

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1039

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

LESSOR: GRACIES DINER LLC
PO BOX 6570
KETCHUM, ID 83340

RECEIVED
JAN 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 April 12, 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)
37-11852	4/1/1948	GROUND WATER	0.34	41.5
Combined Lease Totals			0.34	41.5

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

Minimum Payment Acceptable: Current Rental Rate

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.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1039

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: GRACIES DINER LLC
PO BOX 6570
KETCHUM, ID 83340

By Kimberly H. Murphy
Title Manager
Date 1-20-20

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 02/21/20

Lease approved by IDWR P. Thomas

Date 02/21/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1039

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): 37-11852

GROUND WATER SWNWSE Sec. 10 Twp 05N Rge 17E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-11852	COMMERCIAL	01/01	to	12/31	0.04 cfs	14.5 AF
	DOMESTIC	01/01	to	12/31	0.30 cfs	27.0 AF
Totals:					0.340 cfs	41.5 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	17E	10														X	X		

PLACES OF USE TO BE IDLED UNDER THIS LEASE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	17E	10														X	X		

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1039

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. Use of water under this right will 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.
13. Unleased portions of this right is limited to 0.03 cfs for the irrigation of 1 acre

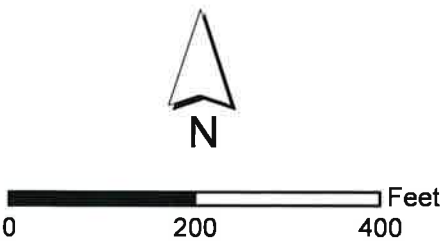
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1039

37-11852
Effective until December 31, 2024

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



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



APR 12 2019

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Gracie's Diner, LLC

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

Water Right No. 37-11852

(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

Received By:

[Signature]

Date Received:

4/12/19

Receipt #

C106562

W-9 received?

Yes ☒No ☐

(Route W-9 to Fiscal)

Name on W-9:

Gracie's Diner LLC

1400

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 Gracie's Diner, LLC

Mailing Address PO Box 6570, Ketchum, Idaho 83340

Street City State Zip Code

Email Address naklic@yahoo.com Phone Number (208) 720-0403

☒ 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 PO 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
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.

Well & pump to buried lines to cabins, trailer sites and store with public restroom & laundry

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒

Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒

If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Flow meter was installed May 1, 2018. From then through April 9, 2019, 3,291,442.3 gallons were diverted for all uses under this right. Since May 1, 2018, there have been only 5 cabins and 1 trailer until the fall and 2 cabins and 1 trailer since then out of the decreed 45 domestic uses. All domestic uses stop in 3 months.

- 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

Kingsley H. Murphy, III, Member

Printed Name

Date

4-10-18

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**

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>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
37-11852	commercial	0.04 cfs	14.5 AFA	
	domestic	0.3 cfs	27.0 AFA	
	Total Amounts:	0.34 cfs	41.5 AFA	

