

WATER SUPPLY BANK LEASE CONTRACT No. 718

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

LESSOR: ROBERT S ASCHERFELD
27 HARBOUR ISLE DR W UNIT
PH1
HUTCHINSON ISLAND, FL 34949

RECEIVED

JAN 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 21, 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)
63-34026	10/12/1948	GROUND WATER	0.01	2.6	0.6
Combined Lease Totals			0.01	2.6	0.6

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2018 to December 31, 2020. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

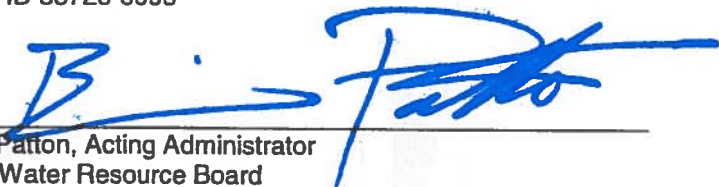
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right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

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

LESSOR: ROBERT S ASCHERFELD
27 HARBOUR ISLE DR W UNIT
PH1
HUTCHINSON ISLAND, FL 34949

By 
Title _____
Date 1/24/2018

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 1/30/2018

Lease approved by IDWR 

Date 1-30-2018

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 718**

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): 63-34026

GROUND WATER NWNE Sec. 27 Twp 02N Rge 02W CANYON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
63-34026	IRRIGATION	03/01	to	11/15	0.01 cfs	2.6 AF
Totals:					0.01 cfs	2.6 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	
02N	02W	22															0.6		0.6

Total Acres: 0.6

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.
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. All parts of original licensed Rights 63-2724 and 63-7610 when combined shall not exceed a total diversion rate of 3.90 cfs.
13. The actual diversion rate for this lease is 0.005 cfs.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 718

63-34026

Effective until December 31, 2020

This map depicts the place of use to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



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



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 21 2017

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Robert S. Ascherfeld

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

Water Right No. 63-34026

(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: 12/21/2017 Receipt # C104436W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

940

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 Robert S. Ascherfeld

Mailing Address <u>27 Harbour Isle Drive West, Unit PH1, Hutchinson Isle</u>	FL	34949
Street	City	State Zip Code

Email Address <u>ascherfeld@outlook.com</u>	Phone Number <u>253-678-9310</u>
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☐ 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.
Well, pump

- 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. None - 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: 2 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.


Signature of Designated Applicant

ROBERT S. ASCHERFELD
Printed Name

12/14/17
Date


Signature of Authorized Representative

LORI GRAVES
Printed Name

12/20/17
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

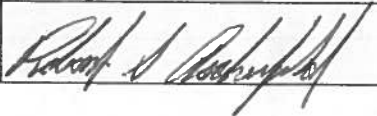
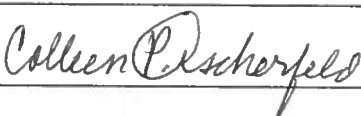
ATTACHMENT 1A

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). 63-34026

	Designated Applicant	Applicant #2	Applicant #3
Name	Robert S. Ascherfeld	Colleen P. Ascherfeld	
Mailing Address	listed above	listed above	
Phone Number	listed above	listed above	
Email Address	listed above	listed above	
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

-  Ascherfeld Property (Lot 13)
-  0.6 acre to bank

NWNE

Ascherfeld WB Lease Application



0 100 200
Feet



Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

12/14/2017

WATER RIGHT NO. 63-34026

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	COLLEEN P ASCHERFELD
Current Owner	ROBERT S ASCHERFELD
	23403 95TH PLACE SW 27 HARBOUR ISLE DR. W., UNIT PH1
	VASHON, WA 98070 FT PIERCE, FL 34949
	2532293437 253-678-9310
Original Owner	AGENBROAD NAMPALTD PARTNERSHIP
	PO BOX 455
	GRAND VIEW, ID 83624
	2088342469

Priority Date: 10/12/1948

Basis: Decreed

Status: Active

Water Supply Bank Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	0.01 CFS	4.8 AFA
Total Diversion			0.01 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWNE|Sec. 27|Township 02N|Range 02W|CANYON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	02W	22		SWSE	1.1									

Total Acres: 1.1

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. X35 All parts of original licensed Rights 63-2724 and 63-7610 when combined shall not exceed a total diversion rate of 3.90 cfs.

Dates:

Licensed Date:

Decreed Date: 02/06/2009

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: And

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit:

Combined Volume Limit:

Combined Rate Limit: 3.9

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

Water Supply Bank:

Lessor Name(s): COLLEEN P ASCHERFELD
ROBERT S ASCHERFELD

Lease Status: Active

Lease Amount: 2.6

Rental Availability: 2.6

Date Received: 12/26/2014

Lease Begin Date: 1/1/2015

Expiration Date: 12/31/2017

Close

State of Idaho
Department of Water Resources

Water Right
63-34026

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 0.035 0.07 0.14 Miles



Attachment 4G

Applicants bought a lot in Star Pass Ridge subdivision, with the intent of selling their home in Seattle and building a new home in Idaho. The lot they purchased was covered for irrigation under water right 63-2724B that was decreed in 2009. Applicants filed a change in ownership for their 1.1 acre portion of water right 63-2724B in December, 2014 resulting in water right 63-34026. They then leased 0.6 acres to the water bank in February, 2015 for three years. They kept 0.5 acre out for landscape irrigation they planned to develop in association with the new home they planned to build. Unfortunately, due to housing market conditions, they were unable to sell their home in Seattle until September 29th of this year. Because of economic circumstances and family changes that have occurred while waiting for the sale of their Seattle home, they have relocated to an existing family home in Florida and have listed their Star Pass Ridge lot for sell. They wish to lease the entire 1.1 acres authorized under water right 63-34026 to the water bank for two years to protect the right while not in use.



