

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1428

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

LESSOR: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

SUPPORT DATA
IN FILE # 22-2184

RECEIVED
NOV 29 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 June 02, 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)
22-2184	10/3/1960	GROUND WATER	0.22	67.2	69.0
22-2230	9/18/1963	GROUND WATER	0.10	32.1	69.0
22-7075	7/5/1973	GROUND WATER	0.30	121	69.0
22-11147	4/1/1962	GROUND WATER	0.03	10.4	69.0
22-11149	4/15/1981	GROUND WATER	0.04	10.8	69.0
Combined Limit Totals			0.63	242	69.0
Combined Lease Totals			0.63	242	69.0

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)
22-2184	0.16	67.2	19.2	0.01	3.5
22-11147	0.03	10.4	3.0	0.01	3.5
22-2230	0.08	32.1	9.2	0.01	3.5
22-7075	0.30	121	34.6	0.01	3.5
22-11149	0.03	10.8	3.1	0.01	3.5
Combined Limit Totals	0.60	242	69.0	0.09	3.5

** The water right elements rentable have been reduced from the water right elements leased to account for a combined limited diversion rate of 0.60 cfs, which is the proportionate combined limited diversion rate for the above water use extent of the water rights when used with 22-7507.*

WATER SUPPLY BANK LEASE CONTRACT No. 1428

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2025. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1428

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

LESSOR: RICHARD F SMITH

PO BOX 8

REXBURG, ID 83440

By

Title

Date

11/21/21

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

11/30/21

Lease approved by IDWR

FLH

Date

11/30/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1428

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): 22-2184, 22-2230, 22-7075, 22-11147, 22-11149

GROUND WATER	SENESEW	Sec. 33	Twp 06N	Rge 40E	MADISON County
GROUND WATER	SWSESW	Sec. 28	Twp 06N	Rge 40E	MADISON County
GROUND WATER	SWNESW	Sec. 33	Twp 06N	Rge 40E	MADISON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
22-2184	IRRIGATION	04/01	to	10/31	0.22 cfs	67.2 AF
22-2230	IRRIGATION	04/01	to	10/31	0.10 cfs	32.1 AF
22-7075	IRRIGATION	05/01	to	11/01	0.30 cfs	121 AF
22-11147	IRRIGATION	04/01	to	10/31	0.03 cfs	10.4 AF
22-11149	IRRIGATION	04/01	to	10/31	0.04 cfs	10.8 AF
Totals:					0.63 cfs	242 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	
06N	40E	29															34	21	55
06N	40E	32		14															14

Total Acres: 69

ADDITIONAL CONDITIONS OF ACCEPTANCE

- The water rights referenced above will be rented from the bank at the current rental rate.
- 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.
- 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.
- 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.
- While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
- Rental of water under this right is subject to the limitations and conditions of approval of the water right.
- 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

