

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 772

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

LESSOR: ASPEN LAKES CANAL CO
C/O JAMES P SPECK PO BOX
987
KETCHUM, ID 83340

RECEIVED

MAR 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 December 04, 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)
37-558	6/1/1886	BIG WOOD RIVER, tributary to MALAD RIVER	2.000	Not Stated	125.60
37-559	6/1/1888	BIG WOOD RIVER, tributary to MALAD RIVER	3.600	Not Stated	125.60
Combined Limit Totals			5.600	Not Stated	125.60
Combined Lease Totals			5.600	Not Stated	125.60

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)
37-558	1.600	89.00	71.20	0.022	1.25
37-559	2.880	160.20	71.20	0.040	2.25
Combined Limit Totals	4.480	249.20	71.20	0.063	3.50

** The water right elements rentable have been reduced from the water right elements leased to address enlargement concerns and to correspond with the analysis provided to split these rights from overlapping water right 37-557*

SUPPORT DATA

IN FILE # 37-558

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 772

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

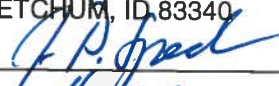
3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 to December 31, 2021. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
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.

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

LESSOR: ASPEN LAKES CANAL CO
C/O JAMES P SPECK PO BOX 987
KETCHUM, ID 83340

By 
Title attorney
Date 3-27-18

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 3/29/2018

Lease approved by IDWR 

Date 3-29-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 772

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): 37-558, 37-559

BIG WOOD RIVER	SENENW	Sec. 5	Twp 02N	Rge 18E	BLAINE County
BIG WOOD RIVER	NESESW	Sec. 32	Twp 03N	Rge 18E	BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-558	IRRIGATION	4/01	to	11/01	1.600 cfs	Not Stated
37-559	IRRIGATION	4/01	to	11/01	2.880 cfs	Not Stated
Totals:					5.600 cfs	Not Stated

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	
02N	18E	5	12.0 L1	38.0 L2	23.0	25.0	1.6 L3												99.6
03N	18E	32											12.0				14.0		26.0

Total Acres: 125.6

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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WATER SUPPLY BANK LEASE CONTRACT No. 772

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. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
13. The rights listed below are limited to the irrigation of a combined total of 125.6 acres in a single irrigation season. Combined Right Nos.: 37-557, 37-558 & 37-559. With the analysis provided to allow the separation of these rights, the rental of 37-558 and 37-559 without 37-557 are limited to the irrigation of a combined total of 71.2 acres.
14. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use.
15. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
16. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

DEC 04 2017

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Aspen Lakes Canal Co.

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

Water Right No. 37-558

(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 <i>all owners</i> 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 | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☒ | ☐ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☐ | ☒ | Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>500.00</u>	Received By: <u>TV</u>	Date Received: <u>12.4.2017</u>	Receipt # <u>C104368</u>
W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

918

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 Aspen Lakes Canal CO

Mailing Address PO Box 987 Ketchum, Idaho 83340

Street City State Zip Code

Email Address jim@speckandaanestad.com

Phone Number (208) 726-4421

- ☒ 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 Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 North Washington St Ste 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.
Existing diversion, mainlines and delivery system.

- 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. This water right was decreed 5/2/11 which means this water right needs to be fully utilized this year or leased into the Water Supply Bank to protect it from any forfeiture concerns.

- 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: 2017 to 2021 (maximum lease period 5 calendar years).
(Year) (Year)

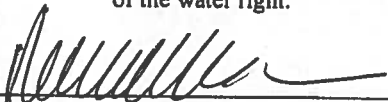
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

RICHARD PAUL BUSS

Printed Name

11/15/17

Date

Signature of Authorized Representative

Printed Name

Date

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

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

9/11/2017

WATER RIGHT NO. 37-558

Owner Type	Name and Address
Current Owner	ASPEN LAKES CANAL CO C/O JAMES P SPECK PO BOX 987 KETCHUM, ID 83340 2087264421
Attorney	JAMES P SPECK SPECK & AANESTAD PO BOX 987 KETCHUM, ID 83340 2087264421
Original Owner	ASPEN LAKES LTD C/O JOHN BIGGS PO BOX 2163 HAILEY, ID 83333 2087882461
Original Owner	CHRISTOPHER PALMER
Original Owner	KELLY R PALMER PO BOX 108 KETCHUM, ID 83340

Priority Date: 06/01/1886
Basis: Decreed
Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	2 CFS	
Total Diversion			2 CFS	

