

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1493

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

LESSOR: IX NAY INVESTMENT GROUP
888 7th AVE 4TH FLOOR
NEW YORK, NY 10106-0001

RECEIVED
FEB 08 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 September 30, 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)
37-2584	10/4/1955	GROUND WATER	2.21	945.0	270.0
Lease Totals			2.21	945.0	270.0

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. 1493

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. 1493

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

LESSOR: IX NAY INVESTMENT GROUP

888 7th AVE 4TH FLOOR

NEW YORK, NY 10106-0001

By

Title

Date


Paul Zukowsky, Trustee
2/7/22

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

2/28/22

Lease approved by IDWR



Date

2/28/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1493

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): 37-2584

GROUND WATER SESW Sec. 4 Twp 01S Rge 16E CAMAS County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-2584	IRRIGATION	04/15	to	10/31	2.21 cfs	945.0 AF
Totals:					2.21 cfs	945.0 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	16E	3											20.0						20.0
01S	16E	4												40.0			40.0	40.0	120.0
01S	16E	9	40.0	40.0	10.0	10.0	30.0												130.0

Total Acres: 270.0

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1493

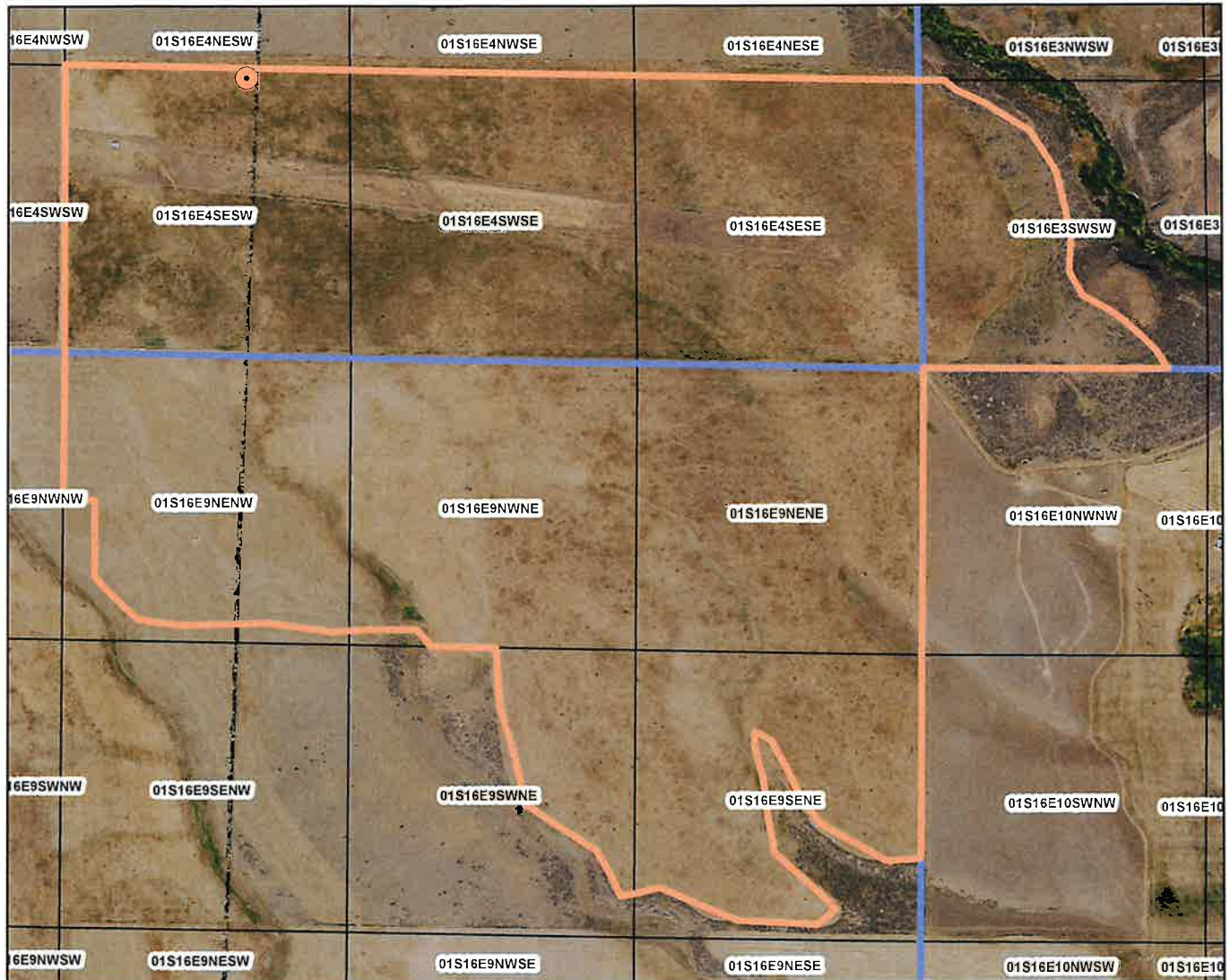
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other 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. 37B.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1493

37-2584

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.



