

Water Supply Bank No. \_\_\_\_\_

Water Right No. \_\_\_\_\_

**RECEIVED**

**DEC 11 2008**

Department of Water Resources

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

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

Name of Seller/Lessor: **United States of America acting through USDA Forest Service** Phone: **(801) 625-5809**

Post office address: **USDA Forest Service, 550 W Fort St MSC 033, Boise, ID 83724**

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

Decree No.: **71-10728** Decreed to: **USDA Forest Service**

in case of: **Snake River Basin Adjudication, Case File # 39576**

dated: **March 16, 1999** in: **Snake River Basin Adjudication Court, Twin Falls, Idaho**

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: **ALL** cubic feet per second &/or  
\_\_\_\_\_ acre-feet per annum

b. Point of diversion: \_\_\_\_\_ of Section \_\_\_\_ Township \_\_\_\_ Range \_\_\_\_  
B.M. in \_\_\_\_\_ County.

Additional points

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 |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |
|     |     |     |     |    |    |    |     |    |    |    |     |    |    |    |     |    |    |    |        |

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. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, 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.

**Partial Decree for Water Right 71-10728 (attached)**

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- 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).

**An Application for Extension of Time to Avoid Forfeiture of a Water Right was filed on March 16, 2004 and approved by IDWR on August 17, 2004 (attached).**

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- 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.

05-01 to 10-31

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- 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.

**No irrigation of the place of use will continue from any source during the lease period.**

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

n/a

- f. If the right to the use of 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.

n/a

4. REMARKS:

**The Forest Service conditions this lease such that water made available for use hereunder is available only for current or future non-consumptive use rental opportunities such as to the Salmon Wild and Scenic River, a designated State Minimum Streamflow, or to a consumptive below the confluence at Thompson Creek. The lease of this water right into the water bank is not expected to cause injury to other rights to use water from the same source.**

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 a period from: **January 1, 2009 to December 31, 2011**

(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 this right for sale or lease 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. **The Forest Service shall have the option of terminating the lease at the end of each calendar year with a 30-day written notice to the Idaho Department of Water Resources.**
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.

12-09-08  
Date

James A. Evenden  
Signature

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**FOR DEPARTMENT USE ONLY**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Preliminary check by \_\_\_\_\_

Watermaster recommendation requested on \_\_\_\_\_ Received \_\_\_\_\_

Recommended for \_\_\_\_\_ approval \_\_\_\_\_ denial by \_\_\_\_\_

RECEIVED

MAR 18 2004

Department of Water Resources  
Southern RegionWater Right No. 71-10728

RECEIVED

MAY 26 2004

DEPARTMENT OF  
WATER RESOURCESSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR EXTENSION OF TIME TO AVOID  
FORFEITURE OF A WATER RIGHT

RECEIVED

MAR 18 2004

Department of Water Resources

Section 42-222, Idaho Code, provides that a water right shall be lost and forfeited and the water right revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

1. Name of water right holder USDA Forest Service
2. Mailing address 550 W Fort St. MSC033 Boise, ID 83724
3. The right was obtained or is evidenced by: See Attachment A for responses to questions 1-8
- a. Decree to \_\_\_\_\_ in Case of \_\_\_\_\_
- vs. \_\_\_\_\_ Dated \_\_\_\_\_ in \_\_\_\_\_ (Name of Court)
- Court, County of \_\_\_\_\_ Fully describe decree \_\_\_\_\_
- b. \_\_\_\_\_
- d. SRBA No. \_\_\_\_\_
4. Source of water \_\_\_\_\_ tributary to \_\_\_\_\_  
(Name of stream or source)
5. Date of priority of right \_\_\_\_\_
6. Description of Right:
- amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)
- amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)
7. Point of Diversion  $\frac{1}{4}$   $\frac{1}{4}$  of Sec. \_\_\_\_\_ Twp. \_\_\_\_\_ Rge. \_\_\_\_\_ County \_\_\_\_\_
8. Lands irrigated or Place(s) of Use:

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Total Acres \_\_\_\_\_

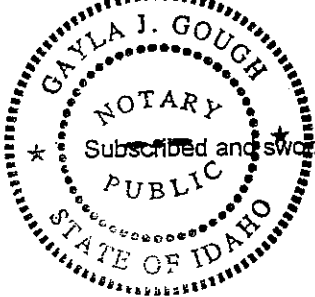
9. Give the last date when water was put to beneficial use

See Attachment B

Length of extension of time requested 5 years, or until March 16, 2009 (Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use See Attachment C

The information contained in this application is true to the best of my knowledge.



