

RECEIVED
DEC 08 2011
DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____
(for Department use only)

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

Name of Renter Owyhee Farming Company, LLC Phone _____

Mailing address PO Box 310 American Falls, Idaho 83211 Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) Maximum Volume (ac-ft) Nature of Use Period of Use
33.24 7169.4 Irrigation 3/01 to 11/15
 _____ to _____
 _____ to _____
 Total: 33.24 7169.4

2. Source of water Snake River tributary to Columbia River

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06S	08E	4			SE	SE	Owyhee

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	
Exhibit	A																		

If the use is for irrigation, show total number of acres proposed through rental. **Total Acres** 1662.2

B. OWNERSHIP

- Do you own the land at the proposed point of diversion?
 Yes _____ No X **If no**, list owner, contact information, and provide documentation of the authority to use the proposed point of diversion. See attached lease agreement
- Do you own the land at the proposed place of use?
 Yes _____ No X **If no**, list owner, contact information, and provide documentation of the authority to use the proposed place of use. See attached lease agreement

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. Existing pumps, pen stock, booster pumps existing main lines, new pivots and new main lines will be installed
2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above. 2-7019B, 2-1019D, 2-7022B, 2-7023B, 2-7102B, 2-2260
3. Will the proposed place of use receive water from any other source?
No _____ Yes X If yes, describe. 800.0 acres will be irrigated by 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B and 2-7102B.
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. N/A
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?
No X Yes _____ If yes, describe. _____
6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation?
No X Yes _____ If yes, describe. _____

E. RENTAL TERM

1. Do you wish to rent water from the Board's bank for more than one (1) year?

No _____ Yes X

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.

Anyhee Farming Company LLC by Tom Funk member
Signature of Applicant Printed Name and Title*

