

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 976

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

LESSOR: NANCY MARIE KOZLOWSKI
4425 N BROOKSIDE LN
BOISE, ID 83714-9680

RECEIVED
JUN 19 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 December 05, 2018.
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)
77-2095	8/5/1951	LICK CREEK, tributary to BIG CREEK	1.40	Not Stated	73.0
Totals			1.40	Not Stated	73.0
77-2048	7/6/1928	LICK CREEK, tributary to BIG CREEK	0.20	Not Stated	10.0
Combined Lease Totals			3.00	Not Stated	83.0

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)
77-2048	0.16	30.00	10.0	0.016	3.0
77-2095	1.40	219.0	73.0	0.019	3.0
Combined Limit Totals	1.56	219.0	73.0	0.021	3.0

** The water right elements rentable have been reduced from water right elements leased to account for a rate limit and enlargement concerns.*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 976

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.
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

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

LESSOR: NANCY MARIE KOZLOWSKI
4425 N BROOKSIDE LN
BOISE, ID 83714-9680

By Nancy Marie Kozlowski
Title Lessor (I am renewing)
Date 6-13-19 6-13-19

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JUN 19 2019
DEPARTMENT OF
WATER RESOURCES

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 6/27/2019

Lease approved by IDWR Ch. Waters

Date 6-27-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 976

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): 77-2095

LICK CREEK	NESW	Sec. 2	Twp 20N	Rge 09E	VALLEY County
LICK CREEK	NWSW	Sec. 2	Twp 20N	Rge 09E	VALLEY County
LICK CREEK	NESW	Sec. 2	Twp 20N	Rge 09E	VALLEY County
LICK CREEK	NWSW	Sec. 2	Twp 20N	Rge 09E	VALLEY County

Source and Location of Point(s) of Diversion for Water Right No(s): 77-2048

LICK CREEK	NESW	Sec. 2	Twp 20N	Rge 09E	VALLEY County
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Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
77-2095	IRRIGATION	05/01	to	10/01	1.4 cfs	219.0 AF
77-2048	IRRIGATION	05/01	to	10/01	0.2 cfs	30.0 AF
Totals:					1.6 cfs	249.0 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	
20N	09E	2									13.0	30.0	30.0						83.0

Total Acres: 83.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

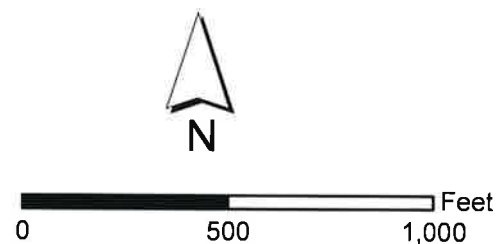
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 976

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.

77-2048 and 77-2095
Effective until December 31, 2023



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 05 2018

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant

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

Water Right No.

77-2048
(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 \$

250

Received By:

AW

Date Received:

12-5-18

Receipt #

605940

W-9 received?

Yes ☒No ☐

(Route W-9 to Fiscal)

Name on W-9:

Nancy Marie Kozlowski

259

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 Nancy Marie Kozlowski
Mailing Address 4425 N. Brookside Dr. Boise Idaho 83714
Street City State Zip Code
Email Address _____ Phone Number 1-208-939-6732

☒ 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.

Lick Creek 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.

Water Right # 77-2048

Water Right # 77-2095 is in the Water 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.

- 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 2023 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment 2023 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.

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.

Nancy Marie Kozlowski
Signature of Designated Applicant

Nancy Marie Kozlowski
Printed Name

12-6-18
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**

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>77-2048</u>	<u>Irrigation</u>	<u>0.200</u>		
	<u>Domestic</u>	<u>0.040</u>		
	Total Amounts:			

