

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1048

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

LESSOR: MARION D GROOTHUIS
12926 NORWOOD ROAD
DONNELLY, ID 83615-5027

RECEIVED
DEC 16 2019
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 November 19, 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)
63-33244	9/13/1874	DRY CREEK, tributary to BOISE RIVER	0.19	Not Stated	7.9
63-33247	7/14/1959	GROUND WATER	0.10	35.5	7.9
Combined Lease Totals			0.19	35.5	7.9

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)
63-33244	0.19	35.1	7.8	0.02	4.5
63-33247	0.10	35.1	7.8	0.01	4.5
Combined Limit Totals	0.19	35.1	7.8	0.02	4.5

**The water right elements rentable have been reduced from the water right elements leased to account for combined limits with water rights 63-32710, 63-32707, 63-32708 and 63-32714.*

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

SUPPORT DATA
IN FILE # 63-33244
Page 1 of 5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1048

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2020 to December 31, 2021. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

LESSOR: MARION D GROOTHUIS
12926 NORWOOD ROAD
DONNELLY, ID 83615-5027

By [Signature]
Title Administrator
Date 12-13-19

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

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 1/7/20

Lease approved by IDWR [Signature]

Date 1/7/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1048

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): 63-33244

DRY CREEK SESENE Sec. 31 Twp 05N Rge 02E ADA County

Source and Location of Point(s) of Diversion for Water Right No(s): 63-33247

GROUND WATER SENWNE Sec. 31 Twp 05N Rge 02E ADA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-33244	IRRIGATION	03/01	to	11/15	0.19 cfs	Not Stated
63-33247	IRRIGATION	03/01	to	11/15	0.10 cfs	35.5 AF
Totals:					0.19 cfs	35.5 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	
05N	02E	31			3.9					4.0									7.9

Total Acres: 7.9

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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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. 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 diversion.
13. Water right 63-33247 when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 35.5 af for irrigation purposes.
14. Full beneficial use of all surface water available under water right 63-33244 should occur prior to any use of ground water under 63-33247 and ground water diversions under 63-33247 should be limited to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient for irrigation purposes.
15. Rights 63-33244 and 63-33247 when combined are limited to the irrigation of 7.9 acres.
16. In recognition of combined limits with water rights 63-32707, 63-32708, 63-32709, 63-32710, 63-32712, 63-32713, 63-32714 and 63-32715, the rental of water rights 63-33244 and 63-33247, when combined, is limited to the irrigation of 7.8 acres.
17. The unleased extent of water right 63-32707, 63-32708, 63-32709, 63-32710, 63-32712, 63-32713, 63-32714 and 63-32715, when combined, shall not exceed a total diversion rate of 0.73 cfs for the irrigation of 38.5 acres.
18. The unleased extent of water rights 63-31738, 63-32404, 63-32405, 63-32407, 63-32408, 63-32637, 63-32638, 63-32707, 63-32708, 63-32709, 63-32710, 63-31740, 63-32413, 63-32414, 63-32416, 63-32417, 63-32639, 63-32640, 63-32712, 63-32713, 63-32714 and 63-32715, and the leased extent of water right 63-32403 and 63-32412 (through Water Supply Bank lease contract 1063), when combined, shall not exceed a total diversion rate of 2.40 cfs for the irrigation of 122.3 acres.
19. 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. 63.

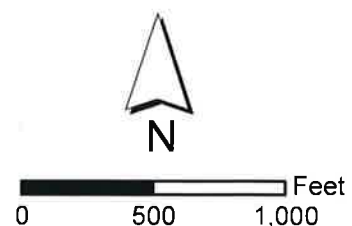
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1048

63-33244 & 63-32247
Effective until December 31, 2021

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

NOV 19 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Marion D. Groothuis
(Select one owner – see item 1A on the application)Water Right No. 63-33247
(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 \$ <u>250</u>	Received By: <u>[Signature]</u>	Date Received: <u>11/19/19</u>	Receipt # <u>C10757</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Marion D Groothuis</u>	

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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 MARION D. GROOTHUIS FOR GROOTHUIS FAMILY REVOCABLE TRUST

Mailing Address 12926 NORWOOD ROAD DONNELLY IDAHO 83615
Street City State Zip Code

Email Address growthis@aol.com Phone Number 208-325-8484

☐ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

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

WATER FLOWS INTO A HOLDING POND FROM WELL AND DRY CREEK THEN IS PUMPED VIA
PRESSURIZED IRRIGATION TO EDGE OF THE PROPERTY

- 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. ALL OFFERED TO THE BANK

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. _____

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. USED ALL WATER RIGHTS AVAILABLE BEFORE JANUARY 2016. PUT ALL IN WATER BANK
FOR ALL OF 2016, 2017, 2018 AND 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 ☒

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

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: $\frac{2020}{(\text{Year})}$ to $\frac{2021}{(\text{Year})}$ (maximum lease period 5 calendar years).