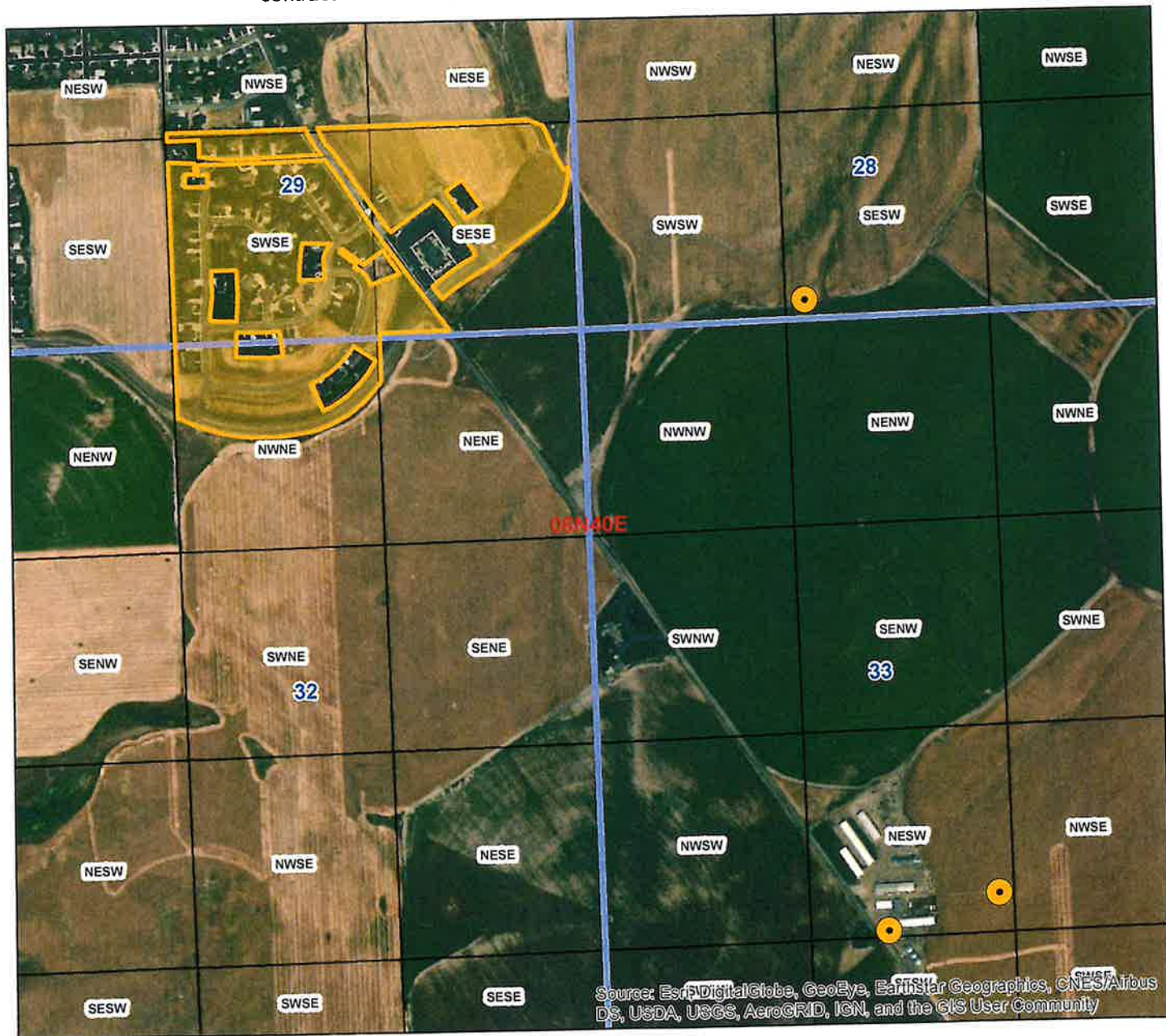
WATER SUPPLY BANK LEASE CONTRACT No. 1428

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. Water right 22-11149 is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
13. Water right 22-11149 is based upon an enlargement of Right No. 22-2184 pursuant to Section 42-1426, Idaho Code.
14. The unleased portion of water right 22-2184 is limited to the irrigation of 290.8 acres in a single irrigation season.
15. The unleased portion of water right 22-7075 is limited to the irrigation of 523.4 acres in a single irrigation season.
16. The unleased portion of water right 22-11147 is limited to the irrigation of 45.0 acres in a single irrigation season.
17. The unleased portion of water right 22-2230 is limited to the irrigation of 138.8 acres in a single irrigation season.
18. The unleased portion of water right 22-11149 is limited to the irrigation of 46.9 acres in a single irrigation season.
19. The unleased portions of the rights listed below are limited to a total combined diversion rate of 9.54 cfs and to a total combined annual diversion volume of 3,657.5 AF and the irrigation of 1,045 acres Combined Right Nos: 22-2184, 22-2230, 22-7075, 22-11147 and 22-11149.
20. The unleased portions of the rights listed below are limited to a total combined diversion rate of 10.22 cfs and to a total combined annual diversion volume of 4,207 AF and the irrigation of 1,202 acres Combined Right Nos: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149 and 22-7057.
21. The use of water for irrigation under water right 22-7075 may begin as early as April 1 provided other elements of the right are not exceeded. The use of water before May 1 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
22. 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. 100.

