

WATER SUPPLY BANK LEASE CONTRACT No. 1705

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

LESSOR: BKC FARMS INC
680 N 2100 E
SAINT ANTHONY, ID 83445-5323

RECEIVED
NOV 27 2023
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on March 20, 2023.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
21-7007	12/2/1968	GROUND WATER	1.83	439	146.3
Lease Totals			1.83	439	146.3

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2023 to December 31, 2027. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

WATER SUPPLY BANK LEASE CONTRACT No. 1705

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1705

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: BKC FARMS INC
680 N 2100 E
SAINT ANTHONY, ID 83445-5323

By Winston Crogo
Title Owner
Date 11-22-23

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 11/28/23

Lease approved by IDWR HP

Date 11/28/23

WATER SUPPLY BANK LEASE CONTRACT No. 1705

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 21-7007

GROUND WATER SENW Sec. 16 Twp 08N Rge 41E FREMONT County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
21-7007	IRRIGATION	5/01	to	9/30	1.83 cfs	439 AF
Totals:					1.83 cfs	439 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	41E	16					39	31	8.5	5.0	7.8	10	8.0	37					146.3

Total Acres: 146.3

ADDITIONAL 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, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
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 SUPPLY BANK LEASE CONTRACT No. 1705

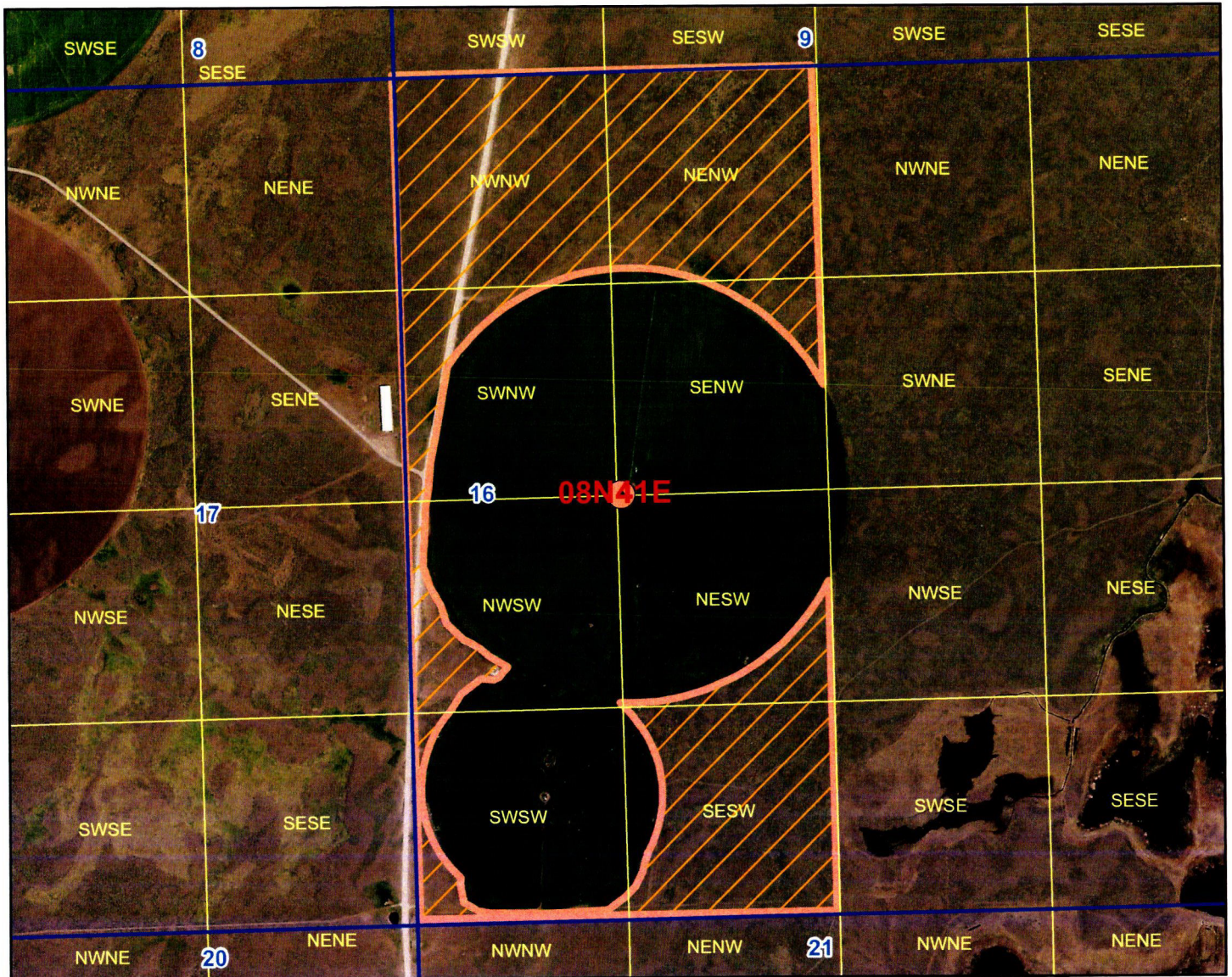
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. 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.
12. The unleased portion of this right is limited to 1.95 cfs and 470 af per year, and the irrigation of 156.7 acres within the authorized place of use in a single irrigation season.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1705

