Inc. VIII *(Page 2)* Phone _____

Mailing address _____ Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) _____ Maximum Volume (ac-ft) _____ Nature of Use _____ Period of Use _____
 _____ to _____
 _____ to _____
 _____ to _____
 Total: _____

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

4. Lands to be irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06s	08E	10							40		40	40	40	40		40	40		280
		15					40	40	40	40	40	40	40	40					320
		16	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		17	40	40	40	40	40	40		40	40	40	40	40	40	40	40	40	600

If the use is for irrigation, show total number of acres proposed through rental. Total Acres 4128

Total Irrigated yr. 1283.68

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☒ No ☐

If no, list owner, contact information, and provide documentation of the authority to use the proposed point of diversion. _____

2. Do you own the land at the proposed place of use? Yes ☒ No ☐

If no, list owner, contact information, and provide documentation of the authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

D. GENERAL INFORMATION

1. Please provide a description of the proposed diversion system. _____

2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.
2-2260, 2-7019B, 2-7029D, 2-7022B, 2-7023B, 2-70102B, 2-10053
Combined Acreage Limit 800 acres
3. Will the proposed place of use receive water from any other source? Yes ☐ No ☒
If yes, describe. _____

4. If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of water required. Attach additional sheets if needed. _____

5. Are there any other applications pending before the Department, such as an application for permit or transfer, for the same use(s) proposed by this rental? Yes ☐ No ☒
If yes, describe. _____

6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation? Yes ☐ No ☒
If yes, describe. _____

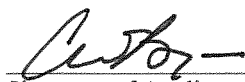
E. RENTAL TERM

1. Do you wish to rent water from the Board's bank for more than one (1) year? Yes ☒ No ☐
If yes, please specify the number of years desired through proposed rental. 5

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

If this application is approved, the applicant agrees to the following:

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. Renter shall comply with all applicable state and federal laws while using water under this agreement.
3. Renter shall hold the Board, the Director, and the state of Idaho harmless from all liability on account of negligent acts of the renter.
4. The Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
5. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
6. Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director.



Signature of Applicant

CHARLES W. BRYAN, V.P.

