

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1438

RECEIVED
MAY 02 2022
DEPARTMENT OF
WATER RESOURCES

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

LESSOR: MARK A MC DONOUGH
PO BOX 74
MELBA, ID 83641

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 June 25, 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)
2-10209	2/25/1963	SNAKE RIVER, tributary to COLUMBIA RIVER	0.12	20.1	6.0
Lease Totals			0.12	20.1	6.0

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)
2-10209	0.11	20.1	6.0	0.018	3.35
Combined Limit Totals	0.11	20.1	6.0	0.018	3.35

** The water right elements rentable have been reduced from the water right elements leased to account for combined limits.*

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

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No.

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2025. 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
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IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: MARK A MC DONOUGH
PO BOX 74
MELBA, ID 83641

By 
Title owner
Date 4-26-2022

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 5/3/22

Lease approved by IDWR 

Date 5/3/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1438

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): 2-10209

SNAKE RIVER	L 2(NWSE)	Sec. 6	Twp 01S	Rge 02W	CANYON County
SNAKE RIVER	L 4(SESWSW)	Sec. 31	Twp 01N	Rge 02W	CANYON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
2-10209	IRRIGATION	04/01	to	10/31	0.12 cfs	20.1 AF
Totals:					0.12 cfs	20.1 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	
01S	02W	5						2.0											2.0
								L4											
01S	02W	6	4.0																4.0
			L4																

Total Acres: 6.0

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).
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.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1438

8. Acceptance of a right into the bank does not 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. After specific notification by the Department, the right holder shall measure the diversion or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
13. Use of the unleased rights listed below is limited to a total combined diversion rate of 90.13 cfs. Combined right nos.: 2-103, 2-4021, and all parts of base right 2-2209 INCLUDING 2-2209B, 2-2209E, 2-10187, 2-10189, 2-10191, 2-10196, 2-10209, 2-10338, 2-10434, 2-10449, 2-10471, 2-10472, 2-10506 and 2-10511.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
15. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
16. The following rights are also diverted through point of diversion located at T01S R02W SEC 6 LOT 2 (NWSE): 2-2240, 2-2431, 2-10209 and 2-10511.
17. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of the originating approval.
18. The total instantaneous diversion of water from all points of diversion under Right 2-10209 shall not exceed 0.12 cfs, nor total combined annual volume of 20.1 af.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 25 2021

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Mark A. McDonough

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

Water Right No. 2-10209

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

Department Use Only

Fee Amount \$

250-

Received By:

kn

Date Received:

6.25.21

Receipt #

0110561W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

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 Mark A. McDonough

Mailing Address <u>PO Box 74</u>	<u>Melba</u>	<u>ID</u>	<u>83641</u>
Street	City	State	Zip Code

Email Address mark.mcdonough54@gmail.com Phone Number (208) 342-4591

☒ 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 Hal N. Anderson Organization Idaho Water Engineering

Professional Title Managing Partner Email Address hal@idahowaterengineering.com

Mailing Address 2918 N. El Rancho Pl. , Boise ID, 83704 Phone Number (208) 830-5525

☐ 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.

Pump in Snake River on property owned by Applicant

- 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. -NA-

- 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. none

- 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 has been in Water Supply Bank since 2004 until 2020

- 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 ☐

Transfer was completed to change Place of Use which was not mapped correctly in IDWR records

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: 2021 to 2025 (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.