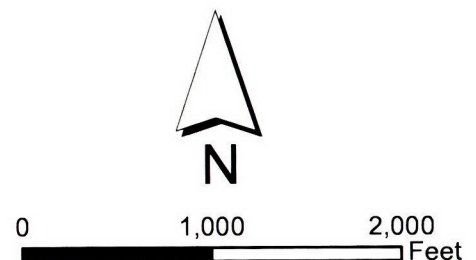
21-7007

Effective until December 31, 2027

This map depicts the **place of use** to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
MAR 20 2023
DEPARTMENT OF
WATER RESOURCES

Designated Applicant BKC Farms, Inc.

(Select one owner – see item 1A on the application)

Water Right No. 21-7007

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☒ | ☐ | Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>Ku</u>	Date Received: <u>3.20.23</u>	Receipt # <u>C115621</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>BKC Farms INC</u>	

2636

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant BKC Farms, Inc.

Mailing Address	<u>c/o Bruce Crapo</u>	<u>680 N. 2100 E.</u>	<u>St. Anthony</u>	<u>Idaho</u>	<u>83404-7974</u>
	Street		City	State	Zip Code

Email Address <u>bruce@sunglo-idaho.com</u>	Phone Number <u>(208) 313-6303</u>
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☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒

If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐

If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐

If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative <u>Robert L. Harris</u>	Organization <u>Holden, Kidwell, Hahn & Crapo, P.L.L.C.</u>
--	---

Professional Title <u>Attorney</u>	Email Address <u>rharris@holdenlegal.com</u>
------------------------------------	--

Mailing Address <u>P.O. Box 50130, Idaho Falls, Idaho 83405</u>	Phone Number <u>(208) 523-0620</u>
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☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).

- B. Please provide a description of the current water diversion and delivery system.
Well and pump into pivots.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The same portion of Water Right No. 21-7007 offered into the Water Supply Bank now was placed in the Idaho Water Supply Bank in 2016 after 21-7007 was decreed in September of 2011. It was placed in the WSB through 2020 and again in 2022.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☒ No ☐
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. The portion of Water Right No. 21-7007 being offered into the Water Supply Bank was previously leased into the Water Supply Bank from 2016 through 2020 and in 2022. See Idaho Code section 42-223(5).

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2023 to 2027 (maximum lease period 5 calendar years).
(Year) (Year)

- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than 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 water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Signature of Designated Applicant

Printed Name

Date

Robert L. Harris
Signature of Authorized Representative

Robert L. Harris
Printed Name

3/17/2023
Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

ATTACHMENT 1A
Signatures of All Water Right
Owners

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 21-7007

	Designated Applicant	Applicant #2	Applicant #3
Name	BKC Farms, Inc.		
Mailing Address	1908 E. 500 N. St. Anthony, ID 83445		
Phone Number	208 313-6303		
Email Address	bruce@sunglo-idaho.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

RECEIVED

MAR 24 2023

Department of Water Resources

**AUTHORITY OF ATTORNEY
FOR SUBMITTAL OF WATER SUPPLY BANK APPLICATIONS**

The undersigned hereby appoints **Robert L. Harris** of the law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, Idaho 83402, the true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources and the Idaho Water Resource Board relative to water supply bank applications (specifically including, but not limited to, a water supply bank application for Water Right No. 22-7007) and to allow him to receive all information, opinions, and records regarding these filings, and to sign and submit applications and other filings on our behalf, effective March 1, 2023 through March 1, 2024.

DATED this 24th day of March, 2023.

BKC FARMS INC.



