

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 972

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

LESSOR: MICHAEL T WAGONER
1083 W 500 N
BLACKFOOT, ID 83221

RECEIVED

APR 22 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 March 29, 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)
35-2324B	4/14/1953	GROUND WATER	1.72	344.0	86.0
35-7692	4/15/1977	GROUND WATER	1.63	272.0	68.0
Combined Lease Totals			3.12	616.0	154.0

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, 2021. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 972

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. 972

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

LESSOR: MICHAEL T WAGONER
1083 W 500 N
BLACKFOOT, ID 83221

By Michael T. Wagoner
Title owner / designated
Date April 19, 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 4/24/2019

Lease approved by IDWR 

Date 4-24-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 972

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): 35-2324B, 35-7692

GROUND WATER NWSWNW Sec. 8 Twp 02S Rge 34E BINGHAM County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
35-2324B	IRRIGATION	4/01	to	11/01	1.72 cfs	344.0 AF
35-7692	IRRIGATION	4/01	to	11/01	1.63 cfs	272.0 AF
Totals:					3.12 cfs	616.0 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	
02S	34E	8					39.0	36.0	39.0	40.0									154.0

Total Acres: 154.0

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.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 972

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. Water rights 35-7692 and 35-02324B are limited to total combined diversion rate of 3.12 cfs and to a total combined annual diversion volume of 616 af and a combined total of 154.0 acres in a single irrigation season.
13. Water right 35-7692 is limited to the irrigation of 68 acres within the place of use described above in a single irrigation season and water right 35-2324B is limited to the irrigation of 86 acres within the place of use described above in a single irrigation season.
14. Use of water under these rights 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, these water rights are within State Water District No. 120.

35-2324B & 35-7692
Effective until December 31, 2021

This aerial map displays a grid of land parcels in Section 8, Township 34S, Range 8E. The parcels are labeled with their respective section and quarter identifiers. A scale bar at the bottom indicates distances in feet (0, 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000). A north arrow is located in the bottom right corner. The map shows various land uses, including agricultural fields, wooded areas, and some buildings. A small orange circle is visible on the left side of the map, near the 02S34E7SENE parcel.

Parcel Label	Parcel Label	Parcel Label	Parcel Label
02S34E6SESE	02S34E5SWSE	02S34E8NENE	02S34E8NNW
02S34E7NESE	02S34E8NWSW	02S34E8NESW	02S34E8NWSE

-
- A north arrow pointing upwards with the letter 'N' below it. Below the arrow is a scale bar with markings at 0, 500, and 1,000 feet.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 29 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Michael T. WAGONER
(Select one owner – see item 1A on the application)Water Right No. 35-07692
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☒ No ☐with 35-023248 for a combined annual volume of 616 A/F

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>500</u>	Received By: <u>AW</u>	Date Received: <u>3/29/19</u>	Receipt # <u>C166484</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Michael T. Wagoner</u>	

1304

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 Michael T. WAGONER
Mailing Address 1083 W 500 N Blackfoot ID 83221
Street City State Zip Code
Email Address none Phone Number 208-684-5428

- ☐ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.
OR

☒ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☒
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative _____ Organization _____
Professional Title _____ Email Address _____
Mailing Address _____ Phone Number _____

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

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

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

Diversion # 500440, pump T28, R34E, Sec. 8 NWSW/NW

- 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. 35-02324B

- 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.

Bingham Ground Water District Water Right and well usage report 5 yr. average 240.8 A/F to 4-1-16, after 4-1-16 to 4-1-19 leased to BGWD combined with water right 35-02324B

- 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 2022 (maximum lease period 5 calendar years).
3 years 2019, 2020, 2021 (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.

35-07692 68 acres x 4 A/F = 272 A/F x \$30. = \$8160. per year

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.

