

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 788

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

**LESSOR:** RED CLIFFS HOMEOWNERS  
ASSN  
PO BOX 680  
KETCHUM, ID 83340

RECEIVED

MAY 29 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 January 26, 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)
37-8153	7/21/1984	GROUND WATER	0.040	7.50	2.50
<b>Combined Lease Totals</b>			<b>0.040</b>	<b>7.50</b>	<b>2.50</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, 2022. 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. 788**

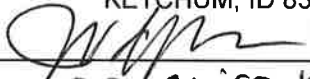
- 5. CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right 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. 788**

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

**LESSOR:** RED CLIFFS HOMEOWNERS  
ASSN  
PO BOX 680  
KETCHUM, ID 83340

By   
Title RED CLIFF HOA PRESIDENT  
Date MAY 22, 2018

**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 5/30/2018

Lease approved by IDWR 

Date 5-30-2018

## WATER SUPPLY BANK LEASE CONTRACT No. 788

### 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): 37-8153**

GROUND WATER                      NENENE                      Sec. 31                      Twp 04N                      Rge 18E                      BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
37-8153	IRRIGATION	04/01	to	09/15	0.04 cfs	7.50 AF
<b>Totals:</b>					0.04 cfs	7.50 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	18E	31	2.4																	2.4	
04N	18E	32						0.1													0.1

Total Acres: 2.5

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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 788**

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 when combined with all other rights shall provide no more than 0.02 cfs per acre or more than 3.5 afa per acre for irrigation.
13. Property is also known as Lots 1-5, Block 1, Red Cliffs Subdivision.
14. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37
15. The unleased portion of water right 37-8153 is limited to a total diversion rate of 0.04 cfs and a total annual diversion volume of 10.5 af for domestic use and the irrigation of 2.5 acres on Lots 1-5, Block 1, Red Cliffs Subdivision.

Idaho Water Resource Board  
**Water Supply Bank Lease Contract No. 788**

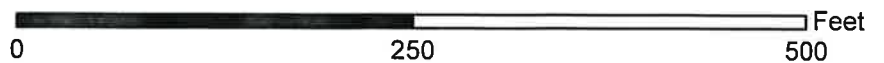
37-8153

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
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

JAN 26 2018

DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant Red Cliffs Homeowners Association, Inc. Water Right No. 37-8153  
(Select one owner -- see item 1A on the application) (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.**

MIMUMUM 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](http://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](http://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>(Signature)</u>	Date Received: <u>1/26/2018</u>	Receipt # <u>C104571</u>
W-9 received? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Route W-9 to Fiscal)		Name on W-9:	

1005

On File

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 Red Cliffs Homeowners Association, Inc.

Mailing Address PO Box 680, Ketchum, ID 83340

Street City State Zip Code

Email Address judy.cahill@mac.com

Phone Number (208) 725-5566

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 James P. Speck

Organization Speck & Aanestad, A Professional Corp.

Professional Title attorney

Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, ID 83340

Phone Number (208) 726-4421

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.

Well, buried mainlines, potable water lines to homes & lines to sprinkler residential irrigation systems

- 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. The portion sought to be leased to the Bank has not been used in the last 5 years and has been leased to the Bank in 2015 - 2017.

- 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

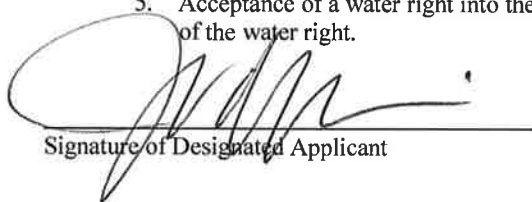
---

---

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.



Signature of Designated Applicant

Judy Cahill, President

Printed Name

1-5-2018

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**

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**

<u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
37-8153	irrigation	0.04	7.5	2.5
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water ground water tributary to \_\_\_\_\_

3. Point(s) of diversion:

<b>Twp</b>	<b>Rge</b>	<b>Sec</b>	<b>Lot</b>	<b>¼</b>	<b>¼</b>	<b>¼</b>	<b>County</b>
4N	18E	31		NE	NE	NE	Blaine

**Idaho Water Resource Board  
Water Supply Bank Lease**






37-8153

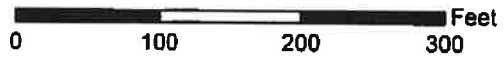
Effective until December 31, 2016

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.



