

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 795

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

**LESSOR:** BRITTA HUBBARD  
45 APACHE  
GUNNISON, CO 81230

RECEIVED

JUN 14 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 March 07, 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)  |
|---------------------|---------------|--------------|----------------------|-----------------------|-------------|
| 37-7059             | 3/11/1970     | GROUND WATER | 0.032                | 5.90                  | 4.50        |
| <b>Lease Totals</b> |               |              | <b>0.032</b>         | <b>5.90</b>           | <b>4.50</b> |

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, 2018 to December 31, 2020. 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.

## WATER SUPPLY BANK LEASE CONTRACT No. 795

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. 795**

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

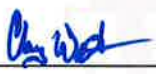
**LESSOR:** BRITTA HUBBARD  
45 APACHE  
GUNNISON, CO 81230

By   
Title Menger  
Date 6/9/18

**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 6/14/2018

Lease approved by IDWR 

Date 6-14-2018

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 795**

**ATTACHMENT A  
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Source and Location of Point(s) of Diversion for Water Right No(s): 37-7059**

|              |      |         |         |         |               |
|--------------|------|---------|---------|---------|---------------|
| GROUND WATER | NESE | Sec. 11 | Twp 04N | Rge 17E | BLAINE County |
| GROUND WATER | NWSW | Sec. 12 | Twp 04N | Rge 17E | BLAINE County |

| Water Right    | Beneficial Use | Season of Use |    |       | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
|                |                | From          | to | To    |                      |             |
| 37-7059        | IRRIGATION     | 4/15          | to | 10/31 | 0.032 cfs            | 5.90 AF     |
| <b>Totals:</b> |                |               |    |       | 0.032 cfs            | 5.90 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 |        |
| 04N | 17E | 11  |    |    |    |    |    |    |    |    |    |     |    |    | 4.4 |    |    |    | 4.4    |
| 04N | 17E | 12  |    |    |    |    |    |    |    |    |    | 0.1 |    |    |     |    |    |    | 0.1    |

Total Acres: 4.5

**ADDITIONAL CONDITIONS OF ACCEPTANCE**

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 795**

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. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
13. The unleased extent of irrigation use authorized under water right 37-7059 is limited to a maximum instantaneous diversion rate of 0.008 cfs and a maximum annual diversion volume of 1.4 acre feet, for irrigation of 1.1 acres.
14. The unleased extent of stock water use authorized under water right 37-7059 is limited to a maximum instantaneous diversion rate of 0.008 cfs and a maximum annual diversion volume of 0.2 acre feet, for stock watering purposes.
15. The unleased extent of water use authorized under water right 37-7059 is limited to a combined maximum instantaneous diversion rate of 0.008 cfs and a combined maximum annual diversion volume of 1.6 acre feet, for irrigation and stock water purposes.

Idaho Water Resource Board  
Water Supply Bank Lease Contract No. 795

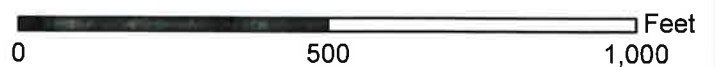
37-7059

Effective until December 31, 2020

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



STATE OF IDAHO  
WATER RESOURCE BOARD

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MAR 07 2018

DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant Britta Hubbard

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

Water Right No. 37-7059

(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 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Signatures and contact information for <b>all owners</b> of the water right to be leased or sold on this application.                                                                                                                                                                                                                                  |
| 1B | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.                                                                                                                                                                                                                                                                        |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).                                                                                                                                                                                                                   |
| 1D | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank.                                                                                                                                                                                                                                                                                 |
| 3  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .                                                            |
| 4A | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Written consent from irrigation district or water delivery company.                                                                                                                                                                                                                                                                                    |
| 4G | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> .                                                                                                                                                                                                                                       |

#### Department Use Only

Fee Amount \$ 250.00Received By: TRDate Received: 3/7/2018Receipt # C104741W-9 received? Yes ☐ No ☒

(Route W-9 to Fiscal)

Name on W-9:

1050

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 Britta Hubbard

Mailing Address 45 Apache Rd. Gunnison CO 81230

Street

City

State

Zip Code

Email Address \_\_\_\_\_

Phone Number 970-445-8079

☐ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301

Phone Number 208-736-8543

☐ 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.  
Two points of diversion deliver water to the authorized place of use.

- 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. None.

- 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. See applicant's WSB rental application for 2018.

- 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. See previous 2015, 2016 and 2017 WSB lease and rental approvals associated with 37-7059.

- 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. N/A.

- 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 ☒  
N/A.

