

RECEIVED

SEP 30 2019

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1041

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

LESSOR: JOHN E SWEET
PO BOX 667
KETCHUM, ID
83340

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 18, 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)
73-12038	5/10/1911	BIG CREEK, tributary to PAHSIMEROI RIVER	2.50	264.3	75.5
Lease Totals			2.50	264.3	75.5

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2023. 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. 1041

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. 1041

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

LESSOR: JOHN E SWEET
PO BOX 667
KETCHUM, ID 83340

By 
Title prop
Date 9/27/19

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 10/1/2019

Lease approved by IDWR 

Date 10-1-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1041

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): 73-12038

BIG CREEK SESENE Sec. 21 Twp 13N Rge 24E CUSTER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
73-12038	IRRIGATION	04/01	to	10/31	2.50 cfs	264.3 AF
Totals:					2.50 cfs	264.3 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	
13N	24E	20	16.0			40.0													56.0
13N	24E	21						8.5	11.0										19.5

Total Acres: 75.5

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

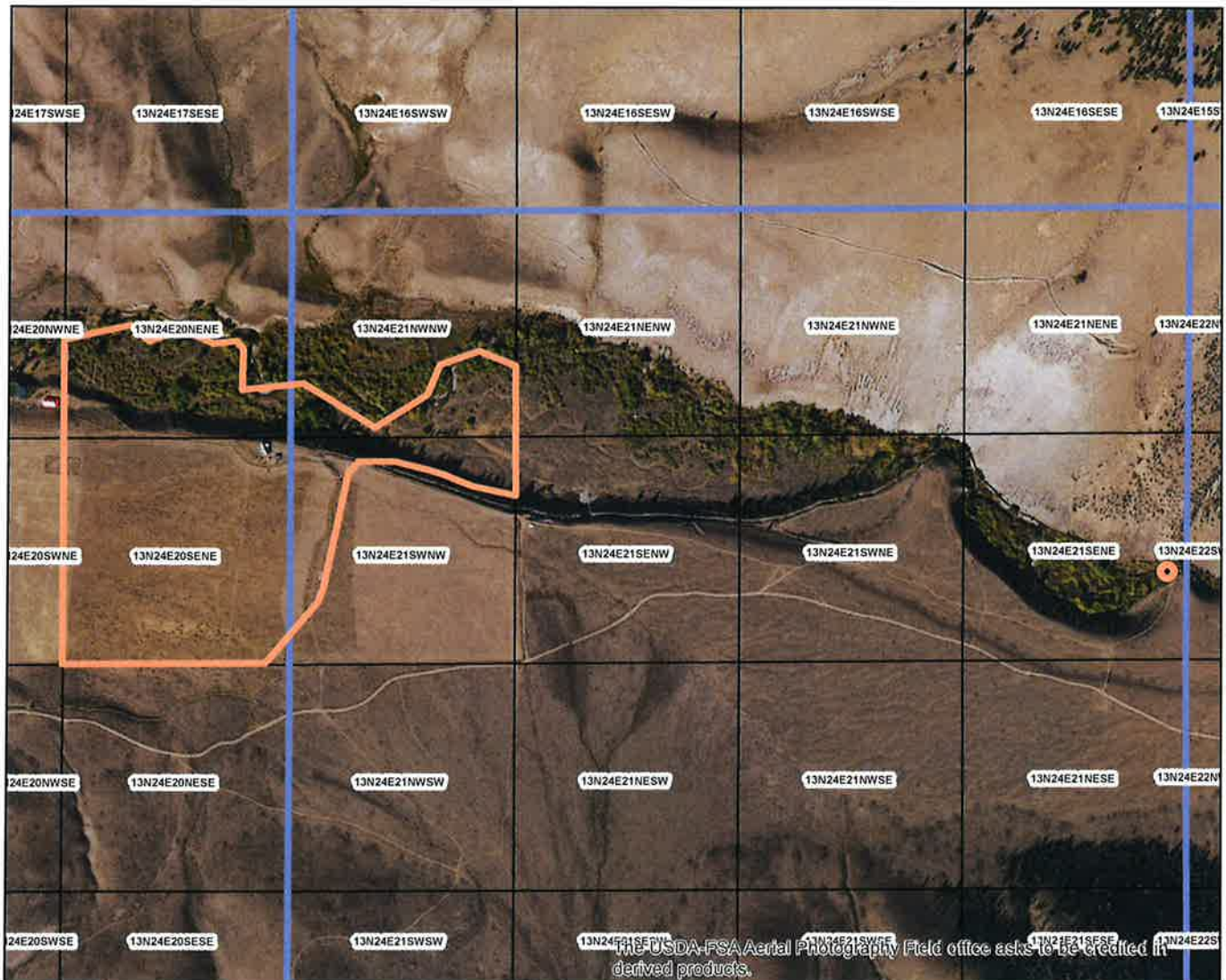
WATER SUPPLY BANK LEASE CONTRACT No. 1041

9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Use of water under this right 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. 73.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1041

73-12038
Effective until December 31, 2023

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



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 24 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant JOHN SWECK

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

Water Right No. 73-12038

(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>AV</u>	Date Received: <u>7-18-19</u>	Receipt # <u>C107234</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>John E. Sweck</u>	

4139

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 SWEET

Mailing Address PO BOX 667 KETCHUM, ID 83340

Street City State Zip Code

Email Address john@jesweek.com

Phone Number 208-720-0618

☒ 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.

