

WATER SUPPLY BANK LEASE CONTRACT No. 771

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

LESSOR: PAT BENNETT
PO BOX 113
HILL CITY, ID 83337

RECEIVED

MAR 21 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 Friday, February 16, 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)
37-2144	7/5/1909	JOHNSON SPRING, tributary to CAMAS CREEK	0.40	70.0	20.0
Combined Lease Totals			0.40	70.0	20.0

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.

LEASE CONTRACT NO. 771

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.



LEASE CONTRACT NO. 771

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

LESSOR: PAT BENNETT

PO BOX 113

HILL CITY, ID 83337

By Pat Bennett

Title _____

Date 2-19-18

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 3/23/2018

Lease approved by IDWR Chris W.

Date 3-23-2018

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 771**

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): 37-2144

JOHNSON SPRING NESENW Sec. 5 Twp 02S Rge 11E ELMORE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-2144	IRRIGATION	04/15	to	10/31	0.40 cfs	70.0 AF
Totals:					0.40 cfs	70.0 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	
02S	11E	4					3.0 L3	17.0 L4											20.0

Total Acres: 20.0

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.
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. Use of water under this right may 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. 37B.

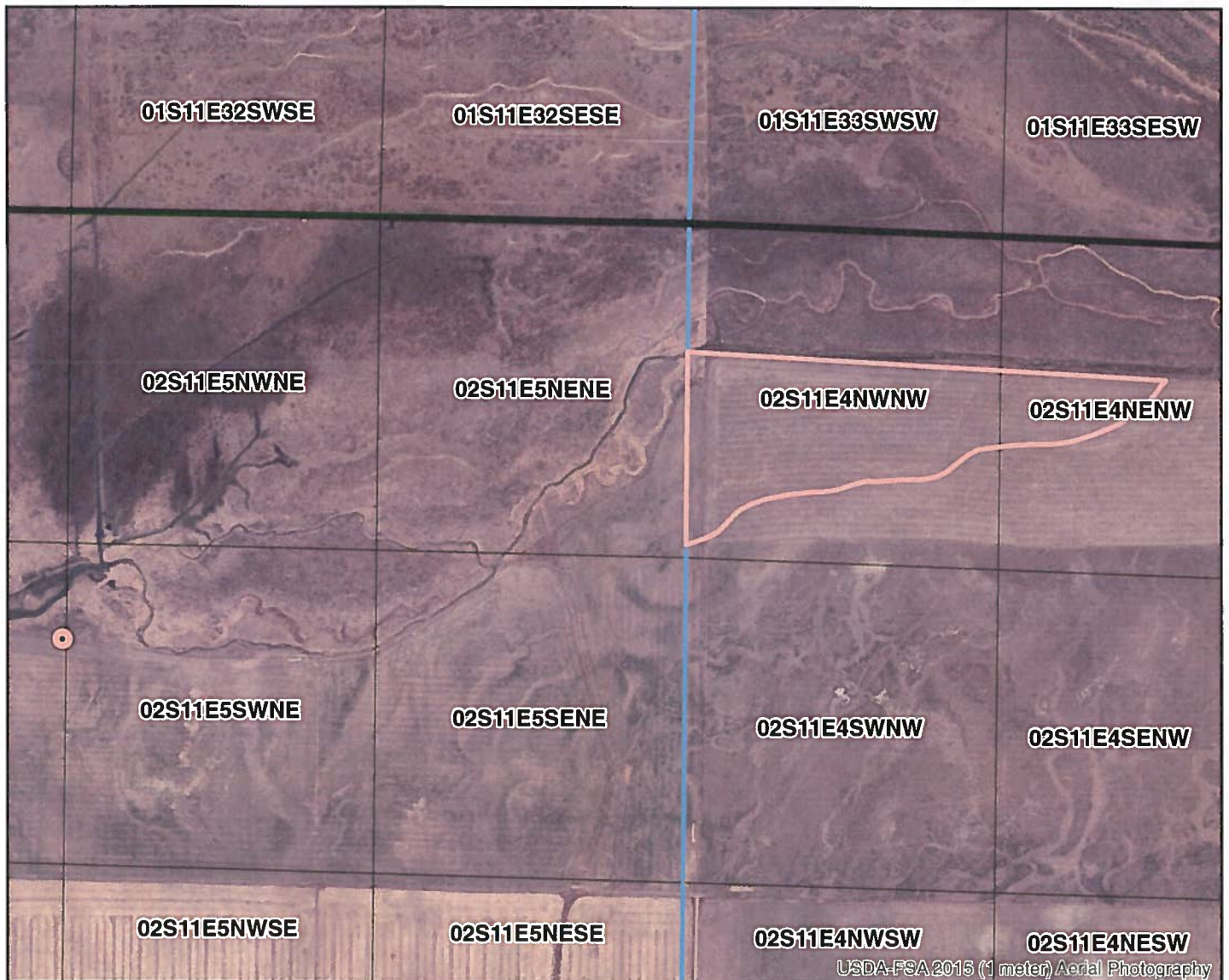


Idaho Water Resource Board
Water Supply Bank Lease Contract No. 771

37-2144

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



0 0.25 0.5 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 16 2018

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Pat Bennett

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

Water Right No. 37-2144

(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 \$ 250.00Received By: TPDate Received: 2/16/2018Receipt # C104671W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Pat J. Bennett

