

STATE OF IDAHO  
WATER RESOURCE BOARD

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

Designated Applicant Foster Land & Cattle

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

Water Right No. 35-13948

(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 | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application.                                                                                                                                                                                                                                  |
| 1B | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.                                                                                                                                                                                                                                                                        |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).                                                                                                                                                                                                                   |
| 1D | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank.                                                                                                                                                                                                                                                                                 |
| 3  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .                                                            |
| 4A | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Written consent from irrigation district or water delivery company.                                                                                                                                                                                                                                                                                    |
| 4G | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> .                                                                                                                                                                                                                                       |

**Department Use Only**

Fee Amount \$ 500. (300.3)Received By: Cx HDate Received: 4/17/2020 Receipt # E045829W-9 received? Yes ☐ No ☐

(Route W-9 to Fiscal)

Name on W-9:

*Returned  
12/2/2020*

STATE OF IDAHO  
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**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 Foster Land & Cattle

Mailing Address PO Box 40, Ririe, ID 83443

Street

City

State

Zip Code

Email Address \_\_\_\_\_

Phone Number \_\_\_\_\_

☒ 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 Luke H. Marchant

Organization Holden, Kidwell, Hahn & Crapo

Professional Title Attorney

Email Address lmarchant@holdenlegal.com

Mailing Address P.O. Box 50130, Idaho Falls, ID 83405

Phone Number (208) 523-0620

☐ 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.

Water is diverted through two existing wells 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. Water Right Nos. 35-13944 and 35-13946 are also used for the same purpose and place of use as this right.

- 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. The water right has been fully utilized.

- 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 ☒

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(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: 2020 to 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.

Signature of Designated Applicant

Printed Name

Date



Luke H. Marchant

April 2, 2020

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**

| 1. <u>Water Right Number</u> | Nature of Use     | Leased Rate<br>(cfs) | Leased Volume<br>(af) | Leased Acres<br>(ac) |
|------------------------------|-------------------|----------------------|-----------------------|----------------------|
| <u>35-13948</u>              | <u>Irrigation</u> | <u>0.11</u>          | <u>22.9</u>           | <u>5.7</u>           |
|                              |                   |                      |                       |                      |
|                              |                   |                      |                       |                      |
|                              |                   |                      |                       |                      |
|                              | Total Amounts:    |                      |                       |                      |

2. Source of water Ground water tributary to \_\_\_\_\_

3. Point(s) of diversion:

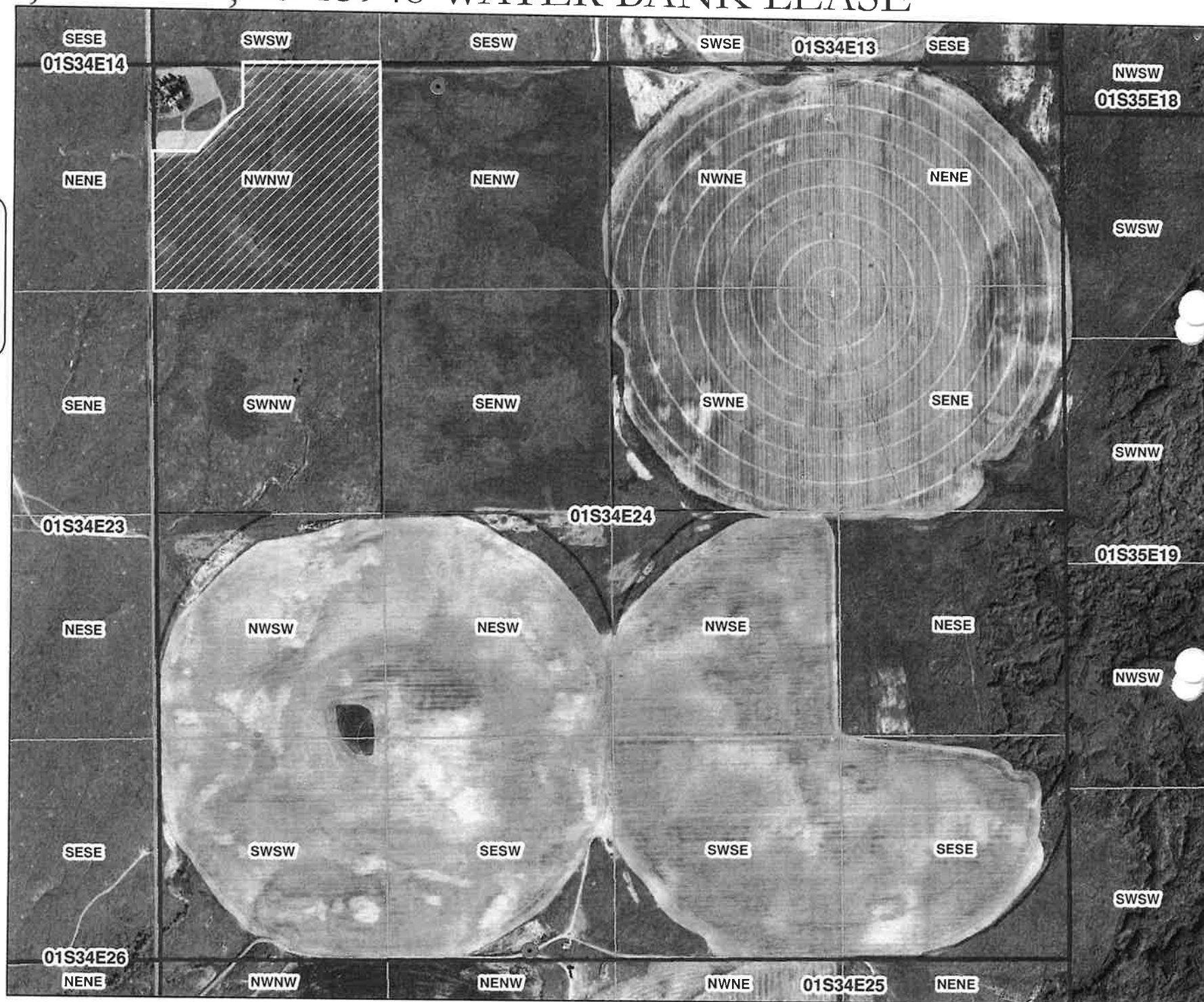
| Twp | Rge | Sec | Lot | ¼  | ¼  | ¼  | County  |
|-----|-----|-----|-----|----|----|----|---------|
| 01S | 34E | 24  |     | NE | NE | NW | Bingham |
|     |     |     |     | SE | SE | SW | Bingham |
|     |     |     |     |    |    |    |         |
|     |     |     |     |    |    |    |         |
|     |     |     |     |    |    |    |         |
|     |     |     |     |    |    |    |         |
|     |     |     |     |    |    |    |         |