Name: Coy Crapo
Title: Manager

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1512

21-7007

Effective until December 31, 2022

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Place of Use
-  Approved Lease Point of Diversion
-  Township/Range
-  Sections
-  QQ



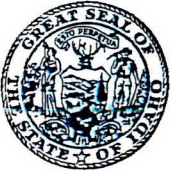
0 500 1,000 Feet

ATTACHMENT 1B
IRS Form W-9

ATTACHMENT 1D
Authorized Representative
Documents



0003398553



STATE OF IDAHO
Office of the secretary of state, Lawrence Denney
ANNUAL REPORT
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

For Office Use Only

-FILED-

File #: 0003398553

Date Filed: 1/16/2019 2:51:34 PM

Entity Name and Mailing Address:

BKC, INC.

The file number of this entity on the records of the Idaho Secretary of State is: 0000388502

Address

680 N 2100 E
SAINT ANTHONY, ID 83445-5323

Entity Details:

Entity Status

Active-Good Standing

This entity is organized under the laws of:

IDAHO

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: C126893

The registered agent on record is:

Registered Agent

BRUCE K CRAPO
Registered Agent

Physical Address

680 N 2100 E
ST ANTHONY, ID 83445

Mailing Address

Corporate Officers and Directors:

Names of officers and directors	Title	Address
BRUCE K CRAPO	President	680 N 2100 E ST. ANTHONY, ID 83445

The annual report must be signed by an authorized signer of the entity.

Bruce Crapo

Sign Here

01/16/2019

Date

Signer's Title: President *Bruce K Crapo*

B0147-7403 01/16/2019 2:51 PM Received by ID Secretary of State Lawrence Denney

ATTACHMENT 2
Description of Water Right
Portion Offered Into the Water
Supply Bank

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	2. <u>Nature of Use</u>	3. <u>Leased Rate</u> (cfs)	4. <u>Leased Volume</u> (af)	5. <u>Leased Acres</u> (ac)
21-7007	Irrigation	1.83	438.9	146.3
Total Amounts:				

2. Source of water Ground water tributary to

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8N.	41E.	16			SE	NW	FREMONT

ATTACHMENT 3
Map Showing Acres Dried Up

WSB Mailing Checklist for Leases

Instructions: Staple to outside of lowest numbered water right file during processing.

Key: Who Completes What?

CLERICAL STAFF: MK

REVIEWER:

Received Date

3/20/2023

Desired Lease Duration

2023-2027

Lease / Rental Package

Y

N

If yes, Renter Name:

Application # 2636

Contract # 1705

WR#s		#
		21-7007
#		#
#		#
#		#
#		#
#		#
#		#

Applicant Authorized?

Y / N

Multiple owners, Attach 1A included?

Y / N NA

If portion is offered, Attach 2 included?

Y / N NA

Map of POU and POD?

Y / N NA

POD Consent (if required)?

Y / N NA

Application Complete?

Y / N

Minimum checklist in data base?

☒

Request for additional information letter sent:

Y NA

Stacked Water Rights Need to be Leased?

☐

WSB Action Request for deficiencies

☐

If checked, list water rights:

If the WR owner provided a different address on the application than what's in our database, update address in workflow.

Mailings (per lease application)

CC

Original

Designated

Applicant: BKC Farms Inc

☐

☒

EMAIL:

Attorney:

Robert L Harris - Holden, Kidwell,

☒

☐

EMAIL:

Consultants

Name: Hahn + Crapo PLLC

☐

Comments:

prev contract #1512

Watermaster:

Bleeker Jordan

☐

see current IDSOS for authority to sign

Delivery Entity:

NA

☐

Water District:

WD 100 - bkble_jordan@wdwr

☒

Ground Water District:

Henry's Fork GWD-

☒

Region:

EASTERN

☐

Other:

☐

☐

Address:

Call up Date:

DO NOT SCAN



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

November 30, 2023

BKC FARMS, INC
680 N 2100 E
ST ANTHONY, ID 83404-7974

**RE: WATER SUPPLY BANK LEASE CONTRACT 1705
FOR WATER RIGHT 21-7007**

Dear Lessor:

Water right 21-7007 is leased into the Water Supply Bank (Bank) as of January 1, 2023, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2027**, unless the right is released earlier by the Water Resource Board (Board). To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it is rented.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Bob Howe

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Regional Manager-James Cefalo
Water District No. 100- Blake Jordan, Henry Forks Groundwater Dist.
Representative- Robert L Harris- Holden, Kidwell, Hahn, & Crapo PLLC



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

November 14, 2023

BKC FARMS, INC
680 N 2100 E
ST ANTHONY, ID 83404-7974

**RE: APPLICATION TO LEASE WATER RIGHTS 21-7007 TO THE WATER SUPPLY BANK
CONTRACT 1705**

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2027**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"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."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Bob Howe

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

CC: Robert L Harris-Holden, Kidwell, Hahn & Crapo

MEMORANDUM FOR APPLICATION # 2636

To: Water Right 21-7007
From: Bob Howe
Date: 03/30/2023
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE:

The complete application for lease to the water supply bank with applicable fee for water right 21-7007 was received on March 20th, 2023, signed by Robert L. Harris, on behalf of BKC Farms, Inc. After contact attempts and a second mailing the lease contracts were returned signed November 27, 2023.