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: 2018 to 2020 (maximum lease period 5 calendar years).  
(Year) (Year)

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

Current rental rate. \_\_\_\_\_

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

The Designated Applicant acknowledges the following:

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

Bret Staded  
Signature of Designated Applicant

Bret S Hubbard  
Printed Name

2/16/2018  
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**

**ATTACHMENT 1A**

**Additional Water Right Holders Party to the Lease Application**

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

|                       | <b>Designated Applicant</b>                                                                          | <b>Applicant #2</b>                                                           | <b>Applicant #3</b>                                                           |
|-----------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Name                  | Britta Hubbard                                                                                       | Peter Schernthanner                                                           | Andreas Schernthanner                                                         |
| Mailing Address       | P.O. Box 1064 Gunnison CO 81230                                                                      | 830 28th St. Oakland CA 94608                                                 | 10252 Maymie St. Boise ID 83714                                               |
| Phone Number          | 970-445-8079                                                                                         |                                                                               |                                                                               |
| Email Address         | brittahubbard@gmail.com                                                                              |                                                                               |                                                                               |
| Applicant Declaration | As Designated Applicant, I submit this lease application on behalf of all other water right holders. | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. |
| Signature             |                                                                                                      |                                                                               |                                                                               |

|                       | <b>Applicant #4</b>                                                           | <b>Applicant #5</b>                                                           | <b>Applicant #6</b>                                                           |
|-----------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Name                  | Heidi E. Schernthanner                                                        | Liesl A. Schernthanner                                                        | Monika Schernthanner                                                          |
| Mailing Address       | P.O. Box 1523 Ketchum ID 83340                                                | P.O. Box 3307 Ketchum, ID 83340                                               | P.O. Box 6918 Ketchum ID 83340                                                |
| Phone Number          |                                                                               |                                                                               |                                                                               |
| Email Address         |                                                                               |                                                                               |                                                                               |
| Applicant Declaration | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. |
| Signature             |                                                                               |                                                                               |                                                                               |

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

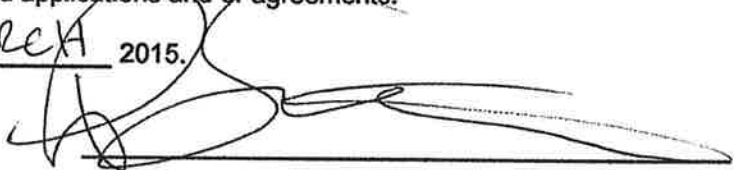
I, Peter Schemthanner, hereby nominate and appoint Britta Hubbard as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to water right lease and rental applications before the Idaho Department of Water Resources and or the Idaho Water Resources Board for the following water right transactions:

All portions of all water right lease and or rental applications and or accompanying agreements pertaining to water right 37-7059.

in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications and agreements above-mentioned. Further, I hereby declare that each and every application, agreement, receipt, or payment which shall be by my said agent given, made or done for the afore said purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by myself in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these present. This Limited Power of Attorney will be valid during the duration of the above referenced applications and or agreements.

Dated this 18 day of MARCH 2015.



Signature

State of Idaho )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ Day of \_\_\_\_\_, 2015, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, known or identified to me to be the individual whose name and subscription to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

S  
E  
A  
L

See Attached Acknowledgment  
Notary Public  
In and for said State and County

\_\_\_\_\_  
My Commission Expires

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

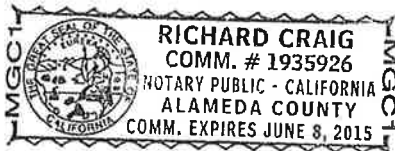
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of Alameda )  
 On 3-18-15 before me, Richard Craig, Notary Public  
 Date Here Insert Name and Title of the Officer  
 personally appeared Peter Schernthanner  
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Limited Power of Attorney Document Date: \_\_\_\_\_  
 Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

I, Liesl A. Schernthanner, hereby nominate and appoint Britta Hubbard as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to water right lease and rental applications before the Idaho Department of Water Resources and or the Idaho Water Resources Board for the following water right transactions:

All portions of all water right lease and or rental applications and or accompanying agreements pertaining to water right 37-7059.

in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications and agreements above-mentioned. Further, I hereby declare that each and every application, agreement, receipt, or payment which shall be by my said agent given, made or done for the afore said purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by myself in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these present. This Limited Power of Attorney will be valid during the duration of the above referenced applications and or agreements.

Dated this 31 day of March 2015.

  
Signature

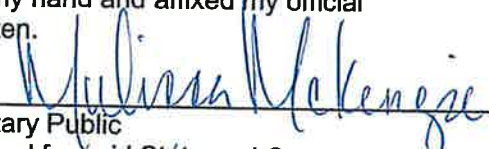
State of Idaho )  
County of Blaine ) ss.

On this 31<sup>st</sup> Day of March, 2015, before me, a Notary Public in and for said County and State, personally appeared Liesl Schernthanner, known or identified to me to be the individual whose name and subscription to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

S  
E  
A  
L



  
Notary Public  
In and for said State and County  
10/29/2018  
My Commission Expires

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

I, Heidi E. Scherthanner, hereby nominate and appoint Britta Hubbard as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to water right lease and rental applications before the Idaho Department of Water Resources and or the Idaho Water Resources Board for the following water right transactions:

All portions of all water right lease and or rental applications and or accompanying agreements pertaining to water right 37-7059.

in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications and agreements above-mentioned. Further, I hereby declare that each and every application, agreement, receipt, or payment which shall be by my said agent given, made or done for the afore said purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by myself in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these present. This Limited Power of Attorney will be valid during the duration of the above referenced applications and or agreements.

Dated this 23 day of March 2015.

Heidi Scherthanner

Signature

State of Idaho )  
County of Blaine ) ss.