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

January 31, 2018

ROBERT S ASCHERFELD
27 HARBOUR ISLE DR W UNIT PH1
HUTCHINSON ISLAND FL 34949

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 63-34026

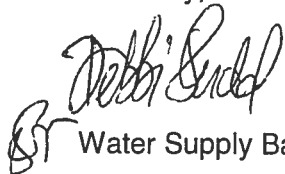
Dear Lessor:

Water right **63-34026** was leased into the Water Supply Bank (Bank) as of December 21, 2017, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

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

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

Sincerely,



Water Supply Bank

Enclosure: Executed Lease Contract

c: Angie Grimm - IDWR Western Region
Lori Graves – SPF Water 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

January 22, 2018

ROBERT S ASCHERFELD
27 HARBOUR ISLE DR W UNIT PH1
HUTCHINSON ISLAND FL 34949

RE: APPLICATION TO LEASE WATER RIGHT 63-34026 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, 2020**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

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

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

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

Sincerely,



Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C104436

c: Lori Graves – SPF Water Engineering

MEMORANDUM

To: Water Right No. 63-34026

From: Rachael Smith, Water Resource Agent Sr.

Date: 1/18/18

Re: Water Supply Bank Lease Application 940

PURPOSE/NARRATIVE: On December 21, 2017, the Department received a WSB application for WR 63-34026 from SPF Water Engineering on behalf of Robert and Colleen Ascherfeld. This is a groundwater irrigation right with a diversion rate of 0.01 cfs and an annual diversion volume of 4.8 af.

The applicant initially requested lease of all 1.1 acres of the right; however, upon further review, it appears that 0.5 acres of the right have not had beneficial use since the right was decreed in 2009 and are subject to forfeiture. Upon notification of this, the applicant requested that the 0.6 acres previously leased to the bank be leased again.

The point of diversion is located within the NWNE corner of Section 27 T02N R02W in Canyon County and the place of use is located within the SWSE corner of Section 22 T02N R02W.

The water right is located within a DEQ nitrate area of concern area and South Canyon County Ground Water Area of Concern.

AUTHORITY TO FILE: Robert and Colleen Ascherfeld have signed the lease application as the designated applicants and are owners of the water right. There are no concerns about authority to file the application.

WATER RIGHT VALIDITY/FORFEITURE EVALUATION: A portion of this water right (0.6 acres) was previously leased to the water supply bank from 1/1/15-12/31/17. The remaining portion of the right does not appear to have used since it was decreed in 2009 and is subject to forfeiture. Therefore, only 0.6 acres were approved to be leased.

ENLARGEMENT OF USE: An analysis of POU overlap shows overlap with right 63-31982 which is for fire protection within the subdivision so enlargement of use is not a concern.

Right 63-34026 has a combined limit of 3.90 cfs when combined with all parts of original licensed right 63-2724 and 63-7610. The total of all these rights and all child rights is 2.04 cfs, so leasing right 63-34026 with a diversion rate of 0.01 cfs is not a concern.

LOCAL PUBLIC INTEREST: There is no information that suggests this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The maximum diversion rate and volume of water associated with lease application 940 shall be 0.01 cfs/ac and 2.6 afa/ac, which is consistent with the conservation of water resources and irrigation practices in Idaho.

DEPARTMENT/WATERMASTER COMMENTS: This lease is within Canyon County. Comments were requested from IDWR's Western Region office.

WATER SUPPLY BANK EVALUATION: It is recommend that this lease is approved for 0.6 acres.

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Robert and Colleen Ascherfeld

Memo Date: 1/18/18

Water Right Number(s): 63-34026

Reviewers Name: Rachael Smith

Quick Tools

Decreed Year

No Forfeiture Concerns Thru:

2011

2017

2012

2018

2013

2019

2014

2020

2015

2021

	Yes	No	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases (Front of File)	X		
2 Reason for lease of water rights (Brief description of lease proposal in narrative)			
Portion of right	X		
All of right			
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			DEQ nitrate area of concern, South Canyon County Ground Water Area of Concern
4 Rentable? (If no explain in comments or narrative)	X		0.6 acres of the right
5 Authority to file			
Current owner or designated applicant	X		
SOS Web site checked for business entity		NA	
Other (explain in comments)			
6 Water Right Validity			
Decreed/Licensed/Statutory claim date (write in comments section)			Decreed 2/6/2009
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.)			The right includes 1.1 acres for irrigation. 0.6 acres were previously leased to the WSB 1/1/15-12/31/17. The remaining portion of the right does not appear to have beneficial use since it was decreed and is subject to forfeiture. Upon notification, the applicant requested that the eligible 0.6 acres be placed in the bank.
Has this right previously been leased to the bank or in CREP?	X		0.6 acres from 1/1/15-12/31/17
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)			NA
Any other concerns			
8 Enlargement concerns			
Complete a POU comparison overlap analysis	X		Right 63-31982 (fire protection)
Complete a combined limits review	X		Combined limit of 3.90 CFS with all children rights of 63-2724 and 63-7610
Complete POD overlap analysis (if there is an overlap add condition to lease)	X		Many POD overlaps exist
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		IDWR Western Regional Office
Send the watermaster comment request form or e-mail request			NA
11 Area Headgate requirement (write in Comments)			NA
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		X	
13 Narrative			
A portion of this water right (0.6 acres) was previously leased to the WSB from 1/1/15-12/31/17. The remaining portion of the right (0.5 acres) does not appear to have beneficial use since it was decreed in 2009 and is subject to forfeiture. Therefore it was recommended that only the eligible 0.6 acres be approved for the lease. Upon notification of potential forfeiture of the 0.5 acres, the applicant requested that the eligible 0.6 acres be placed in the bank instead. POU overlap exists with 63-31982 which is used for fire protection within the subdivision. There is a combined limit of 3.90 CFS with "all parts of original licensed rights 63-2724 and 63-7610". Because POD overlaps exist, a condition is recommended for the lease contract. The water right is located within a DEQ nitrate area of concern area and South Canyon County Ground Water Area of Concern.			

Smith, Rachael

From: Lori Graves <LGraves@spfwater.com>
Sent: Wednesday, January 17, 2018 1:49 PM
To: Smith, Rachael
Cc: Robert Ascherfeld
Subject: Requested Map
Attachments: IDWR Map Request Ltr.pdf; WB Map.pdf

Rachael,

It was a pleasure talking with you this morning. In response to your attached letter dated 1/11/2018, attached is a site map showing the 0.6 acres of water right 63-34026 that the applicant would like leased to the bank. Please let me know if you need any additional information.

Regards,
Lori

Lori Graves | Water Rights Specialist

SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350 | Boise, ID 83706
p. 208.383.4140 | f. 208.383.4156 | c. 208.850.4601
e. lgraves@spfwater.com | w. www.spfwater.com

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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

January 11, 2018

ROBERT S ASCHERFELD
COLLEEN P ASCHERFELD
27 HARBOUR ISLE DR W UNIT PH1
HUTCHINSON ISLE FL 34949

**RE: APPLICATION TO LEASE A WATER RIGHT TO THE WATER SUPPLY BANK FOR WATER
RIGHT NO. 63-34026**

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

Dear Applicant:

On December 21, 2017, the Department of Water Resources (Department) received your application to lease water right 63-34026 to the Water Supply Bank (Bank). Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

A review of aerial photography between 2009 when the right was decreed in the Snake River Basin Adjudication and 2015 shows no evidence of irrigation on the acres proposed to be leased to the Bank. A water right is not protected from forfeiture unless it is accepted into the Bank or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. Because 0.6 acres of the right were placed in the Bank from 1/1/15-12/31/17, this 0.6 acre portion of the right is eligible to be placed in the Bank again. However due to the forfeiture concerns resulting from five years of non-use, the remaining 0.5 acres of the right cannot be accepted into the Water Supply Bank.

If you have additional information to show that the entire portion of the right is eligible to be placed in the Bank, please submit this information within 30 days. If no information has been received after that time, the lease application will be processed with 0.6 acres of the right placed in the Bank. Please submit a site map showing the 0.6 acres of the right that you would like to be leased.

If you have any questions regarding this matter, please contact me at (208) 287-4912.

Sincerely,

Rachael Smith
Water Resource Agent Sr.

Cc: Lori Gravos, SPF Water Engineering

Enclosure: Water Bank Lease Application Receipt #C104436



SPF WATER
ENGINEERING

January 2, 2018

Christine Field
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

Subject: *Requested W-9 Form*

Dear Christine,

Enclosed on behalf of Robert and Colleen Ascherfeld, is an updated W-9 form per your request for application to lease water right 63-34026 to the water supply bank.

Thanks Christine.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Robert Ascherfeld

Enclosure

SPF file number: 1145.0010



December 20, 2017

RECEIVED

DEC 21 2017

DEPARTMENT OF
WATER RESOURCES

Mary Condon
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

**Subject: *Water Bank Lease Application (Water Right 63-34026);
Change in Address Form***

Dear Mary,

Enclosed on behalf of Robert and Colleen Ascherfeld, is an application to lease water right 63-34026 to the water supply bank. Also enclosed is a copy of a change in address notification. The original form is in transit and will be submitted upon receipt.

Check No. 3011 is enclosed for the \$250 filing fee.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Lori Graves".

Lori Graves
Water Rights Specialist

Cc: Robert Ascherfeld

Enclosure

SPF file number: 1145.0010

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