

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1145**

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

RECEIVED

AUG 10 2020

**LESSOR:** DON R ATKINSON  
901 CANYON RD  
HAILEY, ID 83333

**LESSOR:** JUDY H ATKINSON  
901 CANYON RD  
HAILEY, ID 83333

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 January 07, 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)
37-337A	6/1/1887	GROUND WATER, tributary to EAST FORK WOOD RIVER	0.03	2.8	0.8
37-8396	9/9/1988	GROUND WATER, tributary to	0.02	2.8	0.8
<b>Combined Limit Totals</b>			<b>0.05</b>	<b>2.8</b>	<b>0.8</b>
<b>Combined Lease Totals</b>			<b>0.05</b>	<b>5.6</b>	<b>1.6</b>

SUPPORT DATA  
IN FILE #

37-337A

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, 2020 to December 31, 2022. 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. 1145**


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. 1145**

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

**LESSOR:** DON R ATKINSON  
901 CANYON RD  
HAILEY, ID 83333

By   
Title \_\_\_\_\_  
Date 8/7/2020

**LESSOR:** JUDY H ATKINSON  
901 CANYON RD  
HAILEY, ID 83333

By   
Title \_\_\_\_\_  
Date 8/7/2020

**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 08/12/20

Lease approved by IDWR



Date 08/12/20

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 1145

### 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): 37-8396, 37-337A**

GROUND WATER	NESE	Sec. 8	Twp 03N	Rge 18E	BLAINE County
GROUND WATER	NESE	Sec. 8	Twp 03N	Rge 18E	BLAINE County
GROUND WATER	SESE	Sec. 8	Twp 03N	Rge 18E	BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-8396	IRRIGATION	4/15	to	10/15	0.02 cfs	2.8 AF
37-337A	IRRIGATION	04/15	to	10/31	0.03 cfs	2.8 AF
<b>Totals:</b>					0.05 cfs	2.8 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	
03N	18E	8													0.5			0.3	0.8

Total Acres: 0.8

### ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1145**

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. The unleased portion of rights 37-337A and 37-8396 when combined shall not exceed a total annual maximum diversion volume of 9.8 af at the field headgate, and the irrigation of 2.8 acres.
13. The unleased portion of rights 37-337A and 37-8396 are limited to the irrigation of a specific 2.8 acres within the 4.1 acre place of use authorized by this right in a single irrigation season. The specific 2.8 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 2.8 acres to be irrigated within the 4.1 place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
14. Right 37-8396 is for the use of trust water and is subject to review to determine availability of water and to re-evaluate the public interest.
15. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
16. 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. 37.
17. 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.
18. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
19. Place of use is located within Lot 6, Blk. 2 of the East Fork Subdivision # 1, Parcel A of Willowood Subdivision, and Amended Lot 64A, Blk. 3, Willowood Subdivision.
20. The unleased portion of right 37-8396 is limited to the irrigation of 1.2 acres within the authorized place of use in a single irrigation season.
21. The unleased portion of right 37-337A is limited to the irrigation of 2.8 acres within the authorized place of use in a single irrigation season.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1145**






22. Diversion of groundwater is limited to those times water is available for diversion under this right and priority from the East Fork Wood River.
23. Irrigation use under right 37-8396 is authorized only in connection with a domestic use.

Idaho Water Resource Board  
**Attachment to Water Supply Bank Lease Contract No. 1145**

Effective until December 31, 2022

This map depicts the **rental place of use** pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



-  Lease Portion 37-337A & 37-8396
-  POD
-  Township/Range
-  Sections
-  QQ



0  Feet  
500



RECEIVED

JAN 06 2020

DEPARTMENT OF  
WATER RESOURCESSTATE OF IDAHO  
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT  
TO THE WATER SUPPLY BANKDesignated Applicant Don Atkinson  
(Select one owner – see item 1A on the application)Water Right No. 37-8396  
(One water right per application)