1036

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 Pat Bennett

Mailing Address <u>PO Box 113</u>	Hill City	ID	83337
Street	City	State	Zip Code
Email Address <u>vickieboop@yahoo.com</u>	Phone Number <u>208-539-9115</u>		

☐ 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 Lori Graves Organization SPF Water Engineering

Professional Title Water Rights Specialist Email Address lgraves@spfwater.com

Mailing Address 300 E. Mallard Dr., Ste. 350, Boise, ID 83706 Phone Number 208-383-4140

☐ 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.

Spring, unnamed stream, check boards

- 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. See Attachment 4G

- 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. See Attachment 4G

- 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: 5 yrs to _____ (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.

Pat Bennett
Signature of Designated Applicant

Pat Bennett 2-12-18
Printed Name Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

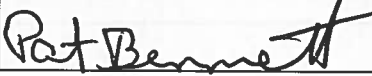
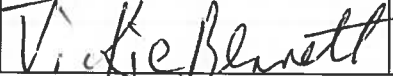
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

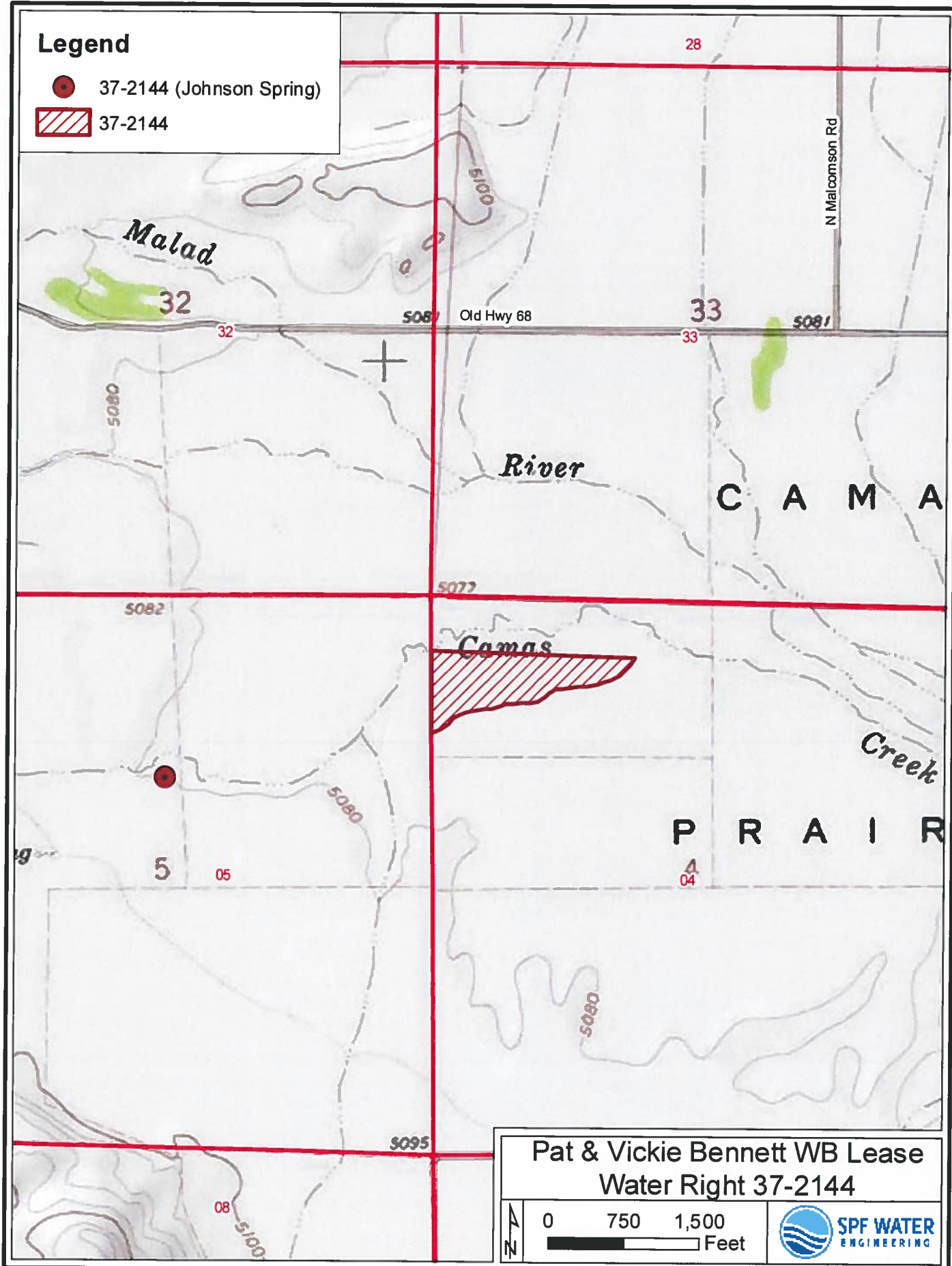
Water Right No(s). 37-2144

	Designated Applicant	Applicant #2	Applicant #3
Name	Pat Bennett	Vickie Bennett	
Mailing Address	PO Box 113 Hill City, ID 83337	PO Box 113 Hill City, ID 83337	
Phone Number	208-539-9115	208-539-9114	
Email Address	vickieboop@yahoo.com	vickieboop@yahoo.com	
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

Legend

- 37-2144 (Johnson Spring)
- ▨ 37-2144



Pat & Vickie Bennett WB Lease
Water Right 37-2144



0 750 1,500
Feet



SPF WATER
ENGINEERING

Attachment 4G



Fri 1/5/2018 4:46 PM

Rusty Krame <waterdistrict37b@outlook.com>

Pat Bennet Water Usage 2014 - 2017

To Lori Graves; Scott King

 You replied to this message on 1/5/2018 6:42 PM.

Lori,

As per your phone call about Pat Bennett water usage as recorded on my official watermaster reports. You can see my official watermaster reports on the IDWR website under WD 37B but I looked them up at here they are.

Water Rights 37-2144, 37-4343, 37-4359

2014 was 75 days

2015 was 21 days

2016 was 177 days

2017 was 155 days

I need to reiterate to you that the West side of my district was not required to measure surface water until the spring of 2018 so Pat Bennett was in compliance 2014 - 2017 and irrigated each of those years with all three of those rights. That order can also be viewed in the WD 37B files and it was dated 10/19/15. Let me know if you need anything else.

