



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 23, 2010

NOTCH BUTTE FARMS LLC
PO BOX 389
TWIN FALLS ID 83303-0389

**RE: APPLICATION TO LEASE ALL OF WATER RIGHT NO(S). 36-16140 AND 36-16839
TO THE WATER SUPPLY BANK**

Dear Lessor:

The Department of Water Resources ("Department") has completed its review of your application to lease water right no(s). 36-16140 and 36-16839 to the Water Supply Bank ("Bank"). The offered water rights are accepted into the Bank in accordance with the attached Water Supply Bank Lease Acceptance. If you do not agree with the conditions of the Lease Acceptance and would like to withdraw your water rights from the Bank, you must contact the Department within thirty (30) days of receipt of this notification.

The right will automatically be released from the bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon request by the lessor. To change the term of the lease or to release the right(s) from the Bank, you must submit a request in writing to the Department prior to the release date.

Please review the conditions of acceptance listed on the Lease Acceptance and contact me if you have any questions at (208) 287-4907.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure(s)

c: Allen Merritt – IDWR Southern Regional Office
Cindy Yenter – Watermaster, Water District 130
Greg Sullivan – Brockway Engineering PLLC

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

This is to certify that: NOTCH BUTTE FARMS LLC
PO BOX 389
TWIN FALLS ID 83303-0389
(208) 734-7510

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
36-16140	0.01 CFS	6.4 AF	10.3 AC	11.3 AC
36-16839	0.13 CFS	41.2 AF	1 AC	11.3 AC
COMBINED LEASE TOTALS:	0.13 CFS	45.2 AF	11.3 AC	11.3 AC

TERM OF LEASE:

Lease Begin Date: October 6, 2010

Expiration Date: December 31, 2015

RENTAL AVAILABILITY:

Season of Use: April 1 to October 31 annually

MINIMUM PAYMENT ACCEPTABLE:

Current Rental Rate

Detailed Lease Acceptance attached.

Dated this 22nd day of November, 2010


for GARY SPACKMAN, Interim Director
Department of Water Resources

WATER RIGHT NO. 36-16140
WATER SUPPLY BANK LEASE ACCEPTANCE

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

Lessor: NOTCH BUTTE FARMS LLC
 PO BOX 389
 TWIN FALLS ID 83303-0389
 (208) 734-7510

Priority Date: 03/15/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.01 CFS	6.4 AF
	Total:		0.01 CFS	6.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER (L1) SE¼NE¼NE¼	Sec. 4	Twp 07S	Rge 17E	JEROME County
GROUND WATER (L3) SE¼NE¼NW¼	Sec. 4	Twp 07S	Rge 17E	JEROME County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	17E	4				3.7									4.8			2.8	11.3

Total Acres: 11.3

Acre Limit within Place of Use described: 10.3

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
36-16140 and 36-16839	0.13 CFS	45.2 AF	11.3 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. Use of rights 36-2156, 36-2735B, 36-7658, 36-16140 and 36-16839 are limited when combined to one or more of the following in accordance with the conditions of approval on the water rights: a total diversion rate of 8.42 cfs, a total annual maximum diversion volume of 2713.2 AF at the field headgate, and the irrigation of 678.3 acres.

**WATER RIGHT NO. 36-16140
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

7. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
8. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
9. 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.
10. 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.
11. 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.
12. The period of use for irrigation may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5-31-2002.

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.

Dated this 22nd day of November, 2010


for GARY SPACKMAN, Interim Director
Department of Water Resources

**WATER RIGHT NO. 36-16839
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: NOTCH BUTTE FARMS LLC
PO BOX 389
TWIN FALLS ID 83303-0389
(208) 734-7510

Priority Date: 03/15/1974

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.13 CFS	41.2 AF
	Total:		0.13 CFS	41.2 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER (L1) SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 4	Twp 07S	Rge 17E	JEROME County
GROUND WATER (L3) SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$	Sec. 4	Twp 07S	Rge 17E	JEROME 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	
07S	17E	4				3.7									4.8			2.8	11.3

Total Acres: 11.3

Acre Limit within Place of Use described: 1.0

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
36-16140 and 36-16839	0.13 CFS	45.2 AF	11.3 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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WATER SUPPLY BANK LEASE ACCEPTANCE**

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Dated this 22nd day of November, 20 10


for GARY SPACKMAN, Interim Director
Department of Water Resources