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

Yes ☐ No ☒

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

## MINIMUM REQUIREMENT CHECKLIST

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

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☐ ☐ Signatures and contact information for *all owners* of the water right to be leased or sold on this application.
- 1B ☐ ☐ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from [www.idwr.idaho.gov](http://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](http://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>500.00</u>	Received By: <u>KM</u>	Date Received: <u>1-6-2020</u>	Receipt # <u>C108198</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9: <u>Don + Judy Atkinson</u>	

1609



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 Don Atkinson

Mailing Address PO Box 190 Ketchum, Idaho 83340

Street

City

State

Zip Code

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

Phone Number 208-788-2556

☐ 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 Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301

Phone Number 208-736-8543

☐ 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.  
Existing point of diversion, mainlines and delivery system.

- 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. 37-337A and 37-8396

- 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. This 2.8 acres of water has been under lease contract with the Water Supply Bank since 2015.

- 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. This 2.8 acres of water has been under lease contract with the Water Supply Bank since 2015.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒  
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: 2020 to 2022 (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

DON R ATKINSON  
Printed Name

12/17/2019  
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**

**RECEIVED**

**JAN 21 2020**

**DEPARTMENT OF  
WATER RESOURCES**

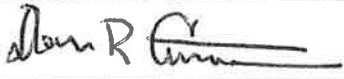

**ATTACHMENT 1A**

**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). 37-337A and 37-8396

	<b>Designated Applicant</b>	<b>Applicant #2</b>	<b>Applicant #3</b>
Name	Don Atkinson	Judy Atkinson	
Mailing Address	PO Box 190 Ketchum, Idaho 83340	PO Box 190 Ketchum, Idaho 83340	
Phone Number	208-788-2556	208-788-2556	
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			

	<b>Applicant #4</b>	<b>Applicant #5</b>	<b>Applicant #6</b>
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**  
**37-8396**

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.

18E



● Point of Diversion

□ Place Of Use Boundary

□ Townships

□ PLS Sections

□ Quarter Quarters

0 0.035 0.07 0.14 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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

August 13, 2020

DON ATKINSON  
PO BOX 190  
KETCHUM ID 83340

**RE: WATER SUPPLY BANK LEASE CONTRACT 1145  
FOR WATER RIGHTS 37-337A & 37-8396**

Dear Lessor:

Water rights **37-337A & 37-8396** was leased into the Water Supply Bank (Bank) as of January 1, 2020, 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, 2022**, 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](http://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](mailto:bank@idwr.idaho.gov) or 208-287-4800.

Sincerely,

  
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region  
Water District No. 37  
Greg Sullivan – Brockway Engineering



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

July 24, 2020

DON ATKINSON  
PO BOX 190  
KETCHUM ID 83340

### RE: APPLICATION TO LEASE WATER RIGHT 37-337A & 37-8396 TO THE WATER SUPPLY BANK

#### CONTRACT 1145

#### \*\*\*\*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, 2022**, 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](mailto:bank@idwr.idaho.gov) or 208-287-4800.

Sincerely,

  
Amanda Schuss-Veith  
Water Supply Bank

Enclosures: Proposed Lease Contracts  
Receipt# C108198



## MEMORANDUM FOR APPLICATION # 1184

**To:** Water Right(s) 37-337A, 37-8396

**From:** Scott Storms

**Date:** February 27, 2020

**Re:** Review & Analysis of Application to Lease Water to the State Water Supply Bank

---

**PURPOSE/NARRATIVE:** Application to lease water rights (WR) 37-337A and 37-8396 to the Water Supply Bank (Bank) was received on January 6, 2020. The application proposes to place the entirety of 37-8396 into the Bank, and 0.8 acres of 37-337A into the Bank. Right 37-8396 was originally established as a supplemental groundwater right to supplement WR 37-337A. Right 37-337A was originally established as a surface water right sourced from the East Fork Wood River, however a transfer approved in 2015 changed the source of this right to groundwater from three wells, and condition X53 was added to the right, limiting diversion of groundwater to times when water is available for diversion from the East Fork Wood River subject to the right's priority date. Additionally, as part of the transfer, two new well PODs were added to WR 37-8396, and the supplemental to surface water condition was dropped, as both rights became groundwater rights.

