

JUL 06 2020

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 1055**

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

LESSOR: JOHN L WELSH REVOCABLE TRUST
PO BOX 4967
HAILEY, ID 83333

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 October 17, 2019.
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)
37-20354	11/26/1886	BIG WOOD RIVER, tributary to MALAD RIVER	0.08	Not Stated	1.3
37-20355	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.03	Not Stated	1.3
Combined Lease Totals			0.11	Not Stated	1.3

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

SUPPORT DATA

IN FILE # 37-20354

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1055

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. 1055

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

LESSOR: JOHN L WELSH REVOCABLE
TRUST
PO BOX 4967
HAILEY, ID 83333

By [Signature]
Title (TRUSTEE)
Date 6/27/2020

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

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 7/17/20

Lease approved by IDWR [Signature]

Date 07/17/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1055

**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): 37-20354, 37-20355

BIG WOOD RIVER SWNW Sec. 20 Twp 03N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-20354	IRRIGATION	04/15	to	10/31	0.08 cfs	Not Stated
37-20355	IRRIGATION	04/15	to	11/15	0.03 cfs	Not Stated
Totals:					0.11 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	
02N	18E	4		1.3 L2															1.3

Total Acres: 1.3

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1055

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. Place of use is located within Lots 1 Blk. 1; Buckhorn Subdivision No. 3.
13. 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.
14. The unleased portion of these rights are limited to the irrigation of 2.2 acres within the authorized place of use in a single irrigation season.
15. Use of water under this right will be regulated by a watermaster with the 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.

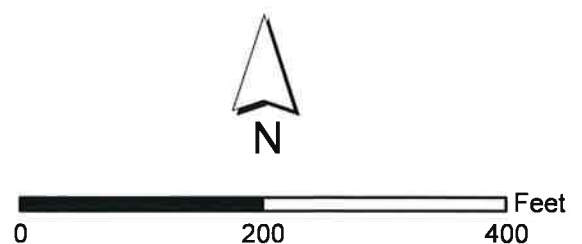
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1055

37-20354 & 37-20355
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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

OCT 17 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant John L. Welsh Revocable Trust
(Select one owner – see item 1A on the application)Water Right No. 37-20355
(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).
- 1D ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☐ ☒ Written consent from irrigation district or water delivery company.
- 4G ☐ ☒ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>AW</u>	Date Received: <u>10/17/19</u>	Receipt # <u>C107861</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9: <u>Cheryl L. Welsh Revocable Trust</u>	

1467

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 John L. Welsh Revocable Trust

Mailing Address P.O. Box 4967, Hailey, ID 83333

Street

City

State

Zip Code

Email Address _____ Phone Number (2108) 928-7194

☐ 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 Fritz X. Haemmerle Organization Haemmerle Law, P.L.L.C.

Professional Title Attorney Email Address fxh@haemlaw.com

Mailing Address P.O. Box 1800, Hailey, ID 83333 Phone Number (208) 578-0520

☐ 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.

Buried pressurized mailine provides water to the irrigation 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. 37-20354 and 37-20355 are both owned by the Applicant and a portion of each is offered to the WSB for lease.

- 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. n/a. The right was decreed on October 22, 2009. There is an Affidavit of James Phillips attached showing the rights were used in 2013. The portin of the right being offered has been in tghe Water Bank since June 15, 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 to 2024 (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

John L. Welsh

Printed Name

10/7/19
Date


Signature of Authorized Representative

Fritz X. Haemmerle

Printed Name

10/7/19
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**



ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

Water Right No(s). 37-20354 and 37-20355

	Designated Applicant	Applicant #2	Applicant #3
Name	John L. Welsh Revocable Trust	Cheryl L. Welsh Revocable Trust	
Mailing Address	P.O. Box 4967 Hailey, ID 83333	P.O. Box 4967 Hailoey, ID 83333	
Phone Number	(208) 928-7194	(208) 928-7194	
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