On this 23 Day of March, 2015, before me, a Notary Public in and for said County and State, personally appeared Heidi Scherthanner, known or identified to me to be the individual whose name and subscription to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

S  
E  
A  
L



Amy K Thompson

Notary Public  
In and for said State and County

May 7 2019  
My Commission Expires

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

I, Andreas Schernthanner, hereby nominate and appoint Britta Hubbard as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to water right lease and rental applications before the Idaho Department of Water Resources and or the Idaho Water Resources Board for the following water right transactions:

All portions of all water right lease and or rental applications and or accompanying agreements pertaining to water right 37-7059.

in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications and agreements above-mentioned. Further, I hereby declare that each and every application, agreement, receipt, or payment which shall be by my said agent given, made or done for the afore said purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by myself in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these present. This Limited Power of Attorney will be valid during the duration of the above referenced applications and or agreements.

Dated this 20 day of March 2015.

[Signature]

Signature

State of Idaho )

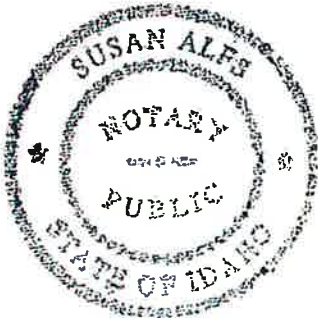
County of Blaine )

ss.

On this 20 Day of March, 2015, before me, a Notary Public in and for said County and State, personally appeared Andreas Schernthanner known or identified to me to be the individual whose name and subscription to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

S  
E  
A  
L



[Signature]  
Notary Public  
In and for said State and County

12/15/2019  
My Commission Expires

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

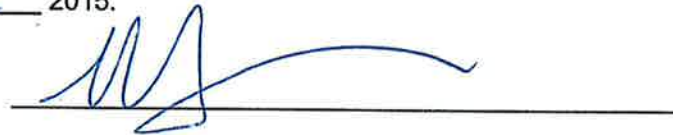
I, Monika Schernthanner, hereby nominate and appoint Britta Hubbard as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to water right lease and rental applications before the Idaho Department of Water Resources and or the Idaho Water Resources Board for the following water right transactions:

All portions of all water right lease and or rental applications and or accompanying agreements pertaining to water right 37-7059.

in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications and agreements above-mentioned. Further, I hereby declare that each and every application, agreement, receipt, or payment which shall be by my said agent given, made or done for the afore said purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by myself in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these present. This Limited Power of Attorney will be valid during the duration of the above referenced applications and or agreements.

Dated this 25 day of March, 2015.



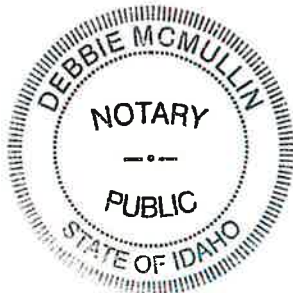
Signature

State of Idaho )  
County of Blaine ) ss.

On this 26<sup>th</sup> Day of March, 2015, before me, a Notary Public in and for said County and State, personally appeared Monika Schernthanner, known or identified to me to be the individual whose name and subscription to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

S  
E  
A  
L



Debbie McMullin  
Notary Public  
In and for said State and County

12/17/2016  
My Commission Expires

**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> | <u>Nature of Use</u> | <u>Leased Rate</u><br>(cfs) | <u>Leased Volume</u><br>(af) | <u>Leased Acres</u><br>(ac) |
|------------------------------|----------------------|-----------------------------|------------------------------|-----------------------------|
| <u>37-7059</u>               | <u>Irrigation</u>    | <u>0.02</u>                 | <u>4.0</u>                   | <u>3.1</u>                  |
|                              |                      |                             |                              |                             |
|                              |                      |                             |                              |                             |
|                              |                      |                             |                              |                             |
|                              | Total Amounts:       | <u>0.02</u>                 | <u>4.0</u>                   | <u>3.1</u>                  |

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

| Twp | Rge | Sec | Lot | ¼ | ¼  | ¼  | County |
|-----|-----|-----|-----|---|----|----|--------|
| 4N  | 17E | 11  |     |   | NE | SE | BLAINE |
| 4N  | 17E | 12  |     |   | NW | SW | BLAINE |
|     |     |     |     |   |    |    |        |
|     |     |     |     |   |    |    |        |
|     |     |     |     |   |    |    |        |
|     |     |     |     |   |    |    |        |
|     |     |     |     |   |    |    |        |



0 100 200 400  
Feet

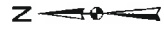
### SCHERNTHANNER

WATER BANK LEASE #1, 37-7059, 2018-20

NAIP 2017 AERIAL

ATTACHMENT #3

- POD 37-7059
- POU 37-7059
- Schernthanner lease





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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

June 15, 2018

BRITTA HUBBARD  
45 APACHE  
GUNNISON CO 81230

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-7059**

Dear Lessor:

Water right **37-7059** was leased into the Water Supply Bank (Bank) as of April 3, 2018, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contracts, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2020**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov). **Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

for Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region  
Kevin Lakey - Water District 37  
Zach Latham - Brockway Engineering  
Galena GWD



