

# WATER SUPPLY BANK LEASE CONTRACT No. 412

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

**LESSOR:** ROBERT W PULLEN  
3126 MID LN  
HOUSTON, TX 77027-5610

RECEIVED

JAN 09 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 December 15, 2016.
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)  |
|------------------------------|---------------|------------------------------------------|----------------------|-----------------------|-------------|
| 37-657A                      | 5/1/1881      | BIG WOOD RIVER, tributary to MALAD RIVER | 0.020                | 3.50                  | 1.00        |
| <b>Combined Limit Totals</b> |               |                                          | <b>0.020</b>         | <b>3.50</b>           | <b>1.00</b> |
| <b>Combined Lease Totals</b> |               |                                          | <b>0.020</b>         | <b>3.50</b>           | <b>1.00</b> |

### Summary of Water Rights Elements Rentable From the Bank

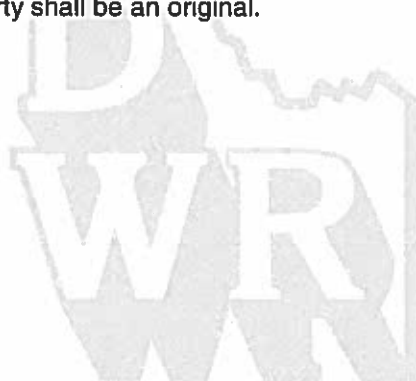
| Water Right                  | Diversion Rate (CFS) | Diversion Volume (AF) | Acres (Limited) (AC) | Rate Per Acre (CFS/AC) | Volume Per Acre (AF/AC) |
|------------------------------|----------------------|-----------------------|----------------------|------------------------|-------------------------|
| 37-657A                      | 0.010                | 2.80                  | 0.80                 | 0.013                  | 3.50                    |
| <b>Combined Limit Totals</b> | <b>0.010</b>         | <b>2.80</b>           | <b>0.80</b>          | <b>0.013</b>           | <b>3.50</b>             |

*\* The water right elements rentable have been reduced from the water right elements leased to account for conveyance losses of 20%*

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: ROBERT W PULLEN

3126 MID LN

HOUSTON, TX 77027-5810

By

Title

Date

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

Lease approved by IDWR

Date

**ATTACHMENT A  
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE  
FOR LEASE CONTRACT NO. 412**

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): 37-657A**

BIG WOOD RIVER L 11(SWNW) Sec. 20 Twp 03N Rge 18E BLAINE County

| Water Right    | Beneficial Use | Season of Use |    |       | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
|                |                | From          |    | To    |                      |             |
| 37-657A        | IRRIGATION     | 04/15         | to | 10/31 | 0.020 cfs            | 3.50 AF     |
| <b>Totals:</b> |                |               |    |       | 0.020 cfs            | 3.50 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 |        |
| 03N | 18E | 20  |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 1.0 |    | 1.0    |

Total Acres: 1.0

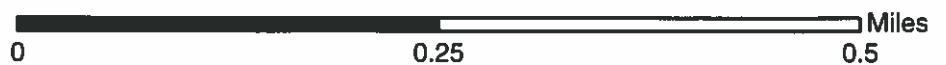
**ADDITIONAL CONDITIONS OF ACCEPTANCE**

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. Lot 11 of the Zinc Spur Ranch-unit 1.
13. Water diverted from Headgate 22 delivered through Hiawatha Canal.
14. 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. 37.



**Effective until December 31, 2021**



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

DEC 15 2016

DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant Robert W. Pullen

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

Water Right No. 37-657A

(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 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application.                                                                                                                                                                                                                                  |
| 1B | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | An <a href="#">Internal Revenue Service (IRS) Form W-9</a> for the Designated Applicant.                                                                                                                                                                                                                                                               |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).                                                                                                                                                                                                                   |
| 1D | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Description of a water right portion offered to the Water Supply Bank.                                                                                                                                                                                                                                                                                 |
| 3  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .                                                            |
| 4A | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Written consent from irrigation district or water delivery company.                                                                                                                                                                                                                                                                                    |
| 4G | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Evidence demonstrating the water right has not been forfeited pursuant to <a href="#">Section 42-222(2), Idaho Code</a> .                                                                                                                                                                                                                              |

