

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 14 2021

DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1391

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

LESSOR: DELBERT E & DEANNE C CHRISTENSEN REVOCABLE LIVING TRUST
6012 W 10050 N
HIGHLAND, UT 84003

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on January 19, 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)
29-4271	4/1/1940	SPRING, tributary to SINKS	0.35	Not Stated	39.10
Combined Lease Totals			0.35	Not Stated	39.10

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)
29-4271	0.35	137.0	39.10	0.01	3.5
Combined Limit Totals	0.35	137.0	39.10	0.01	3.5

** The water right elements rentable have been reduced from the water right elements leased to account for a field headgate standard of 3.5 af/ac*

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1391

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2024. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1391

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

LESSOR: DELBERT E & DEANNE C CHRISTENSEN REVOCABLE LIVING TRUST

6012 W 10050 N

HIGHLAND, UT 84003

By

Delbert + Deanne Christensen

Title

Lessor

Date

May 10, 2021

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By

Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date

6/17/21

Lease approved by IDWR

FR

Date

6/17/21

WATER SUPPLY BANK LEASE CONTRACT No. 1391

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1391

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. 29H.
13. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1391

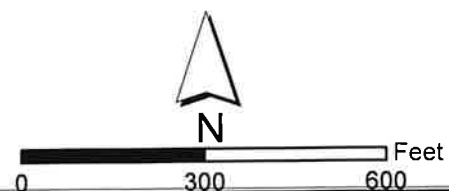
29-4271

Effective until December 31, 2024

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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 19 2021

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Delbert E Christensen

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

Water Right No. 29-4271

(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 | ☒ | ☐ | <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 Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>250 -</u>	Received By: <u>ku</u>	Date Received: <u>1.19.21</u>	Receipt # <u>C109818</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Delbert E. Christensen</u>	

1953

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 Delbert Christensen

Mailing Address 6012 West 10050 North Highland Utah 84003
Street City State Zip Code

Email Address dechongkong@msn.com Phone Number 801-756-6976

☐ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ 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.
Spring fed pond, water must be pumped out for 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. No crops have been grown on the farm since it came out of the CRP program, as such no water other than what has flowed over the overflow of the pond has been used. The farm will be under tillage coming spring of 2021 but will be Dry Farmed crop.
- 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. Land was placed into the CRP program in approx. 1985. While in the CRP program, no crop was raised and no watering was allowed.
- 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: 2021 to 2026 (maximum lease period 5 calendar years).
(Year) (Year)
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
current rental rate

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

The Designated Applicant acknowledges the following:

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

Delbert E. Christensen
Signature of Designated Applicant

Delbert E Christensen
Printed Name

01-14-2021
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). _____

	Designated Applicant	Applicant #2	Applicant #3
Name	Delbert E Christensen	Deanne Christensen	
Mailing Address	6012 West 10050 North Highland, Utah 84003	6012 West 10050 North Highland, Utah 84003	
Phone Number	801-756-6976	801-756-6976	
Email Address	dechongkong@msn.com	supergrandmac@live.com	
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	<i>Delbert E. Christensen</i>	<i>Deanne C. Christensen</i>	

	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			

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

IDAHO Department of Water Resources

IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to call ahead for an appointment.

WATER RIGHT REPORT

11/3/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 29-4271

Owner Type Name and Address

Current Owner DELBERT E CHRISTENSEN & DEANNE C CHRISTENSEN REVOCABLE LIVING TRUST
6012 W 10050 N
HIGHLAND, UT 84003
8017566976

Original Owner DOROTHY J CURTIS

Original Owner GUY CURTIS
PO BOX 161
DOWNEY, ID 83234

Original Owner DELENE C COVERT
769 FAIRWAY DR
POCATELLO, ID 83201
2082376142

Priority Date: 04/01/1940

Basis: Decreed

Status: Active

Source Tributary

SPRING SINKS

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/01 10/31 0.35 CFS

Total Diversion 0.35 CFS

Location of Point(s) of Diversion:

SPRING SENWNW Lt 4 Sec. 02 Township 11S Range 37E BANNOCK County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
11S	37E	2	3	NENW	4.7	4	NWNW	34		SWNW	0.4			