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

June 6, 2018

GARY SPACKMAN  
Director

BRITTA HUBBARD  
45 APACHE  
GUNNISON CO 81230

### RE: APPLICATIONS TO LEASE WATER RIGHT 37-7059 TO THE WATER SUPPLY BANK

\*\*\*\*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 each water right portion, a total of six (6) portions, for your review and signature. Please sign and return ALL (12) 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, 2020**, 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 #s C104708, C104740, C104741, C104759, C104761 & C104901

c: Zach Latham – Brockway Engineering

## Memorandum

**To:** Water Rights 37-7059, 37-7104 & 37-7105

**From:** Remington Buyer

**Date:** April 30, 2018

**Re:** Water Supply Bank Lease Application Nos. 1046, 1050, 1055, 1071, 1084 & 1085

**Purpose/Narrative:** This is a review of a lease to the Water Supply Bank of water right 37-7059, for the period 2018 through 2020. Water right 37-7059 authorizes irrigation of 28.0 acres of land west of the City of Ketchum, via a diversion of ground water at a maximum rate of 0.20 cfs and a maximum annual diversion volume of 36.4 acre feet. The right also authorizes stock watering at a rate of 0.02 cfs with a 0.2 af volume limit, for a combined licensed and decreed water use as listed below in Table 1:

The right was decreed in 2010 and has been leased to and rented from the Water Supply Bank yearly since 2015. Recently, six separate and distinct lease proposals were submitted for portions of water right 37-7059: application 1046 (3.1 acres, receipt ID C104708); 1050

| Authorized WR Elements for 37-7059 |      |      |       |         |        |
|------------------------------------|------|------|-------|---------|--------|
| Beneficial Use                     | Rate | Vol  | Acres | Rate/AC | Vol/AC |
| Irrigation                         | 0.2  | 36.4 | 28    | 0.007   | 1.3    |
| Stock water                        | 0.02 | 0.2  |       |         |        |
| Combined                           | 0.20 | 36.6 | 28    | 0.007   | 1.3    |

**Table 1 – Water Right Elements**

(4.5 acres, receipt ID C104740), 1055 (1.4 acres, receipt ID C104759); 1071 (5.3 acres, receipt ID C104901), 1084 (5.6 acres, receipt ID C104761) and 1085 (7.0 acres, receipt 104741). The reason for separate lease applications is to allocate specific portions of this water right to specific rentals by various upper Wood River Valley water users. A single lease application has been completed and submitted six different times, on different dates, with different maps and water right portion (attachment 1A) information. As such, six lease contracts are being prepared for signature for this water right, however this lease review is generic to all five lease contracts. Note: discrepancies associated with lease maps and water right portions occurred in applications 1050 (wrong attachment 1A) and 1071 (wrong map), however updated maps and lease portions will be provided for review by the applicant prior to contract signature and execution.

**Authority to File:** Applications have been submitted by Britta Hubbard, who is a recognized co-owner of water right 37-7059. Mrs. Hubbard co-owns water right 37-7059 with five other individuals: Peter, Andreas, Heidi, Liesl and Monika Schernthanner. An incomplete and unsigned Attachment 1A lessor designation form was included with the lease application, however all five co-owners previously provided IDWR with limited power of attorney documents, in which Britta Hubbard was authorized to represent them in all portions of water right lease and rental applications and agreements pertaining to water right 37-7059. No concerns about authority to file.

**Water Right Validity/Forfeiture Evaluation:** The water right was decreed in 2010 and leased to the Bank in 2015. It has been under lease to the Bank since 2015. No concerns about water right validity.

**Injury Evaluation:** Water right 37-7059 authorizes irrigation and stock water uses from two ground water wells that are also affiliated with domestic water rights 37-7104 and 37-7105. All three water rights were developed by the same individual, Andreas Schernthanner, who applied for 37-7059 on March 11, 1970 and then submitted applications for 37-7104 and 37-7105 on June 22, 1971. According to the proof of beneficial use form for 37-7059, filed by Mr. Schernthanner on February 10, 1975, ground water wells were drilled for

the three permits in 1972 and 1974. Per a beneficial use field exam conducted by IDWR on August 9, 1978, 28 acres were being irrigated, 10 horses were being watered and 8 homes were being supplied with domestic water under the permits 37-7059 and 37-7104. A second field exam, conducted by IDWR on 8/4/1981, found an additional two homes licensed to receive domestic water under 37-7105.

