



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

November 18, 2010

JOHN BRUBAKER
1113 E 3900 N
BUHL ID 83316

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

RE: APPLICATION TO LEASE ALL OF WATER RIGHT NOS. 47-7090, 47-7126 AND 47-7127 TO THE WATER SUPPLY BANK

Dear Lessor:

The Department of Water Resources ("Department") has completed its review of your application to lease water right nos. 47-7090, 47-7126 and 47-7127 to the Water Supply Bank ("Bank"). The offered water right is 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 right 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 right is 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
Lyle Swank – Watermaster, Water District 01
Greg Sullivan – Brockway Engineering PLLC

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

This is to certify that: **JOHN BRUBAKER**
1113 E 3900 N
BUHL ID 83316
(208) 308-5766

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

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
47-7090	6.0 CFS	NA	NA	NA
47-7126	16.02 CFS	NA	NA	NA
47-7127	14.0 CFS	NA	NA	NA
COMBINED LEASE TOTALS:	16.02 CFS	NA	NA	NA

TERM OF LEASE:

Lease Begin Date: August 19, 2010

Expiration Date: December 31, 2015

RENTAL AVAILABILITY:

Season of Use: January to to December 31

MINIMUM PAYMENT ACCEPTABLE:

Current Rental Rate

Detailed Lease Acceptance attached.

Dated this 23rd day of November, 20 10


for **GARY SPACKMAN**, Interim Director
Department of Water Resources

**WATER RIGHT NO. 47-7090
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: JOHN BRUBAKER
1113 E 3900 N
BUHL ID 83316
(208) 308-5766

Priority Date: 01/23/1970

Source: GROUND WATER

Tributary to: DEEP CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	01/01	to 12/31	6.0 CFS	
	Total:		6.0 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE¼SW¼	Sec. 16	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SE¼SW¼	Sec. 16	Twp 10S	Rge 14E	TWIN FALLS County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S	14E	16										X							

Total Acres: NA

COMBINED LIMITS OF LEASED RIGHT:

Combined Rights
47-7090, 47-7126 and 47-7127

Rate
16.02 CFS

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.

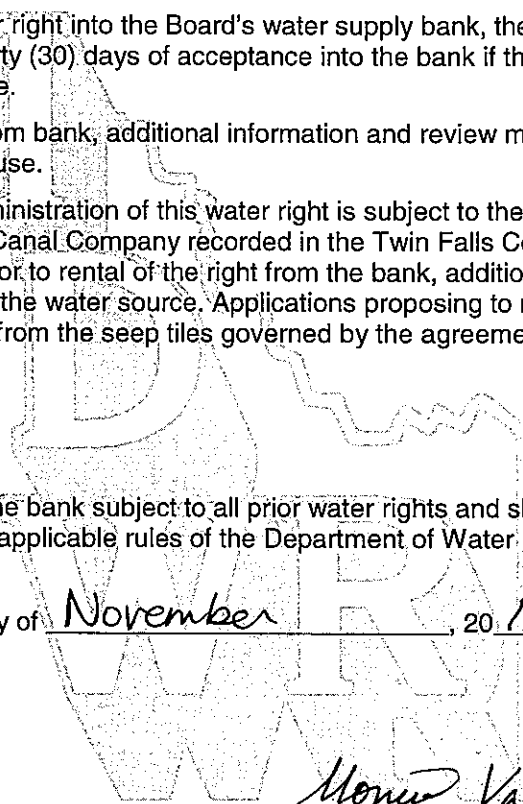
**WATER RIGHT NO. 47-7090
WATER SUPPLY BANK LEASE ACCEPTANCE**

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. Prior to rental of the right from bank, additional information and review may be required to confirm the historic consumptive water use.
12. The operation, use and administration of this water right is subject to the terms and conditions of the agreement with Twin Falls Canal Company recorded in the Twin Falls County Records Office as Instrument No. 231297. Prior to rental of the right from the bank, additional review may be required to confirm the availability of the water source. Applications proposing to rent water under these rights propose withdrawing water from the seep tiles governed by the agreement between the right holder and Twin Falls Company.

