

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1024

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

LESSOR: JOHN C BONNER
2009 WIDNER RD
MIDVALE, ID 83645

RECEIVED
OCT 11 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 July 23, 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)
67-2210A	1/8/1952	WASTE WATER, tributary to WEISER RIVER	0.008	Not Stated	0.60
Combined Lease Totals			0.008	Not Stated	0.60

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)
67-2210A	0.008	2.40	0.60	0.013	4.00
Combined Limit Totals	0.008	2.40	0.60	0.013	4.00

** The water right elements rentable include a defined volume limit that is based on the regional field headgate irrigation standard of 4.0 afa/acre.*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1024

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: \$41.67 / AF (\$100 annually for the lease of 0.6 acres).

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2020. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1024

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

LESSOR: JOHN C BONNER
2009 WIDNER RD
MIDVALE, ID 83645

By 
Title OWNER
Date 10-5-19

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 10/11/2019

Lease approved by IDWR 

Date 10-11-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1024

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): 67-2210A

WASTE WATER	NESE	Sec. 19	Twp 13N	Rge 03W	WASHINGTON County
WASTE WATER	SWSWSE	Sec. 19	Twp 13N	Rge 03W	WASHINGTON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
67-2210A	IRRIGATION	03/15	to	10/31	0.008 cfs	Not Stated
Totals:					0.008 cfs	Not Stated

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	03W	19												0.6					0.6

Total Acres: 0.6

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.
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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

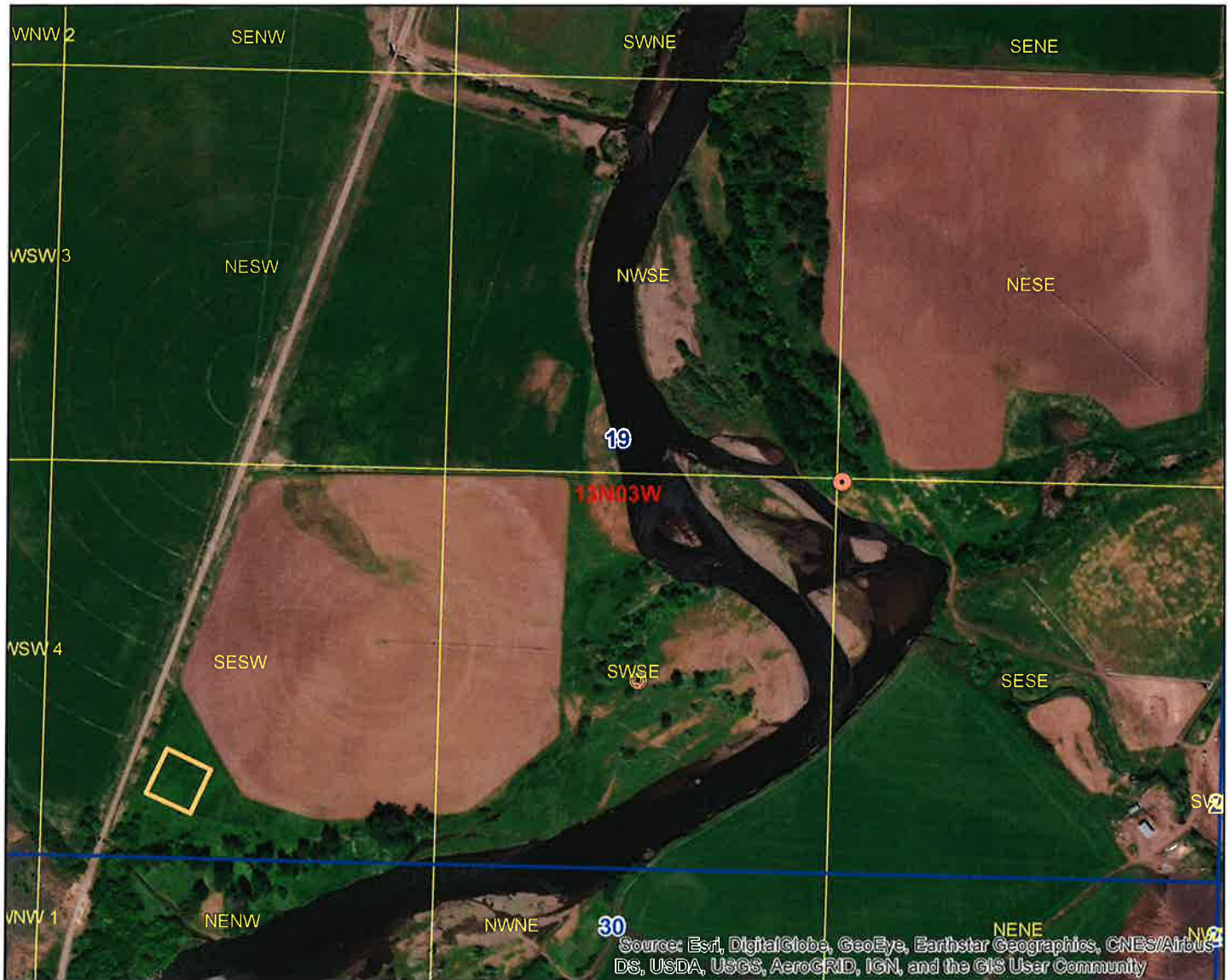
WATER SUPPLY BANK LEASE CONTRACT No. 1024

