



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 20, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

DARRELL JAMES BAKER
655 N 900 E
RUPERT ID 83350

RE: APPLICATION TO LEASE WATER RIGHT NOS. 36-2565B, 36-13065B AND 36-15170B TO THE WATER SUPPLY BANK

Dear Mr. Baker:

The Department of Water Resources (Department) has completed its review of your application to lease water rights 36-2565B, 36-13065B and 36-15170B to the Water Supply Bank (Bank). Based on that review, the Department cannot accept the water rights into the Bank.

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a right into the Bank. The criteria include whether information indicates the water right has been forfeited, acquisition of the water right will be contrary to the State Water Plan, the application is in the local public interest, the probability of renting the right from the Bank, and other factors as determined appropriate by the Water Resource Board. A water right that has been submitted for inclusion in the Eastern Snake Plain Aquifer Conservation Reserve Enhancement Program (CREP) does not satisfy the requirements of the Rules because allowing irrigation of acres under this right would be a violation of the CREP agreement. 36-2565B and 36-13065B were submitted for inclusion to the CREP and so are not eligible for inclusion in the Bank.

Additionally, a water right may not be rented from the Bank if the rental will result in enlargement of the water right. Since water rights 36-2565B, 36-13065B and 36-15170B are "stacked" with other water rights at the same place of use, rental of these rights alone would constitute an enlargement of the right. Therefore, water right nos. 36-2565B, 36-13065B and 36-15170B cannot be accepted into the Bank at this time and the Department is returning your application.

Please contact me at (208) 287-4907 if you have any questions.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosure(s): Lease Application (original)

c: Zach Latham – Brockway Engineering

RECEIVED

DEC 24 2008

DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

Name of Seller/Lessor Darrell James Baker

Phone 208-531-5562 Post office address 655 N 900 E Rupert, ID 83350

1. DESCRIPTION OF RIGHT:

Right as evidenced by:

a. Decree No. 36-15170B Decreed to Darell James Baker
(Name)

in case of _____ vs _____

dated _____ in _____ county of _____

(Name of Court)

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Permit No. _____ issued by the Idaho Department of Water Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease, show "all" on line

a. below and skip the remainder of part 2.)

a. Amount of water under right: 0.01 cubic feet per second

& / or

4.8 acre-feet per annum

b. Point of diversion NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19 Township 07S Range 26E

B.M. in Blaine County

Additional points SENEW Sec 30 T07S R26E and NESEW Sec 30 T07S R26E

c. Place of use: _____

TWP	RGE	SEC	N.E.				N.W.				S.W.				S.E.				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	26E	19			32	37							23	35	40	40	40	40	287
		30	30	40	40	33	36	39	33	33	7				33	39			363

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 3

NOTE: A total of 3 acres will dried up under the current place use upon approval of this water bank application

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEROF, FOR SALE OR LEASE

a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

see attached partial decree

b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years.)

Water use is irrigation water from 3/15 to 11/15 annually.

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

NA

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

Water rights 36-15170B, 36-2565B and, 36-13065B.

- e. If the water right is a permit, describe the work accomplished toward developing the right.

NA

- f. If the right to use the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. Remarks: Additional Water Rights will be put into the Water Bank from this PPU

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For Sale;
 X For Lease for period from Indefinite to _____
(Month, Day, Year) (Month, Day, Year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the State of Idaho

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as 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 the sale or lease of this right 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 of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water 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.

12/23/08
Date

Rich J. [Signature]
Signature
Power of Attorney

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/29/2008

WATER RIGHT NO. 36-15170B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DARRELL JAMES BAKER 655 N 900 E RUPERT, ID 83350 (208)531-5562
Original Owner	RODNEY A JENTZSCH
Original Owner	SHIRLEY S JENTZSCH 20106 5TH ST RUPERT, ID 83350 (208)532-4119

Priority Date: 06/29/1971

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.01 CFS	4.8 AFA
Total Diversion			0.01 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWNESE	Sec. 19	Township 07S	Range 26E	BLAINE County
GROUND WATER	SENENW	Sec. 30	Township 07S	Range 26E	BLAINE County
GROUND WATER	NESENW	Sec. 30	Township 07S	Range 26E	BLAINE County

IRRIGATION Use:

Acre Limit: 3

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07S	26E	19		SWNE	32		SENE	37						
			4	SWSW	23		SESW	35						
				NESE	40		NWSE	40		SWSE	40		SESE	40
		30		NENE	30		NWNE	40		SWNE	40		SENE	33
				NENW	36	1	NWNW	39	2	SWNW	33		SENE	33
				NESW	7									
				NESE	33		NWSE	39						

Total Acres: 650

Conditions of Approval:

