

WATER SUPPLY BANK LEASE CONTRACT NO. 433

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

LESSOR: ELMAR GRABHER
 PO BOX 91
 SUN VALLEY, ID 83353

RECEIVED
OCT 11 2017
 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, July 07, 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)
37-20615	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.19	Not Stated	2.0
Lease Totals			0.19	Not Stated	2.0

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)
37-20615	0.15	7.0	2.0	0.07	3.50
Combined Limit Totals	0.15	7.0	2.0	0.07	3.50

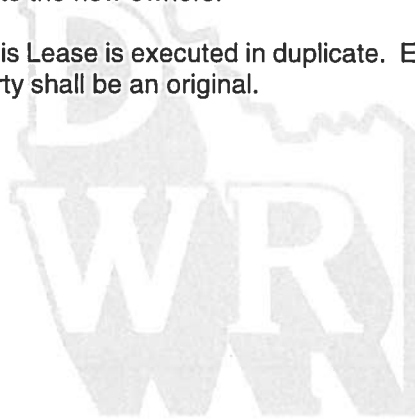
** The water right elements rentable have been reduced from the water right elements leased to account for conveyance losses*

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

WATER SUPPLY BANK LEASE CONTRACT NO. 433

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.



WATER SUPPLY BANK LEASE CONTRACT NO. 433

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

LESSOR: ELMAR GRABHER

PO BOX 91
SUN VALLEY, ID 83353

By 

Title _____

Date 10/10/17

IDAHO WATER RESOURCE BOARD

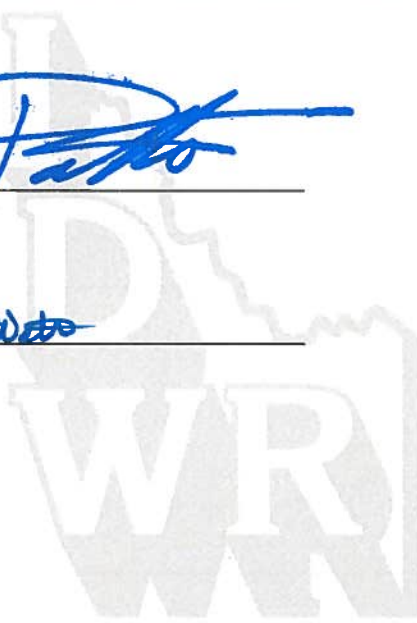
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 10/11/2017

Lease approved by IDWR 

Date 10-11-2017



**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 433**

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point of Diversion for Water Right No(s): 37-20615

BIG WOOD RIVER SWNW Sec. 20 Twp 03N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
37-20615	IRRIGATION	04/15	to	10/31	0.15 cfs	7.0 AF
Totals:					0.15 cfs	7.0 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	
02N	18E	4															2.0		2.0

Total Acres: 2.0

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.

WATER SUPPLY BANK LEASE CONTRACT NO. 433

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 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 will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
13. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Hiawatha canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.04 cfs of the leased portion of this right into the Hiawatha Canal whether it is rented or not.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUL 07 2017

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Elmar Grabher Water Right No. 37-20615
(Select one owner - see item 1A on the application) (One water right per application)

Is this application being submitted with a rental application as a lease/rental package? Yes No

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

MINIMUM REQUIREMENT CHECKLIST		
All items must be checked as either <i>Attached (Yes)</i> or <i>Not Applicable (N/A)</i>		
Yes		
<input checked="" type="checkbox"/>		Completed <i>Application to Sell or Lease a Water Right to the Water Supply Bank</i> .
<input checked="" type="checkbox"/>		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.
<input checked="" type="checkbox"/>		Confirmation this form has been printed single-sided per requirement of the Water Supply Bank.
Attachment	N/A	Yes
1A	<input checked="" type="checkbox"/>	<input type="checkbox"/> Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application.
1B	<input type="checkbox"/>	<input checked="" type="checkbox"/> An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.
1C	<input checked="" type="checkbox"/>	<input type="checkbox"/> <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov).
1D	<input type="checkbox"/>	<input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/>	<input type="checkbox"/> Description of a water right portion offered to the Water Supply Bank.
3	<input type="checkbox"/>	<input checked="" type="checkbox"/> 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	<input type="checkbox"/>	<input checked="" type="checkbox"/> Written consent from irrigation district or water delivery company.
4G	<input checked="" type="checkbox"/>	<input type="checkbox"/> Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> .

