

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1157

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

LESSOR: IDAHO POWER CO
C/O KRESTA DAVIS-BUTTS
PO BOX 70
BOISE, ID 83707

RECEIVED
MAY 07 2020
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 03, 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)
61-11939	4/23/1964	GROUND WATER	0.27	104.0	0
Lease Totals			0.27	104.0	0

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Consumptive Use Volume (AF)
61-11939	0.27	104.0	58.1
Combined Limit Totals	0.27	104.0	58.1

** The water right elements rentable are limited by the total consumptive use as defined by the conditions for approval of the full water right. The consumptive use volume was calculated in proportion to the diversion volume proposed for lease.*

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1157

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. 1157

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

LESSOR: IDAHO POWER CO
C/O KRESTA DAVIS-BUTTS
PO BOX 70
BOISE, ID 83707

By Kresta Davis-Butts
Title Water Resources Policy Sr Manager
Date 5/4/2020

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 5/21/2020

Lease approved by IDWR

Angela M Gumm

Date 5/21/2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1157

**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): 61-11939

GROUND WATER SWNW Sec. 10 Twp 03S Rge 06E ELMORE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
61-11939	INDUSTRIAL	01/01	to	12/31	0.27 cfs	104.0 AF
	COOLING	01/01	to	12/31	0.27 cfs	104.0 AF
Totals:					0.27 cfs	104.0 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: INDUSTRIAL and COOLING

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	10							X										0.0

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1157






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. Leased portions of water right 61-11939 shall not exceed 0.27 fs, and 104 af per year of which no more than 58.1 af per year can be consumptively used.
13. Unleased portions of water right 61-11939 are limited to 0.65 cfs, and 189 af of which 0.02 cfs and 6.3 af can be used for 1.4 acres of irrigation, 0.63 cfs and 183 af can be used for cooling and industrial, and no more than 106 af can be consumptively used for all combined uses.
14. 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. 161.
15. 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.

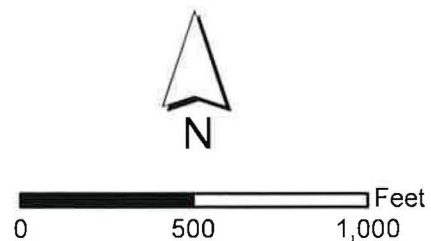
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1157

61-11939
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.



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 03 2020

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Idaho Power

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

Water Right No. 61-11939

(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 \$ 250.00Received By: KMDate Received: 1-3-2020Receipt # C108194W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Idaho Power

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 Idaho Power

Mailing Address P.O. Box 70 Boise, ID 83707

Street City State Zip Code

Email Address KDavis-Butts@idahopower.com Phone Number (208) 388-2602

☒ 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 Kresta Davis-Butts

Organization Idaho Power

Professional Title Senior Manager

Email Address KDavis-Butts@idahopower.com

Mailing Address P.O. Box 70 Boise, ID 83707

Phone Number (208) 388-2602

☒ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.

Water is diverted from a production well

- 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. There is also a domestic well on site.

- 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. The portion of this right not in the WSB will be used at the authorized place of use.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The portion of this right offered for lease into the water supply bank was in the water supply bank for the period of 2015 to 2019. See lease contract in Attachment 4G.

- 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. The portion of this right offered for lease into the water supply bank was in the water supply bank for the period of 2015 to 2019. See lease contract in Attachment 4G.

- 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

Printed Name

Date

Krista Davis-Butts
Signature of Authorized Representative

Krista Davis-Butts
Printed Name

12/30/2019
Date

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



December 12, 2019

RECEIVED
JAN 03 2020
DEPARTMENT OF
WATER RESOURCES

Remington Buyer
Idaho Department of Water Resources
322 E Front Street, Ste 648
Boise, Idaho 83720-0098

Subject: Idaho Power Company Representation

Dear Mr. Buyer:

Kresta Davis-Butts, as representative of Idaho Power in matters associated with the company's water rights and water rentals and leases, has authorization to sign forms, applications and requests on behalf of the company. Please let me know if you have any questions or concerns.

