

WATER SUPPLY BANK LEASE CONTRACT NO. 620

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

LESSOR: BRITTA HUBBARD
45 APACHE
GUNNISON, CO 81230

RECEIVED

APR 24 2017

**DEPARTMENT OF
WATER RESOURCES**

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on Monday, February 27, 2017.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
37-7059	3/11/1970	GROUND WATER	0.19	34.9	26.9
Lease Totals			0.19	34.9	26.9

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.

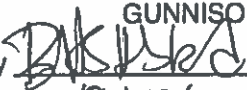
WATER SUPPLY BANK LEASE CONTRACT NO. 620

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. 620

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

LESSOR: BRITTA HUBBARD
45 APACHE
GUNNISON, CO 81230

By 
Title owner / renter
Date 4/17/17



IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 5/1/2017

Lease approved by IDWR 

Date 5-1-2017

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 620**

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): 37-7059

GROUND WATER	NESE	Sec. 11	Twp 04N	Rge 17E	BLAINE County
GROUND WATER	NWSW	Sec. 12	Twp 04N	Rge 17E	BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-7059	IRRIGATION	4/15	to	10/31	0.19 cfs	34.9 AF
Totals:					0.19 cfs	34.9 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	
04N	17E	11													4.4				4.4
04N	17E	12										18.9	3.6						22.5

Total Acres: 26.9

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.

FOR LEASE CONTRACT NO. 620

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.



Idaho Water Resource Board
Attachment to Water Supply Bank Lease Contract No. 620

37-7059

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

MAR 01 2017

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Britta Hubbard

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

Water Right No. 37-7059

(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 <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ 250Received By: VCDate Received: 3/1/17Receipt # C103102W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

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 Britta Hubbard
Mailing Address 45 Apache Rd. Gunnison CO 81230
Street City State Zip Code
Email Address _____ Phone Number 970-445-8079

☐ 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 Zach Latham Organization Brockway Engineering PLLC
Professional Title Hydrologist Email Address zach.latham@brockwayeng.com
Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301 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.
Two points of diversion deliver water to the authorized place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. See applicant's WSB rental application for 2017.

- 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. See previous 2015 and 2016 WSB lease and rental approvals associated with 37-7059.

- 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. N/A.

- 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 ☒
N/A.

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 2017 (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.

B. S. Hubbard
Signature of Designated Applicant

Britta S Hubbard
Printed Name

2/6/17
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**

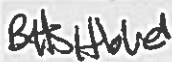
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

	Designated Applicant	Applicant #2	Applicant #3
Name	Britta Hubbard	Peter Schernthanner	Andreas Schernthanner
Mailing Address	P.O. Box 1064 Gunnison CO 81230	830 28th St. Oakland CA 94608	10252 Maymie St. Boise ID 83714
Phone Number	970-445-8079		
Email Address	brittahubbard@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name	Heidi E. Schernthanner	Liesl A. Schernthanner	Monika Schernthanner
Mailing Address	P.O. Box 1523 Ketchum ID 83340	P.O. Box 3307 Ketchum, ID 83340	P.O. Box 6918 Ketchum ID 83340
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

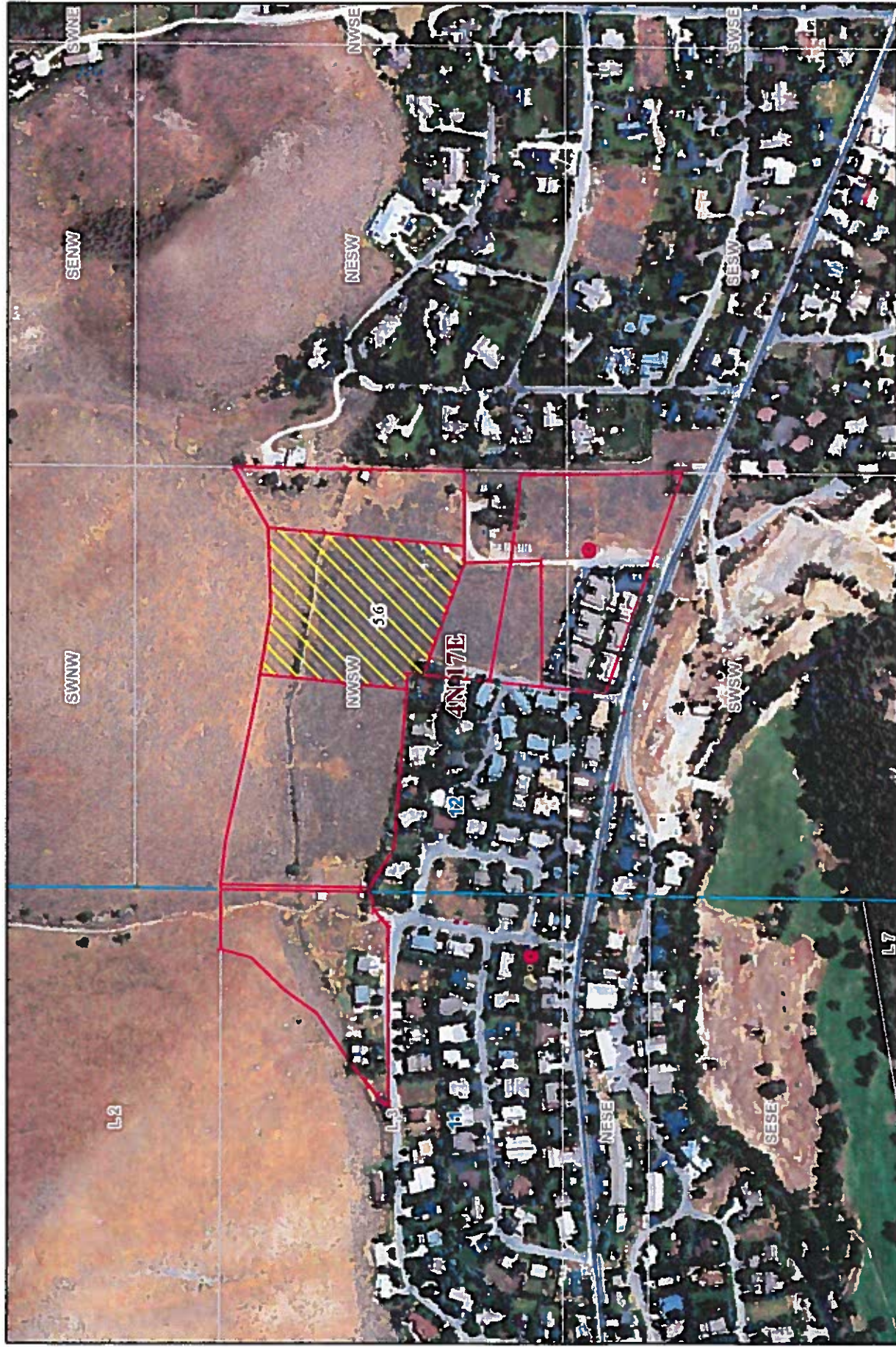
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

