



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

June 12, 2017

KENT MERRILL
532 N 3825 E
RIGBY ID 83442

**RE: WATER SUPPLY BANK LEASE APPLICATION(S) FOR WATER RIGHT
NO(S). 25-14364**

Dear Applicant:

On June 1, 2016 the Idaho Department of Water Resources (Department) received your application(s) to lease a portion of water right no(s). 25-14364 to the Water Supply Bank (Bank).

The Department has sent several requests dated June 30, 2016, September 29, 2016 and May 10, 2017 for the additional information. The additional information has not been received by the Department and the application cannot be processed. This letter is notice that **the attached application(s) to lease water to the Bank are returned.**

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form.

A refund has been requested and will be sent to Rocky Mountain Environmental under separate cover from the State Controller's Office.

If you have questions regarding this matter, please contact me at 287-4910.
Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure(s): Lease Application

c: Rocky Mountain Environmental

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

JUN 01 2016

Department of Water Resources
Eastern RegionDesignated Applicant Kent Merrill

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

Water Right No. 25-14364

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

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

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed single sided, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☒ ☐ Signatures and contact information for *all owners* of the water right to be leased or sold on this application.
- 1B ☐ ☒ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☒ ☐ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ 250 -Received By: scDate Received: 6/1/16Receipt # 2042130W-9 received? Yes ☒ No ☐(Route W-9 to Fiscal) JName on W-9: Kent Merrill

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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 Kent Merrill

Mailing Address 532 N 3825 E Rigby ID 83442
Street City State Zip Code

Email Address _____ Phone Number 745-6990

☒ 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 Kristin Moore Organization Rocky Mountain Environmental Assoc.

Professional Title Senior Water Right Analyst Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

☐ 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.
Property has been subdivided and water can no longer be delivered through the original irrigation system. Lot owners use a portion of the right from their private wells.

- 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. Single-use domestic rights overlap on each lot.

- 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. Single-use domestic rights.

- 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. This right has been protected through an Extension to Avoid Forfeiture. It has not been diverted in full, except for the irrigation of approximately 0.3 acre per lot.

- 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. An Extension to Avoid Forfeiture was granted and allowed until June 1, 2016 for resumption of use.

- 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: 2016 to 2020 (maximum lease period 5 calendar years).
(Year) (Year)

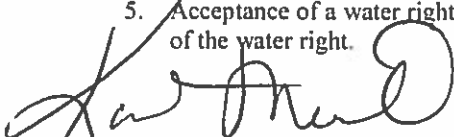
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Kent Merrill

Printed Name

5-31-16
Date

Signature of Authorized Representative

Kent Merrill
Printed Name

Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: KENT MERRILL

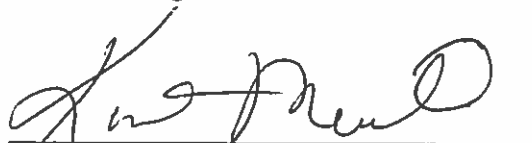
RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

The following are designated representative of Rocky Mountain Environmental Associates, Inc.:

John R. Rice, Jr. President
W. Roger Warner Vice-President
Keith C. Wilson Senior Water Rights Analyst
Kristin M. Moore Senior Water Rights Analyst (PRIMARY CONTACT)
Chad Jensen Staff Water Rights Analyst

This authorizes these individuals to act as Representatives on behalf of Kent Merrill. These representatives may submit information for Kent Merrill, but are not authorized to sign for Kent Merrill. This designation is only for the Water Banking of 25-14364.


Signature

Kent Merrill
Printed Name

5-31-16
Date

**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

<u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
25-14364	Irrigation	0.204	40	10
	Total Amounts:	0.204	40	10

