

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1019

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

LESSOR: PT ELLIOTT LLC
392 N 4500 E
RIGBY, ID 83442-5596

RECEIVED
AUG 23 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 June 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)
1-7017	3/14/1978	SNAKE RIVER, tributary to COLUMBIA RIVER	1.33	Not Stated	78.7
35-7720	4/22/1979	GROUND WATER	1.57	Not Stated	78.7
Combined Limit Totals			2.90	315.0	78.7
Combined Lease Totals			2.90	315.0	78.7

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, 2019. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

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DEPARTMENT OF WATER RESOURCES

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

LESSOR: PT ELLIOTT LLC
392 N 4500 E
RIGBY, ID 83442-5596

By CARL ZITLAV
Title MANAGER
Date 8-23-19



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 8/28/2019

Lease approved by IDWR 

Date 8-28-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1019

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): 1-7017

SNAKE RIVER L13 NWNWSE Sec. 3 Twp 04N Rge 37E JEFFERSON County

Source and Location of Point(s) of Diversion for Water Right No(s): 35-7720

GROUND WATER NWSE Sec. 4 Twp 04N Rge 37E JEFFERSON County
GROUND WATER L5 (SWSW) Sec. 3 Twp 04N Rge 37E JEFFERSON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
1-7017	IRRIGATION	4/01	to	10/31	1.33 cfs	314.8 AF
35-7720	IRRIGATION	04/01	to	10/31	1.57 cfs	314.8 AF
Totals:					2.90 cfs	315.0 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION 1-7017

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	37E	3			5.7 L7 4.6 L12						18.3 L6 9.0 L14	38.0	2.3 L5 0.5 L14	0.3 L14					78.7

Total Acres: 78.7

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION 35-7720

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	37E	3			11.7 L7						25.0 L6	40.0	2.0 L5						78.7

Total Acres: 78.7

Combined Total Acres: 78.7

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1019

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.
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 must obtain adequate supplemental water for the irrigation season that natural flow is not available.
13. A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
14. Right Nos. 1-7017 and 35-7720 are limited to the irrigation of a combined total of 78.7 acres in a single irrigation season.
15. Use of water right 35-7720 with all other rights is limited to a total combined annual diversion volume of 315 AF at the field headgate for the lands described above.
16. Use of water under water right 1-7017 is subject to control by the watermaster of State Water District No. 1, Snake River.
17. Use of water under water right 35-7720 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. 120.
18. Water right 1-7017 is delivered through Tomchak B #1 pump.

1-7017 & 35-7720
Effective until December 31, 2019

[illegible]

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STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 18 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Carl Zitlau manager PT Elliott LLC
(Select one owner – see item 1A on the application)Water Right No. 1-7017
(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>6-17-19</u>	Receipt # <u>C107019</u>
W-9 received? Yes ☐ No ☒	(Route W-9 to Fiscal)	Name on W-9:	

K436

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 PT Elliott LLC

Mailing Address <u>391 N 4500 E</u>	City <u>Rigby</u>	ID <u>83442</u>	Zip Code <u>83442</u>
	Street	City	State

Email Address <u>carl.zitlau@gmail.com</u>	Phone Number <u>208-538-7140</u>
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☒ 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.

Ground water - pond

- 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. 35-7720

- 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. 1.57 cfs

- 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 ☐

change in point of diversion

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: _____ to _____ (maximum lease period 5 calendar years).
(Year) (Year)

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

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

The Designated Applicant acknowledges the following:

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



Signature of Designated Applicant

Carl Zitlau

Printed Name

6-14-2019

Date

Signature of Authorized Representative

Printed Name

Date

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

I am the manager of PT Elliott LLC and hereby affirm that I witnessed the Land under water rights 35-7720 and 1-7017 being irrigated in the last five years.

