

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 700

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

LESSOR: ELEANOR C DEVENS REVOCABLE TRUST
68 BEACON ST
BOSTON, MA 02108

RECEIVED

MAY 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 December 01, 2017.
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)
37-22757	6/3/1884	EAST FORK WOOD RIVER, tributary to BIG WOOD RIVER	0.03	Not Stated	0.8
Lease Totals			0.03	Not Stated	0.8

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-22757	0.03	2.77	0.8	0.04	3.5
Combined Limit Totals	0.03	2.77	0.8	0.04	3.5

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

2. **TERM OF LEASE:** The term of this lease shall be January 1, 2018 to December 31, 2022. This Lease shall bind the parties and take effect when both parties have signed it.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 700

3. **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.
4. **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.
5. **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.
6. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

LESSOR: ELEANOR C DEVENS REVOCABLE TRUST

68 BEACON ST

BOSTON, MA 02108

By Eleanor Devens

Title Eleanor Devens Revocable Trust

Date May 6, 2018

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 5/15/2018

Lease approved by IDWR Ch. Wall

Date 5-15-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 700

**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): 37-22757

WOOD RIVER	SWSWNE	Sec. 3	Twp 03N	Rge 18E	BLAINE County
WOOD RIVER	NESENE	Sec. 3	Twp 03N	Rge 18E	BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-22757	IRRIGATION	04/15	to	10/31	0.03 cfs	2.77 AF
Totals:					0.03 cfs	2.77 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	
03N	18E	3			0.8														0.8

Total Acres: 0.8

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
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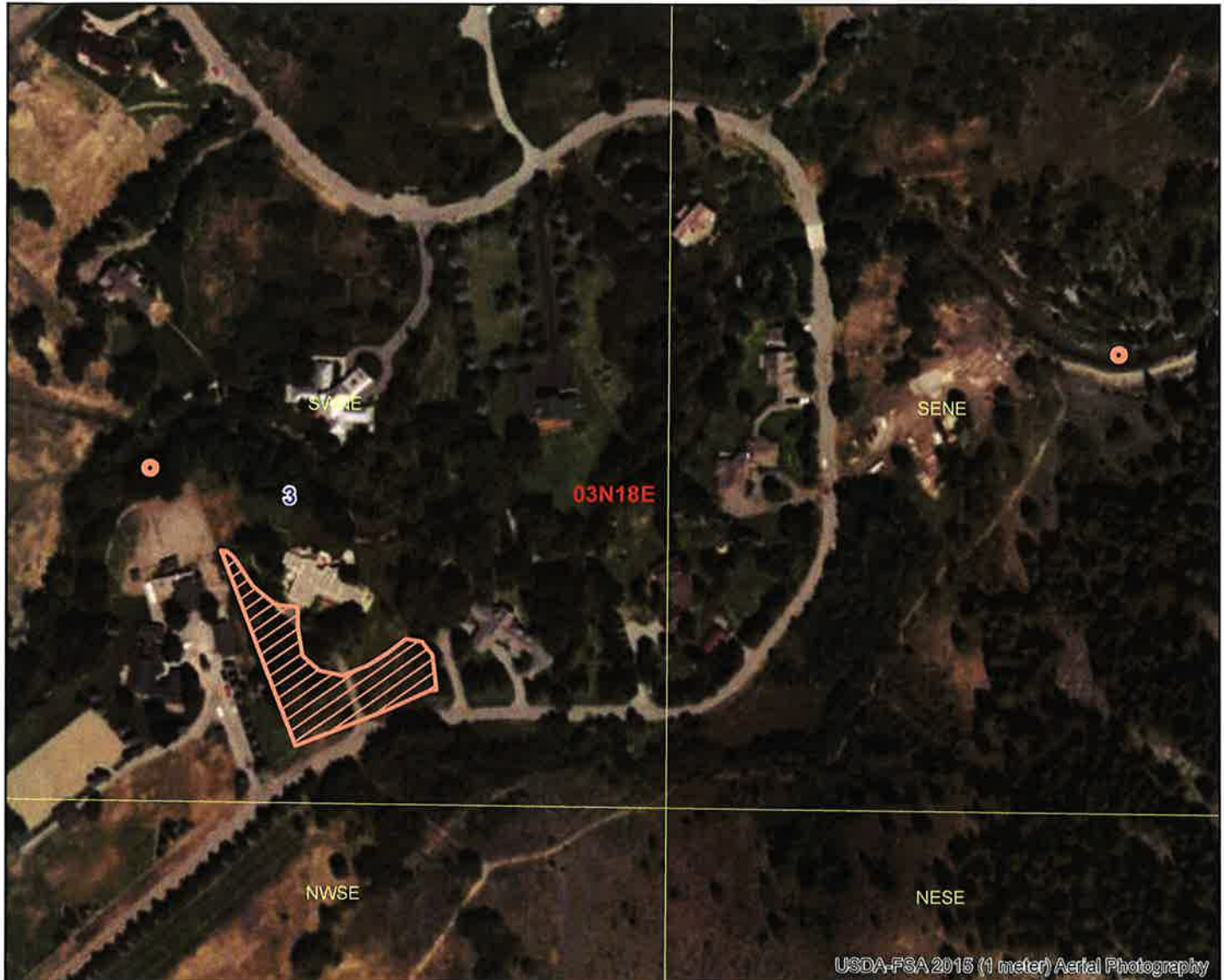
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other 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 right shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used.
13. This right is a split from former right 37-539G.
14. Place of idled acres is located within Lot 9, Hyndman Peak Subdivision.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 700