2. Source of water Lick Creek tributary to Big Creek.

3. Point(s) of diversion:

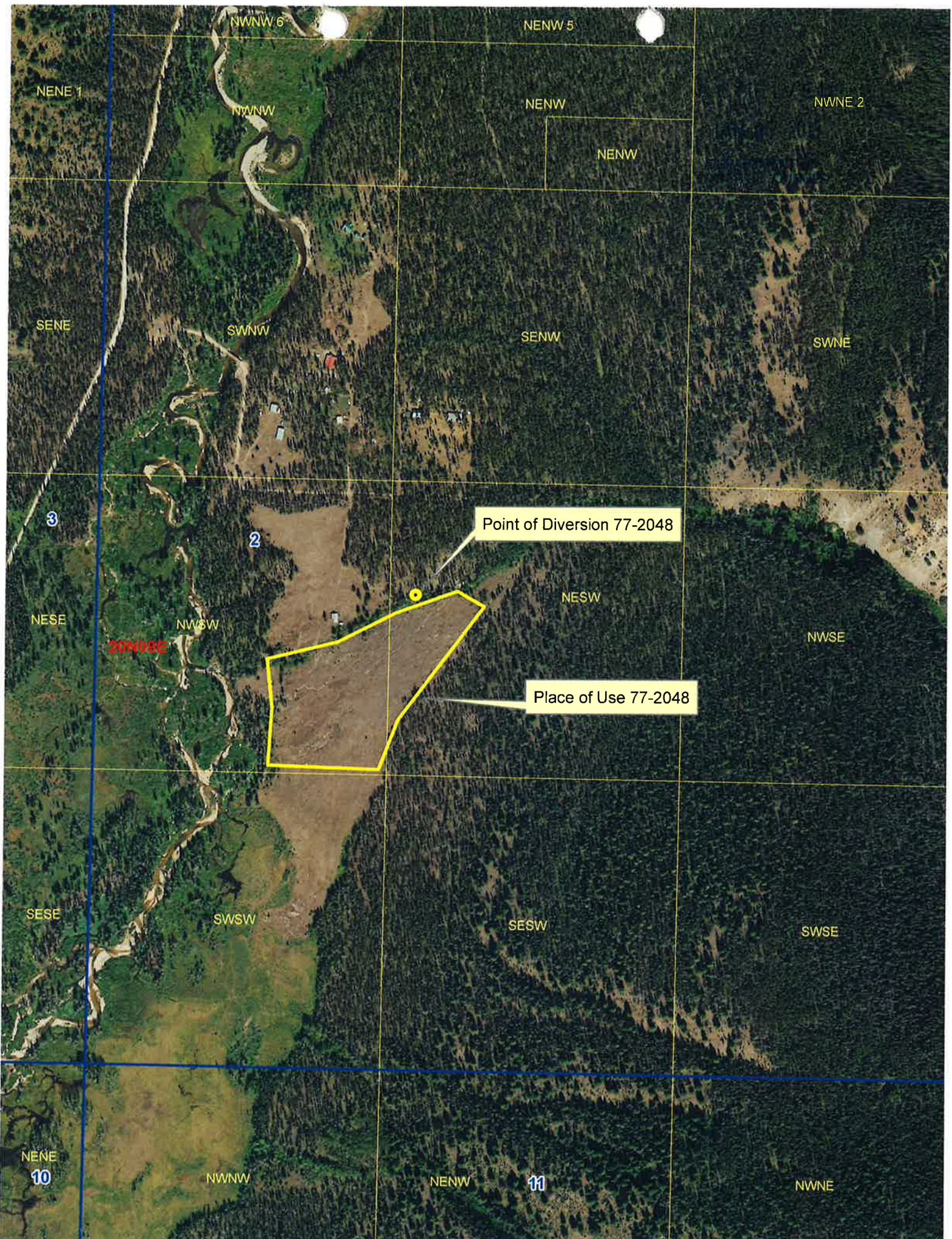
NK 1-7-2019

Twp	Rge	Sec	Lot	¼	¼	¼	County
<u>20N</u>	<u>09E</u>	<u>2</u>		~~NE~~	~~NW~~	<u>SW</u>	<u>Valley</u>
					<u>NE</u>		

RECEIVED

JAN 07 2019

**DEPARTMENT OF
WATER RESOURCES**



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 05 2018

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant

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

Water Right No.

77-2095
(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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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 \$

250

Received By:

[Signature]

Date Received:

12-5-18

Receipt #

C105940

W-9 received?

Yes ☒No ☐

(Route W-9 to Fiscal)

Name on W-9:

Nancy Marie Kozlowski

1250

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.

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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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OR

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

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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.

LUCK CREEK 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.

WATER RIGHT # T1-2095 WHICH IS IN THE WATER BANK
WATER RIGHT # T1-2048

- 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.

- 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.

THIS WATER RIGHT HAS BEEN IN THE WATER BANK FOR THE
LAST 5 YRS.

- 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 2023 (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.

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.

