



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

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. 36-2565B 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: 0.27 cubic feet per second

& / or

83.6 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 20.9

NOTE: A total of 20.9 acres will be dried up under the current place of 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 4/01 to 11/01 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 right 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

Josh Jentzen
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

10/31/2008

WATER RIGHT NO. 36-2565B

<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	ETHEL M ORTON C/O ORTONS LIMITED PARTNERSHIP 635 CHAD DR REXBURG, ID 83440 (208)678-5812

Priority Date: 02/11/1963

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	4/01	11/01	0.38 CFS	116 AFA
Total Diversion			0.38 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: 29

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		SENW	33
				NESW	7									
				NESE	33		NWSE	39						

Total Acres: 650

Conditions of Approval:

1. E61 USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.0 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, 36-15170B.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION
2. C18 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.
THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER
3. S40 BEFORE [APRIL 1] AND AFTER [NOVEMBER 1] UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
4. 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, 36-13065B, 36-02467, 36-02668, 36-02565B, 36-15167B, 36-15170B.
5. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 29.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Dates:

Licensed Date:

Decreed Date: 04/06/2001

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