

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 1155

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

**LESSOR:** THOMAS T TIERNEY & ELIZABETH C TIERNEY FAMILY TRUST  
PO BOX 10151  
KETCHUM, ID 83340-8151

RECEIVED  
FEB 27 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 22, 2020.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

#### Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
37-22969	5/1/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.89	Not Stated	19.8
<b>Lease Totals</b>			<b>0.89</b>	<b>Not Stated</b>	<b>19.8</b>

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

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-22969	0.89	69.3	19.8	0.045	3.5
<b>Limit Totals</b>	<b>0.89</b>	<b>69.3</b>	<b>19.8</b>	<b>0.045</b>	<b>3.5</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, 2020 to December 31, 2020. This Lease shall bind the parties and take effect when both parties have signed it.

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**WATER SUPPLY BANK LEASE CONTRACT No. 1155**


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.

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

**LESSOR:** THOMAS T TIERNEY & ELIZABETH C TIERNEY FAMILY TRUST  
PO BOX 10151  
KETCHUM, ID 83340-8151

By   
Title TRUSTEE  
Date 2-18-20

**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 4/8/2020

Lease approved by IDWR



Date 4/8/2020

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 1155

### 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): 37-22969**

BIG WOOD RIVER	SENE	Sec. 5	Twp 02N	Rge 18E	BLAINE County
BIG WOOD RIVER	SWNE	Sec. 5	Twp 02N	Rge 18E	BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-22969	IRRIGATION	04/15	to	10/31	0.89 cfs	Not Stated
<b>Totals:</b>					0.89 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										0.7							0.7
02N	18E	5				0.5									18.6				19.1

Total Acres: 19.8

#### ADDITIONAL CONDITIONS OF ACCEPTANCE

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

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**WATER SUPPLY BANK LEASE CONTRACT No. 1155**

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
  - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
  - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Pursuant to Section 42-1412(6), Idaho Code, 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.
13. Rights 37-8102, the unleased portion of 37-22969 and 37-23075 when combined shall not exceed the irrigation of 14.4 acres.
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. 37.
15. The unleased portions of rights 37-8102, 37-22969 and 37-23075 are limited to the irrigation of a specific 14.4 acres within the 40.7 acre place of use authorized by this right in a single irrigation season. The specific 14.4 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 14.4 acres to be irrigated within the 40.7 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
16. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.
17. The unleased portion of this right is limited to the irrigation of 9.0 acres within the authorized place of use in a single irrigation season.
18. This right shall provide no more than 0.03 cfs per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used.
19. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Idaho Water Resource Board  
**Water Supply Bank Lease Contract No. 1155**

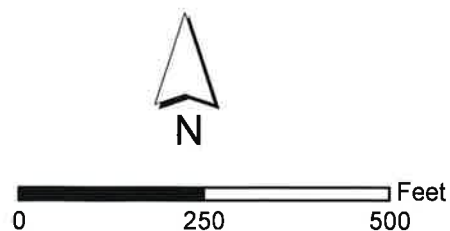
37-22969

Effective until December 31, 2020

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

JAN 22 2020

APPLICATION TO SELL OR LEASE A WATER RIGHT  
TO THE WATER SUPPLY BANKDEPARTMENT OF  
WATER RESOURCESDesignated Applicant Thomas T. Tierney & Elizabeth C. Tierney Family

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

Water Right No. 37-22969

(One water right per application)

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

Yes ☐ No ☒

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

## MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

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

## Department Use Only

Fee Amount \$ 250Received By: KMDate Received: 1-22-2020Receipt # C108254W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

1624

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 Thomas T. Tierney, Trustee of the Thomas T. Tierney & Elizabeth C. Tierney Family Trust

Mailing Address P.O. Box 10151, Ketchum, ID 83340  
Street City State Zip Code

Email Address manfredthemagnificent@gmail.com Phone Number (949) 879-2016

☐ 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 James P. Speck Organization Speck & Aanestad, A Professional Corp.

Professional Title attorney Email Address jim@speckandaanestad.com

Mailing Address P.O. Box 987, Ketchum, ID 83340 Phone Number (208) 726-4421

☐ 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  
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**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 the Big Wood River to a secondary irrigation management pond on the property and redistributed for irrigation via a buried 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. 37-8102, 37-23075 & 37-22969 share a 40.7A permissible place of use

- 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 unleased portion of 37-22969 and the other water rights described above will continue to irrigate 14.4A within the 40.7A PPU

- 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 19.8A of 37-22969 have been leased to the WSB in 2016 through 2019

- 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 2020 (maximum lease period 5 calendar years).  
(Year) (Year)

