

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1540

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

LESSOR: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

RECEIVED

JUL 28 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 January 04, 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)
22-7507	6/28/1985	GROUND WATER	1.56	273	78.0
Combined Lease Totals			1.56	273	78.0

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, 2026. 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. 1540

- 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. 1540

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

LESSOR: RICHARD F SMITH

PO BOX 8

REXBURG, ID 83440

By 

Title _____

Date 7/24/2022

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By 

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 7/29/22

Lease approved by IDWR 

Date 7/29/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1540

**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): 22-7507

GROUND WATER	SENESEW	Sec. 33	Twp 06N	Rge 40E	MADISON County
GROUND WATER	SWSESW	Sec. 28	Twp 06N	Rge 40E	MADISON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
22-7507	IRRIGATION	04/01	to	10/31	1.56 cfs	273 AF
Totals:					1.56 cfs	273 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	
06N	40E	32	38			40													78

Total Acres: 78

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1540

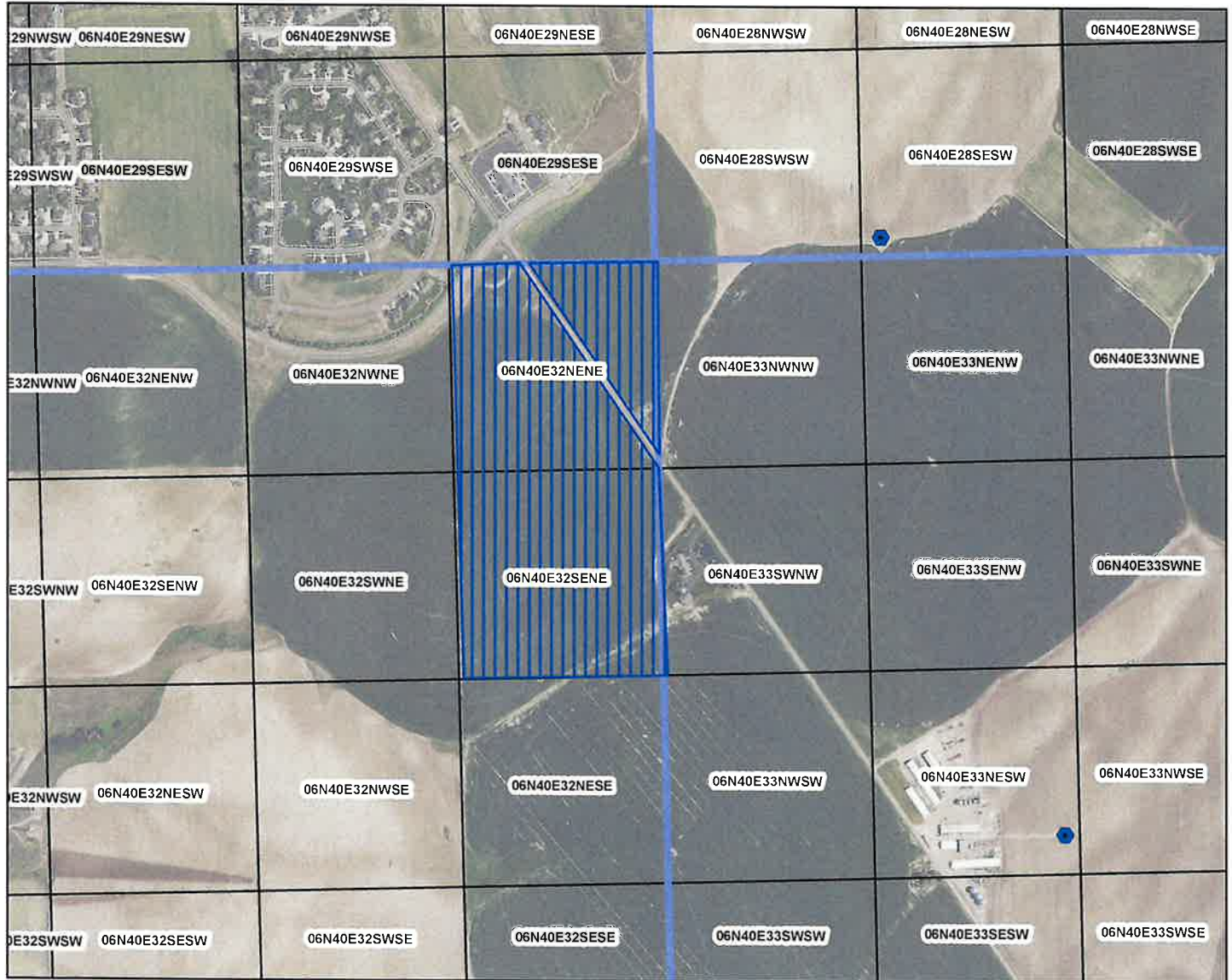
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other 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. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.
13. This right does not grant any right-of-way or easement across the land of another.
14. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
15. The rights listed below are limited to a total combined diversion rate of 10.85 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
16. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
17. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
18. This rental agreement does not authorize the construction of a well.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1540