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.

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**STATE OF IDAHO
WATER RESOURCE BOARD**

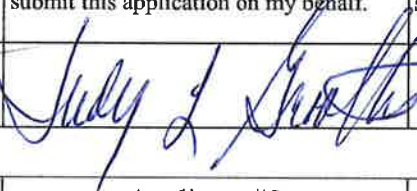
ATTACHMENT 1A

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). 37-22771, 63-33244, 63-33247

	Designated Applicant	Applicant #2	Applicant #3
Name	MARION D. GROOTHUIS FOR	JUDY L. GROOTHUIS FOR	
Mailing Address	12926 NORWOOD ROAD DONNELLY IDAHO 83615	12926 NORWOOD ROAD DONNELLY IDAHO 83615	
Phone Number	208-325-8484	208-325-8484	
Email Address	growthis@aol.com	jgrowthis@aol.com	
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**

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

<u>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County



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 8, 2020

MARION D GROOTHUIS
12926 NORWOOD RD
DONNELLY ID 83615

RE: **WATER SUPPLY BANK LEASE CONTRACT 1063 FOR WATER RIGHTS 63-32412 & 63-32403 & WATER SUPPLY BANK LEASE CONTRACT 1048 FOR WATER RIGHTS 63-33244 & 63-33247**

Dear Lessor:

Water rights **63-32403, 63-32412, 63-33244 & 63-33247** 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 contracts, 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, 2021**, 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 287-4800.

Sincerely,


for Water Supply Bank

Enclosure: Executed Lease Contract

c: Nick Miller - IDWR Western Region
Rex Barrie - Water District 63



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

December 12, 2019

MARION D GROOTHUIS
12926 NORWOOD RD
DONNELLY ID 83615-5027

RE: APPLICATION TO LEASE WATER RIGHT 63-33244 & 63-33247- CONTRACT 1048 & 63-32403 & 63-32412- CONTRACT 1063 TO THE WATER SUPPLY BANK

*****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 of each 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.

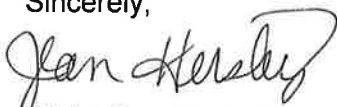
The right will automatically be released from the Bank on **December 31, 2021**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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,


Water Supply Bank

Enclosures: Proposed Lease Contracts

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, December 12, 2019 8:16 AM
To: Miller, Nick; 'Rex Barrie'
Subject: WSB Lease Contracts for Groothuis
Attachments: Draft Lease Groothuis 63-33244 & 63-33247 v2.docx; Lease Review Memo v2.docx; Lease Groothuis 63-33244 & 33247.pdf; Idled Acres.pdf; Lease Application Review 63-32403 63-32412.xls; Report - Lease Contract - 1063.docx

Please let me know within 7 days if you have any comments or concerns with the attached leases.

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

Memorandum

To: Lease Application 1487
From: Justin Ferguson
Date: December 10, 2019
Re: Water Supply Bank Lease Proposal

Purpose/Narrative: An application to lease the entire portion of water rights 63-33244 & 63-33247 was received from Mr. Groothuis on November 19, 2019. These rights have been in the Bank previously, leased through 2016 to 2017, then again in 2018 through 2019. A review of the water rights appurtenant to the place of use found that two other rights, 63-32403 & 63-32412, overlap spatially with 63-33244 and 63-33247, however the water right elements are largely additive and they are able to be separated from 63-33244 and 63-33247. Water rights 63-32403 and 63-32412 are also being leased to the Bank at this time, but through application 1505 (contract 1063).

Authority to File: The application was submitted by the current water right owner, Mr. Groothuis with attachment 1A signed by Mrs. Groothuis. The water rights are appurtenant to land owned by the Groothuis Family Revocable Trust. No concerns of authority to file at this time.

Water Right Validity/Forfeiture Evaluation: Review of the water right back file indicates that the rights were decreed in 2009, then leased to the Bank from 2016 to 2017 then again from 2018-2019. Satellite imagery indicates that irrigation has taken place in 2011 and 2015, providing a reasonable defense against forfeiture. No concerns about validity at this time.

Injury Evaluation: No direct injury is apparent however, proper rental review should protect against injury.

Enlargement of Use: No concerns of enlargement through the lease alone as the other rights stacked with these two are able to be separated. Proper rental review should protect against enlargement. Water right 63-33244 was split from parent water right 63-4849, which originally authorized diversion of 2.78 cfs for the irrigation of 139.0 acres. Over time, water right 63-4849 was split into water rights 63-33244, 63-32710, 63-32707, 63-32708, 63-32709, 63-32407, 63-32408, 63-32638, 63-32637, 63-31738, 63-32403, 63-32404, 63-32405 and 63-33243, which combined, collectively authorize a diversion of 2.78 cfs for the irrigation of 139.0 acres.