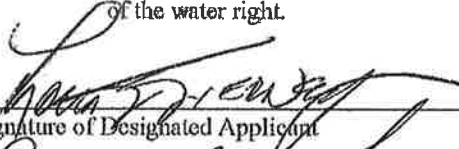
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Thomas T. Tierney, Trustee

Printed Name

12-18-19  
Date

  
Signature of Authorized Representative

Elizabeth C. Tierney  
Printed Name

12/18/19  
Date

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

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 2020 (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

Thomas T. Tierney, Trustee

Printed Name

12-18-19  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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

**STATE OF IDAHO  
WATER RESOURCE BOARD**


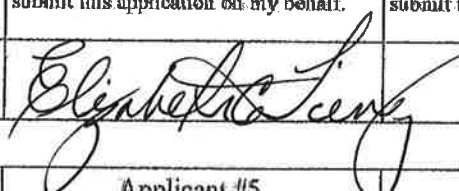
**ATTACHMENT 1A**

**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). 37-22969

	Designated Applicant	Applicant #2	Applicant #3
Name	Thomas T. Tierney, Trustee	Elizabeth C. Tierney, Trustee	
Mailing Address	P.O. Box 10151 Ketchum, ID 83340	P.O. Box 10151 Ketchum, ID 83340	
Phone Number	(949) 879-2016	(949) 338-9900	
Email Address	manfredthemagnificent@gmail.com	ectierney@cox.net	
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**


**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). 37-22969

	<b>Designated Applicant</b>	<b>Applicant #2</b>	<b>Applicant #3</b>
Name	Thomas T. Tierney, Trustee	Elizabeth C. Tierney, Trustee	
Mailing Address	P.O. Box 10151 Ketchum, ID 83340	P.O. Box 10151 Ketchum, ID 83340	
Phone Number	(949) 879-2016	(949)338-9900	
Email Address	manfredthemagnificent@gmail.co	ectierney@cox.net	
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

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

**STATE OF IDAHO  
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>37-22969</u>	<u>irrigation</u>	<u>0.89</u>	<u></u>	<u>19.8</u>
	<u></u>	<u></u>	<u></u>	<u></u>
	<u></u>	<u></u>	<u></u>	<u></u>
	<u></u>	<u></u>	<u></u>	<u></u>
	Total Amounts:	<u>0.89</u>	<u></u>	<u>19.8</u>

2. Source of water Big Wood River tributary to Malad River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
2N	18E	5			SW	NE	BLAINE
2N	18E	5			SE	NE	BLAINE





TIERNEY FAMILY TRUST  
WSB LEASE APPLICATION  
37-22969  
ATTACHMENT 3

PPU  
WSB LEASE AREA





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

Website: [idwr.idaho.gov](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE

Governor

GARY SPACKMAN

Director

April 9, 2020

THOMAS T TIERNEY & ELIZABETH C TIERNEY FAMILY TRUST  
PO BOX 10151  
KETCHUM ID 83340-8151

**RE: WATER SUPPLY BANK LEASE CONTRACT 1155  
FOR WATER RIGHTS 37-22969**

Dear Lessor:

Water right **37-22969** 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, 2020**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov). **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

Please note, condition # 15 was updated to limited the unleased portions of combined water rights 37-8012, 37-22969 & 37-23075.

If you have questions regarding this matter, please contact this office at [bank@idwr.idaho.gov](mailto:bank@idwr.idaho.gov) or 208-287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- SOUTHERN REGION  
WATER DISTRICT NO. 37  
SPECK & AANESTAD LAW

## Hersley, Jean

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**From:** watermanager@cableone.net  
**Sent:** Tuesday, February 11, 2020 10:19 AM  
**To:** Hersley, Jean; Skinner, Corey  
**Subject:** RE: WSB Lease for Tierney 37-22969

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

Kevin Lakey  
Water District 37

**From:** Hersley, Jean <Jean.Hersley@idwr.idaho.gov>  
**Sent:** Friday, February 07, 2020 11:37 AM  
**To:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Kevin Lakey <watermanager@cableone.net>  
**Subject:** WSB Lease for Tierney 37-22969

Please let me know within 7 days if you have any comments or concerns with the attached lease. This water right has been in the Bank since 2016.

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

## Hersley, Jean

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**From:** James Speck <jim@speckandaanestad.com>  
**Sent:** Friday, February 7, 2020 4:24 PM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease Contract for Tierney 37-22969

Thanks, Jean.

Jim

**From:** Hersley, Jean <Jean.Hersley@idwr.idaho.gov>  
**Sent:** Friday, February 07, 2020 11:36 AM  
**To:** James Speck <jim@speckandaanestad.com>  
**Subject:** WSB Lease Contract for Tierney 37-22969

This lease contract will go out in Monday's mail. Please let me know if you have any questions. Thank you.

