

RECEIVED

SEP 13 2017

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 670**

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

LESSOR: FRANK TIEGS LLC
PO BOX 3350
PASCO, WA 99302

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 August 24, 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)
2-2368	4/8/1965	SNAKE RIVER, tributary to COLUMBIA RIVER	0.05	12.1	2.7
2-2422	5/12/1966	SNAKE RIVER, tributary to COLUMBIA RIVER	0.01	2.3	0.5
Combined Limit Totals			0.06	14.4	3.2

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 to December 31, 2021. This Lease shall bind the parties and take effect when both parties have signed it.

SUPPORT DATA

IN FILE # 2-2368

LEASE CONTRACT NO. 670

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.



LEASE CONTRACT NO. 670

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

LESSOR: FRANK TIEGS LLC

PO BOX 3350

PASCO, WA 99302

By Frank Tieg

Title Managing Member

Date 9-7-2017

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 9/13/2017

Lease approved by IDWR [Signature]

Date 9-13-2017

ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 670

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): 2-2368, 2-2422

SNAKE RIVER L 7(SWSWNE) Sec. 36 Twp 01N Rge 03W CANYON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
2-2368	IRRIGATION	03/15	to	11/15	0.05 cfs	12.1 AF
2-2422	IRRIGATION	03/15	to	11/15	0.01 cfs	2.3 AF
Totals:					0.06 cfs	14.4 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	03W	36	0.1		1.2	1.4									0.5				3.2

Total Acres: 3.2

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. The unleased portion of water right 2-2368 is limited to the irrigation of 490.3 acres within the place of use described above in a single irrigation season.
13. The unleased portion of water right 2-2422 is limited to the irrigation of 86.5 acres within the place of use described above in a single irrigation season.
14. The unleased portions of water right 2-2368, 2-2422 and 63-31977 are limited to a total combined annual diversion volume of 3311.6 af.
15. The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
16. Rights 2-2172, 2-2177, 2-2184, 2-2185, 2-2191A, all splits of 2-2191B, 2-2192, 2-2193, 2-2194A, 2-2196, 2-2199, 2-2208, 2-2280, 2-2363, 2-2368, 2-2422, 2-7010, 2-7011, 2-7078, 2-7081, 2-10029, 2-10059, 2-10184, 2-10185 2-10218, 2-10219, 2-10220, 2-10221, 2-10490, 2-10491, 2-10492, 2-10494, 2-10508 and 2-10509 when combined shall not exceed a total diversion rate of 74.30 cfs.
17. The following rights are diverted through point(s) of diversion described above: 2-2172, 2-2177, 2-2184, 2-2185, 2-2191A, all splits of 2-2191B, 2-2192, 2-2193, 2-2194A, 2-2196, 2-2199, 2-2208, 2-2280, 2-2363, 2-2368, 2-2422, 2-7010, 2-7011, 2-7078, 2-7081, 2-10029, 2-10059, 2-10184, 2-10185 2-10218, 2-10219, 2-10220, 2-10221, 2-10490, 2-10491, 2-10492, 2-10494, 2-10508 and 2-10509.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 670

2-2368 and 2-2422
Effective until December 31, 2021

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.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 24 2017

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Frank Tiegs LLC

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

Water Right No. 2-2368

(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 \$ 250Received By: SBDate Received: 8/24/17Receipt # C104032W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Frank Tiegs

869

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 Frank Tiegs LLC

Mailing Address PO Box 3350 Pasco, WA 99302

Street

City

State

Zip Code

Email Address _____

Phone Number 509-545-4545

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

OR

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

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

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

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

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

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

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

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho

Phone Number 208-736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

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

The Hat Butte Canal delivers Snake River water to the farm and ground water is pumped from an existing well.

- 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. 2-2280, 2-2368, 2-2422 and 63-31977

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐

Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒

If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The full allotted diversion rate and volume have been historically used to utilize these water rights.

- 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. These portions of water rights were leased into the Water Supply Bank for 2015 and 2016.

- 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 ☐

A transfer is being submitted to the Western IDWR Regional office to create a permissible place of use and correct the POU of the irrigation water rights.