Mark A. McDonough
Signature of Designated Applicant

Mark A. McDonough

Printed Name

6-15-21
Date

Hal N. Anderson
Signature of Authorized Representative

Hal N. Anderson

Printed Name

6/22/2021
Date

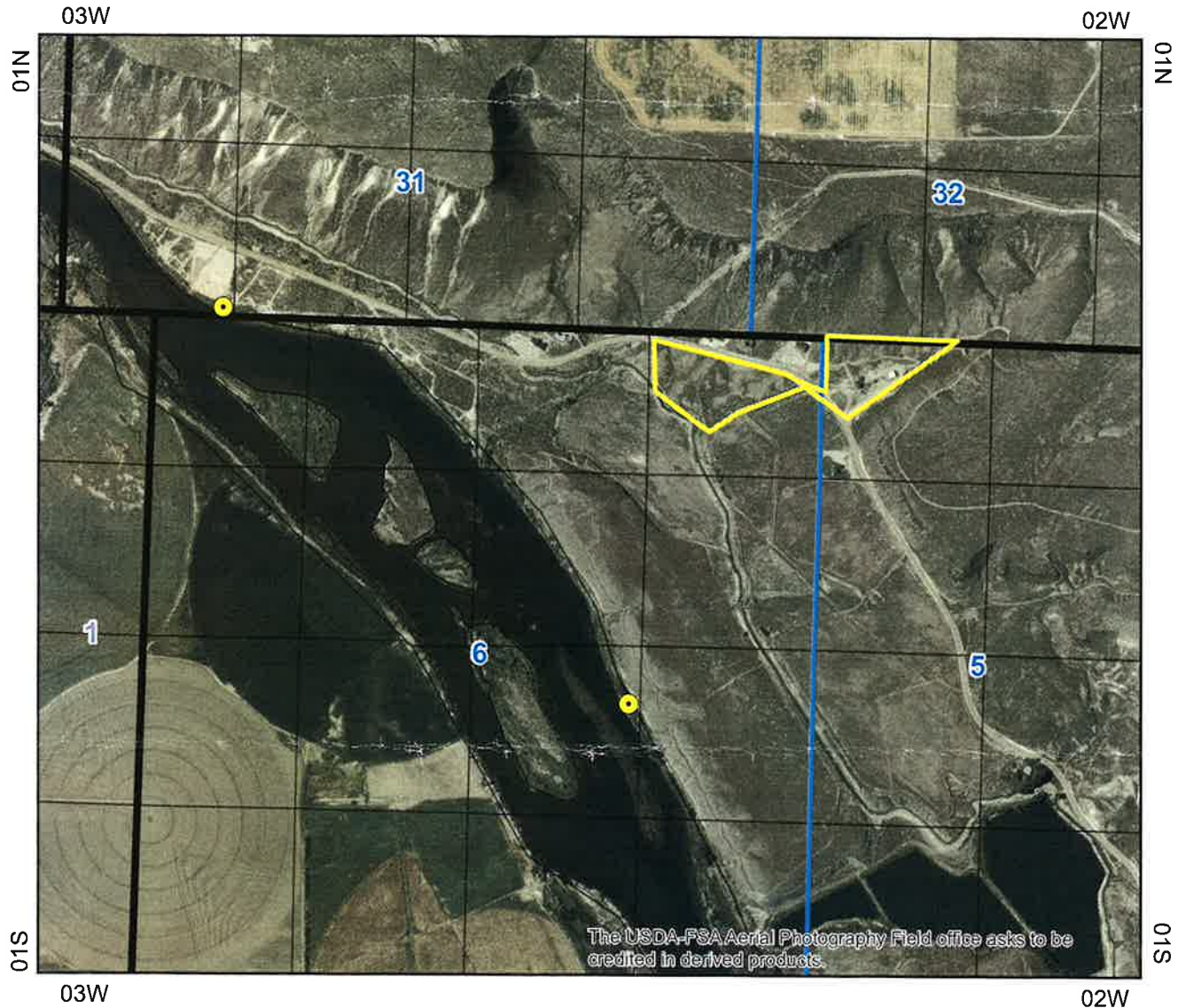
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right 2-10209

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 0.15 0.3 0.6 Miles





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

May 5, 2022

MARK MCDONOUGH
PO BOX 74
MELBA ID 83641

**RE: WATER SUPPLY BANK LEASE CONTRACT 1438
FOR WATER RIGHT 2-10209**

Dear Lessor:

Water right **2-10209** 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 rights will automatically be released from the Bank on **December 31, 2025**, 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,