Location of Point(s) of Diversion:

BIG WOOD RIVER|SENE|NW|Sec. 05|Township 02N|Range 18E|BLAINE County
BIG WOOD RIVER|NESE|SW|Sec. 32|Township 03N|Range 18E|BLAINE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	18E	5	1	NENE	12	2	NWNE	38		SWNE	23		SENE	25
			3	NENW	1.6									
03N		32		SESW	12									
				SWSE	14									

Total Acres: 125.6

Conditions of Approval:

- 1. C18 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.
- 2. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
- 3. R01 A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
- 4. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
- 5. E56 The rights listed below are limited to the irrigation of a combined total of 125.6 acres in a single irrigation season. Combined Right Nos.: 37-557, 37-558 & 37-559.
- 6. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use.

Dates:
Licensed Date:
Decreed Date: 05/02/2011
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

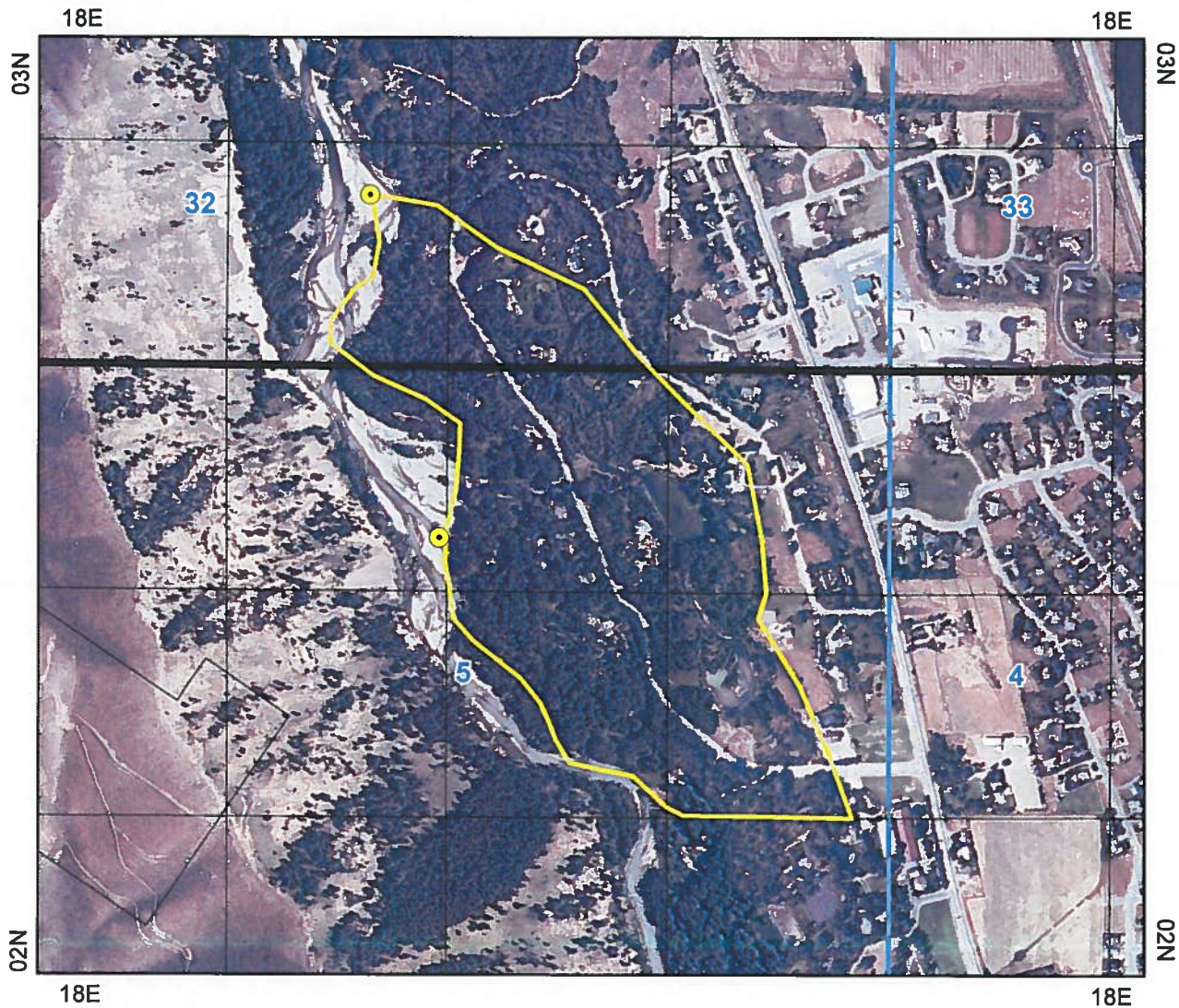
Other Information:
State or Federal: S
Owner Name Connector:
Water District Number: 37
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 125.6
Combined Volume Limit:
Combined Rate Limit:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