Water right 63-33243 was specifically split from water right 63-33244 (through Transfer 74412), which resulted in a combined limit for water rights 63-33244, 63-32710, 63-32707, 63-32708 and 63-32709 that included an administrative reduction of 0.1 acres; these six water rights collectively, additively authorize irrigation of 46.5 acres, however they are combined limited to 46.4 acres. To avoid enlargement, the maximum irrigation extent of water right 63-33244 (7.9 acres) will be leased into the Bank, however the rental of the water right will be limited to 7.8 acres.

Local Public Interest: Sustainable management of water throughout Idaho is in the local public interest. As such, comments will be requested from the staff of Water District 63 and IDWR's Western Region office.

Beneficial Use/Conservation of Water Resources: The use of irrigation is consistent with one of the accepted beneficial uses for water throughout the State of Idaho.

Department/Watermaster Comments: Water District 63 and IDWR Western Region comments were requested December 10, 2019.

Water Supply Bank Evaluation: Subject to favorable water district and regional office comments, it is recommended these leases be approved.

Buyer, Remington

From: Buyer, Remington
Sent: Friday, December 6, 2019 1:05 PM
To: Hersley, Jean
Cc: Ferguson, Justin
Subject: RE: Groothuis Leases

I took a look at the 2018 spreadsheet, but based on the sums in that spreadsheet, it wasn't clear to me how we arrived at slightly different numbers in 2018.

In 2018, for the 22 water rights not being leased, we calculated an unleased irrigation extent of 2.44 cfs for 122.2 acres. Yesterday, I calculated an unleased irrigation extent for these same 22 water rights of 2.40 cfs for 122.3 acres. Close, but slightly different.

The following is how I arrived at my sums:

	Rate	Volume	Acres
Combined Limit for all 26 water rights	2.720 cfs		136.3 acres
Nested combined limit for 10 of the 26 wrs (63-32707, 32708, 32709, 32710, 32712, 32713, 32714, 32715, 33244 and 33247)	0.920 cfs		46.4 acres
Lease amounts for contract 1048 (which comes from the nested combined limit)	0.190 cfs		7.9 acres
*Rentable amounts for contract 1048 (reduced by 0.1 acres per the nested combined limit if 46.4 acres within 46.5 acres)	0.190 cfs		7.8 acres
Unleased balance for nested combined limit wrs (once rentable amount of contract 1048 is subtracted out)	0.730 cfs		38.6 acres
Lease amounts for contract 1063, which comes out of the overall 26-wr combined limit	0.130 cfs		6.2 acres
Unleased balance of overall, 26-wr combined limit, once contracts 1048 and 1063 are subtracted out	2.400 cfs		122.3 acres

Further, once I calculated the above amounts, I added the base, unleased extent of 2.40 cfs and 122.3 acres to get condition text specific to a contract.

For contract 1048, the unleased extent for the 22 wrs, plus the lease extent of contract 1063 was: (2.40 cfs & 122.3 acres) + (0.13 cfs & 6.2 acres) = 2.53 cfs for 128.5 acres;

While for contract 1063, the unleased extent for 22 wrs, plus the lease extent for contract 1048 was: (2.40 cfs & 122.3 acres) + (0.19 cfs & 7.8 acres) = 2.59 cfs for 130.1 acres;

I wrote the conditions in this way so that, if one contract was terminated earlier than the other, the remaining balance wouldn't change (e.g. the unleased extent would increase by the amount per the cancelled contract, which is the same amount calculated).

I'm not sure if there is a standard procedure for how to write out the remaining balance of water use for combined limited water rights that are not part of a specific lease contract, is there?

The table below further summarizes some differences between our 2018 and 2020 leases:

