

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1404

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

LESSOR: DE RUYTER PROPERTIES L P
PO BOX 580
MARSING, ID 83639

SUPPORT DATA
IN FILE # 57-2261

RECEIVED

APR 27 2021

**DEPARTMENT OF
WATER RESOURCES**

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on January 07, 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)
57-2261	2/28/1963	GROUND WATER	0.82	Not Stated	77.0
57-7081	6/18/1972	GROUND WATER	0.58	Not Stated	60.0
Combined Limit Totals			1.40	355.5	79.0
Combined Lease Totals			1.40	355.5	79.0

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)
57-2261	0.82	346.5	77.0	0.011	4.50
57-7081	0.58	270.0	60.0	0.010	4.50
Combined Limit Totals	1.40	355.5	79.0	0.018	4.50

** 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.

WATER SUPPLY BANK LEASE CONTRACT No. 1404

Minimum Payment Acceptable: Current Rental Rate

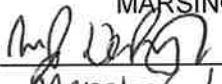
3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2025. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water 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.

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

LESSOR: DE RUYTER PROPERTIES L P
PO BOX 580
MARSING, ID 83639

By  Nick DeRuyter
Title Member / Manager
Date 04-23-2021

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 6/15/21

Lease approved by IDWR 

Date 6/15/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1404

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): 57-2261, 57-7081

GROUND WATER SWSW Sec. 29 Twp 03N Rge 04W OWYHEE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
57-2261	IRRIGATION	4/01	to	10/31	0.82 cfs	Not Stated
57-7081	IRRIGATION	3/01	to	10/31	0.58 cfs	Not Stated
Totals:					1.40 cfs	355.5 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION 57-2261

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	04W	29						9.0	10.0			20.0	38.0						77.0

Total Acres: 77.0

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION 57-2261

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	04W	29										20.0	40.0						60.0

Total Acres: 60.0

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1404

7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Use of these rights is combined with water from Gem Irrigation District.
13. A measuring device of a type approved by IDWR shall be maintained as a part of the diverting works.
14. Water right 57-7081 & 57-02261 are limited to a total combined annual diversion volume of 355.5 af and are limited to the irrigation of a combined total of 79 acres in a single irrigation season.
15. The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
16. 2 points of diversion located in T03N, R04W, S29, SWSW for water right 57-7081.

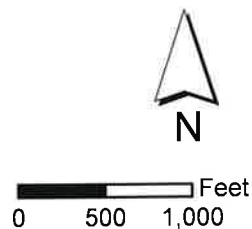
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1404

57-2261 & 57-7081
Effective until December 31, 2025

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 07 2021

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant De Ruyter Properties LP Water Right No. 57-2261
(Select one owner – see item 1A on the application) (One water right per application)

Is this application being submitted with a rental application as a lease/rental package? Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

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

Department Use Only

Fee Amount \$	Received By: <u>Ku</u>	Date Received: <u>1.7.21</u>	Receipt #
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>De Ruyter Properties LP</u>	

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 De Ruyter Properties LP
Mailing Address P O Box 580, Marsing, ID 83639
Street City State Zip Code
Email Address nsderuyter@gmail.com Phone Number 208 896 5402

☒ 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.
Existing well and pump.

- 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. 57-2261

- 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. POU is currently irrigated with Gem Irrigation District water. See August 7, 2002 letter from water right backfile, copy attached, explaining history of primary use of water under this right.

- 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. Water right has been in the water bank for the past 5 years, no water has been diverted under this 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?
If yes, describe. Yes ☐ No ☒

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)

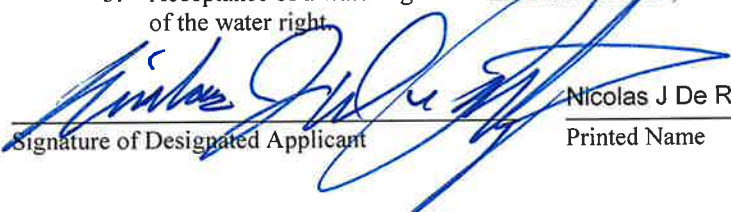
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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.


Signature of Designated Applicant

Nicolas J De Ruyter

Printed Name

12-31-20

Date

Signature of Authorized Representative

Printed Name

Date

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

Print Form

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 1 if more than one applicant/water right holder.

