RECEIVED
JUN 29 2020
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1206

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

**LESSOR:** BLACK BUTTE HILLS LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009-1607

## RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.

2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on May 08, 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) |
|---|---|---|---|---|---|
| 37-132 | 5/15/1888 | SOLDIER CREEK, tributary to CAMAS CREEK | 3.2 | Not Stated | 129.0 |
| **Combined Lease Totals** | | | **3.2** | **Not Stated** | **129.0** |

**Summary of Water Rights Elements Rentable From the Bank**

| Water Right | Diversion Rate (CFS) | Diversion Volume (AF) | Acres (Limited) (AC) | Rate Per Acre (CFS/AC) | Volume Per Acre (AF/AC) |
|---|---|---|---|---|---|
| 37-132 | 3.2 | 451.5 | 129.0 | 0.025 | 3.5 |
| **Combined Limit Totals** | **3.2** | **451.5** | **129.0** | **0.025** | **3.5** |

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

# WATER SUPPLY BANK LEASE CONTRACT No. 1206

3. **TERM OF LEASE**: The term of this lease shall be January 1, 2020 to December 31, 2024. 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.

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. 1206

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

**LESSOR:** BLACK BUTTE HILLS LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009-1607

By _____
Title PRESIDENT
Date 6-24-20

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

By _____ Date 07/22/20
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 07/22/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1206

## 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): 37-132**

SOLDIER CREEK NWSWNE Sec. 21 Twp 01N Rge 14E CAMAS County

| Water Right | Beneficial Use | Season of Use | | | Diversion Rate (CFS) | Volume (AF) |
|---|---|---|---|---|---|---|
| | | From | | To | | |
| 37-132 | IRRIGATION | 04/15 | to | 10/31 | 3.2 cfs | Not State |
| | | | | **Totals:** | 3.2 cfs | Not Stated |

**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 | |
| 01N | 14E | 29 | | | | | | | | | | | | | 31.0 | 40.0 | 37.0 | 21.0 | 129.0 |

Total Acres: 129.0

### ADDITIONAL CONDITIONS OF ACCEPTANCE

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

# WATER SUPPLY BANK LEASE CONTRACT No. 1206

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. 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.
13. Use of water under this right may 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. 37B.