DIVERSION FROM THE CREEK INTO A CANAL WITH A WEIR 400 YARDS FROM THE DIVERSION

- 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.

- 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. VOLUME COMENSURATE TO WATER RIGHT

- 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 2024 (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" - \$20 per acre foot of water

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.



Signature of Designated Applicant

JOHN SWEET

Printed Name

6/10/2019

Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

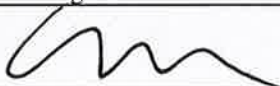
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 73 -12038

	Designated Applicant	Applicant #2	Applicant #3
Name	John Sweek	Joan Reynolds	
Mailing Address	PO Box 467 Ketchum ID 83340	PO Box 467 Ketchum ID 83340	
Phone Number	208-720-0618	208-726-1787	
Email Address	john@acoatrys.com	amy@acoatrys.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

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>73-12038</u>	<u>IRRIGATION</u>	<u>3.20</u>	<u>96.5</u>	<u>96.5</u>
Total Amounts:				

2. Source of water BIG CREEK tributary to THE PAHSIMEROI

3. Point(s) of diversion:

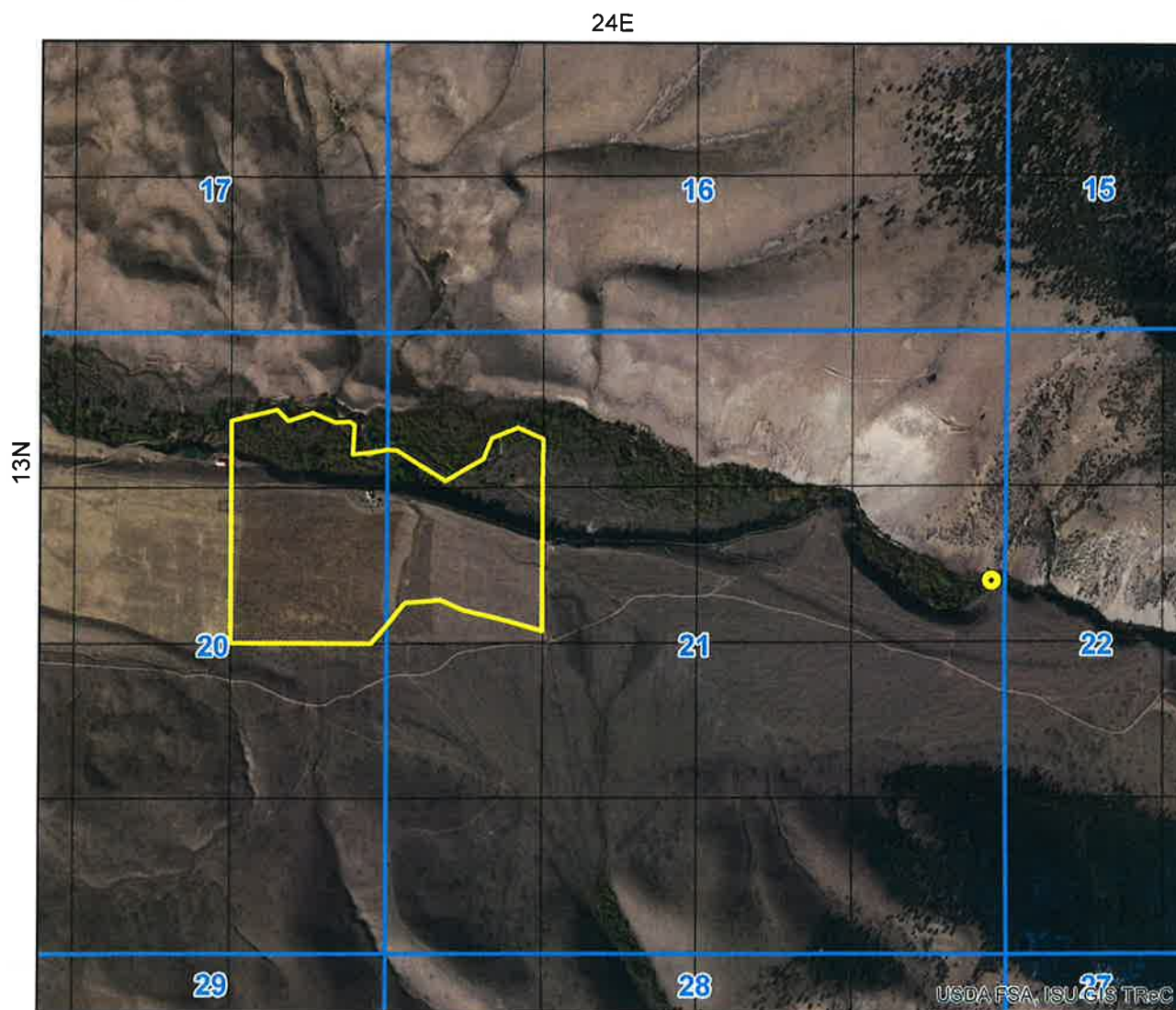
TwP	Rge	Sec	Lot	¼	¼	¼	County
T13N	R24E	S21	CUSTER	SE	SE	NE	CUSTER