<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)
<u>37-7059</u>	<u>Irrigation</u>	<u>0.04</u>	<u>7.3</u>	<u>5.6</u>
	Total Amounts:	<u>0.04</u>	<u>7.3</u>	<u>5.6</u>

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

<u>Twp</u>	<u>Rge</u>	<u>Sec</u>	<u>Lot</u>	<u>¼</u>	<u>¼</u>	<u>¼</u>	<u>County</u>
<u>4N</u>	<u>17E</u>	<u>11</u>			<u>NE</u>	<u>SE</u>	<u>BLAINE</u>
<u>4N</u>	<u>17E</u>	<u>12</u>			<u>NW</u>	<u>SW</u>	<u>BLAINE</u>



0 150 300 600 Feet

SCHERNTHANNER

WATER BANK LEASE #3, 37-7059, 2017
NAIP 2015 AERIAL
ATTACHMENT #3

- POD 37-7059
- POU 37-7059
- ▨ Booth Lease

BROCKWAY ENGINEERING, PLLC.
ICB - Date: 2/14/2017



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
FEB 27 2017
DEPARTMENT OF
WATER RESOURCES

Designated Applicant Britta Hubbard Water Right No. 37-7059
(Select one owner – see item 1A on the application) (One water right per application)

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

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

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *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 <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>VC</u>	Date Received: <u>2/27/17</u>	Receipt # <u>C103090</u>
W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)		Name on W-9:	

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 Britta Hubbard

Mailing Address 45 Apache Rd. Gunnison CO 81230

Street

City

State

Zip Code

Email Address _____

Phone Number 970-445-8079

- ☐ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301

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.
Two points of diversion deliver water to the authorized place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. Applicant seeks to rent back 4.5 acres of 37-7059 for the irrigation of 1.6 acres on applicant's lands.

- 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. See previous 2015 and 2016 WSB lease and rental approvals.

- 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. N/A.

- 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 ☒
N/A.

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 2017 (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.

BHS Hubbard

Signature of Designated Applicant

Britta S Hubbard

Printed Name

2/6/2017

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**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

	Designated Applicant	Applicant #2	Applicant #3
Name	Britta Hubbard	Peter Schernthanner	Andreas Schernthanner
Mailing Address	P.O. Box 1064 Gunnison CO 81230	830 28th St. Oakland CA 94608	10252 Maymie St. Boise ID 83714
Phone Number	970-445-8079		
Email Address	brittahubbard@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name	Heidi E. Schernthanner	Liesl A. Schernthanner	Monika Schernthanner
Mailing Address	P.O. Box 1523 Ketchum ID 83340	P.O. Box 3307 Ketchum, ID 83340	P.O. Box 6918 Ketchum ID 83340
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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)
37-7059	Irrigation	0.03	5.8	4.5
	Total Amounts:	0.03	5.8	4.5

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	17E	11			NE	SE	BLAINE
4N	17E	12			NW	SW	BLAINE



0 150 300 600 Feet

SCHERTHANNER

WATER BANK LEASE #1, 37-7059, 2017
NAIP 2015 AERIAL
ATTACHMENT #3

- POD 37-7059
- POU 37-7059
- ▨ Scherthanner Lease

BROCKWAY ENGINEERING, PLLC.
ICB - Date: 2/14/2017



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 27 2017

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

Designated Applicant Britta Hubbard Water Right No. 37-7059
 (Select one owner – see item 1A on the application) (One water right per application)

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

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

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *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 \$ <u>250</u>	Received By: <u>VC</u>	Date Received: <u>2/27/17</u>	Receipt # <u>U03088</u>
W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)		Name on W-9:	

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 Britta Hubbard

Mailing Address 45 Apache Rd. Gunnison CO 81230

Street

City

State

Zip Code

Email Address _____

Phone Number 970-445-8079

- ☐ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301

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.
Two points of diversion deliver water to the authorized place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. See applicant's WSB rental application for 2017.

- 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. See previous 2015 and 2016 WSB lease and rental approvals associated with 37-7059.

- 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. N/A.

- 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 ☒
N/A.

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 2017 (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.