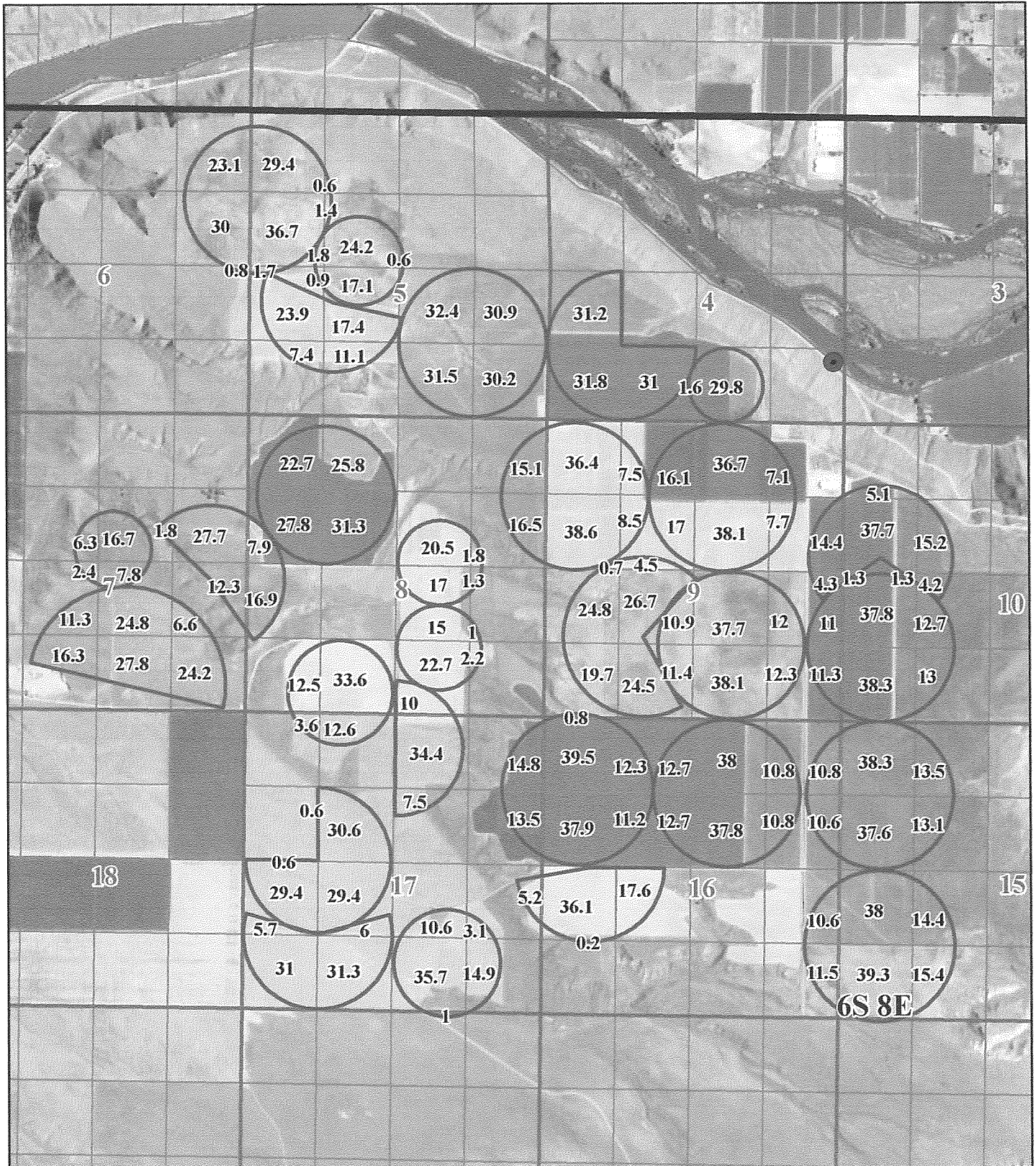
12-7-12
Date

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



**LANCE FUNK - OWHYEE PIVOTS RENTAL
RENTAL APPLICATION MAP
NAIP 2011 AERIAL**

0 0.25 0.5 1 Miles

Legend

 Pivots_Owyhee_Rented_wr



Exhibit A

Owhee Farming Company, LLC
Rental Analysis
Brockway Engineering
Greg Sullivan

Proposed Irrigation

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4					
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4		
65	8E	4																	125.4	
		5			0.6				0.6	29.7	38.5	25.6	34.5	26.5	7.4	11.1	30.9	32.4	31.5	299.5
		6	23.1			30											0.8			53.9
		7			18.5	27.7					6.3	13.7				16.3	18.9	32.6	27.8	186
		8	15.1		20.5	18.3	25.8	22.7	35.7	31.3		16.9	12.5	33.6	2.3	32	32.7	24.2	301.6	
		9	7.1	36.7	38.1	22.1	23.6	36.4	39.3	30	37.6	24.8	19.7	35.9	27.3	37.7	38.1	23.6	478	
		10					5.1	37.7	15.2	18.2	39.1	38.3	13						166.6	
		15					13.5	38.3	37.6	13.1	14.4	38	39.3	15.4					209.6	
		16	21.6	38	37.8	21.4	25	39.5	37.9	23.9	17.6	36.1	0.2		10.6				321.1	
		17	14.8	34.4	7.5	13.5	12.6	3.6	1.2	30.6	35.4	35.1	31	31.3	8.3	10.6	35.7	14.9	320.5	

Water Rights 2-2260, 2-7019B, 2-7022B, 2-7023B, 2-7102B

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
75	29E	4																	
		5																	0
		6																	0
		7																	0
		8																	0
		9	7.1	36.7	38.1	22.1	23.6	36.4	39.3	30	37.6	24.8	19.7	35.9	27.3	37.7	38.1	23.6	478
		10																	0
		15																	0
16	21.6	38	37.8	21.4	25	39.5	37.9	23.9	17.6	36.1	0.2		10.6			11.5	321.1		
17	0.9																0.9		

