



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

August 16, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

CRYSTAL LAKES DEVELOPMENT CO
14600 DEER FLAT RD
NAMPA ID 83686

RE: REQUEST TO LEASE PORTIONS OF WATER RIGHT NOS. 63-32076
AND 63-33164 TO THE WATER SUPPLY BANK AND RELEASE OF
WATER RIGHT NO. 63-3599D

Dear Lessor:

The Department of Water Resources ("Department") received your request to lease a portion of water right nos. 63-32076 and 63-33164 to the Water Supply Bank ("Bank"). I have enclosed a 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.

This letter should also serve as notice that 63-3599D (parent right of 63-33164) is released from the bank.

The right(s) will automatically be released from the bank on **November 15, 2014**, unless the right(s) 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, the lessor 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

Enc: 1

c: John Westra – IDWR Western Regional Office
Lori Graves – SPF Water Engineering

MEMORANDUM

TO: Water Right Files 63-33164 and 63-32076
FROM: Monica Van Bussum
DATE: August 13, 2010
SUBJECT: Crystal Lakes Development Co. Water Supply Bank Lease Application

SUMMARY

On April 13, 2009, the Department received an application to lease water rights 63-3599D and 63-32076 to the Water Supply Bank (WSB). 63-3599D has since been split by transfer into 63-33164 (Crystal Lakes Development Co.) and 63-33165 (Hukill). Daniel Hukill is the signatory for both parties. The lease application sought to terminate the lease on November 15, 2009. On August 12, 2010, the Department received a Request for Lease Term Extension to make the lease indefinite for both 63-33164 and 63-32076. Since the Department had not processed the previous application, there is no reason to deny the request to extend the lease term. 63-3599D should be officially released from the WSB and 63-33164 should be referred to hereafter.

The applications seeks to place the following under lease to the WSB:

63-33164 – 1.5 cfs, 353.2 AFA

63-32076 – 0.3 cfs, 71.1 AFA

The question of acreage: The base rights are for a permissible place of use (PPU). The PPU is 158 acres and 63-33164 is limited to the irrigation of 99.3 acres within the PPU and 63-32076 is limited to the irrigation of 20 acres within the PPU, for a combined total of 119.3 acres within the PPU authorized to be irrigated. The application for lease reserves 25 acres of the PPU to be retained by the right holder and not leased to the bank. This would leave the applicant with the right to irrigate 25 acres within the 158-acre PPU and would put 94.3 acres of irrigation leased into the WSB. In speaking with Aaron Marshall, outgoing coordinator of the WSB, he said we normally accept these but determine a number of acres accepted under each right. I recommend accepting the rights proportionally into the bank based on the number of acres under each right. 63-32076 is 17% of the total acres (20 divided by 119.3, which is 99.3 plus 20), so 17% of the acres offered to the bank should be accepted, 15.8 acres. 63-33164 is 83% of the acres, so 78.5 acres should be accepted into the bank.

AUTHORITY TO FILE

The applicant is the current owner of the water rights. Mr. Hukill is the representative for both his own rights and those of Crystal Lakes Development Inc.

STATE WATER PLAN

Acquisition of the right will be within the State Water Plan.

ABANDONMENT

There is no evidence the rights have been abandoned. Transfers were completed on September 21, 2009, and the transfer process validates the water rights.

LOCAL PUBLIC INTEREST

The lease is in the local public interest.

PROBABILITY OF RENTAL

Basin 63 is an active area for rentals from the WSB.

LEASE PERIOD

Per verbal communication from Shelley Keen and John Homan, the Department will no longer be accepting leases indefinitely, but for a maximum of five years.

RECOMMENDATION

Acceptance of the lease application is recommended with a lease period of 2010, 2011, 2012, 2013 and 2014.