Thank you

Rusty Kramer - Water Master

Water District 37B

208-870-3217



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 26, 2018

PAT BENNETT
PO BOX 113
HILL CITY ID 83337

RE: WATER SUPPLY BANK LEASE CONTRACTS FOR WATER RIGHTS 37-2144, 37-4343, and 37-4359

Dear Lessor:

Water rights **37-2144, 37-4343, and 37-4359** were leased into the Water Supply Bank (Bank) as of February 16, 2018, 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, 2022**, 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

Enclosures: Executed Lease Contracts

c: Corey Skinner - IDWR Southern Region
Rusty Kramer - Water District 37B
Lori Graves - SPF Water Engineering
Fritz X Haemmerle - Haemmerle Law PLLC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

March 14, 2018

PAT BENNETT
PO BOX 113
HILL CITY ID 83337

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS FOR
WATER RIGHT(S) 37-2144, 37-4343 and 37-4359**

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

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on February 27, 2018. The signed contracts have not been returned to the Department.

Please sign both original Lease Contracts and return them to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contracts are not received by the Department within the 10-day period, the lease application(s) will be returned, and the application fee will not be refunded. You can reapply to lease the water right(s) in the future by submitting new application form(s) along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

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

Sincerely,

Water Supply Bank

c: SPF Water Engineering LLC
Haemmerle Law PLLC

Hersley, Jean

From: Rusty Krame <idahotrapguy@hotmail.com>
Sent: Monday, March 05, 2018 1:06 PM
To: Hersley, Jean
Subject: Re: WSB Lease Applications for Bennett

I'm sorry it took so long, I was out of town. I have no concerns with this water bank application.

Thank you

Rusty Kramer - Water Master
Water District 37B
208-870-3217

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Monday, February 26, 2018 10:59 AM
To: Rusty Kramer (idahotrapguy@hotmail.com); Skinner, Corey
Subject: WSB Lease Applications for Bennett

For Water rights 37-2144, 37-4343 and 37-4359. Please let me know if you have any comments or concerns within 7 days. Thank you.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

Hersley, Jean

From: Skinner, Corey
Sent: Tuesday, February 27, 2018 9:57 AM
To: Hersley, Jean
Subject: RE: WSB Lease Applications for Bennett

No concerns from me on these.