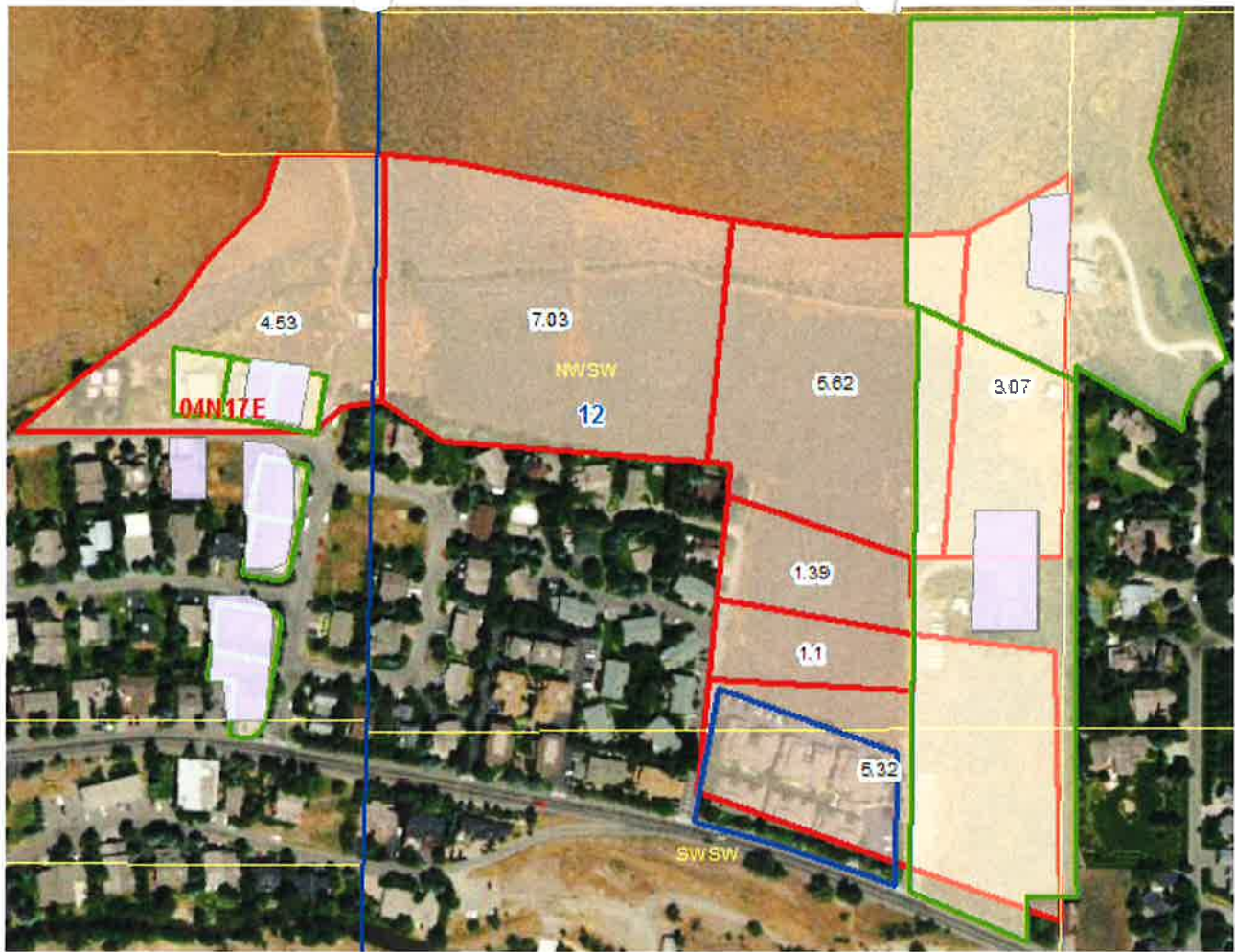
The 10 homes authorized to receive domestic water under 37-7104 and 37-7105 divert ground water from the same two wells associated with 37-7059. However, there are no combined limits on the diversion rates for these three water rights and no injury is expected to the domestic rights through a reduction in diversions under irrigation water right 37-7059.

The use of water for irrigation and stock watering proposed to be ceased through a Bank lease of water right 37-7059 could foreseeably continue through a use of City of Ketchum municipal water. This would not constitute an enlargement in water use as the city is authorized to furnish municipal water to the lands associated with 37-7059. However, if irrigation and stock water uses are leased into the Bank and then authorized to be rented for irrigation and/or stock water uses elsewhere within the basin *AND* irrigation and/or stock watering continues at the leased place of use (through a use of Ketchum municipal water), then total, overall consumptive uses of water within the watershed might increase and possibly cause changes in the timing and availability of water flows within the watershed and thereby potentially cause injury to water uses established under prior appropriated water rights. However, injury is not apparent nor certain through this lease and can be further explored through a rental review if 37-7059.

**Enlargement of Use:** Rights 37-7104 and 37-7105 authorize domestic water uses at 10 residential properties located within the NESE QQ of Section 11 and the NWSW QQ of Section 12 within Township 04N, Range 17E. Both of these QQs are also authorized to irrigated with water diverted under right 37-7059. If irrigation water use authorized under 37-7059 was historically the sole source of irrigation water developed and used within the common places of use for all three water rights, then an enlargement in water use might occur if irrigation water right 37-7059 was fully leased into the Bank and irrigation of the domestic residential properties continued under domestic water rights 37-7104 and 37-7105.

Consistent with IDWR Application Processing Administrative Memorandum 22 (Definition of "Domestic"), water rights 37-7104 and 37-7105 were both licensed with annual diversion volumes of 1.2 afa per domestic residence, indicating that irrigation of up to 0.5 acres was contemplated for all the homes associated with these domestic water rights. However, it is important to keep in mind that even as diversion volumes authorized under rights 37-7104 and 37-7105 are high enough to accommodate domestic irrigation, these authorizations in and of themselves are not actual evidence domestic irrigation.

The properties underneath and adjacent to the place of use for water rights 37-7059 were reviewed to further evaluate for a potential irrigation water use enlargement. The descendants of Andreas Schernthanner own 10 properties that overlap with the places of use for water rights 37-7059, 37-7104 and 37-7105. Heidi and Liesl Schernthanner own 36.9 acres, split between three parcels in the NWSW QQ of Section 12, two of which feature domestic residences (consistent with two residential homes authorized in the NWSW QQ of Section 12 under 37-7105). Heidi and Liesl are also listed as co-owners of a 0.2 acre parcel and a 0.3 acre residential parcel in Section 11, while Liesl solely owns a third 0.3 acre residential parcel in Section 11. Peter and Monika Schernthanner jointly own two 0.2 acre residential parcels, as well as a 0.3 acre residential parcel in Section 11, while Monika is listed as sole owner of a final 0.2 acre residential parcel in Section 11. In total, it appears that the descendants of Andreas Schernthanner own seven residential properties, situated on 1.7 acres in Section 11, as well as two residential properties, totaling 14.8 acres in Section 12. The boundaries of the nine residential parcels are mapped in green on the next page.