37-22757

Effective until December 31, 2022

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



0 250 500 750 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 01 2017

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant ELEANOR C. DEVENS REVOCABLE TRUST
(Select one owner – see item 1A on the application)

Water Right No. 37-22759
(One water right per application)

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

Yes ☒ No ☐

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached* (Yes) or *Not Applicable* (N/A)

Yes

☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.

☐ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

1A ☒ ☐ Signatures and contact information for **all owners** of the water right to be leased or sold on this application.

1B ☐ ☒ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.

1C ☒ ☐ Notice of Change in Water Right Ownership form (accessible from www.idwr.idaho.gov).

1D ☒ ☐ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.

2 ☒ ☐ Description of a water right portion offered to the Water Supply Bank.

3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.

4A ☒ ☐ Written consent from irrigation district or water delivery company.

4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>TE</u>	Date Received: <u>12/1/2017</u>	Receipt # <u>C104359</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Eleanor C. Devens</u>	

SCANNED

910

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 ELEANOR C. DEVENS REVOCABLE TRUST
Mailing Address 69 BEACON ST. BOSTON MA 02108
Street City State Zip Code
Email Address eleanordevens@aol.com Phone Number 617-263-0482
208-578-2464

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

OR

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

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

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

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

Name of Representative _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

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

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STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
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.

NONE

- 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.

- 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. right has been leased to the Bank for last 5 years.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?

If yes, describe.

Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2018 to 2022 (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.

Eleanor C. Devens, Trustee
Signature of Designated Applicant

ELEANOR C. DEVENS, TRUSTEE
Printed Name

11/20/17
Date

Signature of Authorized Representative

Printed Name

Date

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

SCANNED

State of Idaho
Department of Water Resources
Water Right License
37-22757

18E

03N



0 0.045 0.09 0.18 Miles

- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

SCANNED





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

May 16, 2018

ELEANOR C DEVENS ERVOCABLE TRUST
68 BEACON ST
BOSTON MA 02108

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-22757

Dear Lessor:

Water right **37-22757** was leased into the Water Supply Bank (Bank) as of December 1, 2017, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lakey – Water District 37
Cherie Palmer – IDWR Compliance Bureau

These signed documents
are returned to you
in accordance with your
letters of April 23 and
April 27.

Thank you.

The Devens Family



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

April 27, 2018

ELEANOR C DEVENS REVOCABLE TRUST
68 BEACON ST
BOSTON MA 02108

RE: APPLICATION TO LEASE WATER RIGHT 37-22757 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 your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

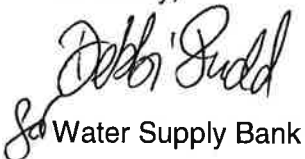
The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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,


Debby Sudd
for Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C104359

Please continue to
process the Lease renewal
for which you have a check
for \$ 250.

Thank you -

Asst + Sharon Devens

917-488-2905

RECEIVED

APR 12 2018

DEPARTMENT OF
WATER RESOURCES

April 9, 2018

The Devens Family

Webster, Clay

From: Condon, Mary
Sent: Tuesday, April 24, 2018 9:34 AM
To: Webster, Clay
Subject: FW: Eleanor Devens Lease Review - 37-22757

From: watermanager@cableone.net [mailto:watermanager@cableone.net]
Sent: Tuesday, April 24, 2018 8:57 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: RE: Eleanor Devens Lease Review - 37-22757

I HAVE NO COMMENTS OR QUESTIONS AT THIS TIME.