2013 USDA-FSA Aerial Photography

-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters





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

May 31, 2018

RED CLIFFS HOMEOWNERS ASSN  
PO BOX 680  
KETCHUM ID 83340

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-8153**

Dear Lessor:

Water right **37-8153** was leased into the Water Supply Bank (Bank) as of January 26, 2018, 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](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,

A handwritten signature in black ink that reads "Jobb Fudd".

Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region  
Kevin Lakey – Water District 37  
James Speck – Speck & Aanestad  
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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 17, 2018

RED CLIFFS HOMEOWNERS ASSN
PO BOX 680
KETCHUM ID 83340

RE: APPLICATION TO LEASE WATER RIGHT 37-8153 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,

[Handwritten signature]

Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C104571

c: James Speck – Speck & Aanestad

## Buyer, Remington

---

**From:** James Speck <jim@speckandaanestad.com>  
**Sent:** Tuesday, May 15, 2018 11:42 AM  
**To:** Buyer, Remington  
**Cc:** Judy Cahill (judy.cahill@mac.com); Steve & Cristina Cook; Ernie Carlsen (ernie@idahowaterengineering.com); J. Kristoffer Popovich (jkp@ix.netcom.com)  
**Subject:** RE: Gordon & Sokoloff (Lessors) - Sinegal, Greenstein, Weisel & Damo LLC (Renters) Lease/Rental Companion Applications

Remington,

The designated idled areas are acceptable for the requested WSB lease contract. Thanks.

Jim

**From:** Buyer, Remington <Remington.Buyer@idwr.idaho.gov>  
**Sent:** Tuesday, May 15, 2018 10:17 AM  
**To:** James Speck <jim@speckandaanestad.com>  
**Subject:** RE: Gordon & Sokoloff (Lessors) - Sinegal, Greenstein, Weisel & Damo LLC (Renters) Lease/Rental Companion Applications

Jim,

Based on the maps in your last email, the attached map outlines the areas that IDWR understands are proposed to be idled and leased to the Bank under water right 37-8153. If this is acceptable, please confirm the same by responding to this email and we will issue contracts for a lease of 2.5 acres of water right 37-8153, which can be rented under Rental Agreement 238.

Regards,

Remington

**From:** James Speck [<mailto:jim@speckandaanestad.com>]  
**Sent:** Monday, May 14, 2018 4:15 PM  
**To:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>  
**Subject:** RE: Gordon & Sokoloff (Lessors) - Sinegal, Greenstein, Weisel & Damo LLC (Renters) Lease/Rental Companion Applications

Remington,

Thanks for the Gordon et al update.

Attached are the two maps you requested for Lots 1 and 2 Red Cliffs Subdivision. Ernie Carlsen has calculate they each total 0.52A. Will this be acceptable to issue the Popovich rental for 2.5A? Thank you.

Jim

**From:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>  
**Sent:** Monday, May 14, 2018 4:08 PM  
**To:** James Speck <[jim@speckandaanestad.com](mailto:jim@speckandaanestad.com)>

**Subject:** RE: Gordon & Sokoloff (Lessors) - Sinegal, Greenstein, Weisel & Damo LLC (Renters) Lease/Rental Companion Applications

Hi Jim,

I have rental applications 1041 (Greenstein), 1042 (Sinegal), 1043 (Weisel Trust) and 1044 (DAMO LLC) at my desk and intend to initiate processing of them this week.

Regarding rental agreement 238 for Mr. Popovich, have you been able to confirm the 0.5 acres that will be irrigated on lots 1 and 2 of the Red Cliffs Subdivision? I would like to finalize processing of agreement 238 but require a map depicting the acres that will be irrigated on lots 1 and 2 to do so. Else, please advise if you would like our office to issue the rental agreement for 2.1 acres, as previously discussed.

Thank you,

Remington

**From:** James Speck [<mailto:jim@speckandaanestad.com>]

**Sent:** Monday, May 14, 2018 1:04 PM

**To:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>

**Subject:** Gordon & Sokoloff (Lessors) - Sinegal, Greenstein, Weisel & Damo LLC (Renters) Lease/Rental Companion Applications

Remington,

What is the status of these Applications which were filed in February? Thanks.