State of Idaho
Department of Water Resources

Water Right 37-558

IRRIGATION

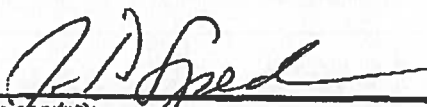
The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



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

0 0.125 0.25 0.5 Miles



No. C 150222		Reinstatement Annual Report Form		2. Registered Agent and Office (NOT A P.O. BOX)	
Return to: SECRETARY OF STATE 450 N 4th STREET PO BOX 83720 BOISE, ID 83720-0080		1. Mailing Address: Correct in this box if needed. ASPEN LAKES CANAL COMPANY JAMES P. SPECK PO BOX 987 KETCHUM ID 83340		JAMES P SPECK 120 EAST AVE N. KETCHUM ID 83340	
REINSTATEMENT FEE DUE: \$30.00				3. New Registered Agent Signature.	
4. Corporations: Enter Names and Business Addresses of President, Secretary, Directors, Treasurer, Vice Pres.					
Office Held	Name	Street or PO Address	City	State	Country Postal Code
President	Paul Buss	174 Aspen Lakes Dr.	Hailey	ID	Blaine 83333
Vice Pres.	Dani Moore	P.O. Box 2343	Hailey	ID	Blaine 83333
Secretary	Orlando Ferrante	1223 Adair St.	Hailey	ID	Blaine 83333
Treasurer	Bruce Willis	P.O. Box 3212	Hailey	ID	Blaine 83333
5. Organized Under the Laws of: IDAHO C 150222		6. Signature:  Name (type or print): James P. Speck, Esq. Date: 12-28-16 Title: Registered Agent			
Issued 12/28/2016 by online					



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 4, 2018

ASPEN LAKES CANAL CO
C/O JAMES P SPECK
PO BOX 987
KETCHUM ID 83340

**RE: WATER SUPPLY BANK LEASE CONTRACTS FOR WATER RIGHTS
37-557, 37-558, and 37-559**

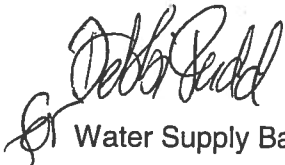
Dear Lessor:

Water rights **37-557, 37-558, and 37-559** were leased into the Water Supply Bank (Bank) as of December 4, 2017, in accordance with the enclosed executed lease contracts. **Your water rights, as described on the lease contracts, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contracts. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2021**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contracts upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,



Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lakey - Water District 37
Greg Sullivan - Brockway Engineering



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

March 21, 2018

ASPEN LAKES CANAL CO
C/O JAMES P SPECK
PO BOX 987
KETCHUM ID 83340

**RE: APPLICATIONS TO LEASE AND RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-557, 37-558, and 37-559**

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

Dear Applicant:

The Department of Water Resources acknowledges receipt of your applications to lease water to and rent water from the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts and a Water Supply Bank Rental Agreement for your review and signature. Please sign and return ALL Lease Contracts and Rental agreements within 14 days.** Upon signature and return of the original contracts and agreement, together with the rental fee described below, the Department will also sign the original contracts and agreement and return executed copies to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of **\$2,562.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 128.1 acre-feet. Since you are both the lessor and the renter of the right, **you are only obligated to pay the 10% administrative fee or \$256.20. Please send a check for \$256.20** made payable to the Idaho Department of Water Resources so I can complete processing.

The Department shall receive an annual payment prior to January 1 in all subsequent years for the duration of the rental period. The rental agreement will be void if payment is not received prior to the due date in a given year. If the rental is voided and you do not terminate the lease contract, the water rights will still be subject to rental by other parties.

If you would like to terminate the lease and rental agreement prior to the end of the lease/rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date. You may use the Request to Release a Water Right From the Bank located at <http://idwr.idaho.gov/files/water-supply-bank/WSB-Request-to-Release-a-WR-from-the-Bank.pdf>.