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

This is to certify that: CRYSTAL LAKES DEVELOPMENT CO
14600 DEER FLAT RD
NAMPA ID 83686
(208) 467-2390

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
63-32076	0.30 CFS	71.1 AF	15.8 AC	94.3 AC
63-33164	1.50 CFS	353.2 AFA	78.5 AC	94.3 AC
COMBINED LEASE TOTALS:	1.80 CFS	424.3 AF	94.3 AC	94.3 AC

TERM OF LEASE: Lease Begin Date: August 12, 2010
Expiration Date: November 15, 2014

RENTAL AVAILABILITY: Partial Season: March 1 to November 15 annually

MINIMUM PAYMENT ACCEPTABLE: Current Rental Rate

Detailed Lease Acceptance attached

Dated this _____ day of _____, 20____

GARY SPACKMAN, Interim Director
Department of Water Resources

WATER RIGHT NO. 63-32076 WATER SUPPLY BANK LEASE ACCEPTANCE

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

Lessor: CRYSTAL LAKES DEVELOPMENT CO
14600 DEER FLAT RD
NAMPA ID 83686
(208) 467-2390

Priority Date: 04/13/1967

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.30 CFS	71.1 AFA
	Total:		0.30 CFS	71.1 AFA

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE 1/4 SE 1/4	Sec. 15	Twp 02N	Rge 03W	CANYON County
GROUND WATER	SW 1/4 SE 1/4	Sec. 15	Twp 02N	Rge 03W	CANYON 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
02N	03W	15									19.0			19.0	20.0	40.0	40.0	20.0	158.0

Total Acres: 158

Acre Limit within Place of Use described: 15.8

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. 63-32076
WATER SUPPLY BANK LEASE 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.
11. When combined with all other rights, the leased rights shall provide not more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
12. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier 2/6/2009.
13. The following rights are diverted through points of diversion described above: 63-7825A, 63-7825C, 63-32706 and 63-33164.

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 _____ day of _____, 20____

GARY SPACKMAN, Interim Director
Department of Water Resources

**WATER RIGHT NO. 63-33164
WATER SUPPLY BANK LEASE ACCEPTANCE**

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

Lessor: CRYSTAL LAKES DEVELOPMENT CO
14600 DEER FLAT RD
NAMPA ID 83686
(208) 467-2390

Priority Date: 04/13/1967

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	1.50 CFS	353.2 AFA
	Total:		1.50 CFS	353.2 AFA

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 15	Twp 02N	Rge 03W	CANYON County
GROUND WATER	SW $\frac{1}{4}$ SE $\frac{1}{4}$	Sec. 15	Twp 02N	Rge 03W	CANYON 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	
02N	03W	15									19.0			19.0	20.0	40.0	40.0	20.0	158.0

Total Acres: 158

Acre Limit within Place of Use described: 78.5

CONDITIONS OF ACCEPTANCE

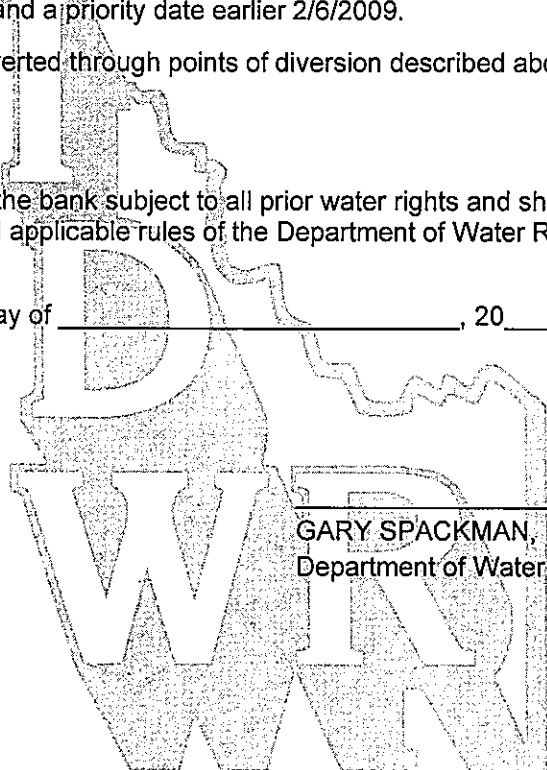
- The water rights referenced above will be rented from the bank at the current rental rate.
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- While a right is in the bank, the lessor may not use the right without approval of the department even if the right is not rented from the bank. Any violation 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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- While a water right is in the bank, forfeiture provisions are stayed.
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- Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
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Dated this _____ day of _____, 20_____



GARY SPACKMAN, Interim Director
Department of Water Resources