Water Bank Rental Acres

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4
75	29E	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		5	0	0	0.6	0	0.6	29.7	38.5	25.6	34.5	26.5	7.4	11.1	30.9	32.4	31.5	30.2
		6	23.1	0	0	30	0	0	0	0	0	0	0	0	0.8	0	0	53.9
		7	0	0	18.5	27.7	0	0	0	6.3	13.7	0	0	16.3	18.9	32.6	27.8	24.2
		8	15.1	0	20.5	18.3	25.8	22.7	35.7	31.3	0	16.9	12.5	33.6	2.3	32	32.7	2.2
		9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		10	0	0	0	0	0	5.1	37.7	15.2	18.2	39.1	38.3	13	0	0	0	166.6
		15	0	0	0	0	13.5	38.3	37.6	13.1	14.4	38	39.3	15.4	0	0	0	209.6
		16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		17	13.9	34.4	7.5	13.5	12.6	3.6	1.2	30.6	35.4	35.1	31	31.3	8.3	10.6	35.7	14.9
																		319.6

Acres to be Rented **1662.2**
Total 2462.2

FILED EFFECTIVE



CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

10 DEC 10 PM 2:43

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

Owyhee Farming Company, LLC

2. The complete street and mailing addresses of the initial designated/principal office:

2765 Fairgrounds Road, American Falls, ID, 83211

(Street Address)

P. O. Box 310, American Falls, ID, 83211

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

Richard F. Goodson

(Name)

877 Main Street, Suite 1000, Boise, ID, 83702

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name**Address**

Lance D. Funk

2765 Fairgrounds Road, American Falls, ID, 83211

5. Mailing address for future correspondence (annual report notices):

P. O. Box 310, American Falls, ID, 83211

6. Future effective date of filing (optional):

Signature of a manager, member or authorized person.

Signature Richard F. GoodsonTyped Name: Richard F. Goodson, Attorney for Co.

Signature _____

Typed Name: _____

Secretary of State use only

 IDAHO SECRETARY OF STATE
 12/10/2010 05:00
 CK: 123704 CT: 1177 BH: 1250465
 1 @ 100.00 = 100.00 ORGAN LLC # 2
 1 @ 20.00 = 20.00 EXPEDITE C # 3

W98608

LEASE AND SECURITY AGREEMENT

THIS LEASE AND SECURITY AGREEMENT, made this 4th day of November 2011 by and between **Midnight Sun, Inc. VIII**, hereinafter referred to as "Lessor", and **Owyhee Farming Company, LLC**, hereinafter referred to as "Lessee".

WITNESSETH:

1. **PROPERTY.** Lessor leases to Lessee the Property in Owyhee County, Idaho, described in Exhibit A attached hereto, together with all water rights and irrigation equipment and improvements located thereon, described in Exhibit B, hereinafter referred to as "Demised Premises". The Demised Premises may be used only for agricultural and related purposes. The Lessor reserves for itself all oil, gas, hydrocarbon, geothermal, mineral, recreational and hunting rights.
2. **TERM.** The term of this lease shall be for the period **commencing November 1, 2011**, and **expiring on October 31, 2013 (2 crop years)**, provided that Lessee shall have up to thirty (30) days after expiration to complete the harvest of any annual crops then growing on said Demised Premises.
3. Provided that Lessee is not in breach of this Lease, Lessee shall have the option to extend this Lease for an additional two year (2-year) term (the "Option Term") by giving Lessor written notice of Lessee's election to exercise such option at least ninety (90) days prior to the expiration of the initial term of this Lease. All of the terms and conditions of this Lease shall continue to apply during the Option Term; however, the annual rent shall be adjusted to reflect the fair market rent for such property for the Option Term. Following Lessee's exercise of the Option Term, the parties agree to meet and to negotiate in good faith in order to arrive at the fair market rent for the Option Terms. If the parties are unable to reach agreement as to such rent within thirty (30) days of the expiration of the initial term of this Lease, then all of Lessee's rights in connection with the option to extend this Lease for the Option Term shall terminate and shall be of no further force or effect.
4. **CASH RENT.**
 - 4.1. Lessee agrees to pay as annual rental the sum of [REDACTED] plus all sales taxes imposed upon the rental herein provided, payable as follows, to wit:

For the Lease Years ending 2012 & 2013:

(1) [REDACTED] due on or before December 1, 2011 &
(2) [REDACTED] due on or before December 1, 2012.
 - 4.2. Lessee agrees to submit a cropping plan for approval on or before April 1 showing the location, number of acres and crops to be planted during the term of the Lease on the Demised Premises. It is agreed that the crops and acreages listed on that plan will be planted unless an amended plan is submitted and approved by Lessor in writing prior to planting. Lessee also agrees to annually report the actual acres and yield of each crop harvested no later than December 1.
 - 4.3. Any amounts due and unpaid hereunder shall bear interest at the annual rate of 12%, or the highest rate permitted under Idaho law, whichever is less, from the date due until the date received by Lessor. All amounts paid in excess of the cash rents stated herein are deemed to be additional rent under the terms of this Lease. Such delay interest shall be payable along with the delinquent rental payment. Unless otherwise directed by Lessor all rental and other amounts due hereunder shall be payable to **Midnight Sun, Inc. VIII** and delivered to UBS AgriVest LLC, P.O. Box 53, Nampa, ID 83653.
5. **LESSOR SHALL:**
 - 5.1. Pay all state and county real estate taxes on the Demised Premises.

6. **LESSEE SHALL:**

- 6.1. Farm said Demised Premises and care for and cultivate said crops and land in a good and farmerlike manner, and in accordance with the best standards of Owyhee County, and keep said Demised Premises and the whole thereof, free and clear of weeds and noxious plants, and further, mow all roadsides, ditch banks, and fence rows between the dates of April 15 and November 1, and disk all set aside and fallow lands not planted to subject to FSA requirements.
- 6.2. Comply with and abide by all of the mandatory provisions and regulations of any acreage control or crop support program set forth by the United States Government, and maintain the base acreages on said Demised Premises at not less than the same number of base acres as existed at the inception of this Lease as established by the United States Government.
- 6.3. Use the Demised Premises solely for lawful purposes. Lessee shall, at all times in the use of the Demised Premises and in the performance of this Lease, comply with all laws, ordinances, decrees, orders, rules, and regulations, including but not limited to all environmental laws, statutes, rules, regulations, and ordinances, of any lawful authority, agency or governmental unit having jurisdiction over the Demised Premises.
- 6.4. If a Conservation Plan has been required on the Demised Premises, then a copy of such plan will be provided to the Lessor for Lessor's prior approval. Lessee agrees to strictly abide by the terms, requirements and conditions of the Conservation Plan approved by Lessor.
- 6.5. Comply with State Workmen's Compensation requirements on all employees.
- 6.6. Furnish at its own cost and expense, all finance, labor, tools, power, utilities, irrigation water, fuel, materials, supplies, machinery and equipment necessary or convenient in the farming of said Demised Premises, and in the production, harvest and sale of the crops grown thereon.
- 6.7. At all times during the term of this Lease and at Lessee's expense, Lessee will procure, maintain and keep in force general public liability insurance of not less than One Million Dollars (\$1,000,000.00) insuring against bodily injury, death, or property damage occurring on or about the Demised Premises as the result of the Lessee's occupancy and farming of the Demised Premises; and name the Lessor and UBS AgriVest LLC as additional insured and furnish Lessor with a copy of the endorsement and of all renewals and replacement policies.
- 6.8. Maintain federal crop insurance on all insurable crops grown and assign all rights under the insurance proceeds to Lessor in the case of a default under any of the terms and conditions of the Lease.
- 6.9. Pay all expenses and liabilities incurred in farming the Demised Premises and not allow any liens to attach to or be filed against said Demised Premises as a result of the Lessee's farming or operation thereof.
- 6.10. Lessee shall keep the improvements on the Demised Premises insured against physical loss by fire and such other coverages as are covered by the extended coverage endorsement (with Lessor named as an additional insured, and provide Lessor with a copy of the insurance policy covering the improvements).
- 6.11. Lessee shall be obligated to disk all the cropland on the Demised Premises at the termination of the lease.
- 6.12. Lessee will strictly follow label restrictions in the use of pesticides, herbicides, fertilizers and

