

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1552

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

LESSOR: D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

SUPPORT DATA
IN FILE # 22-7394

RECEIVED
AUG 22 2022
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 February 03, 2022.
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)
22-11900	4/15/1970	TETON CREEK, tributary to TETON RIVER	0.57	Not Stated	39.5
22-7394	4/22/1982	GROUND WATER, tributary to	0.52	119	39.5
Combined Limit Totals			0.79	Not Stated	39.5
Combined Lease Totals			1.09	119	79.0

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
22-11900	0.57	138	39.5	0.014	0.00
22-7394	0.52	119	39.5	0.013	3.03
Combined Limit Totals		0.79	119	0.03	3.03

** The water right elements rentable have been reduced from the water right elements leased to account for 39.5acres and defined volume limit that is based on the regional field headgate irrigation standard of 3.5 afa/acre.*

WATER SUPPLY BANK LEASE CONTRACT No. 1552

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, 2022 to December 31, 2023. 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.
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. 1552

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

LESSOR: D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

By *David J. Walters*
Title _____
Date _____

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By *Brian Patton* Date 8/22/22
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR *HP* Date 8/22/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1552

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): 22-11900

TETON CREEK 3SESW Sec. 29 Twp 05N Rge 46E TETON County

Source and Location of Point(s) of Diversion for Water Right No(s): 22-7394

GROUND WATER SENESE Sec. 30 Twp 05N Rge 46E TETON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
22-11900	IRRIGATION	04/15	to	10/31	0.57 cfs	Not Stated
22-7394	IRRIGATION	04/15	to	10/15	0.52 cfs	119 AF
Totals:					1.09 cfs	119 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		
05N	46E	30									38					1.5				39.5

Total Acres: 39.5

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.

WATER SUPPLY BANK LEASE CONTRACT No. 1552

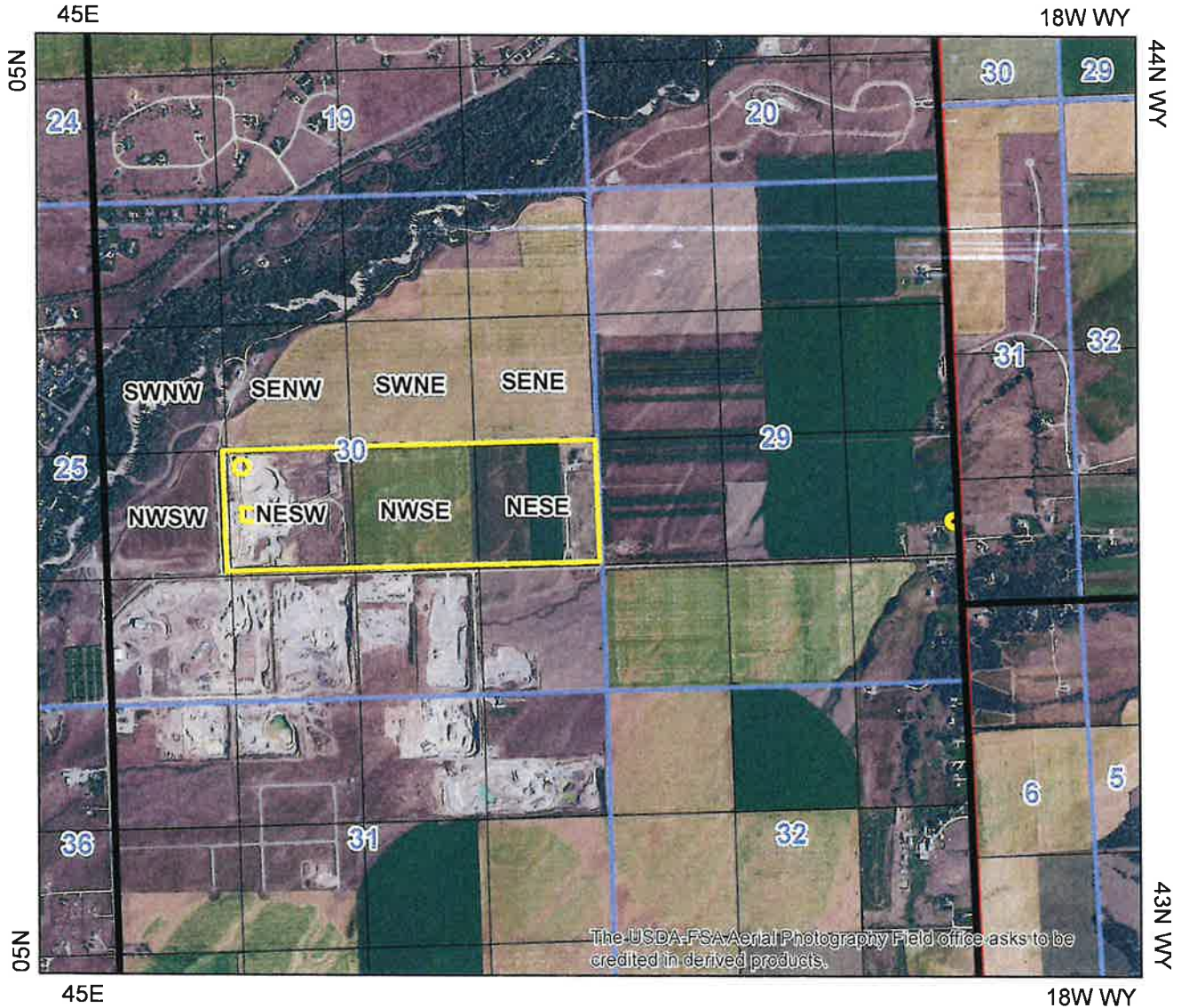
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
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. 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.
13. The unleased portions of rights 22-7394 and 22-11900 when combined shall not exceed a total diversion rate of 1.53 cfs and the irrigation of 76.5 acres.
14. The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted there from as set forth in *Roxana Canal Co. v. Daniels*, Equity No. 2447 (D. Wy. Feb. 4, 1941).
15. This water right is also recorded as Wyoming Certificated Water Right No. 7308E.
16. This water right is subject to the delivery provisions contained in *Roxana Canal Co. v. Daniels*, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
17. The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 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.
18. The point of diversion for this water right is in Wyoming in T44N R118W section 22 NESW The point of diversion shown above is where the conveyance system enters Idaho.

