

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1327

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

LESSOR: GARY A DE MOSS
PO BOX 61
BLISS, ID 83314

RECEIVED
FEB 16 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 December 24, 2020.
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)
37-22168	9/20/1974	GROUND WATER	1.730	338.7	84.0
Lease Totals			1.730	338.7	84.0

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1327

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. 1327

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

LESSOR: GARY A DE MOSS
PO BOX 61
BLISS, ID 83314

By Gary A. De Moss
Title OWNER
Date 2/9/2021

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 02/17/21

Lease approved by IDWR Phum

Date 02/17/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1327

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): 37-22168

GROUND WATER NWSENW Sec. 16 Twp 05S Rge 13E GOODING County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-22168	IRRIGATION	04/01	to	11/01	1.68 cfs	336.0 AF
	STOCKWATER	01/01	to	12/31	0.05 cfs	2.7 AF
Totals:					1.73 cfs	338.7 AF

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

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	13E	3						28.0 L4	32.0			36.0							96.0
05S	13E	4	25.0 L1	1.0 L2	11.0	40.0					27.0			40.0	38.0	34.0	39.0	21.0	276.0
05S	13E	9		32.0	38.0	19.0	34.0	18.0		40.0	40.0			40.0		25.0	18.0		304.0
05S	13E	16		13.0			40.0	39.0	30.0	10.0									132.0

Total Acres: 808.0

Acre Limit: 84.0

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. 1327

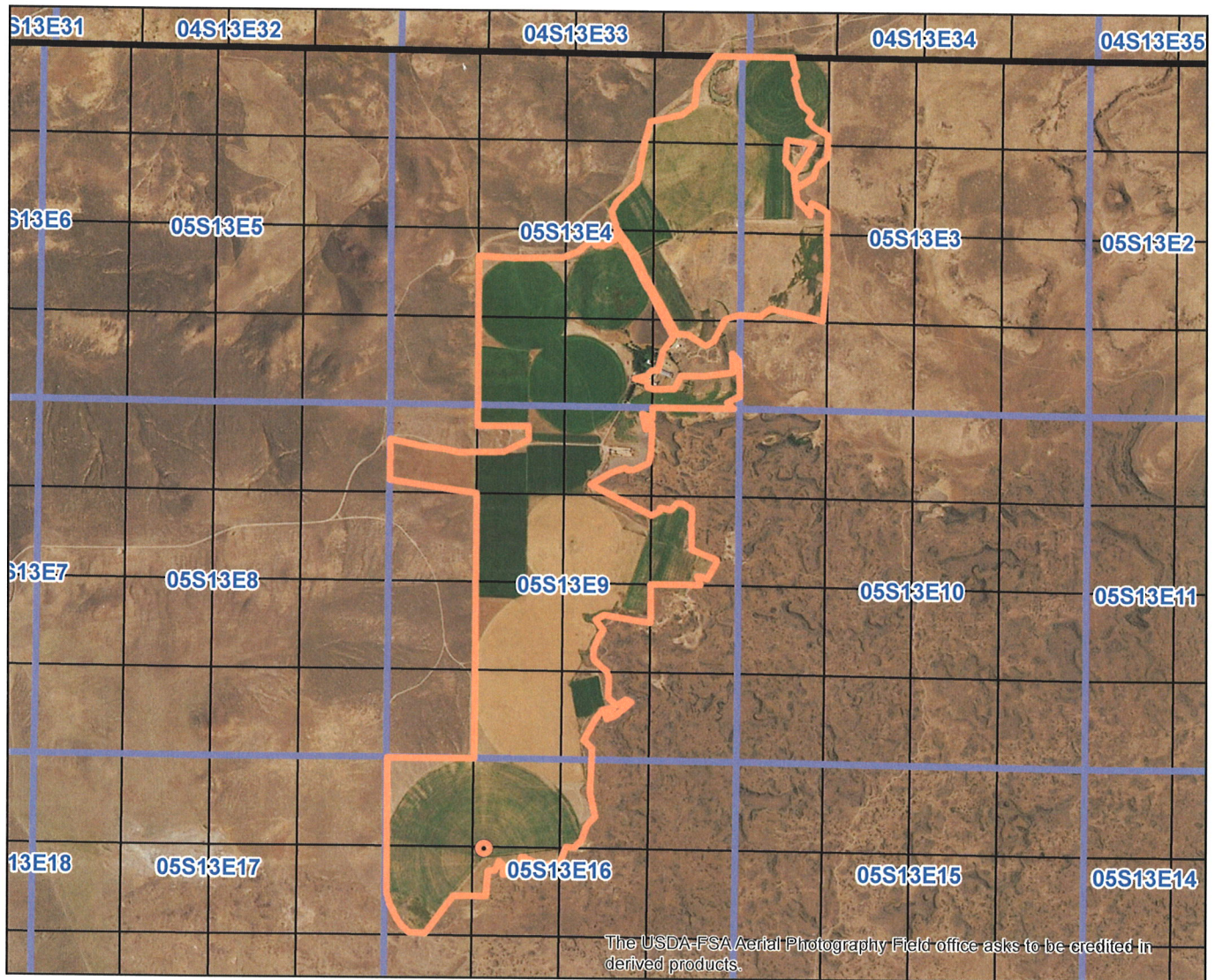
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right 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. Rights 37-856, 37-857, 37-2778, 37-2780, 37-7754, 37-21961, 37-21962, and 37-22168 when combined shall not exceed the irrigation of 808.0 acres.
13. The direct flow irrigation use described by rights 37-22168, 37-7754, and 37-2778 when combined shall not exceed a total annual maximum diversion volume of 1738.0 af at the field headgate, and the irrigation of 555.0 acres.
14. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/01 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than December 11, 2002.
15. This right is limited to the irrigation of 84 acres within the place of use described above in a single irrigation season.
16. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
17. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
18. The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
19. Use of water under this right will 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.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1327