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. During the term of this lease, the unleased extent of water right 67-2210A is limited to the irrigation of 44.4 acres in a single irrigation season.
13. 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. 67.
14. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
15. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.

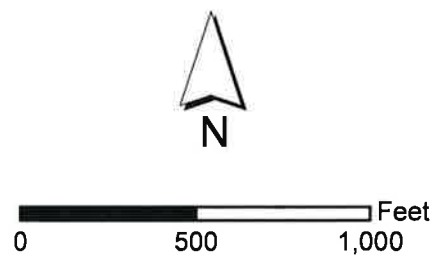
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1024

67-2210A
Effective until December 31, 2020

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



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUL 05 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant John C Bonner

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

Water Right No. 67-2210A, 67-7102, 67-7396

(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 \$ 500Received By: RDDate Received: 7/5/19Receipt # C107143W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: John C. Bonner

1451

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 John C Bonner

Mailing Address 2009 Widner Rd Midvale Idaho 83645
Street City State Zip Code

Email Address jcbon2000@yahoo.com Phone Number (208) 550-0716

☐ 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 42-198, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

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

Waste water is diverted using a pump and pivot system.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.

67-7102 & 67-7396 are stacked on the 0.6 acres that will be idled in 2019 + 2020

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

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

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

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

The PPU that will not be idled in 2019 + 2020 will be irrigated. Pursuant to Water Supply Bank Rules + a water lease agreement with The Freshwater Trust, the 0.6 acres that will be idle will not be irrigated with any water right + therefore

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right.

The designated Applicant irrigates all of the acres identified in the PPU; however, in 2019 + 2020, the Designated Applicant will not irrigate the 0.6 acres that will be idled. dried up.

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

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

\$100 annual payment.

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.

John C Bonner
Signature of Designated Applicant

John C Bonner
Printed Name

6-26-19
Date

Signature of Authorized Representative

Printed Name

Date

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

ID080130N0030W0SN190ANWSE



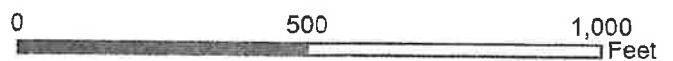
ID080130N0030W0SN190ASWSE

ID080130N0030W0SN300ANWNE

 POD

 PPU 67-2210A Continued Irrigation

 **Idled** leased acreage (0.6 acres)



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 separate 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): 67-22104, 67-7102, 67-7396

	Designated Applicant	Applicant #2	Applicant #3
Name	John C Bonner	Joy Fairchild <i>Joy Fairchild</i>	Dean Fairchild
Mailing Address	2009 Widner Rd. Midvale, ID 83645	2008 Widner Rd. Midvale, ID 83645	2124 Dymoke Ln PO Box 125 Midvale, ID 83645
Phone Number	(208) 355-0716	(208) 355-2105	(208) 355-2277
Email Address	jbon2000@yahoo.com		
Applicant Declaration	I, as Designated Applicant, 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	<i>John C Bonner</i>		<i>Dean Fairchild</i>