Carl Zitlau

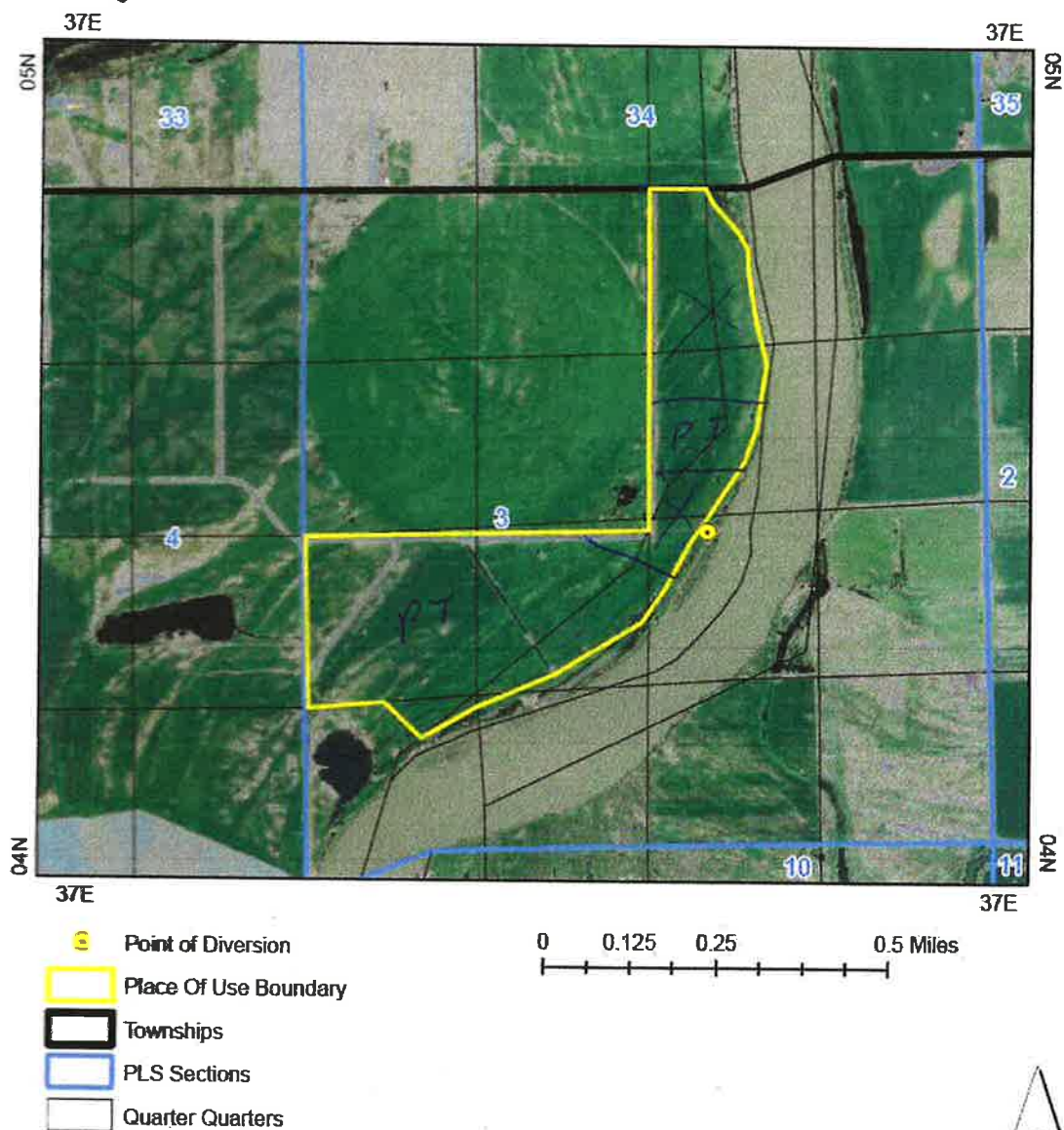
A handwritten signature in blue ink, reading "Carl Zitlau". The signature is written in a cursive style with a large initial "C" and a stylized "Z".

State of Idaho
Department of Water Resources

Water Right
1-7017

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.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

JUN 18 2019

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Carl Zitlau manager PT Elliott LLC
(Select one owner – see item 1A on the application)Water Right No. 35-7720
(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.
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- 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>6-17-19</u>	Receipt # <u>C107019</u>
W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

1436

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 PT Elliott LLC

Mailing Address <u>391 N 4500 E</u>	City <u>Rigby</u>	ID <u>83442</u>	Zip Code <u>83442</u>
Street	City	State	Zip Code

Email Address <u>carl.zitlau@gmail.com</u>	Phone Number <u>208-538-7140</u>
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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 _____

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

Ground water - pond

- 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. 1-7017

- 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. 1.57 cfs

- 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 ☐

change in point of diversion

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 ☒.

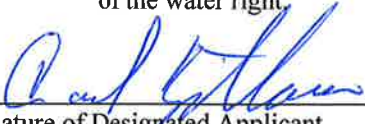
If lease, specify the years when the use of water will be suspended: _____ to _____ (maximum lease period 5 calendar years).
(Year) (Year)

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

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

The Designated Applicant acknowledges the following:

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



Signature of Designated Applicant

Carl Zitlau

Printed Name

6-14-2019

Date

Signature of Authorized Representative

Printed Name

Date

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

I am the manager of PT Elliott LLC and hereby affirm that I witnessed the Land under water rights 35-7720 and 1-7017 being irrigated in the last five years.