B. S. Hubbard
Signature of Designated Applicant

Britta S Hubbard
Printed Name

2/6/17
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**

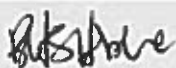
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

	Designated Applicant	Applicant #2	Applicant #3
Name	Britta Hubbard	Peter Schemthanner	Andreas Schemthanner
Mailing Address	P.O. Box 1064 Gunnison CO 81230	830 28th St. Oakland CA 94608	10252 Maymie St. Boise ID 83714
Phone Number	970-445-8079		
Email Address	brittahubbard@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name	Heidi E. Schemthanner	Liesl A. Schemthanner	Monika Schemthanner
Mailing Address	P.O. Box 1523 Ketchum ID 83340	P.O. Box 3307 Ketchum, ID 83340	P.O. Box 6918 Ketchum ID 83340
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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)
37-7059	Irrigation	0.05	9.1	7.0
	Total Amounts:	0.05	9.1	7.0

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	17E	11			NE	SE	BLAINE
4N	17E	12			NW	SW	BLAINE

WATER RIGHTS LEASE AGREEMENT

WHEREAS, Pater Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner (hereinafter "Lessor" or "Schernthanner") have entered into a Lease Agreement ("Agreement") to lease a portion of water right 37-7059 to Eric Younger (hereinafter "Lessee" or "Younger") for use at the Younger property at 102 Camas Rd., Hailey, ID:

WHEREAS, Schernthanner owns water right 37-7059;

WHEREAS, Schernthanner has leased 37-7059 into the Idaho Water Resource Board's Water Bank; and

WHEREAS, Younger desires to rent a portion of 37-7059, as described in the Application to Rent Water, attached hereto as Exhibit 1; now therefore

THE PARTIES AGREE AS FOLLOWS:

- 1) **Recitals.** The recitals are incorporated herein to this Agreement.
- 2) **Leased Property.** Lessor agrees to lease to Lessee that portion of water right 37-7059 as set forth in the associated Idaho Water Resource Board Water Supply Bank Rental Application Form filed by the Lessee.
- 3) **Term.** The term of this Lease shall be for a term commencing upon approval of a separate agreement between the Lessor and the Lessee, filed with the Idaho Water Resource Board Water Supply Bank, and shall terminate on December 31, 2017.
- 4) **Rent.** For the use of the leased water rights Lessee shall pay to lessor rent in the amount of Seven Thousand Two Hundred Dollars (\$7,250.00) per year. Payment shall be due in full fifteen (15) days after approval by the State of Idaho and every subsequent approval.
- 5) **Payment of Administrative Fees:** Lessor shall pay all Water Bank transfer and administration fees. Lessee & Lessor shall split all costs for filing and processing of the Application.
- 6) **Non-Use by Lessor.** Lessor covenants that it will not divert or utilize the leased water right during the term of this lease.
- 7) **Use by Lessee.** During the term of this Lease, Lessee will not divert or utilize the leased water except as authorized by the State of Idaho.
- 8) **Indemnification of Lessee.** Lessor agrees to indemnify and hold harmless Lessee, its officers, agents and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind for injury to or death of a person, or for loss of or damage to any property resulting from any act or omission of Lessor, its employees agents or contractors, relating to or arising out of this Lease Agreement.
- 9) **Breach.** In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at the option, may elect any or all of the following cumulative remedies:
 - (1) To Terminate this Lease Agreement;
 - (2) To seek specific performance of this Lease Agreement;
 - (3) To recover any damages arising out of the breach;
 - (4) To pursue any and all other remedies under Idaho law by reason of such breach.
- 10) **Assignment.** This Agreement may not be assigned by Lessee without the expressed written consent of Lessor.

- 11) Choice of Law. The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Idaho. Jurisdiction and venue for any litigation shall be in the District Court of the State of Idaho in Blaine County.
- 12) Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.
- 13) Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.
- 14) Entire Agreement. This Agreement constitutes the entire understanding of the parties. All prior negotiations are deemed merged herein. This Agreement may only be modified by a written instrument signed by the parties, their respective heirs, successors and assigns.

LESSEE:

BY: _____
ERIC YOUNGER

DATE: _____

LESSOR:

BY: B/S Hubbard
BRITTA S. HUBBARD

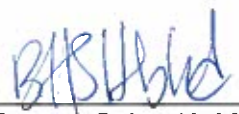
DATE: 2/6/2017

**IDAHO WATER RESOURCE BOARD
WATER SUPPLY BANK CONTRACT OF AGREEMENT**

To Whom It May Concern,

Pater Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner ("Schernthanner") have entered into an agreement to lease a portion of ground water irrigation water right 37-7059 to Eric Younger ("Younger") for use at the Younger property. The contract authorizes Younger to rent a portion of 37-7059 from Schernthanner for 1 year, starting at the beginning of the irrigation season of 2017 and ending at the end of the 2017 irrigation season. The portion proposed to be leased by Schernthanner to Younger for rental and use at the Younger property is identified on the accompanying rental application.

The Water Supply Bank rental payment of the 90% associated with the yearly rental fee for water right 37-7059 will be paid in full to Schernthanner by Younger upon approval of the attached rental application. Therefore, no additional fees are required by Schernthanner from the State of Idaho for 2017 for use and rental of the portion of 37-7059 identified in the rental application. Schernthanner does not seek to receive any further payment from Younger nor the State of Idaho through the aforementioned Water Supply Bank lease.

 _____ Dated this 6 day of Feb 2017
Lessor, Britta Hubbard

_____ Dated this _____ day of _____ 20____
Lessee, Eric Younger



0 150 300 600 Feet

SCHERTHANNER

WATER BANK LEASE #2, 37-7059, 2017
NAIP 2015 AERIAL
ATTACHMENT #3

- POD 37-7059
- POU 37-7059
- ▨ Younger Lease

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 27 2017

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Britta Hubbard

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

Water Right No. 37-7059

(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: 2/27/17Receipt # C103089W-9 received? Yes ☐ No ☐

(Route W-9 to Fiscal)

Name on W-9:

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 Britta Hubbard

Mailing Address 45 Apache Rd. Gunnison CO 81230

Street

City

State

Zip Code

Email Address _____

Phone Number 970-445-8079

- ☐ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301

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.
Two points of diversion deliver water to the authorized place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. See applicant's WSB rental application for 2017.