2. Source of water ground water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5N	17E	10		SW	NW	SE	Blaine

State of Idaho
Department of Water Resources

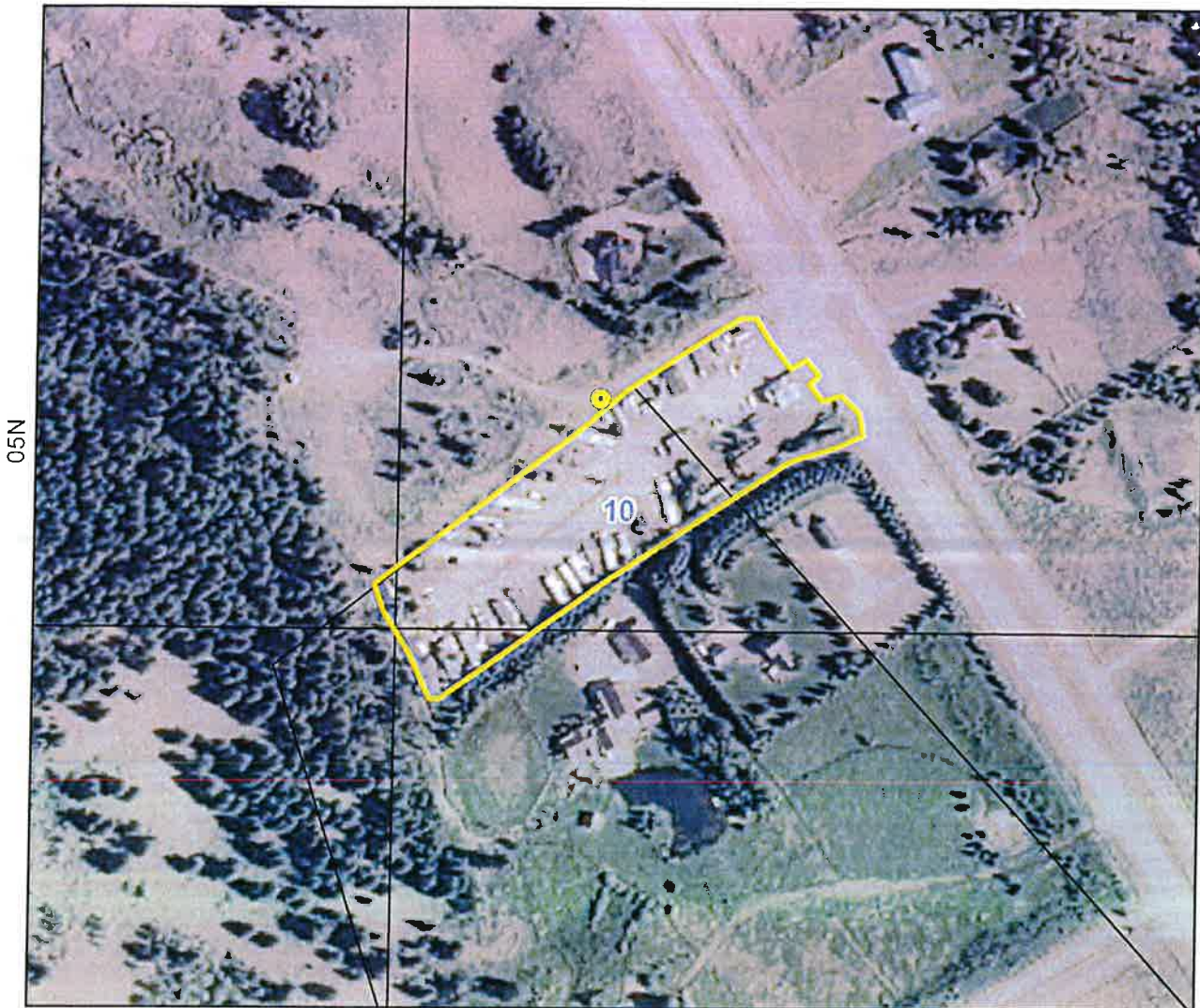
Water Right

37-11852

COMMERCIAL

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.