State of Idaho
Department of Water Resources

Water Right
73-12038

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.175 0.35 0.7 Miles





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 2, 2019

JOHN E SWEET
PO BOX 667
KETCHUM ID 83340

**RE: WATER SUPPLY BANK LEASE CONTRACT 1041
FOR WATER RIGHT 73-12038**

Dear Lessor:

Water right **73-12038** was leased into the Water Supply Bank (Bank) as of July 18, 2019, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is 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 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. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is 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: James Cefalo - IDWR Eastern Region
Ted O'Neal - Water District 73
Cindy Yenter - Water District 170
Dan Steenson - Sawtooth Law Offices

WATER SUPPLY BANK

Quick Tools

Lease Review Checklist

Decreed

Year

No Forfeiture Concerns Thru:

Applicant(s) Name: John Sweek

Memo Date: September 23, 2019

Water Right Number(s): 73-12038

Reviewers Name: Jean

2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box		COMMENTS/CONCERNS:
1	☒		
Fill out WSB Data Entry Checklist for Leases (Front of File)			
2	☒		
Reason for lease of water rights (Brief description of lease proposal in narrative)			
	☒		
Portion of right			
	☒		
All of right			
3	☒		
Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
	☒	Yes	No
4	☒		
Rentable? (If no explain in comments or narrative)			
5	☒		
Authority to file			
	☒		
Current owner or designated applicant			
		na	
SOS Web site checked for business entity			
Other (explain in comments)			
6			
Water Right validity			
			2009
Decreed/Licensed/Statutory claim date (write in comments section)			
Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
		☒	
Has this right previously been leased to the bank or in CREP?			
7			
Injury to other water rights			
		na	
If the POD is through a delivery entity, was consent provided?			
			%
If the POD is through a delivery entity, was holdback required? (percentage in comments)			
Any other concerns			
8			
Enlargement concerns			
	☒		
Complete a POU comparison overlap analysis			
	☒		
Complete a combined limits review			
	☒		
Complete POD overlap analysis (if there is an overlap add condition to lease)			
	☒	Yes	No
Are there overlapping rights that need to be placed in the bank also?			
		☒	
Will the place of use continue to receive water? (if yes explain in comments)			
		☒	
9			
Local Public Interest			
		☒	
Does the processor know of any problems this action will cause for the local public?			
10	☒		
Have you contacted regional office and watermaster for comment/concerns?			
	☒		
Send the watermaster comment request form or e-mail request			
11			3.5
Area Headgate requirement (write in Comments)			
12		☒	
Is water right involved in any other department action? Pull file and check database			
() Ownership Change () Transfer () Mitigation () Other - Explain in comments			

Narrative: The Department received this application on June 24, 2019. The applicant wanted to place the entire right in the Bank for 5 years. After reviewing aerial imagery and the maximum vegetation imagery, it was determined that only 75.5 acres of 96.5 acres could go in the Bank. The Department could not find any irrigation of 21.0 acres in the last 5 years. There are no other rights that overlap this right. This right was decreed in 2009. This right is currently within WD 73.

13

Hersley, Jean

From: Hersley, Jean
Sent: Monday, September 23, 2019 11:09 AM
To: Yenter, Cindy; Ted O'Neal (tedoneal1954@gmail.com)
Subject: WSB Lease Application for 73-12038
Attachments: Idled Acres.pdf; Lease Application Review.xls; Report - Lease Contract - 1041.docx

Attached is the contract, review memo and map for WSB lease for 73-12038. Please let me know within 7 days if you have any comments or concerns. Thank you.