The purple polygons overlapping the nine Schernthanner residential properties are the place of use boundaries for domestic water rights 37-7104 and 37-7105. The 28.0 acre place of use boundary for water right 37-7059 is delineated in red in the image above; the total place of use area for 37-7059 is divided into seven segments, corresponding to the portions of the water right proposed to be leased to the Bank via six different lease applications.

As can be observed in the map above, some of the residential parcels owned by the Schernthanners, along with some places of use for domestic water rights 37-7104 and 37-7105 overlap with the irrigable place of use for water right 37-7059. Aside from the 16.5 acres associated with Schernthanner-owned residential parcels in sections 11 and 12, Heidi and Liesl Schernthanner also own an additional 8.1 non-residential acres (recorded in Blaine County records as Schernthanner Acres) spread out across two parcels in the NESE QQ of section 11, as well as 22.0 acres within the NWSW QQ of Section 12. As such, between the various QQs in Sections 11 and 12, the descendants of Andreas Schernthanner own 16.5 acres of residential property and 30.3 acres of non-residential property, for a total of 46.8 acres across both sections, of which 22.0 acres of non-residential Schernthanner acres property is located in the NWSW QQ of Section 12.

It is mathematically possible for acres associated with 10 Schernthanner-owned residences within Sections 11 and 12 to receive a full supply of irrigation water from rights 37-7104 and 37-7105, sufficient to irrigate 0.5 acres each, for a total of 5.0 acres, while at the same time, 28.0 acres could be fully irrigated under 37-7059 within 30.1 acres located in the NESE QQ of Section 11 and the NWSW QQ of Section 12 (on lands also owned by the descendants of Andreas Schernthanner), thus allowing for full utilization of water under the three water rights without overlap.

It is important to recognize that the ability to irrigate without overlap is not evidence of actual irrigation without overlap; although the calculations above confirm that it is possible to fully utilize water under water rights 37-7059, 37-7104 and 37-7105 without overlap, this is not equivalent to evidence that an actual water use enlargement would be avoided if water right 37-7059 is fully leased into the Bank and portions of the place of use for 37-7059 continue to be irrigated under 37-7104, 37-7105). However, because all three water rights were decreed in 2010 and water right 37-7059 was fully leased into the Bank beginning in 2015, it can also be argued that the full irrigation extent of water right 37-7059 was protected from forfeiture through a Water Supply Bank lease, and heretofore, the full extent remains viable for lease into the Bank without enlargement.

That said, the full extent of water right 37-7059 is not proposed for lease into the Bank during 2018; 1.5 afa for irrigation of 1.1 acres and 0.2 afa for stock watering, with a combined limited diversion rate of 0.008 cfs between both uses will remain unleased and not protected from forfeiture at this time. As such, any future lease review of water rights 37-7059, 37-7104 or 37-7105 should consider whether the unleased 1.1 irrigable acres under 37-7059 will overlap with irrigation of Scherthanner-owned residential properties in Sections 11 and 12 that might also be irrigated under domestic water rights 37-7104 and 37-7105. If irrigation of separate, distinct non-overlapping acres cannot be proven in the future, it may result in a situation where the irrigation component of domestic water rights 37-7104 and 37-7105 would effectively become merged with the remaining, unleased balance of 1.1 acres under 37-7059, and any attempt to lease the 1.1 acres under 37-7059 while allowing for continued full irrigation use under 37-7104 and 37-7105 might constitute an enlargement in water use. This is further complicated by the fact that IDWR water management information system (WMIS) attribute data for the well associated with domestic water right 37-7104 suggests the well is used only for domestic purposes in 8 homes and is not used for irrigation.

A final enlargement consideration is that the per-acre diversion rate and volume associated with 37-7059 is quite low (0.007 cfs/acre and 1.3 afa/acre) and proper rental review should ensure the diversion rate and volume duties are not enlarged via a rental.

**Local Public Interest:** Staff have no information indicating that this lease is contrary to local public interests.

**Beneficial Use/Conservation of Water Resources:** The lease should not have a negative impact on the efficiency of the water diversion and delivery system remaining authorized under 37-7104 and 37-7105. No concerns about beneficial use or conservation of water resources.

**Department/Watermaster Comments:** Watermaster and IDWR regional comments on this lease proposal were requested March 5, 2018 and no concerns or objections to the lease were raised.

**Water Supply Bank Evaluation:** Water right 37-7059 can be fully leased to the Water Supply Bank.



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

APR 03 2018

DEPARTMENT OF  
WATER RESOURCES

March 12<sup>th</sup>, 2018

Remington Buyer  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

Re: Companion Water Supply Bank Lease and Rental; Portion of 37-7059.

Remington,

On behalf of the Smith Descendants' Trust (Trust), Brockway Engineering is submitting a companion Water Supply Bank lease/rental package which proposes to lease 5.3 acres of 37-7059 to the Trust, and to allow the Trust to rent back the same acreage for the irrigation of 1.9 acres using 9 gpm per acre from an existing well at the Trust residence in Ketchum, ID. This 2018 through 2020 irrigation seasons lease and rental request is identical to the 2015, 2016 and 2017 lease and rental requests for Jean H. Smith that have previously been approved by IDWR on the Trust property.

