

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1001

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

LESSOR: PETER CARSE & AMY CARSE
REVOCABLE LIVING TRUST
340 WAR EAGLE DR
HAILEY, ID 83333-7031

RECEIVED

AUG 21 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 May 17, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
37-23014	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.10	Not Stated	2.2
Combined Lease Totals			0.10	Not Stated	2.2

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)
37-23014	0.08	7.7	2.2	0.04	3.5
Combined Limit Totals	0.08	7.7	2.2	0.04	3.5

** The water right elements rentable have been reduced from the water right elements leased to account for conveyance losses of 20%. If rented within the canal district the rental would be for the full amount.*

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1001

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.
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. 1001

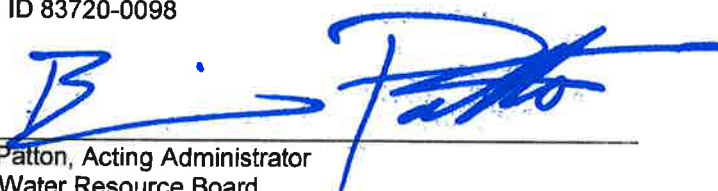
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: PETER CARSE & AMY CARSE
REVOCABLE LIVING TRUST
340 WAR EAGLE DR

HAILEY, ID 83333-7031

By 
Title TRUSTEE
Date 20 AUG 2019

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 8/27/2019

Lease approved by IDWR 

Date 8-27-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1001

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 37-23014

BIG WOOD RIVER SWNW Sec. 20 Twp 03N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-23014	IRRIGATION	04/15	to	10/31	0.10 cfs	Not Stated
	STOCKWATER	04/15	to	10/31	0.01 cfs	Not Stated
Totals:					0.10 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	
02N	18E	10					1.1			1.1									2.2

Total Acres: 2.2

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	10					x			x									0.0

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1001

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 quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
13. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.37.
14. This right when combined with all other rights shall provide no more than 13,000 gallons per day for stockwater use.
15. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal Company canal. To prevent injury to other water right holders, the watermaster shall deliver 20% of 0.10 cfs of this right into the Hiawatha Canal Company whether it is rented or not.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1001

37-23014

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



0 4,000 8,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
MAY 17 2019
DEPARTMENT OF
WATER RESOURCES DE

Designated Applicant Peter and Amy Carse Revocable Living Trust

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

Water Right No. 37-23014

(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 <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>[Signature]</u>	Date Received: <u>5/17/19</u>	Receipt # <u>C106820</u>
W-9 received? Yes ☒ No ☒ (Route W-9 to Fiscal)		Name on W-9: <u>Peter and Amy Carse Revocable Trust</u>	

1417

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 Peter and Amy Carse Revocable Living Trust
Mailing Address 340 War Eagle Dr. Hailey, Idaho 83333
Street City State Zip Code
Email Address _____ Phone Number _____

- ☒ 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 Fritz X. Haemmerle Organization Haemmerle Law, P.L.L.C.
Professional Title Attorney Email Address fxh@haemlaw.com
Mailing Address P.O. Box 1800 Hailey, Idaho 83333 Phone Number (208) 578-0520

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

OR

- ☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

- ☐ A part of the water right is being offered to the Bank.
If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

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

Water is diverted from Big Wood River and delivered to place of use through the Hiawatha Canal.

- 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. n/a

- 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. 0.10 cfs diverted in July 2014 by hand sprinkler lines

- 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)

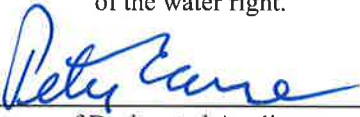
5. SALE/LEASE AGREEMENT

- 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

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.