	Applicant #4	Applicant #5	Applicant #6
Name	Velda C Fairchild 2124 Dymoke Ln. PO Box 125 Midvale, ID 83645		
Mailing Address			
Phone Number	(208) 355-2277		
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	Deceased		



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

October 17, 2019

JOHN C BONNER
2009 WIDNER RD
MIDVALE ID 83645

RE: WATER SUPPLY BANK LEASE CONTRACT 1024 FOR WATER RIGHTS 67-2210A

Dear Lessor:

Water right **67-2210A** were leased into the Water Supply Bank (Bank) as of January 4, 2019, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2020**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **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,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Nick Miller - IDWR Western Region
Brandi Horton-Bonner – Water District 67



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

October 1, 2019

JOHN C BONNER
2009 WIDNER RD
MIDVALE ID 83645

**RE: APPLICATION TO LEASE WATER RIGHT 67-2210A TO THE WATER SUPPLY BANK
CONTRACT 1024**

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2020**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

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

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

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

Sincerely,


Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C107143

Buyer, Remington

From: Buyer, Remington
Sent: Friday, September 27, 2019 3:01 PM
To: Miller, Nick; 'Brandi Horton-Bonner'
Subject: Lease and Rental of Water Right 67-2210A
Attachments: Rental Review Memo v2.docx; Draft Rental Agreement v2.docx; Draft Lease Contract v2.docx; Lease Review Memo 67-2210A.docx; Lease Map.pdf; Rental Map - Agreement 343 v2.pdf

Nick, Brandi,

I've completed a review of the lease of a portion of water right 67-2210A, and how it might be rented by the Freshwater Trust, via rental application 1346.

Because the source of water for 67-2210A is waste water, avoiding injury and enlargement via the rental requires considerable administration, but it seems possible. Attached to this email are my review memos and draft lease and rental approvals, and maps.

Please advise if you have any questions, comments or concerns about either proposal.

Regards,

Remington
Water Supply Bank Coordinator
(208) 287-4918

MEMORANDUM

To: Water Right No(s). 67-2210A
From: Remington Buyer
Date: September 27, 2019
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: Application received July 5th, 2019, from John C. Bonner, proposing to lease into the Bank 0.6 acres of the 45.0 acre irrigation water right 67-2210A, along with the possible lease of a 0.6 acre portion of irrigation water rights water rights 67-7102 and 67-7396. The lease application has been submitted to satisfy Water Supply Bank rental application 1346 which is presently on hold, pending the lease of water rights to satisfy the rental request.

A review of water right records for 67-2210A, 67-7102 and 67-7396 suggests the rights are not combined (stacked) together. Though their irrigation places of use (POUs) overlap, the rights authorize diversions from different water sources, via different points of diversion (PODs), they belong to different individuals, and they are not all united through combined limit conditions. Per a September 10th, 2019 telephone conversation with Mr. Bonner, he affirmed he alone irrigates his property where the places of use for water rights 67-2210A, 7102 and 7396 overlap. Mr. Bonner also affirmed water under 67-7102 and 7396 is are used on his property. As such, water rights 67-7102 and 7396 are not being further considered as part of this lease proposal.

Water right 67-2210A is a waste water right, the source of which appears to be either shallow ground water, or Banner Creek water, or Middle Valley Ditch Company (Weiser River) water, which ultimately collects on (and then is drained from) lands owned by John Bonner on the eastern side of the Weiser River. Water is drained from fields into the Weiser River and then is re-diverted onto the 45.0 acres of land owned by the applicant on the western side of the river.

AUTHORITY TO FILE: Application submitted by John C. Bonner, the right holder of 67-2210A, and the owner of the lands on both side of the Weiser River where water is diverted and delivered under 67-2210A. No concerns about applicant's authority to file this lease application.

WATER RIGHT VALIDITY: Water right 67-2210A allows for irrigation of 45.0 acres of what appears to be approximately 52.0 acres of irrigable land owned by Mr. Bonner, on the western side of the Weiser River. In the image to the right, the 45.0 acre POU for 67-2210A is the area within the yellow polygon, while the 52.0 acres of land owned by the applicant is the area delineated by the green polygon. The small red squares represent the PODs, where water is drained into and then re-diverted from the Weiser River under 67-2210A. The POU for water right 67-7102 is the area delineated in pink, while the irrigable POU for 67-7396 is the orange, hatched polygonal area. The black-bordered, red square is the 0.6 acres proposed for lease under 67-2210A, where all three water right places of use overlap.