- 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. See previous 2016 WSB lease and rental approvals associated with 37-7059.

- 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. N/A.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. N/A.

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 2017 (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.

BK Hubbard

Signature of Designated Applicant

Britta S Hubbard

Printed Name

2/6/17

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**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

	Designated Applicant	Applicant #2	Applicant #3
Name	Britta Hubbard	Peter Schernthanner	Andreas Schernthanner
Mailing Address	P.O. Box 1064 Gunnison CO 81230	830 28th St. Oakland CA 94608	10252 Maymie St. Boise ID 83714
Phone Number	970-445-8079		
Email Address	brittahubbard@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name	Heidi E. Schernthanner	Liesl A. Schernthanner	Monika Schernthanner
Mailing Address	P.O. Box 1523 Ketchum ID 83340	P.O. Box 3307 Ketchum, ID 83340	P.O. Box 6918 Ketchum ID 83340
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>37-7059</u>	<u>Irrigation</u>	<u>0.01</u>	<u>1.8</u>	<u>1.4</u>
	Total Amounts:	<u>0.01</u>	<u>1.8</u>	<u>1.4</u>

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

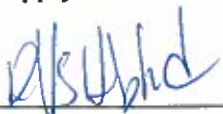
Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	17E	11			NE	SE	BLAINE
4N	17E	12			NW	SW	BLAINE

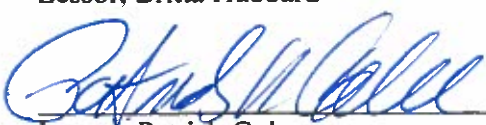
**IDAHO WATER RESOURCE BOARD
WATER SUPPLY BANK CONTRACT OF AGREEMENT**

To Whom It May Concern,

Pater Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner (Schernthanner) have entered into an agreement to lease a portion of ground water irrigation water right 37-7059 to Patrick and Diane Colee ("Colee") for use at the Colee property. The contract authorizes Colee to rent a portion of 37-7059 from Schernthanner for 1 year, starting at the beginning of the irrigation season of 2017 and ending at the end of the 2017 irrigation season. The portion proposed to be leased by Schernthanner to Colee for rental and use at the Colee property is identified on the accompanying rental application.

The Water Supply Bank rental payment of the 90% associated with the yearly rental fee for water right 37-7059 will be paid in full to Schernthanner by Colee upon approval of the attached rental application. Therefore, no additional fees are required by Schernthanner from the State of Idaho for 2017 for use and rental of the portion of 37-7059 identified in the rental application. Schernthanner does not seek to receive any further payment from Colee nor the State of Idaho through the aforementioned Water Supply Bank lease.

 Dated this 6 day of Feb 2007
Lessor, Britta Hubbard

 Dated this 29 day of Dec 2016
Lessee, Patrick Colee

 Dated this 29 day of Dec 2016
Lessee, Diane Colee

WATER RIGHTS LEASE AGREEMENT

WHEREAS, Pater Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner (hereinafter "Lessor" or "Schernthanner") have entered into a Lease Agreement ("Agreement") to lease a portion of water right 37-7059 to Patrick and Diane Colee (hereinafter "Lessee" or "Colee") for use at the Colee property at 13380 Highway 75, Ketchum, ID:

WHEREAS, Schernthanner owns water right 37-7059;

WHEREAS, Schernthanner has leased 37-7059 into the Idaho Water Resource Board's Water Bank; and

WHEREAS, Colee desires to lease a portion of 37-7059, as described in the Application to Rent Water, attached hereto as Exhibit I; now therefore

THE PARTIES AGREE AS FOLLOWS:

- 1) **Recitals.** The recitals are incorporated herein to this Agreement.
- 2) **Leased Property.** Lessor agrees to lease to Lessee that portion of water right 37-7059 as set forth in the associated Idaho Water Resource Board Water Supply Bank Rental Application Form filed by the Lessee.
- 3) **Term.** The term of this Lease shall be for a term commencing upon approval of a separate agreement between the Lessor and the Lessee, filed with the Idaho Water Resource Board Water Supply Bank, and shall terminate on December 31, 2017.
- 4) **Rent.** For the use of the leased water rights Lessee shall pay to lessor rent in the amount of One Thousand Four Hundred Fifty Dollars (\$1,450.00) per year. Payment shall be due in full fifteen (15) days after approval by the State of Idaho and every subsequent approval.
- 5) **Payment of Administrative Fees:** Lessor shall pay all Water Bank transfer and administration fees. Lessee & Lessor shall split all costs for filing and processing of the Application.
- 6) **Non-Use by Lessor.** Lessor covenants that it will not divert or utilize the leased water right during the term of this lease.
- 7) **Use by Lessee.** During the term of this Lease, Lessee will not divert or utilize the leased water except as authorized by the State of Idaho.
- 8) **Indemnification of Lessee.** Lessor agrees to indemnify and hold harmless Lessee, its officers, agents and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind for injury to or death of a person, or for loss of or damage to any property resulting from any act or omission of Lessor, its employees agents or contractors, relating to or arising out of this Lease Agreement.
- 9) **Breach.** In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at the option, may elect any or all of the following cumulative remedies:
 - (1) To Terminate this Lease Agreement;
 - (2) To seek specific performance of this Lease Agreement;
 - (3) To recover any damages arising out of the breach;
 - (4) To pursue any and all other remedies under Idaho law by reason of such breach.
- 10) **Assignment.** This Agreement may not be assigned by Lessee without the expressed written consent of Lessor.

