

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1432

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

LESSOR: IDAHO WATER RESOURCE BOARD
322 E FRONT ST PO BOX 83720
BOISE ID 83720

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 August 11, 2021.
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)
75-14927	5/1/1916	FOURTH OF JULY CREEK, tributary to PANTHER CREEK; & PANTHER CREEK, tributary to SALMON RIVER	1.09	Not Stated	52.0
Lease Totals			1.09	Not Stated	52.0

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)
75-14927	1.04	182	52.0	0.020	3.5
Limit Totals	1.04	182	52.0	0.020	3.5

** The water right elements rentable have been reduced from the water right elements leased to account for Stockwater portion unrentable*

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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, 2021 to December 31, 2121. 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.

IDAHO DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1432

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

LESSOR: IDAHO WATER RESOURCE BOARD
322 E FRONT ST PO BOX 83720
BOISE ID 83720

By [Signature]
Title _____
Date _____

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

By [Signature] Date 8/12/22
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR [Signature] Date 8/12/22

IDAHO DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1432

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): 75-14927

FOURTH OF JULY CREEK	NWSWSE	Sec. 9	Twp 19N	Rge 18E	LEMHI County
PANTHER CREEK	SESWSE	Sec. 9	Twp 19N	Rge 18E	LEMHI County
PANTHER CREEK	NWSESE	Sec. 9	Twp 19N	Rge 18E	LEMHI County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
75-14927	IRRIGATION	04/01	to	11/01	1.04 cfs	Not Stated
	STOCKWATER	01/01	to	12/31	0.05 cfs	Not Stated
Totals:					1.09 cfs	Not Stated

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	
19N	18E	9													18		2.0	12	32
19N	18E	10							14				6.0						20

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
19N	18E	9													X		X	X	
19N	18E	10							X				X						

Total Acres: 52.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

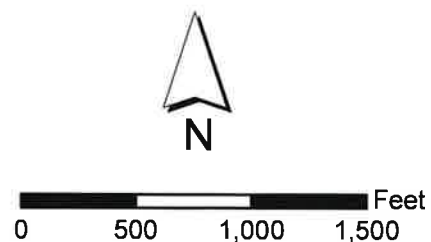
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1432

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.
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. Property is within Homestead Entry Survey No. 173.
13. The quantity of water under this right and water right 75-10125 for stockwater use shall not exceed 13,000 gallons per day.
14. 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.
15. The quantity of water decreed for this water right is not a determination of historical beneficial use.

WATER RESOURCES



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 11 2021

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Western Rivers Conservancy

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

Water Right No. 75-14927

(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 all owners 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 \$ <u>250 -</u>	Received By: <u>Ku</u>	Date Received: <u>8-11-21</u>	Receipt # <u>C110726</u>
W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

2125

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 Western Rivers Conservancy

Mailing Address <u>71 SW Oak Street, Suite 100</u>	<u>Portland</u>	<u>Oregon</u>	<u>97204</u>
Street	City	State	Zip Code

Email Address <u>sdoroff@westernrivers.org</u>	Phone Number <u>503-241-0151</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>Sue Doroff</u>	Organization <u>Western Rivers Conservancy</u>
--	--

Professional Title <u>President</u>	Email Address <u>sdoroff@westernrivers.org</u>
-------------------------------------	--

Mailing Address <u>71 SW Oak St, Suite 100, Portland, OR 97204</u>	Phone Number <u>503-241-0151</u>
--	----------------------------------

☒ 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 diverted with a concrete check structure and delivered via a series of ditches and pipeline to the place of use.
- 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.
- 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. 1.04 cfs for irrigation, 0.05 cfs for stockwater
- 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. Water Right No. 75-14927 is currently in the water supply bank under lease contract No. 1251. This lease application is submitted to amend the lease term from 5 years to indefinite.
- 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 indefini (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.
Commencing in 2022, the IWRB will hold title to Water Right No. 75-14927 and thus it will not charge itself to rent the water.

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.