Carl Zitlau

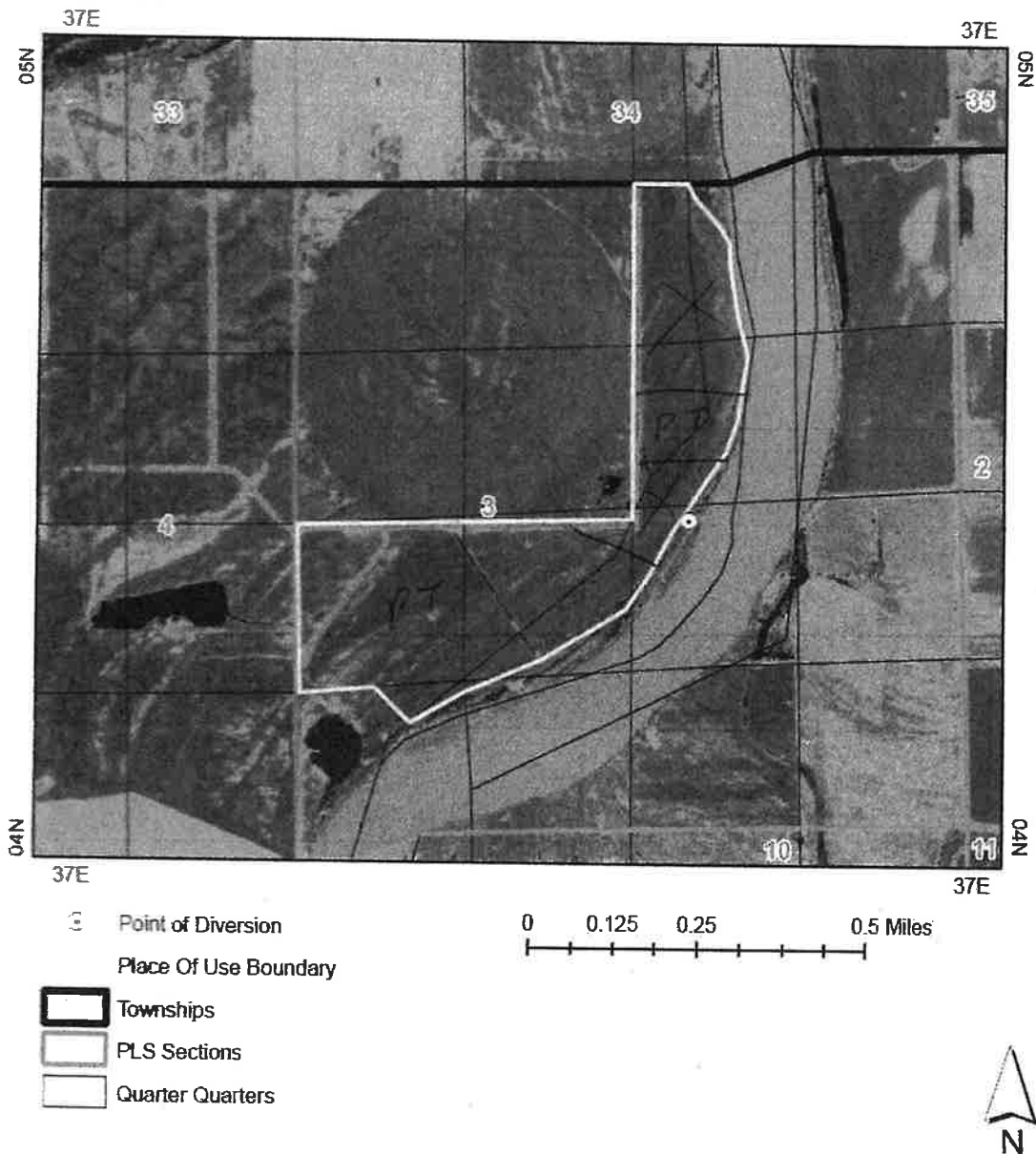
A handwritten signature in blue ink, appearing to read "Carl Zitlau". The signature is written in a cursive, flowing style with a large initial "C".

State of Idaho
Department of Water Resources

Water Right
1-7017

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.





