

## MEMORANDUM

**Date:** January 4, 2022  
**To:** Transfer 85516  
**From:** Michael Holliday  
**Re:** Review & Evaluation of Sufficiency of Information

This transfer changes the point of diversion, adds points of diversion, and changes the place of use of a 10-acre portion of right 22-14026. The transferred portion of the right is currently leased to the Water Supply Bank, but the 10-acre portion will be removed from the Bank prior to the 2022 irrigation season.

**Authority to File:**

The applicant has a purchase and sale agreement with the current owners of the water right. Ownership will be updated upon approval of the transfer. Teton County parcel data show the applicant as the current owner of the proposed points of diversion and place of use. A search on the Secretary of State webpage showed that Dennis Gertmenian is authorized to sign on behalf of the LLC.

**Water Right Validity:**

Water right 22-14026 was decreed in the SRBA in 2008, and the right has been leased to the water supply bank since 2013. Forfeiture is not an issue.

**Injury to Other Water Rights:**

It is unlikely that the proposed changes would reduce the quantity of water available to other water rights. The application was advertised and no protests were received.

**Enlargement of Use:**

The rate, volume, and acres for right 22-14026 will be reduced so that the total authorized for irrigation use between the current and proposed rights will not increase. Therefore, there are no enlargement concerns.

**Local Public interest:**

No issues identified.

**Beneficial Use/Conservation of Water Resources:**

No issues identified.

**Effect on Economy the Local Area:**

No issues identified.

**Effect on Agricultural Base of the Local Area:**

No issues identified.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1009**

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

**LESSOR:** GARY SUMMERS  
1177 E 9TH N  
REXBURG, ID 83440

**RECEIVED**

**JUN 24 2019**

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 May 20, 2019.
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)  |
|---------------------|---------------|--------------|----------------------|-----------------------|-------------|
| 22-14026            | 6/19/1961     | GROUND WATER | 1.03                 | 256.5                 | 85.5        |
| <b>Lease Totals</b> |               |              | <b>1.03</b>          | <b>256.5</b>          | <b>85.5</b> |

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 May 20, 2019 to December 31, 2023. 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. 1009**

**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): 22-14026**

GROUND WATER                      NENE                      Sec. 12                      Twp 05N                      Rge 45E                      TETON County

| Water Right    | Beneficial Use | Season of Use |    |       | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
|                |                | From          |    | To    |                      |             |
| 22-14026       | IRRIGATION     | 04/15         | to | 10/15 | 1.03 cfs             | 256.5 AF    |
| <b>Totals:</b> |                |               |    |       | 1.03 cfs             | 256.5 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 |        |
| 05N | 45E | 12  | 25.0 | 35.8 |    |    |    |    | 4.4 | 20.3 |    |    |    |    |    |    |    |    | 85.5   |

Total Acres: 85.5

**ADDITIONAL CONDITIONS OF ACCEPTANCE**

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
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.