[Signature]  
(Signature of Applicant)

Subscribed and sworn to before me this 16<sup>TH</sup> day of March, 20 04

[Signature]  
(Notary Public)

My commission expires 11-17-2004 Residing at KUNA, IDAHO

### ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVED said application subject to the following conditions or reasons:

The right holder shall resume beneficial use of water on or before June 1, 2009.

Signed this 17<sup>th</sup> day of August, 20 04

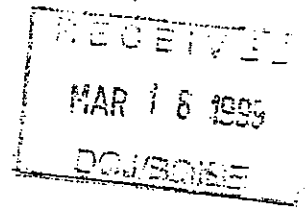
[Signature]  
Chief, Water Allocation Bureau GARY SPACKMAN

### FOR DEPARTMENT USE ONLY

Date Received 3/16/04 FEE Received by C. Howard Date 3/16/04 Receipt # CO73110  
Preliminary T by C. SKINNER Publication prepared by MB Pub. approved by \_\_\_\_\_ Date \_\_\_\_\_  
Published in Challis Messenger Dates Published 4/15 + 7/22/04  
Protests filed by \_\_\_\_\_  
Copies of protests forwarded by \_\_\_\_\_ Hearing held by \_\_\_\_\_ Date \_\_\_\_\_  
Recommended for - 9 APPROVAL / 9 DENIAL By ADM

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
                  ) Water Right 71-10728



NAME AND ADDRESS: USDA FOREST SERVICE  
550 W FORT ST, MSC 033  
BOISE, ID 83724

SOURCE: SALMON RIVER                      TRIBUTARY: SNAKE RIVER  
QUANTITY: 0.81 CFS  
PRIORITY DATE: 05/17/1930  
POINT OF DIVERSION: T08N R14E S05 LOT 02 (SWNWNE)      Within Custer County

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY |
|----------------------------|----------------|----------------|----------|
|                            | Irrigation     | 05-01 TO 10-31 | 0.81 CFS |

PLACE OF USE: Irrigation                      Within Custer County  
                  T09N R14E S20                      SESW 11.6  
                  11.6 Acres Total

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Barry Wood  
Administrative District Judge  
Interim Presiding Judge of the  
Snake River Basin Adjudication

AE2B015800



ATTACHMENT A - PARTIAL  
DECREE - 71-10728  
Response to Questions 1-8 on the  
Application for Extension of Time to  
Avoid Forfeiture of a Water Right

ATTACHMENT B

Response to question #9 on the Application for Extension of Time to Avoid Forfeiture of a Water Right:

9. The five year statutory period of non-use for establishing forfeiture tolls upon the filing of a claim in the SRBA until a Partial Decree is issued. The Partial Decree for this right was issued on March 16, 1999. *See, In Re: SRBA Case No. 39576, (Wood v. Trout) 65-05663B, Order of Partial Decree, May 13, 2002.* This water right has not been put to beneficial use since March 16, 1999.

### ATTACHMENT C

Response to question #10 on the Application for Extension of Time to Avoid Forfeiture of a Water Right:

10. The United States believes that it has valid defenses to forfeiture including but not limited to Idaho Code §42-223 (6). However, as a matter of comity, the United States files this *Application for Extension of Time to Avoid Forfeiture of a Water Right* as a precautionary measure.

Until such time that the United States may be able to put the water to beneficial use, the United States requests a five year extension of time. During this period the United States will work with the IDWR to explore alternative solutions for resumption of use of this water right, including consideration of placing this water right in the Water Bank operated by the Idaho Water Resource Board.