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.

Frank Tieg

Signature of Designated Applicant

Frank Tieg

Printed Name

5-25-11

Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>2-2368</u>	<u>Irrigation</u>	<u>0.05</u>	<u>12.0</u>	<u>2.7</u>
	Total Amounts:	<u>0.05</u>	<u>12.0</u>	<u>2.7</u>

2. Source of water Snake River tributary to Columbia

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
01N	03W	36			SW	NE	Canyon

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 5/9/2017

WATER BANK LEASE Acres 2017
NAIP 2015 AERIAL

63-31977 POD
WSB Lease Acres





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 14, 2017

FRANK TIEGS LLC
PO BOX 3350
PASCO WA 99302

**RE: WATER SUPPLY BANK LEASE CONTRACTS FOR WATER RIGHTS 2-2368, 2-2422,
and 63-31977**

Dear Lessor:

Water rights **2-2368, 2-2422, and 63-31977** were leased into the Water Supply Bank (Bank) as of August 24, 2017, in accordance with the enclosed executed lease contracts. **Your water rights, as described on the lease contracts, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contracts. Read the conditions of acceptance carefully.

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

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

Sincerely,

Debbie Judd
Water Supply Bank

Enclosures: Executed Lease Contracts

c: Angie Grimm - IDWR Western Region
Greg Sullivan – Brockway Engineering
MSBT Law Chtd

Hersley, Jean

From: Grimm, Angie
Sent: Tuesday, September 05, 2017 1:43 PM
To: Hersley, Jean
Subject: RE: WSB Leases for Frank Tiegs LLC

Jean,

Good morning. Western region received two different transfer applications for the three rights (63-3490A on one and 2-2368, 2-2422, & 63-31977 on the other), portions of which are proposed for lease. The filings were returned due to insufficient filing fees submittal. Once the complete filings are received, I'll ask Western Region staff to coordinate processing with WSB staff at the State Office. The transfers propose creating permissible places of use for these three rights along with several others. Aside from this, no local area concerns come to mind for these WSB leases. Thank you for the opportunity to comment.

Regards,
Angie

Angela M. Grimm, P.G.
Water Rights Supervisor
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

From: Hersley, Jean
Sent: Thursday, August 31, 2017 10:00 AM
To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>
Subject: WSB Leases for Frank Tiegs LLC

Please let me know within 7 days if you have any comments or concerns. There are 3 leases.

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

August 31, 2017

FRANK TIEGS LLC
PO BOX 3350
PASCO WA 99302

RE: APPLICATIONS TO LEASE WATER RIGHT 2-2368, 2-2422 and 63-31977 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 rights 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 rights will automatically be released from the Bank on **December 31, 2021**, unless the rights are released earlier by the Board, or upon your request. To release the 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. 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,

Jean Hursley
for Water Supply Bank

Enclosure: Proposed Lease Contracts

c: MSBT Law Chtd
Brockway Engineering PLLC

Hersley, Jean

From: Bruce M. Smith <BMS@msbtlaw.com>
Sent: Thursday, August 31, 2017 9:59 AM
To: Hersley, Jean
Subject: Automatic reply: WSB Leases for 63-3490A, 2-2368, 2-2422 & 63-31977 in the name of Frank Tiegs LLC

I am no longer with the firm. If you have inquiries about firm matters please contact Paul A Turcke (pat@msbtlaw.com) or Chereese D. McLain (cdm@msbtlaw.com). If your inquiry is a personal matter, please contact Kat Donovan (kmd@msbtlaw.com).

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 31, 2017 10:00 AM
To: Grimm, Angie
Subject: WSB Leases for Frank Tiegs LLC
Attachments: Idled Acres-Ground Water Right.pdf; Idled Acres-Snake River Rights.pdf; Lease Application Review Checklist 2-2368 2-2422 63-31977.xls; Report - Lease Contract #670 2-2368 2-2422.docx; Report - Lease Contract #671 63-31977.docx; Idled Acres.pdf; Lease Application Review Checklist July 2017.xls; Report - Lease Contract #668 63-3490A.docx

Please let me know within 7 days if you have any comments or concerns. There are 3 leases.