2. Source of water Ground Water tributary to

3. Point(s) of diversion:

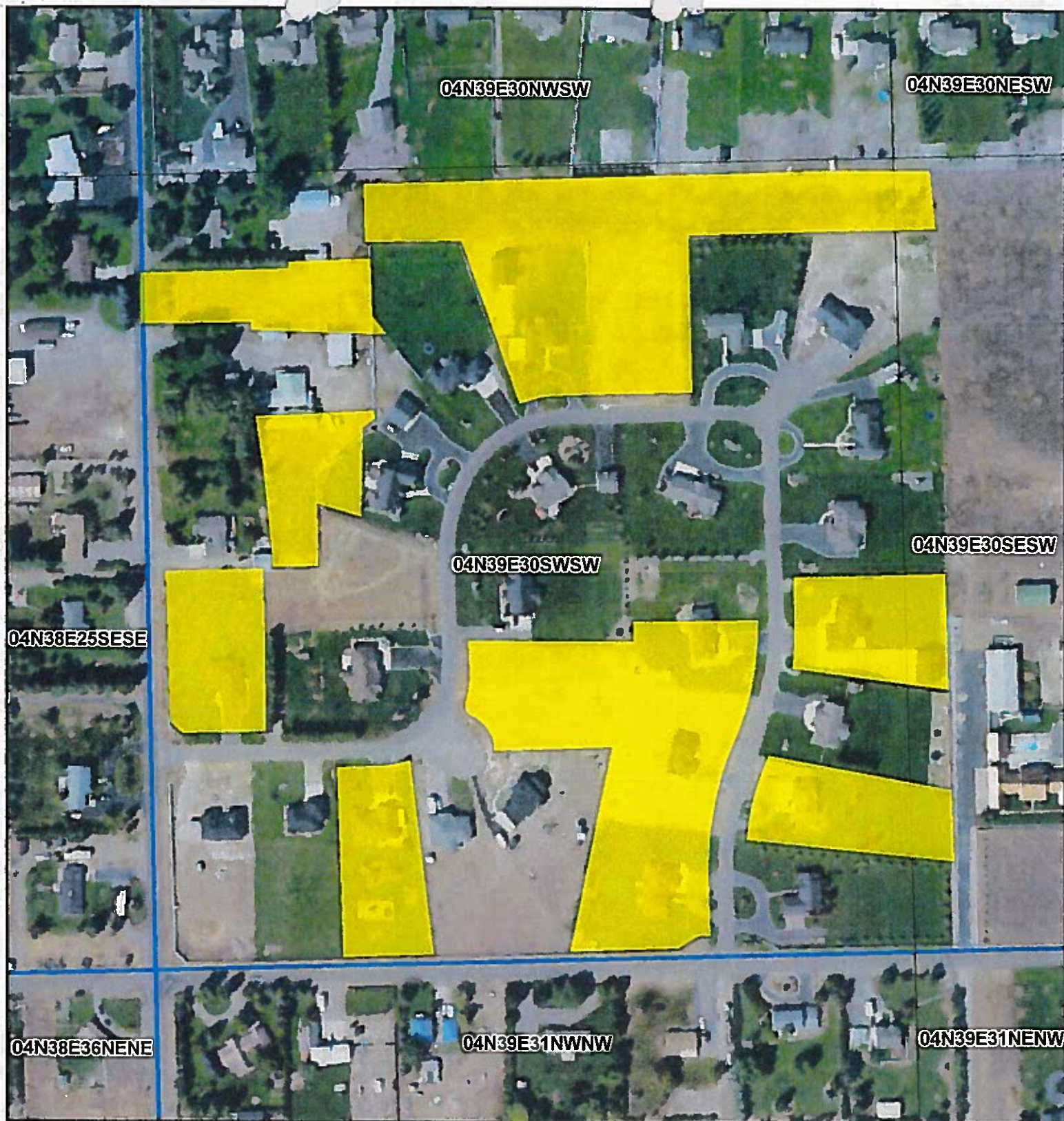
Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	39E	30			SW	SW	JEFFERSON

Acres Proposed to be Leased to the Water Supply Bank

WR POU=13.3 ac

Lot #	Block #	Remaining WR on Lot	Water Banking	Remaining
1	1	1	0.7	0.3
4	1	0.2	0	0.2
6	1	1	0.7	0.3
7	1	1	0.7	0.3
12	1	1	0.7	0.3
14	1	1	0.7	0.3
3	2	1	0.7	0.3
6	2	1	0.7	0.3
10	2	0.4	0.1	0
11	2	1.1	0.7	0.4
12	2	1	0.7	0.3
-	-	1.3	1.3	
-	-	0.3	0.3	
-	-	2	2	
		13.3	10	3

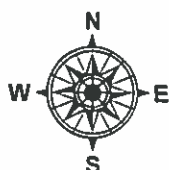
Quantities	Acres	Rate	Volume
WR REPORT	13.3	0.271	53.2
WSB	10	0.204	40



2015 Aerial Photography

Legend

- WRPOU 25-14364
- Section
- QQ



WSB Lease Application

Kent Merrill

RMEA #16-0082

by: KM

May 31, 2016



MEMORANDUM

TO: Sascha Marston
FROM: Jean Hersley
DATE: June 12, 2017
RE: **Refund: WSB Lease Application**

Please refund \$250. Application returned

NAME: ROCKY MOUNTAIN ENVIRONMENTAL
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402

RECEIPT #: E042130

Thank you.

Jean



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

May 10, 2017

KENT MERRILL
532 N 3825 E
RIGBY ID 83442

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO(S) 25-14364 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). It has been determined that additional information is required to continue processing.

The Department requested additional information on June 30, 2016 from Kristen Moore at Rocky Mountain Environmental Associates, Inc. regarding the ownership of water right 25-14364. Information was received and the Department requested authorization from the land owners to continue with the leasing of water right 25-14364 on July 7, 2016. On September 29, 2016, an email was sent to Rocky Mountain Environmental wanting to know the status of gathering the information to proceed with processing. The Department was informed that information was still being gathered.