- 11) Choice of Law. The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Idaho. Jurisdiction and venue for any litigation shall be in the District Court of the State of Idaho in Blaine County.
- 12) Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.
- 13) Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.
- 14) Entire Agreement. This Agreement constitutes the entire understanding of the parties. All prior negotiations are deemed merged herein. This Agreement may only be modified by a written instrument signed by the parties, their respective heirs, successors and assigns.

LESSEE:

BY:

Patrick M. Colee
PATRICK COLEE

DATE:

12/29/16

LESSEE:

BY:

Diane Colee
DIANE COLEE

DATE:

12-29-16

LESSOR:

BY:

Britta S. Hubbard
BRITTA S. HUBBARD

DATE:

2-6-2017

Z ~~-----~~

● POD 37-7059
☐ POU 37-7059
☒ Colee Lease

**WATER BANK LEASE #5, 37-7059, 2017
NAIP 2015 AERIAL
ATTACHMENT #3**

BROCKWAY ENGINEERING, PLLC.
ICB - Date: 2/15/2017

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED

FEB 27 2017

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Britta Hubbard

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

Water Right No. 37-7059

(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: 4/27/17Receipt # C103091W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

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 Britta Hubbard
Mailing Address 45 Apache Rd. Gunnison CO 81230
Street City State Zip Code
Email Address _____ Phone Number 970-445-8079

☐ 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 Zach Latham Organization Brockway Engineering PLLC
Professional Title Hydrologist Email Address zach.latham@brockwayeng.com
Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301 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.
Two points of diversion deliver water to the authorized place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. See applicant's WSB rental application for 2017.

- 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. See previous 2015 and 2016 WSB lease and rental approvals associated with 37-7059.

- 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. N/A.

- 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 ☒
N/A.

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 2017 (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.

Beth Hubbard
Signature of Designated Applicant

Beth S Hubbard
Printed Name

2/6/17
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**

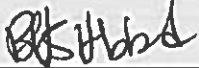
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

	Designated Applicant	Applicant #2	Applicant #3
Name	Britta Hubbard	Peter Schernthanner	Andreas Schernthanner
Mailing Address	P.O. Box 1064 Gunnison CO 81230	830 28th St. Oakland CA 94608	10252 Maymie St. Boise ID 83714
Phone Number	970-445-8079		
Email Address	brittahubbard@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name	Heidi E. Schernthanner	Liesl A. Schernthanner	Monika Schernthanner
Mailing Address	P.O. Box 1523 Ketchum ID 83340	P.O. Box 3307 Ketchum, ID 83340	P.O. Box 6918 Ketchum ID 83340
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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)
<u>37-7059</u>	<u>Irrigation</u>	<u>0.02</u>	<u>4.0</u>	<u>3.1</u>
	Total Amounts:	<u>0.02</u>	<u>4.0</u>	<u>3.1</u>

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

<u>Twp</u>	<u>Rge</u>	<u>Sec</u>	<u>Lot</u>	<u>¼</u>	<u>¼</u>	<u>¼</u>	<u>County</u>
4N	17E	11			NE	SE	BLAINE
4N	17E	12			NW	SW	BLAINE

WATER RIGHTS LEASE AGREEMENT

WHEREAS, Pater Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner (hereinafter "Lessor" or "Schernthanner") have entered into a Lease Agreement ("Agreement") to lease a portion of water right 37-7059 to Ralph Kent Forgeon (hereinafter "Lessee" or "Forgeon") for use at the Forgeon property at 100 – 103 Dusty Trail, Ketchum, ID:

WHEREAS, Schernthanner owns water right 37-7059;

WHEREAS, Schernthanner has leased 37-7059 into the Idaho Water Resource Board's Water Bank; and

WHEREAS, Forgeon desires to rent a portion of 37-7059, as described in the Application to Rent Water, attached hereto as Exhibit 1; now therefore

THE PARTIES AGREE AS FOLLOWS:

- 1) Recitals. The recitals are incorporated herein to this Agreement.
- 2) Leased Property. Lessor agrees to lease to Lessee that portion of water right 37-7059 as set forth in the associated Idaho Water Resource Board Water Supply Bank Rental Application Form filed by the Lessee.
- 3) Term. The term of this Lease shall be for a term commencing upon approval of a separate agreement between the Lessor and the Lessee, filed with the Idaho Water Resource Board Water Supply Bank, and shall terminate on December 31, 2017.
- 4) Rent. For the use of the leased water rights Lessee shall pay to lessor rent in the amount of Three Thousand One Hundred Ninety Dollars (\$3,190.00) per year. Payment shall be due in full fifteen (15) days after approval by the State of Idaho and every subsequent approval.
- 5) Payment of Administrative Fees: Lessor shall pay all Water Bank transfer and administration fees. Lessee & Lessor shall split all costs for filing and processing of the Application.
- 6) Non-Use by Lessor. Lessor covenants that it will not divert or utilize the leased water right during the term of this lease.
- 7) Use by Lessee. During the term of this Lease, Lessee will not divert or utilize the leased water except as authorized by the State of Idaho.
- 8) Indemnification of Lessee. Lessor agrees to indemnify and hold harmless Lessee, its officers, agents and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind for injury to or death of a person, or for loss of or damage to any property resulting from any act or omission of Lessor, its employees agents or contractors, relating to or arising out of this Lease Agreement.
- 9) Breach. In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at the option, may elect any or all of the following cumulative remedies:
 - (1) To Terminate this Lease Agreement;
 - (2) To seek specific performance of this Lease Agreement;
 - (3) To recover any damages arising out of the breach;
 - (4) To pursue any and all other remedies under Idaho law by reason of such breach.
- 10) Assignment. This Agreement may not be assigned by Lessee without the expressed written consent of Lessor.