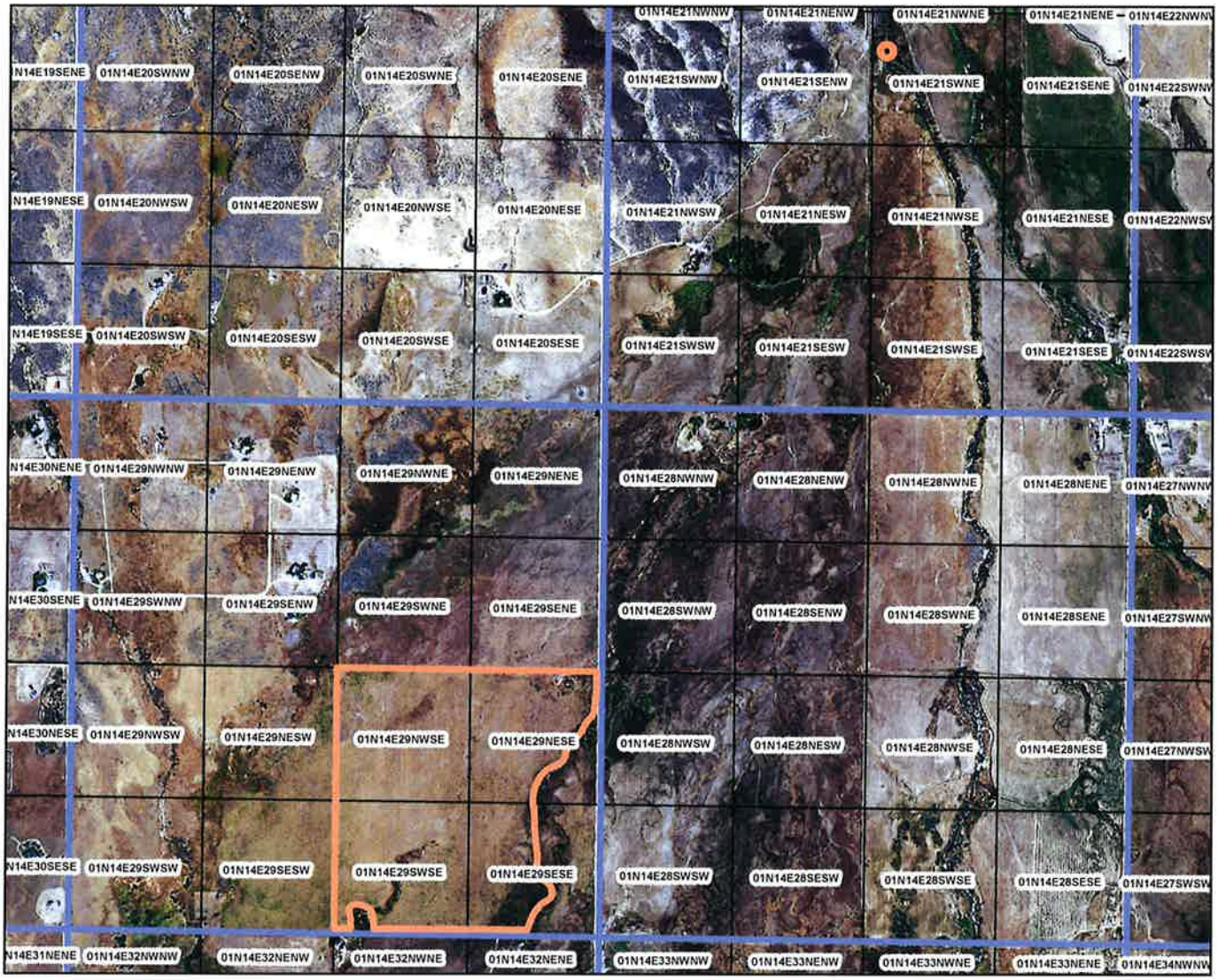
## Idaho Water Resource Board

# Water Supply Bank Lease Contract No. 1206

37-132

Effective until December 31, 2024

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




Approved Lease Point of Diversion

Approved Lease Place of Use

Township/Range

Sections

QQ

N

Miles

0 0.25 0.5

Form 42-1761-1 10/15

RECEIVED
MAY 08 2020
DEPARTMENT OF WATER RESOURCES

**STATE OF IDAHO**
**WATER RESOURCE BOARD**

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

**Designated Applicant** BLACK BUTTE HILLS LLC
(Select one owner – see item 1A on the application)

**Water Right No.** 37-132
(One water right per application)

**Is this application being submitted with a rental application as a lease/rental package?** **Yes** ☐ **No** ☑

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

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

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

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

**Department Use Only**

| | | | |
|---|---|---|---|
| Fee Amount $ 1750- | Received By: KM | Date Received: 5-8-2020 | Receipt # C108722 |
| W-9 received? Yes ☑ No ☐ | (Route W-9 to Fiscal) | Name on W-9: Black Butte Hills LLC | |

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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 BLACK BUTTE HILLS LLC

Mailing Address PO Box 1607 Bellevue, WA 98009
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 Greg Sullivan Organization Brockway Engineering

Professional Title Engineer Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 North Washington St Ste 4 Twin Falls, ID 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 diversion system 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. None

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 water right has been leased into the Idaho 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.

H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
**If yes**, describe. Yes ☐ No ☑

STATE OF IDAHO
WATER RESOURCE BOARD

# APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

## 5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☑?

**If lease**, specify the years when the use of water will be suspended: 2020 (Year) to 2024 (Year) (maximum lease period 5 calendar years).

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.