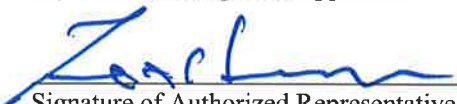
Signature of Designated Applicant

Peter Carse

Printed Name

15 MAY 20

Date



Signature of Authorized Representative

Fritz X. Haemmerle

Printed Name

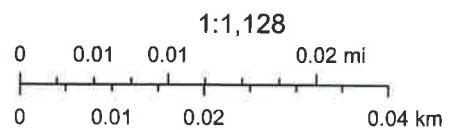
5/15/19

Date

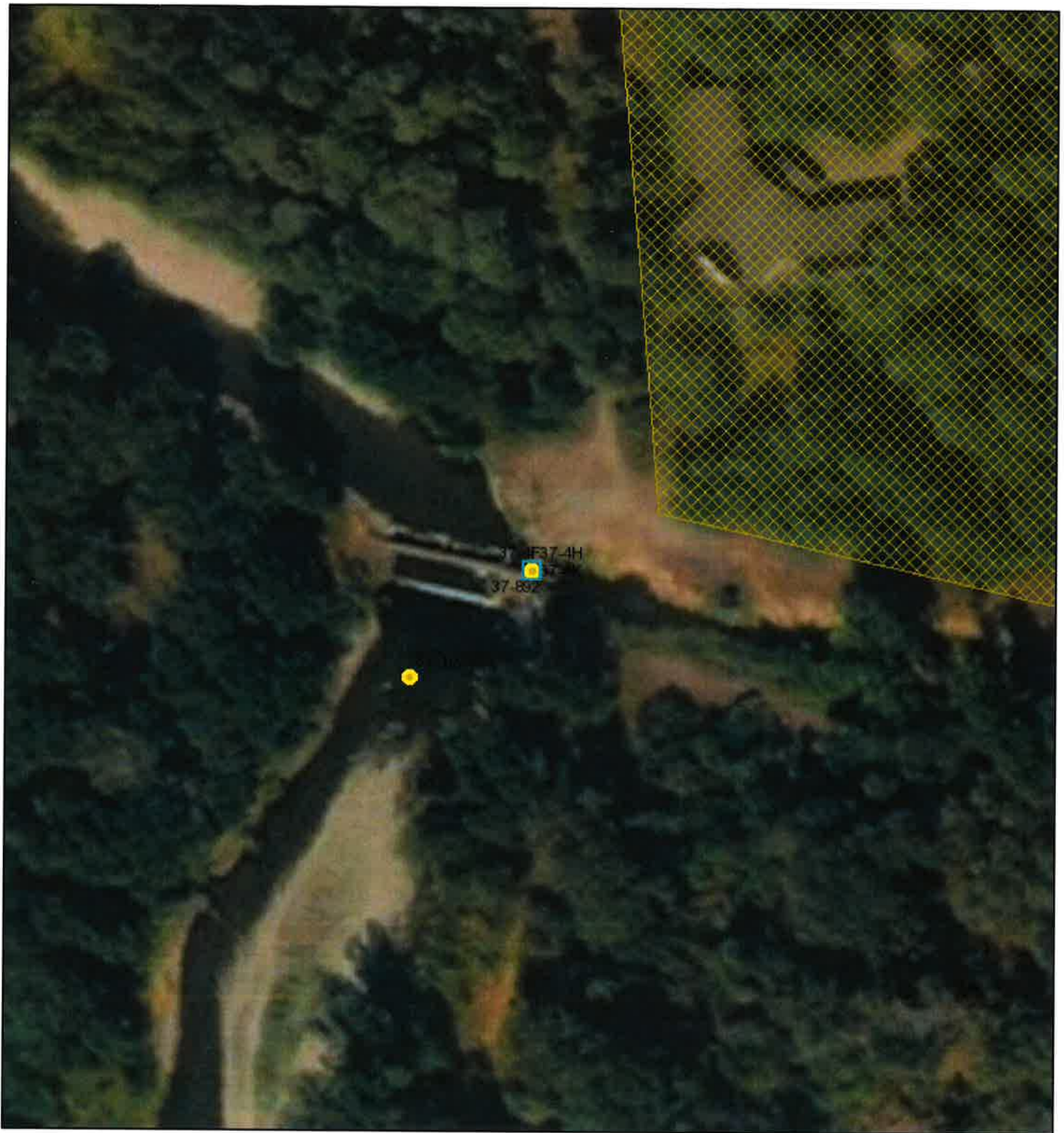
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098



4/25/2019, 10:58:58 AM



Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



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POU - Water Rights



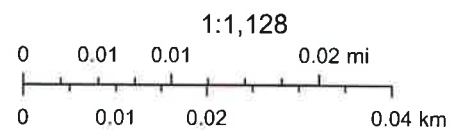
All Other POU (non-provider)



Irrigation Providers and Municipal Service Areas



POD - Water Rights



Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



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

PETER CARSE & AMY CARSE REVOCABLE LIVING TRUST
340 WAR EAGLE DR
HAILEY ID 83333-7031

**RE: WATER SUPPLY BANK LEASE CONTRACT 1001
FOR WATER RIGHT 37-23014**

Dear Lessor:

Water right **37-23014** was leased into the Water Supply Bank (Bank) as of May 17, 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: Corey Skinner - IDWR Southern Region
Kevin Lakey - Water District 37
Hiawatha Canal Co
Fritz Haemmerle - Haemmerle Law

HAEMMERLE LAW, P.L.L.C

Attorney & Counselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333

August 21, 2019

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

RECEIVED

AUG 23 2019

**DEPARTMENT OF
WATER RESOURCES**

Idaho Dept. of Water Resources
c/o Debbi Judd
P.O. Box 83720
Boise, ID 83720-0098

Re: Carse: Water Lease Contracts 1001 and 1002

Dear Debbi:

Please find enclosed two executed Lease Contract, Nos 1001 and 1002. Please forward when they are signed by the Department.

Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.