Upon initial review, it was recognized that, if the entirety of 37-8396 was leased to the Bank, and the priority date for WR 37-337A was cut off, then the right holders would not have authorization to continue irrigation without renting back their own right. In reviewing cut offs for the East Fork Wood River in 2019, the priority date for WR 37-337A was cut off after August 7. This was brought forth to the representative, Greg Sullivan, and he responded by requesting only 0.8 acres of WR 37-8396 be placed into the Bank.

**AUTHORITY TO FILE:** The application was signed by Don and Judy Atkinson. Don and Judy are listed as current owners on the water rights and Department parcel data show the land at the place of use as owned by the Don Robert Atkinson & Judy Hellyer Atkinson Revocable Trust. No concerns over authority to file.

**WATER RIGHT VALIDITY:** Right 37-337A was decreed on September 24, 2010 and 0.8 acres worth was placed in the Bank from 2015 to 2019. The entire 2 acres of 37-8396 was also placed in the Bank for the same amount of time, under the same contract. Review of aerial imagery and remote sensing data for the time period of the last contract showed no signs of irrigation in the leased portion, and signs of irrigation in the unleased of the POU. 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. Right 37-337A contains condition X53, which limits the diversion of groundwater to times when there is availability in the East Fork Wood River in accordance with the right's priority date. If 37-337A is rented, the renter should be made aware of that fact, and the rental agreement retain that condition.

Right 37-8396 contains condition 041, stating that irrigation needs to be in connection with a domestic use. Any rental of this right would also therefore need to be in connection with a domestic use.

Additional further proper review should prevent injury if either of these rights are rented.

**ENLARGEMENT OF USE:** These two rights contain combined limit conditions that limits irrigation to a total of 3.6 acres, and 12.6 af/year. Because 2.8 acres will still be irrigated at the POU, only the remaining 0.8 acres and 2.8 af of volume will be available for rent, per the combined limit, from either one right or the other, or a combination of both. Further review prior to rental should prevent any enlargement.

**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 PD is subject to Water District # 37. This review was forwarded on to watermaster Kevin Lakey and Southern regional contact Corey Skinner for review and comment.

Watermaster Kevin Lakey responded he has no comment. No response received from Corey Skinner.

## Storms, Scott

---

**From:** watermanager@cableone.net  
**Sent:** Tuesday, February 11, 2020 11:41 AM  
**To:** Storms, Scott; Skinner, Corey  
**Subject:** RE: WSB Lease Atkinson 37-337A & 37-8396

Scott,  
I have no comments or concerns at this time.

Kevin Lakey  
Water district 37

**From:** Storms, Scott <Scott.Storms@idwr.idaho.gov>  
**Sent:** Tuesday, February 11, 2020 9:56 AM  
**To:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; watermanager@cableone.net  
**Subject:** WSB Lease Atkinson 37-337A & 37-8396

Hello Corey and Kevin,

Please see the attached review memo and map for lease application of WRs 37-337A and 37-8396 and respond to me with any concerns with 14 day of the date of this email. IDWR will assume you do not object to this application if a timely response is not received.

Thank you.

Scott Storms  
Senior Water Resource Agent  
Idaho Department of Water Resources  
208-287-4915  
[Scott.Storms@idwr.idaho.gov](mailto:Scott.Storms@idwr.idaho.gov)

## Storms, Scott

---

**From:** Greg Sullivan <greg.sullivan@brockwayeng.com>  
**Sent:** Friday, February 7, 2020 4:13 PM  
**To:** Storms, Scott  
**Subject:** RE: Supply Bank Lease for Atkinson 37-337A & 37-8396

Scott,

These two water rights cover Lot RP001500020060, Lot RP00590003064A and Lot RP005900030660. Don and Judy Atkinson also have water right 37-11273 that is appurtenant to Lot RP001500020060 which allows up to 0.5 acres if irrigation. Chip and Monica Atkinson own Lot RP00590003064A which has a house on it with a none permitted domestic exempt ability to irrigate 0.5 acres.