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



0 750 1,500 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 20 2022

DEPARTMENT OF
WATER RESOURCES

Designated Applicant

Ix-Nay Investment Trust Group

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

RECEIVED

JAN 30 2021

Department of Water Resources

Water Right No. 37-2584

(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.
- 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: *UN*

Date Received: 9.30.21

Receipt # C111049

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

Name on W-9:

1094

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 Ix-Nay Investment Group
Mailing Address 888 7th Ave. 4th Fl. New York, NY 10106
Street City State Zip Code
Email Address pzukowsky@mlmgmt.com Phone Number 212-333-5500

☒ 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 Paul Zukowsky Organization Ix-Nay Investment Group
Professional Title Trustee Email Address pzukowsky@mlmgmt.com
Mailing Address Same as above Phone Number 212-333-5500

☐ 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.
Existing groundwater well, pump and motor
- 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. _____
- 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? Yes ☐ No ☒
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 2027 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

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



Signature of Designated Applicant

Paul Zukowsky

Printed Name

9/21/2021

Date

Signature of Authorized Representative

Printed Name

Date

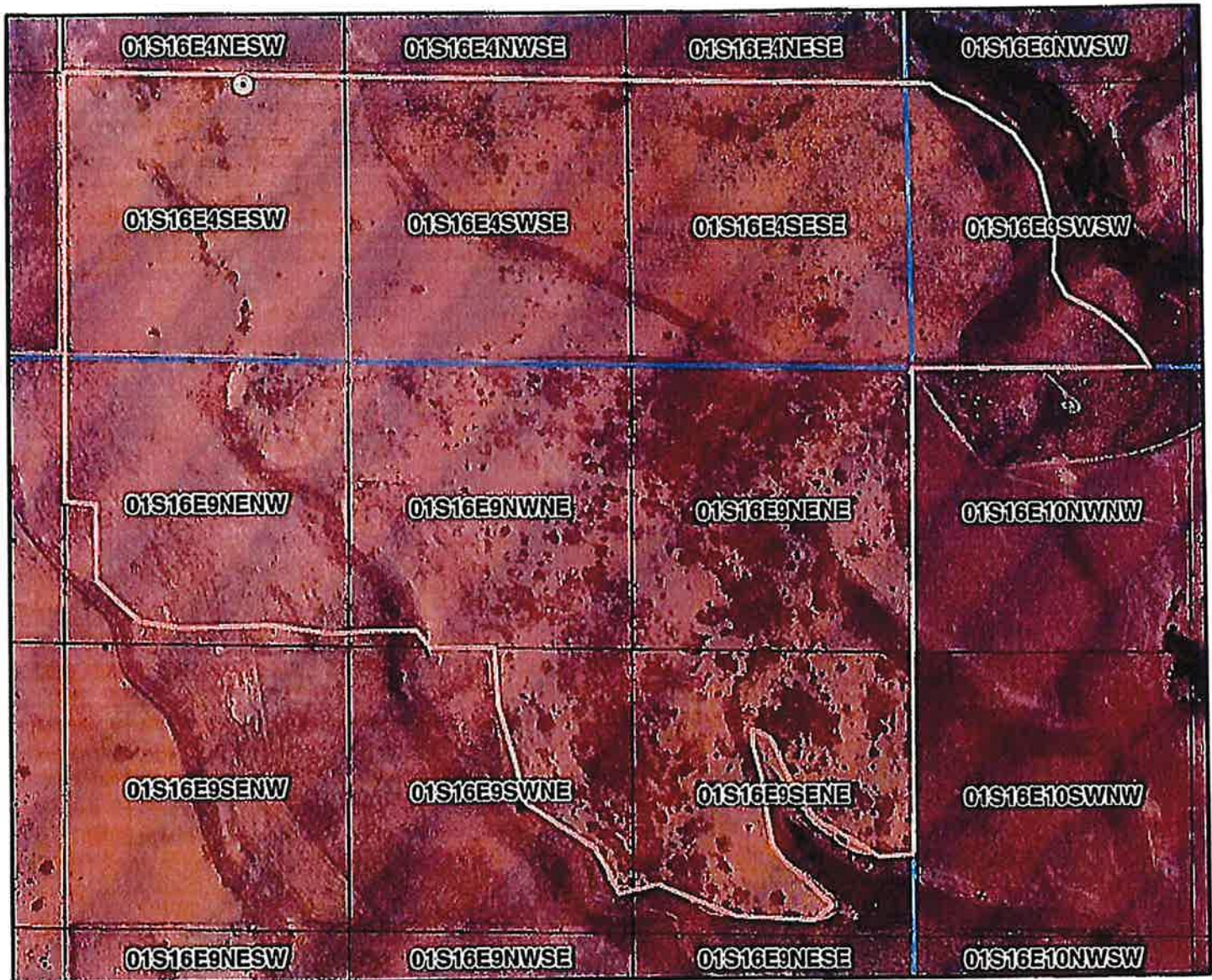
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Idaho Water Resource Board
Water Supply Bank Lease