If all signed leased contracts, signed rental agreements and the rental fee payment is not received within 14 days, your lease/rental package may be in danger of being returned without being executed in such case, the lease application fee will not be refunded.



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

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,


Greg Sullivan

Water Supply Bank

Enclosures:

Proposed Lease Contracts

Proposed Rental Agreement

Receipt #s C104368 & C104793

c: IDWR Front Desk

Greg Sullivan – Brockway Engineering

MEMORANDUM FOR APPLICATIONS 880, 918 & 920

To: Water Rights 37-557, 37-558 & 37-559

From: Clay Webster

Date: 2/26/2018

Re: Review & Analysis of Application to Lease Water to and Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: The department received applications to lease and rent these water rights from Brockway Engineering on behalf of Aspen Lakes Canal Co. on December 4, 2017.

These applications propose to unstack senior water right (37-557) from the other water rights (37-558 & 37-559). The proposal would limit the rental of 37-557 to the irrigation of 36.6 acres. Then this would leave the two remaining rights with a limit of 89 acres. They provided an analysis which was discussed between Greg Sullivan, Charles G. Brockway, Shelley Keen and I via phone conversation on September 29, 2017. The review of their analysis shows that the manner that is proposed would reduce consumptive use normally during the month of August when the two junior rights are being cut by priority date. This would occur because the senior right would be the only right being irrigated and through the rental would be limited to 36.6 acres vs the 125.6 acres authorized by the water right. However, due to the concerns for enlargement because of the overlap with ground water rights the rentable amount of 37-558 and 37-559 will be reduced by the overlapping ground water rights.

The rights were decreed in 2011. According to the department Multi Programs Memo # 2, the water right holders had to do something to protect the unused portions of these rights from forfeiture by 2017. It seems that these rights were only used to irrigate certain lots within a subset of the place of use. See "Articles of Incorporation of Aspen Lakes Canal Company" at the ISOS website. The court then decreed these rights and made them appurtenant to lots which they were not used on, as well as the ones that they were used on. The rental will add lots 32, 35A & 36A to the lots listed in Article VII of the "Articles of Incorporation of Aspen Lakes Canal Company" that are entitled to receive water from the Aspen Lakes Canal Company.

AUTHORITY TO FILE: The application was signed by Richard Paul Buss, he is listed as the President of Aspen Lakes Canal Co. on the Idaho Secretary of State Website.

WATER RIGHT VALIDITY: 37-557, 37-558 and 37-559 were decreed in 2011. They had to have something done to protect unused portions from forfeiture within 2017. The application for lease was received December 4, 2017. The rental application proposes to rent the senior right for 36.6 acres from 2018 for 5 years. The rental could only be allowed for the 4 years remaining on the lease.

INJURY TO OTHER WATER RIGHTS: There is no change to the POD for this right. The ground water rights for irrigation that overlap the lease POU but fall completely or partially outside of the rental POU may result in increased pumping of ground water when surface water is cut by priority date earlier in those areas after the senior right has been moved.

ENLARGEMENT OF USE: The proposal is to lease in all of rights of 37-557, 37-558 and 37-559 to the bank beginning in 2017. However, my review finds that the rights were delivered in part in 2017. Therefore, only the portion that was not put to beneficial use would be allowed in the bank.

The analysis provided remains silent on the fact that there are ground water rights appurtenant to the place of use of these three water rights. The POU for the lease and rental fall outside of the Municipal Boundary of the City of Hailey. There are two permits within the POU, 37-22876 for Recreation, Wildlife and Aesthetic and 37-8822 is for Aesthetic use. There are several domestic rights within this area. Because they are for a different beneficial use these are not actual overlapping rights.

The ground water rights for irrigation that are completely overlapped by the place of use for the lease **and** rental are 37-20400, 37-8467 & 37-8502. Per conversation with Greg Sullivan at Brockway Engineering on 1/18/2018, he stated that the overlapping ground water rights should not effect this lease/rental package. Because the only people who can irrigate from these rights are those that are within the Aspen Lakes Canal Company. This proposal should not result in an enlargement of these rights. With right 37-557 concentrated on this place of use, there may actually be a reduction in ground water pumping.