Jim

James P. Speck  
SPECK & AANESTAD  
A Professional Corporation  
120 East Avenue North  
P.O. Box 987  
Ketchum, ID 83340  
208.726.4421  
208.726.0752 (fax)  
[jim@speckandaanestad.com](mailto:jim@speckandaanestad.com)

---

CONFIDENTIAL COMMUNICATION

This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

**Memorandum**

**To:** Water Right(s) 37-8153

**From:** Remington Buyer

**Date:** March 29, 2018

**Re:** Water Supply Bank Lease Application 1005

**Purpose/Narrative:** Lease proposes to place into the Bank 50% of the decreed irrigation water use authorized under water right 37-8153, so that it can be made available for rental by other water users. This lease during 2018 mirrors previous leases that have been proposed during 2015, 2016 and 2017.

**Authority to File:** Application has been submitted by Red Cliffs Homeowners Association, through Jim Speck, of Speck & Aanestad law firm, and it is signed by Judy Cahill, who identified herself as President of the HOA. A review of documents filed with the Secretary of State provides evidence that Ms. Cahill is the President of the HOA. No concerns about authority to file.

**Water Right Validity/Forfeiture Evaluation:** The water right has been partially leased to the Bank during recent years and satellite imagery review of the place of use supports the position that the beneficial water use proposed for lease (irrigation) has recently been exercised. No concerns about water right validity.

**Injury Evaluation:** Water right 37-8153 authorizes diversion from a single ground water well, to provide water for domestic use and irrigation use on five residential properties that comprise the Red Cliffs HOA. Provided that the diversion rate and diversion volume reductions required for this lease are possible without negatively impacting domestic uses, no injury should occur through this lease.

**Enlargement of Use:** Per 2017 Blaine County Assessor's Office records, the acreage of the five residential properties that comprise the HOA sum to a total of 5.7 acres, of which 5.0 acres can be partially or fully leased/irrigated under water right 37-8153as follows:

<b>Parcel (lots)</b>	<b>Acreage (Total)</b>	<b>* WR Acres (Authorized)</b>	<b>Unleased Acres (irrigation possible)</b>	<b>WR Acres (to be Leased)</b>	<b>WR Acres (Rentable)</b>
1	1.0		0.5	0.5	0.4
2	1.1		0.5	0.6	0.3
3	1.1	5.0	0.5	0.6	0.6
4	1.0		0.5	0.5	0.5
5	1.5		0.5	1.0	1.0
	<b>5.7</b>	<b>5.0</b>	<b>2.5</b>	<b>3.2</b>	<b>2.5</b>

\* A data shift has occurred in the public land survey grid and portions of lots 1, 4 and 5 are now located in sections 29 and 30 of T04N R18E, however the partial decree notes the place of use as lots 1 through 5, thus the entirety of all parcels, across all sections, are considered to contribute to the possible place of use.

Effectively 56% of the irrigable area (3.2 acres) are proposed for lease to the Bank and the remaining balance of 2.5 acres are not being leased. As such, 78% of the leased irrigable area (2.5 acres) are acceptable for lease and rental via the Bank, with a proportionate diversion rate and volume of 0.04 cfs and 7.5 afa, while 0.04 cfs and 7.5 afa under 37-8153 remains available to irrigate the remaining 2.5 acres.

Because the water right was licensed and decreed with both domestic and irrigation use sharing a combined, common diversion rate, the lease of water right 37-8153 should be conditioned to limit the maximum diversion rate possible for domestic purposes as 0.04 cfs. To avoid enlargement, the combined irrigation and domestic diversion rate and volumes for the unleased extent of water right 37-8153 should be 0.04 cfs and 10.5 afa. A review of WMIS records from 2016 and 2017 shows that the measured annual diversion volumes from the POD associated with 37-8153 was recorded as 0.56 afa, and 1.15 afa respectively, which supports the position that the conditioned maximum of 10.5 afa for domestic and irrigation use is possible.

**Local Public Interest:** Staff have no information to suggest that the lease is contrary to any local public interests.

**Beneficial Use/Conservation of Water Resources:** It does not appear that a partial non-use of water under the lease will cause an impact to water beneficial use and conservation practices remaining authorized at the place of use for water right 37-8153.