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 28, 2019

PT ELLIOTT LLC
392 N 4500 E
RIGBY ID 83442-5596

**RE: WATER SUPPLY BANK LEASE CONTRACT 1019
FOR WATER RIGHTS 1-7017 and 35-7720**

Dear Lessor:

Water rights **1-7017 and 35-7720** were leased into the Water Supply Bank (Bank) as of June 18, 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, 2019**, 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: James Cefalo - IDWR Eastern Region
Tony Olenichak – Water District 01
Blake Jordan – Water District 120
Bonneville-Jefferson GWD



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 8, 2019

PT ELLIOTT LLC
391 N 4500 E
RIGBY ID 83442

RE: APPLICATION TO LEASE WATER RIGHT 1-7017 & 35-7720 TO THE WATER SUPPLY BANK CONTRACT 1019

****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, 2019**, 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

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: PT Elliott LLC

Memo Date: June 26, 2019 *updated 8-8-19 jmh*
Water Right Number(s): 1-7017 & 35-7720

Reviewers Name: Jean

Quick Tools

Decreed	No Forfeiture Concerns Thru:
Year	
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	
	☒	SOS Web site checked for business entity	
		Other (explain in comments)	
6		Water Right validity	
		Decreed/Licensed/Statutory claim date (write in comments section)	2007 & 2004
		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	
		If the POD is through a delivery entity, was consent provided?	na
		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		Area Headgate requirement (write in Comments)	4
12	☒	Is water right involved in any other department action? Pull file and check database () Ownership Change (x) Transfer () Mitigation () Other - Explain in comments	

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Narrative: The Department received these applications on June 18, 2019. The applications were signed by Carl Zitlau, manager of PT Elliott, LLC. The entirety of both rights has been offered to the Bank. Water right 1-7017 was decreed in 2007 and 35-7720 was decreed in 2004. Aerial photography suggest irrigation has taken place within 5 years. Forfeiture is not a concern. There are no other overlapping rights that need to be placed in the Bank and the land will not receive water from any other source. Water right 1-7017 is currently within WD 01 and 35-7720 is currently within WD 120. Water right 35-7720 is currently involved in a transfer that proposes to change a point of diversion. Eastern region is waiting for PT Elliott, LLC to address some injury questions. The region doesn't have concerns if 35-7720 is placed in the Bank for the 2019 season as the transfer probably won't be approved until after the 2019 season.

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 08, 2019 10:07 AM
To: Olenichak, Tony; Jordan, Blake
Subject: WSB Lease for 1-7017 & 35-7720
Attachments: Idled Acres.pdf; Lease Application Review.xls; Report - Lease Contract - 1019.docx

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

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

Hersley, Jean

From: Olenichak, Tony
Sent: Thursday, August 08, 2019 10:07 AM
To: Hersley, Jean
Subject: Automatic reply: WSB Lease for 1-7017 & 35-7720

Tony Olenichak will be out of the office until August 12.

Hersley, Jean

From: Cefalo, James
Sent: Thursday, August 08, 2019 9:30 AM
To: Hersley, Jean; Normandeau, Brian
Subject: RE: Transfer 83093 & WSB Lease Applications

Jean,

Sorry for the slow response. I was traveling when this first was sent, and I forgot to address the email when I returned to the office. We are waiting for PT Elliott to address some injury questions before we can proceed with the transfer. I just spoke with Brian. We don't have any concerns if the water rights are placed in the WSB for the 2019 irrigation season. It is unlikely that the transfer will be approved until after the 2019 season.

James Cefalo
Regional Manager
IDWR – Eastern Region
(208) 525-7161

From: Hersley, Jean
Sent: Wednesday, August 07, 2019 2:51 PM
To: Normandeau, Brian <Brian.Normandeau@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: RE: Transfer 83093 & WSB Lease Applications

I can't find an email that either of you responded to this. Can I process the lease or do I need to wait until the transfer is approved? It appears the transfer is to change the POD. The lease is for this year only.

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

From: Hersley, Jean
Sent: Tuesday, June 25, 2019 12:10 PM
To: Normandeau, Brian <Brian.Normandeau@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Transfer 83093 & WSB Lease Applications

PT Elliott LLC submitted a Water Supply Bank Lease Application for water rights 1-7017 and 35-7720. They want to place the entirety of both rights in the Bank for the 2019 season. Can I proceed with leasing these rights to the Bank or do I need to wait until the transfer is approved? Please let me know. Thank you.

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

Hersley, Jean

From: Carl Zitlau <carl.zitlau@gmail.com>
Sent: Tuesday, June 25, 2019 11:36 AM
To: Hersley, Jean
Subject: Re: Water Supply Bank Lease Applications for PT Elliott LLC

For now we would like to just lease the water for this year 2019.

Carl Zitlau

On Tue, Jun 25, 2019 at 11:27 AM Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Carl,

The Department received your requests to place water rights 1-7017 and 35-7720 in the water supply bank. We will process the applications as time allows. However, Section 5 asks the years when the use of water will be suspended. You did not provide any. Let me know what you would like the duration of the leases to be. As soon as I receive this information, I will resume reviewing these rights for lease to the Bank. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942