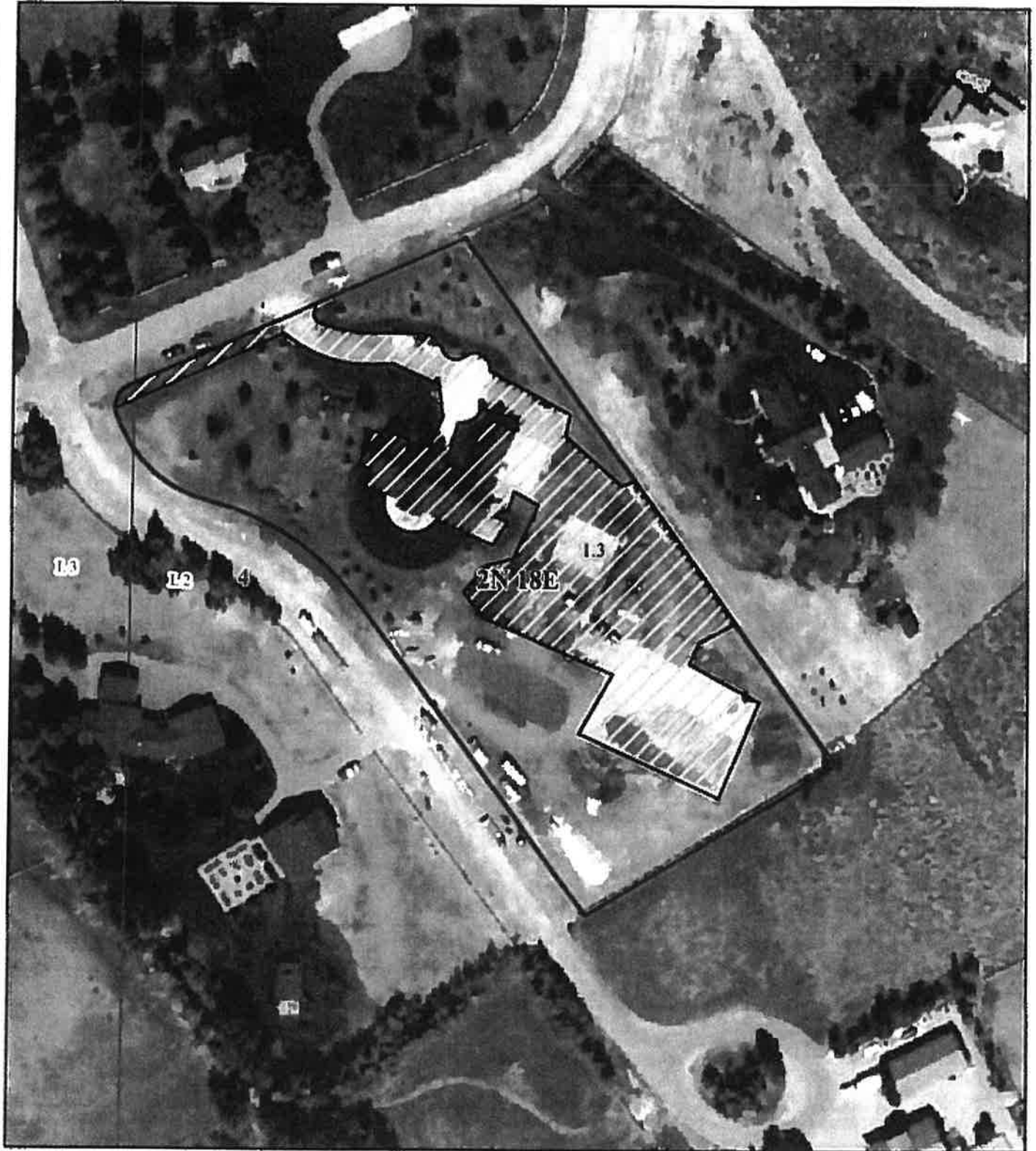
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>37-20355</u>	<u>irrigation</u>	<u>0.08</u>		<u>1.3</u>
Total Amounts:				

2. Source of water Big Wood River tributary to Malad

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
3N	18E	20			SW	NW	Blaine



0 55 110 220 Feet

JOHN L. WELSH
WATER BANK LEASE 2015
NAIP 2013 AERIAL PHOTO.

BROCKWAY ENGINEERING, PLLC.
ALR - Date: 6/2/2015

Legend

- | | |
|----------------|----------|
| WSB Lease 2015 | twnshp |
| Welsh_Lot | Sections |
| | ladesc |



**FRITZ X. HAEMMERLE
HAEMMERLE LAW, P.L.L.C.
P.O. Box 1800
400 South Main Street, Suite 102
Hailey, Idaho 83333
Tel: (208) 578-0520
Fax: (208) 578-0564
ISB #3862**

Attorneys for Applicants

**BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE**

**IN THE LEASE OF WATER RIGHTS
37-20354 AND 37-20355**

) Case No. CV-13-350

) AFFIDAVIT OF JOHN L. WELSH

**STATE OF IDAHO,)
County of Blaine.) ss.**

JOHN L. WELSH, being sworn upon oath, deposes and states as follows:

1. I am a trustee of the John L. Welsh Revocable Trust. I am over the age of eighteen (18) years, and I make the averments contained herein of my own personal knowledge and would testify to the facts as presented herein if called upon to do so.