Water Rights	Lease Elements	2018-2019 leases	2020-2021 leases
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63-32403 + 63-32412	Amounts leased	32403 - 0.13 cfs, 27.9 af and 6.2 ac <u>32412 – 0.07 cfs, 27.9 af and 6.2 ac</u> Combined – 0.13 cfs, 27.9 af for 6.2 ac	33244 - 0.13 cfs, Not Stated af and 6.2 ac <u>33247 – 0.07 cfs, 27.9 af and 6.2 ac</u> Combined – 0.13 cfs, 27.9 af for 6.2 ac
	Amounts rentable	32403 - 0.13 cfs, 27.9 af and 6.2 ac <u>32412 – 0.07 cfs, 27.9 af and 6.2 ac</u> Combined – 0.12 cfs, 27.9 af for 6.2 ac	33244 - 0.13 cfs, Not Stated af and 6.2 ac <u>33247 – 0.07 cfs, 27.9 af and 6.2 ac</u> Combined – 0.13 cfs, 27.9 af for 6.2 ac
	Lease Conditions	Rights 32403 and 32412 when combined shall not exceed a total diversion rate of 0.13 cfs and the irrigation of 6.2 acres Unleased rights 63-31738...et al...when combined shall not exceed a total diversion rate of 2.44 cfs and the irrigation 122.2 acres	Rights 32403 and 32412 when combined shall not exceed a total diversion rate of 0.13 cfs and the irrigation of 6.2 acres Unleased rights 63-31738...et al...when combined shall not exceed a total diversion rate of 2.59 cfs and the irrigation 130.1 acres
63-33244 + 63-33247	Amounts leased	33244 - 0.19 cfs, 35.5 af and 7.9 ac <u>33247 – 0.10 cfs, 35.5 af and 7.9 ac</u> Combined – 0.29 cfs, 35.5 af for 7.9 ac	33244 - 0.19 cfs, Not Stated af and 7.9 ac <u>33247 – 0.10 cfs, 35.5 af and 7.9 ac</u> Combined – 0.19 cfs, 35.5 af for 7.9 ac
	Amounts rentable	33244 - 0.19 cfs, 35.5 af and 7.9 ac <u>33247 – 0.10 cfs, 35.5 af and 7.9 ac</u> Combined – 0.16 cfs, 35.5 af for 7.9 ac	33244 - 0.19 cfs, 35.1 af and 7.8 ac <u>33247 – 0.10 cfs, 35.1 af and 7.8 ac</u> Combined – 0.19 cfs, 35.1 af for 7.8 ac
	Lease Conditions	Rights 33244 and 33247 when combined shall not exceed the irrigation of 7.9 acres Unleased rights 63-32707, 32708, 32709, 32710, 32712, 32713, 32714 and 32715, when combined, shall not exceed a total diversion rate of 0.76 cfs and the irrigation 38.5 acres Unleased rights 63-31738...et al...when combined shall not exceed a total diversion rate of 2.44 cfs and the irrigation 122.2 acres	Rights 63-33244 and 63-33247 when combined are limited to the irrigation of 7.9 acres. In recognition of combined limits with water rights 63-32707, 63-32708, 63-32709, 63-32710, 63-32712, 63-32713, 63-32714 and 63-32715, the rental of water rights 63-33244 and 63-33247, when combined, is limited to the irrigation of 7.8 acres The unleased extent of water right 63-32707, 63-32708, 63-32709, 63-32710, 63-32712, 63-32713, 63-32714 and 63-32715, when combined, shall not exceed a total diversion rate of 0.73 cfs for the irrigation of 38.5 acres. The unleased rights 63-31738...et al...when combined shall not exceed a total diversion rate of 2.53 cfs and the irrigation 128.5 acres

I believe we should proceed with a combined limited amount of 2.40 cfs and 122.3 acres for the 22 unleased water rights. However, I'm open to further discussing how to best write the conditions to articulate the balance of combined limits minus the amounts being leased specifically on a lease contract. Perhaps we should direct these contracts to Phil for his review and have him weigh in on the matter?

From: Hersley, Jean

Sent: Friday, December 6, 2019 9:18 AM

To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Subject: RE: Groothuis Leases

Did you look at the spreadsheet in the Groothuis folder for 2018? Clay and I worked on that for the condition below and the numbers aren't the same. Let's figure it out before we send these contracts.

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

From: Buyer, Remington
Sent: Thursday, December 05, 2019 5:22 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Subject: Groothuis Leases

Jean,

Justin and I looked over the Groothuis leases for water rights 63-33244 and 63-33247 and included this condition: *"The unleased extent of water rights 63-31738, 63-32404, 63-32405, 63-32407, 63-32408, 63-32637, 63-32638, 63-32707, 63-32708, 63-32709, 63-32710, 63-31740, 63-32413, 63-32414, 63-32416, 63-32417, 63-32639, 63-32640, 63-32712, 63-32713, 63-32714 and 63-32715, and the leased extent of water right 63-32403 and 63-32412 (through Water Supply Bank lease contract 1063), when combined, shall not exceed a total diversion rate of 2.53 cfs for the irrigation of 128.5 acres."*

For your lease review of water rights 63-32403 and 63-32412, you can include a variation of the above, such as: *"The unleased extent of water rights 63-31738, 63-32404, 63-32405, 63-32407, 63-32408, 63-32637, 63-32638, 63-32707, 63-32708, 63-32709, 63-32710, 63-31740, 63-32413, 63-32414, 63-32416, 63-32417, 63-32639, 63-32640, 63-32712, 63-32713, 63-32714 and 63-32715, and the leased extent of water rights 63-33244 and 63-33247 (through Water Supply Bank lease contract 1048), when combined, shall not exceed a total diversion rate of 2.59 cfs for the irrigation of 130.1 acres."*

Let me know if you have any questions,
Remington