

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1032

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

**LESSOR:** MC CULLOCH RANCHES LLC  
2628 E CRUISE BAY CT  
SALT LAKE CTY, UT 84121-3259

RECEIVED  
MAR 30 2022  
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 September 09, 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)
22-2128	9/4/1948	GROUND WATER	0.26	57.4	16.4
22-10835	6/1/1961	GROUND WATER	0.09	19.6	5.6
<b>Combined Lease Totals</b>			<b>0.26</b>	<b>77.0</b>	<b>22.0</b>

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

**Minimum Payment Acceptable:** Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2023. 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.

SUPPORT DATA

IN FILE # 22-2128

## WATER SUPPLY BANK LEASE CONTRACT No. 1032

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.

# WATER SUPPLY BANK LEASE CONTRACT No. 1032

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

**LESSOR:** MC CULLOCH RANCHES LLC  
2628 E CRUISE BAY CT  
SALT LAKE CTY, UT 84121-3259

By Sara Poch  
Title General Manager  
Date March 20, 2020

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

By   
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Date 4/14/2020

Lease approved by IDWR 

Date 4/14/2020

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 1032

### 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): 22-2128, 22-10835**

GROUND WATER      SESWNE      Sec. 29      Twp 06N      Rge 45E      TETON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
22-2128	IRRIGATION	04/15	to	10/31	0.26 cfs	57.4 AF
22-10835	IRRIGATION	04/15	to	10/31	0.09 cfs	19.6 AF
<b>Totals:</b>					0.26 cfs	77.0 AF

**PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	45E	29					1.0	21											22.0

Total Acres: 22.0

#### 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.

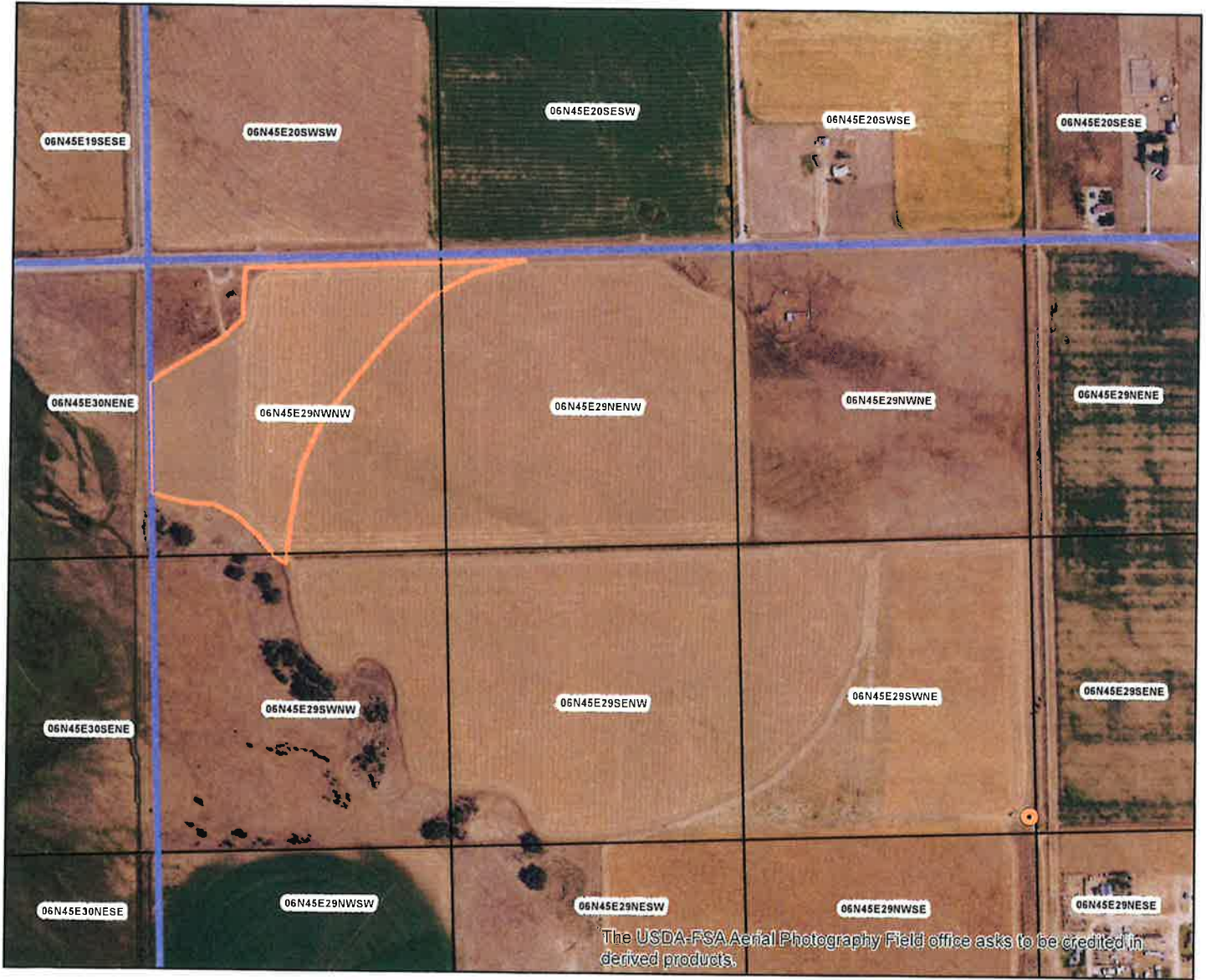
## WATER SUPPLY BANK LEASE CONTRACT No. 1032