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>VC</u>	Date Received: <u>7/7/17</u>	Receipt # <u>C103811</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9: <u>Elmar Grabher</u>	

On file

311

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 Elmar Grabher

Mailing Address PO Box 91, Sun Valley, Idaho 83353

Street City State Zip Code

Email Address egrabher@mindspring.com

Phone Number 208-720-1360

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

OR

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

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes No

If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes No

If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes No

If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative James P. Speck

Organization Speck & Aanestad. A Professional Corp.

Professional Title attorney

Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, Idaho 83340

Phone Number 208-726-4421

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

The full water right is being offered to the Bank.

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes No
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).

- B. Please provide a description of the current water diversion and delivery system.

None exists from the Hiawatha Canal

- 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. City of Hailey water for in-house use only.

- 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. Right was leased to the Bank

- 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)

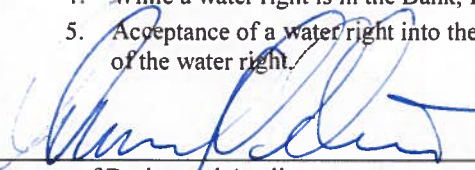
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Elmar Grabher

Printed Name

6/29/17

Date

Signature of Authorized Representative

Printed Name

Date

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



ELMAR GRABHER
WSB LEASE APPLICATION - 37-20615
ATTACHMENT 3



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

October 12, 2017

ELMAR GRABHER
PO BOX 91
SUN VALLEY ID 83353

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHTS 37-20615

Dear Lessor:

Water rights **37-20615** was leased into the Water Supply Bank (Bank) as of July 7, 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, 2021**, 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,

A handwritten signature in black ink that reads "John Sudd". The signature is written in a cursive style with a large initial 'J' and 'S'.

Water Supply Bank

Enclosure: Executed Lease Contract

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



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

September 27, 2017

ELMAR GRABHER
PO BOX 91
SUN VALLEY ID 83353

RE: APPLICATION TO LEASE WATER RIGHT 37-20615 TO THE WATER SUPPLY BANK

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

Dear Applicant:

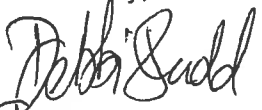
The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** 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, 2021**, 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,


Elmar Grabher
Water Supply Bank

Enclosure: Proposed Lease Contracts
Receipt # C103811

c: James Speck – Speck & Aanestad

Webster, Clay

From: Kevin Lakey <watermanager@cableone.net>
Sent: Wednesday, September 27, 2017 1:20 PM
To: Webster, Clay
Subject: RE: Lease application 541 for Elmar Grabher 37-20615

Clay,
With the limits you mention below I am good with this application. Thanks

Kevin Lakey

From: Webster, Clay [mailto:Clay.Webster@idwr.idaho.gov]
Sent: Wednesday, September 27, 2017 12:12 PM
To: Kevin Lakey
Subject: RE: Lease application 541 for Elmar Grabher 37-20615

Kevin,

It is good to hear from you. If this were rented for irrigation, the limit would have to be the acres. One of the things to keep in mind is if they put this right with other rights to get a larger rental, this rate would need to be limited to keep it from being spread across a larger POU. Enjoy your afternoon.