Western Rivers Conservancy, an Oregon nonprofit corporation

By: <u>Sue Doroff</u>	Sue Doroff, President	August 9, 2021
Signature of Designated Applicant	Printed Name	Date
 _____	 _____	 _____
Signature of Authorized Representative	Printed Name	Date

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

**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). 75-14927

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
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			

ATTACHMENT 1D

**WESTERN RIVERS CONSERVANCY BOARD OF DIRECTORS
CORPORATE RESOLUTION**

The Board of Directors of Western Rivers Conservancy recognizes that Phillip Wallin has retired from Western Rivers Conservancy, effective December 31, 2015 and the position of Vice President is currently vacant.

Accordingly, the Board of Directors of Western Rivers Conservancy authorizes either Sue Doroff, its President, or Josh Kling, its Assistant Program Director, each acting alone, to execute and deliver any and all documents necessary or convenient to conduct Western Rivers Conservancy's business, including, without limitation, contracts, options, leases, letters exercising option rights, agreements, deeds, mortgages, deeds of trust, promissory notes, easements, licenses, escrow instructions and customary closing document, open and close bank accounts and to hold signature authority over such accounts consistent with Western Rivers Conservancy's internal policies.

I, Juliette Harding, certify that I am the duly elected Secretary of Western Rivers Conservancy, a nonprofit corporation organized under the laws of the State of Oregon. I further certify that the Resolution set forth reflects the action of the Board of Directors of Western Rivers Conservancy adopted at a duly noticed regular meeting on January 26, 2016, and that said Resolution has not been modified nor rescinded.

Executed at Portland, Oregon this 26th day of January 2016.