17E



● Point of Diversion

□ Place Of Use Boundary

□ Townships

□ PLS Sections

□ Quarter Quarters

0 0.035 0.07 0.14 Miles

GRACIE'S DINER, LLC
WSB KLEASE APPLICATION
37-11852
ATTACHMENT 3, P1



State of Idaho
Department of Water Resources

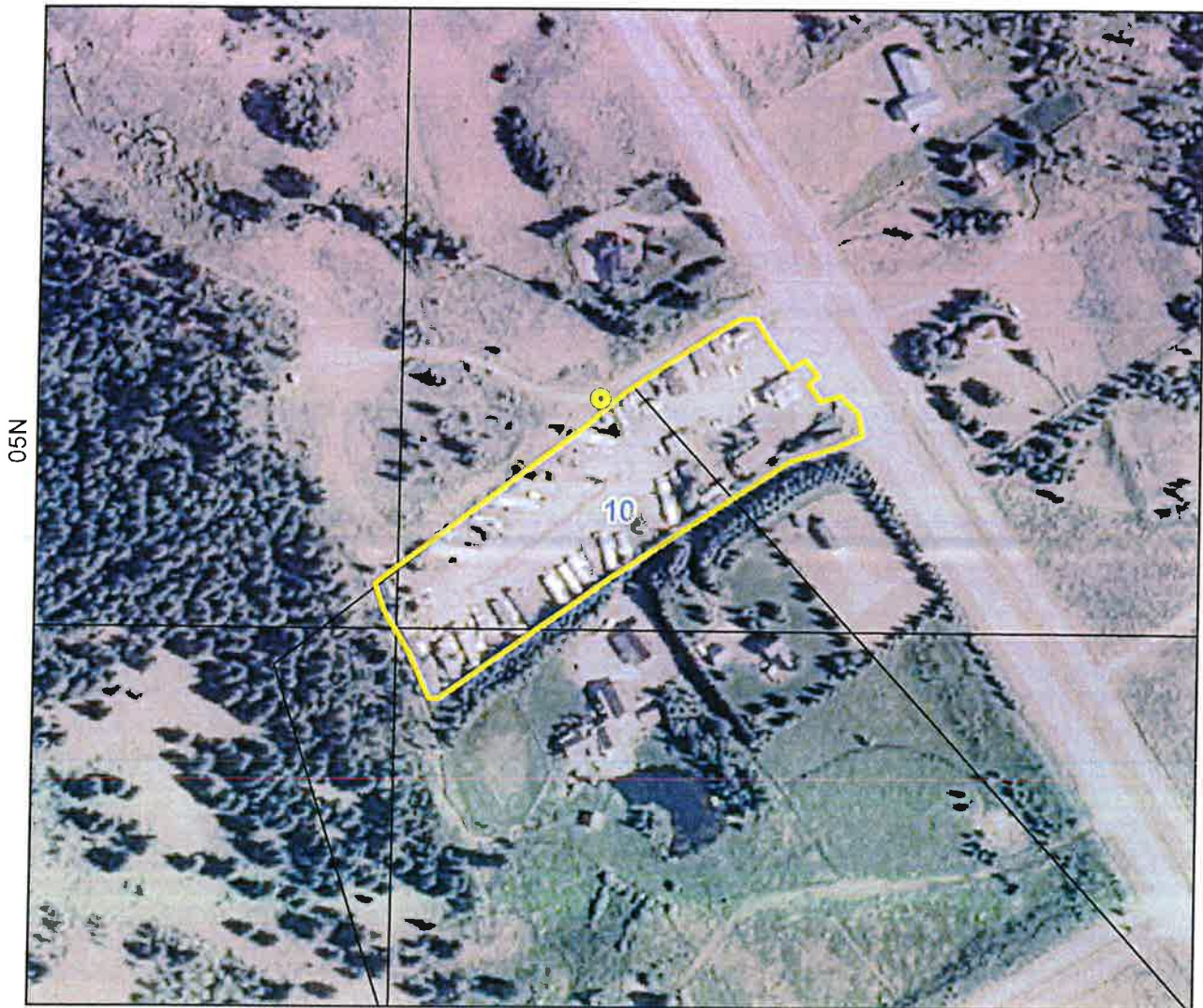
Water Right

37-11852

DOMESTIC

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.