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. Unleased portions of these rights are limited to 2.82 cfs for the irrigation of 243 acres.
13. Rights 22-2128 and 22-10835 when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
14. Right Nos. 22-2128 and 22-10835 are limited to the irrigation of a combined total of 265 acres in a single irrigation season.
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. 1032

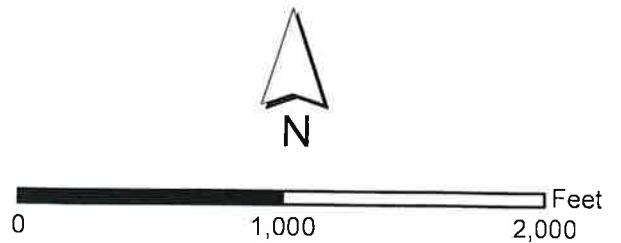
22-2128, 22-10835  
Effective until December 31, 2023

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.



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

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



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED  
SEP 09 2019 DE  
DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant McCulloch Ranches LLC Water Right No. 22-10835  
(Select one owner – see item 1A on the application) (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 <i>Attached (Yes)</i> or <i>Not Applicable (N/A)</i>		
Yes		
	<input checked="" type="checkbox"/>	Completed <i>Application to Sell or Lease a Water Right to the Water Supply Bank</i> .
	<input checked="" type="checkbox"/>	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.
	<input checked="" type="checkbox"/>	Confirmation this form has been printed <b>single sided</b> , per requirement of the Water Supply Bank.
Attachment	N/A	Yes
1A	<input checked="" type="checkbox"/>	<input type="checkbox"/> Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application.
1B	<input checked="" type="checkbox"/>	<input type="checkbox"/> An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.
1C	<input checked="" type="checkbox"/>	<input type="checkbox"/> <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).
1D	<input type="checkbox"/>	<input checked="" type="checkbox"/> Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
2	<input type="checkbox"/>	<input checked="" type="checkbox"/> Description of a water right portion offered to the Water Supply Bank.
3	<input type="checkbox"/>	<input checked="" type="checkbox"/> A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .
4A	<input checked="" type="checkbox"/>	<input type="checkbox"/> Written consent from irrigation district or water delivery company.
4G	<input checked="" type="checkbox"/>	<input type="checkbox"/> Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> .