#### Department Use Only

Fee Amount \$ 250Received By: VCDate Received: 12/15/16Receipt # C102787W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Robert W Pullen

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 Robert W. Pullen

Mailing Address 3126 Mid Lane, Houston, TX 77027

Street City State Zip Code  
Email Address bobpullen@sbcglobal.net Phone Number 713-622-6643

☐ 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 James P. Speck Organization Speck & Aanestad, A Professional Corp.

Professional Title attorney Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, ID, 83340 Phone Number 208-726-4421

☐ 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.

Hiawatha Canal headgate & canal system; no existing system on lot

- 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. No use - leased to the Bank

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒

If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

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

If yes, describe.

Yes ☐ No ☒

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.

Robert W. Pullen  
Signature of Designated Applicant

Robert W. Pullen

Printed Name

12/2/16  
Date

\_\_\_\_\_  
Signature of Authorized Representative

James P. speck

Printed Name

\_\_\_\_\_  
Date

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

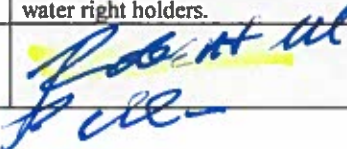
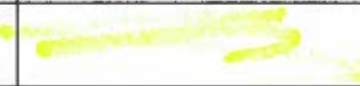
**STATE OF IDAHO  
WATER RESOURCE BOARD**

**RECEIVED****JAN 09 2017****DEPARTMENT OF  
WATER RESOURCES****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). 37-657A

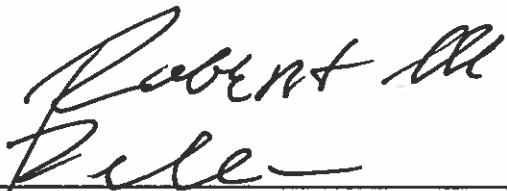
|                              | <b>Designated Applicant</b>                                                                          | <b>Applicant #2</b>                                                                  | <b>Applicant #3</b>                                                           |
|------------------------------|------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>Name</b>                  | Robert W. Pullen                                                                                     | Anne W. Pullen                                                                       |                                                                               |
| <b>Mailing Address</b>       | 3126 Mid Lane, Houston, TX 77027                                                                     | 3126 Mid Lane, Houston, TX 77027                                                     |                                                                               |
| <b>Phone Number</b>          | 713-622-6643                                                                                         | 713-622-6643                                                                         |                                                                               |
| <b>Email Address</b>         | bobpullen@sbcglobal.net                                                                              |                                                                                      |                                                                               |
| <b>Applicant Declaration</b> | 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. |
| <b>Signature</b>             |                   |  |                                                                               |

|                              | <b>Applicant #4</b>                                                           | <b>Applicant #5</b>                                                           | <b>Applicant #6</b>                                                           |
|------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>Name</b>                  |                                                                               |                                                                               |                                                                               |
| <b>Mailing Address</b>       |                                                                               |                                                                               |                                                                               |
| <b>Phone Number</b>          |                                                                               |                                                                               |                                                                               |
| <b>Email Address</b>         |                                                                               |                                                                               |                                                                               |
| <b>Applicant Declaration</b> | 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. |
| <b>Signature</b>             |                                                                               |                                                                               |                                                                               |

## AUTHORITY TO REPRESENT

The undersigned hereby authorizes their attorney, James P. Speck of the law firm of Speck & Aanestad, A Professional Corporation, to represent them in all matters relating to the leasing of their Water Right No. 37-657A to the Idaho Water Supply Bank.

Dated this 7<sup>th</sup> day of December, 2016.