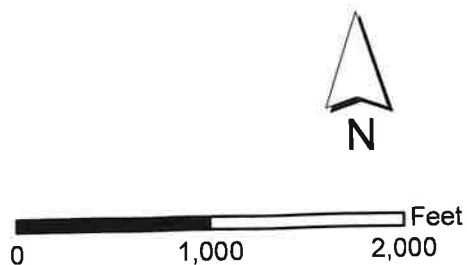
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1428

22-2184, 22-2230, 22-7075, 22-11147 & 22-11149
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

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

RECEIVED
JUN 02 2021
DEPARTMENT OF
WATER RESOURCES

Designated Applicant Richard F. Smith **Water Right No.** 22-7075
(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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>1,000</u>	Received By: <u>Ku</u>	Date Received: <u>6.2.21</u>	Receipt # <u>C110477</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Richard F. Smith</u>	

2085

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 Richard F. Smith

Mailing Address <u>P O Box 8</u>	<u>Rexburg</u>	ID <u>83440</u>	
Street	City	State	Zip Code

Email Address rsmith727@gmail.com Phone Number 208-390-7000

☒ 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 Kristin Moore Organization Rocky Mountain Environmental Assoc. Inc.

Professional Title Sen. Water Right Analyst Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

☐ 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.
Deep well 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. Water right numbers 22-2184, 22-2230, 22-7075, 22-11147, 22-11149 share the same Place of Use and portions of each are being put into the Water Supply 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. This portion was leased to the WSB in 2019-2020 and rented.

- 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: 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:

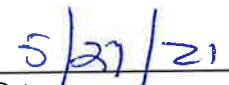
1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the 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



Printed Name



Date

Signature of Authorized Representative

Printed Name

Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: RICHARD F. SMITH

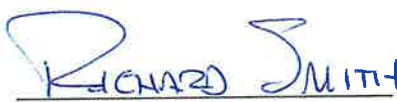
RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

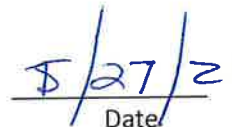
Rocky Mountain Environmental Associates, Inc. (RMEA) is hereby authorized to act on behalf of Richard F. Smith regarding Water Supply Bank Application(s) for water right(s).



Signature



Printed Name



Date

**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)
<u>22-7075</u>	<u>Irrigation</u>	<u>0.30</u>	<u>121</u>	<u>69</u>
	Total Amounts:			

2. Source of water Groundwater irrigation well tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
6N	40E	28		SW	SE	SW	Madison
		33		SW	NE	SW	Madison
		33		SE	NE	SW	Madison



0 0.1 0.2 0.4 Miles

2019 NAIP

- POD for WR#: 22-2184 et al to WSB
- POU for WR#: 22-2184 et al to WSB
- Township & Range
- Sections
- QQ



WSB Lease Application

Richard Smith

Project #: 15-0014

Drawn by: AD

Date: 5/24/2021



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

Governor Brad Little

Director Gary Spackman

December 1, 2021

RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

**RE: WATER SUPPLY BANK LEASE CONTRACT 1428
FOR WATER RIGHTS 22-2184, 22-2230, 22-7075, 22-11147, 22-11149**

Dear Lessor:

Water right **22-2184, 22-2230, 22-7075, 22-11147, 22-11149** was leased into the Water Supply Bank (Bank) as of January 1, 2021, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2025**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region
Kristin Moore



