

WATER SUPPLY BANK LEASE CONTRACT No. 581

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

LESSOR: HK CONTRACTORS INC
PO BOX 51450
IDAHO FALLS, ID 83405

RECEIVED

MAR 13 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 February 13, 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)
22-207B	5/15/1898	TETON RIVER, tributary to HENRYS FORK	1.20	98.0	28.0
Lease Totals			1.20	98.0	28.0

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

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 to December 31, 2021. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

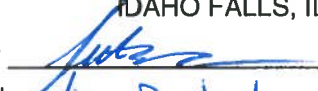


IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: HK CONTRACTORS INC

PO BOX 51450

IDAHO FALLS, ID 83405

By  Jeff Trosper

Title Vice President

Date 2/24/2017

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 3/13/2017

Lease approved by IDWR



Date 3-13-2017

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 581**

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): 22-207B

TETON RIVER SWNE Sec. 36 Twp 07N Rge 40E FREMONT County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
22-207B	IRRIGATION	04/01	to	10/31	1.20 cfs	98.0 AF
Totals:					1.20 cfs	98.0 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	40E	36											28.0						28.0

Total Acres: 28.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.

10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Water is delivered through Pincock-Garner Canal.
13. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.

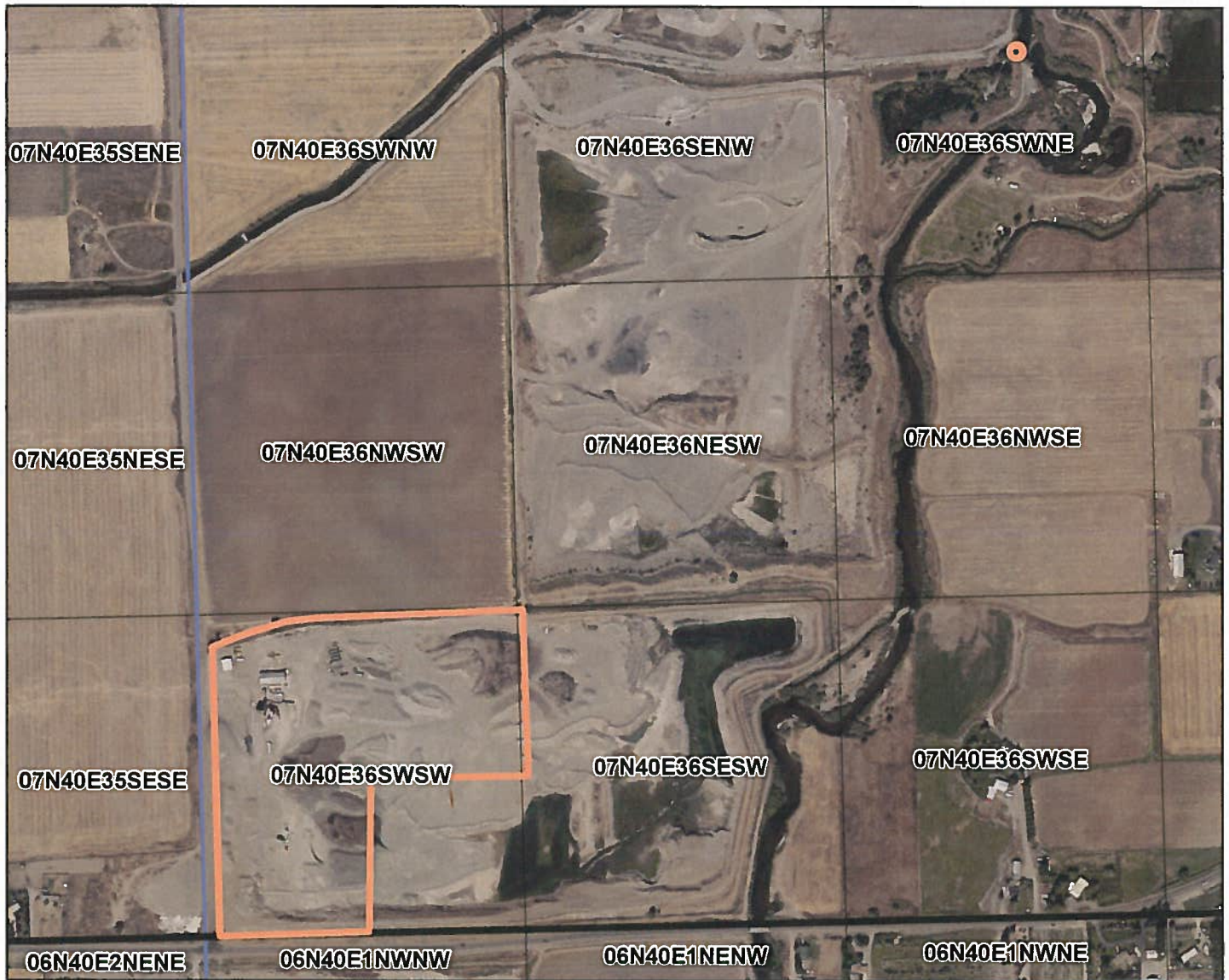


Idaho Water Resource Board Water Supply Bank Lease

22-207B

Effective until December 31, 2021

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



● Approved Lease Point of Diversion

Approved Lease Place of Use

Townships

PLS Sections

Quarter Quarters



0 0.25 0.5 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 13 2017

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

Designated Applicant HK Contractors, Inc. Water Right No. 22-207B
 (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>2/13/17</u>	Receipt # <u>C103020</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>HK Contractors INC</u>	

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STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant HK Contractors, Inc., c/o Jeff Trosper

Mailing Address P.O. Box 51450 Idaho Falls Idaho 83405
Street City State Zip Code
Email Address jefftrosper@hkcontractors.com Phone Number (208) 523-6600

☒ 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 Thomas J. Budge Organization Racine Olson Nye Budge & Bailey, Chtd.
Professional Title Attorney Email Address tjb@racinelaw.net
Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391 Phone Number (208) 232-6101