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

## Hersley, Jean

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**From:** Skinner, Corey  
**Sent:** Friday, February 7, 2020 3:00 PM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease for Tierney 37-22969

No concerns from me.

**From:** Hersley, Jean  
**Sent:** Friday, February 07, 2020 11:37 AM  
**To:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Kevin Lakey <watermanager@cableone.net>  
**Subject:** WSB Lease for Tierney 37-22969

Please let me know within 7 days if you have any comments or concerns with the attached lease. This water right has been in the Bank since 2016.

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



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098  
Phone: (208) 287-4800 • Fax: (208) 287-6700  
Website: [idwr.idaho.gov](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

February 10, 2020

THOMAS T TIERNEY & ELIZABETH C TIERNEY FAMILY TRUST  
PO BOX 10151  
KETCHUM ID 83340-8151

**RE: APPLICATION TO LEASE WATER RIGHT 37-22969 TO THE WATER SUPPLY BANK  
CONTRACT 1155**

**\*\*\*\*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, 2020**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

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

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

If you have questions regarding this matter, please contact this office at [bank@idwr.idaho.gov](mailto:bank@idwr.idaho.gov) or 208-287-4800.

Sincerely,

*for* Water Supply Bank

Enclosures: Proposed Lease Contracts

c. James P Speck- Speck & Annestad

## Hersley, Jean

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**From:** Hersley, Jean  
**Sent:** Friday, February 07, 2020 11:37 AM  
**To:** Skinner, Corey; 'Kevin Lakey'  
**Subject:** WSB Lease for Tierney 37-22969  
**Attachments:** Idled Acres 37-22969.pdf; Lease Application Review 37-22969.xls; Report - Lease Contract - 1155.docx

Please let me know within 7 days if you have any comments or concerns with the attached lease. This water right has been in the Bank since 2016.

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

**WATER SUPPLY BANK**
**Lease Review Checklist**
**Applicant(s) Name:** Tierney Family Trust

**Memo Date:** February 7, 2020

**Water Right Number(s):** 37-22969

**Reviewers Name:** Jean

**Quick Tools**

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

		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right	x		
	All of right			
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? (If no explain in comments or narrative)	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity			
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2011
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?	x		2016-2019
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
	Any other concerns		x	
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request			
11	Area Headgate requirement (write in Comments)			3.5
12	Is water right involved in any other department action? Pull file and check database ( ) Ownership Change ( ) Transfer ( ) Mitigation ( ) Other - Explain in comments		x	

**Narrative:** The Department received this application on January 22, 2020. The applicant wishes to place 19.8 acres of this right in the Bank. This right was decreed in 2011 and has been in the Bank since 2016. The parent of this right (37-22255) was decreed in the name of Peter Trust. In 2015, Peter Trust split 37-22255 into 37-22255 and 37-22969 but both rights were in Peter Trust's name. In 2017, Peter Trust sold land to Tierney Family Trust and the deed included the entirety of this right. Some of the land appurtenant to this right is owned by others who have their own rights for their property. This right overlaps with and has a combined limit of 34.2 acres within a 40.7 acre PPU with 37-8102 and 37-23075. This limit is additive so this right can be leased without the other rights. This right is currently within WD 37.

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JAMES P. SPECK  
jim@speckandaanestad.com

DOUGLAS J. AANESTAD  
(retired)

**SPECK & AANESTAD**  
A PROFESSIONAL CORPORATION  
ATTORNEYS

120 EAST AVENUE NORTH  
P. O. BOX 987  
KETCHUM, IDAHO 83340

TELEPHONE  
(208)726-4421  
FACSIMILE  
(208)726-0752

January 20, 2020

RECEIVED

JAN 22 2020

DEPARTMENT OF  
WATER RESOURCES

Remington Buyer  
Water Supply Bank Coordinator  
Idaho Department of Water Resources  
322 E. Front St.  
Boise, Idaho 83720-0098

Re: **Application to Sell or Lease a Water Right to the Water Supply Bank,  
No. 37-22969  
Thomas T. Tierney & Elizabeth C. Tierney Family Trust**

Dear Remington:

Enclosed you will find the original and one copy of the above-referenced Application together with my firm's check payable to the Department for the \$250 filing fee.

Please receipt date-stamp the copy and return it to me in the postage prepaid self-addressed envelope I have included for that purpose. Kindly call me right away if you have any questions about this Application.

Thank you.

Sincerely yours,

SPECK & AANESTAD  
A Professional Corporation

By:   
James P. Speck

Enclosure

cc: Client (w/enclosure) via Email

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