2. On November 2012, I, along with my wife Cheryl, each on behalf of our Revocable Trusts, purchased the property covered by water rights 37-20355 and 37-20354. When we purchased the property, there was an existing house and driveway as indicated in Exhibit A. I do

not know when the house and driveway were constructed. When we purchased the property, there were hand lines on all the irrigated property, including the hardscape indicated to the east of the house and driveway. We irrigated with the hand lines in 2013.

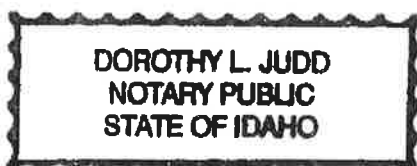
3. In 2014, we began a construction project of the hardscape area located to the east of the house and driveway. The area now has an arena, barn, hay barn and loafing shed. Except for the arena, most of the area indicated in hardscape is no longer being irrigated. The arena uses water for dust control.

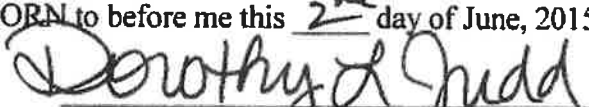
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 2 day of June 2015.


JOHN L. WELSH

SUBSCRIBED AND SWORN to before me this 2nd day of June, 2015.




NOTARY PUBLIC FOR IDAHO
Residing at: Blaine County, Idaho
Commission expires: 6/11/2018



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 20, 2020

JOHN L WELSH REVOCABLE TRUST
503 CHIME BELL CHURCH RD
AIKEN, SC 29803

RE: **WATER SUPPLY BANK LEASE CONTRACT 1055
FOR WATER RIGHTS 37-20354, 37-20355**

Dear Lessor:

Water rights **37-20354, 37-20355** 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, 2024**, 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,

Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Water District No. 37
Fritz X. Haemmerle – Haemmerle Law, P.L.L.C.



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

RECEIVED

JUL 06 2020

DEPARTMENT OF
WATER RESOURCES

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 23, 2020

JOHN L WELSH REVOCABLE TRUST
503 CHIME BELL CHURCH RD
AIKEN, SC 29803

RE: APPLICATION TO LEASE WATER RIGHT 37-20354, 37-20355 TO THE WATER SUPPLY
BANK CONTRACT 1055

****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, 2024, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, the lessor may **not** use the right without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,


Amanda Johnson Vibert
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C107861



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 23, 2020

JOHN L WELSH REVOCABLE TRUST
503 CHIME BELL CHURCH RD
AIKEN, SC 29803

RE: APPLICATION TO LEASE WATER RIGHT 37-20354, 37-20355 TO THE WATER SUPPLY BANK CONTRACT 1055

******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, 2024**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the [Request to Release a Water Right from the Bank](#) form. To propose a new lease period, submit a new [Application to Sell or Lease a Water Right to the Water Supply Bank](#) form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C107861

c. Fritz X. Haemmerle – Haemmerle Law, P.L.L.C.

Veibell, Amanda

From: Veibell, Amanda
Sent: Monday, June 22, 2020 10:48 AM
To: 'Fritz Haemerle'
Subject: RE: John L Welsh Revocable Trust Water Supply Bank Lease 1055

Good Morning.

In reviewing documents from before the governors Stay at Home Order, it appears the Department has not received the appropriate information to mail the appropriate contracts to representatives of the John L Welsh Revocable trust. Please supply the department with a current mailing address to expedite communications.

Thank you.

Amanda Johnson-Veibell

208-287-4945

From: Fritz Haemerle [mailto:fxh@haemlaw.com]
Sent: Monday, February 10, 2020 9:09 AM
To: Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>
Subject: Re: John L Welsh Revocable Trust Water Supply Bank Lease 1055

Will do. Thanks

Sent from my iPhone

On Feb 10, 2020, at 8:58 AM, Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov> wrote:

Good Morning.

