

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1293

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

LESSOR: WARD LAND & LIVESTOCK LLC
227 E 400 S
BURLEY, ID 83318

RECEIVED

JAN 26 2021

SUPPORT DATA
IN FILE # 43-13595 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 09, 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)
43-13597	5/23/1962	GROUND WATER	0.89	580	448
43-13595	5/4/1978	GROUND WATER	5.0	1,210	448
Combined Lease Totals			5.0	1,790	448

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. 1293

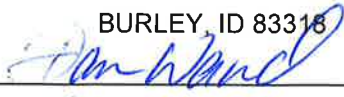
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right 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

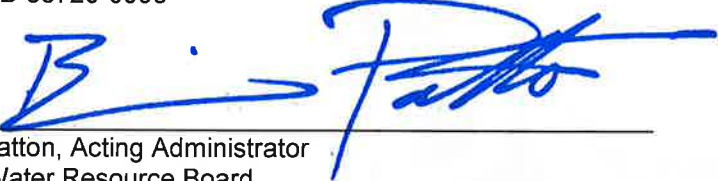
WATER SUPPLY BANK LEASE CONTRACT No. 1293

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

LESSOR: WARD LAND & LIVESTOCK LLC
227 E 400 S
BURLEY, ID 83318

By 
Title Owner
Date 1-25-2021

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 01/27/20

Lease approved by IDWR 

Date 01/27/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1293

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): 43-13597, 43-13595

GROUND WATER	L4	Sec. 2	Twp 10S	Rge 26E	CASSIA County
	SWNWNW				
GROUND WATER	NENWSW	Sec. 2	Twp 10S	Rge 26E	CASSIA County
GROUND WATER	SENENE	Sec. 11	Twp 10S	Rge 26E	CASSIA County
GROUND WATER	NWSWSE	Sec. 3	Twp 10S	Rge 26E	CASSIA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
43-13597	IRRIGATION	03/15	to	11/15	0.89 cfs	580 AF
43-13595	IRRIGATION	03/15	to	11/15	5.0 cfs	1,210 AF
Totals:					5.0 cfs	1,790 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	
10S	26E	1								1.9		26.6							28.5
10S	26E	2				20	40 L3	31 L4	31	28	39	30	40	40	40		40	40	419

Total Acres: 448

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).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1293