Jean Hersley

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Western Region
Idaho Water Engineering

Hersley, Jean

From: Hal Anderson <hal@idahowaterengineering.com>
Sent: Wednesday, April 27, 2022 11:14 AM
To: Hersley, Jean
Cc: Mark McDonough
Subject: Fwd: WSB Lease Contracts for Mark McDonough
Attachments: Water Supply Bank Lease Contract Lessor Signature.pdf

Jean,
Here is a signed copy of the signature page. I think Mark will be sending the original. --Hal

Hal N. Anderson

Managing Partner
Idaho Water Engineering
2918 N. El Rancho Place
Boise, ID. 83704
Office: 208.378.1513
Cell: 208.830.5525
hal@idahowaterengineering.com

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----- Forwarded message -----

From: Mark McDonough <mark.mcdonough54@gmail.com>
Date: Wed, Apr 27, 2022 at 11:08 AM
Subject: Re: WSB Lease Contracts for Mark McDonough
To: Hal Anderson <hal@idahowaterengineering.com>

Hal,

Thank you so much for letting me know. I was in the hospital for several months and didn't have access to my email.

Attached is the signed contract. Please let me know if there's anything else that I need to do.

Thanks for helping me with this, Hal. It is appreciated.

Mark

On Mon, Apr 25, 2022 at 12:46 PM Hal Anderson <hal@idahowaterengineering.com> wrote:

Mark,

I was contacted by IDWR saying the have not received a signed copy of the Lease Agreement for WR 2-10209. Did you sign and return it? ==Hal

Hal N. Anderson

Managing Partner

Idaho Water Engineering

2918 N. El Rancho Place

Boise, ID. 83704

Office: 208.378.1513

Cell: 208.830.5525

hal@idahowaterengineering.com

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----- Forwarded message -----

From: **Hersley, Jean** <Jean.Hersley@idwr.idaho.gov>

Date: Mon, Apr 25, 2022 at 9:17 AM

Subject: WSB Lease Contracts for Mark McDonough

To: Hal Anderson <hal@idahowaterengineering.com>

I have attached the lease contracts that were sent to Mark on October 7, 2021. We have not received the signed contracts from Mark. The contract period on this water right is 2021-2025. Could you please let me know what the status is? Thank you.

Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942

Hersley, Jean

From: Mark McDonough <mark.mcdonough54@gmail.com>
Sent: Wednesday, April 27, 2022 1:14 PM
To: Hersley, Jean
Subject: Re: WSB Lease Contracts for Mark McDonough

Will do. Thank you.

On Apr 27, 2022, at 12:08 PM, Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Thank you. Would you place the original in the mail?

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

From: Mark McDonough <mark.mcdonough54@gmail.com>
Sent: Wednesday, April 27, 2022 11:26 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: Fwd: WSB Lease Contracts for Mark McDonough

Jean,

I hope that you're well. I apologize for the delay in sending you the attached signed contract. I've been in the hospital for several months and it slipped through the cracks.

Please let me know if you need anything else from me.

Thanks,

Mark

----- Forwarded message -----

From: Hal Anderson <hal@idahowaterengineering.com>
Date: Mon, Apr 25, 2022 at 12:46 PM
Subject: Fwd: WSB Lease Contracts for Mark McDonough
To: Mark McDonough <mark.mcdonough54@gmail.com>

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Hal N. Anderson

Managing Partner

Idaho Water Engineering

2918 N. El Rancho Place

Boise, ID. 83704

Office: 208.378.1513

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hal@idahowaterengineering.com

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From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>

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Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942

Hersley, Jean

From: Hal Anderson <hal@idahowaterengineering.com>
Sent: Monday, April 25, 2022 12:57 PM
To: Hersley, Jean
Subject: Re: WSB Lease Contracts for Mark McDonough

Jean,
Mr. McDonough has some very serious health issues and was being treated in Salt Lake City. I will try and contact him.
Hal