☐ 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.

Open ditch

- 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.

- 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. Water right decreed October 1, 2012. Water right has not been diverted since then, but has not undergone five years of non-use.

- 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. Water right decreed October 1, 2012.

- 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 ☐

The portion of water right 22-207B that is not being placed into the Water Supply Bank is being transferred to other property.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

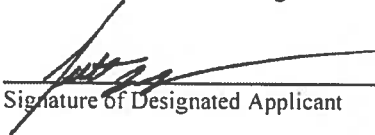
If lease, specify the years when the use of water will be suspended: 2017 to 2021 (maximum lease period 5 calendar years).
(Year) (Year)

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

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.


Signature of Designated Applicant

Te H Trosper
Printed Name

2-6-2017
Date

Signature of Authorized Representative

Thomas J. Budge, Attorney
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). 22-207B

	Designated Applicant	Applicant #2	Applicant #3
Name	HK Contractors, Inc.		
Mailing Address	c/o Jeff Trospen P.O. Box 51450 Idaho Falls, Idaho 83405		
Phone Number	(208) 523-6600		
Email Address	jefftrosper@hkcontractors.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			
Mailing Address			
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>22-207B</u>	<u>Irrigation</u>	<u>1.2</u>		<u>28</u>
	Total Amounts:	<u>1.2</u>		<u>28</u>

2. Source of water Teton River tributary to Snake River
3. Point(s) of diversion:

TwP	Rge	Sec	Lot	¼	¼	¼	County
7N	40E	36		SW	NE		Fremont

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

1/19/2017

WATER RIGHT NO. 22-207B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HK CONTRACTORS INC PO BOX 51450 IDAHO FALLS, ID 83405 (208)523-6600
Original Owner	H J CLARK

Priority Date: 05/15/1898

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
TETON RIVER	HENRYS FORK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	1.6 CFS	
Total Diversion			1.6 CFS	

Location of Point(s) of Diversion:

TETON RIVER|SWNE|Sec. 36|Township 07N|Range 40E|FREMONT County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FREMONT County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
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07N	40E	36		SWSW	38												
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Total Acres: 38

Conditions of Approval:

- | | |
|--------|---|
| 1. C18 | This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code. |
| 2. F01 | Water is delivered through Pincock-Garner Canal. |

Dates:

Licensed Date:
Decreed Date: 10/01/2012
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:

State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

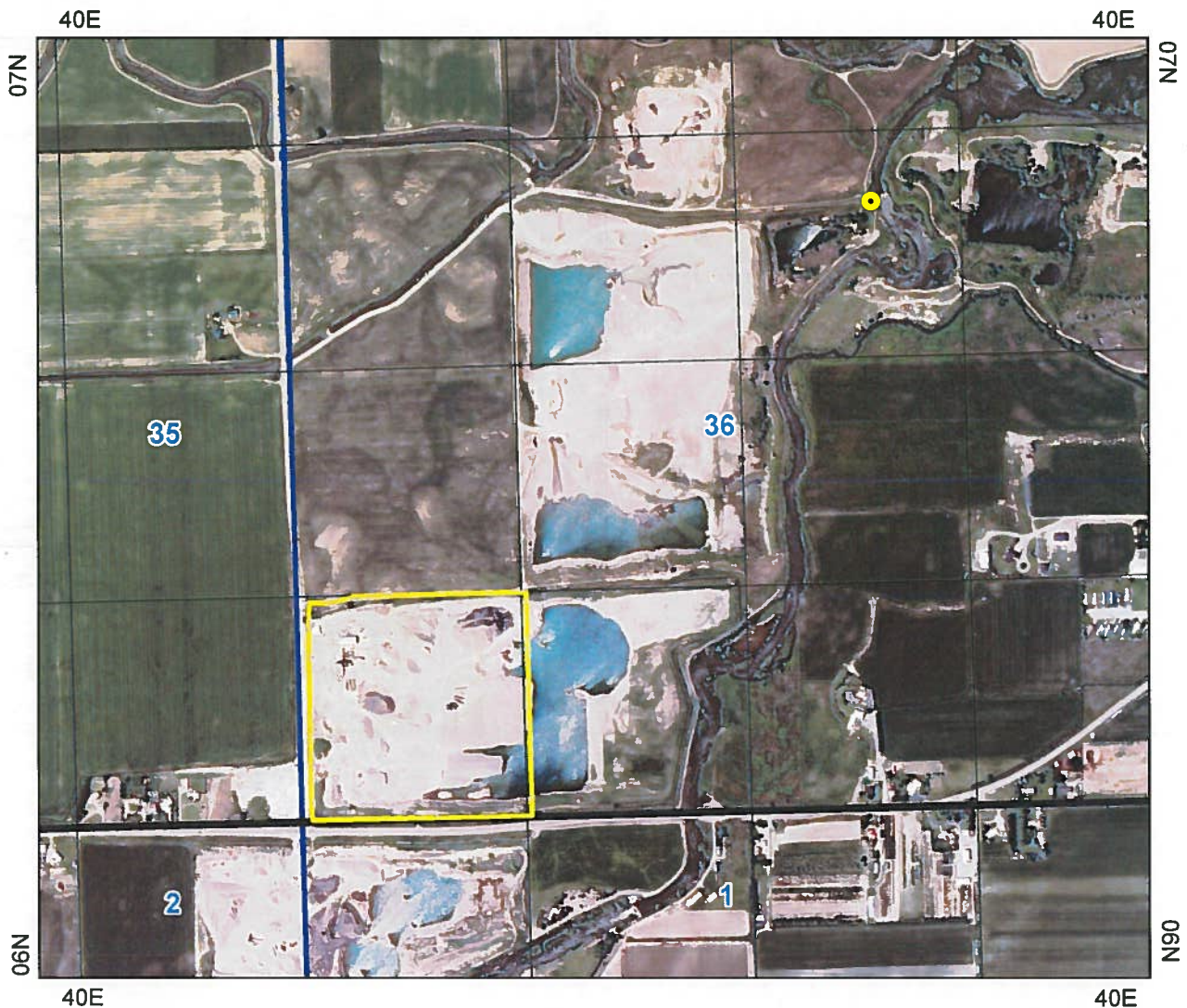
Close

State of Idaho
Department of Water Resources

Water Right 22-207B

IRRIGATION

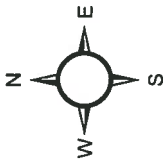
The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.125 0.25 0.5 Miles



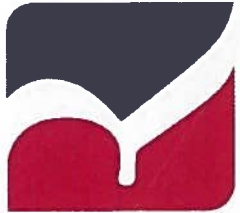


Legend

- Water Supply Bank
- TR Lines
- Section Lines
- Quarter Quarters



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroX, GeoMapping, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community
 HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, Esri, HERE, DeLorme





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

March 14, 2017

HK CONTRACTORS INC
PO BOX 51450
IDAHO FALLS ID 83405

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 22-207B

Dear Lessor:

Water right **22-207B** was leased into the Water Supply Bank (Bank) as of February 13, 2017, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

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

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

Sincerely,

for Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region/Water District 100
Thomas J Budge – Racine Olson Nye Budge & Bailey

Hersley, Jean

From: Cefalo, James
Sent: Tuesday, February 21, 2017 12:04 PM
To: Hersley, Jean
Subject: RE: WSB Lease Application for HK Contractors 22-207B

Jean,

I don't have any comments or concerns about the proposed lease.