Water Supply Bank Lease Contract No. 2307

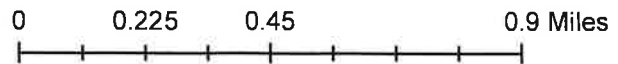
22-11900, 22-07394







Effective until December 31, 2025

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



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.



-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters
-  Point of Diversion
-  State Outline



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 03 2022

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant D & C Properties, LLC Water Right No. 22-11900
(Select one owner – see item 1A on the application) (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.

MIMUMUM REQUIREMENT CHECKLIST		
All items must be checked as either <i>Attached (Yes)</i> or <i>Not Applicable (N/A)</i>		
Yes		
	<input checked="" type="checkbox"/>	Completed <i>Application to Sell or Lease a Water Right to the Water Supply Bank</i> .
	<input checked="" type="checkbox"/>	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.
	<input checked="" type="checkbox"/>	Confirmation this form has been printed single sided , per requirement of the Water Supply Bank.
Attachment	N/A	Yes
1A	<input checked="" type="checkbox"/>	<input type="checkbox"/> Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application.
1B	<input type="checkbox"/>	<input checked="" type="checkbox"/> An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.
1C	<input checked="" type="checkbox"/>	<input type="checkbox"/> <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov).
1D	<input type="checkbox"/>	<input checked="" type="checkbox"/> 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	<input type="checkbox"/>	<input checked="" type="checkbox"/> Description of a water right portion offered to the Water Supply Bank.
3	<input type="checkbox"/>	<input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/>	<input type="checkbox"/> Written consent from irrigation district or water delivery company.
4G	<input checked="" type="checkbox"/>	<input type="checkbox"/> Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> .

Department Use Only			
Fee Amount \$	<u>50.</u>	Received By:	<u>kn</u>
		Date Received:	<u>2.3.22</u>
		Receipt #	<u>C111854</u>
W-9 received?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9: <u>Walters Ready Mix Inc</u>

2307

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 D & C Properties, LLC
Mailing Address PO Box 390 Rexburg Idaho 83440
Street City State Zip Code
Email Address _____ Phone Number (208) 356-5491

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 Kristin Moore Organization Rocky Mountain Environmental
Professional Title Senior Water Rights Analyst Email Address kristin.rmea@gmail.com
Mailing Address 482 Constitution Way, Suite 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

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.

Water is delivered from Teton Creek through the South Side Ditch and is diverted into a mainline irrigation system. The point of diversion for this water right is in Wyoming in T44N R118W Section 22NESW.

- 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. Water right no. 22-7394 is co-mingled with this water right and is diverted from a well and delivered through the same mainline.

- 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. This portion of water rights 22-7394 and 22-11900 was leased into the Water Supply Bank in 2017-2021.

- 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.