Sentinel satellite imagery from 2018 indicates vegetation across all of the 52.0 acres of land, at different times throughout the irrigation season, consistent with possible irrigation practices. No concerns about water right validity.

INJURY TO OTHER WATER RIGHTS: No injury is apparent through this lease alone.

ENLARGEMENT OF USE: The 0.6 acres proposed for lease are irrigable under 67-2210A, as well as under water rights 67-7102 and 67-7396, AND per Lost Valley Reservoir Company water rights 67-14566, 14567 and 14568, and Crane Creek Reservoir Administration Board water rights 67-14703, 14704 and 14705.

On the lease application, the applicant stated that water rights *"67-7102 and 7396 are stacked on the 0.6 acres that will be idled in 2019 and 2020"*. However, although the application states the rights are stacked together, as outlined on the previous page, Mr. Bonner has affirmed he does not and will not use water under 67-7102 and 7396 to irrigate the lands being idled under 67-2210A, and enlargement of 67-2210A, 7120 or 7396 is therefore not foreseen through the lease of 0.6 acres under 67-2210A alone. Additionally, the Crane Creek Reservoir water rights appurtenant to these acres authorize an exchange of water, which should not be impacted by this lease. The applicant has stated that no other water will be used to irrigate the lands proposed for lease, and no enlargement is foreseen particular to the Lost Valley Reservoir water rights.

Additionally, because waste water is the source for the leased rights, avoiding enlargement in water use may require measurement of water to and from the Weiser River, to ensure more water flows into the river than is diverted from the River. The applicant by phone on September 10th affirmed he was prepared to use a trapezoidal (or cippoletti) weir to measure flows into the Weiser River, for the duration of the lease. No concerns about enlargement in use through lease alone; proper rental review should further guard against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Watermaster and regional comments will be requested.

From: Buyer, Remington

Sent: Friday, August 9, 2019 1:43 PM

To: 'Rob@thefreshwatertrust.org' <Rob@thefreshwatertrust.org>

Subject: RE: Application to Lease Water to the Water Supply Bank

Rob,

I've had a chance to visit with our water rights section about the proposal to lease in water right 67-2210A so that it might be rented back to the FWT for use at the project location just outside Cambridge, ID.

The Department can approve a lease of a portion of water right 67-2210A to the Bank, however rental of the right back to the FWT is slightly complicated, due to the location of 67-2210A, and the fact that the source of water is waste water. Effectively, the Department is required to either reject rentals, or to approve them with conditions, whenever there is evidence that a rental would:

- 1) cause injury to existing water rights;
- 2) use water in a way that is not possible based on the supply of water available; or
- 3) cause an enlargement in the water right being rented.

Regarding injury, it may be possible for the Department to condition a rental of 67-2210A to the FWT with language acknowledging that the rental is subordinate to all prior appropriators with decreed water rights and approved permits, located between the rental location and the authorized location of 67-2210A. That is to say, any water rights in priority should receive their full supply of water prior to the FWT diverting water from the Weiser River under 67-2210A. This will require that the watermaster exercise oversight over all approved Weiser River points of diversion between the rental and lease location. Provided the watermaster is able and prepared to do this, we may be able to address the injury concern.

Regarding the sufficiency of the supply of water, the fact that 67-2210A is a waste water right complicates our analysis. It appears that the source of water for 67-2210A is water that is drained off fields belonging to Mr. Bonner, after water reaches Mr. Bonner's fields through natural infiltration and through the application of Middle Valley Ditch Company irrigation water to fields above Mr. Bonner's property. To ensure that water leased into the Bank under 67-2210A is sufficient to provide an adequate supply for the FWT rental, it will be necessary to ensure that the amount of water being drained off Mr. Bonner's fields into the Weiser River can be measured, and that the amount of water being diverted from the Weiser River, to the location of 67-2210A, can also be measured. The 0.6 acre lease of 67-2210A corresponds to a diversion rate of 0.008 cfs (0.01 cfs). Provided it can be measured that Mr. Bonner is diverting 0.57 cfs or less onto his fields, and that 0.58 cfs, or more, of water is being drained off his fields into the Weiser River, then the Department can recognize that the 0.01 cfs difference going into the Weiser River is sufficiently equivalent to the 0.01 cfs of water that would be rented and used by the FWT.