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)

From: Kevin Lakey [mailto:watermanager@cableone.net]
Sent: Wednesday, September 27, 2017 11:21 AM
To: Webster, Clay <Clay.Webster@idwr.idaho.gov>
Subject: RE: Lease application 541 for Elmar Grabher 37-20615

Clay,
Remind me please. Is the flow rate (.15 cfs) rented out on this water right or is it the two acres place of use ? Thanks

Kevin Lakey
Water District 37

From: Webster, Clay [mailto:Clay.Webster@idwr.idaho.gov]
Sent: Monday, September 25, 2017 2:16 PM
To: Skinner, Corey; Kevin Lakey
Subject: Lease application 541 for Elmar Grabher 37-20615

Corey and Kevin,

We are currently processing this application to lease this right back into the bank. It has been in the bank since 2002 and was retained by the owner during the sales of the property. Do you have any concerns or comments? Thanks

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Elmar Grabher

Memo Date: 9/25/2017

Water Right Number(s): 37-20615

Reviewers Name: Clay Webster

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)			WD 37 Surface water
		Yes	No	
4	Rentable? (If no explain in comments or narrative)	x		
5	Authority to file			
	Current owner or designated applicant	x		Current owner
	SOS Web site checked for business entity		x	
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			Decreed 2010
	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.)			Leased 2002-2016
	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?			Hiawatha Canal
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			20% is standard for Hiawatha Canal
	Any other concerns			
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		Water right severed from property
	Complete a combined limits review	x		None
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		None
		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		Municiple City water
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)			
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 The department received the application to lease this entire water right into the bank on July 7, 2017 from Jim Speck of Speck & Aanestad for Emlar Grabher. This right has been leased into the WSB since 2002. It was originally leased under WR 37-20401. The leased portion was renumbered to 37-20439 in a split by transfer 69282. The leased portion was again renumbered to 37-20615 in a split by transfer 69589. Mr. Grabher had sold the property and retained the water rights in the sell. In essence, he severed the water right from the property and then placed it in the WSB to protect it from forfeiture. This right was decreed in 2010 to Elmar Grabher. The decree shows an extremely high rate for this water right. The right was released from the bank in 2016. Consent from the delivery entity, the Hiawatha Canal has been requested and received from the applicant. They have requested a 20% holdback for conveyance losses. The rentable amount will be reduced from 0.19 cfs to 0.15 cfs to accomodate this conveyance loss.			

Webster, Clay

From: Skinner, Corey
Sent: Monday, September 25, 2017 3:39 PM
To: Webster, Clay
Subject: RE: Lease application 541 for Elmar Grabher 37-20615

No objections from me.

From: Webster, Clay
Sent: Monday, September 25, 2017 2:16 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Kevin Lakey <watermanager@cableone.net>
Subject: Lease application 541 for Elmar Grabher 37-20615

Corey and Kevin,

We are currently processing this application to lease this right back into the bank. It has been in the bank since 2002 and was retained by the owner during the sales of the property. Do you have any concerns or comments? Thanks

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)

Webster, Clay

From: Webster, Clay
Sent: Wednesday, September 20, 2017 2:03 PM
To: Carlos, Rhea
Cc: Marston, Sascha
Subject: RE: Refund for Receipt C103811

Rhea,

Please cancel my request to refund this receipt. The department had received additional information which was not forwarded to me. Thanks!

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)

From: Carlos, Rhea
Sent: Wednesday, September 20, 2017 1:57 PM
To: Webster, Clay <Clay.Webster@idwr.idaho.gov>
Subject: FW: Refund for Receipt C103811

Hi Clay,

I am going to refund this tomorrow. I just wondering, did they withdrawn their application?

Thank you so much!

Rhea C. Carlos
Financial Technician
Idaho Department of Water Resources
322 East Front Street, 6th Floor
P. O. Box 83720 * Boise, ID 83720-0098
Ph: 208-287-4844 * Mobile: 208-600-4622

From: Marston, Sascha
Sent: Wednesday, September 20, 2017 12:17 PM
To: Carlos, Rhea <Rhea.Carlos@idwr.idaho.gov>
Subject: FW: Refund for Receipt C103811

Webster, Clay

From: James Speck <jim@speckandaanestad.com>
Sent: Wednesday, September 20, 2017 1:49 PM
To: Field, Christine; Webster, Clay; Buyer, Remington
Subject: RE: Lease Returned
Attachments: Re: Grabher/Application to Lease 37-20615

Please see the attached e-mail sent to Remington on August 9!!