Printed Name and Title*

2/2/12

Date

Signature of Applicant

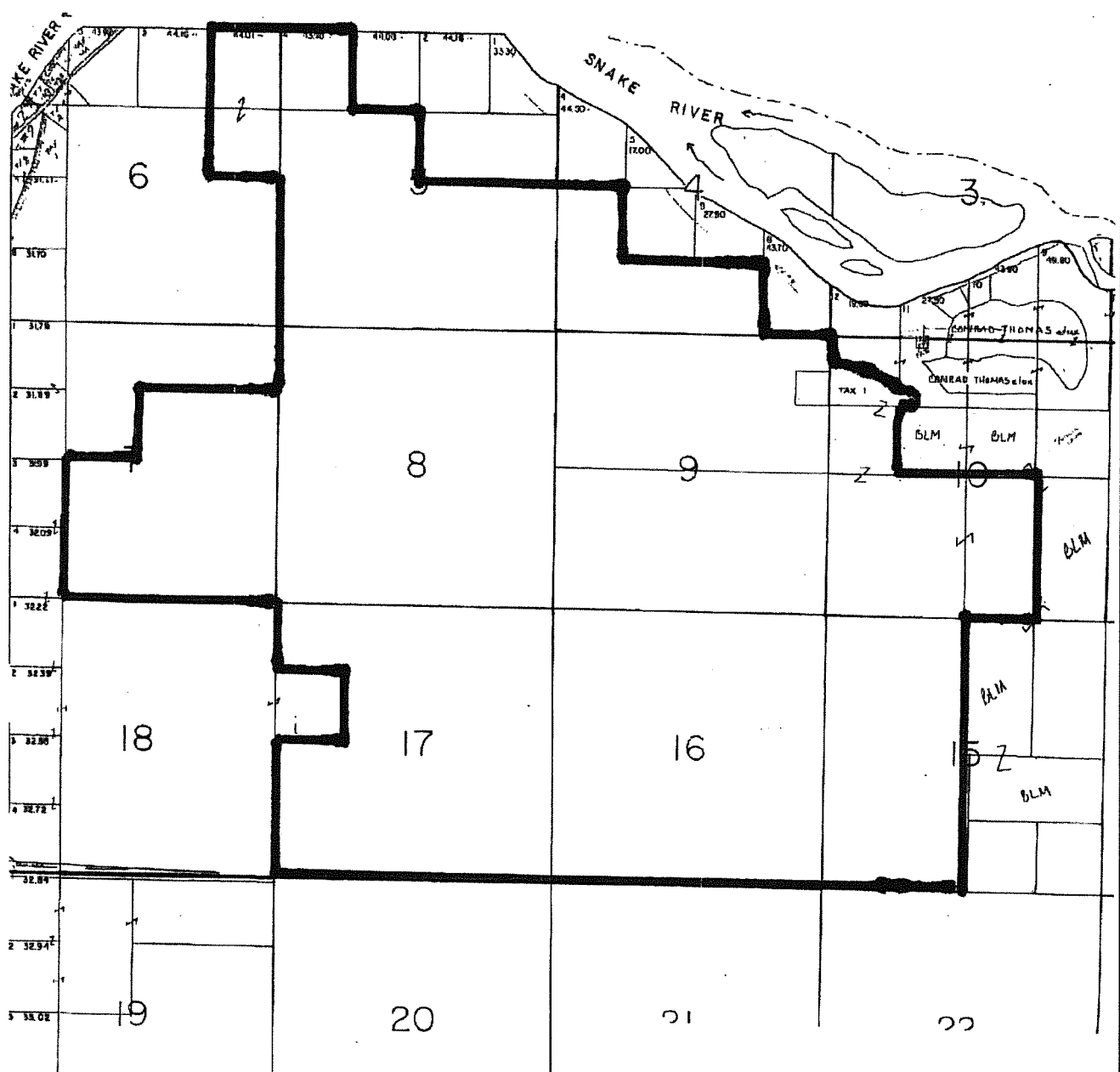
Printed Name and Title*

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

County Plat



6S 8E

THIS SKETCH IS MADE SOLELY TO ASSIST IN
LOCATING THE PROPERTY. THE COMPANY
ASSUMES NO LIABILITY FOR VARIATION IF
ANY WITH ACTUAL SURVEY.

WATER RENTAL AGREEMENT

THIS AGREEMENT is made and entered into this 2nd day of February, 2012 by and between JOHN TERRY FIELD and LESLIE A. FIELD, husband and wife, hereinafter collectively "Lessor," and MIDNIGHT SUN, INC. VIII, a Delaware corporation qualified to conduct business in the State of Idaho, hereinafter "Lessee."

WITNESSTH:

WHEREAS, Lessor owns natural flow water rights 02-07157C and 02-07062 from the Snake River in Owyhee County, Idaho; appurtenant to certain lands for irrigation; and

WHEREAS, Lessor proposes a private lease of 1,660 acre feet of the water authorized for diversion under water right 02-07157C and 407 acre feet of the water authorized for diversion under water right 02-07062 through the Water Supply Bank of the Idaho Water Resource Board ("IWRB") for 2012, 2013, 2014, 2015, and 2016; and

WHEREAS, the parties wish to reduce their Agreement to writing;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. LEASE OF WATER. Lessor agrees to lease, and Lessee agrees to rent from Lessor 1,660 acre feet of the water authorized for diversion under water right 02-07157C and 407 acre feet of the water authorized for diversion under water right 02-07062 from the Snake River in Owyhee County, Idaho, presently decreed appurtenant to certain lands for irrigation purposes, the yield of said water rights to be beneficially used by Lessee for whatever purposes and at whatever places of use proposed by Lessee, all as approved through the Water Supply Bank of the IWRB and the Idaho Department of Water Resources ("IDWR"). Lessor

hereby agrees to prepare and submit a lease application to the Water Supply Bank, and Lessee hereby agrees to prepare and submit a rental application to the Water Supply Bank, to effectuate this transaction. To the extent either application is denied, or is approved with conditions that are unacceptable to either party, this Agreement shall be null and void.

2. TERM. This Agreement shall be for a five (5) year term beginning on January 1, 2012, and shall remain in full force and effect until December 31, 2016.