**Department/Watermaster Comments:** Watermaster and regional comments will be requested.

**Water Supply Bank Evaluation:** Subject to a confirmation that enlargement can be avoided, it is recommended that this lease be accepted.

FILED EFFECTIVE

2018 APR -2 AM 10: 53



STATEMENT OF CHANGE OF REGISTERED AGENT, REGISTERED OFFICE, OR BOTH (See reverse for Instructions)

SECRETARY OF STATE STATE OF IDAHO

File #: C102344

The undersigned entity submits the following statement for the purpose of changing its registered agent, its registered office, or both, in the State of Idaho.

- 1. The name of the entity is: Red Cliffs Homeowners Association, Inc.
2. The name and street address of the old registered agent and office is: Steve Cook, 105 Red Cliff Road, Ketchum, ID 83340
3. The name and street address of the new registered agent and office in Idaho is: Judy Cahill, 106 Red Cliff Road, Ketchum, ID 83340

I consent to serve as registered agent for the above-named entity. (Signature of new registered agent) 3/29/2018 (Date)

Date: 3/29/18

Signature: (Handwritten signature)

Printed: JUDY CAHILL

Capacity: RED CLIFFS HOMEOWNERS ASSOCIATION PRESIDENT

NO FEE REQUIRED

## Buyer, Remington

---

**From:** Buyer, Remington  
**Sent:** Tuesday, April 03, 2018 3:03 PM  
**To:** 'Kevin Lakey'; Skinner, Corey  
**Subject:** WSB Lease/Rental of 37-8153  
**Attachments:** RentalMap.pdf; Draft Rental Agreement.docx; Rental Review Memo.docx; Lease Contract - 37-8153.docx; Lease Review Memo.docx; Lease\_Map.pdf

Corey, Kevin,

Below is some recent correspondence between Jim Speck and IDWR regarding a lease/rental package he has submitted for our review. The lease was based on a partial reduction in use under water right 37-8153 (authorizing irrigation of the Red Cliffs subdivision) and the rental was for a residential property closer to Gimlet.

Though my review led me to conclude that the amount of water right 37-8153 acceptable for lease needed to be reduced from the amount originally proposed by the applicant, I also found that the area observed irrigated in recent years (at the rental location) was actually less than the amount authorized to be irrigated via rental. As such, it seems that the amount that can be leased in under 37-8153 (2.1 acres), though less than what was requested, may be sufficient to satisfy the companion rental request by Mr. Popovich.

Attached are my draft lease and rental review documents. As always, please advise if you have any questions, comments and/or concerns.

Thank you,

Remington

**From:** Buyer, Remington  
**Sent:** Tuesday, April 03, 2018 2:54 PM  
**To:** 'James Speck' <jim@speckandaanestad.com>  
**Subject:** FW: Popovich Rental Application 1006

Jim,

I've now completed my review of the Popovich rental. Per my review of satellite imagery from 2015, 2016 and 2017, it appears that approximately 2.8 acres of the Popovich property may have been irrigated in recent years. The attached "RentalMap.pdf" outlines the outer extent of the observed irrigation practices at the Popovich property during recent years.

If the boundaries of the irrigable area are reduced slightly, the total irrigable place of use will sum to 2.6 acres, an area that can be authorized for irrigation by IDWR for years 2018-2022, through a rental of water right 37-8153.

I am prepared to finalize my review of Mr. Popovich's rental request, authorizing irrigation of a total area of 2.6 acres (2.1 of which will be covered via rental of 37-8153) and I intend to shortly send out for comments and input from the Water District 37 watermaster, as well as IDWR Southern Region office staff. Please contact me if you intend to request any changes to the lease and/or rental applications submitted on behalf of your clients, for water right 37-8153.

Regards,

Remington

**From:** Buyer, Remington

**Sent:** Monday, April 02, 2018 2:45 PM

**To:** 'James Speck' <[jim@speckandaanestad.com](mailto:jim@speckandaanestad.com)>

**Cc:** Judy Cahill ([judy.cahill@mac.com](mailto:judy.cahill@mac.com)) <[judy.cahill@mac.com](mailto:judy.cahill@mac.com)>; J. Kristoffer Popovich ([jkp@ix.netcom.com](mailto:jkp@ix.netcom.com))