22-7507

Effective until December 31, 2026

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.



- Water Supply Bank Lease POD
- ▨ Water Supply Bank Lease POU
- ▭ Township/Range
- ▭ Sections
- ▭ QQ

0 0.125 0.25 0.5 Miles



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 04 2022

**DEPARTMENT OF
WATER RESOURCES**

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

Designated Applicant Richard F Smith

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

Water Right No. 22-7507

(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 <u>Internal Revenue Service (IRS) Form W-9</u> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ 250

Received By: Ku

Date Received: 1.4.22

Receipt # C111651

W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

2257

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 Richard F Smith

Mailing Address <u>PO Box 8</u>	<u>Rexburg</u>	<u>ID</u>	<u>83440</u>
Street	City	State	Zip Code

Email Address <u>rfsmith727@gmail.com</u>	Phone Number <u>208-390-7000</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 Kristin Moore Organization Rocky Mountain Environmental Assoc. Inc.

Professional Title Sen. Water Rights Analyst Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way Ste 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.
Wells deliver water into a mainline and pivots distribute water onto the ground.

- 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. This water right, which is not owned by the landowner, will be rented back to be used at the same place of use.

- 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 full water right has been diverted.

- 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.

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 2026 (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

RICHARD F. SMITH

Printed Name

11/16/21

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: RICHARD F. SMITH

RE: Authorized Representatives

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

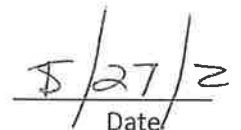
Rocky Mountain Environmental Associates, Inc. (RMEA) is hereby authorized to act on behalf of Richard F. Smith regarding Water Supply Bank Application(s) for water right(s).



Signature



Printed Name



Date

**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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>22-7507</u>	<u>Irrigation</u>	<u>1.56</u>	<u>273</u>	<u>78</u>
	Total Amounts:	<u>1.56</u>	<u>273</u>	<u>78</u>

2. Source of water Ground water tributary to _____

3. Point(s) of diversion:

TwP	Rge	Sec	Lot	¼	¼	¼	County
6N	40E	28		SW	SE	SW	MADISON
		33		SE	NE	SW	MADISON

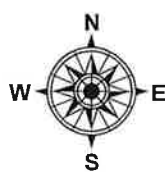


0 700 1,400 2,800 Feet

2019 NAIP

Legend

- POD 22-7507
- POU 22-7507
- WSB Lease Acres
- Twp & Rng
- Section
- QQ



WSB Lease Locations

Richard Smith

RMEA #15-0014

by: KM

Date: 9/23/2021





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 19, 2022

RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

**RE: WATER SUPPLY BANK LEASE CONTRACT 1540
FOR WATER RIGHTS 22-7507**

Dear Lessor:

Water right **22-7507** 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, 2026**, 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- Eastern Region
Water District No. 100
Kristin Moore



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 Gary Spackman

July 22, 2022

RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS 1540
FOR WATER RIGHT 22-7507**

*****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 June 21, 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,

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

June 21, 2022

RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

**RE: APPLICATION TO LEASE WATER RIGHTS 22-7507 TO THE WATER SUPPLY BANK
CONTRACT 1540**

******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, 2026**, 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

TO: Water right 22-7075 file
FROM: Cody Parker
RE: Evaluation of WSB Lease application 2257
DATE: June 21, 2022

Purpose

Lease application 2257 proposes to lease a 78-acre portion of water right 22-7507 into the water supply bank for a full five year period. Accompanying rental application proposes to rent the leased portion of 22-7507 at the original place of use and from the original point of diversion. The purpose of the lease-rental transaction appears to be to make clear that ownership of the water right (Richard Smith) and the underlying land (Kauer Properties LLC) are separate.