The Department has attempted to mail a Water Supply Bank Lease contract for signature to representatives of the John L Welsh Revocable Trust. The contract has been returned to the Department via the postal service due to an invalid mailing address. The postal service did not provide a forwarding mailing address. The address on the Lease application is PO Box 4967, Hailey, ID 83333. Please supply the Department with an updated mailing address to expedite communications.

Thank you.

Amanda Veibell

Technical Records Specialist I
Idaho Dept Water Resources
PO Box 83720 Boise ID 83720-0098
208-287-4945

From: Veibell, Amanda
Sent: Monday, January 27, 2020 3:08 PM

To: 'fxh@haemlaw.com' <fxh@haemlaw.com>

Cc: Bank <Bank@idwr.idaho.gov>

Subject: John L Welsh Revocable Trust Water Supply Bank Lease 1055

Good Morning.

Please see the attached copy of Water Supply Bank Lease Contract 1055 in the name of John L Welsh Revocable Trust for your records. The original contract is being mailed out today to John L Welsh Revocable Trust for signature.

If you have any questions, feel free to contact the Water Supply Bank at bank@idwr.idaho.gov.

Amanda Veibell

Technical Records Specialist I

Idaho Dept Water Resources

PO Box 83720 Boise ID 83720-0098

208-287-4945

BC: 83720098 0091N032175-01153
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
NIXIE 842 CC 1700 0102/01/20

836 833 83333 A1-17

PRST FIRST-CLASS MAIL
U.S. POSTAGE PAID
Boise, ID
PERMIT# 1



6020200128-115610961

4

RETURN SERVICE REQUESTED

83333



RECEIVED

FEB 07 2020

DEPARTMENT OF
WATER RESOURCES

JOHN L WELSH REVOCABLE
TRUST
PO BOX 4967
HAILEY, ID 83333



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 28, 2020

JOHN L WELSH REVOCABLE TRUST
PO BOX 4967
HAILEY, ID 83333

RE: APPLICATION TO LEASE WATER RIGHT 37-20354, 37-20355 TO THE WATER SUPPLY BANK CONTRACT 1055

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

Dear Applicant:

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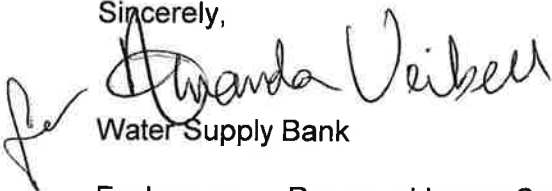
The right will automatically be released from the Bank on **December 31, 2024**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,



Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C107861

Memorandum

To: Lease Application 1467
From: Justin Ferguson
Date: January 24, 2020
Re: Water Supply Bank Lease Proposal

Purpose/Narrative: An application to lease portions of water rights 37-20354 and 37-20355 was received by the Department October 17, 2019. From the information provided by the applicant, the area being offered for lease to the bank is hardscaped and irrigation is no longer necessary. The applicant wishes to place the acreage into the bank so that it is not lost to forfeiture should they decide at a later date to use the full extent of the right.

Based on the information provided, a review of the actual historic consumptive use may be warranted before the rights are rented, since the area has been previously hardscaped. It may be possible that injury or enlargement to the overall use of the surface water could occur if this right has not been used to its full extent or that, through a rental of this historically hardscaped acreage, injury could occur to other water rights within the area.

Authority to File: The application was signed by John Welsh and submitted by his representative, Fritz Haemmerle. Review of IDWR records show that the right is owned by both Mr. and Mrs. Welsh's Revocable Trust. Consent from the canal company has also been received as the water is delivered through the Hiawatha Canal company infrastructure. No concerns of the applicant's authority to propose this lease application at this time.

Water Right Validity/Forfeiture Evaluation: These water rights were decreed in 2009 with an 1886 priority date. The specific portions of these rights offered to the Bank for lease have been placed in the Water Supply Bank since 2015. As the rights were decreed in 2009, placed into the Bank in 2015 and are proposed again for lease, there has not been a 5 year period of non-use and forfeiture is not an issue.

The consumptive use and amount rentable of these rights remains questionable. The rights were decreed in 2009 and, per an ownership change document in the water right file, the current owners acquired the rights in 2013 and irrigated throughout that season, excluding the area covered by the residence and driveway. Per the affidavit provided, the area has since become hardscaped and irrigation is no longer necessary.