Hal Anderson
Managing Partner
Idaho Water Engineering
2918 N. El Rancho Pl.
Boise, ID 83704
Office: (208) 378-1513
Mobile: (208) 830-5525
hal@idahowaterengineering.com

On Mon, Apr 25, 2022, 9:17 AM Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

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Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942



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

October 7, 2021

MARK MCDONOUGH
PO BOX 74
MELBA ID 83641

**RE: APPLICATION TO LEASE WATER RIGHTS 2-10209 TO THE WATER SUPPLY BANK
CONTRACT 1438**

******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, 2025**, 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,

Jean Hershey

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Idaho Water Engineering LLC

WATER SUPPLY BANK		Quick Tools	
Lease Review Checklist		Decreed	
Applicant(s) Name: Mark McDonough		Year	No Forfeiture Concerns Thru:
Memo Date: October 6, 2021		2011	2017
Water Right Number(s): 2-10209		2012	2018
		2013	2019
		2014	2020
		2015	2021
Reviewers Name: Jean			
		Check box	COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x	
2	Reason for lease of water rights (Brief description of lease proposal in narrative)		
	Portion of right		
	All of right	x	
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)		
		Yes	No
4	Rentable? (If no explain in comments or narrative)	x	
5	Authority to file		
	Current owner or designated applicant	x	
	SOS Web site checked for business entity		
	Other (explain in comments)		
6	Water Right validity		
	Decreed/Licensed/Statutory claim date (write in comments section)		2011
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		
	Has this right previously been leased to the bank or in CREP?	x	1995-2020
7	Injury to other water rights		
	If the POD is through a delivery entity, was consent provided?		na
	If the POD is through a delivery entity, was holdback required? (percentage in comments)		%
	Any other concerns	x	
8	Enlargement concerns	Check box	
	Complete a POU comparison overlap analysis	x	
	Complete a combined limits review	x	
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x	
		Yes	No
	Are there overlapping rights that need to be placed in the bank also?		x
	Will the place of use continue to receive water? (if yes explain in comments)		x
9	Local Public Interest		
	Does the processor know of any problems this action will cause for the local public?		x
10	Have you contacted regional office and watermaster for comment/concerns?		na
	Send the watermaster comment request form or e-mail request		
11	Area Headgate requirement (write in Comments)		4.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x
13	Narrative: The Department received this application on June 25, 2021. The applicant wishes to place the entire right in the Bank. This right was decreed in 2011. The original right 2-2209, was placed in the Bank in 1995 and this right has been in the Bank since then. Irrigation has not occurred. The shape in ArcMap is not correct. There are two acres in T1S, R2W, Sect 5, Gov't lot 4, NVWNW but the shape is 9.5 acres. The water right was withheld on any property that was sold. This right is not currently within a WD. The amount rentable is being reduced due to a combined condition. By reducing the amount rentable, it leaves the full amount available for the other rights.		

Hersley, Jean

From: Hal Anderson <hal@idahowaterengineering.com>
Sent: Wednesday, October 6, 2021 9:36 AM
To: Hersley, Jean
Subject: Re: WSB Lease Application for 2-10209

Jean,
I left a voice message for you. Yes, you are correct, the POU for Water Right 2-10209 was mapped incorrectly. Mr. McDonough is trying to sell his property on Map Rock Road, I have discussed going through the Transfer process to correct the POU, but he is reluctant to spend the time and money. --Hal

Hal N. Anderson

Managing Partner
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Boise, ID. 83704
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hal@idahowaterengineering.com

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On Tue, Oct 5, 2021 at 8:42 AM Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

I am in the processing of reviewing Mr. McDonough's application to lease water right 2-10209 to the Bank. The entire right has been offered to the Bank. There are 2 acres located in T01S, R02W, section 5, gov't Lot 4 (NWNW) and it appears Mr. McDonough does not own any land in that area. When land was sold in T01S, R02W, section 5, gov't Lot 4 (NWNW), did Mr. McDonough withhold water rights?

I apologize it has taken the Department a while to review this application. Please let me know as soon as possible so I can continue processing this request. Thank you.

Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942