Total Acres: 39.1

Conditions of Approval:

1. C18 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.

Dates:

Licensed Date:

Decreed Date: 11/03/2004

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 29H

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

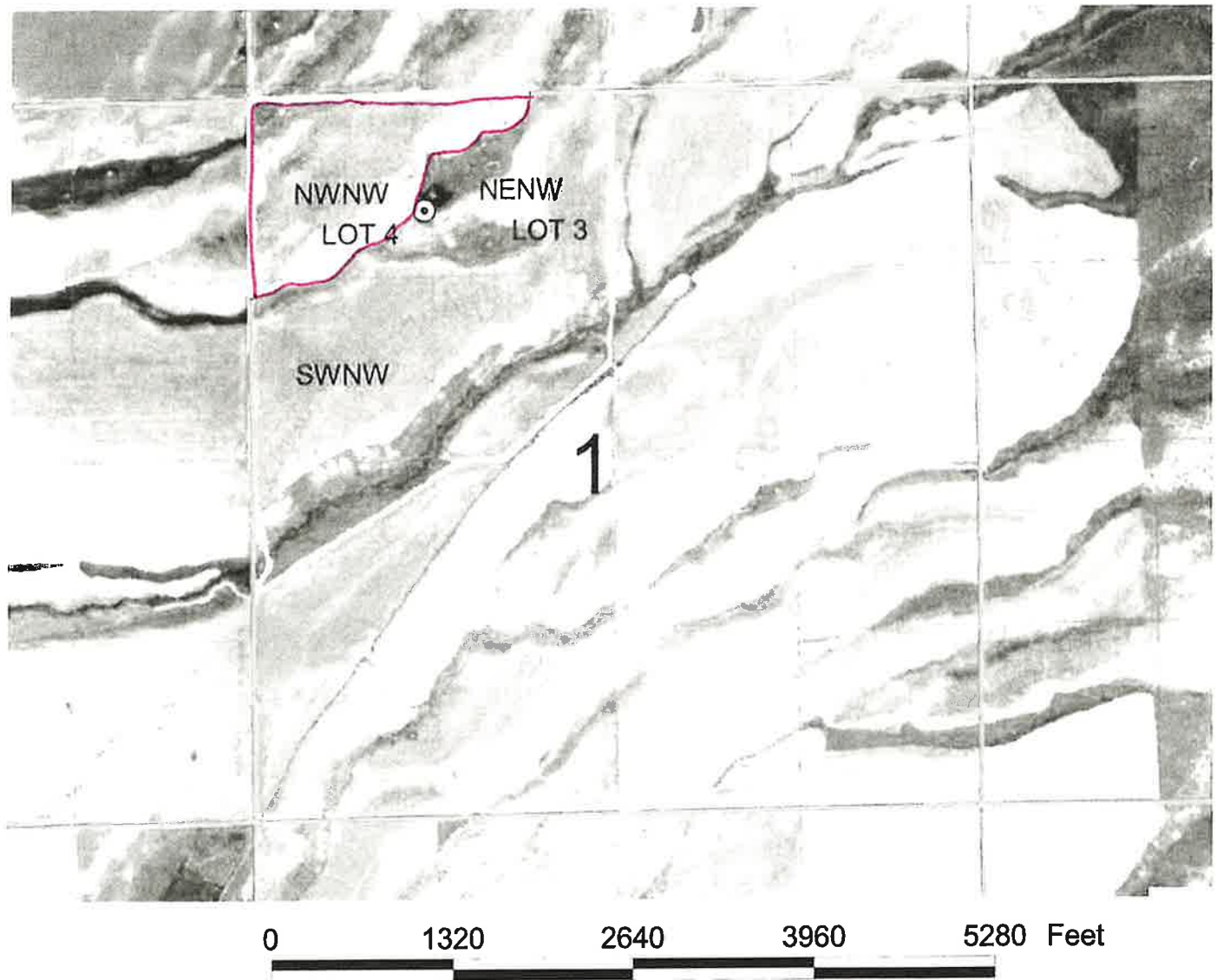
Cary Act Number:

Mitigation Plan: False

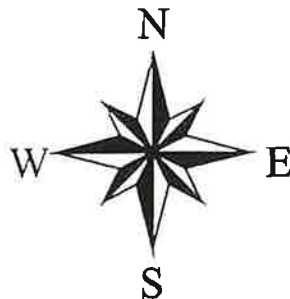
DEPARTMENT OF WATER RESOURCES

Claim No.: 29-4271

ATTACHMENT 3



- ⊙ Point of diversion.shp
- Place of use.shp
- Sections
- QQ



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: E. Carlsen
Date: May 2004



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 29, 2021

DELBERT E & DEANNE C CHRISTENSEN REVOCABLE LIVING TRUST
6012 W 10050 N
HIGHLAND, UT 84003

**RE: WATER SUPPLY BANK LEASE CONTRACTS 1391
FOR WATER RIGHTS 29-4271**

Dear Lessor:

Water right **29-4271** were 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, 2024**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 29, 2021

DELBERT E & DEANNE C CHRISTENSEN REVOCABLE TRUST
6012 W 10050 N
HIGHLAND, UT 84003

RE: APPLICATION TO LEASE WATER RIGHT 29-4271 TO THE WATER SUPPLY BANK
CONTRACT 1391

****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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt: C109818

Memorandum

To: Water Rights 29-4271
From: Justin Ferguson
Date: April 15, 2021
Re: Water Supply Bank Lease Application 1953

Purpose/Narrative: An application was received by the Department January 19, 2021 from the Delbert and Deanne Christensen Revocable Living Trust offering the entire portion of water right 29-4271 for lease to the Bank for a full five years. This is the first time the water right has been leased to the Bank as the acreage had been enrolled in the federal Crop Reserve Program (CRP).

During the initial review it was found that, per the water right back file, the acreage was released from CRP in 2007 and per the information provided in the application package, the acreage had not been used since it was released from CRP. This left the question as to the validity of the water right as a full period of non-use would have elapsed. The applicant was contacted and information was provided to affirm that the water right had been enrolled in CRP through the end of 2017. As such, a period of non-use has not elapsed and the water right can be considered for lease.

It is notable that, during the term of the CRP contract, it does not appear that there is a requirement that the acreage be idled while enrolled. Because the CRP program is considered a reasonable defense against forfeiture under I.C 42-223, the evaluation of diversions accomplished under this right are not necessary.

Authority to File: The application was prepared and signed by Mr. Delbert Christensen as trustee for the Delbert & Deanne Christensen Revocable Living Trust. Current IDWR records show the trust as the current water right holders. As such there are no concerns at this time.

Water Right Validity/Forfeiture Evaluation: Initially a question arose of the water right's validity as, per the water right back file, it appeared as though the water right had been released from CRP in 2007. The applicant was contacted and documentation provided from the applicant stating that the water right had been enrolled until 2017. As the applicant has taken an action in 2021, the fifth year of non-use, the water right can remain valid and be considered for lease to the Bank.

Injury Evaluation: No injury is apparent through the lease proposal as the water right appears to have been used intermittently during the time it was enrolled in CRP to grow native vegetation. Should the water right be requested for rent with a beneficial use greater than irrigation, it may be necessary to determine the impact to the local water users as well as the overall ground water usage from the aquifer.

Enlargement of Use: No enlargement is evident as the acreage will remain idled during the term of the lease. Additionally, as the acreage doesn't fall within an irrigation district, the land will not receive water from any source other than precipitation any vegetation observed should be indigenous to the region.

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

Beneficial Use/Conservation of Water Resources:

Department/Watermaster Comments: As the place of use falls within water district 29H, Watermaster comments as well as IDWR's Eastern Regional Office were requested on April 15, 2021

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for

Veibell, Amanda

From: Ferguson, Justin
Sent: Thursday, April 15, 2021 10:07 AM
To: Cefalo, James; Jordan, Blake
Subject: WSB Lease - Delbert Christensen
Attachments: Lease Map - Christensen Rev. Trust.pdf; Lease Review Memo.docx; Draft Lease - Christensen Rev. Trust.docx

Attached are the approval docs for the Delbert Christensen Revocable Living Trust, please let me know if you have any comments or concerns. Sorry again for the mix up!

Justin