Authority to File

The owner of record for the water right is Richard F Smith. Mr. Smith signed the application. No concerns

Water Right Validity

This right was decreed in 2009. An application for extension to avoid forfeiture was approved on September 1, 2015. A resumption of beneficial use form was submitted indicating that water use resumed in June of 2020. The land appears to have been irrigated as recently as 2021. No concerns.

Injury to Other Water Rights

Nonuse of this right will not cause injury. An analysis of injury related to the rental of this water right is treated separately in the Water Supply Bank rental review for application 2258.

Enlargement of Use

There is only one water right authorized to irrigate the land proposed to be idled. Therefore there are no apparent enlargement concerns resulting from unstacking the leased right from others. There are no concerns with the land being idled because the water right is being leased into the Bank and rented back out by the same person with no physical changes made to either the diversion or land to be irrigated.

Local Public Interest

There is no information available to suggest this application is inconsistent with the local public interest.

Beneficial Use/Conservation of Water Resources

The change proposes to use an established water right in the manner it was decreed by the SRBA court. No concerns.

Department Staff or Watermaster Comments

Comments were solicited from the IDWR Eastern Region and the watermaster for Water District 100.

Parker, Cody

From: Parker, Cody
Sent: Tuesday, June 21, 2022 12:53 PM
To: Cefalo, James; Jordan, Blake
Subject: Rental 633 and Lease 1540 for Richard Smith
Attachments: LA2257_ApprovalMap.pdf; LA2257_LeaseContract.docx; LA2257_ReviewMemo.docx; RA2258_Approval.docx; RA2258_ApprovalMap.pdf; RA2258_Memo.docx

Good afternoon,

Attached are the documents for a lease-rental package for Richard Smith. Mr. Smith owns water right 22-7507 which authorizes irrigation on ground owned by Kauer Properties LLC. He is proposing to lease his right to the Bank and rent it to himself to use it exactly as it authorizes. The purpose of the WSB transaction is to make clear that the land ownership and the water right ownership are separate. I don't anticipate any issues since there is no change to where or how the water right will be used. If you have any comments please let me know.

Thanks

Cody Parker
Water Rights Supervisor
Idaho Dept. of Water Resources

RICHARD SMITH FARMS

950 S. Millhollow Rd
P O Box 8
Rexburg, Idaho 83440
Telephone (208) 356-4912
Email – rfsmith727@gmail.com

March 3, 2022

RECEIVED

MAR 07 2022

DEPARTMENT OF
WATER RESOURCES

Idaho Department of Water Resources
Attn: Mary Condon
322 East Front St. – Suite 648
Boise, Idaho 83720

Dear Ms. Condon,

As discussed in our recent telephone conversation and requested in your letter dated January 24, 2022, I enclose a Memorandum of Lease Agreement. This memorandum confirms that I am authorized to apply irrigation water to lands which are not owned by myself, but are the subject of a current lease agreement which authorizes me to farm and irrigate the lands.

Please let me know if any additional information is needed.

Thank you.

Sincerely,



Richard Smith

Memorandum of Lease Agreement

For the past 20 years, approximately 79 acres located in the NE ¼ of the E ½ of Section 32, Township 6 N., Range 40 EBM has been leased to Richard Smith. In the fall of 2021 we began marketing the property for sale. We have continued the lease agreement with Richard Smith and will continue to do so until such time as the property sells.

Pursuant to the lease agreement, the lease will automatically renew on an annual basis until the property is sold. If the property is sold during the irrigation season, Richard Smith will be allowed to continue to irrigate the property until such times as the crops thereon are harvested.

Dated: March 3, 2022

Lorin Kauer Estate



Gary Kauer,
Representative