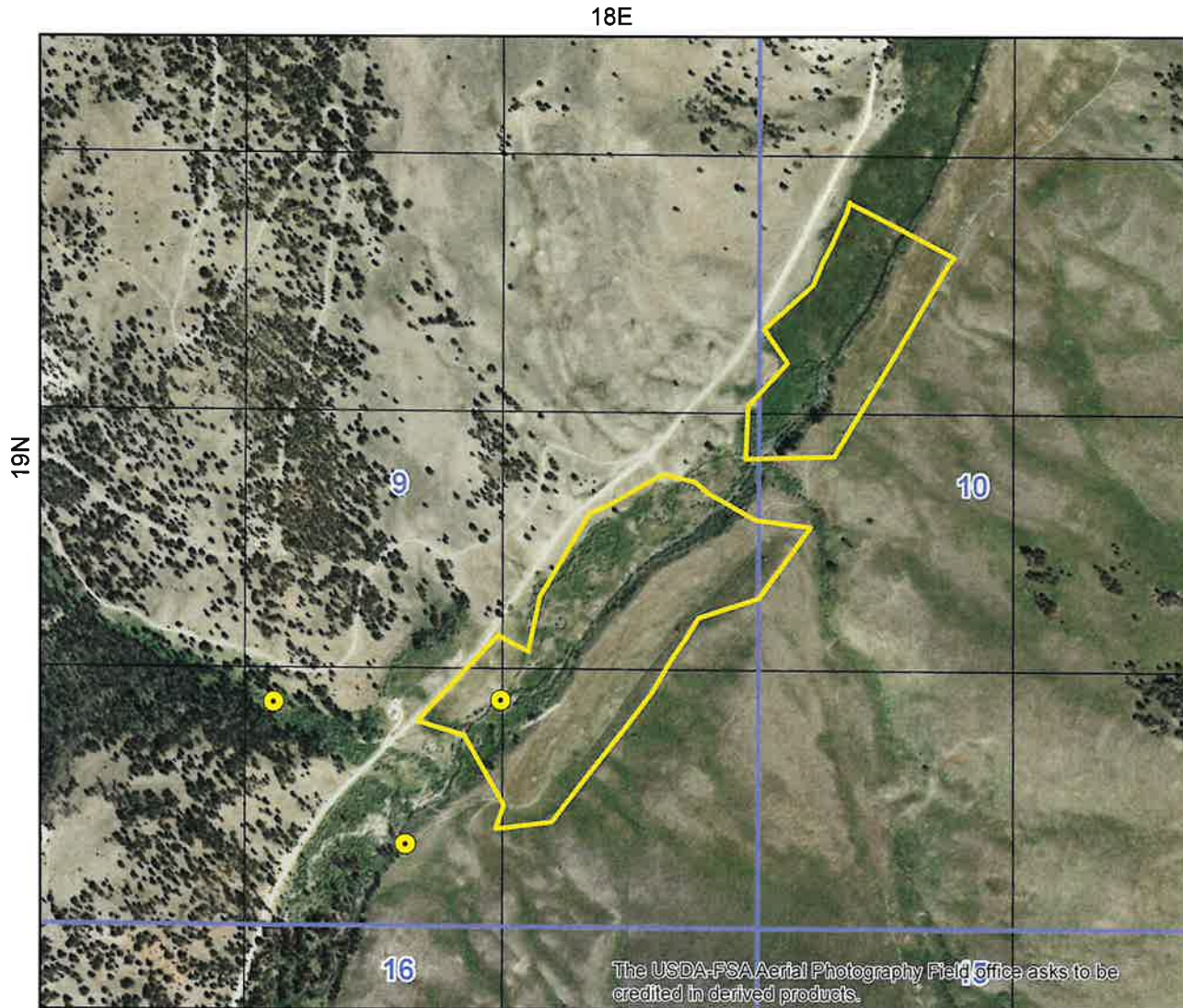
Juliette Harding
Secretary

State of Idaho
Department of Water Resources

Water Right 75-14927

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.1 0.2 0.4 Miles





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 15, 2022

IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

**RE: WATER SUPPLY BANK LEASE CONTRACT 1432
FOR WATER RIGHTS 75-14927**

Dear Lessor:

Water right **75-14927** was leased into the Water Supply Bank (Bank) as of January 1, 2021, 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 right will automatically be released from the Bank on **December 31, 2121**, unless the right is 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



IDAHO DEPARTMENT
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

December 23, 2021

WESTERN RIVERS CONSERVANCY
71 SW OAK ST STE 100
PORTLAND, OR 97204-3419

**RE: APPLICATION TO LEASE WATER RIGHT 75-14927 TO THE WATER SUPPLY BANK
CONTRACT 1432**

******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, 2121**, 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

MEMORANDUM FOR COMPANION LEASE 1432 RENTAL PACKAGE

To: Water Right(s) 75-14927

From: Mary Condon

Date: August 27, 2021-September 20, 2021

Re: Review & Analysis of Application to Lease and Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: An amendment application (2125) for lease of right 75-14927 (contract 1251) with a new rental application (2079) from the Idaho Water Resource Board were received on August 11th and June 11th of 2021, respectively. The purpose of the package is for an indefinite lease rental of water right 75-14927 from Fourth of July Creek, tributary to Panther Creek, and from Panther Creek, tributary to Salmon River, a stretch of 3.2 miles to supplement a minimum streamflow Water Right 75-14188 on Panther Creek held by the Board. Review of the area finds a second minimum stream flow right 75-14186 beginning at the quantification point of 75-14188 to an end point 2.5 miles downstream, listed as the quantification point for 75-14186. The original lease application referred to the future rental application and purpose and was approved on December 3, 2020 for 2021 thru 2025. The amended lease application (2125) requested a start of 2022 – clarification from Sue Doroff that this should be 2021 was received via email on 9/1/2021.

This memo will cover the amendment of the lease contract 1251 via new contract 1432, the review of rental application 2079 through advertisement and adding the 100-year review cycle to both lease and rental.

AUTHORITY TO FILE: Application for the lease was submitted by Sue Doroff, President of Western Rivers Conservancy, owner of the entire water right as of 2020. Annual Report data from Idaho Secretary of State further confirms her position with the conservancy. Rental was signed by Brian Patton on behalf of the Board, and the Resolution No. 09-2021, was included, where the board has made funds available to rent the water indefinitely. No concerns with authority to file.

WATER RIGHT VALIDITY: Water Right 75-14927 is a split from parent right 75-10125, for irrigation and stockwater, and decreed in 2008. The stockwater portion prior to the split was limited to 13,000 gallons per day at 0.07 cfs. After the split, the use of stockwater between the two rights is still limited to combined 13,000 gallons per day and 0.05 cfs under 75-14927 and 0.02 cfs for right 75-10125.

