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Documents
In File

WATER SUPPLY BANK RENTAL AGREEMENT

The Idaho Water Resource Board ("Board") being authorized to operate a Water Supply Bank ("bank") and to contract by and through the Director of the Idaho Department of Water Resources ("Director") for rental of water from the bank agrees to rent water as follows:

1. Renter: Water Resource Board
2. Address: 1301 N Orchard, Boise Id 83706-2237
3. Source of water: Beaver Creek and Salmon River
4. Volume of water rented: 560.4 AF (Based on consumptive use volume)
Max rate: 9.45 cfs
5. Diversion period: 2004 Irrigation season as authorized under each water right.
6. Use of water: Instream Flow
7. a) Renter's point of diversion:

Legal description: SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T24N, R21E, B.M., Lemhi County
(Beginning of Reach)
SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31, T25N, R25E, B M., Lemhi County (Ending of
Reach)

- b) Renter's place of use:

Legal description Instream flow in Beaver Creek and the Salmon River

8. The rights from which water will be rented are:

Right No	Acres (ac)	Diversion Rate (cubic ft per sec, cfs)	Consumptive Diversion Vol (acre-feet per acre, afa)	Source
71-2091C	35.2 ac	0.7 cfs	70.4 afa	Beaver Creek
71-2091D	18.1 ac	0.36 cfs	36.2 afa	Beaver Creek
71-7008	146 ac	2.92 cfs	292 afa	Beaver Creek
71-7083	200 ac	3.48 cfs	400 afa	Ground water
71-10665A	30.8 ac	3.48 cfs	61.6 af	Beaver Creek
71-10665B	10.8 ac	1.31 cfs	21.6 afa	Beaver Creek
71-7009	37.3 ac	0.82 cfs	78.6 afa	Salmon River
Combined Totals:	278.2 ac	9.45 cfs	560.4 afa	

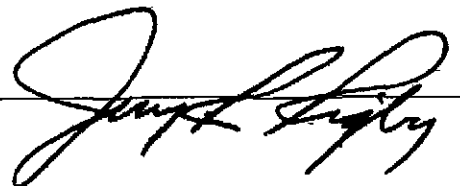
The undersigned renter agrees to pay \$ **5,353.34** for rental of the above described water and agrees to use the water in compliance with the Water Supply Bank rules and in compliance with the conditions of water use shown below:

Conditions of water use under this agreement

1. Rental of rights 71-2091C, 71-2091D, 71-7008, 71-7083, 71-10665A, and 71 10665B is limited to a total combined diversion rate of 8.63 cfs and a combined diversion volume of 481.8 afa for use during the 2004 irrigation season authorized under each water right.
2. Rental of right 71-7009 is limited to a diversion rate of 0.82 cfs and diversion volume of 78.6 afa for use during the 2004 irrigation season
3. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
4. Upon Department request, the renter shall provide for the measurement of the water diverted in a manner acceptable to the Director and shall report the amount of water diverted at the end of the irrigation season.
5. Use of water under this agreement does not constitute a dedication of the water to renter's place of use and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to the licensed points of diversion and place of use and/or again be available to rent from the bank.
- 6 Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
7. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
8. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
9. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
10. This rental does not authorize the construction of a well.

Dated this 9th day of August, 2004.

by
for



Having determined that this agreement satisfies the provisions of Section 42-1763, Idaho Code, and, IDAPA 37.02.03030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and conditions herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board this 9 day of AUGUST, 2004.

For Gary Spackman
KARL J. DREHER, Director
Department of Water Resources



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

August 9, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

DOT LLP
581 EAST PROVIDENT DRIVE
BOISE ID 83706

DONALD K JUSTUS
KARAN JUSTUS
KEVIN JUSTUS
STEVEN JUSTUS
1024 RANCH RD
BOISE ID 83702

**RE: APPLICATION TO LEASE PART OF WATER RIGHT NO(S). 71-2091C,
71-2091D, 71-7008, 71-7009, 71-7083, 71-10665A, AND 71-10665B TO
THE WATER SUPPLY BANK**

Dear Lessor:

The department has completed its review of the Application to Sell or Lease Water Right(s) to the Water Supply Bank ("bank") that you submitted to this office. Please consider that as of the offered water right(s) are accepted into the bank in the portions listed below.

Several items to keep in mind in connection with the lease of a water right to the bank are as follows:

1. Portion(s) of the above referenced water right(s) are leased to the bank as follows:

<u>Right No</u>	<u>Acres (ac)</u>	<u>Diversion Rate (cubic ft per sec , cfs)</u>	<u>Diversion Volume (acre-feet per acre, afa)</u>	<u>Source</u>
71-2091C	35.2 ac	0.7 cfs	105.6 afa	Beaver Creek
71-2091D	18.1 ac	0.36 cfs	54.3 afa	Beaver Creek
71-7008	146 ac	2.92 cfs	438 afa	Beaver Creek
71-7083	200 ac	3.48 cfs	600 afa	Ground water
71-10665A	30.8 ac	3.48 cfs	92.4 af	Beaver Creek
71-10665B	10.8 ac	1.31 cfs	32.4 afa	Beaver Creek
71-7009	37.3 ac	0.82 cfs	115.9 afa	Salmon River
Combined Totals:	278.2 ac	9.45 cfs	838.6 afa	

