

AMENDED WATER SUPPLY BANK LEASE CONTRACT NO. 329

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

LESSOR: BARRY J PETERSON
1111 POPLAR DR
MOUNTAIN HOME, ID 83647

RECEIVED

OCT 02 2018

**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 Thursday, November 13, 2014.
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)
61-12145	4/1/1961	GROUND WATER	0.18	53.6	13.4
61-12147	4/1/1961	GROUND WATER	0.13	22.9	5.5
Combined Lease Totals			0.31	76.1	18.9

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, 2015 to December 31, 2019. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

SUPPORT DATA

FILE # 61-12145

AMENDED WATER SUPPLY BANK LEASE CONTRACT NO. 329

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.

AMENDED WATER SUPPLY BANK LEASE CONTRACT NO. 329

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

LESSOR BARRY J PETERSON

:

1111 POPLAR DR

MOUNTAIN HOME, ID 83647

By

Title

Date

Barry Peterson
10-1-18

By

Title

Date

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

10/4/2018

Lease approved by IDWR

Chad West

Date

10-4-2018

ATTACHMENT A
AMENDED WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 329

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): 61-12145, 61-12147

GROUND WATER SWNW Sec. 35 Twp 03S Rge 06E ELMORE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
61-12145	IRRIGATION	03/15	to	11/15	0.18 cfs	53.6 AF
61-12147	IRRIGATION	03/15	to	11/15	0.11 cfs	22.4 AF
61-12147	STOCKWATER	01/01	to	12/31	0.02 cfs	0.5 AF
Totals:					0.31 cfs	76.5 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	
03S	06E	35			10.4				5.0	19.0									34.4

Limited to 18.9 acres

Total Acres: 34.4

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	
03S	06E	35		x	x				x	x									

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).

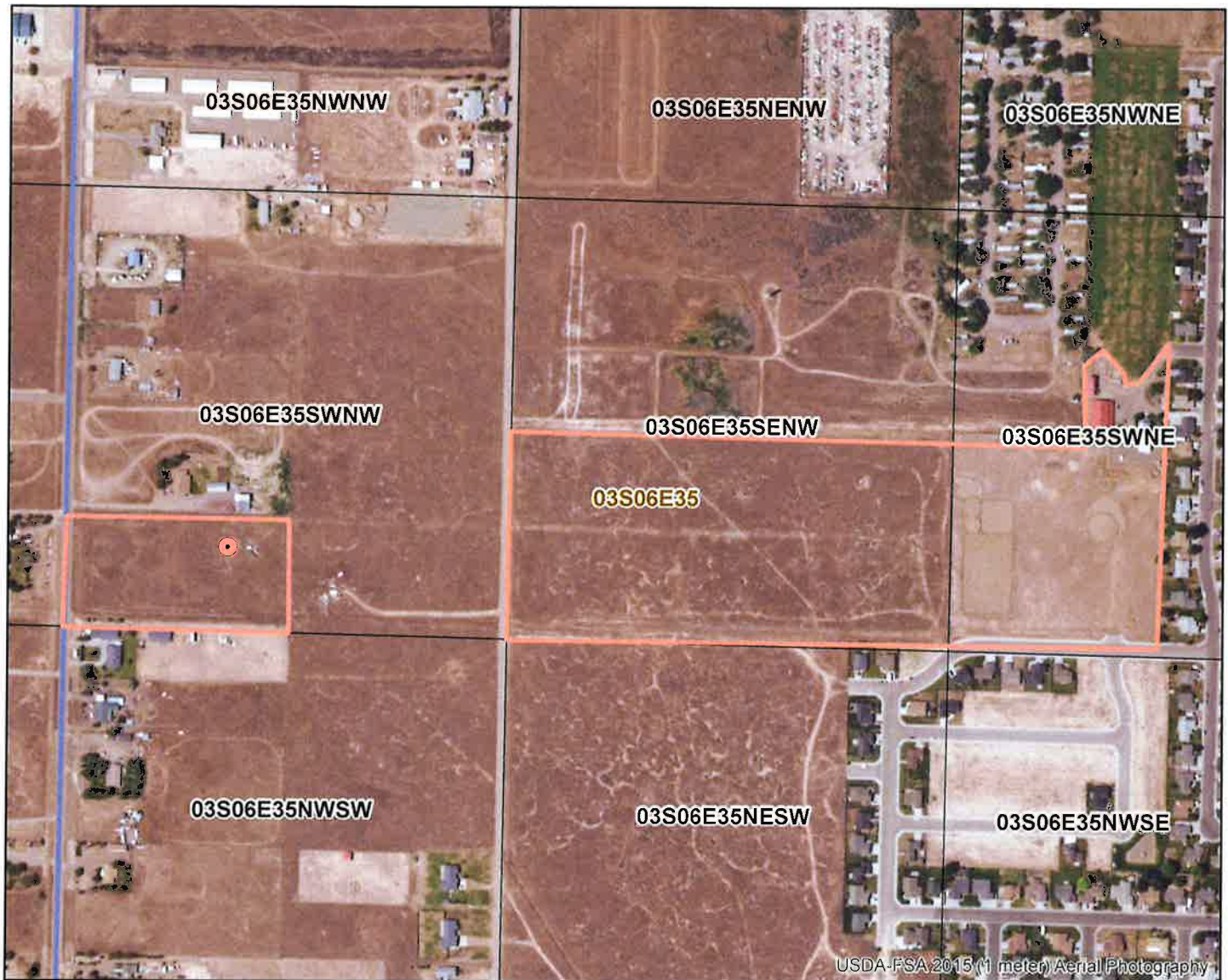
ATTACHMENT A
AMENDED WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 329