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), 57-2261 and 57-7081

	Designated Applicant	Applicant #2	Applicant #3
Name	De Ruyter Properties LP		
Mailing Address	PO Box 580 Marsing, ID 83639		
Phone Number	208 896 5402		
Email Address	nsderuyter@gmail.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			

	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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
Total Amounts:		_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

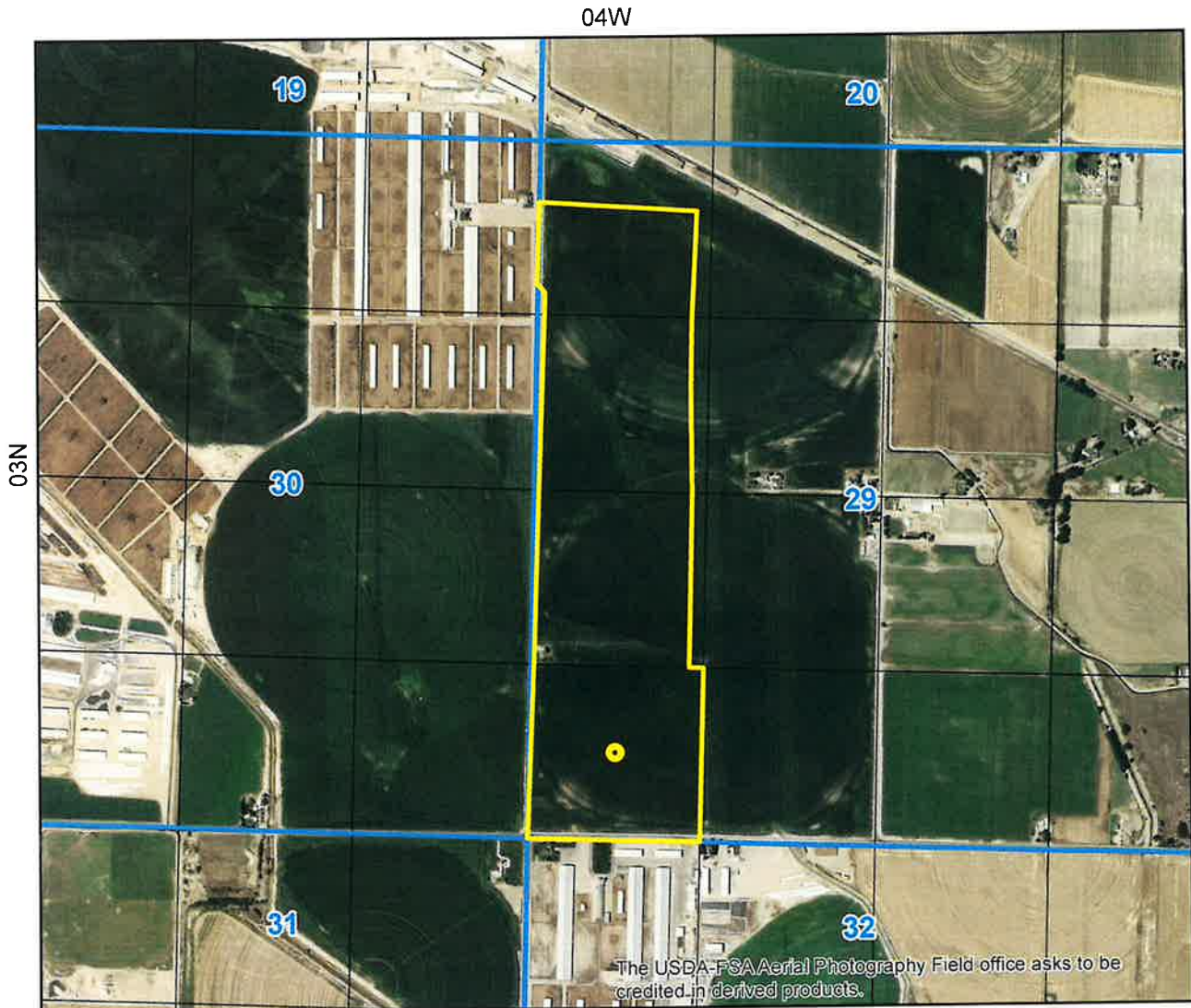
Twp	Rge	Sec	Lot	¼	¼	¼	County

Attachment 3
State of Idaho
Department of Water Resources

Water Right
57-2261

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



ERO Resources Corp.
1106 N. Cole Rd., Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985