Fritz X. Haemmerle

FXH: fxh
Encl
cc: client



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

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BRAD LITTLE
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August 8, 2019

PETER CARSE & AMY CARSE
REVOCABLE LIVING TRUST
340 WAR EAGLE DR
HAILEY ID 83333-7031

RE: APPLICATION TO LEASE WATER RIGHT 37-23014 TO THE WATER SUPPLY BANK
CONTRACT 1001

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

Dear Applicant:

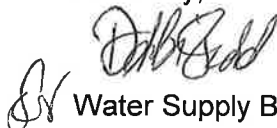
The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** 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,


Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C106820

c: Fritz Haemmerle – Haemmerle Law

MEMORANDUM

To: Water Right No(s). 37-23014
From: Justin Ferguson
Date: July 30, 2019
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on May 17, 2019. The applicant wishes to place the entirety of water right number 37-23014 into the Bank.

AUTHORITY TO FILE: The application was filed on behalf of the Peter Carse and Amy Carse revocable Trust by Fritz Haemmerle. Previously there have been questions about ownership of this right but it has been determined that the applicant does have the authority to file.

The parent right, 37-32219 was decreed in the SRBA to Thomas and Louise Hickey. In 1988 the lot was conveyed from James & Evelyn Phillips and James & Alice Rosenfeld to David and Debra Town via a warrantee deed that excluded the water and ditch rights which were to be retained by the sellers. The lot was also conveyed from the sellers to Thomas A Pyle via a warrantee deed which again excluded any water and ditch rights.

In 1999 James & Alice Rosenfeld and James & Evelyn Phillips conveyed the water rights to Thomas and Louise Hickey via a quit claim deed, included in the applicant's file. The department received a change of ownership notice and quit claim deed from Mr. and Mrs. Hickey that the new owners were the Peter Carse and Amy Carse Revocable Trust.

WATER RIGHT VALIDITY: The applicant indicates that 0.10 cfs was diverted in July 2014 by hand sprinkler lines. We have a question of the irrigation use information relative to when the current applicant became owner of the property as the applicants have only been the owners since December 4, 2018. A document provided in the file indicates that the area was irrigated by James Phillips once every five years but we are unsure as to how Mr. Phillips has an interest in the property or water rights at the place of use.

INJURY TO OTHER WATER RIGHTS: No injury is apparent since the lease purpose is to idle areas that would regularly be irrigated. Should a rental of this water right occur we would need to investigate the injury to water users within the basin as the use was indicated to be infrequent, once every five years minimum. An affidavit provided from James Phillips states that he believes the area was irrigated once a year but was sure that it was at least every five years. Should the rental be for a use across multiple years or for the full volume it could cause injury to any users, both junior and senior, throughout the basin. There are no concerns at this time.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement. Combined limits for the associated stockwater will remain to protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest. The Hiawatha Canal Company has requested 20% be held for conveyance loss.

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.

HAEMMERLE LAW, P.L.L.C.
Attorney & Counselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

May 14, 2019

RECEIVED
MAY 17 2019
DEPARTMENT OF
WATER RESOURCES

Idaho Dept. of Water Resources
c/o Water Bank
P.O. Box 83720
Boise, ID 83720-0098

*Re: Request to Water Bank 37-23014 and 37-23015 (Peter and Amy Carse
Revocable Trust)*

To Whom It May Concern:

This firm represents the Peter and Amy Carse Revocable Trust.

I have enclosed with this letter: (1) forms to bank two water rights; (2) a completed W-9 Form; (3) a map of the place of use; and (4) a fee of \$500.00 for the two water rights; (4) letter form the Hiawatha Canal Company; and (5) Affidavit of James W. Phillips regarding the use of the water.

If you require any further information, please advise. Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.



Fritz X. Haemmerle

FXH: fxh
Encl
cc: client

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

April 25, 2019

RECEIVED

MAY 17 2019

DEPARTMENT OF
WATER RESOURCES

Idaho Water Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

*Re: Request to Water Bank 37-23014 and 37-23015 (Peter and Amy Carse
Revocable Living Trust)*

Dear Sir or Madam:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). For the reasons outlined below and on the conditions requested, the Canal has no objection to the aforementioned water rights being placed into the Water Bank.

The Hiawatha Canal Company is concerned about the amount of water being removed from the Canal and placed in the Water Bank by various water right holders. Generally, at this time, the Canal Company does not object to the water rights being placed in the Water Bank provided that twenty-percent (20%) of the right be left in the Canal as conveyance loss. I suggest that the Department place a condition on the leases to this effect.

Providing you some historical perspective, the Canal Company filed for mitigation (conveyance loss) rights in the adjudication for rights that had been forfeited or abandoned out of the Canal. The Department agreed that the conveyance loss in the Canal was twenty-percent (20%), and therefore, entered recommendations accordingly. See e.g., water rights 37-22630, 37-22631, 37-22632 and 37-22633. This conveyance has been recognized by the Idaho Department of Water Resources in similar transfers. Leaving twenty-percent (20%) of the leased rights in the Canal will insure that all rights in the Canal continue to be delivered without injury to water right holders in the Canal.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss; and
2. The Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the lease period.

Thank you in advance for responding to this letter and addressing our concerns. If you have any questions, please do not hesitate to call me.

Sincerely,

HIAWATHA CANAL COMPANY



James W. Phillips, President

FXH: fxh
cc: client