37-2584

Effective until December 31, 2021

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



- ⊙ Approved Lease Point of Diversion
- Approved Lease Place of Use
- Townships
- PLS Sections
- Quarter Quarters



0 500 1,000 Feet

Attachment No. 3

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

**JAMES M. A. MURPHY, ESQ.
McKenna Long & Aldridge LLP
601 So. Figueroa Street
39th Floor
Los Angeles, California 90017**

----- **SPACE ABOVE FOR RECORDER'S USE** -----

AFFIDAVIT OF SUCCESSOR TRUSTEE

APN: 434B-023-010

STATE OF NEW YORK

)

)

ss.

COUNTY OF NEW YORK

)

PAUL M. ZUKOWSKY, of legal age, being first duly sworn, deposes and says:

FRED ALTMAN, TRUSTEE OF THE IX-NAY INVESTMENT TRUST DATED NOVEMBER 17, 1986, AS AMENDED (HEREINAFTER THE "IX-NAY TRUST"), ACQUIRED TITLE BY GRANT DEED DATED MAY 21, 2004 AND RECORDED AS INSTRUMENT NO. 04-1423451 ON JUNE 3, 2004, TO THE FOLLOWING DESCRIBED REAL PROPERTY LOCATED IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA (HEREINAFTER THE "PROPERTY"):

LOT 3 IN BLOCK 169, OF BEVERLY HILLS, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 72, PAGES 14 TO 19, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ON DECEMBER 15, 1989, THE IX-NAY TRUST WAS AMENDED AND RESTATED IN ITS ENTIRETY BY THAT CERTAIN AMENDED AND RESTATED DECLARATION OF REVOCABLE TITLE HOLDING TRUST (HEREINAFTER THE "DECLARATION OF TRUST") PURSUANT TO WHICH WAS ESTABLISHED THE JANNICK INVESTMENT TRUST (HEREINAFTER SOMETIMES REFERRED TO AS THE "TRUST"). THE DECLARATION OF TRUST WAS SUBSEQUENTLY AMENDED ON JUNE 18, 2001 (HEREINAFTER THE "AMENDMENT"). THE DECLARATION OF TRUST AS AMENDED BY THE AMENDMENT IS REFERRED TO HEREIN AS THE "AMENDED DECLARATION OF TRUST." PURSUANT TO THE AMENDED DECLARATION OF TRUST, FRED ALTMAN WAS DESIGNATED THE SOLE TRUSTEE OF THE TRUST.

ON FEBRUARY 28, 2011, FRED ALTMAN RESIGNED AS TRUSTEE OF THE TRUST. A COPY OF SAID RESIGNATION IS ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

PURSUANT TO THE AMENDED DECLARATION OF TRUST, UPON THE RESIGNATION OF FRED ALTMAN AS TRUSTEE OF THE TRUST, THE BENEFICIARY DESIGNATED PAUL M. ZUKOWSKY TO SERVE AS SOLE SUCCESSOR TRUSTEE OF THE TRUST AND PAUL M. ZUKOWSKY ACCEPTED HIS APPOINTMENT AS SOLE SUCCESSOR TRUSTEE OF THE TRUST EFFECTIVE AS OF FEBRUARY 28, 2011. A COPY OF THE SAID ACCEPTANCE IS ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE. PAUL M. ZUKOWSKY HAS DULY SERVED AS SOLE TRUSTEE OF THE TRUST SINCE FEBRUARY 28, 2011.

