

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1056

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

LESSOR: SAGEWILLOW LLC
PO BOX 569
SUN VALLEY, ID 83353-0569

RECEIVED
JAN 29 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 February 01, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
37-20900	1/6/1975	GROUND WATER	0.066	22.1	6.3
Combined Lease Totals			0.066	22.1	6.3

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2020 to December 31, 2022. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1056

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1056

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

LESSOR: SAGEWILLOW LLC
PO BOX 569
SUN VALLEY, ID 83353-0569

By Gordon E. Dink
Title Manager
Date 1/13/20

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. Patton

Date 02/21/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1056

**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): 37-20900

GROUND WATER NWSW Sec. 16 Twp 04N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-20900	IRRIGATION	03/15	to	11/15	0.066 cfs	22.1 AF
Totals:					0.066 cfs	22.1 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	
04N	18E	16							6.3										6.3

Total Acres: 6.3

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1056

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. The unleased portion of this right is limited to 0.13 cfs and 44.4 af for the irrigation of 12.7 acres.
13. This right 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. 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. 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. 1056

37-20900

Effective until December 31, 2022

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



0 400 800 Feet

RECEIVED

FEB 01 2019

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

ORIGINAL IN RED

Designated Applicant Sagewillow LLC

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

Water Right No. 37-20900

(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:

AW

Date Received:

2/1/19

Receipt #

C106214

W-9 received?

Yes ☐No ☒

(Route W-9 to Fiscal)

Name on W-9:

1337

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 Sagewillow LLC

Mailing Address 5820 Strassbourg Ct., Reno, NV 89511

Street City State Zip Code
Email Address ewdsr@earthlink.net Phone Number 208-622-5385

☒ 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.

None

- 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. None of the place of use depicted on the map included as Attachment 3 will be irrigated during the term of this lease by water diverted under Water Right 37-20900.

- 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. None

- 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. Partial decree issued for this right September 24, 2010. This right then leased to the Water Supply Bank from 2012 through 2019.

- 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 2022 (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.

Edmund E. Dumke
Signature of Designated Applicant

Edmund E. Dumke, manager
Printed Name

1/28/19
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**

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)
37-20900	irrigation	0.66	22.1	6.3
	Total Amounts:			

2. Source of water _____ ground water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	18E	16			NW	SW	Blaine

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 753

37-20900
Effective until December 31, 2022

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
-  PLS Sections
-  Quarter Quarters



0 500 1,000 Feet

ATTACHMENT 3



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

SAGEWILLOW LLC
PO BOX 569
SUN VALLEY, ID 83353-0569

RE: **WATER SUPPLY BANK LEASE CONTRACT 1056
FOR WATER RIGHTS 37-20900**

Dear Lessor:

Water rights **37-20900** 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, 2022**, 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,

for Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lakey - Water District 37
James Speck - Speck & Aanestad



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 28, 2020

SAGEWILLOW LLC
PO BOX 569
SUN VALLEY, ID 83353-0369

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACT 1056
FOR WATER RIGHT 37-20900**

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

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on January 9th, 2020. The signed contracts have not been returned to the Department.

Please sign both original Lease Contracts and return them to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contracts are not received by the Department within the 10-day period, the lease application will be returned, and the application fee will not be refunded. You can reapply to lease the water right in the future by submitting new application form along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,


for Water Supply Bank

c: James P Speck – Speck & Aarnestad

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 27, 2020

RECEIVED

JAN 29 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: *Sagewillow LLC - Application to Lease Water Right 37-20900 to
the Water Supply Bank Contract 1056***

Dear Remington:

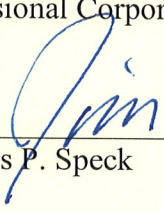
We are in receipt of your correspondence dated January 9, 2020 with respect to the above referenced matter. Enclosed you will find dated and signed *duplicate originals* of the above Application per your request.

