

RECEIVED

WATER SUPPLY BANK LEASE CONTRACT NO. 657

AUG 21 2017

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

DEPARTMENT OF
WATER RESOURCES

LESSOR: POWER COUNTY
543 BANNOCK AVE
AMERICAN FALLS, ID 83211

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 28, 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)
29-2284	3/2/1949	GROUND WATER	0.06	42.4
29-2301	4/24/1951	GROUND WATER	0.05	37.6
Combined Lease Totals			0.11	80.0

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 to December 31, 2017. 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.

SUPPORT DATA

IN FILE # 29-2284

WATER SUPPLY BANK LEASE CONTRACT NO. 657

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. 657

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

LESSOR: POWER COUNTY
543 BANNOCK AVE
AMERICAN FALLS, ID 83211

By Ron Turk
Title Commissioner
Date 8-18-17

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 8/21/2017

Lease approved by IDWR Chadwick

Date 8-21-2017

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 657**

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): 29-2284

GROUND WATER	NENWNW	Sec. 13	Twp 06S	Rge 33E	POWER County
GROUND WATER	SESESW	Sec. 12	Twp 06S	Rge 33E	POWER County

Source and Location of Point(s) of Diversion for Water Right No(s): 29-2301

GROUND WATER	NWNWNW	Sec. 13	Twp 06S	Rge 33E	POWER County
GROUND WATER	NWNWNE	Sec. 13	Twp 06S	Rge 33E	POWER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
29-2284	INDUSTRIAL	01/01	to	12/31	0.06 cfs	42.4 AF
29-2301	INDUSTRIAL	01/01	to	12/31	0.05 cfs	37.6 AF
Totals:					0.11 cfs	80.0 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	33E	12											x	x			x	x	N/A
06S	33E	13	x	x	x	x	x	x	x	x					x	x			N/A

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.

WATER SUPPLY BANK LEASE CONTRACT NO. 657

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. Unleased portions of industrial use of 29-2284 is limited to 4.44 cfs and 3,215.5 af.
13. Unleased portions of industrial use of 29-2301 is limited to 3.95 cfs and 2,858.3 af
14. Use of water under these rights is 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. 120.

Idaho Water Resource Board Water Supply Bank Lease

29-2284 & 29-2301

Effective until December 31, 2017

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



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



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUL 28 2017

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant POWER COUNTY IDAHO

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

Water Right No. 29-2284

(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: VCDate Received: 7/28/17Receipt # 403899W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)

Name on W-9:

765

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 BOARD OF COUNTY COMMISSIONERS

Mailing Address 543 BANNOCK AVENUE AMERICAN FALLS IDAHO 83211
Street City State Zip Code

Email Address SSPRAGUE@CO.POWER.ID.US Phone Number 208-226-7610

- ☒ 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 DOUGLAS J. BALFOUR Organization DOUGLAS J. BALFOUR CHARTD.

Professional Title COUNSEL FOR POWER COUNTY Email Address DBAL0680@GMAIL.COM

Mailing Address 230 W. LEWIS, POCATELLO, IDAHO 83204 Phone Number 208-233-0680

- ☐ 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.

- 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. _____

- 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. _____

- 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 ☐

YES, A PORTION OF THIS WATER HAS BEEN USED TO GENERATE 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 _____ (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 0.06 CFS 42. 2AF

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.



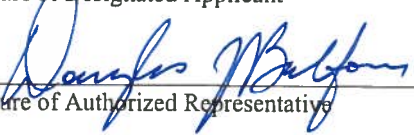
Signature of Designated Applicant

RON FUNK

Printed Name

7/20/17

Date



Signature of Authorized Representative

DOUGLAS J. BALFOUR

Printed Name

7/20/17

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>29-2284</u>	<u>CEMTERY IRRIGATION</u>	<u>0.06</u>	<u>42.2</u>	
Total Amounts:				

2. Source of water POINT OF DIVERSION tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County



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

August 22, 2017

POWER COUNTY
543 BANNOCK AVE
AMERICAN FALLS ID 83211

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHTS 29-2284 and 29-2301

Dear Lessor:

Water rights **29-2284 and 29-2301** were leased into the Water Supply Bank (Bank) as of July 28, 2017, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, 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 contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2017**, 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 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 rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region/Water District 120
Douglas J Balfour – Douglas J Balfour Chtd



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

August 15, 2017

POWER COUNTY
543 BANNOCK AVE
AMERICAN FALLS ID 83211

**RE: APPLICATIONS TO LEASE WATER RIGHTS 29-2284 and 29-2301
TO THE WATER SUPPLY BANK**

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

Dear Applicant:

The Department of Water Resources has completed its review of your applications to lease the above-mentioned water rights 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 rights will automatically be released from the Bank on **December 31, 2017**, 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,



Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt #s C103900 & C103899

c: Douglas J Balfour – Douglas J Balfour Chartd

Buyer, Remington

From: Cefalo, James
Sent: Thursday, August 10, 2017 8:11 AM
To: Buyer, Remington
Cc: Skaggs, Pam
Subject: RE: Falls View Cemetery

Remington,

It appears that everything is in order with the leases and rentals. I don't have any concerns or comments. We recently rescinded an old transfer, restoring the original volume under water rights 29-2284 and 29-2301. This made a small amount of additional volume available for rental. I'm glad Power County found a use for the water.