Michael T. Wagoner
Signature of Designated Applicant

Michael T. WAGONER
Printed Name

March 25, 2019
Date

Signature of Authorized Representative

Printed Name

Date

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



STATE OF IDAHO

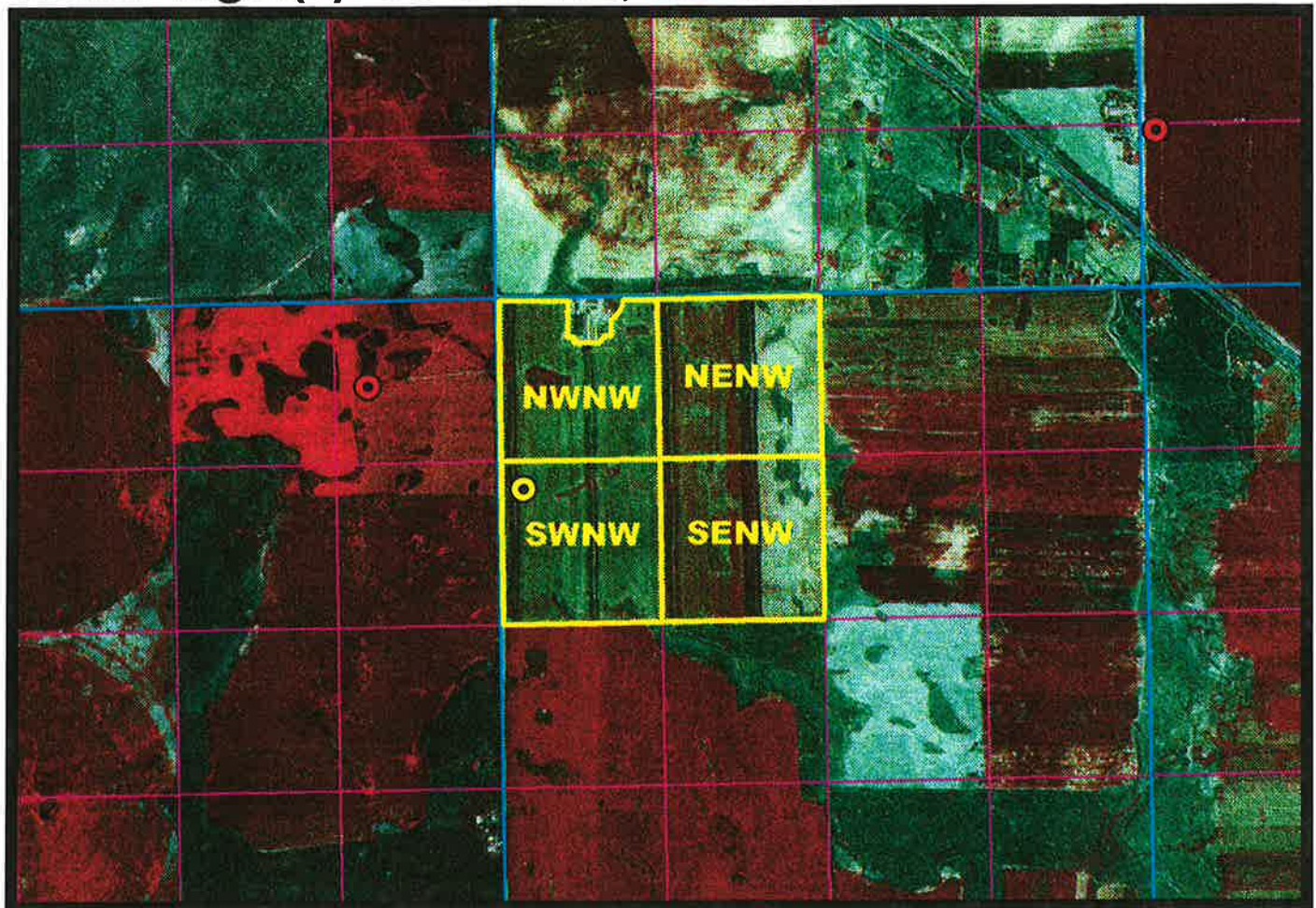
Department of Water Resources

Eastern Region

Attachment 3

Claimant: Michael Wagoner

Water Right(s): 35-02324B, 35-07692



750 0 750 1500 2250 3000 3750 4500 5250 6000 6750 7500 8250 Feet

LEGEND



Point of Diversion

Legal Description: T.2S., R.34E.
Sec. 8 NW



Place of Use



Section Line



Quarter-section line

Point(s) of Diversion: T.2S., R.34E.,
Sec. 8 NWSWNW



68 acres idled, 0 acres irrigated

GIS Place of Use illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: September 1998



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

April 25, 2019

MICHAEL T WAGONER
1083 W 500 N
BLACKFOOT ID 83221

**RE: WATER SUPPLY BANK LEASE CONTRACT 972
FOR WATER RIGHTS 35-2324B and 35-7692**

Dear Lessor:

Water rights **35-2324B and 35-7692** were leased into the Water Supply Bank (Bank) as of March 29, 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, 2021**, 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,


for Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Blake Jordan - Water District 120



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

April 16, 2019

PAMELA WAGONER
1083 W 500 N
BLACKFOOT ID 83221

RE: APPLICATION TO LEASE WATER RIGHTS 35-2324B & 35-7692 TO THE WATER SUPPLY BANK. LEASE CONTRACT 972

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

Dear Applicant:

The purpose of this letter is to provide you with additional information about the opportunity to lease your water rights to the Water Supply Bank. The Department of Water Resources operates the Water Supply Bank on behalf of the Idaho Water Resource Board (Board; IWRB). The Water Supply Bank rules allow water right lessors to request specific rental rates for their water rights (IDAPA 37.02.03.25.d) however the Board is ultimately responsible for setting rental rates (IDAPA 37.02.03.30.01). By resolution of the Board, the rental rate for Water Supply Bank water right leases is presently linked to the Nez Perce Term Sheet rental rate, which is \$20/af for 2019 through 2022.