17E



● Point of Diversion

□ Place Of Use Boundary

□ Townships

□ PLS Sections

□ Quarter Quarters

0 0.035 0.07 0.14 Miles

GRACIE'S DINER, LLC
SB KLEASE APPLICATION
37-11852
ATTACHMENT 3, P2



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Results: 1

Form Info	Status	Filing Date	Agent
GRACIE'S DINER, LLC (139696)  <i>Limited Liability Company (D)</i>	Active-Existing	09/07/2005	KINGSLEY H MURPHY III



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

February 24, 2020

GRACIES DINER LLC
PO BOX 6570
KETCHUM, ID 83340

**RE: WATER SUPPLY BANK LEASE CONTRACT 1039
FOR WATER RIGHTS 37-11852**

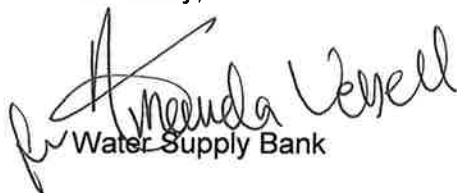
Dear Lessor:

Water rights **37-11852** were leased into the Water Supply Bank (Bank) as of January 1, 2020, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2024**, 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,



Amanda Vowell
Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lakey - Water District 37
Jim Speck - Speck & Aanstad



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 2, 2020

GRACIES DINER LLC
PO BOX 6570
KETCHUM, ID 83340

**RE: APPLICATION TO LEASE WATER RIGHT 37-11852 TO THE WATER SUPPLY BANK
CONTRACT 1039**

******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 287-4800.

Sincerely,



Amanda Vick

Water Supply Bank

Enclosures: Proposed Lease Contracts

c: James P Speck – Speck & Aanestad

Ferguson, Justin

From: Ferguson, Justin
Sent: Thursday, December 12, 2019 9:59 AM
To: Skinner, Corey; 'watermanager@cableone.net'
Subject: WSB Lease - Gracie's Diner LLC 37-11852
Attachments: Lease Review Memo.docx; Draft Lease Contract Gracie's Diner 37-11852.docx; Draft Lease Gracie's Diner 37-11852.pdf

Morning!

Attached are the map, contract, and review memo for Gracies Diner LLC. Please let me know if you have any questions or concerns

Thank you

Ferguson, Justin

From: James Speck <jim@speckandaanestad.com>
Sent: Thursday, December 12, 2019 9:49 AM
To: Buyer, Remington
Cc: Hersley, Jean; nakllc@yahoo.com; Ferguson, Justin
Subject: RE: RE: RE: WSB Lease for Gracies Diner LLC

Thanks, Remington.

Jim

-----Original Message-----

From: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Sent: Thursday, December 12, 2019 9:47 AM
To: James Speck <jim@speckandaanestad.com>
Cc: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>; Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Subject: RE: RE: RE: WSB Lease for Gracies Diner LLC

Jim,

I just looked reviewed the lease application and all appears to be in order. We should be sending these out to your office for review and signature in the coming days.

Remington

-----Original Message-----

From: Hersley, Jean
Sent: Thursday, December 12, 2019 7:35 AM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Subject: FW: RE: RE: WSB Lease for Gracies Diner LLC

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

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, December 11, 2019 4:23 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: nakllc@yahoo.com
Subject: RE: RE: RE: WSB Lease for Gracies Diner LLC

Jean,

What is the status of these lease contracts? Thanks & Happy Holidays!

Jim

-----Original Message-----

From: Hersley, Jean
Sent: Tuesday, August 06, 2019 3:48 PM
To: James Speck
Cc: nakllc@yahoo.com

I have changed the lease dates to January 1, 2020 to December 31, 2024. The application will be put on hold until November 1, 2019, when the Department begins to accept and process leases for the next season. I do not need the application initialed. A copy of the email exchange between you and the Department (me) has been placed in the file and this will suffice. Please let me know if you have any other questions. Thank you.

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

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, August 06, 2019 3:33 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: nakllc@yahoo.com
Subject: RE: RE: WSB Lease for Gracies Diner LLC

Jean,

Please reply to confirm this decision. Do you want the change initialed on the application? Thank you.

Jim

-----Original Message-----

From: James Speck
Sent: Monday, August 05, 2019 11:02 AM
To: Hersley, Jean
Cc: nakllc@yahoo.com

Jean,

We agree with your suggestion as the commercial use continued through 2018. Let's put the application on hold and make it for Jan. 1, 2020 through Dec. 31, 2024.