- 11) Choice of Law. The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Idaho. Jurisdiction and venue for any litigation shall be in the District Court of the State of Idaho in Blaine County.
- 12) Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.
- 13) Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.
- 14) Entire Agreement. This Agreement constitutes the entire understanding of the parties. All prior negotiations are deemed merged herein. This Agreement may only be modified by a written instrument signed by the parties, their respective heirs, successors and assigns.

LESSEE:

BY: 

RALPH KENT FORGEON

DATE: 1/3/2017

LESSOR:

BY: 

BRITTA S. HUBBARD

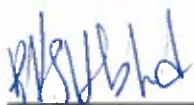
DATE: 2/6/17

**IDAHO WATER RESOURCE BOARD
WATER SUPPLY BANK CONTRACT OF AGREEMENT**

To Whom It May Concern,

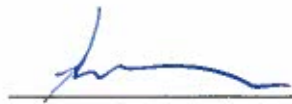
Pater Scherthanner, Liesl Scherthanner, Heidi Scherthanner, Monika Scherthanner, Britta Hubbard and Andreas Scherthanner ("Scherthanner") have entered into an agreement to lease a portion of ground water irrigation water right 37-7059 to Ralph Kent Forgeon ("Forgeon") for use at the Forgeon property. The contract authorizes Forgeon to rent a portion of 37-7059 from Scherthanner for 1 year, starting at the beginning of the irrigation season of 2017 and ending at the end of the 2017 irrigation season. The portion proposed to be leased by Scherthanner to Forgeon for rental and use at the Forgeon property is identified on the accompanying rental application.

The Water Supply Bank rental payment of the 90% associated with the yearly rental fee for water right 37-7059 will be paid in full to Scherthanner by Forgeon upon approval of the attached rental application. Therefore, no additional fees are required by Scherthanner from the State of Idaho for 2017 for use and rental of the portion of 37-7059 identified in the rental application. Scherthanner does not seek to receive any further payment from Forgeon nor the State of Idaho through the aforementioned Water Supply Bank lease.



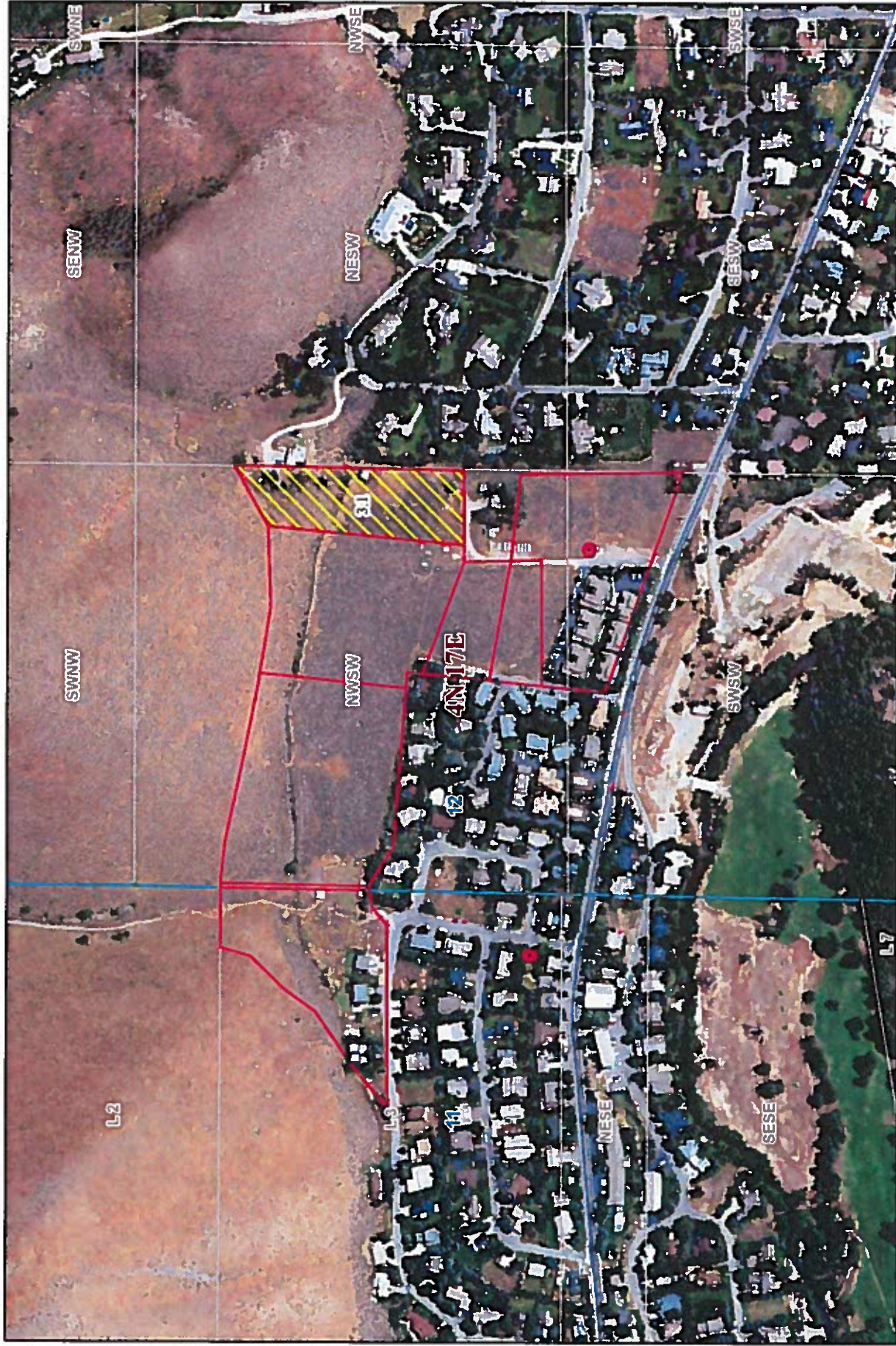
Lessor, Britta Hubbard

Dated this 6 day of Feb 2017



Lessee, Ralph Kent Forgeon

Dated this 3 day of Jan 2017



0 150 300 600 Feet

SCHERNTHANNER

WATER BANK LEASE #6, 37-7059, 2017
NAIP 2015 AERIAL
ATTACHMENT #3

- POD 37-7059
- POU 37-7059
- ▨ Forgeon Lease

BROCKWAY ENGINEERING, PLLC.
ICB - Date: 2/15/2017

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED

FEB 27 2017

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Britta Hubbard

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

Water Right No. 37-7059

(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: 2/27/17Receipt # C103079W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