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

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 31, 2017 9:59 AM
To: 'Greg Sullivan'; 'bms@msbtlaw.com'
Subject: WSB Leases for 63-3490A, 2-2368, 2-2422 & 63-31977 in the name of Frank Tiegs LLC
Attachments: WSB Lease 2-2368, 2-2422 & 63-31977.pdf; WSB Lease 63-3490A.pdf

These WSB Leases went out in today's mail.

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

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: Frank Tiegs LLC

Memo Date: August 30, 2017

Water Right Number(s): 2-2368 & 2-2422 & 63-31977

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	x		
	All of right			
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	x		
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			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.)			
	Has this right previously been leased to the bank or in CREP?	x		portions 2015-2016
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		na	
11	Area Headgate requirement (write in Comments)			4.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	
13	Narrative: The Department received these applications on August 24, 2017. The applicant wishes to place 4.1 acres of these water rights in the Bank. 2-2368-2.7 acres, 2-2422-0.5 acres and 63-31977-0.9 acres. The water rights overlap but the groundwater right can be separated out so it will be on its own contract. These rights were decreed in 2009 and the portions were in the Bank in 2015-2016. These rights are not currently within a WD.			

HAT BUTTE MUTUAL CANAL COMPANY

August 16, 2017

RECEIVED
AUG 28 2017
DEPT OF WATER RESOURCES

Via U.S. Mail and Email (greg.sullivan@brockwayeng.com)

Greg Sullivan
Brockway Engineering, PLLC
2016 Washington St. North, Suite 4
Twin Falls, ID 83301
(208) 736-8543

Re: Hat Butte Mutual Canal Company consent to Frank Tiegs, L.L.C. Applications to Lease Water Rights to the Water Supply Bank

Dear Greg:

Thank you for your May 19, 2017, email by which you requested consent from Hat Butte Mutual Canal Company ("Hat Butte") to the proposed Applications to Lease Water Rights to the Water Supply Bank for water right nos. 2-2368, 2-2422, and 63-31977 ("Lease Applications") in the name of Frank Tiegs, L.L.C. ("Tiegs"), copies of which were attached to your email. Also, thank you for your June 30, 2017 answers to clarifying questions asked by Hat Butte's attorney.

The Lease Applications involve the lease of portions of decreed water right nos. 2-2368, 2-2422, and 63-31977 into the State's Water Supply Bank ("WSB"). Surface water right nos. 2-2368 and 2-2422 currently are diverted and delivered by Hat Butte through its facilities, while ground water right no. 63-31977 is not. The portions of each water right proposed to be leased into the WSB are described in Attachment 2 to each of the Lease Applications, and are summarized in the following table:

Water Right No.	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
2-2368	Irrigation	0.05	12.0	2.7
2-2422	Irrigation	0.01	2.2	0.5
63-31977	Irrigation	0.02	4.2	0.9

Hat Butte will consent to the Lease Applications only if Tiegs agrees to the terms and conditions set forth in this letter, which are substantively the same as the terms and conditions in Hat Butte's April 19, 2016 letter to Hattie Zobott with your firm concerning lease applications for the same water rights (plus water right no. 2-2280, which is not included in the present Lease Applications).

Please have Tiegs' execute this letter in the space provided below to acknowledge Tiegs' agreement to this letter's terms and conditions, and return the signed letter to Hat Butte. With or without Tiegs' signature below, any use of this letter in support of the Lease Applications will be deemed to signify Tiegs' agreement to all terms and conditions contained herein.

Mr. Greg Sullivan
August 16, 2017
Page 2

Hat Butte's consent to the Lease Applications is conditioned upon Tiegs' agreement to defend, indemnify, and hold Hat Butte harmless for any claim, loss or liability arising out of or in any way connected with the Lease Applications, and for any costs related to the Lease Applications, including without limitation any costs associated with reducing, measuring, or reporting diversions (or reductions in diversions) of water in Hat Butte's facilities.

Hat Butte's consent is limited to the Lease Applications attached to your May 19, 2017 email. Any amendments to those Lease Applications, and any other applications (including without limitation WSB applications and transfer applications) will require additional consent from Hat Butte.