  
\_\_\_\_\_  
ROBERT W. PULLEN

  
\_\_\_\_\_  
ANNE W. PULLEN

ROBERT W. PULLEN  
APPLICATION TO LEASE 37-657A TO WATER SUPPLY BANK  
ATTACHMENT 1D

# **HIAWATHA CANAL**

**P.O. Box 1604 • Hailey, ID 83333**

December 10, 2015

Cherie Palmer  
322 E. Front St.  
P.O. Box 83720  
Boise, ID 83720-0098

Re: Ron and Lorraine Wilcox Water Leases; 37-20926 and 37-20924

Dear Ms. Palmer:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). Also, this letter will specifically address the proposed water being placed in the Water Bank for the aforementioned water rights.

The Hiawatha Canal Company is concerned about the amount of water being removed from the Canal and placed in the Water Bank by various water right holders. Generally, at this time, the Canal Company does not object to water rights conveyed in the Canal being placed in the Water Bank; provided that if the water rights are moved outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right to be left in the Canal as conveyance loss. I suggest that the Department place a condition on the leases to this effect.

Providing you some historical perspective, the Canal Company filed for mitigation (conveyance loss) rights in the adjudication for rights that had been forfeited or abandoned out of the Canal. The Department agreed that the conveyance loss in the Canal was twenty-percent (20%), and therefore, entered recommendations accordingly. See e.g. water rights 37-22630, 37-22631, 37-22632 and 37-22633. This conveyance has been recognized by the Idaho Department of Water Resources in similar transfers. Leaving twenty-percent (20%) of the leased rights in the Canal will insure that all rights in the Canal continue to be delivered without injury to water right holders in the Canal.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the water rights being placed in the Water Bank by Ron and Lorraine Wilcox under water rights 37-20924 and 37-20926, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss.

ATTACHMENT 4-A

2. Since the Applicants are proposing leasing only a portion of each right to the Water Bank, the Hiawatha Canal would require a measuring device be placed and ready for use in the Spring of 2016, at the headgate on the Hiawatha Canal where the Applicants divert their water. The measuring device would have to meet the current requirements for measuring devices as published by the Idaho Department of Water Resources.

3. Finally, the Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the one- year lease period.

Thank You in advance for responding to this letter and addressing our concerns.

Sincerely,

HIAWATHA CANAL COMPANY

A handwritten signature in black ink, appearing to read "D. L. Cropper", written in a cursive style.

David L. Cropper, President

cc:

Jim Speck

State of Idaho  
Department of Water Resources

**Water Right**  
**37-657A**

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.

18E



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

ROBERT W. PULLEN

APPLICATION TO LEASE 37-657A TO WATER SUPPLY BANK  
ATTACHMENT 3



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

January 10, 2017

ROBERT W PULLEN  
3126 MID LN  
HOUSTON TX 77027-5610

### RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-657A

Dear Lessor:

Water right **37-657A** was leased into the Water Supply Bank (Bank) as of December 15, 2016, 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](http://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 Speck – Speck & Aanstad  
Corey Skinner - IDWR Southern Region  
Kevin Lakey – Water District 37  
Hiawatha Canal Co

## Hersley, Jean

---

**From:** Kevin Lakey <watermanager@cableone.net>  
**Sent:** Tuesday, January 03, 2017 8:31 AM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Leases for Sokoloff, Gordon and Pullen

I have no comments or concerns at this time.

Kevin Lakey  
Water District 37

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**From:** Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]  
**Sent:** Friday, December 30, 2016 7:39 AM  
**To:** Skinner, Corey; Kevin Lakey  
**Subject:** WSB Leases for Sokoloff, Gordon and Pullen

Please let me know if you have any comments or concerns. Thank you!

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

## Hersley, Jean

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**From:** Skinner, Corey  
**Sent:** Friday, December 30, 2016 8:25 AM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Leases for Sokoloff, Gordon and Pullen

No concerns or objections from me.

**From:** Hersley, Jean  
**Sent:** Friday, December 30, 2016 7:39 AM  
**To:** Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Kevin Lakey <watermanager@cableone.net>  
**Subject:** WSB Leases for Sokoloff, Gordon and Pullen

Please let me know 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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

December 30, 2016

ROBERT W PULLEN  
3126 MID LN  
HOUSTON TX 77027

### RE: APPLICATIONS TO LEASE WATER RIGHT 37-657A 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."

Also enclosed is the Attachment 1A of the Application to Lease a Water Right to the Water Supply Bank. Robert W Pullen and Anne W Pullen need to sign this form and return it with the signed contracts.