finer, loss, damage or expenses, including attorney's fees, resulting from the Lessee's use, application, or storage of chemicals, pesticides, or herbicides on the Demised Premises.

- 6.14. No toxic or hazardous substances will be disposed of on the Demised Premises; however, all hazardous substances will be disposed of in a manner approved by applicable County, State and Federal Environmental Protection Agency regulations.
- 6.15. Lessee will not bury any tanks, equipment or substances of any type on the premises without the prior written consent of the Lessor.
- 6.16. Global Positioning. Any and all data obtained through global positioning on the property is jointly owned by Lessor and Lessee. Lessee agrees to provide to Lessor or Lessor's agent, a copy of any and all global positioning information they have on paper, computer disk(s), or other electronic media.
7. **SALE OF DEMISED PREMISES.** In the event that Lessor enters into a sale agreement with regard to all or any portion of the demised premises during the term of this lease, then Lessor shall give Lessee notice of the intended sale and the expected date of closing. In the event the sale closes, the lease shall expire at the end of the crop year during which the notice is first received, and possession of individual tracts shall revert to Lessor as harvest is substantially completed on each tract. Once Lessee receives such notice of intended sale, Lessee shall not perform any additional work in preparation of the succeeding crop year, such as seeding or fertilizing, without the specific, written permission of Lessor.
8. **CONDEMNATION.** In the event of the appropriation or condemnation by any competent authority, for a public or quasi-public use or purpose, of the entire Demised Premises, then and in that event, the term of this Lease shall cease and terminate from the date when the possession of the Demised Premises shall be required for such use or purpose. In the event of such an appropriation or of an appropriation of only part of the Demised Premises, there shall be no apportionment of the award, but the entire award shall go to the Lessor. The current rental shall, however, be prorated.
9. LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE DEMISED PREMISES, THE LOCATION OF ITS BOUNDARIES, OR AS TO THE FITNESS OR SUITABILITY OF THE DEMISED PREMISES FOR ANY USE WHICH LESSEE MAY INTEND TO MAKE THEREOF AND LESSEE ACCEPTS THE DEMISED PREMISES IN "AS IS" CONDITION.
10. **LESSOR'S ACCESS.** Lessor or persons designated by Lessor shall have access to said Demised Premises at all times for the purpose of inspecting the same and crops growing thereon.
11. **ASSIGNMENT AND SUBLETTING.** Lessee shall not, without first obtaining the written consent of the Lessor, assign this Lease, or any interest herein, or sublet all or any part of the Demised Premises. The Lessor may withhold its consent to the assignment of this Lease, and to any sublease, in its sole and absolute discretion. In the event of a permitted assignment or subletting, Lessee shall remain liable for the prompt payment of all rent required to be paid hereunder and for the performance of all of the terms, covenants and conditions herein undertaken by Lessee.
12. **WATER.** Lessee shall have the right to pump and use the underground flow of water and any Snake River water that may be available to the Demised Premises for use on the Demised Premises only. Neither party shall be liable for the failure or shortage thereof, nor for the failure of gas, electrical or other power or energy. The Lessee agrees to make reasonable use of the water available to said Demised Premises, and, except in emergencies, to prevent the waste of the same. The Lessor does not warranty the initial or continued accessibility or supply of the irrigation water or its suitability for any purpose.
13. **RE-ENTRY.** In the event Lessee neglects or abandons the crops growing on the Demised Premises or any fallow land or "set-aside" land, Lessor or persons designated by Lessor shall have the right

collection services. Lessee also shall pay all court costs and such additional fees as may be directed by the court.