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

November 4, 2021

RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

**RE: APPLICATION TO LEASE WATER RIGHTS 22-2184, 22-2230, 22-7075, 22-1147 & 22-1149
TO THE WATER SUPPLY BANK CONTRACT 1428**

******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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Kristin Moore

Memorandum

To: Water Supply Bank Application 2085
From: Remington Buyer
Date: August 4, 2021
Re: Lease to the Bank of water rights 22-2184, 2230, 7075, 11147 and 11149

Purpose/Narrative: An application was received by the Department on June 2, 2021 from Richard F. Smith, through Kristin Moore of Rocky Mountain Environmental Associates Inc, proposing to lease into the Bank portions of water rights 22-2184, 22-2230, 22-7075, 22-11147 and 22-11149. Lease application 2085 proposes a lease of approximately 69 acres of these five water rights, specific to the irrigable acreage authorized under these water rights, associated with the Harvest Heights residential subdivision in Rexburg.

Authority to File: The Harvest Heights residential subdivision is situated in Sections 29 and 33 of Township 06N, Range 40E and the applicant's water rights, as decreed, authorize the irrigation of up to 137 acres in this area, as follows:

Twp	Rge	Sec	NE				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	29					37 37				74
		33	23	40					63		
											137

The applicant has sold approximately 10.1 acres of land in the subdivision and portions of water rights 22-2184, 2230, 7075, 11147 and 11149 were conveyed to new owners during the land sales. To date, IDWR has not received a change in water right ownership notification from the new water right holders, however the applicant has affirmed that they no longer own the portions of water rights 22-2184, 2230, 7075, 11147 and 11149 specific to those 10.1 acres. All other lands sold by the applicant to new owners within the boundaries of the subdivision were sold without water rights so there are no concerns with the applicant's authority to lease in the remaining balance of the water right place of use associated with the Harvest Heights subdivision (see the water right backfile for WSB application 1387 / contract 987 for additional water right ownership information).

The 10.1 acres sold by the applicant are represented by the blue polygons in the image to the right, while the orange area represents the irrigable acres serviced with the portions of water rights 22-2184, 2230, 7075, 11147 and 11149, which still belong to the applicant.



Image 1 – Harvest Heights Subdivision

By subtracting out the 10.1 acres from authorized place of use associated with the applicant's five water rights, it is revealed that as many as 69.1 acres in Sections 29 and 33 can be leased by the applicant. These 69 acres were leased into the Bank previously through lease contract 987 and there are no concerns about the renewal of this lease. No concerns about authority to file.

Twp	Rge	Sec	NE				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	29							33.8	21.6	55.4
		33	0.10	13.6							13.7
											69.1

Water Right Validity/Forfeiture Evaluation: The portions of water rights 22-2184, 2230, 7075, 11147 and 11149 proposed for lease were irrigated in recent years. It is unclear whether irrigation occurred under the applicant's five water rights, or whether irrigation occurred under municipal water rights belonging to the City of Rexburg. Regardless, evidence of recent irrigation is apparent and there are no concerns regarding the validity of the portions of the water rights proposed for lease.

Injury Evaluation: No injury is apparent through this lease alone. Proper rental review should guard against injury.

Enlargement of Use: Water rights 22-2184, 2230, 7075, 11147 and 11149 are combined limited to 10.17 cfs, which is the additive diversion rate of rights 2184, 2230 and 7075 (11147 and 11149 provide volume and acres, but no rate), for the irrigation of 1,114.0 acres. Additionally, water right 22-7507 authorizes irrigation of an additional 157 non-overlapping acres, adjacent to water rights 22-2184, 2230, 7075, 11147 and 11149, but through a diversion of water from only two of the three wells associated with these five water rights. Though water right 22-7507 was licensed with a maximum diversion rate that provides 0.02 cfs/acre, in reality, and through both licensing and the adjudication, it was acknowledged that diversions under 22-7507 were accomplished in conjunction with diversions under water rights 22-2184, 2230, 7075, 11147 and 11149, and the combined limited diversion rate for all six water rights was limited to the maximum instantaneous diversion rate from the common wells, which was 10.85 cfs.