Jim

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Monday, August 05, 2019 8:22 AM

To: James Speck <jim@speckandaanestad.com>
Cc: nakllc@yahoo.com
Subject: RE: WSB Lease for Gracies Diner LLC

Jim,

The lease for Gracies Diner LLC popped up on my calendar. Have the last of the tenants left? When was the last time the commercial portion of the water right put to beneficial use? If the commercial use has been utilized in the last 5 years and since the domestic portion was used this summer, we could put this on hold and start the lease in 2020- 2024. Please let me know how you would like to move forward. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, July 03, 2019 9:22 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov <mailto:Jean.Hersley@idwr.idaho.gov> >
Cc: nakllc@yahoo.com <mailto:nakllc@yahoo.com>
Subject: RE: WSB Lease for Gracies Diner LLC

Jean,

It looks like the last tenants will not leave until August 1 so we would like to start the WSB lease then. Thank you.

Jim

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov <mailto:Jean.Hersley@idwr.idaho.gov> >
Sent: Tuesday, July 02, 2019 8:06 AM
To: James Speck <jim@speckandaanestad.com <mailto:jim@speckandaanestad.com> >
Cc: nakllc@yahoo.com <mailto:nakllc@yahoo.com>
Subject: WSB Lease for Gracies Diner LLC

In prior correspondence with Clay Webster, you hoped that Gracies Diner LLC would terminate use of water right 37-11852 on July 1, 2019. Has the termination took place? I will move forward processing the lease. Please let me know.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

Buyer, Remington

From: Hersley, Jean
Sent: Thursday, December 12, 2019 7:35 AM
To: Buyer, Remington; Ferguson, Justin
Subject: FW: RE: RE: WSB Lease for Gracies Diner LLC

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

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, December 11, 2019 4:23 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: nakllc@yahoo.com
Subject: RE: RE: RE: WSB Lease for Gracies Diner LLC

Jean,

What is the status of these lease contracts? Thanks & Happy Holidays!

Jim

-----Original Message-----

From: Hersley, Jean
Sent: Tuesday, August 06, 2019 3:48 PM
To: James Speck
Cc: nakllc@yahoo.com

I have changed the lease dates to January 1, 2020 to December 31, 2024. The application will be put on hold until November 1, 2019, when the Department begins to accept and process leases for the next season. I do not need the application initialed. A copy of the email exchange between you and the Department (me) has been placed in the file and this will suffice. Please let me know if you have any other questions. Thank you.

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

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, August 06, 2019 3:33 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: nakllc@yahoo.com
Subject: RE: RE: WSB Lease for Gracies Diner LLC

Jean,

Please reply to confirm this decision. Do you want the change initialed on the application? Thank you.

Jim

-----Original Message-----

From: James Speck

Sent: Monday, August 05, 2019 11:02 AM

To: Hersley, Jean

Cc: nakllc@yahoo.com

Jean,

We agree with your suggestion as the commercial use continued through 2018. Let's put the application on hold and make it for Jan. 1, 2020 through Dec. 31, 2024.

Jim

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>

Sent: Monday, August 05, 2019 8:22 AM

To: James Speck <jim@speckandaanestad.com>

Cc: nakllc@yahoo.com

Subject: RE: WSB Lease for Gracies Diner LLC

Jim,

The lease for Gracies Diner LLC popped up on my calendar. Have the last of the tenants left? When was the last time the commercial portion of the water right put to beneficial use? If the commercial use has been utilized in the last 5 years and since the domestic portion was used this summer, we could put this on hold and start the lease in 2020- 2024. Please let me know how you would like to move forward. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, July 03, 2019 9:22 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov <mailto:Jean.Hersley@idwr.idaho.gov> >
Cc: nakllc@yahoo.com <mailto:nakllc@yahoo.com>
Subject: RE: WSB Lease for Gracies Diner LLC