Enlargement is less of a concern for the Department, as it appears that water right 67-2210A is a valid irrigation water right, and no enlargement should occur through the rental of a portion of Mr. Bonner's irrigation water right for irrigation purposes by the FWT.

In light of the above, our office could move forward with a rental of a portion of 67-2210A to the FWT, provided that the FWT is amenable to a rental of 67-2210A which is subordinate to all prior approved diversions between the rental location and the location of 67-2210A, AND, provided the Watermaster is ready and able to administer all Weiser River water rights diverted in priority between the lease and rental locations, AND, provided the FWT and/or Mr. Bonner can measure and ensure that the difference between the drainage of waste water into the Weiser River exceeds the diversion of Weiser River water onto Mr. Bonner's property, by at least 0.01 cfs.

I hope the above is sufficiently clear, please feel free to follow up with me if you want to discuss this further. I have completed my review of the lease application for 67-2210A and can send it out for signature by Mr. Bonner, provided that the above rental conditions will work for him and the FWT. Please advise on how you would like to proceed.

Regards,

Remington
(208) 287-4918

From: Buyer, Remington
Sent: Monday, July 29, 2019 1:36 PM
To: 'Rob Kirschner' <Rob@thefreshwatertrust.org>
Subject: RE: Application to Lease Water to the Water Supply Bank

Hi Rob,

I've completed an analysis of the lease of 67-2210A and submitted it to our Water Rights Section for their review. Though water right 67-2210A might be leased in separate from 67-7102 and 67-7396, it may be necessary to identify different, non-overlapping acres as part of the lease process. However, we may be able to move forward with the presently proposed lease place of use.

Discussion about the proposed lease place of use is one item I expect to discuss with our water rights group. Once I hear back from them, I'll be able to follow up with you and explain how IDWR will proceed with the lease.

Thanks,
Remington

From: Rob Kirschner [<mailto:Rob@thefreshwatertrust.org>]
Sent: Friday, July 26, 2019 4:39 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: RE: Application to Lease Water to the Water Supply Bank

Hi Remington,

I just wanted to follow up on this. Do you need TFT to fill out and submit an application just for 67-2210A or is my email below sufficient to amend our current application? Please let me know. Thanks.

Rob

From: Rob Kirschner [mailto:Rob@thefreshwatertrust.org]
Sent: Monday, July 22, 2019 6:55 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Hilary Cosentino <Hilary@thefreshwatertrust.org>; Kimberlee Myers <Kimberlee@thefreshwatertrust.org>
Subject: RE: Application to Lease Water to the Water Supply Bank

Thanks, Remington. I appreciate you taking the time to walk us through all of this. Since we can get by on the 0.01 cfs rate from 67-2210A alone, and to make the application simpler to process, TFT would like to remove 67-7102 and 67-7396 from the application. Can we amend the application via email correspondence or do we need to submit a revised application? Please let me know what IDWR prefers.

We'll be paying Mr. Bonner directly.

Please let me know if you have any questions. Thanks!

Rob

From: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Sent: Monday, July 22, 2019 1:10 PM
To: Rob Kirschner <Rob@thefreshwatertrust.org>; Hilary Cosentino <Hilary@thefreshwatertrust.org>
Cc: Kimberlee Myers <Kimberlee@thefreshwatertrust.org>
Subject: RE: Application to Lease Water to the Water Supply Bank

Rob,

Thank you for sending me a copy of the UPS receipt with tracking number. I've followed up with the individual who signed for the submission and have tracked down the physical paperwork. Also, good to know that the diversion rate of 0.01 cfs for irrigation of 0.6 acres will suffice for your rental needs in case the other rights are curtailed through priority administration.

