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Form 42-1761
01/03

DEPARTMENT OF
WATER RESOURCES
STATE OF IDAHO

Water Supply Bank No. _____

Water Right No. _____

DEPARTMENT OF WATER RESOURCES
**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

Big Lost River Subdivision Homeowners Association

Name of Seller/Lessor c/o Kit Christensen &/or Dell Harney Phone (208) 527-0020

Email: kivi@atcnet.net

Post Office Address PQ Box 645, Moore, ID 83255 Email: harnfarm@hotmail.com

c/o Keith C. Wilson, Rocky Mountain Environmental Associates, Inc. Email: kwilson@rockymountainenvironmental.com
482 Constitution Way, Suite 303 (208) 524-2353
Idaho Falls, ID 83402 Fax 208) 524-1795

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

a. Decree No. 34-126 & 34-127 Decreed to Big Lost River Subdivision Homeowners Association

in case of _____ vs. _____

dated _____ in _____ county of _____
(Name of Court)

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Permit No. _____ issued by the Idaho Department of Water Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE (If the entire right is for sale or lease show "all" on line a. below and skip the remainder of part 2).

34-126 1.53 cfs/118.6 ac
34-127 1.39 cfs/118.6 ac = Total = 2.92 cfs/118.6 ac

a. Amount of water under right: 2.92 cubic feet per second &/or _____ acre-feet per annum

b. Point of Diversion: SE ¼ SW ¼ of Section 11 Township 60N Range 25E B.M., in Custer County.

Additional points: N/A

- c. Place of use: This lease does not include any portion of these right appurtenant to Lot 8, Big Lost River Subdivision.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
6N	25E	24	32	5		13.6													50.6
6N	26E	19						34	34										60.0
								L-1	L-2										

If right is for irrigation, show the number of acres for the part of the right to be put in the bank

Total number of Acres 118.6

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE.

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Sec 42-248 or 42-1409(6), Idaho Code, together with required documentation.

Water Right decreed to owner of property & ownership changed to Big Lost River Subdivision Homeowners Association.

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bill, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

Water rights 34-126 (1904) and 34-127 (1908) were not available for delivery in all of 2004 and 2007. Calling for water when the right is available is very crop dependent and with alfalfa being their primary crop their primary water source for the subdivision is and has been ground water rights 34-14037, 34-14038 and 34-14039 (Parent right 34-7152). See attached comments and information from Big Lost River Irrigation District.

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

Water rights 34-126 (1904) and 34-127 (1908) were not available for delivery in all of 2004 and 2007. Availability is sporadic and with drought preventing delivery on a reliable basis for the past 7 – 8 years use of the water has been limited. Calling for the water is highly dependent on the crop. See attached comments & information provided by the Big Lost River Irrigation District.

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source?

Ground water rights 34-14038, 31-14039 & part of 34-14037. No.

- e. If the water is a permit, describe the work accomplished toward developing the right.

N/A

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

N/A

4. REMARKS:

In addition to these water rights (34-126 & 34-127) offered in this application water rights 34-14037, 34-14038 & 34-14039 are also appurtenant to the lands within the Big Lost River Subdivision. These water rights (34-14037, 34-14038 & 34-14039) will also be leased to the Water Bank.

5. SALE/LEASE AGREEMENT:

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For Sale;

☒ For lease for a period from 1 April 2009 to 1 November 2009
(Day, Month, Year) (Day, Month Year)

(The lease period may be shown as "indefinite", if the total duration of the lease is unknown); or

_____ As a gift to the state of Idaho

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

Current Rental Rate

I hereby assert that the information contained in the application is true to the best of my knowledge, and that I have the authority necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

1-15-09
Date

[Signature]
Signature

Title if applicable

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

WATER RIGHT NO. 34-126

12/3/2008

Owner Type

Name and Address

Current Owner BIG LOST RIVER SUBDIVISION HOMEOWNERS ASSOCIATION
C/O KIT CHRISTENSEN AND/OR DELL HARNEY
PO BOX 645
MOORE, ID 83255
(208)527-0020

Priority Date: 05/01/1904

Basis: Decreed

Status: Active

Source

Tributary

BIG LOST RIVER SINKS

Beneficial Use From To Diversion Rate Volume

IRRIGATION 5/01 10/15 1.68 CFS

Total Diversion 1.68 CFS

Location of Point(s) of Diversion:

BIG LOST RIVER SWSESW Sec. 11 Township 06N Range 25E CUSTER County

Place of Use Legal Description: IRRIGATION CUSTER County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
06N	25E	24		NENE	32		NWNE	5		SENE	25			
	26E	19	1	NWNW	34	2	SWNW	34						

Total Acres: 130

Conditions of Approval:

1. S34 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.
2. USE OF THIS RIGHT WITH RIGHT NO. 34-00127 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 130 ACRES IN A SINGLE IRRIGATION SEASON.
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. WATER DELIVERED THROUGH THE BECK/MC GOWAN DITCH.