6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The following rights are diverted through point of diversion described above: 61-12145, 61-12147.
13. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
14. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
15. Unleased portions of rights 61-12145 and 61-12147 when combined shall not exceed the irrigation of 5.0 acres in a single irrigation season.
16. Leased portions of rights 61-12145 and 61-12147 when combined shall not exceed the irrigation of 18.9 acres in a single irrigation season.
17. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
18. All water rights within Basin 61 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
19. This lease when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
20. This rental agreement does not authorize the construction of a well.

Idaho Water Resource Board
Amended Water Supply Bank Lease Contract No. 329

61-12145 & 61-12147
Effective until December 31, 2019

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
-  Townships
-  PLS Sections
-  Quarter Quarters

0 250 500 Feet





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 5, 2018

BARRY J PETERSON
1111 POPLAR DR
MOUNTAIN HOME ID 83647

**RE: AMENDED WATER SUPPLY BANK LEASE CONTRACT 329
FOR WATER RIGHTS 61-12145 and 61-12147**

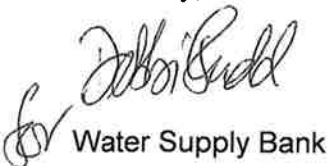
Dear Lessor:

Water rights **61-12145 and 61-12147** were leased into the Water Supply Bank (Bank) as of November 13, 2014, in accordance with the enclosed executed amended lease contract. **Your water rights, as described on the amended 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 amended lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,


Water Supply Bank

Enclosure: Executed Lease Contract

c: Angie Grimm - IDWR Western Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 20, 2018

BARRY J PETERSON
1111 POPLAR DR
MOUNTAIN HOME ID 83647

RE: AMENDED LEASE CONTRACT 329 FOR WATER RIGHT(S) 61-12145 and 61-12147 TO THE WATER SUPPLY BANK

Dear Mr. Peterson:

The Department of Water Resources has completed a review of your lease contract of the above-mentioned water right(s) to the Water Supply Bank. A review of the leased water rights show that an error was made in calculating proportionate elements of these water rights. This error could prevent the rental of these water rights. **I have enclosed two original Amended Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH 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.

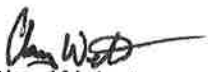
The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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 rights may not be available for immediate release if they have 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 me at 287-4910.

Sincerely,


Clay Webster
Water Rights Supervisor

Enclosure: Proposed Amended Lease Contracts