On March 29, 2019 the Department received from you applications to lease water rights 35-2324B and 35-7692 to the Water Supply Bank for 2019 through 2021 at a requested rental rate of \$30/af. In light of the Board's resolution establishing the current rental rate as equivalent to the Nez Perce Term Sheet rental rate, our office drafted lease contracts for your consideration that featured a rental rate of \$20/af.

During our telephone conversation today, I confirmed to you that I intend to present the Board with a new rental rate resolution during 2019, which would allow the Bank to approve water right leases at rental rates other than the Nez Perce Term Sheet rental rate. Contingent upon Board approval of a new rental rate resolution, it possible for your water rights to be leased into the Bank at your requested rental rate of \$30/af. However, until a new resolution is approved by the Board, the Department cannot process lease contracts for you at \$30/af. As such, the purpose of this letter is to provide you with the following options:

- 1) sign the water right lease contracts that have been mailed to you and accept the \$20/af rental rate;
- 2) sign the water right lease contracts that have been mailed to you and return them to our office with a written request that the contracts be amended and reissued for new signatures if the Board during 2019 approves a new rental rate resolution authorizing your requested rental rate of \$30/af; or
- 3) submit to our office a written request that processing of your lease contracts be placed on hold until the Board considers a new rental rate resolution during 2019.

Please note, it cannot be guaranteed that a new rental rate resolution will be approved by the Board during 2019 and a water right is not considered protected from forfeiture by lease to the Bank unless a lease contract is executed between the Board and the water right lessor. As such, it may be preferable for you to select from either option 1 or 2 above. Please provide us with your preferred choice prior to April 30th, 2019. If you have questions regarding this matter, you can reach me at 287-4918.