Sincerely,

Tess Park

Vice President of Power Supply

**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)
61-11939	Industrial/Cooling	0.27	104	
	Total Amounts:	0.27	104	

2. Source of water Ground Water tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
3S	6E	10			SW	NW	Elmore

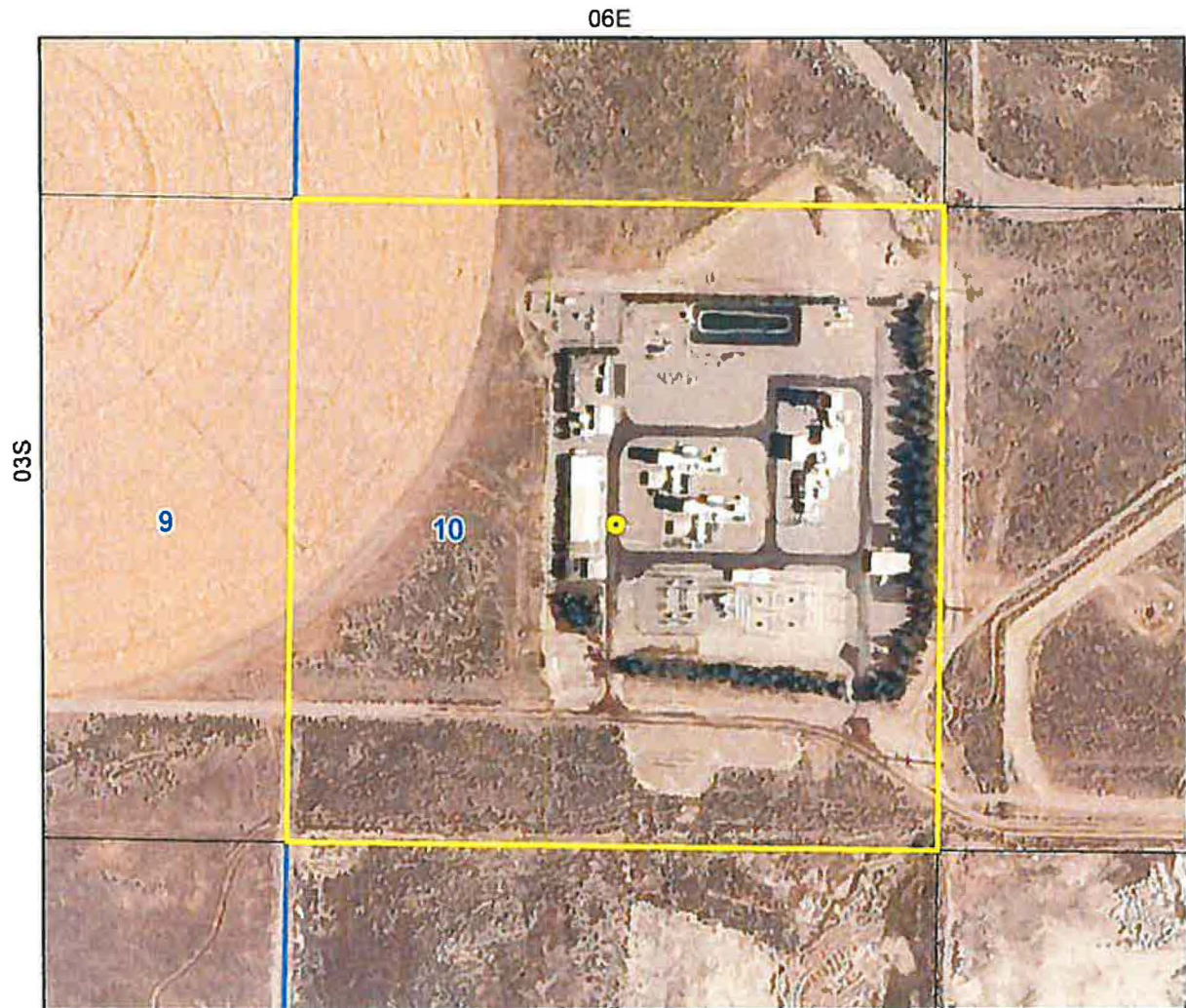
Attachment #3







State of Idaho
Department of Water Resources

Water Right
61-11939

INDUSTRIAL

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.045 0.09 0.18 Miles



Attachment #4G

RECEIVED

MAY 26 2015

DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: IDAHO POWER CO
PO BOX 70
Boise, ID 83707
208-388-2905

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.
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

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
61-11939	0.27 CFS	104.0 AF	NA	NA
Combined Lease Totals:	0.27 CFS	104.0 AF	NA	NA

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 01/01 to 12/31

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:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2019.
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. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

IDAHO POWER CO

PO BOX 70

Boise, ID 83707

By Jonathon C. Bowling
Printed Name JONATHAN C. BOWLING

Date 5/26/15
Title ENGINEERING LEADER

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-9098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date May 27, 2015

Lease approved by IDWR Chae Palma

Date 5/27/2015

[illegible]

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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
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 un-leased portion of water diverted under this right shall not exceed the maximum volume of 189.0 af per year of which no more than 105.8 af per year can be consumptively used.
13. The maximum volume of water leased under this right shall not exceed 104 af per year of which no more than 58.2 af per year can be consumptively used.