PAUL M. ZUKOWSKY IS FILING THIS AFFIDAVIT WITH THE LOS ANGELES COUNTY RECORDER TO ESTABLISH HIS SUCCESSION AS TRUSTEE OF THE TRUST UNDER THE TERMS OF THE AMENDED DECLARATION OF TRUST. THE ABOVE DESCRIBED REAL PROPERTY IS PART OF THE TRUST ESTATE OF THE TRUST, AND THE TITLEHOLDER OF THE ABOVE DESCRIBED PROPERTY IS:

"PAUL M. ZUKOWSKY, as Trustee of the JANNICK INVESTMENT TRUST dated December 15, 1989, as amended."

**NO OTHER PERSON HAS A RIGHT TO THE INTEREST OF THE TRUST IN THE
ABOVE DESCRIBED REAL PROPERTY.**

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Executed at New York, New York, on April 12, 2012.


PAUL M. ZUKOWSKY, Trustee

ACKNOWLEDGMENT

STATE OF NEW YORK

)

) ss:

COUNTY OF NEW YORK

)

On April 12, 2012 before me, Tracy Rant (here insert name of the officer), Notary Public, personally appeared Paul Zukowsky, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of New York that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature of Notary Public

[Seal]

TRACY RANT
NOTARY PUBLIC - STATE OF NEW YORK
No. 01RA4995731
Commission Expires April 27, 2014

JURAT

STATE OF NEW YORK

)

) ss.

COUNTY OF NEW YORK

)

Subscribed and sworn to (or affirmed) before me on this 12th day of April, 2012, by Paul Zukowsky, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Tracy Rant

Signature of Notary Public

[Seal]

TRACY RANT
NOTARY PUBLIC - STATE OF NEW YORK
No. 01RA4985731
Commission Expires April 27, 2014

35584V4079747v1

201217264.1

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

9/14/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 37-2584

Owner Type

Current Owner

Name and Address

IX NAY INVESTMENT GROUP
250 W 57TH ST 26TH FLOOR
NEW YORK, NY 10107
2123335500

Directors Report Owner UNITED STATES OF AMERICA ACTING THROUGH

USDA FARM SERVICE AGENCY
9173 W BARNES STE B
BOISE, ID 83709-1555
2083785650

Original Owner

W D SIMON
RT 1 BOX 1195
FAIRFIELD, ID 83327
2087642571

Priority Date: 10/04/1955

Basis: Decreed

Status: Active

Water Supply Bank Status: Active

Source

GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	2.21 CFS	945 AFA
Total Diversion			2.21 CFS	945 AFA

Location of Point(s) of Diversion:

GROUND WATER | SESW | Sec. 04 | Township 01S | Range 16E | CAMAS County

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Water Supply Bank:

Lessor Name(s): IX NAY INVESTMENT GROUP
SOLDIER MOUNTAIN DEVELOPMENT INC

Lease Status: Active

Lease Amount: 2.21cfs

Rental Availability: 2.21cfs

Date Received: 2/27/2017

Lease Begin Date: 1/1/2017

Expiration Date: 12/31/2021



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

March 1, 2022

IX NAY INVESTMENT TRUST GROUP
888 7TH AVE 4TH FLOOR
NEW YORK NY 10106-0001

**RE: WATER SUPPLY BANK LEASE CONTRACT 1493
FOR WATER RIGHTS 37-2584**

Dear Lessor:

Water right **37-2584** 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,

Jean Hersley

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Water District No. 37B



ML Management Partners, LLC

888 Seventh Avenue 4th Floor New York, NY 10106 (212) 333-5500 Fax (212) 333-5358

February 7, 2022

Idaho Department of Water Resources
Attn: Jean Hersley
322 E Front Street
Suite 648
Boise, ID 83702

RECEIVED
FEB 08 2022
DEPARTMENT OF
WATER RESOURCES

Re: Ix Nay Investment Trust Group - Water Rights 37-2584 Contract 1493

Dear Jean:

Enclosed please find the signed water supply lease contracts for Ix Nay Investment Trust Group. Please confirm receipt and let us know if there is anything else needed.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Sara Snadowsky'.