James

From: Buyer, Remington
Sent: Wednesday, August 09, 2017 5:09 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Cc: Skaggs, Pam <Pam.Skaggs@idwr.idaho.gov>
Subject: Falls View Cemetery

James,

Falls View Cemetery (in American Falls) has tried to secure a rental for 2017 but has run into a few problems. After multiple iterations, I believe we can now finalize a rental for the cemetery. However, I expect that a conversation about the rental of Power County's industrial water rights may be necessary.

As Watermaster for Water District 120, all leases and rentals are subject to your administration. Could you please review the attached drafts and review memos for the lease of water rights 29-2284 and 29-2301, as well as 35-14453 and 35-14454, along with the draft review memo and rental agreement for Falls View Cemetery, and advise if you have questions, comments or concerns.

Pam is cc'd here as well as I will be delivering the physical paperwork and files to her for additional review.

Thank you both,

Remington
287-4918

Memorandum

To: Water Rights 29-2284 & 29-2301

From: Remington Buyer

Date: August 9, 2017

Re: Water Supply Bank Lease Application 765

Purpose/Narrative: On July 28th, 2017, the Department received applications to lease portions of water rights 29-2284 and 29-2301 into the Water Supply Bank, to accommodate a rental of the leased portions by Falls View Cemetery (Rental Application #666). Power County is proposing to place 1.3% of the decreed diversion rate and diversion volume into the Bank while the remaining 98.7% of the decreed rate and volume continue to provide mitigation for permits 35-14240, 35-14241, 35-14242 and 35-14243. This memo summarizes the review of the lease proposal from Power County.

Authority to File: The applications have been completed by Doug Balfour who is the legal counsel for Power County and Mr. Balfour has signed the application as the authorized representative. The application is filed on behalf of Power County Board of Commissioners, and is signed by Power County Commissioner Ron Funk. The water rights were recently acquired by Power County; no concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: Water rights 29-2284 and 29-2301 were decreed in 2004, prior to being fully transferred from basin 29 to basin 35 in 2010 (Transfer 75147), after which time the rights were renumbered as 35-14014 and 35-14015, respectively. During recent years, portions of water rights 35-14014 and 35-14015 have been utilized as mitigation for new water permits 35-14240 through 35-14243, and portions not dedicated to mitigation have been leased to the Water Supply Bank. During 2017, Power County acquired title to water rights 35-14014 and 35-14015 and requested that IDWR rescind Transfer 75147. The transfer has been rescinded and these water rights have been renumbered back to 29-2284 and 29-2301. These rights have undergone active administrative review during recent years and 98.7% of the rights remain dedicated to mitigation for permits 35-14240 through 35-14243. Forfeiture and validity are not a concern.

Injury Evaluation/Rentability: No injury is apparent through lease of these water rights into the Bank. Subject to a rental review that includes consideration of ground water modeling parameters, it is possible for these water rights to be rented without injury.

Enlargement of Use/Rentability: Water rights 29-2284 and 29-2301 are decreed for industrial use. The intended rental of these rights is for irrigation use. Standard review of a rental requesting a change in nature of use should include a historic, industrial consumptive use evaluation. However, with respect to these water rights, two important points should be considered:

- Industrial use under water rights 29-2284 and 29-2301 ceased in 2001, more than 15 years ago, and the current owners may be unable to provide historic, consumptive industrial use information; and
- 98.7% of the decreed diversion rate and diversion volume for these water rights are not proposed for lease to the Bank.

In light of the above, it is deemed acceptable that a combined diversion rate of 0.11 cfs and 80.0 afa (out of the decreed combined diversion rate of 8.5 cfs and 6153.4 afa) can be leased into the Bank and rented out for irrigation purposes without causing enlargement.

Local Public Interest: There are no local public interest concerns with respect to the lease of these water rights.

Beneficial Use/Conservation of Water Resources: The lease of these water rights to the Water Supply Bank is not contrary to beneficial uses or conservation of water resource practices in Idaho.