Also enclosed is a check for \$250.00 to cover the cost of the lease application. Please copy our office on all correspondence regarding these companion water supply bank lease and rental applications. Thank you for your assistance and if you have questions or comments, please don't hesitate to give me a call.

Regards,

Zach Latham, M.S., Hydrologist

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506

Enc: (1) Schernthanner Lease Application and Map.  
(1) Smith Descendants' Trust Rental Application and Map.  
(1) Brockway Engineering Check # 14614

Cc: Smith Descendants' Trust c/o Colby Smith  
Britta Hubbard



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

MAR 07 2018

DEPARTMENT OF  
WATER RESOURCES

February 26<sup>th</sup>, 2018

Mr. Remington Buyer  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

Re: Water Supply Bank Lease and Rental Package; 37-7059.

Dear Remington,

On behalf of Peter, Andreas, Heidi, Liesl and Monika Schernthanner, and Britta Hubbard, Brockway Engineering is submitting a water supply bank lease application to lease 4.5 acres ground water right 37-7059 to the WSB through the end of 2020. Additionally, Brockway Engineering is submitting a rental application which proposes to rent 4.5 acres of 37-7059 for the 2018-2020 irrigation seasons on behalf of the owners of the water right. Britta Hubbard is authorized to sign on behalf of all owners of 37-7059, please see the attached limited power of attorneys.

Water right 37-7059 has a licensed discharge rate of 0.20 cfs for the irrigation of 28.0 acres (3.2 gallons per minute per acre). The applicant is proposing to rent 2.8 times the acreage needed in order to receive the IDWR standard application rate of 9 gpm per acre or 0.02 cfs per acre and irrigate 1.6 acres.

Also attached is a check in the amount of \$250.00 dollars to cover the cost of the lease fee for 37-7059. Please copy our office on all correspondence regarding these water supply bank lease and rental applications. Thank you for your assistance on this matter.

Regards

Zach Latham, M.S., Hydrologist

Enclosures: (1) WSB Lease Application and Map; 37-7059  
(1) WSB Rental Application and Map; 37-7059  
(5) Limited Power of Attorneys  
(1) Brockway Engineering Check # 14557

Cc: Britta Hubbard  
Fritz Haemmerle

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

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WASHINGTON  
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TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506

## Judd, Debbi

---

**From:** Kevin Lakey <watermanager@cableone.net>  
**Sent:** Tuesday, March 06, 2018 11:33 AM  
**To:** Judd, Debbi  
**Subject:** RE: WSB Watermaster & Region Comments Britta Hubbard 37-7059

Debbi,  
I have no concerns with this application.

Kevin Lakey  
Water District 37

**From:** Judd, Debbi <Debbi.Judd@idwr.idaho.gov>  
**Sent:** Monday, March 05, 2018 4:46 PM  
**To:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; (WATERMANAGER@CABLEONE.NET)  
<WATERMANAGER@CABLEONE.NET>  
**Subject:** WSB Watermaster & Region Comments Britta Hubbard 37-7059

I am currently processing this application. Please let me know if you have any questions or concerns within 7 days.

Thanks,

Debbi

Debbi Judd  
Technical Records Specialist  
[debbi.judd@idwr.idaho.gov](mailto:debbi.judd@idwr.idaho.gov)

Idaho Department of Water Resources  
322 E Front St  
PO Box 83720  
Boise, ID 83720-0098  
208-287-4920  
[www.idwr.idaho.gov](http://www.idwr.idaho.gov)

## Judd, Debbi

---

**From:** Skinner, Corey  
**Sent:** Monday, March 05, 2018 5:41 PM  
**To:** Judd, Debbi  
**Subject:** RE: WSB Watermaster & Region Comments Britta Hubbard 37-7059

No concerns from me.

**From:** Judd, Debbi  
**Sent:** Monday, March 05, 2018 4:46 PM  
**To:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; (WATERMANAGER@CABLEONE.NET)  
<WATERMANAGER@CABLEONE.NET>  
**Subject:** WSB Watermaster & Region Comments Britta Hubbard 37-7059

I am currently processing this application. Please let me know if you have any questions or concerns within 7 days.

Thanks,

Debbi

Debbi Judd  
Technical Records Specialist  
[debbi.judd@idwr.idaho.gov](mailto:debbi.judd@idwr.idaho.gov)

Idaho Department of Water Resources  
322 E Front St  
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[www.idwr.idaho.gov](http://www.idwr.idaho.gov)