SUPPORT DATA

IN FILE # 71-02091C

2. Rental of rights 71-2091C, 71-2091D, 71-7008, 71-7083, 71-10665A, and 71-10665B is limited to a total combined diversion rate of 8.63 cfs and a combined diversion volume of 722.7 afa for use during the irrigation season authorized under each water right.
3. 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.
4. While a right is in the bank, the owner of the right may not use the right even if the right is not rented from the bank.
5. 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.
6. While a water right is in the bank, forfeiture provisions are stayed.
7. Prior to rental of the right from the bank, additional review may be required to confirm the validity of the right and availability of the surface water source.
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 the ongoing Snake River Basin Adjudication or any other department application process.
9. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
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.

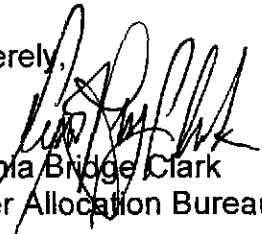
The right(s) will automatically be released from the bank on **December 31, 2004**, unless the right(s) are released earlier by the Board, or upon request by the lessor. To change the term of the lease or to release the right(s) from the bank, the lessor must submit a request in writing to the department prior to the release date.

Enclosed is a copy of the Internal Revenue Service Request for Taxpayer Identification and Certification, Form W-9. The department is required to file an information return with the Internal Revenue Service ("IRS") for all payments issued to for water rented from the bank. Payments for the rental of a water right or a part thereof cannot be issued to the lessor unless the department has received a completed IRS W-9 form.

Additionally, documentation of authority to receive payment must be submitted if the name provided on the W-9 form does not match the name of the lessor. The address associated with the water right leased to the bank will be updated in the department database to the address provided on the W-9 form unless otherwise requested by the lessor. If you no longer have an interest in the water right, please contact the department. Return this form and any additional documentation to my attention.

If you have questions, please feel free to contact me.

Sincerely,



Cynthia Bridge Clark
Water Allocation Bureau

Encl: 1

c: IDWR Regional Office
Bill Graham – IDWR State Office

ORIGINAL IN RED

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
<u>71-7009</u>	<u> </u>	☐	<u>71-2091D</u>	<u> </u>	☐
<u>71-7083</u>	<u> </u>	☐	<u>71-7008</u>	<u> </u>	☐
<u>71-10665A</u>	<u> </u>	☐	<u>71-10017</u>	<u> </u>	☐
<u>71-10665B</u>	<u> </u>	☐	<u>71-10065C</u>	<u> </u>	☐
<u>71-2091C</u>	<u> </u>	☐	<u> </u>	<u> </u>	☐

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county)

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Donald K. Justus, Karan Justus, Kevin Justus, Steven Justus
1024 Ranch Rd., Boise, ID 83702
4. New Owner/Claimant(s) DOT, LLP
Name Connector (Check one) ☐ and, ☐ or, ☐ and/or
- New Mailing Address 755 East Ridgefield Drive
- City, State and ZIP Code Boise, ID 83706
- New Telephone Number (208) 584-3237
5. Date you acquired the property September 19, 2002

SUPPORT DATA

IN FILE # 71-2091C

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary) If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) *Steven K. Jansen*, a general partner of DOT, LLP
(include title if applicable) _____

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims

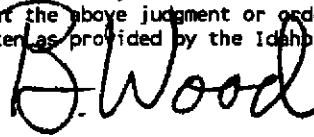
For Office Use Only

Received by TF Date 7.15.03 Fee \$225.00
 Received by TF Date 7.15.03 Receipt No 5035962
 Processed by _____ AJ Date _____ WR _____ Date _____

PAGE 1
Mar-10-1999

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.

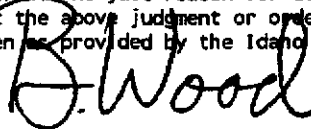


Barry Wood
Administrative District Judge
Interim Presiding Judge of the
Snake River Basin Adjudication

PAGE 1
Mar-10-1999

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

Clark, Cynthia (Bridge)

From: Steven Justus [sjustus@boisestate.edu]
Sent: Monday, August 09, 2004 9:08 AM
To: cclark@idwr.state.id.us
Cc: karan@anton-interiors.com; ASPHALT4U@aol.com, skjustus@velocitus.net
Subject: Water Rights Conversation

Cynthia,

Per our phone conversation on 08-09-2004, please add "71-10665A" and "71-10665B" to the application for the water bank, indefinitely. These overlapping rights were mistakenly not included in the original application.

Thank you so much for all your help and patience.