From: Field, Christine [mailto:Christine.Field@idwr.idaho.gov]
Sent: Wednesday, September 20, 2017 1:44 PM
To: James Speck
Subject: Lease Returned

Hi James,

Attached you will find the supporting documents for the Lease Application return for W/R 37-20615 for Elmar Grabher.

Kind Regards,

Christine Field
Water Supply Bank Support

Webster, Clay

From: James Speck <jim@speckandaanestad.com>
Sent: Wednesday, August 09, 2017 1:47 PM
To: Buyer, Remington
Cc: Elmar Grabher (elmargrabher@gmail.com)
Subject: Re: Grabher/Application to Lease 37-20615
Attachments: HCC ltr to IWB 8-08-17.pdf

Remington,

I filed the above-referenced Application on July 7, 2017. However, it did not include the written consent from the Hiawatha Canal Company. We now have that and a copy is attached to be made a part of this Application. Please reply to confirm you have received this e-mail and the consent letter. Thanks you.

Jim

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

CONFIDENTIAL COMMUNICATION

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

RECEIVED

AUG 09 2017

DEPARTMENT OF
WATER RESOURCES

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

August 8, 2017

Idaho Water Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: *Elmar Grabher (37-20615)*

Dear Sir or Madam:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). For the reasons outlined below and on the conditions requested, the Canal has no objection to the aforementioned water rights being placed into the Water Bank.

The Hiawatha Canal Company is concerned about the amount of water being removed from the Canal and placed in the Water Bank by various water right holders. Generally, at this time, the Canal Company does not object to water rights conveyed in the Hiawatha Canal being placed in the Water Bank provided that if the water rights are leased to parties outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right be left in the Canal as conveyance loss. I suggest that the Department place a condition on the leases to this effect.

Providing you some historical perspective, the Canal Company filed for mitigation (conveyance loss) rights in the adjudication for rights that had been forfeited or abandoned out of the Canal. The Department agreed that the conveyance loss in the Canal was twenty-percent (20%), and therefore, entered recommendations accordingly. See e.g., water rights 37-22630, 37-22631, 37-22632 and 37-22633. This conveyance has been recognized by the Idaho Department of Water Resources in similar transfers. Leaving twenty-percent (20%) of the leased rights in the Canal will insure that all rights in the Canal continue to be delivered without injury to water right holders in the Canal.

As a condition of being leased, the Canal Company requests:


1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss; and

2. The Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the lease period.

Thank you in advance for responding to this letter and addressing our concerns. If you have any questions, please do not hesitate to call me.

Sincerely,

HIAWATHA CANAL COMPANY


David Cropper, President

FXH: fxh
cc: client

From: Webster, Clay
Sent: Wednesday, September 20, 2017 12:14 PM
To: Marston, Sascha <Sascha.Marston@idwr.idaho.gov>
Subject: Refund for Receipt C103811

Sascha,

I need to request a refund of \$250.00 be sent to:

SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

Thanks

Sincerely,
Clay Webster
Water Resource Agent Sr.
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)



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

August 10, 2017

ELMAR GRABHER
PO BOX 91
SUN VALLEY ID 83353

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO 37-20615 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Question 4. A. of the application asks if the diversion works or system is owned or managed by an irrigation district or water delivery company. The application also says, if this answer is yes, provide written consent from the company, corporation or irrigation district authorizing the proposed lease. No consent was provided. Research has revealed that this water right was delivered through the Hiawatha Canal.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

- **Delivery entity consent from the Hiawatha Canal.**

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4910.

Sincerely,

Clay Webster
Water Resource Agent Sr.
WSB Point of Contact

C. James Speck – Speck & Aanestad with enclosure: Receipt C103811

SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

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

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

July 5, 2017

RECEIVED

JUL 07 2017

DEPARTMENT OF
WATER RESOURCES

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

**Re: *Application to Sell or Lease A Water Right -
Elmar Grabher/Water Right Nos. 37-20615***

Dear Remington:

Enclosed you will find the original and one copy of the above-referenced Application together with my firms check payable to the Department for the \$250 filing fee. Please receipt date-stamp the copy and return it to me in the postage prepaid, self-addressed envelope I have included for that purpose.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures
cc: Client w/encl.