3. RENEWAL. This Agreement may be renewed for additional five (5) year terms, *and afterwards may be renegotiated on an annual basis.*

Renewal shall occur in accordance with the following procedures: (1) Lessee provides Lessor written Notice of Intent to Renew at least sixty (60) days before completion of the final year of the then existing five (5) year term; (2) Lessor provides Lessee written Notice of Acceptance of Renewal at least thirty (30) days before completion of the final year of the then existing five (5) year term; (3) this Agreement shall be renewed for an additional five (5) year term if the actions described in both subsections (1) and (2) hereof have occurred in accordance with their terms.

4. PROCEDURE. Lessor and Lessee shall submit their lease and rental applications to the Water Supply Bank requesting the issuance of the lease and the rental agreements. If approved by IDWR, the agreements shall be signed by the respective parties and shall be timely returned to IDWR, with the Lessee submitting payment with the signed rental agreement, payable to the Water Supply Bank. The parties understand the Water Supply Bank will then deduct its ten percent (10%) administrative fee, and will remit payment to the Lessor for the remaining ninety percent (90%) at the end of the year for which the payment is made.

5. RENTAL. The annual rental rate shall be Fourteen Dollars (\$14.00) per acre foot of water ~~actually~~ rented each year this Agreement is in effect, less the applicable ten percent (10%) administrative fee payable to the IDWR/IWRB as above set out. Payments shall be made

in accordance with the Water Supply Bank Rules. After the 2012 rental term, the annual rental rate shall be the rate recommended by the Water Supply Bank for each rental year. The annual rental rate has been agreed upon without regard to the market value of the fee ownership of water rights 02-07157C and 02-07062 and may or may not be commensurate therewith.

6. NO GUARANTEE ON YIELD. Lessor makes no guarantee as to the yield of the water rights or as to preferred points of diversion, places of use, or purposes of use as may be proposed by the Lessee, it being acknowledged that such changes require the consent of IWRB and IDWR.

7. NON-DEDICATION OF WATER. In accordance with the provisions of Idaho Code Section 42-1764, the rental and distribution of water under this Agreement shall not constitute a dedication of the water to the uses of Lessee. In addition, nothing in this Agreement shall be deemed to grant a right to Lessee to receive water from Lessor on any basis other than as herein provided in this private lease.

8. NOTICES. All notices, demands, or other writings in this Agreement provided to be given or made or sent, or which may be given or made or sent, by any party to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

To Midnight Sun, Inc. VIII:

Midnight Sun, Inc. VIII
% UBS AgriVest LLC
P.O. Box 53
Nampa, ID 83753

Prior to March 1, 2012:

Midnight Sun, Inc. VIII
% UBS AgriVest LLC
Attention: General Counsel and James McCandless
242 Trumbull Street, 4th Floor
Hartford, Connecticut 06103

From March 1, 2012 and thereafter:

Midnight Sun, Inc. VIII
c/o UBS AgriVest LLC
Attention: General Counsel and James McCandless
Ten State House Square-15th Floor
Hartford, Connecticut 06103

To John Terry Field and Leslie A Field:

John Terry Field
Leslie A. Field
[address]
[city, state, zip]

The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given by the party as above provided.

9. RIGHT OF FIRST REFUSAL/OPTION TO PURCHASE. Lessor grants Lessee

portion rented of
the right of first refusal and the option to purchase water right(s) 02-07157C, ~~02-07061~~, *and that*
~~and 02-07062~~ in accordance with the following procedures: (1) Lessor shall provide Lessee with
written notice of Lessor's intent to sell the water right(s) at least sixty (60) days before executing
any agreement, contract, or other instrument that provides for the sale of the water right(s) to any
party other than Lessee; (2) Lessor's written notice shall specify the terms and conditions under
which Lessor would sell the water right(s) to Lessee; (3) Lessee may exercise its option to
purchase the water right(s) by providing to Lessor written notice of Lessee's exercise of its
option to purchase within forty-five (45) days of the date of receipt by Lessee of Lessor's written
notice of intent to sell the water right(s); (4) upon Lessee's completion of the procedures of
subsection (3) hereof, Lessor and Lessee shall negotiate an Agreement to Purchase Water
Right(s) that sets forth the details of the purchase and sale of the water right(s) between Lessor
and Lessee; (5) Lessor and Lessee shall complete the purchase and sale of the water right(s) in
accordance with the procedures of this section if both parties execute the Agreement to Purchase

*Cutp
2/2/12
JFF
RJ*

Water Right(s) described in subsection (4) hereof; and (6) Lessor shall not proceed with negotiations or enter into any agreements for sale of the water right(s) to any party other than Lessee while any of the procedures and actions described in subsections (1) through (5) are occurring.