Department Use Only			
Fee Amount \$	<u>500</u>	Received By:	<u>ASU</u>
		Date Received:	<u>09/09/19</u>
		Receipt #	<u>C107695</u>
W-9 received?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9:

1462

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 McCulloch Ranches LLC  
Mailing Address 2628 Cruise Bay Court Salt Lake City Utah 84121  
Street City State Zip Code  
Email Address slcpoch@juno.com 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 Kristin Moore Organization Rocky Mountain Environmental Assoc., Inc.  
Professional Title Sen. Water Rights Consultant Email Address kristin.rmea@gmail.com  
Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

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.  
A well with pump and mainline to sprinkler 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. WR 22-2128 is shares the same POU for irrigation purposes and is also being offered to the Bank.

- 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. Property has been leased to local farmers and exact amounts of water used is unknown. All irrigation has occurred under sprinkler irrigation, either a pivot or handlines.

- 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 ?

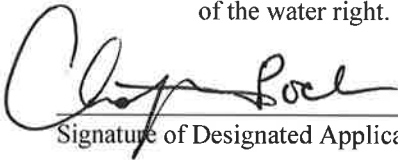
If lease, specify the years when the use of water will be suspended: 2019 to 2023 (maximum lease period 5 calendar years).  
(Year) (Year)

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

Christopher Loch (for McCulloch Ranches LLC)

Printed Name

8/21/19

Date

Signature of Authorized Representative

Printed Name

Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: SARA POCH, MCCULLOCH RANCHES LLC

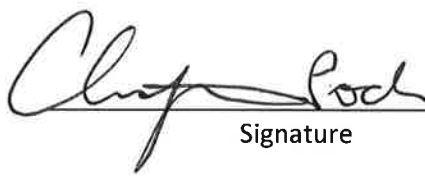
RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.  
482 Constitution Way 303  
Idaho Falls, ID 83402  
(208) 524-2353 / (208) 524-1795 Fax

The following are designated representative of Rocky Mountain Environmental Associates, Inc.:

- John R. Rice, Jr. .... President
- W. Roger Warner ..... Vice-President
- Kristin M. Moore ..... Senior Water Rights Analyst ..... (PRIMARY CONTACT)
- Chad Jensen ..... Staff Water Rights Analyst

This authorizes these individuals to act as Representatives on behalf of McCulloch Ranches LLC. These representatives may submit information for McCulloch Ranches LLC., but are not authorized to sign for McCulloch Ranches LLC. This designation is only for the Water Banking of water rights 22-2128 and 22-10835.

  
Signature

Christopher Poch (for McCulloch Ranches LLC) 8/21/19  
Printed Name Date







## Memorandum

**To:** Water Rights 22-2128, 22-10835

**From:** Justin Ferguson

**Date:** 9/13/2019

**Re:** Water Supply Bank Lease Application 1462

**Purpose/Narrative:** The lease application was received June 24, 2019 to lease a portion of rights 22-2128 and 22-10835 into the bank from 2019-2023. The land has previously been leased to local farmers so exact water measurements were not possible. The area the applicant wishes to protect is a corner area which historically appears to have been minimally irrigated.

**Authority to File:** The application was submitted by Christopher Poch with Kristin Moore as the representative. SRBA documentation shows that the right was decreed to McCulloch Ranches LLC in 2009 and McCulloch Ranches are the current owners of the property for which the POU and POD are appurtenant. No concerns about authority to file.

**Water Right Validity/Forfeiture Evaluation:** Per the application the area was irrigated with either hand lines or a pivot by the farmers renting the acreage from McCulloch Ranches LLC. Measurements of water were not provided by the applicant. Review of Landsat and Sentinel imagery from the past five years indicates vegetation, possible irrigation and land cover change/harvesting during the months of April through June in most years, with little irrigation being occurring July through September. No concerns about water right validity.

**Injury Evaluation:** No injury apparent through lease, however it may be necessary to consider the potential for injury if this water right is requested for rental, as it does not appear that this water right is associated with high-consumptive use of ground water resources.

**Enlargement of Use:** No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

**Local Public Interest:** Staff are unaware of any local public interests that are averse to the lease.

**Beneficial Use/Conservation of Water Resources:** The lease appears consistent with the conservation of water resources in Idaho.

**Department/Watermaster Comments:** The lease is not subject to Water District administration, IDWR Eastern Region comments will be requested.

**Water Supply Bank Evaluation:** Staff recommend this lease be approved