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Jim

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Sent: Tuesday, July 02, 2019 8:06 AM
To: James Speck <jim@speckandaanestad.com <mailto:jim@speckandaanestad.com> >
Cc: nakllc@yahoo.com <mailto:nakllc@yahoo.com>
Subject: WSB Lease for Gracies Diner LLC

In prior correspondence with Clay Webster, you hoped that Gracies Diner LLC would terminate use of water right 37-11852 on July 1, 2019. Has the termination took place? I will move forward processing the lease. Please let me know.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

Webster, Clay

From: Webster, Clay
Sent: Wednesday, May 08, 2019 9:39 AM
To: 'James Speck'
Subject: RE: WSB Lease Application - 37-11852 - Gracies Diner LLC

Jim,

That sounds good.

Thanks,
Clay

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, May 08, 2019 9:25 AM
To: Webster, Clay <Clay.Webster@idwr.idaho.gov>
Cc: Kingsley H Murphy <nakllc@yahoo.com>
Subject: WSB Lease Application - 37-11852 - Gracies Diner LLC

Clay,

My client is hoping all domestic uses will be terminated no later than July 1, 2019. I should be able to confirm that as the lease start date a week or so in advance.

As we discussed, the commercial uses under this right consist of a laundry and bathroom in the building housing the historical North Fork Store. They served the trailer park and cabins and will terminate at the same time.

Please reply to confirm the July 1 start date will be acceptable for both uses under the same lease contract. Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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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 2, 2019

GRACIES DINER LLC
PO BOX 6570
KETCHUM ID 83340

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO 37-11852 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank).

A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing. Water Supply Bank Rule 30 (also known as IDAPA 37.02.03.030) requires the Department to determine if a water right will be accepted to the Bank, whether a proposal to rent water from the water supply bank would constitute an enlargement.

Your application proposed to lease the entire domestic use of this water right into the Bank. You stated on your application that a portion of the domestic use has been used this year, 2019, and a portion will be used for the next three months. If the department leased the right into the bank and then rented it while it is still being put to beneficial use, enlargement could occur.

Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

You also requested to lease in the entire commercial use. However, no historic information was given on the commercial use.

Here are a couple of options regarding the leasing of the domestic use of water right 37-11852.

1. Provide the date that the domestic use will cease to the Department. The Department could start the lease as of the date that the domestic use has stopped. The Department could then hold the application until that date and lease in both the commercial and domestic uses on one lease contract.
2. The Department can lease in the commercial use (once historical use has been established) and the current unused portion of the domestic use for the 2019-2023 seasons. Then you could apply for a separate lease contract for the remaining portion of the domestic use after the use has been ceased.

Please provide the department with historical use of the commercial portion and provide how you wish to proceed on this application with regard to domestic use provided above. The department will continue processing your application once you have submitted the requested information. If you have any questions, please contact this office at (208) 287-4910.

Sincerely,

A handwritten signature in dark ink, appearing to read "Clay Webster", with a horizontal line extending to the right.

CLAY WEBSTER
Water Rights Supervisor

c. James P Speck- Speck & Aanestad

RECEIVED

APR 12 2019

DEPARTMENT OF
WATER RESOURCES

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

April 10, 2019

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

Re: *Gracie's Diner, LLC - Application to Sell or Lease Portions of Water Right 37-11852 to the Water Supply Bank*

Dear Remington:

Enclosed you will find an *original* and a copy of the above-referenced Application accompanied by our firm check in the amount of \$250.00 in payment of the Application fee. The water right includes irrigation, commercial and domestic uses. Irrigation will continue and this Application proposes to lease only the commercial and domestic uses to the Bank.

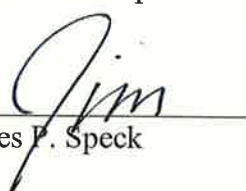
Please contact me right away if you have any questions about the Application. If not, please receipt date-stamped copy and return it to me in the postage prepaid self-addressed envelope I have included with this letter.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____


James P. Speck

Enclosures

cc: Kingsley H. Murphy, III (w/enclosure)