Nancy M. Kozlowski
Signature of Designated Applicant

Nancy Marie Kozlowski
Printed Name

12-6-18
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

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

June 28, 2019

NANCY MARIE KOZLOWSKI
4425 N BROOKSIDE LN
BOISE ID 83714-9680

**RE: WATER SUPPLY BANK LEASE CONTRACT 976
FOR WATER RIGHTS 77-2048 and 77-2095**

Dear Lessor:

Water rights **77-2048 and 77-2095** were leased into the Water Supply Bank (Bank) as of December 5, 2018, 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, 2023**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Nick Miller - IDWR Western Region



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BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 10, 2019

NANCY MARIE KOZLOWSKI
4425 N BROOKSIDE LN
BOISE ID 83714-9680

RE: APPLICATION TO LEASE WATER RIGHT 77-2048 & 77-2094 TO THE WATER SUPPLY BANK, CONTRACT 976

****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 No. C105940

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: Kozlowski

Memo Date: ~~April 16, 2019~~ June 7-2019 *gpc*
Water Right Number(s): 77-2095 & 77-2048

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
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)	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right			
	All of right	x		
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)	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity			
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2006
	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?	x		2002-2018
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		x	
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	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?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request	na		
11	Area Headgate requirement (write in Comments)			3
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	

13 **Narrative:** The Department received these applications on December 5, 2018. The applicant wishes to place the water rights in the Bank through the 2023 season. Water right 78-2095 has been in the Bank since 2002. When 77-2095 was offered to the Bank, the owner said they would be using 77-2048. However, 77-2048 should have been leased to the Bank at the same time since the acres completely overlap, according to the water right backfile. Only the irrigation portion of 77-2048 will be leased to the Bank. The rentable portion will be reduced since the diversion rate for the domestic portion is included in the diversion rate for irrigation Water right 77-2095 was decreed in 2006 and 77-2048 was decreed in 2007. Forfeiture is not an issue. These rights are not within a WD.

MEMORANDUM FOR LEASE CONTRACT 976

To: Water Right(S) 77-2048, 77-2095 and 77-10105
From: Michele Edl
Date: June 4, 2019
Re: Review & Analysis of Applications to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE: The final lease applications were received on May 9, 2019.

The lease applications seek to lease a total of 73 acres worth of irrigation water for 2019-2023 and to protect right 77-10105 from possible forfeiture. The idled irrigation acres are land which was gravity irrigated hay pasture.

The POUs are located within the Sesech River drainage.

AUTHORITY TO FILE: Rights 77-2048, 77-2095 and 77-10105 are owned by Nancy Marie Kozlowski and she signed the applications to lease the rights.

Valley County parcel data shows that the lease places-of-use are owned by Nancy Marie Kozlowski. The proposed PODs are diversions from Lick Creek as it crosses the Kozlowski property. Various ditches convey the water to the POUs.

No concerns with authority to file the lease applications.

WATER RIGHT VALIDITY:

Right 77-2095

Right 77-2095 was brought into the bank in 2016, and again in 2017-2018. The right is for irrigation of 73 acres and it was decreed by the adjudication court in 2006. At that time, the right was leased to the bank in a contract which expired in December 2018. There are no concerns about forfeiture for this right.

I reviewed aerial photography and found that the required number of acres had been idled in compliance with the previous lease. However, an overlap review brought attention to two other rights (77-2048 and 77-10105) which appear to overlap the lease POU. The three rights appear to overlap but the SRBA decrees do not have combined use limits on any of them.

A remark in the approval for Permit of 77-2095 states "This an enlargement of the present system includes more land." Therefore, I believe that the irrigation use authorized by right 73-2048 shares the diversion points and delivery ditches which are used by right 77-2095. Unfortunately, the examiner didn't recognize that 10 acres of the 73 acres he recommended for 77-2095 were already covered by 77-2048 and needed to be accounted for in the license.

The size of the diversion dams and the ditches are not limiting. According to notes in the beneficial use report for right 77-2095, the ditches have sufficient carrying capacity to dewater Lick Creek.

Right 77-2048

Right 77-2048 was decreed by the SRBA court in 2007. The right is for domestic use and irrigation of 10 acres. The 10-acre irrigation place of use for this right is completely overlapped by the 73-acre irrigation place of use authorized by 77-2095. I believe that it shares the diversion points and delivery ditches used for Right 77-2095 and that if diversion for irrigation under the junior right, 77-2095 ceases, then diversion for irrigation under right 77-2048 must also cease.

In the 2002 lease application for 77-2095, the applicant stated that rights 77-2048 and 77-10105 would continue to be used. I believe that right 77-10105 continued to be used for stockwater, but only the domestic use authorized by 77-2048 continued to be used. Lick Creek is the only source of domestic water for the cabin.

The 10-acre irrigation use authorized by right 77-2048 ceased when the 73-acre irrigation use authorized by 77-2095 ceased. The lease reviewer in 2002 missed the overlapping place-of-use, the possibility of a shared diversion and delivery system and failed to clarify that a use could and would be continued outside of the lease.