The Department does cap lease filing fees at \$500 when water rights are stacked together, which is found to occur when water rights cannot be used independently and/or when rights appear inseparable from each other. However it is not apparent that water rights 67-7102 and 67-7396 are necessarily administratively stacked with 67-2210A for the following reasons:

- Water rights 67-7102 and 67-7396 share combined limits with rights 67-2210B, 67-2319, 67-2333 and 67-14746, but not specifically with water right 67-2210A;
- Water rights 67-7102 and 67-7396 authorize diversion and use of water for irrigation from different points of diversion than 67-2210A;
- The state adjudication claims for water rights 67-7102 and 67-7396 did not affirm that water right 67-2210A was used for irrigation of the same lands;
- The state adjudication claims for water rights 67-2210A did not affirm that water rights 67-7102 and 67-7396 were used for irrigation of the same lands;
- It is possible to irrigate or cease irrigating some parts of the 40 acre SESW and SWSE quarter-quarters of Township 13N, Range 03W, Section 19 in Idaho, without necessarily causing enlargement or injury to either water right 67-2210A or 67-7102 and 67-7396;
- It is possible to lease in portions of either 67-7102 and 67-7396, or portions of 67-2210A, independent of each other, where the rights do not currently appear to overlap;

- Water rights 67-7102 and 67-7396 are held by Dean Fairchild while water right 67-2210A belongs to John Bonner and Joy Faerber.

Because of the above, the Department would typically process two lease applications and generate two lease contracts for the lease of portions of water rights 67-2210A and rights 67-7102 and 67-7396, in spite of the fact that the acres to be leased correspond to acres that appear to be overlapping under all three water rights. We would also restrict the amounts rentable under both water right contracts to account for the areas where the rights overlap, unless the lessors provided us with information to confirm how water has been historically diverted and used under the three water rights.

As such, Dean Fairchild and Mr. Bonner and Ms. Faerber can lease these water rights separately into the Bank, without the Department finding that the water rights have been stacked together, provided we receive \$250 for the lease of 67-2210A, and \$500 for the lease of 67-7102 and 67-7396. This would necessitate an additional payment of \$250.

Alternatively, if the applicants desire to affirm that water is comingled from the different points of diversion under 67-7102, 67-7396 and 67-2210A, for the irrigation of a common, partially overlapping place of use, the Department can acknowledge that the rights are effectively stacked together, and we can limit the lease filing fee to \$500 for the lease of all three water rights. We would need to have the applicants confirm that the water rights are used collectively in a common manner.

Please respond back to this email to affirm if the applicants desire to lease these water rights into the Bank as a stacked set of water rights, or independently as unstacked water rights.

Also, we received a single lease application for all three water rights, which was signed by John Bonner. The Department requires a single lease application for each water right; we expected to receive two lease applications for 67-7102 and 67-7396, signed by Dean Fairchild. Mr. Fairchild did sign the Attachment 1A Designated Lessor form, so we can proceed to consider a lease of water rights 67-7396 and 67-7102 by Mr. Bonner on Mr. Fairchild's behalf, or we can prepare separate contracts, to be signed by Mr. Fairchild.

Please respond back to this email to affirm whether Mr. Bonner will be the designated lessor for all three water rights, or whether separate lease contracts should be drafted for signature by Mr. Fairchild.

Finally, contingent upon how the applicants desire for their water rights to be leased into the Bank, it may be relevant to split any rental payment amongst them, or, rental payment can be issued directly to Mr. Bonner as the designated applicant. Mr. Bonner's application stated that he was requesting an annual payment of \$100 for the rental of his water rights (and possible for the associated rental of water rights 67-7102 and 67-7396).

Please confirm if this \$100 annual payment is being issued directly by the Freshwater Trust to Mr. Bonner, or the Department of Water Resources should request this payment from the Freshwater Trust, in order to later pay it to Mr. Bonner?

Thanks for your assistance in answering the above questions.

Remington

From: Rob Kirschner [<mailto:Rob@thefreshwatertrust.org>]
Sent: Friday, July 19, 2019 6:11 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Hilary Cosentino <Hilary@thefreshwatertrust.org>
Cc: Kimberlee Myers <Kimberlee@thefreshwatertrust.org>
Subject: RE: Application to Lease Water to the Water Supply Bank

Hi Remington,

I'm writing to follow up on my voicemail from yesterday. We did some math on our end and determined we should be able to rely on 67-2210A alone if 67-7102 and 67-7396 are regulated off later this summer. In other words, we can get by diverting at a 0.01 cfs rate under 67-2210A if we need to. We'd like to keep the two junior rights in the application anyways, as we've already contracted with the landowners for the right to use those water rights.