In recognition that water rights 22-2184, 2230, 7075, 11147, 11149 and 7507 authorize a maximum diversion rate of 10.85 cfs for the irrigation of a maximum of 1,271.0 acres, the 69.0 acres under the Harvest Heights subdivision, and the remaining (unleased) balance of the water rights, are as follows:

WR #	Diversion Rate (CFS)	Volume (AF)	Acres, Limited	Acres, PPU	Adjusted Rate (CFS)	Diversion Rate (CFS)	Volume (AF)	Acres, Limited	Acres, PPU	Adjusted Rate (CFS)	Diversion Rate (CFS)	Volume (AF)	Acres, Limited	Acres, PPU	Adjusted Rate (CFS)
	Decreed					Proposed for Lease					Unleased (Remaining Available)				
22-2184	3.550	1,085.0	310.0	1,114.0	2.650	0.220	67.2	19.2	69.0	0.160	3.330	1,017.8	290.8	1,045.0	2.490
22-2230	1.680	518.0	148.0	1,114.0	1.260	0.100	32.1	9.2	69.0	0.080	1.580	485.9	138.8	1,045.0	1.180
22-7075	4.940	1,953.0	558.0	1,114.0	4.760	0.300	121.0	34.6	69.0	0.300	4.640	1,832.0	523.4	1,045.0	4.460
22-11147	0.540	168.0	48.0	1,114.0	0.410	0.030	10.4	3.0	69.0	0.030	0.510	157.6	45.0	1,045.0	0.380
22-11149	0.570	175.0	50.0	1,114.0	0.430	0.040	10.8	3.1	69.0	0.030	0.530	164.2	46.9	1,045.0	0.400
Combined	10.170	3,899.0	1,114.0	1,114.0	9.510	0.630	241.5	69.0	69.0	0.600	9.540	3,657.5	1,045.0	1,045.0	8.910
22-7507	3.140	549.5	157.0	157.0	1.340	0.000	0.0	0.0	0.0	0.000	3.140	549.5	157.0	157.0	1.340
Combined	10.850	4,448.5	1,271.0	1,271.0	10.850	0.630	241.5	69.0	69.0	0.600	10.220	4,207.0	1,202.0	1,202.0	10.250

Note: provided that 0.63 cfs is protected from forfeiture through the lease of water rights 22-2184, 2230, 7075, 11147 and 11149, but that the rental of these five water rights is limited to a maximum diversion rate of 0.600 cfs, as outlined above, no enlargement should occur through the lease of these water rights.

Further, Water Management Information System (WMIS) records for the points of diversion associated with the applicant's five water rights indicate that annual ground water diversion volumes were 1,009 af in 2019 and 1,136 af in 2020, which is much less than the 4,207 af volume limit of the unleased extent of the rights.

Of additional note, it is presumed that the acres associated with the City of Rexburg residential properties located within the place of use for the applicant's irrigation water rights will continue to be irrigated through the term of the lease, under Rexburg's municipal water right portfolio. Provided the City of Rexburg limits overall diversions to the maximum diversion rates and diversion volumes authorized on their municipal water rights, it may not constitute an enlargement of either the applicant's water rights, or the City or Rexburg's water rights, if the overall number of acres irrigated from ESPA ground water increases through this lease.

Local Public Interest: Sustainable management of the ESPA ground water resource is in the local public interest. At this time, it does not appear that this lease is contrary to any ground water management area plans yet developed for the ESPA.

Beneficial Use/Conservation of Water Resources: The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Comments were requested from IDWR's Southern Region and Water District 143 on 8/4/2021

Water Supply Bank Evaluation: WSB review staff recommend approval of this lease proposal.