Please let me know as soon as possible, if you have any questions concerning the Application. Otherwise, we will anticipate receiving a fully executed copy of the Water Supply Bank Contract 1056.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures

cc: client (w/enclosure)



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 9, 2020

SAGEWILLOW LLC
PO BOX 569
SUN VALLEY, ID 83353-0569

**RE: APPLICATION TO LEASE WATER RIGHT 37-20900 TO THE WATER SUPPLY BANK
CONTRACT 1056**

******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.

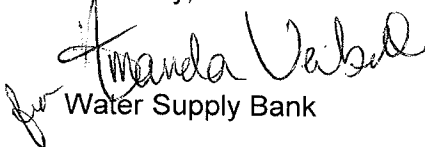
The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

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

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

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

Sincerely,


for Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C106214

c: James P Speck – Speck & Aanestad

Buyer, Remington

From: Buyer, Remington
Sent: Wednesday, January 23, 2019 6:00 PM
To: James Speck
Cc: edumke@mac.com
Subject: RE: WSB Lease Contract 753 for 37-20900

Jim,

In looking at the water right backfile, I can see that all of water right 37-20900 is fully leased into the Bank and not being used, and any irrigation occurring within the water right's place of use is being accomplished with municipal water.

Following the prospective sale of a portion of water right 37-20900 during the next year, if the sold portion will be involved in a water right transfer, IDWR will need to update the place of use shape during the transfer, and you could submit your new lease application in 2020 after the transfer is approved and the place of use shape is updated.

Alternatively, you could request that the balance of water right 37-20800 that will remain in an active rental through 2020 be kept leased to the Bank (with the remaining balance released from the Bank beginning in 2020), and the new lease application could state that the water right elements proposed for the 2020 lease would remain within the present place of use boundaries for the water right, but not specific to particular acres.

Typically, IDWR will not lease an irrigation water right into the Bank if we are unable to confirm the extent of irrigation reduction that will occur during the lease. However, because we recognize that water right 37-20800 is not actively being used at all within its present place of use, it can be understood that that a portion of the right can be leased to the Bank without causing enlargement, provided that no irrigation of the water right's present place of use will occur with water authorized to be diverted under water right 37-20800. That is to say, you could propose to lease in a portion of the water right, and provide a copy of the full place of use map, but you would need to affirm on the new lease application that none of the place of use will be irrigated in 2020 with water diverted under water right 37-20800.

Regards,

Remington

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, January 22, 2019 2:13 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Ed Dumke, Jr. (edumke@mac.com) <edumke@mac.com>
Subject: RE: WSB Lease Contract 753 for 37-20900

Remington,

Can you have someone outline 6.3A on the attached POU map for this right – I don't have that capability! Thanks.

Jim

From: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Sent: Friday, January 18, 2019 11:36 AM
To: James Speck <jim@speckandaanestad.com>

Cc: Ed Dumke, Jr. (edumke@mac.com) <edumke@mac.com>
Subject: RE: WSB Lease Contract 753 for 37-20900

Hi Jim,

Happy New Year to you as well.

We can get a portion of 37-20900 released from the Bank at the end of 2019, however the lease release form is not the preferred vehicle to accomplish this; the lease release form works to fully release a water right from the Bank, but a partial release is best done through the creation of a new lease contract.

If there is a need to unencumber portions of water right 37-20900 at the end 2019 (equivalent to agreement 262's rental of 0.134 cfs, 44.4 af and 12.7 acres) I would ask that Sagewillow LLC submit a new lease application to the Bank this year (which could happen any time, but ideally before November), in which the application requests lease contract 753 be superseded by a new partial lease of 37-20900 in 2020, equivalent to 0.66 cfs, 22.1 af and 6.3 acres.

We won't review rentals for 2020 until November of this year, so as long as we get a new lease application for 37-20900 this year, prior to processing rentals for 2020 in November, we can secure the release of part of 37-20900 in 2020, and then release the remainder of the right by 2021.

Please let me know if you have any questions,

Remington
(208) 287-4918

From: James Speck [<mailto:jim@speckandaanestad.com>]
Sent: Wednesday, January 16, 2019 3:22 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Ed Dumke, Jr. (edumke@mac.com) <edumke@mac.com>
Subject: WSB Lease Contract 753 for 37-20900

Remington,

I represent Sagewillow, LLC, the owner of 37-20900 presently leased to the Bank per the above-referenced Contract. The entire right is also currently rented in two portions, one through 2019 and the other through 2020. We are negotiating the sale of this right to several potential buyers and want to be sure the right is released from the Bank in stages as the two rental agreements expire. I have attached two Requests to Release a Water Right from the Bank signed by my client. Will this accomplish our goal? Please call me if you have any questions.