We're not sure what happened with the paper application. We received notice that the check - which we included with the application - was deposited (see attachment). We can certainly issue a check for the additional \$250, but it looks like the rental bank rules require us to roll all three rights together in the same application at the cost of \$500. Is the rule that you do not need to include other water rights that overlap the place of use of the rented right if the other rights can be used independently?

Do you have a few minutes to touch base on these items on Monday? Thanks for your help.

Rob

From: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Sent: Thursday, July 18, 2019 12:40 PM
To: Hilary Cosentino <Hilary@thefreshwatertrust.org>
Cc: Rob Kirschner <Rob@thefreshwatertrust.org>; Kimberlee Myers <Kimberlee@thefreshwatertrust.org>
Subject: RE: Application to Lease Water to the Water Supply Bank

Hilary,

As of today, I don't have a record of IDWR receiving paper applications or payment for the lease of portions of water rights 67-2210A, 67-7102 and 67-7396. I have reviewed the application included in your email completed a preliminary review of the lease proposal. If 0.6 acres of the three Weiser River irrigation water rights are placed into the Bank, the following are anticipated to be the leased (and potentially rentable) amounts for the FWT project:

WRs	Rate	Vol	Acre Limit
67-2210A	0.01	2.1	0.6
67-7102	0.01	2.4	0.6
67-7396	0.01	1.354	0.6
	0.03	5.854	0.6
Rental:	0.03	2.1	0.6

It is sensible to lease in the portions of water rights 67-7102 and 67-7396 that overlap with the proposed lease of 67-2210A, as this will protect from forfeiture 0.6 acres under all three water rights. However, if water rights 67-7102 and 67-7396 are not in priority on the Weiser River during the summer, it may be necessary to lease in additional amounts of these water rights, to ensure that the diversion rate required at the rental location is available at all times throughout the irrigation season under 67-2210A, by itself.

Presuming that the FWT requires a diversion rate of 0.02 cfs for the irrigation of 0.6 acres, and presuming that 67-7102 and 67-7396 are not in priority throughout the year, it may be necessary to lease in as many as 0.9 acres of all three water rights, to ensure that the diversion rate proportionate to 0.9 acres under 67-2210A by itself (0.01 cfs), remains available for rental by the FWT to authorize irrigation of 0.6 acres of the Jaeger property, at 0.02 cfs/ac.

I would recommend checking with the Watermaster about the priority dates of the Weiser River, to determine whether a larger lease of 67-2210A is or is not required to satisfy the rental purposes of the FWT. Once you know how much of these three water rights are to be leased, please have the lease paperwork and payment submitted to our office as soon as possible. Also, because water rights 67-7102 and 67-7396 can be used independently of water right 67-2210A, they would be on their own lease contract, separate from the lease contract for 67-7396. The lease filing fee would be \$250 for 67-2210A, and \$500 for water rights 37-7102 and 67-7396.

I hope the above makes sense. Please feel free to contact me if you need any further clarification. I look forward to processing the paperwork as soon as I receive the applications and payment.

Regards,

Remington

From: Hilary Cosentino [<mailto:Hilary@thefreshwatertrust.org>]
Sent: Tuesday, July 2, 2019 6:16 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Rob Kirschner <Rob@thefreshwatertrust.org>; Kimberlee Myers <Kimberlee@thefreshwatertrust.org>
Subject: Application to Lease Water to the Water Supply Bank

Hi Remington,

I hope you are doing well. Attached is a digital copy of John Bonner's application to lease 0.6 acres of his 67-2210A water right to the Supply Bank for the purposes of irrigating The Freshwater Trust's 0.6 acre riparian project along the Weiser River near Cambridge, ID. The attached package includes images of the application and check that have been mailed to you. Per our discussions with you and the local water master, we believe everything in this package is already within the Department's understanding and should yield an easy turnaround. My hope is that the digital delivery will help expedite the Department's review of the application prior to receiving the package by mail. Please contact me or Rob with any questions or concerns.

Have a fantastic holiday and thank you for all your help!

Kindly,
Hilary

Riparian Project Manager
The Freshwater Trust
hilary@thefreshwatertrust.org
Office: (208) 321 - 8116
Cell: (541) 490-4563