Department/Watermaster Comments: Comments will be requested from IDWR Eastern region program manager and Water District 29 Watermaster, James Cefalo.

Water Supply Bank Evaluation: No concerns about the lease of these water rights into the Bank.

Memorandum

To: Remington Buyer
c Chet Taylor, Ron Funk, Delane Anderson, Bill Lasley
From: Douglas J. Balfour ✓
Date: July 24, 2017
RE: Power County Water Right Lease

Remington,

Pursuant to our discussion, attached to this email is an Agreement that has been signed by Lance and Lisa Funk authorizing the Lease discussed.

Doug Balfour

ADDENDUM TO AGREEMENT FOR LEASE OF WATER RIGHTS

THIS ADDENDUM TO AGREEMENT FOR LEASE OF WATER RIGHTS (this "Agreement") is made and entered into this ____ day of _____, 2017, by and between the **Power County Idaho Board of County Commissioners**, a political subdivision of the State of Idaho, whose address is 543 Bannock Ave., American Falls, Idaho 83211 (hereinafter "County"), and **Lance and Lisa Funk**, husband and wife, whose address is 2960 Cedar Ln., American Falls, Idaho 83211 (hereinafter "Funk"). The County and Funk are individually a "Party" and together the "Parties".

RECITALS:

A. On March 20, 2017 the Parties entered into an Agreement For Lease Of Water Rights for the irrigation season of 2017. That document is recorded as Power County Instrument #210625, recorded March 20, 2017.

This Addendum is to reflect a subsequent agreement between the Parties, to authorize the County to place certain retained, unused Water Rights in the Idaho Department of Water Resources Water Bank, for lease to the Falls View Cemetery.

B. Power County Water Rights WR29-2284 and WR29-2301, formerly Water Rights 35-14014 and 35-14015, are being utilized as part of a mitigation plan for four (4) Water Right permits, duly noted as permit numbers 35-14240, 35-14241, 35-14242, and 35-14243, owned by Funk.

C. According to analysis by the Idaho Department of Water Resources, the following Water Rights are available for deposit into the Water Supply Bank:

	Beneficial Use	Diversion Rate	Diversion Volume
29-2301	Industrial	0.05 cfs	37.6 af
29-2284	Industrial	0.06 cfs	42.4 af
Combined	Industrial	0.11 cfs	80.0 af

AGREEMENT

By this addendum, the Parties agree that Power County may lease the above referenced Water Rights to the Water Supply Bank, and that Falls View Cemetery may lease those Water Rights from the Water Supply Bank. Funk specifically agrees that this is not a breach of the Agreement For Lease Of Water Rights.

"County"

**Power County Board of County Commissioners,
a political subdivision of the State of Idaho**

RON FUNK

DELANE ANDERSON

BILL LASLEY

ATTEST

STATE OF IDAHO)
 :ss
County of Power)

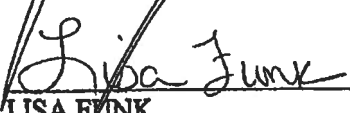
SUBSCRIBED AND SWORN TO before me this ____ day of July, 2017.

Notary Public
My Commission Expires: _____

"FUNK"



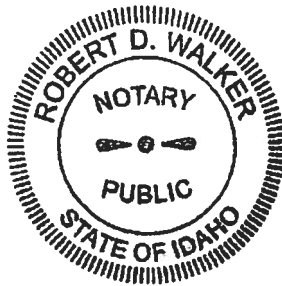
LANCE FUNK



LISA FUNK

STATE OF IDAHO)
 Powell :SS
County of ~~Bannock~~)

SUBSCRIBED AND SWORN TO before me this 20TH day of July, 2017.





Notary Public
My Commission Expires: 11-7-2017

RECEIVED

JUL 28 2017

DEPARTMENT OF
WATER RESOURCES

Douglas J. Balfour, Chartered

230 W. Lewis

P.O. Box 490

Pocatello, ID 83204-0490

Phone: 208-233-0680

Fax: 208-233-0319

Email: dbal0680@gmail.com

July 24, 2017

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720

RE: Power County/Falls View Cemetery

Dear Remington:

I am mailing you the hard copy of the two Applications to Lease Water Rights as well as the Application from Falls View Cemetery to rent water.

Also enclosed are two personal money orders made payable to the IDWR in the amount of \$250.00 each.

Once I receive the signatures on the Agreement between Funk and the County authorizing the Lease, I will scan and email that to you for your file as well.

If you need anything else, please do not hesitate to contact me.

Very truly yours,


DOUGLAS J. BALFOUR

DJB/eg
enclosures
c Ron Funk
Delane Anderson
Bill Lasley
Chet Taylor