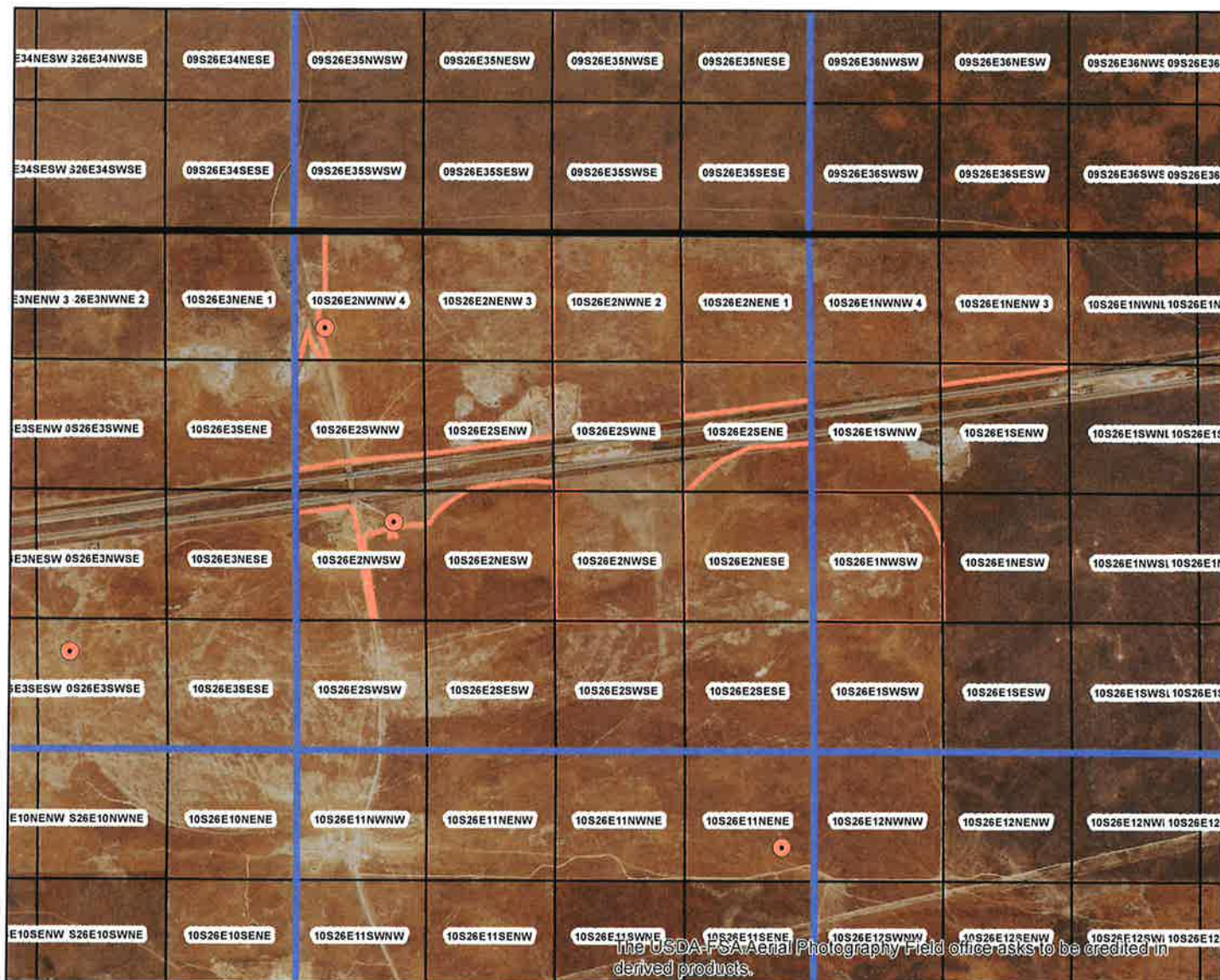
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in 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.
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. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014. This right is limited to the irrigation of 145.1 acres within the place of use described above in a single irrigation season.

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1293

43-13595 & 43-13597
Effective until December 31, 20XX

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



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

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



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 09 2020

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant WARD LAND & LIVE STOCK LLC

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

Water Right No. 43-13597

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

Department Use Only

Fee Amount \$ <u>500 -</u>	Received By: <u>Ku</u>	Date Received: <u>12.9.2020</u>	Receipt # <u>C109611</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Dan Ward</u>	

1840

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 DAN WARD

Mailing Address <u>200 E. 500 S.</u>	BURLEY	IDAHO	83318
Street	City	State	Zip Code

Email Address _____ Phone Number 208-312-2836

☒ 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 Gary Funderburg Organization TSK ENTERPRISE LLC

Professional Title OWNER/MANAGER Email Address tskenterprish2o@gmail.com

Mailing Address 255 Blue Lakes Blvd N., PMB 617, Twin Falls, Idaho Phone Number 208-320-0897

☐ 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.
(4) Wells motors and pumps
- 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. 43-13595
- 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. Has been in the State Water Bank
- 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. Has been in the State Water Bank
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
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 2026 (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.

Dan Wand
Signature of Designated Applicant

Dan Wand
Printed Name

12-5-2020
Date

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**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 45-13597

	Designated Applicant	Applicant #2	Applicant #3
Name	Dan Ward	Glenn A Ward	
Mailing Address	200 E. 500 S. Burley, Idaho 83318	200 E. 500 S. Burley, Idaho 83318	
Phone Number	208 312 2836	205 312 2836	
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