This leaves the question of what consumptive use can be measured from the acreage covered by the residence and driveway. Because the current owners are not aware of when the residence and driveway were constructed we can infer that it was during the period of 2009-2013. From this information there may be a question as to what amounts could remain rentable without causing injury to others in the area or an overall enlargement of the surface water use.

Injury Evaluation: No injury is evident through this lease proposal alone. Proper rental review should protect against injury should the water right be rented. The Hiawatha Canal Company has requested a 20% conveyance be left in the canal to prevent injury, totaling to 0.03 cfs. As the remaining portion of the right is more than 20% the conveyance will be accounted for in the unleased portions.

Enlargement of Use: Because only portions of these rights are offered for lease, a proportional amount of the decreed rate, volume, and acreage will be idled to prevent enlargement of the right. No concerns at this time.

Local Public Interest: Sustainable management of water throughout this basin is in the local public interest. As such, comments will be requested from the staff of Water District 37, and IDWR's Southern Region office.

Beneficial Use/Conservation of Water Resources: The beneficial use of irrigation is consistent with the conservation of water throughout the State of Idaho.

Department/Watermaster Comments: Water District 37 and IDWR Southern Region comments were requested January 7, 2020. As of the date of this memo there have been no concerns.

Water Supply Bank Evaluation: Subject to favorable water district and regional office comments, it is recommended these leases be approved.

Ferguson, Justin

From: Ferguson, Justin
Sent: Tuesday, January 7, 2020 12:36 PM
To: Skinner, Corey; watermanager@cableone.net
Subject: WSB Lease - John Welsh Revocable Trust
Attachments: Draft Lease Contract John L Welsh 37-20354 & 37-20355.docx; Draft Lease John L Welsh Rev. Trust.pdf; Lease Review Memo.docx

Afternoon!

Attached are the draft lease contract, map, and memo for the John Welsh Revocable Trust, water right nos. 37-20354 & 37-20355. Please let me know if you have any comments or concerns

Thank you!

HAEMMERLE LAW, P.L.L.

Attorney & Counselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

October 7, 2019

RECEIVED
OCT 17 2019

Idaho Dept. of Water Resources
c/o Water Bank
P.O. Box 83720
Boise, ID 83720-0098

**DEPARTMENT OF
WATER RESOURCES**

Re: Request to Water Bank 37-20354 and 37-20355
Applicant: John L. Welsh Revocable Trust

To Whom It May Concern:

Please find enclosed my client's Application to Lease Water to Water Bank, for the aforementioned water rights, which includes: (1) a check for \$500.00; (2) two Application forms, with attachments; (3) a W-9; and (4) a non-objection letter from the Hiawatha Canal Company.

If you require any further information, please advise.

Sincerely,

HAEMMERLE LAW, P.L.L.C.



Fritz X. Haemmerle

FXH: fxh
Encl.
cc: client

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

October 1, 2019

Idaho Water Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: John L. Welsh Revocable Trust (37-20355 and 37-20354)

Dear Sir or Madam:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). For the reasons outlined below and on the conditions requested, the Canal has no objection to the aforementioned water rights being placed into the Water Bank.

The Hiawatha Canal Company is concerned about the amount of water being removed from the Canal and placed in the Water Bank by various water right holders. Generally, at this time, the Canal Company does not object to water rights conveyed in the Hiawatha Canal being placed in the Water Bank provided that if the water rights are leased to parties outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right be left in the Canal as conveyance loss. I suggest that the Department place a condition on the leases to this effect.

Providing you some historical perspective, the Canal Company filed for mitigation (conveyance loss) rights in the adjudication for rights that had been forfeited or abandoned out of the Canal. The Department agreed that the conveyance loss in the Canal was twenty-percent (20%), and therefore, entered recommendations accordingly. See e.g., water rights 37-22630, 37-22631, 37-22632 and 37-22633. This conveyance has been recognized by the Idaho Department of Water Resources in similar transfers. Leaving twenty-percent (20%) of the leased rights in the Canal will insure that all rights in the Canal continue to be delivered without injury to water right holders in the Canal.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss; and

2. The Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the lease period.

Thank you in advance for responding to this letter and addressing our concerns. If you have any questions, please do not hesitate to call me.

Sincerely,

HIAWATHA CANAL COMPANY



James W. Phillips, President

FXH: fxh
cc: client