15. **BINDING EFFECT.** This lease shall be binding upon and inure to the benefit of the parties hereto, their representatives, heirs, administrators, successors and assigns as herein limited. The obligations of the Lessee hereunder shall further be joint and several.
16. **LANDLORD AND TENANT RELATIONSHIP.** The relationship hereby created is that of landlord and tenant and no other. Nothing contained in this Lease shall create or be construed as creating a partnership, joint venture, or employment relationship between Lessor and Lessee. Neither Lessor nor Lessee shall be liable, except as otherwise expressly provided in this Lease, for any obligations or liabilities incurred by the other. Lessee expressly agrees to indemnify and hold Lessor and this property of Lessor, including said Demised Premises, free and harmless from any and all obligations and liabilities incurred by Lessee in conducting farming or other operations, whether conducted pursuant to this lease or otherwise, on said Demised Premises.
17. **LIABILITY.** It is further understood and agreed that Lessor shall not be liable for debts or liabilities contracted or incurred by Lessee, nor shall Lessee allow any labor, mechanic or material liens to attach to said Demised Premises and improvements. The Lessor shall not be liable for any accident to persons or properties which may occur on the Demised Premises during the term of this lease, and the Lessee hereby agrees to indemnify and save harmless the said Lessor from any and all such liability.
18. **MAINTENANCE OF EQUIPMENT AND IMPROVEMENTS.** It is hereby agreed that Lessee has inspected the equipment and all improvements located on said Demised Premises, including, but not limited to wells and pumping plants herein described, if any, prior to the signing of this lease and hereby acknowledges the condition of the same, and hereby accepts the same as such, as is, where is without warranty by Lessor. Lessee hereby agrees to at all times maintain the above ground portions of said equipment and improvements at its own expense; and, upon the termination of this lease to return the same to the Lessor in as good condition and repair as they now are, usual wear and tear and acts of God alone excepted. Lessee further agrees to accept full charge of said equipment and other improvements and agrees to meet with a representative of the Lessor and a third party for the inspection of said equipment and other improvements at the time possession is returned to said Lessor.
19. **IMPROVEMENTS, ALTERATIONS AND ADDITIONS.** The Lessee shall not make any improvements, alterations or additions to the Demised Premises without the Lessor's prior written consent. The Lessee agrees that any improvements, additions or alterations, made during the term of the Lease, shall become and remain the property of the Lessor.
20. **DEFAULT.** Lessee shall be in default under this Lease if (i) Lessee fails to pay, on or before the day such payment is due, any installment of rent or any other payment of money required by this Lease to be paid; or (ii) Lessee fails to keep or perform any covenant or condition, other than the payment of money, required to be kept or performed by the Lessee under this Lease and said failure continues for thirty (30) days after written notice thereof is given by Lessor, provided that Lessee shall not be in default if Lessee shall commence in good faith to remedy said failure within said thirty (30) day period and thereafter diligently pursues such remedy. Upon default, Lessor may reenter the Demised Premises or any part thereof, either with or without process of law, and expel or remove the Lessee or any person or persons occupying the Demised Premises. Lessor shall have the right upon such reentry to remove from the Demised Premises all or any of the personal property of Lessee's located therein and may place the same in storage in a public warehouse at the expense of Lessee. Lessor may exercise said right of reentry or taking possession of the Demised Premises with or without terminating this Lease. No such reentry or taking of possession of the Demised Premises by Lessor shall be construed as an election on its part to terminate this Lease unless written notice of such election is given by Lessor to Lessee or unless such termination is decreed by a Court of competent jurisdiction. Lessor may relet the Demised Premises, or any part thereof, upon reentry for all or any part of the remainder of the term of this Lease at such