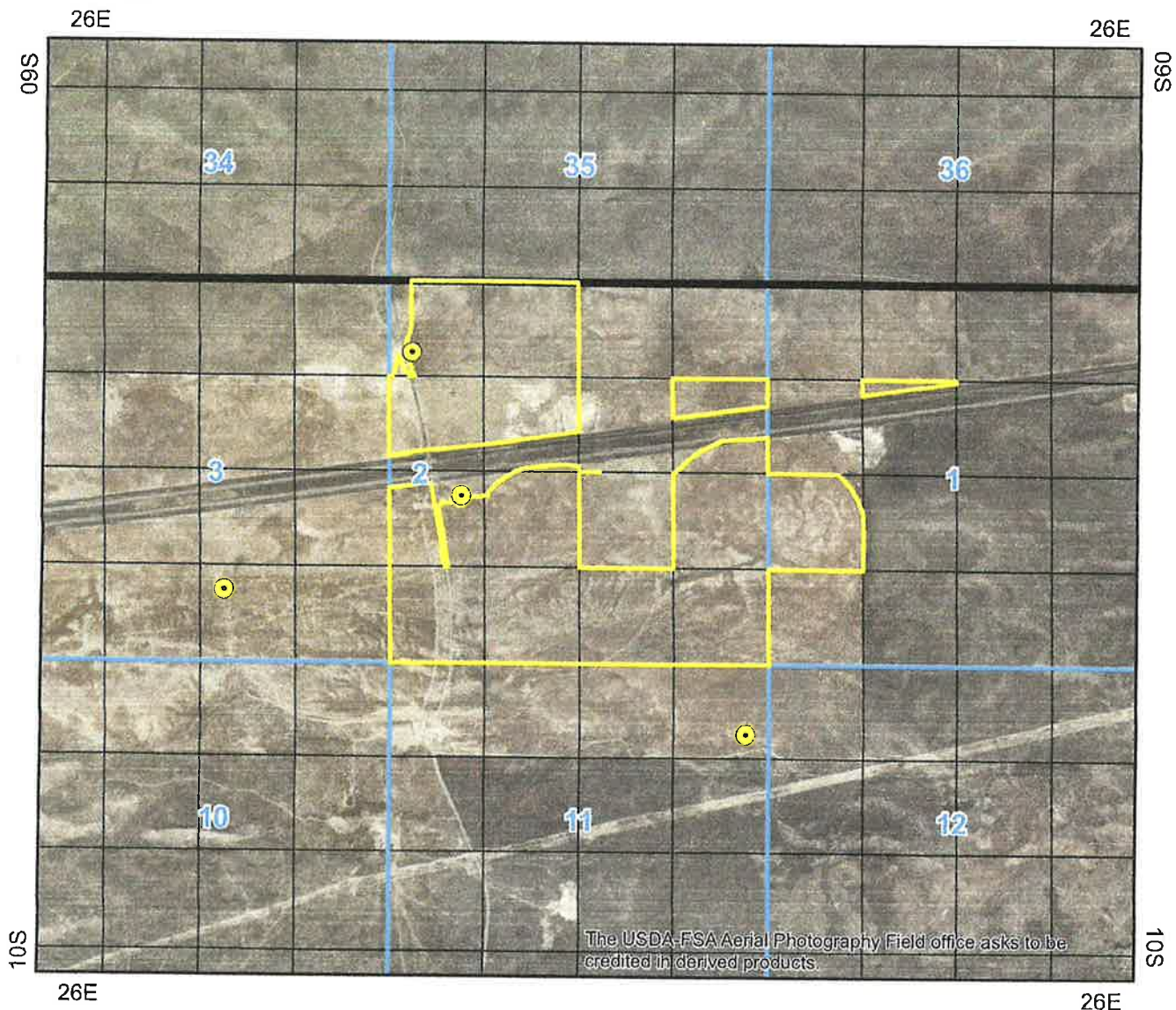
	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

State of Idaho
Department of Water Resources

Water Right
43-13597

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 0.3 0.6 1.2 Miles



IDAHO Department of Water Resources



IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to call ahead for an appointment.