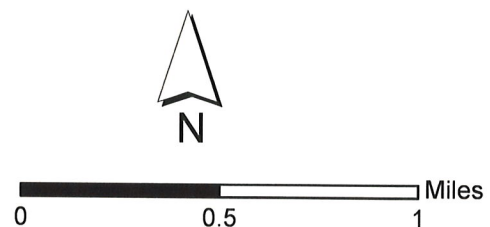
37-22168

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.



-  Water Supply Bank Lease POU
-  Water Supply Bank Lease POD
-  Township/Range
-  Sections
-  QQ



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

DEC 24 2020

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Gary A. DeMoss and/or Helen DeMoss

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

Water Right No. 37-22168

(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.**

MIMUMUM 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.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☐ ☒ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ <u>250 -</u>	Received By: <u>Ku</u>	Date Received: <u>12.24.2020</u>	Receipt # <u>C109730</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Gary A Demoss</u>	

1905

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 Gary A. DeMoss and/or Helen DeMoss

Mailing Address P.O. Box 61 Bliss Idaho 83314
Street City State Zip Code

Email Address ghdemoss@hughes.net Phone Number (208) 352-4385

☒ 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 Travis L. Thompson Organization Barker Rosholt & Simpson LLP

Professional Title Attorney Email Address ttt@idahowaters.com

Mailing Address P.O. Box 63, Twin Falls, Idaho 83303 Phone Number (208) 733-0700

☐ 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.
Pump to pivots and sprinklers.

- 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. See Attachment

- 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. See Attachment

- 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 Supply Bank since 2006.

- 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. Water right has been in the Water Supply Bank since 2006.

- 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: 1/1 2021 to 12/31 2021 (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.

Gary A. DeMoss
Signature of Designated Applicant

Gary A. DeMoss
Printed Name

12/21/2020
Date

Travis L. Thompson
Signature of Authorized Representative

Travis L. Thompson
Printed Name

12/22/2020
Date

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

ATTACHMENT

Information in Response to 4.C and E:

The present permissible place of use (PPU) covered in part by water right 37-22168 will continue to receive surface water as authorized pursuant to water right nos. 37-856, 37-2778, 37-2780, and 37-7754 which describe the same place of use. Water rights 37-856 and 37-2780 are storage water rights that can be used on the total 808-acre PPU. Water rights 37-2778 and 37-7754 describe storage components without acreage limitations (except for the PPU boundary), and they also describe natural flow components which are limited to 242 and 313 acres respectively. The water rights will continue to be used under these authorized limits. These surface water rights provide a total of up to 4,365 acre-feet of irrigation storage which is not acreage limited but is restricted by the 808-acre PPU. The storage quantity is sufficient to irrigate the total 808 acres without the use of water right 37-22168 by providing 5.4 acre-feet per acre storage volume in addition to natural flow of 8.07 cfs for 555 acres provided by the natural flow components.

