

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1474

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

LESSOR: LOWRIE DUTEMPLE TRUST
5223 LAKESHORE DR
EAGLE RIVER, MI 49950-9637

RECEIVED

JAN 10 2022

DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on August 10, 2021.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
37-2411B	7/18/1921	SPRINGS, tributary to SNAKE RIVER	0.08	Not Stated	3.3
Lease Totals			0.08	Not Stated	3.3

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2022 to December 31, 2026. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1474

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

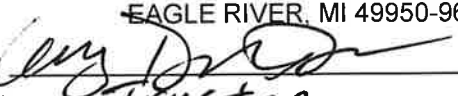
WATER SUPPLY BANK LEASE CONTRACT No. 1474

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

LESSOR: LOWRIE DUTEMPLE TRUST

5223 LAKESHORE DR

EAGLE RIVER, MI 49950-9637

By  LESLEY DUTEMPLE

Title Trustee

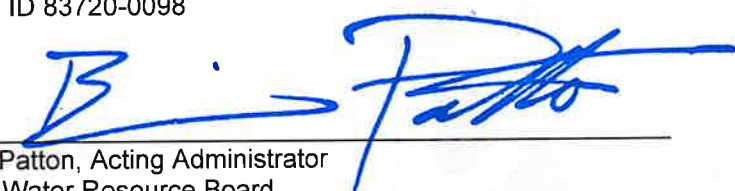
Date January 5, 2022

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By 

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 1/11/22

Lease approved by IDWR 

Date 1/11/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1474

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 37-2411B

SPRINGS	SENWSE	Sec. 21	Twp 06S	Rge 13E	GOODING County
SPRINGS	NWNWSE	Sec. 21	Twp 06S	Rge 13E	GOODING County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-2411B	IRRIGATION	03/15	to	11/15	0.08 cfs	Not Stated
	STOCKWATER	01/01	to	12/31	0.02 cfs	Not Stated
	DOMESTIC	01/01	to	12/31	0.04 cfs	Not Stated
Totals:					0.08 cfs	Not Stated

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	
06S	13E	21														3.3			3.3

Total Acres: 3.3

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER and DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
06S	13E	21														X		

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1474

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 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. 130.
13. The quantity of water under this right for domestic and stockwater uses shall not exceed 13,000 gallons per day.
14. Sources are also known as Montana Mining Company Ditch Spring No. 3 or Upper Decker Spring and Montana Mining Company Ditch Spring No. 4 or Lower Decker Spring.

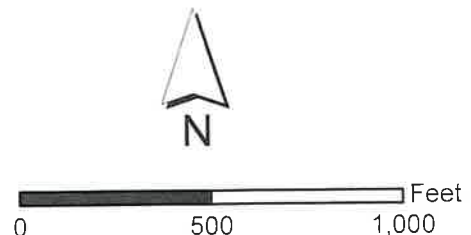
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1474

37-2411B
Effective until December 31, 2026

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



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 10 2021

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

Designated Applicant

Lesley Du Temple, as sole Trustee
of Lowrie Du Temple Trust
(Select one owner - see item 1A on the application)

Water Right No.

37-2411B
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐No ☒

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.

Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment

N/A

Yes

1A

☐Signatures and contact information for **all owners** of the water right to be leased or sold on this application.

1B

☐An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.

1C

☒Notice of Change in Water Right Ownership form (accessible from www.idwr.idaho.gov).

1D

☒

Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.

2

☐

Description of a water right portion offered to the Water Supply Bank.

3

☐

A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.

ATTACHMENT 3

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.

See attachment #4

Department Use Only

Fee Amount \$ 250 -Received By: KuDate Received: 8-10-21Receipt # C110723W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)

Name on W-9:

Leslie Du Temple as Trustee for
Lowrie Du Temple Trust

2124

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 Lesley Du Temple - for Lourie Du Temple Trust

Mailing Address 5223 Lakeshore Dr. Eagle River, MI 49950
Street City State Zip Code

Email Address lesleydutemple@mac.com Phone Number 906-281-1692

- ☒ 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? n/a 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. Printed from your web site

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.

A pipe directly into the rock of Upper Decker Springs. Used only for domestic use. Upper Decker Springs is physically within the legal boundary of our property.

- 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. None. Just my right: 37-2411B

- 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. Two streams - created by Upper and Lower

Decker Springs run through the property. Solely aesthetic.

