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Form 42-1761-1
09/09

DEPARTMENT OF
WATER RESOURCES
STATE OF IDAHO
WATER RESOURCE BOARD

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

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

Name of Seller/Lessor Idaho Shakespeare Festival Phone 208-429-9908

Mailing address 520 South 9th Street, P.O. Box 9365, Boise, ID 83707 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, show "ALL" below and skip the remainder of part A. Attach a copy of the water right report.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>63-31833</u>	<u>0.19cfs</u>	<u>Irrigation</u>	<u>3-1</u> to <u>11-15</u>
			to _____
			to _____

Total Amount: 0.19 cfs

2. Source of water Boise River tributary to Snake River

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
3N	3E	28		SW	SW		Ada
		29		SE	SE		Ada

4. Lands 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	
3N	3E	28											22.4						22.4
													L2						
		29																8.1	
																		L1	

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 9.5 acres

B. OWNERSHIP

- Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☐ No ☒
If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee. See transmittal letter documenting authorization of Boise Valley Irrigation Ditch Company.
- Is the water right appurtenant to land subject to any liens, deeds of trust, mortgages, or contracts? Yes ☐ No ☒
If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes and list name of entity: _____

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.
Metered pump diversion from Barber Pool to pressurized irrigation system serving Shakespeare Festival venue
2. Describe any other water rights used for the same purpose or at the same place of use as described above.
None.
3. Will the present place of use continue to receive water from any source? Yes ☐ No ☒
If yes, describe. Six acres within the 30.5 acre permissible place of use will be irrigated with retained portion of water right
4. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. Water right decreed in SRBA on February 19, 2009.
5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe. _____

D. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board for sale ☐ or lease ☒?
If Lease, for a period from _____ to _____ OR Indefinite ☒
(Month / Day / Year) (Month / Day / Year)
2. Show the minimum payment acceptable to the Seller/Lessor. The minimum payment may be shown as the "current rental rate" as established by the Idaho Water Resource Board. Include the method of determining the minimum payment if other than the current rental rate. Current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities 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/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a 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.

Mark Hofflund
Signature of Applicant

Mark Hofflund, Managing Director, ISF
Printed Name and Title*

3/25/10
Date

Signature of Applicant

Printed Name and Title*

Date

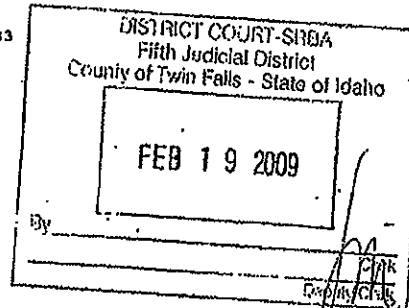
*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-31833



NAME AND ADDRESS: BOISE VALLEY IRRIGATION
DITCH CO
8750 N BOGART LN
BOISE, ID 83714

SOURCE: BOISE RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.20 CFS
45.00 APY

The total instantaneous diversion of water from all points of diversion under Right 63-31833 shall not exceed 0.20 cfs, nor a total combined annual volume of 45.0 af. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1865

POINT OF DIVERSION: T03N R03E S28 SWSW Within Ada County
S29 SWSW
SESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.20 CFS 45.00 APY

Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1945 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE:

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(b). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

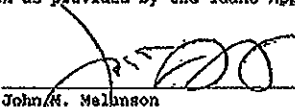
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The right holder shall accomplish the change authorized by transfer 71032 within one (1) year of the date of approval.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John H. Melanson
Presiding Judge of the
Snake River Basin Adjudication