Sincerely,

Steve Justus
Partner, DOT L.L.P.
skjustus@velocitus.net

Clark, Cynthia (Bridge)

From: Clark, Cynthia (Bridge)
Sent: Wednesday, April 28, 2004 6:17 PM
To: Jim Speck (E-mail)
Cc: Graham, Bill
Subject: Donald Justus water rights

Jim,

I have some applications to lease water rights to the Water Supply Bank from Donald Justus. They were originally filed last year, but additional information was required to process the applications. You indicated during a telephone conversation that your client was unavailable, and would pursue entering the rights into the bank the following year. Donald Justus has since been in communication with our planning division about having his rights rented for instream flow use. I explained the information required to our planning staff, but we have all had difficulty reaching him. I wanted to find out whether you are still representing Mr. Justus in this matter. I know our planning staff is very interested in working with him regarding the bank rental.

Thank you,
Cynthia

*Cynthia Bridge Clark
Idaho Department of Water Resources
Water Allocation Bureau
(208) 327-7898
cclark@idwr.state.id.us*

Clark, Cynthia (Bridge)

From: Jim Speck [jimspeck@cox-internet.com]
Sent: Tuesday, August 19, 2003 3:27 PM
To: 'Clark, Cynthia (Bridge)'
Subject: RE Water Supply Bank applications

Cynthia -

I have forwarded your information requests to my client and will have a response to you as soon as possible.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jimspeck@cox-internet.com

CONFIDENTIAL COMMUNICATION

This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

-----Original Message-----

From: Clark, Cynthia (Bridge)
Sent: Thursday, August 07, 2003 5:08 PM
To: Jim Speck (E-mail)

Jim,

I received your inquiry into the status of the five water supply bank applications for DOT, LLP. I apologize for the delay. I have a couple of questions prior to acceptance into bank. Irrigated land associated with a right in the bank usually may not be irrigated with any water right while a right for irrigation of the land is in the bank. Irrigated land generally must be "dried up" for the duration of the lease period. Water right 71-10665A overlaps three of the rights offered to the bank, but has not itself been offered to the bank. Is there a reason the applicant wishes to retain use of the right?

I reviewed the ownership change forms submitted for the rights offered. The NWSE of Section 22, T07N R14E is described under right 71-7009 for the stock water use, but does not appear to be represented on the deed provided. Is this land owned by the applicant?

Incidentally, I hope to finalize the Roy Woods license for right no. 37-20809 this week.

Let me know if you have any questions.

Thank you,
Cynthia

Cynthia Bridge Clark
Idaho Department of Water Resources
Water Allocation Bureau
(208) 327-7898
cclark@idwr.state.id.us

Clark, Cynthia (Bridge)

From: Clark, Cynthia (Bridge)
Sent: Thursday, August 07, 2003 5 05 PM
To: Jim Speck (E-mail)
Subject: Water Supply Bank applications

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Let me know if you have any questions

Thank you,
Cynthia

*Cynthia Bridge Clark
Idaho Department of Water Resources
Water Allocation Bureau
(208) 327-7898
cclark@idwr.state.id.us*

SPECK & AANESTAD

A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

JAMES P. SPECK
jimspeck@cox-internet.com
DOUGLAS J. AANESTAD
aanestad@cox-internet.com

RECEIVED
JUL 11 2003
TELEPHONE (208) 726-4421
FACSIMILE (208) 726-0752
Department of Water Resources

July 8, 2003

L. Glen Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-0098

Re: DOT, LLP/Applications to Sell or Lease a Water Right to the Water Supply Bank

Dear Glen:

I represent DOT, LLP, an Idaho limited liability partnership. Enclosed you will find the original and one copy each of Applications to Sell or Lease a Water Right to the Water Supply Bank by my client for the following Water Rights: 71-2091C; 71-2091D; 71-7008; 71-7009; and 71-7083.

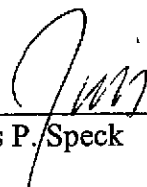
In each case, my client wishes to lease the water right for an indefinite period at the current rental rate. These water rights were all decreed in the SRBA on March 16, 1999. Please call me right away if you have any questions or comments about these Applications. Would you also kindly have your secretary receipt date-stamp the copies of each Application and return them to me in the postage prepaid self-addressed envelope I have included for that purpose.

David
MS

Finally, I am including a copy of my letter of the same date to Allen Merritt regarding the Notice of Change in Water Right Ownership in case you check your records and find these water rights listed in the name of Donald K. Justus, *et al*, the previous owners.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

JPS/jef
Enclosure
cc: Client w/ enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 16, 2004

DOT LLP
755 E RIDGEFIELD DR
BOISE ID 83706

RE: Change of Ownership for Water Right 71-2091C, 71-2091D, 71-7008, 71-7083, 71-10017, 71-10665A, 71-10665B, & 71-10665C

Dear Water Right Holders:

The department acknowledges receipt of correspondence changing ownership of the above referenced water right to you. The department has modified its records to reflect the change in ownership and has enclosed a computer-generated report for your records

We are still waiting to receive the additional information requested for water right 71-7009. Once this information is received and is found to be in good standing, we will process the ownership change. For more details, refer to the letter mailed July 2, 2004.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department

Please feel free to contact this office if you have any questions regarding this matter

Sincerely,

For Jeff Peppersack, Manager
Water Right Permits Section

JP:eja