If the Lease Applications are approved, for the duration of the lease terms, Tiegs shall continue to hold all of its existing shares in Hat Butte and shall continue to pay all Hat Butte assessments without any reduction or discount for the amount leased into the WSB.

Again, Hat Butte's consent will be effective only if Tiegs agrees to the terms and conditions set forth above. To acknowledge the agreement, please have Tiegs' execute this letter in the space provided below and return it to Hat Butte.

Sincerely,

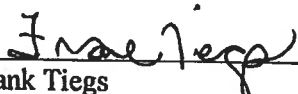


Mike Siegersma
President, Hat Butte Mutual Canal Company

cc: Michael P. Lawrence, Givens Pursley LLP

**ACKNOWLEDGEMENT OF ACCEPTANCE OF
TERMS AND CONDITIONS OF CONSENT**

Frank Tiegs, L.L.C. ("Tiegs") agrees to the above-described terms and conditions by which Hat Butte Mutual Canal Company ("Hat Butte") is willing to provide consent to the Lease Applications (defined above). Tiegs acknowledges Hat Butte's consent is subject to such terms and conditions.



Frank Tiegs
Manager, Frank Tiegs, L.L.C.

Hersley, Jean

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Monday, August 28, 2017 11:07 AM
To: Hersley, Jean
Subject: RE: WSB Lease Applications for Frank Tiegs LLC
Attachments: Hat Butte Canal Consent t to lease water rights.pdf; Hat Butte water transfer Frank Tiegs LLC.pdf

Jean,

Sorry for that. I must have only attached the letters to the transfer application I submitted to Western.

Let me know if you need anything else to process these lease applications.

Thank you,

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Monday, August 28, 2017 11:01 AM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: WSB Lease Applications for Frank Tiegs LLC

I am in the process of reviewing the Lease applications for 2-2422, 2-2368 and 63-31977. In your cover letter, you mentioned a consent letter from Hat Butte Mutual Canal Co. The letter was not with any of the applications. Would you please send me that letter? I will continue reviewing the applications but will not send them out for signature until the consent letter is received. Thank you.

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



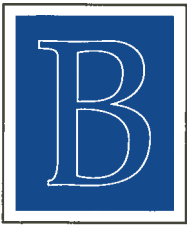
Virus-free. www.avg.com

Hersley, Jean

From: Hersley, Jean
Sent: Monday, August 28, 2017 11:01 AM
To: 'Greg Sullivan'
Subject: WSB Lease Applications for Frank Tiegs LLC

I am in the process of reviewing the Lease applications for 2-2422, 2-2368 and 63-31977. In your cover letter, you mentioned a consent letter from Hat Butte Mutual Canal Co. The letter was not with any of the applications. Would you please send me that letter? I will continue reviewing the applications but will not send them out for signature until the consent letter is received. Thank you.

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



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

AUG 24 2017

DEPARTMENT OF
WATER RESOURCES

August 17, 2017

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

Re: Frank Tiegs LLC 2-2368, 2-2442 and 63-31977

Dear Mr. Buyer:

Frank Tiegs LLC desires to lease a 4.1 acre portion of water rights 2-2368, 2-2442 and 63-31977 into the Idaho Water Supply Bank. It is proposed to lease the 4.1 acres from 2017 through 2021.

A 6.9 acre amount of water rights 2-2368, 2-2442 and 2-2280 were leased into the Water Supply Bank from 2015 through 2016. Water rights 2-2368, 2-2442 and 63-31977 are stacked water rights in which 2-2368 and 2-2442 overlap 100% with 63-31977. Water right 2-2280 overlaps 100% with 63-31977 but not in a quarter quarter in which the 4.1 acres are located.

Hat Butte Mutual Canal Company has reviewed the lease application and has provided a consent letter for the Idaho Water Supply Bank.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Frank Tiegs

Enc: Lease Application, Aerial Maps, 2015-2016 Lease Contract, Hat Butte Mutual Canal Company Consent Letter, Brockway Engineering Check # 14188 for \$500.00

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506