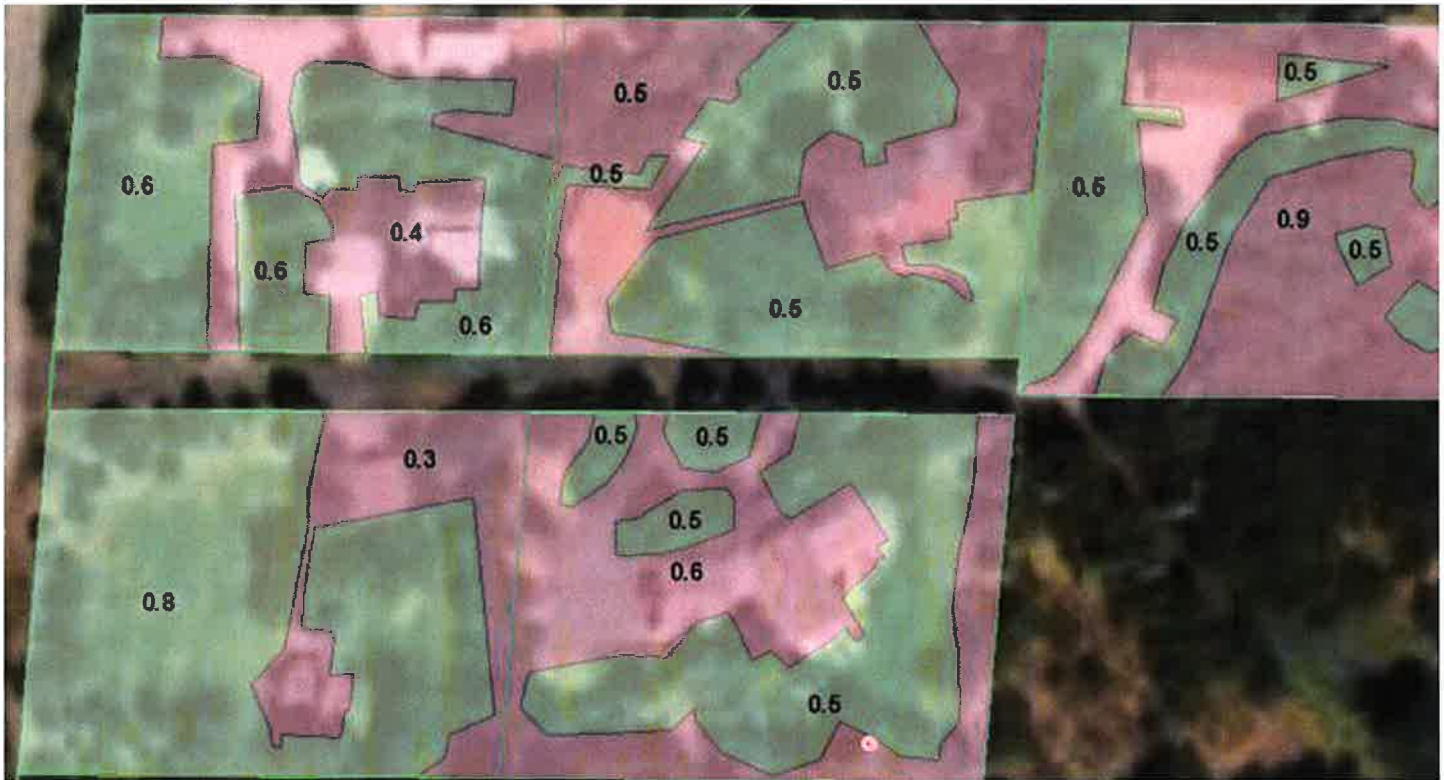
<[jkp@ix.netcom.com](mailto:jkp@ix.netcom.com)>; Ernie Carlsen ([ernie@idahowaterengineering.com](mailto:ernie@idahowaterengineering.com)) <[ernie@idahowaterengineering.com](mailto:ernie@idahowaterengineering.com)>; 'Steve & Cristina Cook' <[steve@stevecookarchitect.com](mailto:steve@stevecookarchitect.com)>

**Subject:** RE: Popovich Rental Application 1006

Hi Jim,

On the map that you emailed this morning, the five properties in the HOA sum to a total area of 5.7 acres, and as you mentioned, 2.5 acres are listed as proposed for lease to the Bank.