10. TIME OF ESSENCE; MATERIALITY. The parties acknowledge and agree that time is of the essence, and that each provision hereof is made and declared to be a material, necessary and essential part of this Agreement.

11. EXECUTION AUTHORIZATION. The parties to this Agreement represent and warrant that they have the right and authority to execute this Agreement, and that any and all required authorizations have been duly obtained.

12. AGREEMENT MODIFICATION OR AMENDMENT. None of the parties to this Agreement or any other person or entity may orally or by conduct, modify, delete, vary or contradict the terms of this Agreement or this Section. This Agreement may be modified or amended only by a written agreement signed by each of the named parties to this Agreement.

13. AGREEMENT BINDING ON HEIRS, ETC. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective legal representatives, heirs, successors, and assigns.

14. GOVERNING LAW. This Agreement is entered into in the State of Idaho and shall be construed and interpreted in accordance with its laws.

15. NO PARTNERSHIP INTENDED. The parties acknowledge and agree that this Agreement shall not be deemed to be, nor intended to give rise to, a partnership, joint venture or any other relationship, except one of lessor/lessee.

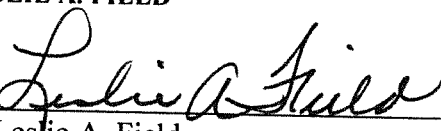
16. GENERAL. The invalidity or unenforceability of any provision herein, or any portion thereof, shall in no way affect the enforceability of the remaining provisions of this Agreement, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated.

LESSOR:

By: **JOHN TERRY FIELD**

By _____
John Terry Field

By: **LESLIE A. FIELD**

By _____
Leslie A. Field

LESSEE:

By: **MIDNIGHT SUN, INC. VIII**

By _____
Charles W. Bryan, Jr., Vice President

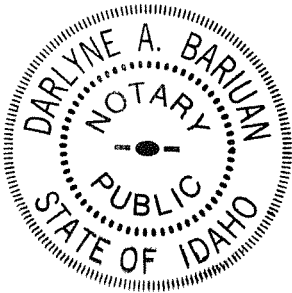
STATE OF IDAHO

County of Canyon

)
) ss.
)

On this 2d day of February, 2012, before me
Darlyne A. Barian, personally appeared JOHN TERRY FIELD, known or identified
to me (or proved to me on the oath of _____), to be the person
whose name is subscribed to the within instrument, and acknowledged to me that he executed the
same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.



Darlyne A. Barian
NOTARY PUBLIC FOR IDAHO
Residing at Nampa, ID
My Commission Expires 11-14-2014

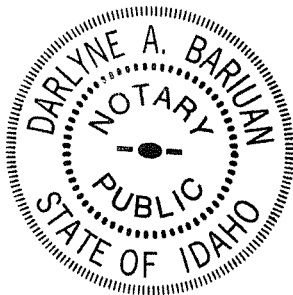
STATE OF IDAHO

County of Canyon

)
) ss.
)

On this 2d day of February, 2012, before me
Darlyne A. Barian, personally appeared LESLIE A. FIELD, known or identified to
me (or proved to me on the oath of _____), to be the person
whose name is subscribed to the within instrument, and acknowledged to me that she executed
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.



Darlyne A. Barian
NOTARY PUBLIC FOR IDAHO
Residing at Nampa, ID
My Commission Expires 11-14-2014

STATE OF IDAHO

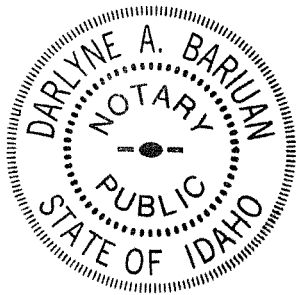
County of

Canyon

)
) ss.
)

On this 2d day of February, 2012, before me
Darlyne A. Barium, personally appeared **CHARLES W. BRYAN, JR.** known or
identified to me (or proved to me on the oath of _____) to be the
vice-president of **MIDNIGHT SUN, INC. VIII**, the corporation that executed the instrument or the
person who executed the instrument on behalf of said corporation, and acknowledged to me that
such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.



Darlyne A. Barium
NOTARY PUBLIC FOR IDAHO
Residing at Hamph, ID
My Commission Expires 11-1K 2014