_____

_____

**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 |
|---|---|---|
| Signature of Authorized Representative | CHRIS POLLAK<br>Printed Name | 2/28/20<br>Date |

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

State of Idaho
Department of Water Resources

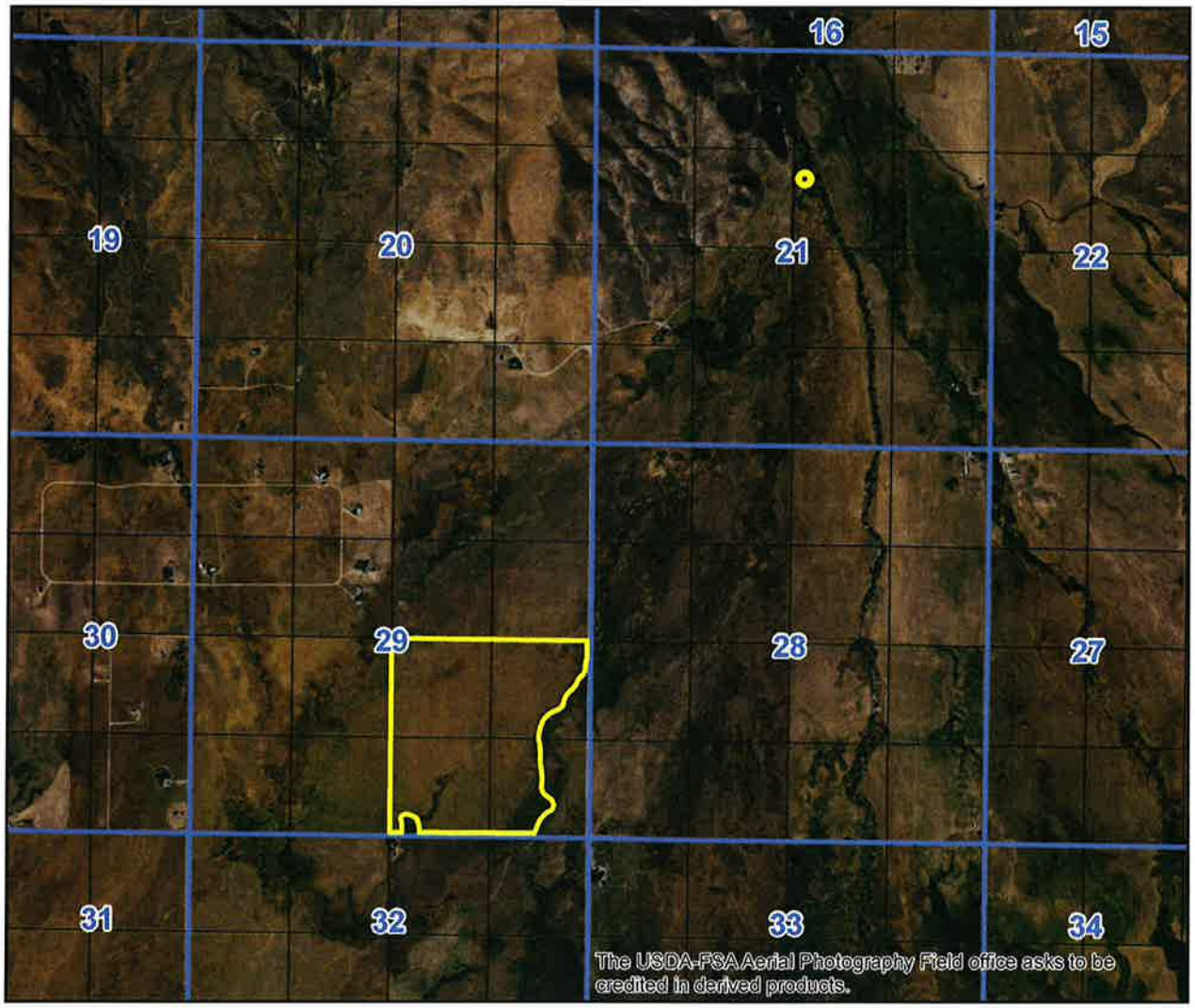
# Water Right
## 37-132

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.