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

May 26, 2020

IDAHO POWER CO
C/O KRESTA DAVIS BUTTS
PO BOX 70
BOISE, ID 83707

RE: **WATER SUPPLY BANK LEASE CONTRACT 1157
FOR WATER RIGHTS 61-11939**

Dear Lessor:

Water rights **61-11939** 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- WESTERN REGION
WATER DISTRICT NO. 161



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

April 23, 2020

IDAHO POWER CO
C/O KRESTA DAVIS-BUTTS
PO BOX 70
BOISE, ID 83707

RE: APPLICATION TO LEASE WATER RIGHT 61-11939 TO THE WATER SUPPLY BANK
CONTRACT 1157

****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,

for Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108194

MEMORANDUM FOR APPLICATION # 1594 (Contract # 1157)

To: Water Right 61-11939

From: Dave Betts

Date: April 17, 2020

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

PURPOSE/NARRATIVE: Idaho Power submitted an application to lease on January 3, 2020. The proposed lease is 0.27 cfs and 104 AF from January 1, 2020 through December 31, 2024. This application proposes a lease of the same quantity of water as the two previous lease contracts (2011 & 2015).

The review memo from March 11, 2011 notes that the lease appears to be intended to protect a portion of the water right designated for industrial and commercial use that the owner is currently unable to use in order to allow for potential expansion of the commercial and industrial processes in the future.

The water right includes irrigation, commercial and industrial uses. The portion of the water right proposed for lease only includes the commercial and industrial uses.

AUTHORITY TO FILE: The application was signed by Kresta Davis-Butts, who is listed in the contact information for the ownership records of this right. In a letter submitted with the application, Tess Park, Vice President of Power Supply, authorized Ms. Davis-Butts to act on behalf of Idaho Power in these matters. There are no concerns with the authority to file.

WATER RIGHT VALIDITY: This water right was created by a split from water right 61-2168 through a transfer in 2002. Idaho Power had purchased a portion of the original right for use at the power plant. The transfer was authorized on December 30, 2002, and Idaho Power was given 5 years to develop the use and complete the transfer.

104 AF of water from this right has been continuously leased to the Water Supply Bank since 2009, which is the first year after the development period of the right. 2009 is potentially the sixth year of non-use of the water dedicated to this right during the transfer. According to the guidance in Administrative Memorandum - Multiple Programs #2, any portion of a right that is protected before the end of the sixth year of non-use is considered protected. The 104 AF portion of this right that is proposed for lease is considered valid.

Based on the maximum diversion volumes as reported for WMIS site no. 101800, plus the volume of the leased portion of this right, there may be 77.2 AF or more of this right that are at risk of forfeiture due to non-use.

INJURY TO OTHER WATER RIGHTS: There is no apparent risk of injury to other water rights. The transfer creating this water right was protested, and the conditions for approval of the transfer should remain on this portion of the water right for lease and rental. Comments were requested from Western Region and WD 161 on January 28, 2020.

ENLARGEMENT OF USE: If the water from this proposed lease is rented, the required monitoring of the well used as the point of diversion for the water right should help ensure that the use has been idled. The point of diversion is shared with water right 61-11968 at WMIS site no. 101800.

To prevent enlargement through the rental, conditions for approval of this right (61-11939) should be considered. The total diversion volume of the water right is 293.4 AFA, with a maximum consumptive use volume defined in the conditions for approval as 164 AFA. Previous lease contracts have allocated the consumptive use available for rent proportionally. The same calculation will be used for this contract.

$$\frac{\text{Leased diversion volume}}{\text{Total diversion volume}} * \text{Total consumptive use} = \text{Rentable consumptive use}$$
$$\frac{104 \text{ AFA}}{293.4 \text{ AFA}} * 164 \text{ AFA} = 58.1 \text{ AFA}$$

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 water right's point of diversion is located in Water District 161. The watermaster for WD 161 and regional staff did not respond to the request for comments, so it is assumed there are no concerns.

Betts, David

From: Betts, David
Sent: Tuesday, January 28, 2020 11:05 AM
To: Miller, Nick
Subject: Proposed lease of portion of WR in WD 161 (Application 1594)
Attachments: IdahoPower_LeaseReview_1594.docx; LeaseLayoutMap_IdahoPower_61-11939.pdf

Hello Nick,

I am processing an application for lease of water right 61-11939 from Idaho Power. The attached documents are from my review.

Before the application is considered for approval, I wanted to give you a chance to comment. **If you have any concerns or comments regarding the proposed lease, please submit them to me within 14 days.** The Department will assume you do not object to this application if a timely response is not received.

Thank you for your assistance.

Dave Betts
Water Resource Agent
Water Rights Section
Idaho Department of Water Resources
322 East Front St., PO Box 83720
Boise, ID 83720-0098

Phone: (208) 287-4826
Fax: (208) 287-6700