James

From: Hersley, Jean
Sent: Wednesday, February 15, 2017 1:01 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: WSB Lease Application for HK Contractors 22-207B

Please let me know within 7 days if you have any comments or concerns. Thank you

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 16, 2017

HK CONTRACTORS INC
PO BOX 51450
IDAHO FALLS ID 83405

RE: APPLICATIONS TO LEASE WATER RIGHT 22-207B TO THE WATER SUPPLY BANK

****TIME SENSITIVE RESPONSE REQUIRED***

Dear Applicant:

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

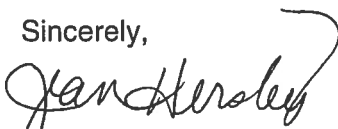
The right will automatically be released from the Bank on **December 31, 2021**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

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

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

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

Sincerely,



Water Supply Bank

Enclosure: Proposed Lease Contracts

c: Racine Olson Law

WATER SUPPLY BANK

Agent Lease Review Checklist

Applicant(s) Name: HK Contractors Inc

Memo Date: February 15, 2017

Water Right Number(s): 22-207B

Reviewers Name: Jean

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	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right	x		
	All of right			
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? If no explain in comments	x		
5	Authority to file			
	Current owner or designated applicant			
	SOS Web site checked for business entity			
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2012
	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	
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water?		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request	x		
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	
13	Narrative: The applicant is offering to place 28 acres of this right in the Bank. Jeff Trosper signed the application. Waiting on confirmation of his authority to sign on behalf of company. confirmation received. This right was decreed in 2012 and water has never been delivered. The portion that isn't being offered to the Bank is going to be transferred to other property, although it doesn't appear the application has been filed yet. Forfeiture is not an issue. There are overlapping rights with the Fremont-Madison Irrigation District and BOR but none need to be placed in the Bank. This water right is currently within WD 100.			

INSTRUCTIONS: When the offeror / principal is a corporation, include this certification with your offer / bid.

Corporate Certificate

I, Brent Timm (name), certify that I am the Secretary (title), of the corporation named as the Offeror / Principal herein;

Jeff Trosper (name), who signed this offer and / or bid bond on behalf of HK Contractors, Inc. (company name) is Vice President (title) of this corporation;

That the offer was duly signed for and on behalf of said corporation by authority and scope of its governing body, and within the scope of its corporate powers.

Brent Timm
(signature)

Affix Corporate Seal

Secretary

No. C 36175	Due no later than Feb 28, 2017 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. H-K CONTRACTORS, INC. P.O. BOX 51450 IDAHO FALLS ID 83405		CORPORATION SERVICE COMPANY 12550 W EXPLORER DR STE 100 BOISE ID 83713			
			3. <u>New</u> Registered Agent Signature:*			
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
DIRECTOR	JOHN W. PARSON	2350 SOUTH 1900 WEST	OGDEN	UT	USA	84401
TREASURER	BRENT TIMM	7255 SOUTH HIGHWAY 89	JACKSON	WY	USA	83001
SECRETARY	BRENT TIMM	7255 SOUTH HIGHWAY 89	JACKSON	WY	USA	83001
PRESIDENT	MITCH LEWIS	7255 SOUTH HIGHWAY 89	JACKSON	WY	USA	83001
DIRECTOR	SCOTT W. PARSON	2350 SOUTH 1900 WEST	OGDEN	UT	USA	84401
5. Organized Under the Laws of:		6. Annual Report must be signed.*				
ID C 36175		Signature: Gary P. Hickman			Date: 01/12/2017	
		Name (type or print): Gary P. Hickman			Title: Assistant Secretary	
Processed 01/12/2017		* Electronically provided signatures are accepted as original signatures.				



Thomas J. Budge
tjb@racinelaw.net

February 8, 2017

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

RECEIVED

FEB 13 2017

DEPARTMENT OF
WATER RESOURCES

Re: Water Right 22-207B

To Whom It May Concern,

Enclosed is an Application to Lease a portion of water right no. 22-207B to the Water Supply Bank, together with a check in the amount of \$250 for the filing fee. Should you have any questions, please give me a call if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to be 'T. J. Budge', is written over a horizontal line.

T. J. BUDGE

c: Jeff Trosper