

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

This is to certify that: WARM SPRINGS CREEK RANCH LLC
C/O MARK GATES
700 EMERSON ST
PALO ALTO CA 94301
(650) 614-6234
(208) 588-2447
FISHCHIEF@YAHOO.COM

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

Water Right	Lease Rate	Lease Volume	Acre Limit	Total Leased Acres
34-467	2.40 CFS	NA	120.0 AC	160.0 AC
34-468	0.80 CFS	NA	NA	160.0 AC
34-469	2.64 CFS	NA	NA	176.0 AC
34-471	0.66 CFS	NA	NA	176.0 AC
COMBINED LEASE TOTALS:	6.41 CFS	NA	NA	331.0 AC

TERM OF LEASE:

Lease Begin Date: October 9, 2009

Expiration Date: December 31, 2014

RENTAL AVAILABILITY:

Season of Use: January 1 to December 31

MINIMUM PAYMENT ACCEPTABLE:

Current Rental Rate

Detailed Lease Acceptance attached.

Dated this 27th day of June, 20 11


for GARY SPACKMAN, Interim Director
Department of Water Resources

**WATER RIGHT NO. 34-467
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: WARM SPRINGS CREEK RANCH LLC
C/O MARK GATES
700 EMERSON ST
PALO ALTO CA 94301
(650) 614-6234
(208) 588-2447
FISHCHIEF@YAHOO.COM

Priority Date: 05/01/1905

Source: WARM SPRINGS CREEK **Tributary to:** BIG LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01	to 10/15	2.40 CFS	
STOCKWATER	01/01	to 12/31	0.02 CFS	
Total:			2.40 CFS	

LOCATION OF POINT(S) OF DIVERSION:

WARM SPRINGS CREEK SW¼NE¼SE¼ Sec. 34 Twp 08N Rge 22E CUSTER County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION & STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	22E	1	40 (L1)	40 (L2)			40 (L3)			40									160

Total Acres: 160.0

Limited to acres within place of use described above: 120.0

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
34-467 AND 34-468		619.8 AF	160.0 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.
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.
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.

**WATER RIGHT NO. 34-467
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

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. 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.
11. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
12. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
13. The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.
14. Water is delivered through Upper Fish Hatchery Canal.
15. Stockwater use is for 350 cattle.
16. Use of this right with Right No. 34-468 is limited to the irrigation of a combined total of 160 acres in a single irrigation season.
17. This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.
18. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the director of the Idaho Department of Water Resources.

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.

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(650) 614-6234
(208) 588-2447
FISHCHIEF@YAHOO.COM

Priority Date: 03/18/1912

Source: WARM SPRINGS CREEK **Tributary to:** BIG LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01	to 10/15	0.80 CFS	
	Total:			0.80 CFS

LOCATION OF POINT(S) OF DIVERSION:

WARM SPRINGS CREEK SW¼NE¼SE¼ Sec. 34 Twp 08N Rge 22E CUSTER 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	
07N	22E	1	40 (L1)	40 (L2)			40 (L3)			40									160

Total Acres: 160.0

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
34-467 AND 34-468			160.0 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.
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.
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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.

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11. Water is delivered through Upper Fish Hatchery Canal.
12. Use of this right with Right No. 34-468 is limited to the irrigation of a combined total of 160 acres in a single irrigation season.
13. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the director of the Idaho Department of Water Resources.

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 700 EMERSON ST
 PALO ALTO CA 94301
 (650) 614-6234
 (208) 588-2447
 FISHCHIEF@YAHOO.COM

Priority Date: 11/01/1892

Source: WARM SPRINGS CREEK **Tributary to:** BIG LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01 to	10/15	2.64 CFS	
STOCKWATER	01/01 to	12/31	0.02 CFS	
Total:			2.64 CFS	

LOCATION OF POINT(S) OF DIVERSION:

WARM SPRINGS CREEK SW¼NE¼SE¼ Sec. 34 Twp 08N Rge 22E CUSTER County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION & STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	22E	1			40														40
07N	22E	6					10 (L3)	41 (L4)	5 (L8)										51
07N	22E	31											40 (L4)	40					80

Total Acres: 176.0

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
34-469 AND 34-471		619.8 AF	176.0 AC

CONDITIONS OF ACCEPTANCE

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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.
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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. 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.
11. The leased portion of Rights 34-469 and 34-471 when combined shall not exceed a total maximum diversion volume of 619.8 AF at the field headgate for the irrigation of 176.0 acres.
12. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the director of the Idaho Department of Water Resources.
13. This approval is specifically conditioned upon the terms and limitations contained in the Stipulation, Settlement, and Joint Motion for Order filed with the Department on October 12, 1999, In the Matter of Application for Permit 34-7591, In the Name of L & S Partners, numerous other captioned matters, and the Preliminary Order of the Department issued on November 18, 1999. This approval is subject to any future modifications resulting from or required by the terms of that Stipulation, the Preliminary Order of the Department, and the actions taken pursuant thereto.
14. Use of water under this right will be regulated by the watermaster of State Water District No. 34.
15. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
16. The quantity of water decreed for Right 34-469 for stockwater use is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.

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.

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Priority Date: 07/12/1907

Source: WARM SPRINGS CREEK **Tributary to:** BIG LOST RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01 to	10/15	0.66 CFS	
	Total:		0.66 CFS	

LOCATION OF POINT(S) OF DIVERSION:

WARM SPRINGS CREEK SW¼NE¼SE¼ Sec. 34 Twp 08N Rge 22E CUSTER 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	
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14. Use of water under this right will be regulated by the watermaster of State Water District No. 34.
15. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

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.