Sincerely,

Remington Buyer
Water Supply Bank Coordinator

Enclosures: Water Supply Bank Rental Rate Resolution, dated March 16th, 2012

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE
WATER SUPPLY BANK

) A RESOLUTION ESTABLISHING
) THE RENTAL RATE
)
)
)

WHEREAS, Idaho Code 42-1761 established the Water Supply Bank; and

WHEREAS, Water Supply Bank Rule 30.01 establishes that the Idaho Water Resource Board (IWRB) may determine the rental price;

WHEREAS, on March 17, 2006 the IWRB established the Water Supply Bank rental price at \$14/acre-foot to be consistent with the price of storage water rented through the various local rental pools for flow augmentation; and

WHEREAS, according to the terms of the Snake River Water Rights Agreement of 2004, sometimes known as the Nez Perce Agreement, the price for stored water used for flow augmentation increases to \$17/acre-foot in 2013, with additional increases in future years; and

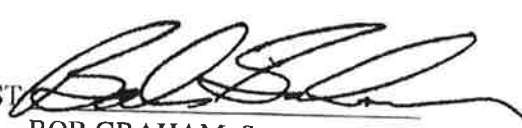
WHEREAS, on January 12, 2012, the Water Supply Bank and Rental Pool Committee of the IWRB met and examined this issue and issued a recommendation to the IWRB that the Water Supply Bank rental price be increased to be consistent Nez Perce Agreement flow augmentation rate.

NOW THEREFORE BE IT RESOLVED that, unless otherwise agreed to between lessor and lessee and approved by the Director of the Department of Water Resources, the price for water rights rented through the Water Supply Bank shall be equal to the Nez Perce Agreement flow augmentation rate in effect at the time that a rental is made.

NOW THEREFORE BE IT FURTHER RESOLVED that this rate shall be inclusive of all administrative fees and charges.

DATED this 16th day of March, 2012.


TERRY T. UHLING, Chairman
Idaho Water Resource Board

ATTEST 
BOB GRAHAM, Secretary



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

April 9, 2019

MICHAEL T WAGONER
1083 W 500 N
BLACKFOOT ID 83221

**RE: APPLICATION TO LEASE WATER RIGHT 35-2324B & 35-7692 TO THE WATER SUPPLY BANK
CONTRACT 972**

*****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, 2021**, 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."

Pursuant to Water Supply Bank Rules 025.06.d, one of the criteria of the Water Resource Board to accept water rights into the Bank is whether the offering price or requested rental rate is reasonable. The current rental rate is \$20.00 per acre foot. Unless you have a private agreement with a renter, the Department does not see a reason why leases should be accepted into the Bank at a rental rate other than the current rental rate.

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

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts

Hersley, Jean

From: Jordan, Blake
Sent: Tuesday, April 09, 2019 1:24 PM
To: Hersley, Jean
Subject: RE: Watermaster Comments for WSB Lease Contract for 35-2324B and 35-7692 Wagoner

Hi Jean,
I have no concerns with this lease.

Blake

From: Hersley, Jean
Sent: Tuesday, April 09, 2019 12:39 PM
To: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Subject: Watermaster Comments for WSB Lease Contract for 35-2324B and 35-7692 Wagoner

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

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

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Michael Wagoner

Memo Date: april 9, 2019

Water Right Number(s): 35-2324B & 35-7692

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	na	
Other (explain in comments)	x	
6 Water Right validity		
Decreed/Licensed/Statutory claim date (write in comments section)		2002
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	
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	
Are there overlapping rights that need to be placed in the bank also?	Yes No	
Will the place of use continue to receive water? (if yes explain in comments)	x	
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	x	
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 () Transfer () Mitigation () Other - Explain in comments	x	
13 Narrative: The Department received these applications on March 29, 2019. The applicant wishes to place the entirety of both rights in the Bank. These rights were decreed in 2002 and were put to beneficial use until 2016 when they were leased to the Bingham Ground Water District until April 1, 2019. The applicant wants to lease these rights through 2021. Applicant is asking for \$30 af but will let him know the current rate is \$20. These rights are currently within WD 120.		