Below is a map delineating the boundaries of the acres proposed for lease, based on the shapefile available in IDWR's records. Based on the map available to IDWR, it appears that the total area of all five properties is closer to 5.6 acres, of which approximately 2.9 acres (identified in green in the image below) are **not** proposed for lease to the Bank, while the remaining balance of approximately 2.7 or 2.8 acres (area in purple in the image below) are proposed to be idled and leased to the Bank:



Per the acres in the above map, subtracting the 2.9 acres not leased to the Bank from the total irrigable area of 5.0 acres authorized under 37-8153, allows for a lease and subsequent rental of 2.1 acres without enlargement.

I looked in the Bank and could not find additional ground water rights leased to the Bank through 2022 that could round out Mr. Popovich's rental. As such, please discuss the three options below with your clients and advise on how you would like IDWR to proceed in this matter:

- 1) Consider a rental of 2.1 acres for Mr. Popovich for years 2018-2022,
- 2) Consider a rental of 2.5 acres for Mr. Popovich, for a shorter duration of time (contingent upon the lease duration of additional water rights that could be rented), or
- 3) Increase the number of acres proposed to be leased under water right 37-8153, so that the total leased area is 3.1 or 3.2 acres (and the unleased area is 2.5 acres), to allow for a rental of 2.5 acres by Mr. Popovich.

Regards,

Remington

**From:** James Speck [<mailto:jim@speckandaanestad.com>]

**Sent:** Monday, April 02, 2018 10:08 AM

**To:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>

**Cc:** Judy Cahill ([judy.cahill@mac.com](mailto:judy.cahill@mac.com)) <[judy.cahill@mac.com](mailto:judy.cahill@mac.com)>; J. Kristoffer Popovich ([jkp@ix.netcom.com](mailto:jkp@ix.netcom.com)) <[jkp@ix.netcom.com](mailto:jkp@ix.netcom.com)>; Ernie Carlsen ([ernie@idahowaterengineering.com](mailto:ernie@idahowaterengineering.com)) <[ernie@idahowaterengineering.com](mailto:ernie@idahowaterengineering.com)>; 'Steve & Cristina Cook' <[steve@stevecookarchitect.com](mailto:steve@stevecookarchitect.com)>

**Subject:** RE: Popovich Rental Application 1006

Remington,

The WSB lease application is for the same 2.5A leased to the Bank in 2015-2017 and your attached map (prepared by your staff, I believe) is the same one used for the previous lease contracts. I have attached a copy of the map prepared by Ernie Carlsen for my clients depicting the 2.5A that are irrigated in the subdivision (NOT 2.9A as you state below). Since the water right irrigates a total of 5A that leaves 2.5A for the lease. No changes should be necessary to proceed with the companion applications. Please call me if you still disagree.

Jim

**From:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>

**Sent:** Friday, March 30, 2018 5:10 PM

**To:** James Speck <[jim@speckandaanestad.com](mailto:jim@speckandaanestad.com)>

**Subject:** Popovich Rental Application 1006

Jim,

I've concluded my review of the Red Cliffs HOA lease of a portion of water right 37-8153, to be rented by Kristoffer Popovich. There are no concerns about the rental by Popovich, but a review of water right 37-8153 shows that the total acreage for the HOA is 5.7 acres, of which 2.8 acres appear to have been proposed for lease, with 2.9 acres not proposed for lease (the attached map delineates the leased 2.8 acres).

Because water right 37-8153 only authorizes irrigation of 5.0 acres, I can lease in and make available for rental by Mr. Popovich 2.1 acres (5.0 authorized acres minus 2.9 unleased acres) of 37-8153, however this will reduce the Popovich rental from 2.5 acres to 2.1 acres.

The following options are available for Mr. Popovich:

- Reduce the rental down from 2.5 acres to 2.1 acres,
- Supplement the rental with an additional rentable water right, to authorize 2.5 acres,
- Increase the number of acres leased to the Bank under water right 37-8153, to reduce the unleased area of the Red Cliffs HOA from 2.9 acres to 2.5 acres, to ensure 2.5 acres can be fully leased into and rented out from the Bank without causing enlargement.

On Monday, April 2<sup>nd</sup>, I will look to see what ground water rights are available to be rented from the Bank now through 2022, so that we might proceed with option two. If you would rather proceed with option one or three, please advise.