- 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 idea. Dealing with this after my husband's death,

8/2020, water has been used for domestic, by Lowrie family, for 50+ years.

- 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

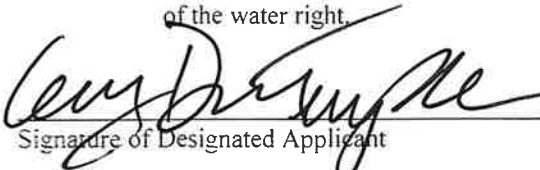
- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?
If lease, specify the years when the use of water will be suspended: 2022 to 2027 (maximum lease period 5 calendar years).
(Year) (Year)
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

current rental rate

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

The Designated Applicant acknowledges the following:

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


Signature of Designated Applicant

Lesley DuTemple
Printed Name

Aug 5, 2021
Date

for Lowrie DuTemple Trust

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

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

- | <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) |
|---------------------------|----------------------|-----------------------------|------------------------------|-----------------------------|
| 37-2411B | all rights offered | | | |
| | | | | |
| | | | | |
| | | | | |
| Total Amounts: | | | | |

2. Source of water Upper Decker Springs tributary to Snake River (?)
3. Point(s) of diversion:

[illegible]

No idea. #37-2411B is coming from the Upper Decker Springs, physically situated on my property at 548 River Road, Bliss, Idaho

* See attached info, from when I filed the name change with Corey Skinner in the Twin Falls office of the IDWR. My husband died shortly after transferring the property to our marital trust, hence I did the filing after his death.

ATTACHMENT 4



ATTACHMENT 4

#37-2411B

RECEIVED

AUG 10 2021

DEPARTMENT OF
WATER RESOURCES

HAGERMAN VALLEY WATER RIGHTS

To:
Corey Skinner
IDWR Southern Region Manager
Twin Falls, Idaho

June 8, 2021

Dear Corey,

I have received the documents you sent and have filled them out as best I am able. And I much appreciate Bill answering my questions over the phone.

In a nutshell, this property has been in my husband's family for decades, and that is not changing. It's name change is only that – it is changing from "James S. Lowrie" to the "Lowrie DuTemple Trust." This was done to avoid probate. We filed all the documents June 12, 2020, and my husband died August 1, 2020. Our children, Margaret Lowrie and Christopher Lowrie, are part of this trust and they will eventually be handling the property.

It has always been just domestic use. We do not irrigate, nor run stock. I am not doing any split, nor am I leasing to a Water Supply Bank. The Upper Decker is physically on our property; the Lower Decker runs onto our property in the form of a stream, passing through before it goes under the road and enters the Snake. The property is being kept exactly as it's been. The location of the spring has not changed, nor has my access point. To my knowledge we have 3 shares, so I am enclosing a check for \$75. Let me know if this is incorrect.

In addition to the new legal mailing address (160 S. 600 East, #405, Salt Lake City, UT 84102) you may keep the old mailing of Jones Waldo, 170 S. Main, #1500, SLC 84101 as a backup in your files, as it is my deceased husband's law firm and will be handling all affairs for me in perpetuity. I also have another address you can keep as backup in the file: 5223 Lakeshore Drive, Eagle River, MI 49950, as I am at this residence half the time. Given that our postal service appears to be in flux, it probably doesn't hurt to have backup ways to reach me via snail mail.

Thank you for your help, and please feel free to liberally advise me with any other water issues I need to know about or deal with. This was my husband's childhood home and I mostly stayed out of it – so anything you tell me about water is probably news to me!



Lesley A. DuTemple (Lowrie)
lesleydutemple@mac.com
906-281-1692

RECORDING REQUESTED BY:

JONES WALDO HOLBROOK & MCDONOUGH PC

SEND TAX NOTICE TO:

JAMES S. LOWRIE and LESLEY A. DUTEMPLE

160 South 600 East, Unit 405

Salt Lake City, UT 84102

AFTER RECORDING RETURN TO:

JONES WALDO ATTN: CLV

170 South Main Street, Suite 1500

Salt Lake City, Utah 84101

Instrument # 269202

GOODING, GOODING, IDAHO

7-17-2020 11:52:06 AM No. of Pages: 2

Recorded for: JONES, WALDO, HOLBROOK & MCDONOUGH

DENISE M. GILL

Fee: 15.00

Ex-Officio Recorder Deputy

Jamie Sutherland

SPACE ABOVE FOR RECORDER'S USE
PARCEL ID NUMBER: RP06S13E218385A

Special Warranty Deed

DOCUMENTARY TRANSFER TAX -0-

For good and other valuable consideration, JAMES S. LOWRIE does hereby convey and warrant against all claiming by, through, or under him, all his interest in and to the following described real property in the County of Gooding, State of Idaho to:

JAMES S. LOWRIE and LESLEY A. DUTEMPLE, Trustees, or their successors in trust, under the LOWRIE DUTEMPLE TRUST, dated March 15, 2017, and any amendments thereto

SEE LEGAL DESCRIPTION ON EXHIBIT A, ATTACHED HERETO.

Date: June 12, 2020

JAMES S. LOWRIE
JAMES S. LOWRIE

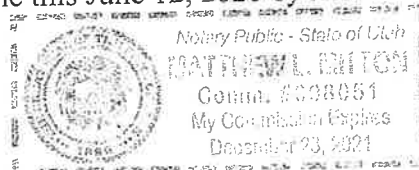
STATE OF UTAH

SS

COUNTY OF SALT LAKE

The foregoing instrument was acknowledged before me this June 12, 2020 by JAMES S. LOWRIE.

[Signature]
Notary Public



This instrument has been prepared by Jones Waldo Holbrook & McDonough PC solely from information provided by the client. There are no express or implied guarantees as to marketability of title, accuracy of the property or property legal description or quantity of land described, as no examination of title property was requested by the client.

Exhibit A

Special Warranty Deed

That portion of the S.E. Quarter of Section 21, Township 6, Range 13 E.B.M. described as follows:
Beginning at a point 530 feet North and 273 feet East of the S.W. corner of the Northwest Quarter of the Southeast

Quarter of Section 21, Township 6, Range 13 E.B.M. thence East 1047 feet to the East line of the Northwest Quarter of the Southeast Quarter of said Section 21, thence South 200 feet, thence West 947 feet, thence in a Northwesterly direction 214 feet to the point of beginning, being approximately 4.57 acres. Together with all water rights and other appurtenances.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 37-2411B

6/1/2021

4. B01 Sources are also known as Montana Mining Company Ditch Spring No. 3 or Upper Decker Spring and Montana Mining Company Ditch Spring No. 4 or Lower Decker Spring.

Comments:

1. cfritsch 12/19/2007 Version 2
Version 2 created to resolve objection to quantity.

Dates and Other Information

Decreed Date: 4/16/2008
Civil Case Number: 39576
Judicial District: FIFTH
Water District Number: 130
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

SubCaseNumber: 37-2411B
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent:
Basis of Claim: License
Date Filed: 3/8/2006
Objection Status: Active

Water Supply Bank:

N/A



IDAHO DEPARTMENT
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

January 12, 2022

LOWRIE DUTEMPLE TRUST
5223 LAKESHORE DR
EAGLE RIVER, MI 49950-9637

**RE: WATER SUPPLY BANK LEASE CONTRACT 1474
FOR WATER RIGHT 37-2411B**

Dear Lessor:

Water right **37-2411B** was leased into the Water Supply Bank (Bank) as of January 1, 2022, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2026**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Water District No. 130



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 29, 2021

LOWRIE DUTEMPLE TRUST
5223 LAKESHORE DR
EAGLE RIVER, MI 499-50-9637

**RE: APPLICATION TO LEASE WATER RIGHTS 37-2411B TO THE WATER SUPPLY BANK
CONTRACT 1474**

******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, 2026**, 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: C110723

MEMORANDUM FOR APPLICATION # 2124

To: Water Right 37-2411B
From: Dave Betts
Date: November 3, 2021
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE: On August 10, 2021, the Lowrie DuTemple Trust filed an application to lease the full water right no. 37-2411B ("Application") for five years (2022 through 2026). The Application was signed by Lesley DuTemple ("Applicant"). This water right authorizes the diversion of water from two springs that are known locally as Upper Decker Spring and Lower Decker Spring for domestic use, stockwater, and the irrigation of 3.3 acres. The water right's places of use are approximately 3.5 miles south-south-east of Bliss.

On October 26, 2021, I called the Applicant to confirm that all of the authorized uses of this right, including the domestic use, will be idled for the length of the proposed lease. The Applicant confirmed that she intends idle all uses. The Applicant stated that her primary objective with the lease is to protect the water right from forfeiture. The home on the property is primarily used as a summer home, and the water supply has been completely turned off. The Applicant does not expect to resume the authorized uses of the water right until after making renovations to or replacing the existing home.