WATER RIGHT REPORT

12/2/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 43-13597

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WARD LAND & LIVESTOCK LLC 227 E 400 S BURLEY, ID 83318 2086773935
Current Owner	GLEN WARD 227 E 400S BURLEY, ID 83318 2086773935
Original Owner	BROCKWAY CORP 370 CONVENTION WAY PO BOX 5408 REDWOOD CITY, CA 94063 4153641758

Priority Date: 05/23/1962

Basis: Decreed

Status: Active

Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.89 CFS	580.4 AFA
Total Diversion			0.89 CFS	580.4 AFA

Location of Point(s) of Diversion:

GROUND WATER	SWNWNW Lt 4	Sec. 02	Township 10s	Range 26e	CASSIA County
GROUND WATER	NENWSW	Sec. 02	Township 10s	Range 26e	CASSIA County
GROUND WATER	NWSWSE	Sec. 03	Township 10S	Range 26E	CASSIA County
GROUND WATER	SENE	Sec. 11	Township 10s	Range 26e	CASSIA County

IRRIGATION Use:

Acre Limit: 145.1

Place(s) of use:

Place of Use Legal Description: IRRIGATION CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
10S	26E	1		SENE	1.9									
				NWSW	26.6									
		2		SENE	20									
			3	NENW	40	4	NWNW	31		SWNW	31		SENE	28
				NESW	39		NWSW	30		SWSW	40		SESE	40
				NESE	40		SWSE	40		SESE	40			

Total Acres: 447.5

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. E11 Use of this right with right no. 43-13595 is limited to the irrigation of a combined total of 447.5 acres in a single irrigation season.
3. C02 Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.
4. E01 Use of this right with right no. 43-13595 is limited to a total combined diversion rate of 5.84 cfs.
5. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
6. K06 This right is limited to the irrigation of 145.1 acres within the place of use described above in a single irrigation season.

Dates:

Licensed Date:

Decreed Date: 07/26/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: And

Water District Number: 143

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Combined Acres Limit: 447.5

Combined Volume Limit:

Combined Rate Limit: 5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust: N

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Water Supply Bank:

Lessor Name(s): WARD LAND & LIVESTOCK LLC
GLEN WARD

Lease Status: Active

Lease Amount: 1.04cfs

Rental Availability: .59cfs

Date Received: 5/9/1995

Lease Begin Date: 7/20/1995

Expiration Date: 12/31/2020



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 2, 2021

WARD LAND & LIVESTOCK LLC
227 E 400 S
BURLEY, ID 83318

**RE: WATER SUPPLY BANK LEASE CONTRACT 1293
FOR WATER RIGHTS 43-13595 & 43-13597**

Dear Lessor:

Water right **43-13595 & 43-13597** were leased into the Water Supply Bank (Bank) as of January 1, 2021, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

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

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR - Southern Region
Gary Funderberg



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

January 15, 2021

WARD LAND & LIVESTOCK LLC
227 E 400 S
BURLEY, ID 83318

RE: APPLICATION TO LEASE WATER RIGHT 43-13595 & 43-13597 TO THE WATER SUPPLY BANK CONTRACT 1293

******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
Receipt # C109611

C: Gary Funderberg – TSK Enterprise LLC

MEMORANDUM FOR APPLICATION # 1184

To: Water Rights 43-13595 and 43-13597
From: ADalgleish
Date: 1/12/2021
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE: Ward Land and Livestock LLC submitted a lease application on December 9, 2020 to lease in the full amounts of rights 43-13595 and 43-13597 for 5 years, from 2021 through 2025.

Rights 43-13595 and 43-15397 (Leased Rights) were created from subsequent water right transfer splits from original parent right 43-7126 (pertaining to right 43-15395) and parent right 43-4037 (pertaining to right 43-15397). In 1995, the original parent rights were completely leased into the bank for the remainder of the year. The lease was renewed in 1996 and later extended for an indefinite period. Since that time, the parent rights have undergone many splits. The child Leased Rights do not appear to have been out of the Bank for the last 25 years.

In 2015, a letter was sent to the owner of water rights 43-13595 and 43-13597 requesting an update to the indefinite lease term of the rights. The owner signified a 5 year lease extension to the end of 2020. This lease request is another extension of the prior leases.