I think we should leave the total combined acre amount to be leased into the Water Bank to be 0.8 acres.

Greg Sullivan  
Brockway Engineering  
2016 North Washington Street, Suite 4  
Twin Falls, Idaho 83301  
208-736-8543

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

**From:** Storms, Scott [mailto:Scott.Storms@idwr.idaho.gov]  
**Sent:** Thursday, February 06, 2020 9:39 AM  
**To:** Greg Sullivan <greg.sullivan@brockwayeng.com>  
**Subject:** RE: Supply Bank Lease for Atkinson 37-337A & 37-8396

Good morning Greg,

I was thinking this lease through a little more this morning as I was adjusting the numbers, and I realized, since 37-8396 only authorizes a total of 2 acres, if we lease in 0.8 acres, and the priority for 37-337A is cut off, your clients will only be left with 1.2 acres of authorized irrigation under 37-8396. If they leave 37-8396 off the lease altogether, then they could still have the full 2 acres if 37-337A were to get cut off. And as long as they are irrigating at least 2 acres during the irrigation season, 37-8396 will still be fully protected because of the combined limit condition.

What are your thoughts?

Scott

**From:** Greg Sullivan [mailto:greg.sullivan@brockwayeng.com]  
**Sent:** Wednesday, February 5, 2020 1:50 PM  
**To:** Storms, Scott <Scott.Storms@idwr.idaho.gov>  
**Subject:** RE: Supply Bank Lease for Atkinson 37-337A & 37-8396

Scott,

Lease an 0.8 acre portion of 37-8396 into the water bank. All other portions of water right 37-8396 and 37-337A should be protected from forfeiture because of the active irrigation.

Greg Sullivan  
Brockway Engineering  
2016 North Washington Street, Suite 4  
Twin Falls, Idaho 83301  
208-736-8543

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

**From:** Storms, Scott [<mailto:Scott.Storms@idwr.idaho.gov>]  
**Sent:** Wednesday, February 05, 2020 10:43 AM  
**To:** Greg Sullivan <[greg.sullivan@brockwayeng.com](mailto:greg.sullivan@brockwayeng.com)>  
**Subject:** Supply Bank Lease for Atkinson 37-337A & 37-8396

Hello Greg,

I'm reviewing another lease that you submitted, this time for the Atkinson's on WRs 37-337A & 37-8396. I just want to touch base on a couple things before we move forward. First, and probably most important, I want to be sure you're clients are aware that, if they put the entirety of 37-8396 into the Bank, they may get cut off on their water for 37-337A at some point during the irrigation season. Even though a transfer that was approved in 2015 changed the POD from the East Fork Wood River to groundwater, a condition of the transfer, and now condition #1 on the water right states: *Diversion of groundwater is limited to those times water is available for diversion under this right and priority from the East Fork Wood River.* As I'm sure you understand, this means that if the East Fork Wood River is cut back to the date of this right's priority (06/01/1887), they must also cease groundwater diversion under authority of this right, and if they do not retain a portion of 37-8396, they will need to cease irrigation completely. Reviewing cutoffs from last year, everything with a priority after May 31, 1887 was cut on August 7<sup>th</sup>.

Second, since the Atkinson's will be retaining 2.8 acres and 9.8 af of irrigation from 37-337A, and these rights contain a combined condition limiting irrigation to 3.6 acres and 12.6 af when combined, only 0.8 acres and 2.8 af will be available for rent from the bank, either from one right or the other, or some combination of both. I see that neither of these rights were rented during the last lease term, and if the Atkinson's goal is simply to protect from forfeiture, this may not be of much concern to them, I just want to be sure everyone is fully aware.

Please let me know as soon as you can if there is anything the Atkinson's would want to change about the rental, especially in regards to placing all of 37-8396 in the Bank, or if they still want to continue as the application is currently stated.