As of the date of this letter, no additional information has been received by the Department. The Department will give the applicant an additional 30 days to gather information from the property owners. If the Department does not receive this information within 30 days, your application will be returned unprocessed and this water right could be subject to forfeiture.

Additionally, water right 25-14364 authorizes diversion from a single well located in Township 04N, Range 39E, Section 30, SWSW. If the lot owners want to divert water for this water right from their own wells, a transfer to change the point of diversion and Notice of Change in Water Right Ownership will need to be filed.

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) 287-4800.

Sincerely,

Jan Hershey
for Water Supply Bank

c: Rocky Mountain Environmental
property owners (see attached list)

SHANNON HANSEN
124 N 3900 E
RIGBY ID 83442

BLAKE MUNNS
104 N 3918 E
RIGBY ID 83442

BRANDON VISSER
108 N 3918 E
RIGBY ID 83442

PAUL L & SUSAN K BURT FAMILY
TRUST
1459 QUAIL STREAM LN
COTTONWOOD HEIGHTS UT 84093

ANTHONY SCARBROUGH
3911 E 116TH N
RIGBY ID 83442

PATRIN J CHASE
3901 E 106 N
RIGBY ID 83442

ANDREW VAN VLEET
109 N 3918 E
RIGBY ID 83442

JACOB ZUNDEL
105 N 3918 E
RIGBY ID 83442

BLAKE JENSON
4629 E 100 N
RIGBY ID 83442

LANE MURANAKA
101 N 33918 E
RIGBY ID 83442

TRAVIS COLES
3906 E 106 N
RIGBY ID 83442

KENNETH PETERSON
120 N 3900 E
RIGBY ID 83442

GARY TREASURE
114 N 3900 E
RIGBY ID 83442

Hersley, Jean

From: Kristin Moore <kristin.rmea@gmail.com>
Sent: Thursday, September 29, 2016 2:09 PM
To: Hersley, Jean
Subject: RE: WSB Lease application for Kent Merrill 25-14364

Jean,

We have made contact with many of the homeowners but have not obtained any deeds yet due to our own scheduling delays. It is our plan to pursue it more actively next week. We will keep you informed.

Kristin Moore
Water Rights Analyst
482 Suite 303 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Thursday, September 29, 2016 1:13 PM
To: kristin.rmea@gmail.com
Subject: WSB Lease application for Kent Merrill 25-14364

Kristen,

What is the status of gathering the information needed to proceed with processing the Kent Merrill WSB Lease application? The Department is trying to finalize all 2016 applications to prepare for next season. Thank you.

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

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, July 07, 2016 1:50 PM
To: 'Kristin Moore'
Cc: Palmer, Cherie
Subject: RE: WSB Lease Application for Kent Merrill 25-14364

The Department will need the authorization from the land owners to continue with this lease since Mr. Merrill does not own the water right proposed to be leased to the Bank.

Please provide the requested information by July 30, 2016 or the Department will return the application unprocessed. Department resources were expended in order to provide a full review of the application. Therefore, the lease application filing fee will not be refunded if the information is not provided by July 30, 2016.

From: Kristin Moore [mailto:kristin.rmea@gmail.com]
Sent: Tuesday, July 05, 2016 8:40 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: WSB Lease Application for Kent Merrill 25-14364

Jean,

Kent Merrill did own the water right in full prior to selling the lots. Currently, he does not own the water right proposed to be leased to the bank in full. He does have title to a portion of that which is proposed to be leased. Due to the timing, he was unable to obtain authorization from all land owners prior to submitting. This application is submitted on behalf of all of the owners of the water right to preserve the right not currently being used from forfeiture. Although it is unusual to submit an application for a water right that is not owned fully, we have done this in the past when it was necessary for the preservation of the water right and have been successful.

All acres proposed to be leased to the Bank are under housing and driveway footprints or overlapping with private domestic water rights, and will not affect any existing irrigation.

Kristin Moore
Water Rights Analyst
482 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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From: Hersley, Jean (<mailto:Jean.Hersley@idwr.idaho.gov>)

Sent: Thursday, June 30, 2016 3:46 PM

To: kristin.rmea@gmail.com

Subject: WSB Lease Application for Kent Merrill 25-14364

Kristin,

The Department is in the process of reviewing the Water Supply Bank (Bank) Lease application for water right 25-14364. It appears Mr. Merrill doesn't own any of the property appurtenant to the water right. Do the land owners give Mr. Merrill authorization to place a portion of this right in the Bank? Is Mr. Merrill still the actual owner of the water right? Was the water right withheld in the sale of the properties?

Please respond within 30 days so the Department can continue processing this application. If we do not hear from you within 30 days, the Department could deny the application. If you have any questions, please contact me. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942