KEVIN LAKEY
WATER DISTRICT 37

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Monday, April 23, 2018 4:53 PM
To: watermanager@cableone.net
Cc: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Eleanor Devens Lease Review - 37-22757

Kevin and Corey,

Please see the attached review for Eleanor Devens Revocable Trust and reply with comments or questions within 7 days.

Best,
Mary

Mary Condon
Water Supply Bank Specialist
Planning & Projects Bureau
Idaho Department of Water Resources
Main: (208) 287-4936
Fax: (208) 287-6700

Buyer, Remington

From: Buyer, Remington
Sent: Tuesday, April 03, 2018 12:46 PM
To: 'eleanordevens@aol.com'
Subject: Water Right 37-22757

Mrs. Devens,

The Idaho Department of Water Resources recently processed a withdrawal of your Water Supply Bank lease application for water right 37-22757 (application 910), and the lease application filing fee of \$250 (IDWR receipt ID C104359) for lease application 910 has been identified as available to be applied to a now pending Water Supply Bank rental application for you (application 972). The following summarizes the current state of your applications presently pending before the Department, and options available to you regarding water right 37-22757 and your irrigation rental request.

On December 1, 2017, the Idaho Department of Water Resources received from you an application to lease water right 37-22757 into the Water Supply Bank for years 2018 through 2022. Water right 37-22757 authorizes irrigation of 0.79 acres of Lot 9, within the Hyndman Peak Subdivision, using surface water diverted from the East Fork of the Wood River. Water right 37-22757 had previously been leased to the Water Supply Bank from 2013 through 2017.

While a water right is leased to the Water Supply Bank, the forfeiture provisions of Idaho Code 42-222(2) are tolled. Water right 37-22757 was protected from forfeiture for the period of 2013-2017 while it was in the Water Supply Bank. As a condition of the Water Supply Bank lease contract, the diversion and use of water authorized under 37-22757 was not to be exercised during the lease.

Our review of lease application 910 for water right 37-22757 revealed that the place of use (Lot 9 of the Hyndman Peak Subdivision) was actively irrigated during the term of the 2013-2017 lease contract. Subsequently, the Department inquired as to how the property was irrigated during the term of the 2013-2017 lease contract and it was revealed that the lease contract was not violated, as irrigation of the place of use for 37-22757 was accomplished not through diversion of East Fork Wood River surface water, but instead, through a diversion of ground water.

Lot 9, Hyndman Peak Subdivision does not feature a permit-exempt ground water domestic water right and diversions of ground water for irrigation of the property is unlawful. As such, you were advised that you should submit a rental request to obtain an authorization to irrigate Lot 9 of the Hyndman Peak subdivision with ground water. Rental application 972 was subsequently received by IDWR on January 05, 2018. This rental application has been approved and Water Supply Bank Rental Agreement 235, authorizing irrigation of the property with ground water during 2018 and 2019, will soon be going out to you for signature.

Once the rental agreement is signed and executed, you will be authorized to irrigate Lot 9, Hyndman Peak Subdivision with ground water, or with surface water from the East Fork of the Wood River. The annual rental fee for Rental Agreement 235 is \$224.00 for 2018 and 2019.

As stated above, the purpose of this email is to provide you with options moving forward with respect to lease application 910 and rental application 972. Specifically, the Department is inviting you to make a determination whether you would like to:

- 1) Maintain lease application 910 as withdrawn and apply the \$250 lease application filing fee to rental agreement 235, fully for year 2018, and partially to cover year 2019; or
- 2) Request that lease application 910 be re-opened, with the \$250 filing fee be applied toward the lease review, which would require a new payment of \$224 be provided for Rental Agreement 235.

The basis for our office providing you with the above options is that, although defenses to forfeiture provided for under Idaho Code 42-223 may be applicable to water right 37-22757 during the term of the Rental Agreement 235, our office

cannot guarantee the efficacy of any such defense. Stated differently, because the source of water and the area authorized to be irrigated under Rental Agreement 235 is different than the source of water and extent of irrigable area authorized under water right 37-22757, your use of water under Rental Agreement 235 might not constitute a full defense against for forfeiture through the non-diversion and non-use of East Fork Wood River water for irrigation of Lot 9, Hyndman Peak Subdivision.

As such, we are asking that you review the above information thoroughly and consider whether you would like our office to re-open lease application 910, so that water right 37-22757 may be considered for lease to the Bank for years 2018 through 2022 (and thereby fully protected from forfeiture up until 2022), or, alternatively, whether you would like us to maintain lease application 910 as withdrawn, so that the lease application filing fee can be applied toward authorized water use under Rental Agreement 235 during calendar years 2018 and 2019.