AUTHORITY TO FILE: The Leased Rights are currently owned by Ward Land & Livestock LLC and Glen Ward. Their parent rights were decreed on 7/26/2002 and the decree extends to these subsequent split portions that are now the Leased Rights.

The lease applications were signed by Dan Ward and completed by Representative Gary Funderberg of TSK Enterprises LLC. A lease designator form was included with the applications signifying Dan Ward as the designated applicant. However, this form was not signed by either Dan or Glenn Ward. I called Mr. Funderberg on 1/5/2021 to inform him of the discrepancy and followed up with an email the same day so he could gain signatures from the water right owners.

According to Department records, the land at the leased place of use and points of diversion is owned by AMC Rentals LLC (AMC), which does not match with the ownership of the Leased Rights. I searched the Idaho SOS for AMC to verify if the water right owners were associated with the business. Unfortunately, the annual report from 2020 does not clearly show that the owners of the Leased Rights are related to AMC in any way. So, on 1/6/2021, I emailed representative Gary Funderberg requesting authorization from AMC to lease water rights appurtenant to their parcels. On 1/7/2021, I received an email from "Ward Dairy" which included the signed Designated Lessor form. I responded the same day acknowledging receipt of the form and also requested further information showing that the AMC had consented to the lease of the rights on their land. However, upon further consideration, I don't believe authorization is necessary from AMC since they do not appear to have any interest or relation to the Leased Rights. If they did want to irrigate with the rights, there would need to be some sort of land/water use agreement from Ward Land & Livestock LLC to irrigate. I emailed Mr. Funderberg and Ward Dairy on 1/12/2021 informing them that they no longer needed to provide authorization from AMC. There are no concerns with the authority to file the lease application.

WATER RIGHT VALIDITY: The original parent rights of the Leased Rights were decreed on 7/26/2002 and the decree extends to these subsequent split portions that are now the Leased Rights. No concerns with validity of the water right and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Lease of this water right would not cause injury to other water rights. Proper review to prevent injury if rented.

ENLARGEMENT OF USE: Acceptance to the Bank of the entire portions of the Leased Rights should not cause enlargement. There are no other water rights that share the place of use. The Leased Rights authorize the diversion of groundwater from four wells. According to Department records, all four wells are only used by the Leased Rights and mitigation rights 43-13802 and 43-13803. Enlargement is not a concern.

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 location for the rental points of diversion are subject to Water District # 143. On 1/7/2021, comments were requested from the Watermaster of WD #143 and the Southern Regional office. Both the Watermaster and Region responded on 1/7/2021 citing no concerns with the lease proposal.

Dalglish, Alex

From: Dalglish, Alex
Sent: Tuesday, January 12, 2021 4:44 PM
To: 'Ward Dairy'; 'tskenterprise2o@gmail.com'
Subject: Lease of Water Rights 43-13595 & 43-13597

Hello,

I reached out last week seeking the authorization of AMC Rentals LLC to ease in water rights 43-13595 and 43-13597 since they appear to own the land at the place of use and points of diversion for the above listed rights.

However, after further consideration, I don't believe the Department needs authorization from AMC Rentals LLC, as they do not appear to have any claim to rights 43-13595 and 43-13597.

I will continue processing the lease application as I see no other issues.

Regards,

Alex Dalglish
Senior Water Resource Agent
Phone (208) 287-4913
alex.dalglish@idwr.idaho.gov

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Thursday, January 7, 2021 3:32 PM
To: 'Ward Dairy'
Cc: 'tskenterprise2o@gmail.com'
Subject: RE: Water Right Lease 45-13597, 43-13595

There is one more piece of information the Department needs in order to lease in the rights. Department records show that the land at the water right place of use and points of diversion is owned by AMC Rentals LLC. This LLC owns the land but not the water rights. We need authorization from them, or the current landowner, to lease in the full amounts of rights 43-13595 and 43-13597.

Gary Funderburg is listed as the representative for Ward Land & Live Stock LLC. I emailed him yesterday afternoon regarding this issue and have also CC'd him to this email for convenience.