Sara Snadowsky
/ss

Encl.

Hersley, Jean

From: IDWRInfo
Sent: Monday, February 7, 2022 1:35 PM
To: Hersley, Jean
Subject: FW: Ix Nay Investment Trust Group - Water Rights 37-2584 Contract 1493
Attachments: Water Supply Lease Contracts.pdf

-Kris

Office Specialist II
Idaho Department of Water Resources
P: (208) 287-4802
<https://idwr.idaho.gov/>



From: Sara Snadowsky <ssnadowsky@mlmgmt.com>
Sent: Monday, February 7, 2022 1:19 PM
To: Bank <Bank@idwr.idaho.gov>; IDWRInfo <idwrinfo@idwr.idaho.gov>
Cc: Gary Slette <gslette@rsidaholaw.com>; Cassie Chapman <cchapman@rsidaholaw.com>; Paul M. Zukowsky <pzukowsky@mlmgmt.com>
Subject: Ix Nay Investment Trust Group - Water Rights 37-2584 Contract 1493

Hello,

Attached please find the signed water supply lease contracts for Ix Nay Investment Trust Group. The originals are on their way via overnight FedEx and will be delivered tomorrow. Please confirm receipt and let us know if there is anything else needed.

Best Regards,

Sara Snadowsky
ML Management Partners, LLC



212-333-5500 phone
646-273-1706 direct
212-333-5358 fax
ssnadowsky@mlmgmt.com

888 Seventh Avenue
4th Floor
New York, NY 10106



Hersley, Jean

From: Romeo Kade Beorchia <kade@worstandassociates.com>
Sent: Wednesday, February 2, 2022 3:26 PM
To: Hersley, Jean
Cc: Tug Worst
Subject: IX Nay Investment Trust Lease Contract No. 1493

Jean,

Thank you for taking our call this afternoon to discuss timing issues related to the proposed Water Supply Bank Lease with IX Nay Investment Trust. I am sending this email to confirm that IDWR has granted IX Nay an extension of two weeks to sign and return Contract No. 1493.

Thank you,

Kae



R. Kade Beorchia
WORST & ASSOCIATES, P.C.
WORST INJURY LAW
140 RIVER VISTA PLACE
TWIN FALLS, ID 83301
TELEPHONE: (208) 736-9986
FACSIMILE: (208) 423-3711
kade@worstandassociates.com
worstandassociates.com

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Hersley, Jean

From: Rusty Krame <waterdistrict37b@outlook.com>
Sent: Friday, January 21, 2022 4:32 PM
To: Hersley, Jean; Skinner, Corey
Cc: Bank
Subject: Re: WSB Lease Contract for 37-2584

No concerns from me.

Thank you
Rusty Kramer
Water District 37B Watermaster

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Friday, January 21, 2022 1:39 PM
To: Rusty Krame <waterdistrict37b@outlook.com>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: WSB Lease Contract for 37-2584

Please let me know if you have any comments or concerns with the attached lease contract. Thank you.

*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

January 24, 2022

IX NAY INVESTMENT TRUST GROUP
888 7TH AVE 4TH FLOOR
NEW YORK NY 10106

**RE: APPLICATION TO LEASE WATER RIGHTS 37-2584 TO THE WATER SUPPLY BANK
CONTRACT 1493**

******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, 2021**, 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 Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

Hersley, Jean

From: Hersley, Jean
Sent: Friday, January 21, 2022 2:40 PM
To: Rusty Kramer; Skinner, Corey
Cc: Bank
Subject: WSB Lease Contract for 37-2584
Attachments: Idled Acres.pdf; Lease Application Review 37-2584.xls; Report - Lease Contract - 1493.docx

Please let me know if you have any comments or concerns with the attached lease contract. Thank you.

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

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: IX NAY Investment Trust Group

Memo Date: January 21, 2022

Water Right Number(s): 37-2584

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

		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		na	
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2009
	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		2011-2021
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			
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?			
10	Have you contacted regional office and watermaster for comment/concerns?	X		
	Send the watermaster comment request form or e-mail request	X		
11	Area Headgate requirement (write in Comments)			3.5
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 the money for this application on September 30, 2021. The application was received on January 20, 2022. The applicant wishes to place the entire right in the Bank. Paul Zukowsky, trustee, signed the application. This right was decreed in 2009 and has been in the Bank since 2011. There are no issues with forfeiture. This is a groundwater right with no overlapping rights located in Water District 37B.			