**WATER SUPPLY BANK**
**Lease Review Checklist**
**Applicant(s) Name:** Britta Hubbard

**Memo Date:** 3/5/18

**Water Right Number(s):** 37-7059

**Reviewers Name:** Debbi

**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                                                                                                                                                                                                                                                                                                                                                                                                             | x         |    | 3.1 acres                    |
|    | All of right                                                                                                                                                                                                                                                                                                                                                                                                                 |           |    |                              |
| 3  | Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)                                                                                                                                                                                                                                                                                                                                                    |           |    | Big Wood River GWMA          |
|    |                                                                                                                                                                                                                                                                                                                                                                                                                              | Yes       | No |                              |
| 4  | Rentable? (If no explain in comments or narrative)                                                                                                                                                                                                                                                                                                                                                                           | x         |    | designated for Ralph Forgeon |
| 5  | Authority to file                                                                                                                                                                                                                                                                                                                                                                                                            |           |    |                              |
|    | Current owner or designated applicant                                                                                                                                                                                                                                                                                                                                                                                        | x         |    | designated                   |
|    | SOS Web site checked for business entity                                                                                                                                                                                                                                                                                                                                                                                     |           | NA |                              |
|    | Other (explain in comments)                                                                                                                                                                                                                                                                                                                                                                                                  |           | NA |                              |
| 6  | Water Right validity                                                                                                                                                                                                                                                                                                                                                                                                         |           |    |                              |
|    | Decreed/Licensed/Statutory claim date (write in comments section)                                                                                                                                                                                                                                                                                                                                                            |           |    | Decreed in 2010              |
|    | 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  | WSB since 2015               |
| 7  | Injury to other water rights                                                                                                                                                                                                                                                                                                                                                                                                 |           |    |                              |
|    | If the POD is through a delivery entity, was consent provided?                                                                                                                                                                                                                                                                                                                                                               |           | NA | ground water                 |
|    | 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         |    | City of Ketchum Municipal    |
|    | 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)                                                                                                                                                                                                                                                                                                                                                | x         |    | WSB rental                   |
| 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?                                                                                                                                                                                                                                                                                                                                                     |           |    |                              |
|    | Send the watermaster comment request form or e-mail request                                                                                                                                                                                                                                                                                                                                                                  | x         |    |                              |
| 11 | Area Headgate requirement (write in Comments)                                                                                                                                                                                                                                                                                                                                                                                |           |    | 3.5 af per acre              |
| 12 | Is water right involved in any other department action? Pull file and check database<br>( ) Ownership Change ( ) Transfer ( ) Mitigation ( ) Other - Explain in comments                                                                                                                                                                                                                                                     |           | x  |                              |
| 13 | Narrative:                                                                                                                                                                                                                                                                                                                                                                                                                   |           |    |                              |
|    | Application to lease was received February 28, 2018. Applicant stated on the application the desire to lease a portion, 3.1 acres, in the Bank. The right was decreed in 2010 and has been in the Bank since 2015, forfeiture is not an issue. The right is within the Big Wood River GWMA and water district 37. The letter accompanying the application, from the consultant, designates the renter as Ralph Kent Forgeon. |           |    |                              |



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

FEB 28 2018

DEPARTMENT OF  
WATER RESOURCES

February 26<sup>th</sup>, 2018

Ms. Christine Field  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

Re: Scherthanner Water Supply Bank Lease Application; Portion of 37-7059.

Christine,

On behalf of Peter, Andreas, Heidi, Liesl and Monika Scherthanner, and Britta Hubbard, Brockway Engineering is submitting a water supply bank lease application which proposes to lease 3.1 acres ground water right 37-7059 to the WSB through the end of 2020. Previously, Brockway Engineering submitted a rental application on behalf of Mr. Ralph Kent Forgeon which sought to rent back this same 3.1 acres for the irrigation of 1.1 physical acres on the property using 9 gpm per acre. The attached lease application is intended to accompany the rental application previously submitted by our office on behalf of Mr. Forgeon. IDWR approvals in 2016 and 2017 have allowed 1.1 acres of irrigation at the Forgeon residence under 37-7059.

Also attached is a check for \$250.00 to cover the cost of the lease application. Please copy our office on all correspondence regarding these water supply bank lease and rental applications. Thank you for your assistance and if you have questions or comments, please don't hesitate to give me a call.

Regards

Zach Latham, M.S., Hydrologist

Enc: (1) Water Supply Bank Lease Application and Map.  
(1) Brockway Engineering Check # 14535.

Cc: R. Kent Forgeon  
Britta Hubbard

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
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208•736•8543

FAX: 736•8506

## Field, Christine

---

**From:** Zach Latham <zach.latham@brockwayeng.com>  
**Sent:** Monday, February 26, 2018 3:45 PM  
**To:** Field, Christine  
**Subject:** RE: Lease Application Status Query  
**Attachments:** Schernthanner Forgeon WSB Lease App 2018 Scanned for IDWR.pdf

Christine-

Please see the attached water supply bank lease application. I will be mailing the hard copy tomorrow along with the lease fee of \$250. Please let me know if you have any questions, thanks.

Zach Latham

Hydrologist  
Brockway Engineering, P.L.L.C.  
2016 Washington Street North, Suite 4  
Twin Falls, ID 83301  
t. 208-736-8543  
c.208-721-2114  
f. 208-736-8506

[zach.latham@brockwayeng.com](mailto:zach.latham@brockwayeng.com)

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

---

**From:** Field, Christine [mailto:Christine.Field@idwr.idaho.gov]  
**Sent:** Thursday, February 08, 2018 3:57 PM  
**To:** Zach Latham  
**Subject:** Lease Application Status Query

Hi Zach,

I am working the Rental for Ralph Kent Forgeon.

Mr. Forgeon wishes to rent W/R 37-8499 and W/R 37-7059.

W/R 37-7059 is noted in your letter that the Lease Application for this Water Right is on its way to IDWR.

Can you tell me the status when we can expect to receive the Lease Application for W/R 37-7059?

Appreciate any help you can provide.

*Christine Field*  
*Water Supply Bank Support*



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