1. E56 USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 650.0 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-02190B, 36-02453B, 13065B, 36-02467, 36-02668, 36-02565B, 36-15167B AND 36-15170B.
2. E55 USE OF THIS RIGHT WITH RIGHT NO. 36-15167B IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3.0 ACRES IN A SINGLE IRRIGATION SEASON.
3. E61 USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.00 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2600.0 AF. COMBINED RIGHT NOS.: 36-02190B, 36-02453B, 36-13065B, 36-02467, 36-02668, 36-02565B, 36-15167B AND 36-15170B.
4. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 3.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. F04 A SINGLE POINT OF DIVERSION IS LOCATED ON OR NEAR THE LINE BETWEEN T07S, R26E, S30, SENENW AND NESENW.
6. E53 USE OF THIS RIGHT WITH RIGHT NO. 36-15167B IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 12.0 AF.
7. C18 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. SECTION 42-1412(6), IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 08/27/2001

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 650

Combined Volume Limit: 2600

Combined Rate Limit: 6

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Farm Lease

This lease is entered into this 1st day of March 2007 between J&C Baker Family Limited Partnership of 533 E 240 Ln N, Rupert, Idaho 83350, and Jentzsch-Kearl Farms, of 480 E. 1500 N., Rupert Idaho, 83350, Lessee.

PROPERTY DESCRIPTION: Lessor leases to Lessee the following property;

Garro E	128.9 Acres	500 E 1100 N Rupert, Id
Garro W	282.7 Acres	450 E Hwy 24 Rupert, Id
Goodnite	262.4 Acres	1000 E 1200 N Rupert, Id
Beartrap	250.8 Acres	1100 E 1200 N Rupert, Id
Dans	<u>223.7 Acres</u>	200 E 1500 N Rupert, Id
Total	1148.5 Acres	

TIME COVERED: This lease will cover the 2007-2011 crop years.

This lease supersedes previous lease dated 21 December 2000

RENTAL RATE: The rental rate is for 1148.5 acres at \$170 per acre. The payments will be paid in two equal payments with the first being on or before the 15 of April for \$97,622.5 and the second being on or before the 15 of December for \$97,622.5 for a total of \$195,245 of each crop year. In the event the acres are less based on our GPS mapping according to actual planted and irrigated acres, the rent will be adjusted accordingly. In addition this lease may be canceled if there is no water to irrigate the crop. If there are any acres that are unsuitable for a potato crop (i.e. sub water areas, excessive rock areas, etc) these acres will be deducted from the rented acres.

LESSOR RESPONSIBILITIES: Provide insurance if desired for all irrigation equipment. Pay for major repairs more than \$500 per incident on all irrigation equipment including pivots, and pump stations. Pay property taxes pay A&B construction cost. Lessor will permit Lessee to assign or sublease all or any portion of the premises to their partners, provided that the Lessee shall remain liable for the rental and further provided that sub-lessee shall comply with all of the terms of this Farm Lease.

LESSEE RESPONSIBILITIES: Pay for minor repairs less than \$500 on irrigation equipment. Repair any irrigation equipment as the result of Lessee's neglect. Pay irrigation power cost and A&B water (Excluding construction cost).

GOVERNMENT PAYMENTS Lessee shall be entitled to receive any and all government program payments or proceeds. Upon termination of the contract the same number of proceeds or payment acre entitlements shall be returned to the lessor.

Lessor

By *J&C Limited Partnership*
J&C Baker
 J&C Baker Family Limited

Lessee

Paul Jentzsch
 Jentzsch-Kearl Farms

FARM LEASE

THIS AGREEMENT made and entered into this 31st day of August 2007
by and between Gary Garner of 1450 N and 375 E, Rupert, Idaho, 83350
herein after referred to as "Lessor" and JENTZSCH-KEARL FARMS, a
partnership, of 20511 F Street Rupert, ID 83350, hereinafter referred to as
"Lessee".

WITNESSETH:

That Lessor, for and in consideration of the covenants and agreements
hereinafter mentioned to be kept and performed by Lessee, does, by these
presents, hereby lease, rent and demise to Lessee the following described
lands, hereinafter called "Lease Premises", situated in Minidoka County,
Idaho, to-wit:

Approximately 275 acres, consisting of 2 pivots and no corners on
1450 N and 375 E.

Together with all sprinkler equipment, pump station, pivots, hereto
and right to irrigate said Leased Premises from water received from

the Private. The sprinkler equipment presently owned by Lessor will be available for Lessee's use and that said equipment will be in working condition and shall be returned to Lessor at the end of the lease term in substantially the same condition, ordinary wear and tear excepted.