189

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 Britta Hubbard

Mailing Address 45 Apache Rd. Gunnison CO 81230

Street

City

State

Zip Code

Email Address _____

Phone Number 970-445-8079

- ☐ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Sutie #4 Twin Falls, ID 83301

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.
Two points of diversion deliver water to the authorized place of use.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. See applicant's WSB rental application for 2017.

- 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. See previous 2015 and 2016 WSB lease and rental approvals associated with 37-7059.

- 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. N/A.

- 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 ☒
N/A.

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 2017 (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.

BTS Hubbard

Signature of Designated Applicant

Britta S Hubbard

Printed Name

2/6/17

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**

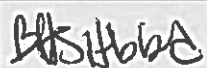
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 37-7059

	Designated Applicant	Applicant #2	Applicant #3
Name	Britta Hubbard	Peter Schernthanner	Andreas Schernthanner
Mailing Address	P.O. Box 1064 Gunnison CO 81230	830 28th St. Oakland CA 94608	10252 Maymie St. Boise ID 83714
Phone Number	970-445-8079		
Email Address	brittahubbard@gmail.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name	Heidi E. Schernthanner	Liesl A. Schernthanner	Monika Schernthanner
Mailing Address	P.O. Box 1523 Ketchum ID 83340	P.O. Box 3307 Ketchum, ID 83340	P.O. Box 6918 Ketchum ID 83340
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>37-7059</u>	<u>Irrigation</u>	<u>0.04</u>	<u>6.9</u>	<u>5.3</u>
	Total Amounts:	<u>0.04</u>	<u>6.9</u>	<u>5.3</u>

2. Source of water Ground Water tributary to N/A.

3. Point(s) of diversion:

<u>Twp</u>	<u>Rge</u>	<u>Sec</u>	<u>Lot</u>	<u>¼</u>	<u>¼</u>	<u>¼</u>	<u>County</u>
4N	17E	11			NE	SE	BLAINE
4N	17E	12			NW	SW	BLAINE

WATER RIGHTS LEASE AGREEMENT

LEASE AGREEMENT ("Agreement") made and entered between Peter Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner (hereinafter "Lessor" or "Schernthanner") have entered into an agreement to lease a portion of water right 37-7059 to Jean H. Smith ("hereinafter "Lessee" or "Smith") for use at the Smith's property at 113 Sheep Meadow Lane, Ketchum, ID:

WHEREAS, Schernthanner owns water right 37-7059;
WHEREAS, Schernthanner has leased the water right into the State of Idaho Water Bank; and
WHEREAS, Smith desires to lease a portion of the water right, as described in the Application to Rent Water, attached hereto as Exhibit 1; now therefore

THE PARTIES AGREE AS FOLLOWS:

- 1) Recitals. The recitals are incorporated herein to this Agreement.
- 2) Leased Property. Lessor agrees to lease to Lessee that portion of water right 37-7059 as set forth in Exhibit 1 (the "Rental Water Right").
- 3) Term. The term of this Lease shall be for a term commencing upon approval Lessee's Application to Rent Water from the Idaho Water Supply Bank for the Rental Water Right (the "Application"), and shall terminate on December 31, 2017.
- 4) Rent. For the use of the Rental Water Right Lessee shall pay to lessor rent in the amount of Five Thousand Five Hundred Ten Dollars (\$5,510.00). Payment shall be due in full fifteen (15) days after approval by the State of Idaho of the Application.
- 5) Payment of Administrative Fees. Lessor shall pay all Water Bank transfer and administration fees. Lessee & Lessor shall split all costs for filing and processing of the Application.
- 6) Non-Use by Lessor. Lessor covenants that it will not divert or utilize the leased water right during the term of this lease.
- 7) Use by Lessee. During the term of this Lease, Lessee will not divert or utilize the leased water except as authorized by the State of Idaho.
- 8) Indemnification of Lessee. Lessor agrees to indemnify and hold harmless Lessee, its officers, agents and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind for injury to or death of a person, or for loss of or damage to any property resulting from any act or omission of Lessor, its employees agents or contractors, relating to or arising out of this Lease Agreement.
- 9) Breach. In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at the option, may elect any or all of the following cumulative remedies:
 - (1) To Terminate this Lease Agreement;
 - (2) To seek specific performance of this Lease Agreement;
 - (3) To recover any damages arising out of the breach;
 - (4) To pursue any and all other remedies under Idaho law by reason of such breach.
- 10) Assignment. This Agreement may not be assigned by Lessee without the expressed written consent of Lessor.

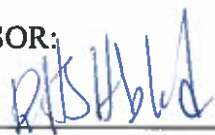
- 11) Choice of Law. The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Idaho. Jurisdiction and venue for any litigation shall be in the District Court of the State of Idaho in Blaine County.
- 12) Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.
- 13) Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.
- 14) Entire Agreement. This Agreement constitutes the entire understanding of the parties. All prior negotiations are deemed merged herein. This Agreement may only be modified by a written instrument signed by the parties, their respective heirs, successors and assigns.