Decreed Date: 12/14/2001

Water District Number: 34

Combined Acres Limit: 130

Owner TypeName and Address

Current Owner BIG LOST RIVER SUBDIVISION HOMEOWNERS ASSOCIATION
 C/O KIT CHRISTENSEN AND/OR DELL HARNEY
 PO BOX 645
 MOORE, ID 83255
 (208)527-0020

Priority Date: 03/13/1908

Basis: Decreed

Status: Active

SourceTributary

BIG LOST RIVER SINKS

Beneficial Use From To Diversion Rate Volume

IRRIGATION 5/01 10/15 1.52 CFS

Total Diversion 1.52 CFS

Location of Point(s) of Diversion:

BIG LOST RIVER SWSESW Sec. 11 Township 06N Range 25E CUSTER County

Place of Use Legal Description: IRRIGATION CUSTER County

Township Range Section Lot Tract Acres Lot Tract Acres Lot Tract Acres Lot Tract Acres

06N	25E	24		NENE	32		NWNE	5		SENE	25
	26E	19	1	NWNW	34	2	SWNW	34			

Total Acres: 130

Conditions of Approval:

1. S34 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.
2. USE OF THIS RIGHT WITH RIGHT NO. 34-00126 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 130 ACRES IN A SINGLE IRRIGATION SEASON.
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. WATER DELIVERED THROUGH THE BECK/MC GOWAN DITCH.

Decreed Date: 12/14/2001
 Combined Acres Limit: 130

Owner Name Connector: OR

Water District Number: 34

Information is from the Big Lost River Irrigation District:

Based on Harney's earliest water right of 5/1/1904. The dates are generally for 3 to 4 days when listed but may be longer depending on each season. To determine for each season would take more research time. However 1904 water right dates or later are generally not called especially in drought years.

Our records indicate surface water has not been delivered at least since 2003.

Dawn Brown
Office manager
Big Lost River Irrigation District

WaterRestrictions

EffectiveDate	DecreeDate	PercentRestrict	UseDecrees
5/31/2003	5/3/1915	0	Yes
6/1/2003	5/3/1915	0	Yes
5/23/2005	8/6/1987	0	Yes
7/7/2005	5/8/1944	0	Yes
5/1/2006	1/4/1979	0	Yes
7/12/2006	5/8/1944	0	Yes
9/25/2006	1/4/1979	0	Yes
5/20/2008	12/31/1917	0	Yes
6/17/2008	12/31/1905	0	Yes
6/19/2008	5/8/1944	0	Yes
6/23/2008	9/2/1959	0	Yes
6/27/2008	12/31/1905	0	Yes

Comments:

12/31/2008 – In a phone call to Dawn Brown she explained that "...*generally not called especially in drought years.*" the 'not called' indicates that the rights are/were not available. Dawn also explained that on the 'Effective Date' these rights are generally available for 3 to 4 days after the date listed.

The list also shows that water rights 34-126 (1904) and 34-127 (1908) were not available for delivery in all of 2004 and 2007. In 2008 the land was fallow and not farmed.

According to Kit Christensen & Dell Harney that when these rights have been available by the time the water would reach their property the right would usually be off again. Also calling for water when the right is available is very crop dependent and with alfalfa being their primary crop their primary water source for the subdivision is and has been ground water rights 34-14037, 34-14038 and 34-14039 (Parent right 34-7152).

Surface water rights 34-126 (1904) and 34-127 (1908) are being placed in the water bank because they are appurtenant to (i.e. over-lap) the same place of use as ground water rights 34-14037, 34-14038 and 34-14039.