Thanks again,

Scott

Scott Storms  
Senior Water Resource Agent  
Idaho Department of Water Resources

208-287-4915

[Scott.Storms@idwr.idaho.gov](mailto:Scott.Storms@idwr.idaho.gov)



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JAN 21 2020

DEPARTMENT OF  
WATER RESOURCES

January 17, 2020

Remington Buyer  
Idaho Water Supply Bank  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

Re: Don and Judy Atkinson water rights 37-337A and 37-8396

Dear Mr. Buyer:

Two applications for water supply bank lease were submitted for Don and Judy Atkinson. The leases applications are for a portion of water right 37-337A and for the full irrigation amount of ground water right 37-8396.

A signed Attachment 1A was not provided with the two applications. Attached to this letter is the signed Attachment 1A form.

Sincerely

Greg Sullivan M.S., Engineer

Cc: Don & Judy Atkinson  
Enc: Attachment 1A

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506



## Hersley, Jean

---

**From:** Greg Sullivan <greg.sullivan@brockwayeng.com>  
**Sent:** Wednesday, January 08, 2020 1:03 PM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease Application for Atkinson

Jean,

Thanks for notification. As soon as I can get the Attachment 1A signed, I will send it your way.

Greg Sullivan  
Brockway Engineering  
2016 North Washington Street, Suite 4  
Twin Falls, Idaho 83301  
208-736-8543

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

**From:** Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]  
**Sent:** Wednesday, January 08, 2020 12:14 PM  
**To:** Greg Sullivan <greg.sullivan@brockwayeng.com>  
**Subject:** WSB Lease Application for Atkinson

Greg,

The attached letter to the Atkinson's will go out in tomorrow's mail. The Lessor Designation form was not included with their applications. Please let me know if you have any questions. Thank you.

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



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

January 8, 2020

DON ATKINSON  
PO BOX 190  
KETCHUM ID 83340

**RE: APPLICATION(S) TO LEASE WATER RIGHT NO(S). 37-337A & 37-8396 TO THE WATER  
SUPPLY BANK**

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to lease the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank).

During the initial review, it was determined that Attachment 1A, Lessor Designation form, was not submitted with the application. Please fill out the enclosed form and return to the Department. If the form is not received within 30 days, your applications could be returned unprocessed.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

If you have any questions, please contact me at (208) 287-4942.

Sincerely,

Jean Hersley  
Technical Records Specialist II

Enclosure

c: Greg Sullivan- Brockway Engineering PLLC

**Hersley, Jean**

---

**From:** Hersley, Jean  
**Sent:** Wednesday, January 08, 2020 12:14 PM  
**To:** Greg Sullivan  
**Subject:** WSB Lease Application for Atkinson  
**Attachments:** WSB-Lessor-Designation.pdf; L1.9 Lease App Rcvd Acknowledgement Letter & Request for additional information.docx

Greg,

The attached letter to the Atkinson's will go out in tomorrow's mail. The Lessor Designation form was not included with their applications. Please let me know if you have any questions. Thank you.

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



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

January 2, 2020

Remington Buyer  
Idaho Water Supply Bank  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

RECEIVED

JAN 06 2020

DEPARTMENT OF  
WATER RESOURCES

Re: Don and Judy Atkinson water rights 37-337A and 37-8396

Dear Mr. Buyer:

Two applications for water supply bank lease are being submitted at this time for Don and Judy Atkinson. The leases applications are for a portion of water right 37-337A and for the full irrigation amount under ground water right 37-8396.

It is proposed to lease the two water rights to the Idaho Water Supply Bank from 2020 through the end of the 2022 irrigation season.

If you have any questions regarding these applications do not hesitate to contact our office.

Sincerely

Greg Sullivan M.S., Engineer

Cc: Don & Judy Atkinson

Enc: Water Supply Bank Applications, Aerial Maps, W-9 Form, Brockway Engineering  
Check # 15703 for \$500

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506