The term of this lease shall be for the 2008-2013 farm season and shall commence with the execution of this lease agreement and shall expire upon harvest of the crops in the fall of 2013. In the event the crops are harvested prior to December 1, 2013 the Lessor may come on the premises to do fall work.

IT IS FURTHER AGREED AS FOLLOWS:

1. Lessee shall furnish all labor, seed, fertilizer, equipment and other materials for the planting, seeding cultivating, tending, irrigation, care, harvesting and delivery of said crops at Lessee's own cost and expense, except as herein otherwise provided.
2. Except s otherwise set forth herein, the consideration to the lessor for the granting of this Lease is the sum of \$200.00 per irrigable acre per hear under the pivots to be paid by the Lessee to the

Lessor in two (2) installment; the first installment to be paid by April 15th in the amount of \$27,500, and the second payment to be paid on or before November 15 in the amount of \$27,500 for a total of \$55,000.00. The Lessee has provided the Lessor with a \$10,000 security deposit upon signing of the previous lease. The deposit will be taken out of the final years rent if the Lessor or Lessee decides not to renew the contract. If the Lessee does not comply with the term of the lease he forfeits the deposit. Any payment not made in a timely manner shall bear interest at the rate of 12% per annum from the due date of such payment. In addition, Lessee shall pay power and water for the operation of the pumps used.

3. All labor performed and all materials supplied by the Lessee on the Leased Premises for any purpose during the term of this lease, unless otherwise specifically provided herein, shall conclusively be deemed to have been done and furnished Lessee on Lessee's own behalf and at Lessee's own instance and expense, unless parties hereto have agreed in writing with respect to the particular items of such labor and materials in advance of the performance or

furnishing of the same that Lessor shall compensate Lessee for such Labor or materials.

4. The Lessee further covenants and agrees as follows:

(a) To farm the Leased Premises and the whole thereof throughout the lease term in keeping with the best practices of husbandry and not to allow or suffer any damages or waste thereto.

(b) Lessee may assign or sublease all or any portion of the premises to its daughter entities or partners, provided that the lease shall remain liable for the rental and further provided that sub-lease shall comply with all of the terms of this Farm Lease.

(c) All crops, including straw shall belong to the Lessee.

(d) To pay for irrigation equipment items which cost \$500.00 or less per item for parts and labor. Lessor shall pay for irrigation items which cost more than \$500.00 per item for parts and labor. Any irrigation repair expenses caused by the neglect or abuse by the Lessee shall be paid by the Lessee.

5. In the event of a disagreement between the parties, then such disagreement shall be solved by Lessor selecting an arbitrator, the Lessee selecting an arbitrator and the two arbitrators so selected to

select a third arbitrator. The decision of a majority of the arbitrators shall be binding on the parties. The cost of arbitration shall be borne by the nonprevailing party as determined by the decision of the arbitrators.

6. All of the covenants of this lease to be kept and performed by the Lessee shall be deemed to be conditions of this lease. Time is of the essence hereof, and in the event the Lessee shall fail, omit or neglect to plant the crops agreed upon or to properly cultivate the Leased Premises or to diligently proceed to keep such land free of weeds or to otherwise farm the Same as hereinbefore provided and such failure, omission, neglect or default shall continue for a period of ten (10) days after written notice by Lessor to Lessee to cure said default, then the Lessor shall have the right immediately at any time thereafter while such neglect or default shall continue, to enter upon the Leased Premises and to employ such person or persons and equipment as may be necessary to properly perform such work and to charge the expenses thereby incurred to Lessee, including the reasonable value of Lessor's personal services, out of Lessee's share of the crop.

It is understood and agreed that the various rights, powers, options, elections and remedies of Lessor, contained in this instrument shall be cumulative and that no one of them shall be exclusive of any other rights or priorities allowed by law subject to the parties to arbitration as set forth above.

7. The covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.
8. Lessee shall be entitled to receive all proceeds or government payments from the USDA Production Flexibility Contract. Upon termination of the contract the same number of proceeds or payment acre entitlements shall be returned to the Lessor.
9. In the event of water shortage the Lessor agrees to forgo all rent revenue and reimburse all rent paid up-to-date for the year of the shortage.

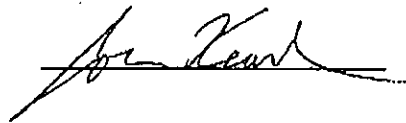
IN WITNESS WHEREOF the parties have executed this lease.

Lessor

Lessee

A handwritten signature in cursive script, appearing to read "Gary Garner", is written over a horizontal line.

Gary Garner

A handwritten signature in cursive script, appearing to read "Joe Kearn", is written over a horizontal line.

Jentzsch-Kearl Farms

By Owner

Partnership

Joe Kearn