LESSEE:

BY: _____
JEAN H. SMITH

DATE: _____

LESSOR:

BY:  _____
BRITTA S. HUBBARD

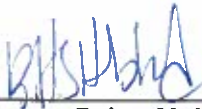
DATE: 2/6/2017

**IDAHO WATER RESOURCE BOARD
WATER SUPPLY BANK CONTRACT OF AGREEMENT**

To Whom It May Concern,

Peter Schernthanner, Liesl Schernthanner, Heidi Schernthanner, Monika Schernthanner, Britta Hubbard and Andreas Schernthanner (Schernthanner) have entered into an agreement to lease a portion of ground water irrigation water right 37-7059 to Jean H. Smith (hereinafter "Lessee" or "Smith") for use at the 113 Sheep Meadow Lane, Ketchum Idaho property. The contract authorizes Smith to rent a portion of 37-7059 from Schernthanner for 1 year, starting at the beginning of the irrigation season of 2017 and ending at the end of the 2017 irrigation season. The portion proposed to be leased by Schernthanner to Smith for rental and use at the 113 Sheep Meadow Lane, Ketchum Idaho property is identified on the accompanying rental application.

The Water Supply Bank rental payment of the 90% associated with the yearly rental fee for water right 37-7059 will be paid in full to Schernthanner by Smith upon approval of the attached rental application. Therefore, no additional fees are required by Schernthanner for 2017 for use and rental of the portion of 37-7059 identified in the rental application. Schernthanner does not seek to receive any further payment from Smith through the aforementioned Water Supply Bank lease.

 _____ Dated this 6 day of Feb 2017
Lessor, Britta Hubbard

_____ Dated this _____ day of _____ 20____
Lessee, Jean H. Smith



0 150 300 600 Feet

SCHERNTHANNER

WATER BANK LEASE #4, 37-7059, 2017
NAIP 2015 AERIAL
ATTACHMENT #3

- POD 37-7059
- POU 37-7059
- Smith Lease



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

May 2, 2017

BRITTA HUBBARD
45 APACHE
GUNNISON CO 81230

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-7059

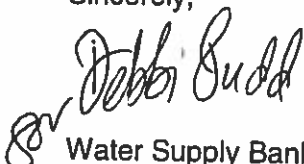
Dear Lessor:

Water right 37-7059 was leased into the Water Supply Bank (Bank) as of February 27, 2017, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2017**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,



Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lahey - Water District 37
Zach Latham - Brockway Engineering
Galena GWD



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

April 17, 2017

BRITTA HUBBARD
45 APACHE
GUNNISON CO 81230

RE: APPLICATION TO LEASE WATER RIGHT 37-7059 TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2017**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

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

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

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

Sincerely,

for Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C103102

c: Zach Latham – Brockway Engineering

WATER SUPPLY BANK
Agent Lease Review Checklist
Applicant(s) Name: Britta Hubbard

Memo Date: 3/29/2017

Water Right Number(s): 37-7059

Reviewers Name: Michele Edl

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2010	2016
2011	2017
2012	2018
2013	2019
2014	2020

		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases			
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right	x		6 accumulated portions
	All of right			
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			Big Wood GW Management Area
		Yes	No	
4	Rentable? If no explain in comments	x		but spoken for in 2017
5	Authority to file			
	Current owner or designated applicant			designated
	SOS Web site checked for business entity			NA
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			decreed 2010
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?	x		banked since SRBA decree
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?	NA		ground water
	If the POD is through a delivery entity, was holdback required? (percentage in comments)	NA		%
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis			
	Complete a combined limits review			
	Complete POD overlap analysis (if there is an overlap add condition to lease)			
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?	x	x	37-7104 & 37-7105 are domestic
	Will the place of use continue to receive water?	x		yes but small areas (domestic use)
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?			
	Send the watermaster comment request form or e-mail request			
11	Area Headgate requirement			
				3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	needs xfer on POD
13	Narrative			
	6 portions of the right have been presented as leases paired with 6 equivalent rentals.			



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

FEB 27 2017

DEPARTMENT OF
WATER RESOURCES

February 22nd, 2017

Mr. Clay Webster
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Lease and Rental Package; 37-7059.

Dear Clay,

On behalf of Peter, Andreas, Heidi, Liesl and Monika Schernthanner, and Britta Hubbard, Brockway Engineering is submitting a water supply bank lease application to lease 4.5 acres ground water right 37-7059 to the WSB through the end of 2017. Additionally, Brockway Engineering is submitting a rental application which proposes to rent 4.5 acres of 37-7059 for the 2017 irrigation season on behalf of the owners of the water right. Britta Hubbard is authorized to sign on behalf of all owners of 37-7059, please see the attached limited power of attorneys.

Water right 37-7059 has a licensed discharge rate of 0.20 cfs for the irrigation of 28.0 acres (3.2 gallons per minute per acre). The applicant is proposing to rent 2.8 times the acreage needed in order to receive the IDWR standard application rate of 9 gpm per acre or 0.02 cfs per acre and irrigate 1.6 acres. Limited powers of attorney documents have been enclosed which allow Britta Hubbard to sign the lease and rental applications on behalf of the other owners of 37-7059.

Also attached is a check in the amount of \$250.00 dollars to cover the cost of the lease fee for 37-7059. Please copy our office on all correspondence regarding these water supply bank lease and rental applications. Thank you for your assistance and if you have questions or comments, please don't hesitate to call.

Regards,

Shirley Daniels on behalf of
Zach Latham, M.S., Hydrologist

Enclosures: (1) WSB Lease Application and Map; 37-7059
(1) WSB Rental Application and Map; 37-7059

CHARLES E.
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WSB Lease and Rental of 37-7059
2/22/17

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(5) Limited Power of Attorneys
(1) Brockway Engineering Check # 13861

Cc: Britta Hubbard
Fritz Haemmerle