AUTHORITY TO FILE: In July of 2021 the Department of Water Resources ("Department") processed a notice of change of ownership for water right no. 37-2411B to the name of the Lowrie DuTemple Trust, with the Applicant as sole trustee.

WATER RIGHT VALIDITY: Based on information provided by the Applicant, the water right has likely been used as recently as 2019. In addition to our discussion of the domestic use, the Applicant described the sprinkler system for the yard surrounding the home, and an additional sprinkler head that is used to irrigate portions of the slopes above the home.

Based on my analysis of the satellite imagery of the property, I was able to identify approximately 3.3 acres of land that may be irrigated around the home. There are no concerns with the validity of the water right offered to the bank.

INJURY TO OTHER WATER RIGHTS: Department records identify 14 additional water rights that use water from the same sources as this right (Upper Decker Spring and Lower Decker Spring). Although several rights list the same spring sources, no evidence was found that the diverting works for this right are shared by other rights. The Applicant states that the only diverting works for her water right is a pipe from Upper Decker Spring that connects to the home. Lease of this water right would not cause injury to other water rights.

ENLARGEMENT OF USE: Proper review will be necessary to prevent injury and enlargement if this water right is rented. Responding to my request for comments, the watermaster (WD 130) said that a total of 3.3 acres may not have been irrigated under this water right. The owner of the water right would need to provide additional information to confirm the extent of irrigation under this right to assist with the calculation of the total volume of water that can be made available through the lease.

In addition, the water sources are springs which are allowed to flow through the property. Portions of the property may receive water even though the Applicant is not actively diverting water for irrigation.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The points of diversion for this right are subject to Water District 130. Comments were requested from the watermaster and the Department's Southern Region office. Comments from the watermaster have been included in this review. Southern Region did not reply to the request for comments.

Betts, David

From: Erickson, Nathan
Sent: Tuesday, December 14, 2021 2:21 PM
To: Betts, David; Skinner, Corey
Subject: RE: Proposed lease of water right no. 37-2411B (Lowrie DuTemple Trust)

Dave,
Thank you for checking back with me on this. I did talk with Mrs. DuTemple, and she did help with some of my questions. I am not entirely convinced that the full 3.3 acres have been irrigated in recent history. However, I understand they will cease using the water right on the property and am not opposed to water right 37-2411B being leased into the water bank.

Thanks,
Nathan

From: Betts, David <David.Betts@idwr.idaho.gov>
Sent: Tuesday, December 14, 2021 1:42 PM
To: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: Proposed lease of water right no. 37-2411B (Lowrie DuTemple Trust)

Hello Nathan,

Have you had a chance to speak with Leslie DuTemple about her proposed lease to the Water Supply Bank? Are you still wanting to do an on-site visit with Ms. DuTemple? When I spoke to her at the end of October she was living in Michigan.

Please let me know if you need additional time to contact Ms. DuTemple to address your concerns.
Thanks,

--
Dave Betts - *Water Resource Agent*
Water Rights Section | Idaho Department of Water Resources
322 East Front St | P.O. Box 83720 | Boise, ID 83720
Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

From: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>
Sent: Thursday, November 04, 2021 8:43 AM
To: Betts, David <David.Betts@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: Proposed lease of water right no. 37-2411B (Lowrie DuTemple Trust)

David,
I do have concerns with this water bank lease. I actively regulate water use from the Decker springs, and I believe this user has their private line from the spring. I want some ability to verify the diversion is closed in the spring. I am also not sure how much use, mainly irrigation has been occurring. Is it okay if I have some time to contact the applicant to meet them at the site and verify there is a way to idle this water right for the water bank?
Thanks,
Nathan

From: Betts, David <David.Betts@idwr.idaho.gov>

Sent: Wednesday, November 3, 2021 2:07 PM

To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>

Subject: Proposed lease of water right no. 37-2411B (Lowrie DuTemple Trust)

Cory and Nathan,

The attached documents are part of my review of a proposed lease to the Water Supply Bank . Please respond within 7 days if you have any comments or concerns with the proposed lease.

Thanks,

--

Dave Betts

Senior Water Resource Agent

Idaho Department of Water Resources

(208) 287-4826