Happy Easter,

Remington

Memorandum

To: Water Right(s) 37-8153

From: Remington Buyer

Date: March 29, 2018

Re: Water Supply Bank Lease Application 1005

**Purpose/Narrative:** Lease proposes to place into the Bank 50% of the decreed irrigation water use authorized under water right 37-8153, so that it can be made available for rental by other water users. This lease during 2018 mirrors previous leases that have been proposed during 2015, 2016 and 2017.

**Authority to File:** Application has been submitted by Red Cliffs Homeowners Association, through Jim Speck, of Speck & Aanestad law firm, and it is signed by Judy Cahill, who identified herself as President of the HOA. A review of 2017 lease documentation shows Judy Cahill signed both the lease application and the lease contract, identifying herself as President of the HOA, even though attachment 1D of the 2017 lease application (which authorized Jim Speck to represent the HOA) was signed by Jim Cook, who also identified himself as HOA President. The 2016 and 2015 lease applications and lease contracts were both signed by Steve Cook, and the Idaho Secretary of State’s office lists Steve Cook as the President of the HOA for years 2015 through 2017. No annual report has yet been filed for 2018. It appears that Steve Cook may no longer be HOA President and Judy Cahill may have assumed the position. A request for confirmation will be requested prior to execution of new lease contracts.

**Water Right Validity/Forfeiture Evaluation:** The water right has been partially leased to the Bank during recent years and satellite imagery review of the place of use supports the position that the beneficial water use proposed for lease (irrigation) has recently been exercised. No concerns about water right validity.

**Injury Evaluation:** Water right 37-8153 authorizes diversion from a single ground water well, to provide water for domestic use and irrigation use on five residential properties that comprise the Red Cliffs HOA. Provided that the diversion rate and diversion volume reductions required for this lease are possible without negatively impacting domestic uses, no injury should occur through this lease.

**Enlargement of Use:** Per 2017 Blaine County Assessor’s Office records, the acreage of the five residential properties that comprise the HOA sum to a total of 5.7 acres, of which 5.0 acres can be partially or fully leased/irrigated under water right 37-8153as follows:

Parcel (lots)	Acreage (Total)	* WR Acres (Authorized)	Unleased Acres (irrigation possible)	WR Acres (to be Leased)	WR Acres (Rentable)
1	1.0		0.6	0.4	0.4
2	1.1		0.8	0.3	0.3
3	1.1	5.0	0.5	0.6	0.6
4	1.0		0.5	0.5	0.5
5	1.5		0.5	1.0	1.0
	<b>5.7</b>	<b>5.0</b>	<b>2.9</b>	<b>2.8</b>	<b>2.1</b>

\* A data shift has occurred in the public land survey grid and portions of lots 1, 4 and 5 are now located in sections 29 and 30 of T04N R18E, however the partial decree notes the place of use as lots 1 through 5, thus the entirety of all parcels, across all sections, are considered to contribute to the possible place of use.

**SPECK & AANESTAD**  
A PROFESSIONAL CORPORATION  
ATTORNEYS

JAMES P. SPECK  
jim@speckandaanestad.com  
DOUGLAS J. AANESTAD  
doug@speckandaanestad.com

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340

RECEIVED  
JAN 26 2018

TELEPHONE  
(208) 726-4421  
FACSIMILE  
(208) 726-0752

January 24, 2018

DEPARTMENT OF  
WATER RESOURCES

Remington Buyer  
Water Supply Bank Coordinator  
IDWR  
322 E. Front St.  
Boise, Idaho 83720-0098

**Re: *Water Supply Bank Companion Lease and Rental Applications for Portion of Right No. 37-8153 - Five Year Terms***

Dear Remington:

Enclosed you will find the original and one copy each of the Application to Lease in the name of Red Cliffs Homeowners Association, Inc. and the companion Application to Rent in the name of J. Kristoffer Popovich for a portion of Water Right No. 37-8153. Both Applications request terms of five (5) years. I have also enclosed our firm's check payable to the Department for the \$250 Lease Application filing fee.

Please have the copies receipt date-stamped and return them to me in the enclosed postage prepaid and self-addressed envelope. If you have any questions, comments or concerns about these Applications, please call me right away.

Thank you.

Sincerely,

SPECK & AANESTAD  
A Professional Corporation

By:   
James P. Speck

JPS/kdl  
Enclosures  
cc: Client w/encl.