Please feel free to contact me if you have any questions about the above.

Regards,

Remington Buyer

Water Supply Bank Coordinator

Idaho Department of Water Resources

322 East Front Street, Boise, ID, 83720

T: (208) 287-4918 | **F:** (208) 287-6700

Memorandum

To: Water Right(s): 37-22757, 37-2644E & 37-22822

From: Remington Buyer

Date: March 13, 2018

Re: Water Supply Bank Rental Application 972, Agreement 235

Purpose/Narrative: On January 5th, 2018 the Department received a request to rent ground water for five years (2018 through 2022), to authorize irrigation of 2.0 acres of a 2.9 acre residential property owned by the Eleanor Devens Trust, which is located adjacent the East Fork of the Wood River. Water right 37-22757 is appurtenant to property and authorizes irrigation of 0.8 acres with East Fork Wood River surface water.

This rental has been submitted following a December 2017 proposal by the applicant to lease water right 37-22757 to the Bank. Lease review revealed that the place of use for water right 37-22757 would not be idled during the term of the lease, as the applicant intended to irrigate with ground water. According to information provided by the applicant, surface water right 37-22757 does not fully authorize irrigation of the entire property and water from the East Fork of the Wood River is not easily divertible, hence, the applicant intends to not divert water under 37-22757, and instead, desires an authorization to irrigate the property from ground water.

IDWR informed the applicant that a water right rental would be required to authorize irrigation of the property with ground water. The applicant subsequently requested to withdraw their lease application, and to replace it with this rental request. The lease proposal has been withdrawn and the lease application filing fee of \$250 (Receipt ID C104359) has been retained by IDWR to be applied to this rental. No specific ground water right was requested to satisfy this rental. The nearest, proximate ground water right with flow, volume and acre elements sufficient to satisfy this rental appears to be 37-2644E.

Authority to File: Application has been submitted by Eleanor C. Devens. No concern about authority to file.

Water Right Validity/Forfeiture Evaluation: Water right 37-22757 is appurtenant to the rental place of use. The validity of water right 37-22757 is not being considered as part of this review.

Injury Evaluation: No injury is immediately apparent under this rental. The point of diversion and place of use for the ground water right to be rented (37-2644E) is approximately four miles west of the rental location, where Greenhorn Gulch merges with the main stem of the Big Wood River valley. Effectively, this rental proposes moving a ground water point of diversion from the main stem of the Wood River Valley, four miles up the East Fork of the Wood River Valley. It is anticipated that this rental will increase Wood River Valley aquifer ground water depletions above the City of Hailey, but it will also decrease depletions south of Hailey. It is not anticipated that water right 37-22757 will be injured through this rental.

Enlargement of Use: Water right 37-22757 authorizes irrigation of 0.8 acres of the rental place of use with surface water from the East Fork of the Wood River. To avoid enlargement in water use, a condition can be placed on this rental, to restrict irrigation of the 2.0 acre rental place of use from all water sources, to no more than 0.02 cfs/ac and 3.5 afa.

Water rights 37-2644E authorizes irrigation of 3.5 acres from ground water, in conjunction with 5.6 acres of overall irrigation that can be accomplished from surface water diversions under water right 37-22822.

Analysis of the water right backfile and lease review memo for contract 282 indicates there should be no issue in satisfying rental application 972 through rental of 2.0 of the 3.5 acres authorized under ground water right 37-2644E, provided a proportionate amount of surface water right 37-22822 is also included with the rental, which would be as follows:

Water Right	Priority Date	Diversion Rate	Diversion Volume	Irrigable Acres	Rate/AC	Vol/AC
37-2644E	11/16/1989	0.040	7.0	2.0	0.020	3.5
37-22822	09/01/1885	0.183	11.2	3.2	0.057	3.5
Combined Rental Limits		0.180	11.2	3.2	0.057	3.5
Rental Authorization		0.040	7.0	2.0	0.020	3.5

Local Public Interest: Staff are not aware of any local public interests that that are contrary to this rental.

Beneficial Use/Conservation of Water Resources: This use of water authorized under this rental appears consistent with water conservation practices.

Department/Watermaster Comments: Comments will be requested from Water District 37 Watermaster Kevin Lakey, as well as IDWR Southern Region staff.

Water Supply Bank Evaluation: Subject to Watermaster and IDWR staff comments, it is recommended that this rental be approved.