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 23rd day of November, 2010



for **GARY SPACKMAN**, Interim Director
Department of Water Resources

**WATER RIGHT NO. 47-7126
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: JOHN BRUBAKER
1113 E 3900 N
BUHL ID 83316
(208) 308-5766

Priority Date: 01/25/1972

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	01/01	to 12/31	16.02 CFS	
	Total:		16.02 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE¼SW¼	Sec. 16	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SE¼SW¼	Sec. 16	Twp 10S	Rge 14E	TWIN FALLS County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	14E	16										X							

Total Acres: NA

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Rate</u>
47-7090, 47-7126 and 47-7127	16.02 CFS

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.

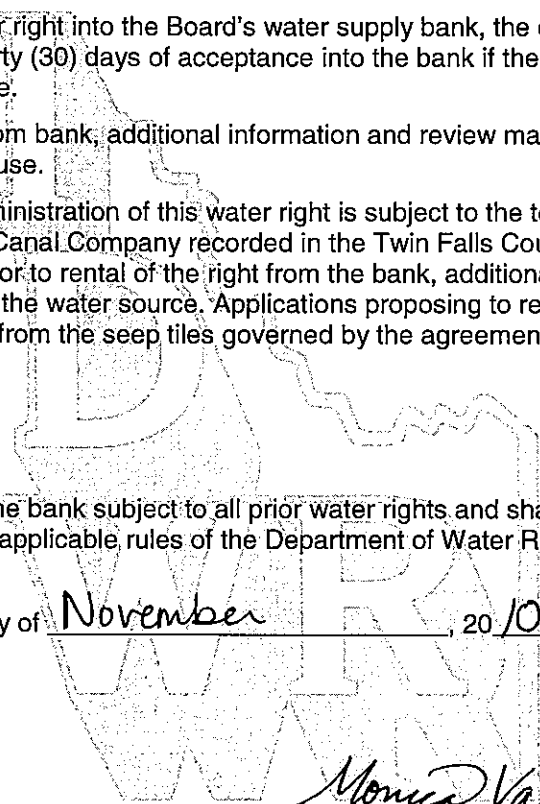
**WATER RIGHT NO. 47-7126
WATER SUPPLY BANK LEASE ACCEPTANCE**

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.
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13. Prior to rental of the right from bank, additional information and review may be required to confirm the historic consumptive water use.
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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 23rd day of November, 2010



for GARY SPACKMAN, Interim Director
Department of Water Resources

WATER RIGHT NO. 47-7127 **WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: JOHN BRUBAKER
 1113 E 3900 N
 BUHL ID 83316
 (208) 308-5766

Priority Date: 11/01/1971

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	01/01	to 12/31	14.0 CFS	
	Total:		14.0 CFS	

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SE¼SW¼	Sec. 16	Twp 10S	Rge 14E	TWIN FALLS County
GROUND WATER	SE¼SW¼	Sec. 16	Twp 10S	Rge 14E	TWIN FALLS County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S	14E	16										X							

Total Acres: NA

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Rate</u>
47-7090, 47-7126 and 47-7127	16.02 CFS

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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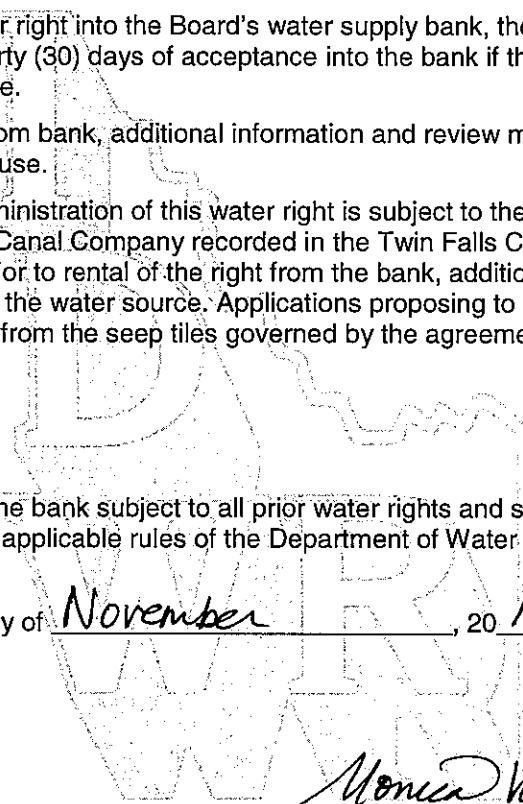
**WATER RIGHT NO. 47-7127
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

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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.
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Dated this 23rd day of November, 2010



for **GARY SPACKMAN**, Interim Director
Department of Water Resources