# 35-13944, 35-13946, 35-13948 WATER BANK LEASE



## Legend

- PODs
- Leased Acres
- POU
- Section Lines
- Quarter Quarters



2019 NAIP Photo



Prepared by:  
Luke H. Marchant  
03/31/2020



**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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

December 2, 2020

FOSTER LAND AND CATTLE  
PO BOX 40  
RIRIE, ID 83443-0040

**RE: RETURNED APPLICATION(S) TO LEASE WATER RIGHT NOS. 35-13944, 35-13946 & 35-13948  
TO THE WATER SUPPLY BANK**

Dear Applicant:

The Idaho Department of Water Resources (Department) is returning your Application to Sell or Lease a Water Right to the Water Supply Bank (Application Number 1725), which was received on May 14, 2020. Your application proposed to lease portions of water rights 35-13944, 35-13946 & 35-13948 into the Bank. This letter explains how a decision was made on your application.

Water Supply Bank rule 25.02 (IDAPA 37.02.03) describes the materials needed for a complete application. Upon initial review, the Department has determined your application is incomplete. You have not provided information that the water right has not been lost through abandonment or forfeiture, required by rule 25.02.c. The Department has requested the needed information as required in rule 25.04, however the requested information has not been supplied. Therefore, the Water Supply Bank is declining to lease into the Bank water rights 35-13944, 35-13946 & 35-13948.

This letter is notice that the attached application to lease water to the Bank is being returned as incomplete. Please note that should more information become available at a later date you can reapply to the Water Supply Bank.

If you have questions regarding this matter, please contact me at (208) 287-4936.

Justin Ferguson  
Water Supply Bank Specialist

Cc - Luke Marchant – Holden, Kidwell, Hahn & Crapo



## 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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE

Governor

GARY SPACKMAN

Director

October 1, 2020

FOSTER LAND AND CATTLE  
PO BOX 40  
RIRIE, ID 83443

**RESPONSE DEADLINE:**  
**November 2, 2020**

#### **RE: Action Required on WSB Lease Application 1725**

Dear Applicant,

The Department of Water Resources (Department) has conducted a preliminary review of your application to lease water rights 35-13944, 35-13946 & 35-13948 to the Water Supply Bank and determined that your application is incomplete. The following items are required to continue processing your application:

- any additional information that you may have available to affirm water rights 35-13944, 35-13946 & 35-13948 have not been subjected to forfeiture through non-use for the period of 2003-2006, 2013, and 2016-2019

To continue processing your application, our office requires documentation that the water rights have not been lost to forfeiture through non-use for the periods listed. Please provide us with the above requested information within 30 days (deadline of November 2, 2020), so that we can continue processing of your application. If we do not hear from you prior to the established deadline, your application will be returned and your filing fee refunded.

If you have any questions, please contact me at (208) 287-4936.

Regards,

A handwritten signature in black ink, appearing to be 'JF'.

Justin Ferguson

Water Supply Bank Specialist

CC: Luke Marchant – Holden, Kidwell, Hahn, & Crapo