The ground water rights for irrigation that overlap the lease POU but fall completely or partially outside of the rental POU (37-8429, 37-8561 and 37-8658) may result in increased pumping of ground water when surface water is cut by priority earlier than historically was the case after the senior right has been removed. A request for additional information was sent to the applicant and consultant to address these overlapping ground water irrigation rights as well as to address historical use for 2017 to clarify when these rights could be accepted into the WSB. The lease will make the portions of 37-558 and 37-559 appurtenant to the acres overlapped by 37-8429, and 37-8658 will be unrentable. The overlapping acres from the legal descriptions are as follows:

37-8429

8.2 in 02N18ES05 NENE L1

1.0 in 02N18ES05 NWNE L2

3.0 in 02N18ES05 SENE

12.2 acres unrentable

37-5651

2.6 in 02N18ES05 SENE

2.6 acres unrentable

37-8658

3.0 in 03N18ES32 SESW

3.0 acres unrentable

89.0 acres for WRs 37-558 & 37-559 (in the original proposal)

-12.2

- 2.6

- 3.0

71.2 acres rentable

According to the response, all of 37-557 was diverted in 2017. Therefore, the lease for this water right should start in 2018 through 2022. The response showed that 37-558 may have been diverted in April 2017 and that 37-559 was not diverted in 2017. Due to conversations with the watermaster and the fact that water was being diverted to limit flooding during the spring months in this area. It is highly unlikely that the water was diverted to be put to the beneficial use of irrigation in April 2017. Therefore the lease for 37-558 and 37-559 will be approved for 2017 through 2021.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District # 37. Region and watermaster comments are being requested.

37-557, 37-558 & 37-559

Place Of Use

IRRIGATION within BLAINE County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	5	12.0 L1	38.0 L2	23.0	25.0	1.6 L3												99.6
03N	18E	32												12.0			14.0		26.0

POU Total Acres: 125.6

89.0 acres

37-8429

Place Of Use

IRRIGATION within BLAINE County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	5	13.0 L1	1.0 L2		5.0			1.0										19.0

POU Total Acres: 20.0

8.2 in 02N18ES05 NENE L1

1.0 in 02N18ES05 NWNE L2

3.0 in 02N18ES05 SENE

12.2 acres unrentable

37-8651

IRRIGATION within BLAINE County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	5				2.6													2.6

POU Total Acres: 2.6

2.6 in 02N18ES05 SENE

2.6 unrentable

37-8658

Place Of Use

IRRIGATION within BLAINE County

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	32															3.0		3.0

3.0 in 03N18ES32 SESW

3.0 acres unrentable

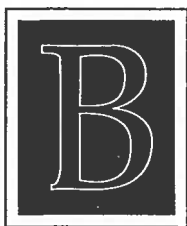
89.0

-12.2

-2.6

-3.0

71.2 acres rentable



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

DEC 04 2017

DEPARTMENT OF
WATER RESOURCES

November 30, 2017

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

Re: Aspen Lakes Canal Co.

Dear Mr. Buyer:

Aspen Lakes Canal Co. desires to lease the full portions of irrigation water from water rights 37-557, 37-558 and 37-559. Aspen Lakes Canal Co. also desires to rent the entire diversion rate of 1.0 cfs from 37-557 onto 36.6 acres.

By renting 1.0 cfs from 37-557, a rental from 37-558 and 37-559 would be limited to 89.0 acres. An analysis of the diversion available volume and the consumptive use volume on the 125.6, 36.6 and 89.0 acres has been performed. The analysis is attached to this letter. Based on monthly consumptive use values, there is no increase in consumptive use or expansion of water rights 37-557, 37-558 and 37-559 when the rentals from these three water rights are limited to a 36.6 acre rental (37-557) and a 89.0 acre rental (37-558 and 37-559). This analysis was discussed with Shelly Keen, Clay Webster, Charles G. Brockway and Greg Sullivan on September 29, 2017 and all parties agreed to the analysis.

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

The attached lease applications propose a lease period of 2017 through 2021. The rental contract for the 36.6 acres is expected to active 2018 through 2021. The Aspen Lakes Canal Co. will pay the Idaho Water Supply Bank the 10% processing fee for the rental annually.

A W-9 Form is not being submitted at this time to the Idaho Water Supply Bank. Due to the structure of the Aspen Lakes Canal Co. there is not an active tax identification number associated with the entity. If a portion of 37-558 and 37-559 is rented from the Idaho Water Supply Bank, Aspen Lakes Canal Co will submit a W-9 Form if they desire to receive payment for the rental.

Please copy our office on all correspondence regarding this application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Greg Sullivan".

Greg Sullivan, M.S., Engineer

Cc: Jim Speck

Enc: Lease and Rental Applications, Aerial Maps, Consumptive Use Analysis, Brockway
Engineering Check # 14363 for \$500.00