Water right 37-22168 is a primary ground water right and has been in the water bank since 2006.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

LESSOR DESIGNATION FORM

RECEIVED

JAN 26 2021

**DEPARTMENT OF
WATER RESOURCES**

When multiple individuals or business entities jointly own property to which a water right is appurtenant, the parties can use this form to nominate a designated lessor to represent their common interests on a Water Supply Bank lease contract. The signatures of all water right holders are required on this form to elect a designated lessor. The designated lessor is required to provide a completed IRS Form W-9 to receive any payment associated with the rental of a water right under a Water Supply Bank lease contract. **All correspondence and any financial payment associated with the rental of this water right will be directed to the designated lessor.** If additional space is needed to list any other water right holders, attach a second copy of this Lessor Designation Form.

Water Right No(s). 37-22168

	Designated Lessor	Water Right Co-owner	Water Right Co-owner
Name	GARY A DEMOSS	HELEN DEMOSS	
Mailing Address	PO BOX 61 BLISS ID 83314	PO BOX 61 BLISS ID 83314	
Phone Number	208-352-4385	208-352-4385	
Email Address	blbranch@protonmail.com	blbranch@protonmail.com	
Water Right Owner Declaration	As designated lessor, I will represent the interest of all other water right owners on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.
Signature	<i>Gary A Demoss</i>	<i>Helen Demoss</i>	

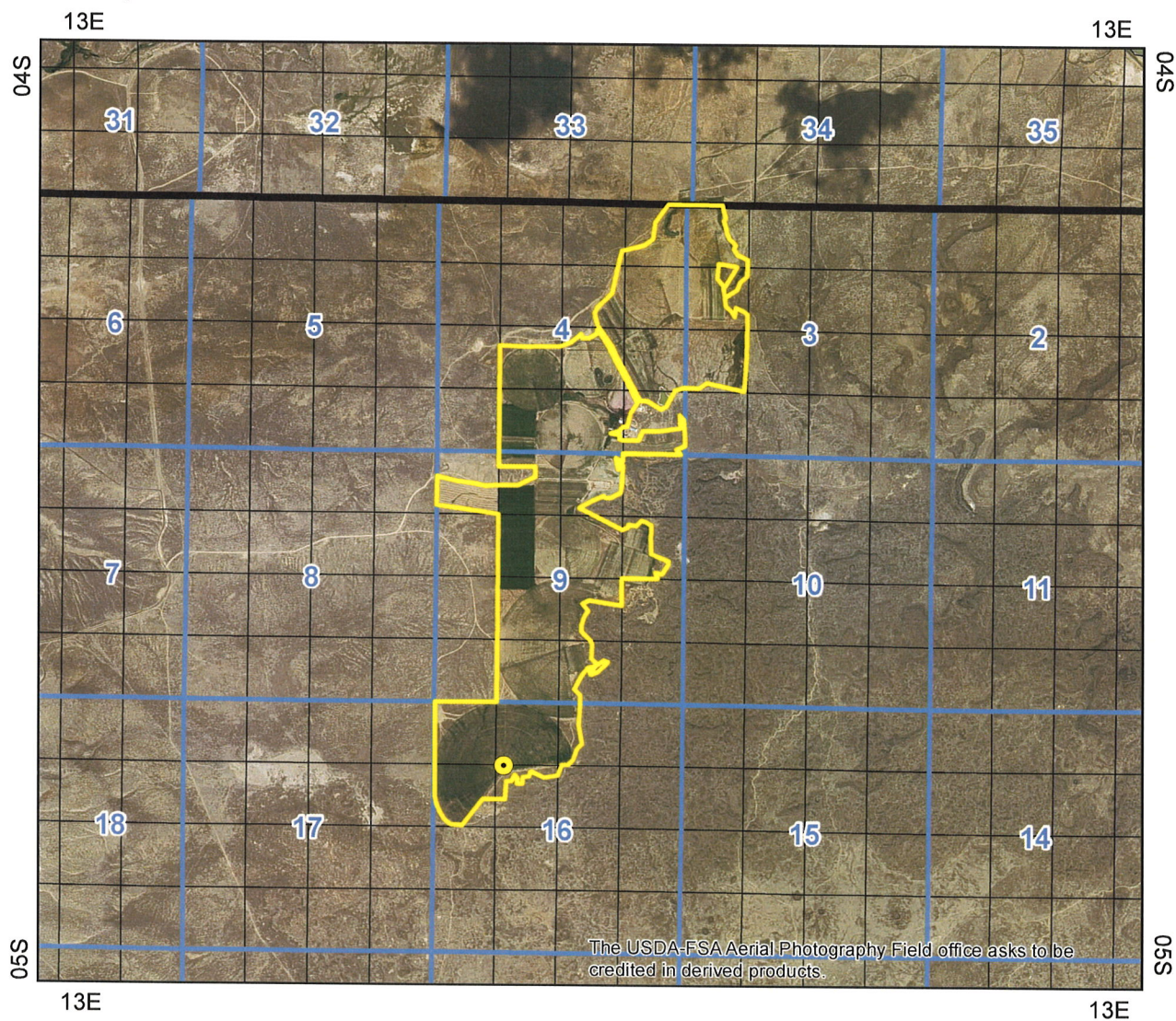
	Water Right Co-owner	Water Right Co-owner	Water Right Co-owner
Name			
Mailing Address			
Phone Number			
Email Address			
Water Right Owner Declaration	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.	I authorize the designated lessor to represent me on the lease of a water right to the Water Supply Bank.
Signature			