Thanks & **HAPPY NEW YEAR!!**

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
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Ketchum, ID 83340
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Memorandum

To: Water Right 37-20900
From: Justin Ferguson
Date: December 10, 2019
Re: Water Supply Bank Lease Application 1337

Purpose/Narrative: The Department received this application February 1, 2019 requesting a change to an existing lease contract. Per the applicant's representative, they would like to unencumber the right leaving a portion to cover the existing rental only. For this lease we can recognize the existing right boundaries as a permissible place of use and that a portion within that boundary will be protected.

Authority to File: The application was submitted on behalf of Sagewillow LLC by their representative, Jim Speck. Review of the Idaho Secretary Of State page shows Mr. Edward Dumke as a Co-Trustee for Sagewillow LLC. No concerns at this time about applicant's authority to file.

Water Right Validity/Forfeiture Evaluation: This right was decreed in 2010 and leased to the bank from 2012 through the end of 2022. The lessor now wishes to supersede the existing contract to unencumber as much of the right as possible this year, until the entire right can be released the following year.

Review of aerial photography and satellite imagery indicates that some irrigation may have taken place. It was previously noted by their representative that any irrigation would have come from the Sun Valley Water & Sewer District municipal right, not from 37-20900, and that since the date of the partial decree no water has been diverted under this water right.

Injury Evaluation: No injury is apparent through this lease alone however, portions of this water right were recently proposed to be transferred from lands overlying the Elkhorn Village aquifer, to lands overlying the Wood River Valley aquifer (transfers 83053, 83058 and 83132) and those transfers were protested (before being subsequently withdrawn) apparently due to injury concerns associated with the relocation of this water right from the Elkhorn Village aquifer, to the Wood River Valley aquifer. The Big Wood River Groundwater Management Area (BWR GWMA) prohibits new consumptive groundwater uses unless mitigation is provided; to avoid injury, unless sufficient mitigation is proposed, the rental of this water right can be limited to the Elkhorn Village aquifer.

Enlargement of Use: The purpose of this lease is to keep 6.3 acres of water 37-20900 in the Bank, while releasing the balance of 12.7 acres. Directly proportionate to the right's decreed elements, a lease of 6.3 acres would feature a diversion rate of 0.066 cfs and 22.05 af. However, per Departmental rounding of significant figures, the lease will be 0.07 cfs and 22.1 af, with a balance of 0.013 cfs and 44.4 af not being leased. Enlargement will be avoided if these amounts are maintained.

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: Watermaster and IDWR Southern Region comments were requested December 10, 2019.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the application be approved.

JAMES P. SPECK
jim@speckandaanestad.com

DOUGLAS J. AANESTAD
(retired)

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FEB 01 2019

DEPARTMENT OF
WATER RESOURCES

January 30, 2019

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

**Re: *Sagewillow LLC - Application to Lease a Portion of
Water Right No. 37-20900 to the Water Supply Bank***

Dear Remington:

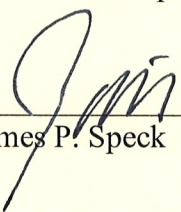
Enclosed you will find the *original* and one copy of the above Application together with my firm's check payable to the Department for the \$250.00 filing fee. As we discussed in our email exchange, this Application covers the right to irrigate 6.3 acres out of the total of 19 acres that can be irrigated by the water right. The term is to commence January 1, 2020 and end December 31, 2022. The desired effect of this Application is to terminate the lease to the Water Supply Bank of the remaining 12.7 acres of irrigation capability for this water right which is the portion currently rented from the Bank by Beaver Springs Owners Association.

Unless you have questions, please receipt date-stamped the copy and return it to me in the postage prepaid self-addressed envelope I have included for that purpose.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures

cc: client (w/enclosure)