14E

01N




Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters

0 0.3 0.6 1.2 Miles

N

**BLACK BUTTE HLLS LLC**

**Manager Delegation of Authority**

**Effective September 23, 2016**

Black Butte Hills LLC (the "Company") is managed by a Manager as provided in the Company's Limited Liability Company Agreement (the "Agreement"). For efficient administration of the Company's affairs, however, the Manager is executing this document to appoint certain officers to assist in the administration of the Company's affairs. The Manager retains the right to manage the affairs of the Company as provided in the Company's Agreement. The Manager shall have the right to revoke this Delegation of Authority at any time, or to overrule any decision of any officer.

1. Officers.

1.65 Number, Election and Term. Officers of the Company shall be a President, a Vice President, a Secretary and a Treasurer, and may include such other officers as the Company may designate from time to time. Officers shall be appointed by the Manager from time to time. Each officer shall hold office until removed as provided below. Any one person may hold more than one office if it is deemed advisable by the manager.

1.66 Appointment of Officers. The Manager appoints the following persons to the offices designated below:

| Name | Office |
|---|---|
| Greg Vik | President |
| Chris J. Pollak | Vice President |
| Jeff Anderson | Secretary and Treasurer |

1.67 Resignation or Removal: Any officer or agent of the Company may resign from such position by delivering written notice of the resignation to the Company, but such resignation shall be without prejudice to the contract rights, if any, of the Company. Any officer or agent of the Company may be removed by the Manager, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights. Vacancies in any office caused by any reason may be filled by the manager by selecting a suitable and qualified person to act during the unexpired term.

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1.68 Salaries. The compensation of all the officers, agents and other employees of this Company shall be fixed by the Manager and may be changed from time to time by the Manager.

1.69 President. The President shall have general charge and control of the day to day affairs of the Company subject to the ultimate control of the Manager of the Company, shall perform all duties as may be delegated from time to time by the Manager of the Company and shall make such reports to the Manager and the Members of the Company as may be required. The President shall be authorized to execute all documents on behalf of the Company.

1.70 Vice Presidents. The Vice President shall perform such duties as shall be assigned by the president or Manager of the Company. In the case of absence, disability or death of the President, the Vice Presidents shall perform and be vested with all the duties and powers of the President, until the President shall have resumed such duties or the President's successor is elected. In the event there is more than one Vice President, the Manager of the Company may designate one of the Vice Presidents as a Senior Vice President, who, in event of the absence, disability or death of the President shall perform such duties as shall be delegated by the Manager of the Company. Each Vice President shall also have authority to execute documents on behalf of the Company and bind the Company.

1.71 Secretary. The Secretary shall keep a record of the proceedings at the meetings of the Members of the Company, shall have custody of all the books, records and papers of the Company, except such as shall be in charge of the Treasurer or some other person authorized to have custody or possession thereof, shall from time to time make such reports to the Manager, the officers and the Members of the Company as may be required, and shall perform such other duties as the Manager of the Company may from time to time delegate. In addition, if no Treasurer is elected, the Secretary shall perform all the duties required of the Office of Treasurer.

1.72 Treasurer. The Treasurer shall keep accounts of all monies of the Company received or disbursed, shall from time to time make such reports to the Manager, the officers and the Members of the Company as may be required, and shall perform such other duties as the Managers of the Company may from time to time delegate. The Treasurer shall have authority to execute banking documents required for the operation of the business of the Company.

2. Liability; Indemnification. None of the Company's officers or agents shall be liable to the Company, the Manager or the Members for any act or omission based upon errors of judgment, negligence, or other fault in connection with the business or affairs of the Company so long as the person against whom the liability is asserted acted in good faith on behalf of the Company and in a manner reasonably believed by such person to be within the scope of his or her authority under this Agreement and in the best interests of the Company, but only if such action or failure to act does not constitute gross negligence or willful misconduct. The Company agrees to indemnify the Company's officers and agents to the fullest extent permitted by law and to save and hold them harmless from and in respect of all (a) fees, costs, and expenses incurred in connection with or resulting from any claim, action, or demand against the company or any of its agents that arise out of or in any way relate to the Company, its properties, business, or affairs and (b) such claims actions and demands and any losses or damages resulting from such claims, actions and demands, including amounts paid in settlement or compromise (if recommended by attorneys for the Company) of any such claim, action or demand; provided, however, that this indemnification shall apply only so long as the person against whom a claim, action or demand is asserted has acted in good faith on behalf of the Company and in a manner reasonably believed by such person to be within the scope of its authority and in the best interests of the Company, but only if such action or failure to act does not constitute gross negligence or willful misconduct. The termination of any action, suit, or proceeding by judgment, order, settlement, or upon a plea of nolo contender or its equivalent, shall not of itself create a presumption that any person acted with gross negligence or willful misconduct. The rights of any officer or agent under this paragraph are in addition to any rights such person may have under any other agreement with the Company or any affiliate of the Company.