State of Idaho
Department of Water Resources

Water Right
37-22168

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 0.45 0.9 1.8 Miles





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

February 18, 2021

GARY A DE MOSS
PO BOX 61
BLISS ID 83314

RE: **WATER SUPPLY BANK LEASE CONTRACT 1327
FOR WATER RIGHTS 37-22168**

Dear Lessor:

Water right **37-22168** 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,

Jean Hersley

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Nathan Erickson- Water District 130

Hersley, Jean

From: Skinner, Corey
Sent: Wednesday, February 3, 2021 12:05 PM
To: Hersley, Jean
Subject: RE: WSB Lease for De Moss 37-22168

I'm good too.

From: Erickson, Nathan
Sent: Wednesday, February 3, 2021 8:34 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Re: WSB Lease for De Moss 37-22168

Jean,
I have no concerns with this lease.
Thanks,
Nathan

Sent from my iPhone

On Feb 3, 2021, at 8:12 AM, Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Please let me know if you have any comments or concerns with the attached lease. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

<Idled Acres.pdf>
<Lease Application Review 37-22168.xls>
<Lease Contract - 1327.docx>

Hersley, Jean

From: Erickson, Nathan
Sent: Wednesday, February 3, 2021 8:34 AM
To: Hersley, Jean
Cc: Skinner, Corey
Subject: Re: WSB Lease for De Moss 37-22168

Jean,
I have no concerns with this lease.
Thanks,
Nathan

Sent from my iPhone

On Feb 3, 2021, at 8:12 AM, Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Please let me know if you have any comments or concerns with the attached lease. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

<Idled Acres.pdf>
<Lease Application Review 37-22168.xls>
<Lease Contract - 1327.docx>



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

February 3, 2021

GARY A DEMOSS
PO BOX 61
BLISS ID 83314

RE: APPLICATION TO LEASE WATER RIGHTS 37-22168 TO THE WATER SUPPLY BANK
CONTRACT 1327

****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

C: Barker Rosholt & Simpson LLP

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, February 3, 2021 8:12 AM
To: Skinner, Corey; Erickson, Nathan
Subject: WSB Lease for De Moss 37-22168
Attachments: Idled Acres.pdf; Lease Application Review 37-22168.xls; Lease Contract - 1327.docx

Please let me know if you have any comments or concerns with the attached lease. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