AUTHORITY TO FILE:

The lease application was signed by Robert L. Harris, named representative of BKC Farms Inc. The 2023 Annual Report for BKC Farms Inc. on the Idaho Secretary of State website names Coy B. Crapo as the director. On March 24th, 2023, the applicant emailed an Attorney Authority form appointing Robert L. Harris as named representative on behalf of BKC Farms Inc, signed by Coy Crapo. IDWR records confirm that BKC Farms LLC is the named owner of the right proposed for lease. There are no concerns about authority to file the application.

WATER RIGHT VALIDITY:

Water right 21-7007 was decreed in September of 2011 and same portion being offered in the current application was accepted by the bank from 2016 through 2020 and again in 2022, when the right was entering its sixth year of disuse. The water right has been in the Water Supply Bank (WSB) throughout the 2022 season; therefore, it is still eligible for lease into the bank. Additional periods of non-use will require the permit holder to submit evidence the right has not been lost to forfeiture before another lease contract can be approved. Aerial imagery was used to confirm that the previously leased portion has remained idle throughout the terms of the previous leases. There are no concerns regarding the validity of the water right and the portion offered to the bank.

ENLARGEMENT OF USE:

Right 21-7007 is the only groundwater right appurtenant to the parcels the leased portion are located within. Surface water rights for the irrigation district and several other irrigation companies are the only rights that overlap the POU of 21-7007. The point of diversion for right 21-7007 is not shared by any other rights. There are no enlargement concerns with accepting the right into the water supply bank. However, there are concerns that separating the ground water use from the overlapping surface water use may be an enlargement of historical combined use. Rental review will need to further evaluate the historic use of surface and ground water.

LOCAL PUBLIC INTEREST:

Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

The purposed lease POD is within the ESPA Ground Water Management Area, the Henry's Fork Ground Water District, and IDWR Administrative Basin 21. Comment request emails with the lease contract, map, and application attached will be submitted to the Water District #100 Watermaster and the Eastern Regional Manager.

Howe, Bob

From: Howe, Bob
Sent: Thursday, November 30, 2023 9:01 AM
To: Jordan, Blake; Skinner, Corey; aaron.fmid@myidahomail.com
Cc: Bank
Subject: Water Supply Bank-Executed Lease Contract 1705-Mailed
Attachments: Executed Lease Contract 1705-w Cover Letter.pdf

Good Morning,

I have attached a copy of executed lease contract 1705 (right 21-7007) for BKC Farms Inc. for your records. Please note that this was processed a little late, as the contract term is 2023-2027.

Feel free to reach out with any questions or concerns. Thank you and have a great day.

Best Regards,

Bob Howe

 IDAHO DEPARTMENT OF
WATER RESOURCES
Bob Howe | Water Resource Agent
322 E Front St, PO Box 83720, Boise, ID 83720
(208) 287-4800 | www.idwr.idaho.gov

Howe, Bob

From: Howe, Bob
Sent: Tuesday, November 14, 2023 9:27 AM
To: Jordan, Blake; Skinner, Corey; aaron.fmid@myidahomail.com
Cc: Bank
Subject: Comment Request- Lease Contract 1705- BKC Farms Inc
Attachments: Lease Contract 1705-including cover letter-mailed 11.14.2023.pdf; BKC Farms Inc Lease Review Memo.docx.pdf

Dear Interested Agencies:

The Department of Water Resources is seeking comment from your agency, regarding the Water Supply Bank (WSB) Lease Contract 1705, for BKC Farms Inc. The lease is for the same right and portion as current lease (Contract 1512-ending 12/31/2022), for a new term from 2023-2027. A copy of the proposed lease contract, the lease review, and map are attached for your reference.

Please submit your comments within 14 days, no later than November 28, 2023. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the execution of the lease.

Comments are preferred to be received by e-mail to bob.howe@idwr.idaho.gov. However, comments by regular mail and/or FAX to 208-287-6700 are acceptable.

If you have any questions, don't hesitate to contact me at the State Office at (208) 287-4847.