Denver • Boise

www.eroresources.com
roboise@eroresources.com

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AUG 07 2002

WATER RESOURCES
WESTERN REGION

RECEIVED

AUG - 9 2002

Department of Water Resources

August 7, 2002

Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

RE: Water bank application for water right no. 57-2261 and 57-7081

Dear Mr. Saxton

In conjunction with this letter, DeRuyter Properties L.P. (applicant) is filing a water bank lease application for water right nos. 57-2261 and 57-7081.

In my own review of these rights, two issues came to mind that I am sure you would have requested information about. They are 1) are the ground water rights primary or supplemental, and 2) if primary, were they forfeited.

The purpose of this letter is to provide a chronology of the two water rights that shows that these water rights were the primary irrigation rights and not supplemental as interpreted from the decree. Also, by filing the claim in the Snake River Basin Adjudication (SRBA), which resulted in a decreed water right in 1998, forfeiture should not be an issue. The following chronology is based in part on Mr. DeWayne Merritt's recollection of the irrigation practices while he owned the farm and the information compiled during the department's review of the claims.

1) On February 9, 1998, the SRBA Court issued a decree for water right 57-7081 as follows:

Ident. No: 57-7081
Priority: June 18, 1972
Source: Groundwater
Rate of Div: 0.58 cubic feet per second (cfs)
Max. ann. vol: 355.5 acre-feet (AF) when combined with water right 57-2261
Pt. Of Div: SWSW Section 29, T3N, R4W, B.M., Owyhee County
Use: Irrigation
Place of Use: 60 acres in parts of section 29, T3N, R4W as follows:
Section 29 – NWSW (20 ac)
SWSW (40 ac)

2) On February 9, 1998, the SRBA Court issued a decree for water right 57-2261 as follows:

Ident. No: 57-2261

MICROFILMED

MAR 16 2004

Consultants in
Natural Resources
and the Environment

Priority: February 28, 1963
Source: Groundwater
Rate of Div: 0.82 cfs
Max. ann. vol: 355.5 acre-feet (AF) when combined with water right 57-7081
Pt. Of Div: SWSW Section 29, T3N, R4W, B.M., Owyhee County
Use: Irrigation
Place of Use: 77 acres in parts of section 29, T3N, R4W as follows:
Section 29 – NWNW (9 ac)
 SWNW (10 ac)
 NWSW (20 ac)
 SWSW (38 ac)

3) Mr. DeWayne Merritt purchased the water rights and accompanying land from the Nakano family in 1972 and sold to DeRuyter Properties L.P. in 2001.

4) Water was diverted from the wells as the sole water source under these water rights to provide all of the irrigation water supply for 79 acres of irrigation. The remainder of the farm was irrigated with Gem Irrigation water through flood irrigation, hand lines, and wheel lines. Throughout the 1980s an increasing portion of the farm was converted to sprinkler systems. Pivots were installed in 1990. The pivots irrigated the entire farm. Up until 1990, the 79 acres associated with the ground water rights were irrigated solely with ground water.

5) A rotation of row crops, alfalfa, and wheat were grown on the farm

6) In 1990, after the pivots were installed, the power to the pumps was disconnected, as these water rights were not intended to be supplemental water rights. Mr. Merritt filed claims for the two water rights in 1988 in the Snake River Basin Adjudication. The claims were decreed in 1998.

7) Idaho Power records from the late 1980s were not retained by Mr. Merritt. Idaho Power does not retain that type of information past 7 years and therefore does not have the records on file from that time period.

8) DeRuyter Properties LP now seeks approval to put water rights 57-2261 and 57-7081 in the water bank, which will make the rights available for use by others and will preserve the 1998 decrees from forfeiture.

This chronology shows that the water rights are the sole source of water for the lands they were used to irrigate. Also, the fact that claims were filed in the SRBA showed that there was no intention of forfeiting these rights. A decree was issued for each right in 1998, and based on the recent Memorandum Decision and Order on Challenge; and, Order of Partial Decree by Judge Burdick, the five-year statutory period of non-use for establishing forfeiture tolls upon filing a claim in the SRBA and begins anew upon issuance of a decree.

