



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 29, 2010

KEVIN LYNN BURGEMEISTER
2602 QUIGLEY RD
AMERICAN FALLS ID 83211

RE: APPLICATION TO LEASE PART OF WATER RIGHT NO(S). 35-7686A TO THE WATER SUPPLY BANK

Dear Lessor:

The Department of Water Resources has completed its review of your application to lease water right no. 35-7686A to the Water Supply Bank. The portion of 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, 2013**, unless the right is released earlier by the Board, or upon request by you. 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.

You applied to lease 0.45 cfs, 108.8 acre-feet and 27.2 acres to the Bank. Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which is was appropriated."

A review of aerial photography between 2002 (when the right was partially decreed in the Snake River Basin Adjudication) and 2008 shows no evidence of irrigation on the acres in the pivot corners proposed to be leased to the Bank. The proposed acres are corners that would no longer be irrigated when a pivot is installed. However, the end gun portion (7.8 acres) in the NWNW and SWNW were recently irrigated and are accepted into the Bank.

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: Lyle Swank – IDWR Eastern Regional Manager
James Cefalo – Watermaster, Water District 120

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

This is to certify that: KEVIN LYNN BURGEMEISTER
2602 QUIGLEY RD
AMERICAN FALLS ID 83211
(208) 226-2064

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>
	35-7686A	0.13 CFS	31.2 AF	NA	7.8 AC
COMBINED LEASE TOTALS:		0.13 CFS	31.2 AF	NA	7.8 AC

TERM OF LEASE:

Lease Begin Date: June 19, 2008

Expiration Date: December 31, 2013

RENTAL AVAILABILITY:

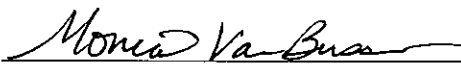
Season of Use: April 1 to October 31 annually

MINIMUM PAYMENT ACCEPTABLE:

Current Rental Rate

Detailed Lease Acceptance attached.

Dated this 26th day of November, 2010


for GARY SPACKMAN, Interim Director
Department of Water Resources

**WATER RIGHT NO. 35-7686A
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: KEVIN LYNN BURGEMEISTER
2602 QUIGLEY RD
AMERICAN FALLS ID 83211
(208) 226-2064

Priority Date: 03/17/1977

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	31.2 AF
	Total: 0.13 CFS			31.2 AF

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER NW¼NE¼NW¼ Sec. 8 Twp 07S Rge 29E POWER 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	29E	8						3.7	4.1										7.8

Total Acres: 7.8

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.
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.

**WATER RIGHT NO. 35-7686A
WATER SUPPLY BANK LEASE ACCEPTANCE**

CONDITIONS OF ACCEPTANCE

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.

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 26th day of November, 20 10


for GARY SPACKMAN, Interim Director
Department of Water Resources