Once this information is received, I believe the lease contract can be approved.

Thank you,

Alex Dalgleish
Senior Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

From: Ward Dairy [mailto:warddairy@gmail.com]
Sent: Thursday, January 7, 2021 3:27 PM
To: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Subject: Re: Water Right Lease 45-13597, 43-13595

You are welcome.

On Thu, Jan 7, 2021 at 3:26 PM Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov> wrote:

Thank you for promptly sending the additional information pertaining to the Lease of rights 43-13595 and 43-13597.

Alex Dalgleish
Senior Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

From: Ward Dairy [mailto:warddairy@gmail.com]
Sent: Thursday, January 7, 2021 3:23 PM
To: Dagleish, Alex <Alex.Dagleish@idwr.idaho.gov>
Subject: Water Right Lease 45-13597, 43-13595

Please see attachment 1A and W-9. Thank you

Dalgleish, Alex

From: Skinner, Corey
Sent: Thursday, January 7, 2021 4:39 PM
To: Erickson, Nathan; Dalgleish, Alex
Subject: RE: 43-13595 & 43-13597 Lease

I'm good since Nathan is good.

From: Erickson, Nathan
Sent: Thursday, January 7, 2021 2:58 PM
To: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: 43-13595 & 43-13597 Lease

Alex,
I see not problems at this time with the lease.
Thanks,
Nathan

From: Dalgleish, Alex
Sent: Thursday, January 7, 2021 10:26 AM
To: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: 43-13595 & 43-13597 Lease

Nathan and Corey,

I am seeking comment on the proposed 5 year lease of rights 43-13595 and 43-13597 into the Bank from 2021 through 2025. Please see the attachments and respond with any comments or concerns within 14 days, by 1/21/2020.

Although I am still waiting on a few pieces of information, (a signed designated lessor form and authorization from the land owner at the water right POU/POD's), the lease proposal is otherwise ready for approval. I thought I'd seek comments while waiting for the additional information.

If no response is received, IDWR will assume you do not object to this application.

Thank you,

Alex Dalgleish
Senior Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Wednesday, January 6, 2021 5:04 PM
To: 'tskenterprise2o@gmail.com'
Subject: Ward Lease of Rights 43-13595 & 43-13597 to Water Supply Bank
Attachments: POU & POD Ownership SOS Report.pdf

Hello Mr. Funderburg,

Upon my review, I have come across another issue that needs attention. Department records show that rights 43-13595 and 43-13597 have a place of use and points of diversion on property owned by AMC Rentals LLC, which does not match with the owners of the rights. I searched the Idaho Secretary of State website for AMC Rentals LLC to see if Dan or Glenn Ward were listed as an agent, or member of the LLC, but unfortunately, neither of them are associated with the LLC as far as I can see. I have attached an annual business report from November 2020 for AMC Rentals LLC.

The Department's parcel records are from June of 2020, so there is a chance they could be outdated. Either way, I'd like some sort of authorization from AMC Rentals LLC, or the current land owner, to lease the water rights to the Bank that are on their property.

Contact me if you have further questions.

Thank you,

Alex Dalgleish
Senior Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

RECEIVED

DEC 09 2020

DEPARTMENT OF
WATER RESOURCES



255 Blue Lakes Blvd N
PMB 617
Twin Falls, ID 83301
Cell: 208-320-0897

December 2, 2020

IDAHO DEPARTMENT OF WATER RESOURCES
WATER DISTRIBUTION SECTION
322 East Front St. P.O. BOX 83720
BOISE, IDAHO 83720-0098

ATT: JUSTIN FERGUSON

Gentlemen:

Plases find enclosed the Application for Ward Land and livestock LLC Lease applications along with the filing fee of \$500.00.

I have completed the forms upon request of Dan Ward.

If you have any question with the applications, feel free to contact me at the above phone number or address.

We would appreciate an informal notice you have received the applications.

Sincerely,
Gary Funderburg
Tskenterpriseh2o@gmail.com
255 Blue Lakes Blvd N
PMB 617
Twin Falls, ID 83301
Cell: 208-320-0897

1840
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