21. **SECURITY INTEREST.**

21.1. As additional security for sums due or becoming due Lessor hereunder, including rents, interest on unpaid rents, and the performance of all other covenants of Lessees set forth herein, whether or not all or any part thereof are secured by any landlord's lien, Lessees hereby grants to Lessor a security interest in all crops planted, growing, grown, or harvested on the premises during the term of this Lease. Lessee shall execute and deliver to Lessor any additional documentation that is reasonably necessary to perfect the Lessor's security interest, including UCC-1 Financing Statements. The security interest hereby granted shall survive the termination of this Lease if any of the Lease obligations secured thereby remain unsatisfied after such termination. Said lien shall secure:

21.1.1. The full and prompt payment by Lessee of all rents accruing hereunder, including interest on past due rentals, and

21.1.2. The performance of all other covenants of the Lessee set forth herein.

21.2. The Lessor agrees to release the UCC-1 Financing Statement securing the crop lien provided for on the crop then growing in the event:

21.2.1. Lessee prepays the total minimum annual cash rent for the applicable Lease Year, or;

21.2.2. Lessee furnishes adequate security in the form of an Irrevocable Letter of Credit from a banking institution to guarantee the payment of the rent due by Lessee to Lessor for the applicable Lease Year.

22. **INDEMNIFICATION.** The Lessee shall indemnify and hold the Lessor, UBS AgriVest LLC, and the property of the Lessor, including said Demised Premises, free and harmless from any and all claims, liability, loss, damage, or expenses resulting from Lessee's occupation and use of said Demised Premises including any claim, liability, loss or damage arising by reason of the injury to or death of any person or persons or by reason of damage to any property caused by the condition of said Demised Premises, the condition of any improvements or personal property in or on said Demised Premises, injury, illness or death of any person as a result of defective or contaminated crops, livestock or agricultural products, or the acts or omissions of Lessee or any person in or on said Demised Premises with the express or implied consent of Lessee. The duties of Lessee under this paragraph to indemnify and hold the Lessor, UBS AgriVest LLC, and the property of the Lessor free and harmless from any such claim, liability, loss, or damage shall extend to any claim, liability, loss, or damage arising by reason of the injury to or death of (1) the Lessee, (2) any agent, officer, or employee of the Lessee, or (3) any independent contractor hired by Lessee to perform work or render services on said Demised Premises.

The Lessee shall further indemnify and hold harmless the Lessor, its directors, officers, employees, agents, subsidiaries, and successors from and against any and all claims, costs, counsel fees, expenses, liabilities, obligations, losses, damages, fines, penalties, clean up costs, asbestos abatement costs and consequential damages by or on behalf of any person, corporation, entity or Federal, State or local government authority, arising in any manner whatsoever from or out of any environmental contamination or asbestos related problem of the subject property not caused by the Lessor, where such liability arises under any applicable Federal, State or local statutes, law, rule, regulation, or ordinance, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Clean Air Act and or any State or local equivalent to those Federal Laws.

23. **WAIVER.** Lessee hereby waives and releases any and all claims and causes of actions that it has or may have, now or in the future, against the Lessor, or any of the Lessor's officers, directors, employees, agents, subsidiaries, and successors for any and all liabilities, obligations, losses, damages, fines, penalties, clean up costs, asbestos abatement costs or consequential damages that may incur as a result of, or in relation to the Lessee's Lease and use of the subject property,

24. **NOTICES.** Any and all notices or demands by or from Lessor to Lessee, or Lessee to Lessor shall be in writing. They shall be served either personally or by certified mail or by telegraphic method. If served personally, service shall be conclusively deemed made at the time of service. If served by certified mail, service shall be conclusively deemed made 48 hours after deposit thereof in the United States mail, postage prepaid, addressed to the party to whom such notice or demand is to be given as hereafter provided. If served by telegraphic method, notice shall be conclusively deemed made at the time the telegraphic agency shall confirm to the sender delivery thereof to the addressee.