Bob Howe

 IDAHO DEPARTMENT OF
WATER RESOURCES
Bob Howe | Water Resource Agent
322 E Front St, PO Box 83720, Boise, ID 83720
(208) 287-4800 | www.idwr.idaho.gov

Howe, Bob

From: Howe, Bob
Sent: Tuesday, October 24, 2023 11:53 AM
To: bruce@sunglo-idaho.com; rharris@holdenlegal.com
Cc: Bank
Subject: Signature Needed- Lease Contract 1705- BKC Farms, Inc- Right 21-7007
Attachments: BKC FARMS INC- Report - Lease Contract.pdf; LEASE 1705 MAP.pdf

Good Morning Bruce & Rob,

I am trying to reach you in regard to Water Supply Bank Lease Contract 1705, for BKC Farms, Inc.- Water Right 21-7007. We sent two original lease contracts for signature in August, 2023, but we do not have record they were returned to us. Please see the attached contract and map, and kindly sign and return two signed original contracts within 10 days. The signed contracts can be emailed to file@idwr.idaho.gov or they can be mailed to PO Box 83720, Boise, ID 83720-0098. If you already complied with this request in August 2023 and received from us your original signed and executed contracts, please forward me a scan of the full contract for our records so we can activate the lease.

Feel free to reach out to me with any questions or concerns. Thank you for your time and attention in this matter.

Bob Howe

 IDAHO DEPARTMENT OF
WATER RESOURCES
Bob Howe | Water Resource Agent
322 E Front St. PO Box 83720, Boise, ID 83720
(208) 287-4800 | www.idwr.idaho.gov

Howe, Bob

From: Hummer, Phill
Sent: Wednesday, August 2, 2023 3:33 PM
To: bruce@sunglo-idaho.com; rharris@holdenlegal.com
Subject: BKC Farm Inc Lease Application 2636
Attachments: BKC FARMS INC- Report - Lease Contract.docx; LEASE 1705 MAP.pdf

Bruce and Rob,

I apologize for the delay in processing. The attached Contract represents an acceptance of 146.3 acres of right 21-7007 into the bank for the years 2023-2027. Please sign and return 2 copies of the contract either by regular mail or to file@idwr.idaho.gov. Once return I will finalize the application process.

-Phill

Kienholz, Mackenzie

From: Kienholz, Mackenzie
Sent: Friday, March 24, 2023 12:17 PM
To: Rob Harris
Subject: RE: Water Supply Bank Lease Application for BKC Farms Inc WR 21-7007

Hello Rob,

I received the attachment. I will add this to the application file and note that it is now ready for review.

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist



Planning & Projects
Mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

From: Rob Harris <rharris@holdenlegal.com>
Sent: Friday, March 24, 2023 11:17 AM
To: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Water Supply Bank Lease Application for BKC Farms Inc WR 21-7007

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Mackenzie:

Please see the attached executed attorney authority document signed by Coy Crapo, manager for BKC Farms, Inc. This should be everything you need to continue processing the water supply bank application.

Because of the attachment, please confirm that you received this email.

Thanks,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Sent: Wednesday, March 22, 2023 10:07 AM
To: Rob Harris <rharris@holdenlegal.com>
Subject: Water Supply Bank Lease Application for BKC Farms Inc WR 21-7007

Good morning Rob,

We received Water Supply Bank Lease Application #2636 for water right 21-7007 in the name of BKC Farms Inc. The application was signed by yourself, and you included the ID SOS filing listing Bruce Crapo as the agent for BKC Farms, however we will need either a signature page with Mr. Crapo's signature or documentation showing you are authorized to act on behalf of BKC Farms Inc in this matter.

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist



Planning & Projects
Mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

Established in 1896

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405
Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
rharris@holdenlegal.com

March 17, 2023

Idaho Department of Water Resources
Idaho Water Supply Bank
P O Box 83720
Boise, ID 83720-0098

Re: Application to Lease Water Right No. 22-7007 into the Water Supply Bank.

Dear Water Bank Agent:

Enclosed for processing is an application to lease a portion of WR 22-7007 into the Idaho Water Supply Bank. This portion of WR 22-7007 has been leased to the Bank from 2016-2020, and 2022. Due to a miscommunication, this application was not filed in December of last year. This lease simply seeks to continue the prior approved lease, and to avoid any issue with doing this year to year, this lease seeks placement of WR 22-7007 in the Water Supply Bank for 5 years (from 2023 through 2027).

We have also included the required \$250.00 filing fee for this application. If you have any questions or concerns, please contact me at 208-523-0620.

Best regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

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