Adjudication & Water Right Pedigree for 34-7152**Over-lap Information:**

--34-7152 /PARENT /Ownership Change --34-14037 /Active /Ownership Change
 --34-14038 /Active /Ownership Change
 --34-14039 /Active /Ownership Change

WATER RIGHT NO. 34-14037

Current Owner ESTATE OF KAREN HARNEY 750 BAILEY RD MADISON, NC 27025
 Priority Date: 05/14/1977 Basis: Decreed Status: Active

Source	GROUND WATER
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Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/15	10/15	2.24 CFS	405 AFA

Total Diversion 2.24 CFS

Location of Point(s) of Diversion: SENE Sec. 24 Township 06N Range 25E CUSTER County

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06N	25E	24		NENE	12.2		NWNE	4.5		SENE	25			
	26E	19	1	NWNW	35	2	SWNW	39						

Total Acres: 115.7

WATER RIGHT NO. 34-14038

Owner Type **Name and Address**

Current Owner KIVI LAND & LIVESTOCK LLC PO BOX 645 MOORE, ID 83255

Priority Date: 05/14/1977 Basis: Decreed Status: Active

Source	GROUND WATER
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Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/15	10/15	0.16 CFS	28.3 AFA

Total Diversion 0.16 CFS

Location of Point(s) of Diversion: SENE Sec. 24 Township 06N Range 25E CUSTER County

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06N	25E	24		NENE	7.6		NWNE	0.5						

Total Acres: 8.1

WATER RIGHT NO. 34-14039

Owner Type **Name and Address**

Current Owner KIVI LAND & LIVESTOCK LLC PO BOX 645 MOORE, ID 83255

Priority Date: 05/14/1977 Basis: Decreed Status: Active

Source	GROUND WATER
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Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/15	10/15	0.29 CFS	53.2 AFA

Total Diversion 0.29 CFS

Location of Point(s) of Diversion: SENE Sec. 24 Township 06N Range 25E CUSTER County

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06N	25E	24		NENE	15.2									

Total Acres: 15.2



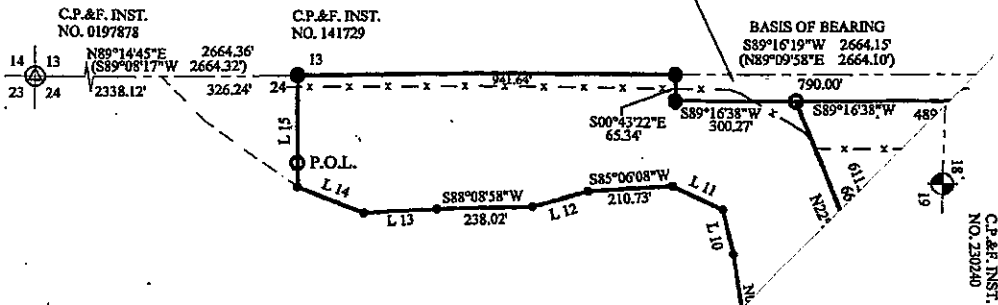
BIG LOST RIVER

LOCATED IN THE NE 1/
AND IN THE NW 1/
BOISE MERIDIAN

R.O.S. INST. #0201373

LANDS OF
BRETT & TRUDY WILLIAMS

NOTE: RELOCATION OF A COMMON BOUNDARY
1.19 ACRES



LINE TABLE		
LINE	BEARING	LENGTH
L1	N65°52'03\"W	62.14'
L2	N43°50'07\"W	129.46'
L3	N11°45'50\"E	108.50'
L4	N23°33'11\"W	127.35'
L5	N31°18'10\"W	101.65'
L6	N18°14'01\"E	81.00'
L7	N45°15'20\"E	151.89'
L8	N17°16'35\"E	128.71'
L9	N23°05'42\"W	149.43'
L10	N14°15'21\"W	113.63'
L11	N65°57'18\"W	138.95'
L12	S73°26'17\"W	142.18'
L13	S86°53'21\"W	183.23'
L14	N68°51'58\"W	177.86'
L15	N00°38'35\"W	277.65'

R.O.S. INST. NO. 0224194

REBAR WITH 1/2\" ALUM. CAP BY LS
5/8\" REBAR BY LS 3577

BY LS 826

REBAR WITH A YELLOW
MARKED WADE PLS.
WITH A YELLOW
MARKED WADE PLS.
(SET)

LEGEND

2 1/2\" ALUM. CAP SET
BY WADE PLS 5080

1 inch = 300 ft.



GRAPHIC SCALE

Big Lost River Subdivision Homeowners Association
Application to lease water rights 34-126 & 34-127 to Water Bank