Only the irrigation component of right 77-2048 will be leased to the bank. The leased rate and volume of right 77-2048 have been reduced to include only the elements of the irrigation use. The Neal-Kozlowski family typically use their cabin in the summer. Lick Creek is the only source of domestic water for the cabin so the domestic use will be excluded from the lease agreement.

77-10105

Right 77-10105 is for stockwater use. It was and is primarily used for watering pack horses. Until recently the right was held by Nancy Kozlowski's brother, Scott Neal who died in 2004. The right was decreed by the SRBA court in 2000.

An affidavit dated 2019 and provided by Michael Kozlowski stated that he had personally visited the POU each year since 1994. He has recently completed a multi-year project to construct buck-rail fencing around the property. In his affidavit, Michael Kozlowski stated specifically that a small group of horses had been grazed on the place of use during the 2009, 2010 and 2011 elk hunting seasons. The number of pack animals is much reduced from the time that a pack and guide service operated on the property the use could now be adequately covered by the domestic use. There are no forfeiture concerns at this time.

This right could be separated from the irrigation rights. It does not appear to be 'stacked' with them. In several discussions with Nancy Kozlowski, I understood that she wanted this right to be leased to the bank if forfeiture was a concern or if IDWR considered necessary to avoid enlargement. At this time, leasing right 77-10105 to the bank is not necessary so I am returning that lease application.

INJURY TO OTHER WATER RIGHTS:

No injury to other rights is expected through the leases of these water rights.

ENLARGEMENT OF USE:

No enlargement is expected through the lease of these water rights. 10 acres will be idled from Right 77-2048 and 73 acres from 77-2095 for a total of 73 acres to be idled. The rentals will be made consistent to the overlap which exists between the rights.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest that these applications are inconsistent with the local public interest.

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The lease PODs are located within the MSF reach of Lick Creek. The PODs are not currently subject to watermaster control.

When beneficial use for right 77-2095 was confirmed, the examiner did not make measurements but instead estimated the capacity of Lick Creek and the capacity of the diversion ditches for these rights.

These Lick Creek rights are senior to the minimum streamflow right on Big Creek (right 77-14178) and in drier years authorize diversion of the entire flow of Lick Creek. Rather than dewater Lick Creek, the current generation of the Neal-Kozlowski family has voluntarily subordinated their rights in order to ensure that some water for fish habitat will be available in Big Creek.

The Neal-Kozlowski family expressed a serious interest in making their rights available as a long-term legacy to support fish habitat in the state. I provided the family's contact information with Amy Cassel (Program Manager, IDWR's Salmon ID office).

The authorized irrigation SOU for the rights is 5/01-10/01 which is less than the current SOU for the area (05/01-10/31).

Request for comment was sent to the Western Region manager.

MEMORANDUM

Date: May 9, 2019
To: Water Right File 77-2048 and 77-2095
From: Michele Edl
Re: evidence of use

Based on a review of the pre-SRBA decree licensing exam, water rights 77-2048 and 77-2095 are stacked. The examiner failed to clarify the additional irrigation acres for 77-2095. 77-2095 has been in the Water Supply Bank since 2016. The irrigation portion of 77-2048 should have been leased as well but the lease processing staff missed seeing and/or acting on the stacked nature of the rights. Only the domestic portion of 77-2048 has been used recently.

An analysis based on the Climate Engine data and a review of aerial photography indicate that the irrigation uses were idled in compliance with the lease agreement for 77-2095.

The attached documents are evidence that the domestic portion of the right had been used.

Make Map Make Graph

MENU Map Figure/Data

Climate Engine

Link Reset

GET TIME SERIES

Time Series Calculation: ?

Single Time Series

Two Variable Analysis

Region: ?

Polygon

Add another region

Variable 1

Variable 1 ?

Type:

Remote Sensing

Dataset: ?

Landsat 4/5/7/8

Variable: ?

NDVI (Vegetation)

Computation Re

3

Year: ?

Maximum

Time Period ?

Period of Record:

Season:

Custom Day Range

Start Day: Jun

End Day: Aug

Year Range: 196

How to Create/Update a Polygon

To create area-averaged data over a custom polygon, create/update the polygon:

How to create a polygon:

- (1) Click ☒ on map
- (2) Click locations on map in order of vertices
- (3) Click initial vertex to close polygon

How to delete a polygon:

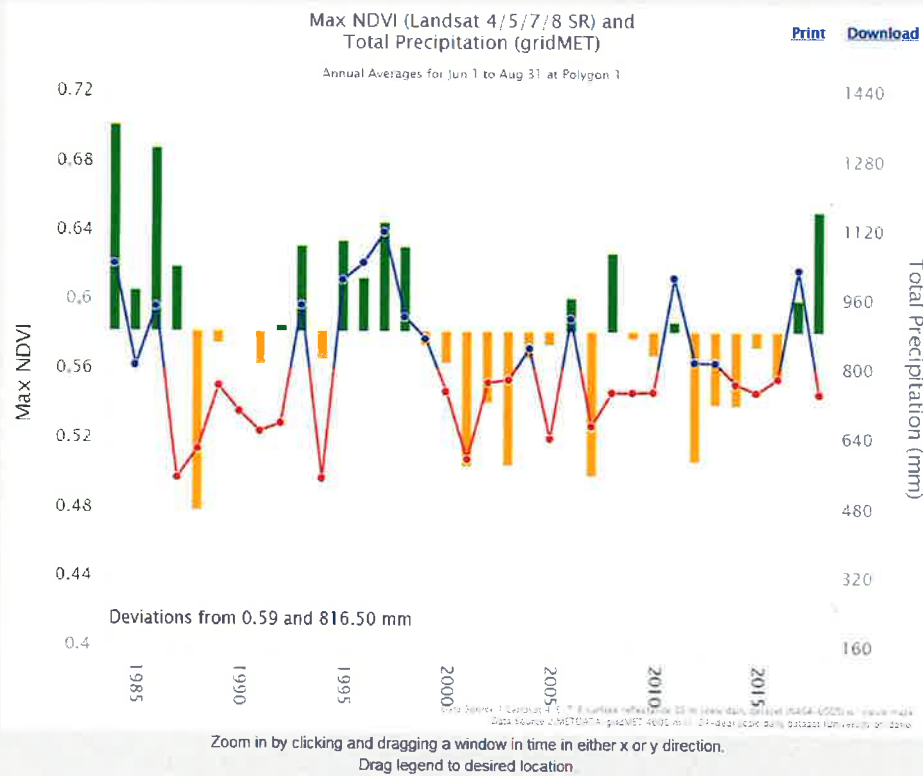
- (1) Click ☐ on map

How to name a polygon:

Enter a name for the polygon (to put on graph). Click UPDATE button.

Ways to update a polygon:

Graph Statistics



NDVI Precipitation

#Variable: Precipitation (mm)
 #Data Source: METDATA/gridMET 4000 m (1/24-deg) daily dataset (University of Idaho)
 #Missing Value: -9999
 #Statistic: Total
 #Season: Oct 1 to Sep 30
 #Year Range: 1979 - 2019
 #Area-Average over Polygon from vertices (Lat,Lon): (45.0989N,115.3258W), (45.0977N,115.3263W), (45.0971N,115.3270W), (45.0964N,115.3272W), (45.0961N,115.3275W), (45.0962N,115.3293W), (45.0972N,115.3293W), (45.0980N,115.3289W), (45.0985N,115.3276W), (45.0985N,115.3276W)
 #Date(yyyy), Precipitation (mm)
 1984 1056.3669
 1985 821.4570
 1986 957.3523
 1987 561.6381
 1988 628.7703
 1989 774.9655
 1990 715.3529
 1991 669.7683
 1992 688.5625
 1993 960.7046
 1994 560.4377

Scroll down to see more data

RECEIVED

APR 24 2019

April 23, 2019

To whom it may concern,

DEPARTMENT OF
WATER RESOURCES

I, Michael Kozlowski, have been going up to Big Creek, ID every summer since 1994. In my trips up to Big Creek I would repair irrigation ditches, as needed, due to damage from spring runoff. In 2008, I started replacing the cross buck fencing, this continued to 2011 when the front was completed. In 2010, I installed the steel entry gate completing the entry way to the ranch. Every year since the completion of the front fence there has always been needed maintenance and repairs. During elk season for 09, 10, & 11 the ranch had 4-6 horses grazing the pasture on the ranch.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Kozlowski", written over a light blue grid background.

Michael A. Kozlowski



RECEIVED

APR 24 2019

DEPARTMENT OF
WATER RESOURCES



RECEIVED

APR 24 2019

DEPARTMENT OF
WATER RESOURCES



RECEIVED

APR 24 2019

DEPARTMENT OF
WATER RESOURCES



MEMORANDUM

To: Water Right File No(s). 77-2048
From: Mary Condon
Per: Voicemail from Nancy Kozlowski
Date: January 7, 2019
Re: Water Supply Bank Lease Application

In response to my voicemail question regarding her application in which she included all of water right 77-2048 into the bank, which has both Domestic and Irrigation, Ms. Kozlowski responded she only wishes to place the irrigation into the bank and will continue to use the domestic.