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 23, 2019

JOHN SWEET
PO BOX 667
KETCHUM ID 83340

**RE: APPLICATION TO LEASE WATER RIGHT 73-12038 TO THE WATER SUPPLY BANK
CONTRACT 1041**

******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, 2023**, 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,

for 
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C107234

c: Dan Steenson- Sawtooth Law Offices

Hersley, Jean

From: John Sweek <john@acoatings.com>
Sent: Friday, September 20, 2019 1:02 PM
To: Buyer, Remington
Cc: Dan Steenson; James Speck; Hersley, Jean
Subject: Re: Sweek lease application

Remington,
Please proceed based on the request from Dan Steenson. He is representing me on this going forward.
Thanks
John Sweek

On Sep 20, 2019, at 11:45 AM, Buyer, Remington <Remington.Buyer@idwr.idaho.gov> wrote:

Dan,

Thank you for your email.

Mr. Sweek,

Please know that our office has also received an email from Mr. Jim Speck, dated August 27th, 2019, in which Jim committed to representing you in this matter. By way of a reply to this email, can you please confirm that you would like our office to proceed in considering a lease for your water right based on the information provided below by Mr. Steenson, and, whether Mr. Steenson, Mr. Speck, or both, are representing you in this matter?

Thank you for your reply,

Remington Buyer
(208) 287-4918

From: Dan Steenson [<mailto:dan@sawtoothlaw.com>]
Sent: Wednesday, September 18, 2019 3:01 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: 'John Sweek (john@acoatings.com)' <john@acoatings.com>
Subject: Sweek lease application

Remington,

Pursuant to your request for written confirmation from me, per our discussion today regarding the application my client, John Sweek, filed to lease water right no. 73-12038 to the Water Supply Bank, please proceed to process the application to accept the 70+/- irrigated acres you see as having been irrigated within the past 5 years, and take no action regarding the remaining acres.

Thanks.

Dan

Daniel V. Steenson
Attorney at Law

SAWTOOTH LAW OFFICES, PLLC
1101 W. River St., Ste. 110
P.O. Box 7985
Boise, ID 83707
Direct: (208) 629-7435
Office: (208) 629-7447
Fax: (208) 629-7559
dan@sawtoothlaw.com

<image001.png>

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 29, 2019 7:23 AM
To: 'James Speck'
Cc: John Sweek
Subject: RE: John Sweek - Application to Lease 73-12038 to the Water Supply Bank

Yes, I can give you until October 7, 2019. Thanks for letting me know.

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

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, August 27, 2019 4:30 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: John Sweek <john@acoatings.com>
Subject: John Sweek - Application to Lease 73-12038 to the Water Supply Bank

Jean,

John Sweek has asked me to assist him in providing the information relating to this matter which you have requested in your August 6, 2019 letter to him. As you know, this right was decreed in the SRBA in 2009 for the irrigation of the entire 96.5A place of use. I am trying to reach the prior owner, David Laatz, to find out why he was not able to irrigate the 34.5A you find has not been irrigated for the last 5 consecutive years. Since I will be out of the office from September 4 until September 26, can you extend the deadline for the requested information an additional 30 days making it October 7, 2019? I look forward to your reply.

Thank you.

Jim

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

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 6, 2019

JOHN SWEET
PO BOX 667
KETCHUM ID 83340

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO(S) 73-12038 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) is in the process of reviewing your application to place water right 73-12038 in the Water Supply Bank (Bank). During the review process, the Department looks to see if any portion of the water right has undergone a period of five or more consecutive years of non-use. Aerial photography suggest that the entire 96.5 acres of this right has not been put to beneficial use in the last 5 years.

At this time, the Department can place 62.0 acres of this right in the Bank unless you have additional documentation that an exception or defense to forfeiture applies as described under Idaho Code § 42-223. I have enclosed aerial imagery of the place of use for 2016, 2017 & 2018. I didn't see any irrigation taking place in 2014 or 2015.

Please provide the information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

for Water Supply Bank

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 25, 2019

JOHN SWEET
PO BOX 667
KETCHUM ID 83340

RE: LEASE APPLICATION FEE REQUEST TO LEASE WATER RIGHT NO(S). 73-12038 TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Department of Water Resources (Department) received your application(s) to lease water right(s) 73-12038 to the Bank on June 24, 2019. The check that accompanied the Lease application was not signed. **Please sign check # 1646 and return to the Department within 14 days.** Without the lease fee your application(s) is considered incomplete and will not be processed.

Enclosed you will also find Attachment 1A of the lease application. Joan Reynolds is listed as a current owner of water right 73-12038 so she must sign the form. Please fill out applicant # 2 and have her sign and return this form with the signed check.

Once the application fee and attachment 1A are received, your application(s) will be reviewed. If the right(s) is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted if additional information is required.

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. This and other water right forms are available from the Department's web site, <http://www.idwr.idaho.gov>.

Please contact me if you have any questions at (208) 287-4910.

Sincerely,

for Clay Webster
Water Rights Supervisor