From: Hersley, Jean
Sent: Monday, February 26, 2018 11:59 AM
To: Rusty Kramer (idahotrapguy@hotmail.com) <idahotrapguy@hotmail.com>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: WSB Lease Applications for Bennett

For Water rights 37-2144, 37-4343 and 37-4359. Please let me know if you have any comments or concerns within 7 days. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 27, 2018

PAT BENNETT
PO BOX 113
HILL CITY ID 83337

RE: APPLICATIONS TO LEASE WATER RIGHT 37-2144, 37-4343 and 37-4359 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 of each 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 rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,


for Water Supply Bank

Enclosure: Proposed Lease Contracts
Receipt # C104671

c: SPF Water Engineering LLC
HAEMMERLE LAW PLLC

Hersley, Jean

From: Hersley, Jean
Sent: Monday, February 26, 2018 11:59 AM
To: Rusty Kramer (idahotrapguy@hotmail.com); Skinner, Corey
Subject: WSB Lease Applications for Bennett
Attachments: Idled Acres 37-2144.pdf; Lease Application Review 37-2144.xls; Report - Lease Contract - # 771 37-2144.docx; Idled Acres 37-4343 37-4359.pdf; Lease Application Review 37-4343 37-4359.xls; Report - Lease Contract # 768 37-4343 37-4359.docx

For Water rights 37-2144, 37-4343 and 37-4359. Please let me know if you have any comments or concerns within 7 days. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Bennett

Memo Date: February 23, 2018

Water Right Number(s): 37-2144

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right			
	All of right	x		
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? (If no explain in comments or narrative)	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity			
	Other (explain in comments)			
6	Water Right validity			2009
	Decreed/Licensed/Statutory claim date (write in comments section)			
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?		x	
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
	Any other concerns			
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request	x		
11	Area Headgate requirement (write in Comments)			3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	

Narrative: The Department received this application on February 16, 2018. The applicant wishes to place the entire right in the Bank. The application was signed by Pat Bennett, current water right owner. The land is owned by Pat's brother, Nels Bennett, but Pat manages the farm. A statement from Nels authorizes Pat to file the lease application for this water right. This right was decreed in 2011. An email from the water master filed with the application states the rights were used through 2017. Forfeiture is not an issue. There are no overlapping rights. This right is currently within WD 37B.

13

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FEB 26 2018

DEPT OF WATER RESOURCES

2/23/2018

Idaho Dept. of Water Resources

I, Mel's Bennett, grant Demission to my brother, Pat Bennett who leases my property, to allow water rights to Johnson Spring, known as Johnny's Spring, to be placed in the water bank, water right # 37-2144.

Signed

Mel's Bennett

Hersley, Jean

From: Lori Graves <LGraves@spfwater.com>
Sent: Thursday, February 22, 2018 1:33 PM
To: Hersley, Jean
Cc: Vickie Bennett
Subject: RE: Bennett WSB Lease Applications

Jean,

Nels is Pat's brother. Nels got the property from Pat's mother when she passed. Pat and Vickie manage the property. They are going to get a statement from Nels authorizing them to file the WB Lease application.

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Thursday, February 22, 2018 11:43 AM
To: Lori Graves <LGraves@spfwater.com>
Cc: vickieboop@yahoo.com
Subject: Bennett WSB Lease Applications

I am in the process of reviewing the Bennett applications to lease water into the Bank. According to our tax lot information, the parcel that water right 37-2144 is appurtenant is owned by a Nels T Bennett, not Pat and Vickie. When the land was conveyed to Nels T Bennett, was the water right withheld in the sale of the land? If not, Nels T Bennett will need to file a change of ownership for water right 37-2144 and file a WSB Lease Application in his name. If the land was withheld, the Department will need to see the deed and we will need consent from Nels T Bennett that the land will not be irrigated. Please provide the requested information within 30 days. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



SPF WATER
ENGINEERING

February 15, 2018

RECEIVED

FEB 16 2018

DEPARTMENT OF
WATER RESOURCES

Clay Webster
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

Subject: Water Bank Lease Applications (Water Rights 37-2144, 37-4343, 37-4359)

Dear Clay,

Enclosed on behalf of Pat and Vickie Bennett, are water bank lease applications for water rights 37-2144, 37-4343 and 37-4359 listed above. Evidence demonstrating the water rights have not been forfeited pursuant to Section 42-222(2), Idaho Code, was obtained from Rusty Kramer, Water District 37B Watermaster, and included with each application as Attachment 4G.

Check No. 7273 is enclosed for the \$750 filing fees.

Please let me know if there are any questions. Thanks Clay.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Pat and Vickie Bennett

Enclosures

SPF file number: 1388.0010