The Manager of the Company hereby approves this Manager Delegation of Authority.

MANAGER:

INVESTMENTS MANAGER LLC

By: _____

Greg Vik, President

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

July 23, 2020

BLACK BUTTE HILLS LLC
C/O GREG VIK
PO BOX 1607
BELLEVUE WA 98009-1607

**RE: WATER RIGHT 37-132- CONTRACT 1206, 37-596, 37-21364, 37-21366 & 37-21368- CONTRACT 1207, 37-22771- CONTRACT 1208, 37-12007- CONTRACT 1209**

Dear Lessor:

Water rights **37-132, 37-596, 37-21364, 37-21366, 37-21368, 37-22771 & 37-12007** were 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, 2024, except water right 37-22771 which will be released from the Bank on December 31, 2021** 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,

Jan Hersley
for Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Water District No. 37 & 37B
Greg Sullivan- Brockway Engineering PLLC

# *MEMORANDUM*

TO: Sascha Marston

FROM: Jean Hersley

DATE: June 3, 2020

**RE: Refund: overpayment for WSB Lease Applications**

Please refund $750.00

NAME: BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

RECEIPT #: C108720

And refund $500.00 to Brockway for

RECEIPT #: C108722

Thank you.

Jean

## Hersley, Jean

**From:** Hersley, Jean
**Sent:** Wednesday, June 3, 2020 3:22 PM
**To:** IdwrPayable
**Subject:** Refund
**Attachments:** Brockway for South Cove Ventures and Black Butte Hills.doc

Please process the attached refunds. Thank you.

Jean

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

June 3, 2020

BLACK BUTTE HILLS LLC
C/O GREG VIK
PO BOX 1607
BELLEVUE WA 98009-1607

**RE: APPLICATION TO LEASE WATER RIGHT 37-132- CONTRACT 1206, 37-596, 37-21364, 37-21366 & 37-21368- CONTRACT 1207, 37-22771- CONTRACT 1208, 37-12007- CONTRACT 1209 TO THE WATER SUPPLY BANK**

******TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water rights to the Water Supply Bank. **I have enclosed two of each 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 rights will automatically be released from the Bank on **December 31, 2024, except for water right 37-22771, which will be released from the Bank on December 31, 2021** unless the rights are 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 <u>not</u> use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,

Jean Hurley

for Water Supply Bank

Enclosures: Proposed Lease Contracts

c. Brockway Engineering PLLC

## Hersley, Jean

**From:** Skinner, Corey
**Sent:** Wednesday, June 3, 2020 7:55 AM
**To:** Hersley, Jean
**Subject:** RE: WSB Leases for Black Butte Hills

No concerns from me on either of these two.

**From:** Hersley, Jean
**Sent:** Tuesday, June 02, 2020 3:57 PM
**To:** Rusty Kramer <waterdistrict37b@outlook.com>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
**Subject:** WSB Leases for Black Butte Hills

Please let me know if you have any comments of concerns within 14 days. Thank you.

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

## Hersley, Jean

**From:** Hersley, Jean
**Sent:** Tuesday, June 2, 2020 3:57 PM
**To:** Rusty Kramer; Skinner, Corey
**Subject:** WSB Leases for Black Butte Hills
**Attachments:** Idled Acres.pdf; Lease Application Review Checklist July 2017.xls; Report - Lease Contract -1206.docx; Idled Acres 1207.pdf; Lease Application Review 37-596 et al.xls; Report - Lease Contract - 1207.docx

Please let me know if you have any comments of concerns within 14 days. Thank you.