- 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)

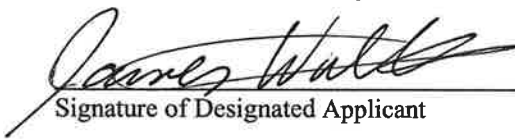
5. SALE/LEASE AGREEMENT

- 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: 2022 to 2023 (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

James Walters

Printed Name

1-26-22

Date

Signature of Authorized Representative

Printed Name

Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: D & C PROPERTIES, LLC

RE: Authorized Representatives

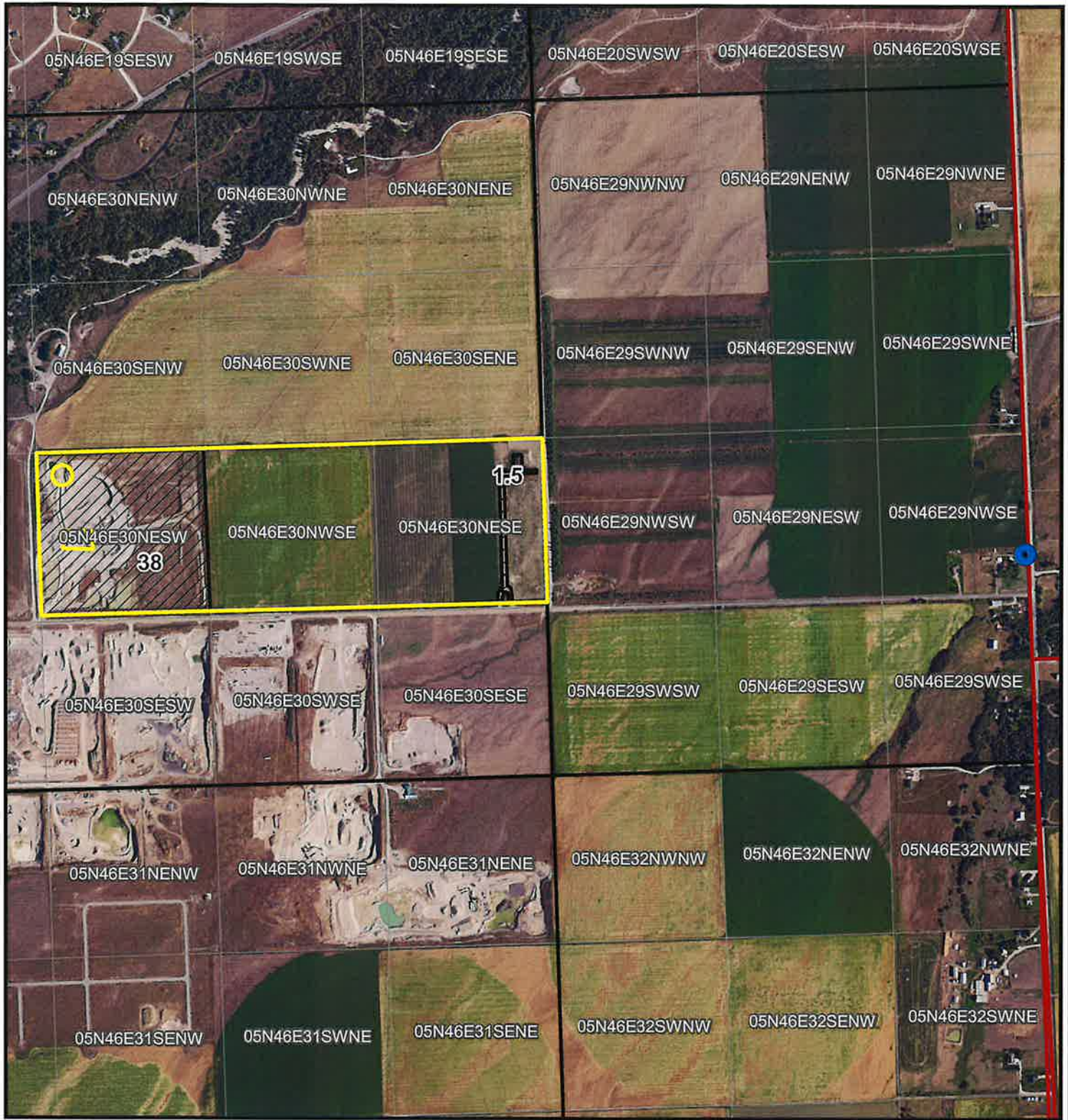
Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

Rocky Mountain Environmental Associates, Inc. (RMEA) is hereby authorized to act on behalf of Applicant regarding Water Supply Bank Application(s) for water right(s).