Any notice or demand to Lessor shall be given unto it at:

Midnight Sun, Inc. VIII
c/o UBS AgriVest LLC
242 Trumbull Street
Hartford, CT 06103
Attn: James B. McCandless

and to:

Midnight Sun, Inc. VIII
c/o UBS AgriVest LLC
P.O. Box 53
Nampa, ID 83653
Attn: Charles W. Bryan, Jr.

Any notice or demand to Lessee shall be given unto it at:

Owyhee Farming Company, LLC
c/o Lance D. Funk
P.O. Box 310
2765 Fairgrounds Road
American Falls, ID. 83211

Said addresses may be changed from time to time by notice given in accordance with the provisions of this paragraph.

25. **TERMINATION.** On the last day of the term of this Lease, or on sooner termination as herein provided, Lessee shall peaceably and quietly leave and yield to the Lessor the Demised Premises together with the appurtenances all in good working order, condition and repair, reasonable wear and tear and damage caused by fire or other unavoidable casualty, and permitted alterations excepted. All permits and approvals which may be in the name of Lessee shall forthwith be assigned or transferred to Lessor. If Lessor leases all or any portion of the Demised Premises to another party after termination, the new Lessee or Lessees shall be entitled to take possession of the Demised Premises immediately following Lessee's completion of harvest thereon, notwithstanding the termination date.
26. This Lease shall be construed according to the laws of the State of Idaho.
27. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

LESSOR:
MIDNIGHT SUN, INC. VIII

LESSEE:
OWYHEE FARMING COMPANY LLC

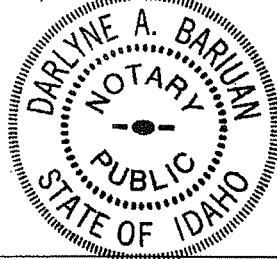
STATE OF IDAHO)

) ss. (City)

COUNTY OF CANYON)

On this the 4th day of November 2011, before me, Darlyne A. Bariuan, the undersigned officer, personally appeared Charles W. Bryan, Jr., who acknowledged himself to be the Vice President of Midnight Sun, Inc. VIII, a corporation, and that he, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand.



Darlyne A. Bariuan
Notary Public in and for the State of Idaho

My Commission expires:
11/14/2014

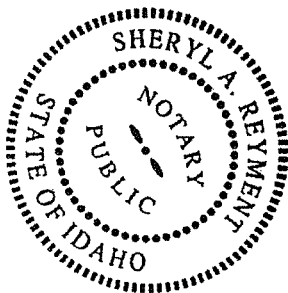
STATE OF Idaho)

) ss. (City)

COUNTY OF Elmore)

On this the 7th day of November, 2011, before me, Sheryl A. Reymont, the undersigned officer, personally appeared Lance D. Funkhouser, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.



Sheryl A. Reymont
Notary Public

My Commission Expires:
12-27-11

EXHIBIT "A"

LEGAL DESCRIPTION

Township 6 South, Range 8 East

- Section 4: $W\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$
- Section 5: Lot 4, $S\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}$
- Section 6: Lot 1, $SE\frac{1}{4}NE\frac{1}{4}$
- Section 7: $S\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$
- Section 8: All
- Section 9: All
- Section 10: $SW\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, Tax 1
- Section 15: $W\frac{1}{2}$
- Section 16: All
- Section 17: $E\frac{1}{2}$, $N\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}$

EXHIBIT "B"

IRRIGATION EQUIPMENT

200 hp US Motor Serial #1408680 mounted on a Layne Pump

400 hp GE Motor Serial #DEJ430009 mounted on a Layne Pump

400 hp GE Motor Serial #EEJ521010 mounted on a Layne Pump

400 hp GE Motor Serial number not legible mounted on a Layne Pump

9,400 ft $\pm$ 12" portable aluminum mainline

9,000 ft $\pm$ 10" portable aluminum mainline

25 quarter mile 3" portable aluminum hand lines

75 quarter mile 3" portable aluminum solid-set lines