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

**WATER SUPPLY BANK**

**Lease Review Checklist**

**Applicant(s) Name: Black Butte Hills LLC**

**Memo Date: June 1, 2020**

**Water Right Number(s): 37-132**

**Reviewers Name: Jean**

Quick Tools

| Decreed Year | No Forfeiture Concerns Thru: |
|---|---|
| 2011 | 2017 |
| 2012 | 2018 |
| 2013 | 2019 |
| 2014 | 2020 |
| 2015 | 2021 |

| | | Check box | | COMMENTS/CONCERNS: |
|---|---|---|---|---|
| 1 | **Fill out WSB Data Entry Checklist for Leases (Front of File)** | x | | |
| | | | | |
| 2 | **Reason for lease of water rights (Brief description of lease proposal in narrative)** | | | |
| | Portion of right | | | |
| | All of right | x | | |
| 3 | Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments) | x | | |
| | | **Yes** | **No** | |
| 4 | Rentable? (If no explain in comments or narrative) | x | | |
| | | | | |
| 5 | **Authority to file** | | | |
| | Current owner or designated applicant | x | | |
| | SOS Web site checked for business entity | x | | Chris Pollack- VP |
| | Other (explain in comments) | | | |
| | | | | |
| 6 | **Water Right validity** | | | |
| | Decreed/Licensed/Statutory claim date (write in comments section) | | | 2010 |
| | Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.) | | | |
| | Has this right previously been leased to the bank or in CREP? | x | | 2015-2019 |
| | | | | |
| 7 | **Injury to other water rights** | | | |
| | If the POD is through a delivery entity, was consent provided? | | na | |
| | If the POD is through a delivery entity, was holdback required? (percentage in comments) | | | % |
| | Any other concerns | | x | |
| | | | | |
| 8 | **Enlargement concerns** | Check box | | |
| | Complete a POU comparison overlap analysis | x | | |
| | Complete a combined limits review | x | | |
| | Complete POD overlap analysis (if there is an overlap add condition to lease) | x | | |
| | | **Yes** | **No** | |
| | Are there overlapping rights that need to be placed in the bank also? | | x | |
| | Will the place of use continue to receive water? (if yes explain in comments) | | x | |
| | | | | |
| 9 | **Local Public Interest** | | | |
| | Does the processor know of any problems this action will cause for the local public? | | x | |
| | | | | |
| 10 | **Have you contacted regional office and watermaster for comment/concerns?** | x | | |
| | Send the watermaster comment request form or e-mail request | x | | |
| | | | | |
| 11 | Area Headgate requirement (write in Comments) | | | 3.5 |
| | | | | |
| 12 | **Is water right involved in any other department action? Pull file and check database** ( ) Ownership Change ( ) Transfer ( ) Mitigation ( ) Other - Explain in comments | | x | |

13 **Narrative:** The Department received this application on May 8, 2020. The applicant wishes to place the entire right in the Bank for the 2020-2024 seasons. The application was signed by Chris Pollack- Vice President of Black Butte Hills, LLC. This right was decreed in 2010 and was placed in the Bank in 2015. Forfeiture is not an issue. There are no overlapping rights that need to be placed in the Bank. This right is currently within WD 37B.

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

RECEIVED
MAY 08 2020
DEPARTMENT OF
WATER RESOURCES

May 6, 2020

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

Re: Black Butte Hills LLC

Dear Mr. Buyer:

Lease application for water rights 37-21368, 37-21366, 37-21364, 37-132, 37-596, 37-12007 and 37-22771 are attached to this letter. These water rights are owned by Black Butte Hills. The lease period for water rights 37-21368, 37-21366, 37-21364, 37-132, 37-596 and 37-12007 will be for the 2020, 2021, 2022, 2023 and 2024 irrigation seasons. The lease period for 37-22771 will be for 2020 and 2021 irrigation.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Greg Vik, Rod Gonsales
Enc: Lease Applications, Aerial Maps, W-9 Form, Manager Delegation of Authority, Brockway Engineering Check # 15878 for $1,750.00

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

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

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1722