MICHAEL WHITE

MAR 16 2004

IDWR
August 7, 2002

Page 3

It is the applicant's position that water rights 57-2261 and 57-7081 are primary irrigation rights and have not been forfeited and that the placement of these rights into the water bank should proceed without delay.

If there are any questions, please feel free to contact me.

Regards

A handwritten signature in cursive script, reading "Steven R. Hannula". The signature is written in dark ink and is positioned above the printed name.

Steven R. Hannula

cc DeRuyter Properties, L.P.

MICROFILMED
MAR 16 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 16, 2021

DE RUYTER PROPERTIES LP
PO BOX 580
MARSING ID 83639

RE: **WATER SUPPLY BANK LEASE CONTRACT 1404
FOR WATER RIGHTS 57-2261 & 57-7081**

Dear Lessor:

Water rights **57-2261 & 57-7081** 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, 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

From: Hersley, Jean
To: NSDervyter@gmail.com
Subject: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS 1404 FOR WATER RIGHT(S) 57-2261 & 57-7081
Date: Tuesday, April 27, 2021 7:35:00 AM

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on April 21, 2021. Only one contract was returned to the Department.

Please sign and return the other original Lease Contract to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contract is not received by the Department within the 10-day period, the lease application(s) will be returned, and the application fee will not be refunded. You can reapply to lease the water right(s) in the future by submitting new application form(s) along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an [Application for Extension of Time to Avoid Forfeiture of a Water Right](#) form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

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

Sincerely,

Water Supply Bank



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 21, 2021

DERUYTER PROPERTIES LP
PO BOX 580
MARSING ID 83639

RE: APPLICATION TO LEASE WATER RIGHTS 57-2261 & 57-7081 TO THE WATER SUPPLY BANK CONTRACT 1404

******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 Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: De Ruyter Properties

Memo Date: April 14, 2021

Water Right Number(s): 57-2261 & 57-7081

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			
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			1998 updated in 2003
	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		2002-2020
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		xx	
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		Gem Irrigation
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?		x	
	Send the watermaster comment request form or e-mail request		x	
11	Area Headgate requirement (write in Comments)			4.5x
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	

Narrative: The Department received these applications on January 7, 2021. The application was signed by Nicholas De Ruyter, member. He wishes to place the entirety of both rights in the Bank. These rights were decreed in 1998 with the irrigation season updated by PD in 2003. These rights were the sole irrigation rights for 79 acres. The rights were placed in the Bank in 2002 as primary irrigation rights. The POU will continue to receive water from Gem Irrigation. There are no issues with forfeiture. This right is not currently within a WD.



0004189661

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0004189661

Date Filed: 3/3/2021 10:08:30 AM

Entity Name and Mailing Address:

Entity Name: DERUYTER PROPERTIES, L.P.
The file number of this entity on the records of the Idaho Secretary of State is: 0000027258
Address: PO BOX 580
MARSING, ID 83639-0580

Entity Details:

Entity Status: Active-Current
This entity is organized under the laws of: IDAHO
If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: L4641

The registered agent on record is:

Registered Agent: NICOLAAS J DERUYTER
Registered Agent
Physical Address
4699 BUNTROCK ROAD
MARSING, ID 83639
Mailing Address

Limited Partnership General Partners

Name	Business Address
+ Suzanne M DeRuyter	13027 SUNNYSLOPE ROAD CALDWELL, ID 83607

The annual report must be signed by an authorized signer of the entity.

Job Title: Membe

Nicolaas DeRuyter

Sign Here

03/03/2021

Date

BU089-0000 03/03/2021 10:08 AM RECEIVED BY ID SECRETARY OF STATE LAWRENCE DENNEY

DERUYTER PROPERTIES, LP
P.O. BOX 580
MARSING, ID 83639

RECEIVED
JAN 07 2021
DEPARTMENT OF
WATER RESOURCES

January 5, 2021

State of Idaho
Dept. of Water Resources
322 E. Front Street, Suite 648
PO Box 83720
Boise, ID 83720

Dear Justin:

Please find attached the Applications to Sell or Lease a Water Right to the Water Supply Bank for Water Right Nos. 57-2261 and 57-7081.

Thank you and please contact me should you need anything else.

Sincerely,


Suzanne DeRuyter
DeRuyter Properties, LP
208-697-4626