Signature

James Walters
Printed Name

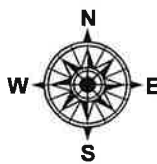
1-26-22
Date



0 0.25 0.5 1 Miles 2017 NAIP

Legend

- POD 22-11900
- Water Right POU
- WSB Lease Acres
- Twp & Rng
- Section
- QQ



WSB Lease Application Map
D & C Properties LLC

RMEA #14-0053
by: KM
Date: 12/17/2019





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 Gary Spackman

August 24, 2022

D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

**RE: WATER SUPPLY BANK LEASE CONTRACT 1552
FOR WATER RIGHTS 22-7394 & 22-11900**

Dear Lessor:

Water right **22-7394 & 22-11900** was leased into the Water Supply Bank (Bank) as of January 1, 2022, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are 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 rights will automatically be released from the Bank on **December 31, 2023**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights 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 rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Water District No. 01
Kristin Moore



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 Gary Spackman

August 17, 2022

D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACT 1552
FOR WATER RIGHTS 22-11900 & 22-7394**

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

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on July 29, 2022. The signed contracts have not been returned to the Department.

Please sign both original Lease Contracts and return them to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contracts are not received by the Department within the 10-day period, the lease application will be returned, and the application fee will not be refunded. You can reapply to lease the water right in the future by submitting new application form along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

c: Kristin Moore



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 Gary Spackman

July 29, 2022

D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

RE: APPLICATION TO LEASE WATER RIGHTS 22-11900 & 22-7394 TO THE WATER SUPPLY BANK CONTRACT 1552

******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, 2023**, 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Kristin Moore

MEMORANDUM FOR APPLICATION # 2307

To: Water Right(s) 22-07394, 22-11900
From: Kevin Anderson - IDWR
Date: 7/8/2022
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE:

An application was received by the Department February 03, 2022 from James Walters on behalf of D & C Properties LLC, offering 39.5 acres of water rights 22-07394 and 22-11900 for lease to the Bank through the end of 2023. The acreage is a portion of the combined water rights. Both water rights 22-07394 and 22-11900 were decreed together in 2008. This portion of water rights 22-07394 and 22-11900 was leased into the Water Supply Bank in 2017-2021. WR 22-11900 has a mitigation beneficial use attached to it. The mitigation portion of 22-11900 is not being offered for lease into the Water Supply Bank.

Water Right 22-11900 uses surface water from the Teton Creek, tributary to the Teton River. Water Right 22-07394 uses groundwater as it's source of water. Surface water is to be utilized first, while groundwater will be used supplementary. The combined use limits for Water Rights 22-11900 and 22-07394 are 116 acres at a diversion rate of 2.32cfs. The 39.5 acres offered to the Water Supply Bank will have a diversion rate of 0.79cfs.

AUTHORITY TO FILE:

James Walters is the designated applicant, according to Idaho's Secretary of State business information, James Walters is an active representative for D & C Properties. Review of Teton County parcel data shows D & C Properties LLC as the current landowner while IDWR records list D & C Properties LLC as the current water right holder. No concerns currently.

WATER RIGHT VALIDITY:

Both Water Right 22-07394 and 22-11900 were decreed in 2008. The combined Water Rights purpose is for irrigation. After reviewing satellite imagery, there appears to be no concerns with validity of the water right and portion offered to the bank.

LOCAL PUBLIC INTEREST:

Review staff has no information to suggest this application is inconsistent with the local public interest. Review of the point of diversion and consideration of water management in Wyoming will need to be considered if before a rental of these right can be approved, see watermasters comment below.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

Water Rights 22-07394 and 22-11900 are both located in Water District 01. Request for comments sent to Watermaster Tony Olenichak on 7/14/2022. Comments from Watermaster received on 7/14/2022:

I don't see any problem with depositing 22-11900 in the water bank, but I don't think anyone could lease this water right from the water bank unless they diverted it from the current point-of-diversion (South Side Ditch) or some other point-of-diversion on Teton Creek in

Wyoming. Once Teton Creek crosses into Idaho, the creek typically goes dry before reaching the Teton River by early-summer. Moving the diversion to another stream in Idaho could adversely affect the delivery to other water rights on the stream the right is being moved to once the Teton Creek channel goes dry. If the right is moved from its current point-of-diversion in Wyoming, the State of Wyoming would need to approve any change in point-of-diversion. The State of Wyoming should also be notified that the owner of 22-11900 will no longer be using the water right for the period the right is being deposited into the bank so they can regulate the South Side Ditch headgate accordingly.