WATER SUPPLY BANK		Quick Tools	
Lease Review Checklist		Decreed	No Forfeiture Concerns Thru:
Applicant(s) Name: De Moss		Year	
Memo Date: February 1, 2021		2011	2017
Water Right Number(s): 37-22168		2012	2018
		2013	2019
		2014	2020
		2015	2021
Reviewers Name: Jean			
		Check box	
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	X	COMMENTS/CONCERNS:
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)		2002
	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?		2006
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	X	
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)		
		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	
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
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		X
13	Narrative: The Department received this application on December 24, 2020. The applicant wishes to place the entirety of this right in the Bank. The application was signed by Gary A DeMoss and Travis Thompson, attorney. The parent of this right, 37-7385B, was decreed in 2002 as a primary ground water right. A transfer in 2003 created a PPU of 808 acres so storage water could be used on the land. The PPU will continue to receive surface water from WR 37-856, 37-2778, 37-2780 and 37-7754 which describe the same place of use. WR 37-856 and 37-2780 are storage water rights that can be used on the total 808 acre PPU. WR 37-2778 and 37-7754 describe storage components with acreage limitations and describe natural flow components which are limited to 242 and 3131 acres respectively. The water rights will continue to be used under these authorized limits. The surface water rights provide a total of up to 4365 af of irrigation storage which is not acreage limited but is restricted by the 808 PPU. This right has been in the Bank since 2006 either on its own or as the parent right. There are no issues of forfeiture. This right is currently within WD 130.		

Hersley, Jean

From: Jessica Nielsen <jf@idahowaters.com>
Sent: Tuesday, January 26, 2021 4:40 PM
To: Hersley, Jean
Cc: Travis Thompson; 'blanch@protonmail.com'
Subject: DeMoss WSB Lease Application 37-22168
Attachments: 20210126 signed Lessor Designation Form - DeMoss.pdf; 20210126 W9 signed by Gary DeMoss RE Water Bank App. to Lease Water Right 37-22168.pdf; 20210126 W9 signed by Helen DeMoss RE Water Bank App. to Lease Water Right 37-22168.pdf

Dear Jean,

Attached, please find the signed Lessor Designation and the W-9 forms signed by Gary DeMoss and Helen DeMoss.

Also, the stock water portion is being offered to the Bank as indicated on the application.

Should you have any questions or concerns, please contact our office.

Thank you,

Jess Nielsen

Barker Rosholt & Simpson LLP

163 2nd Avenue West

P.O. Box 63

Twin Falls, Idaho 83303-0063

Office: (208) 733-0700

Fax: (208) 735-2444

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Hersley, Jean

From: Hersley, Jean
Sent: Monday, January 25, 2021 9:24 AM
To: 'tlt@idahowaters.com'; 'ghdemoss@hughes.net'
Subject: De Moss WSB Lease Application
Attachments: WSB-lessor-designation.pdf

Travis,

I am in the processing of reviewing the lease for 37-22168. The box for the entire water right was checked on the application. Is the stock water portion being offered to the Bank also? In the previous lease, it wasn't included.

Also, I have attached a lessor designation form. We received a W-9 form from Gary DeMoss so any payment will go to him. We need both Gary and Helen to sign the form and return to the Department. Please let me know if you have any questions. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*



Barker Rosholt
& Simpson LLP

RECEIVED

DEC 24 2020

DEPARTMENT OF
WATER RESOURCES

Twin Falls

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(1937-2019)

Travis L. Thompson

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PHONE: 208.733.0700

WEB: idahowaters.com

December 22, 2020

Mr. Justin Ferguson
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Water Bank Application (Water Right No. 37-22168)

Dear Justin:

This firm represents Gary and Helen DeMoss ("Applicants") with respect to the enclosed application to lease the referenced water right to the state water supply bank. The right is currently in the water bank and the lease is set to expire at the end of this month. *See Ferguson Oct. 22, 2020 Letter to Gary DeMoss.* The Applicants would like to resubmit the water rights into the water bank for the years 2021 through 2025.

The application includes an attachment response to questions 4.d and e, a place of use map, and an updated W-9. I have also enclosed a check for the filing fee (\$250) to complete the application. If you have any questions or need any additional information please feel free to call or email. Thank you for your attention to this matter.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson

Enc.

cc: Gary and Helen DeMoss (by email only)

1905