Review of the lease for 2021-2025 under original contract 1251 found no concerns with the validity of this right through irrigation. Review of satellite sentinel imagery for 2020 and 2018 shows mild to heavy vegetation within the areas for lease, as well as on the slopes above and outside of the leased area. Outlying vegetation levels consistent with the leased area makes it unclear whether the vegetation within the Place of Use is due to precipitation or diversion, or both. Precipitation and the reduced need to divert because of high water tables does not negate the validity of a water right but is worth mentioning. No further concerns with validity of the water right and portion offered to the bank for this amendment for perpetual lease and rental.

INJURY TO OTHER WATER RIGHTS: Established beneficial use has been for irrigation and stockwater. The purpose of the rental is to leave right 75-14927 undiverted to supplement minimum streamflow right 75-14188 held by the Board. Since the water will remain undiverted

the rental requires a change in Nature of Use from irrigation to minimum stream flow. Minimum stream flow water rights can't be established through the transfer process (§ 42-222) and by extension, the lease and rental process can't be used to establish a new minimum streamflow. Therefore, the rental can be approved if the established minimum stream flow rights are not expanded or enlarged in anyway and no other existing rights are injured. To prevent injury occurring to existing rights the use of this rental for supplementing minimum stream flow right 75-14188 will be limited to the times when water is available and in priority at the historic points of diversion. The Point of Diversion of the leased/rented right on Fourth of July Creek is shared with WR 75-10788 and Parent right 75-10125, and on Panther Creek is shared with parent right 75-10125. Since the water rented will remain in stream with no diversion and will be considered non consumptive, no injury is expected due to the proposed changes to the diversion rate and season of use from this indefinite lease rental package.

ENLARGEMENT OF USE: Water right 75-14927 beneficial use is for irrigation from 4/01 to 11/01 and stockwater from 01/01 to 12/31, whereas the rental is for Minimum Stream Flow from 7/15 to 9/30. As stated under Validity above, the stockwater portion is combined with 75-10125 and limited between the two rights for no more than 13,000 gallons per day. While there are no concerns with bringing the rate into the bank for the stockwater portion, it will not be included in the rental to prevent any enlargement since the owner of 75-14927 has no control over the use under 75-10125.

Additionally, the change in nature of use requires a calculation of the consumptive use based on historic use, or the area headgate standard which is 3.5 af/ac and an area consumptive use standard of 2.5 af/acre. Even though the rental for supplementing the minimum streamflow is non-consumptive and will remain in stream, the calculated rental volume and rate are useful for water accounting and preventing injury to other rights between the original point of diversion and the quantification point. Leased portion of the irrigation is equal to 1.04 cfs and 52 acres, calculated to 182 af based on the area headgate standard. Rental will be reduced to the consumptive use value of 130 af, or 1.69 af per day for 77 days each year from 7/15 to 9/30, with a total instantaneous rate of 0.85 cfs.

To prevent enlargement of the minimum stream flow right 75-14188 the rental should be condition so that it is clear the rental does not increase the amount of water dedicated to the minimum flows described on right 75-14188. The rental serves to supplement the established minimum flows pursuant to § 42-1507.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest. Notice of the rental was provided via advertisement in the local paper, Salmon Recorder-Herald for Lemhi County, per IDAPA Rule 37.02.03.030.02 (Water Supply Bank Rule 30.02). Advertised on the 16th and 23rd of September. The comment end date is October 4, 2021, no comments were received.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease and rental for minimum streamflow maintenance on Panther Creek, tributary to Salmon River is a beneficial use and consistent with the conservation of water resources in Idaho. A memo submitted with the rental application by Amy Cassel, evaluates the measurements taken at the Panther Creek gauge and the Blackbird Creek gauge (discontinued July of 2020) to estimate flows on Panther Creek and whether they meet or fall short of the minimum streamflow right 75-14188 over 9 years, from 2012 to 2020. In 5 of the 9 years, the minimum streamflow was either not met, or barely met. The requested season of use serves to improve flows for those times most beneficial to fish in the reach (not just for those times when the minimum flows are not met). It is within the local public to provide water for fish habitat if existing water rights are not injured.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is in Eastern Region, and not subject to a Water District. Comments were requested September 20, 2021, no concerns from regional staff were received.

WATER SUPPLY BANK STAFF COMMENTS: The lease and rental for an indefinite period for the supplementation of the Board's minimum streamflow right 75-14188 should be approved and reviewed for re-approval every 100 years. There is a one-time administrative fee to the Bank, in the amount of \$364.00.