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

Sincerely,

  
for Water Supply Bank

Enclosure: Proposed Lease Contracts

c: Speck & Aanestad Law

**Hersley, Jean**

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**From:** Hersley, Jean  
**Sent:** Friday, December 30, 2016 7:37 AM  
**To:** 'James Speck'  
**Subject:** WSB Lease Contracts  
**Attachments:** Gordon.pdf; pullen.pdf; Sokoloff.pdf

These will go out in today's mail.

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

## Hersley, Jean

---

**From:** Hersley, Jean  
**Sent:** Friday, December 30, 2016 7:39 AM  
**To:** Skinner, Corey; 'Kevin Lakey'  
**Subject:** WSB Leases for Sokoloff, Gordon and Pullen  
**Attachments:** Idled Acres 37-2619.pdf; Lease Application Review Checklist 37-2619.xls; Report - Lease Contract - 410-Gordon.docx; Idled Acres 37-657A.pdf; Lease Application Review Checklist 37-657A.xls; Report - Lease Contract - # 412- PULLEN.docx; Idled Acres 37-7926.pdf; Lease Application Review 37-7926.xls; Report - Lease Contract # 401- 37-7926-Sokoloff.docx

Please let me know if you have any comments or concerns. Thank you!

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

**WATER SUPPLY BANK**
**Agent Lease Review Checklist**
**Applicant(s) Name:** Pullen

**Memo Date:** December 29, 2016

**Water Right Number(s):** 37-657A

**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  | <input checked="" type="checkbox"/> | 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                                                                                                                                                                                                                                                                                                                           |                                     |
|    | <input checked="" type="checkbox"/> | All of right                                                                                                                                                                                                                                                                                                                               |                                     |
| 3  |                                     | Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)                                                                                                                                                                                                                                                                  |                                     |
|    |                                     | Yes No                                                                                                                                                                                                                                                                                                                                     |                                     |
| 4  | <input checked="" type="checkbox"/> | Rentable? If no explain in comments                                                                                                                                                                                                                                                                                                        |                                     |
| 5  |                                     | Authority to file                                                                                                                                                                                                                                                                                                                          |                                     |
|    | <input checked="" type="checkbox"/> | 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)                                                                                                                                                                                                                                                                          |                                     |
|    |                                     | 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.)                                                                                                                                                                            |                                     |
|    | <input checked="" type="checkbox"/> | Has this right previously been leased to the bank or in CREP?                                                                                                                                                                                                                                                                              |                                     |
| 7  |                                     | Injury to other water rights                                                                                                                                                                                                                                                                                                               |                                     |
|    | <input checked="" type="checkbox"/> | If the POD is through a delivery entity, was consent provided?                                                                                                                                                                                                                                                                             |                                     |
|    |                                     | If the POD is through a delivery entity, was holdback required? (percentage in comments)                                                                                                                                                                                                                                                   | 20%                                 |
| 8  |                                     | Enlargement concerns                                                                                                                                                                                                                                                                                                                       |                                     |
|    | <input checked="" type="checkbox"/> | Complete a POU comparison overlap analysis                                                                                                                                                                                                                                                                                                 |                                     |
|    | <input checked="" type="checkbox"/> | Complete a combined limits review                                                                                                                                                                                                                                                                                                          |                                     |
|    | <input checked="" type="checkbox"/> | 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?                                                                                                                                                                                                                                                                      | <input checked="" type="checkbox"/> |
|    |                                     | Will the place of use continue to receive water?                                                                                                                                                                                                                                                                                           | <input checked="" type="checkbox"/> |
| 9  |                                     | Local Public Interest                                                                                                                                                                                                                                                                                                                      |                                     |
|    |                                     | Does the processor know of any problems this action will cause for the local public?                                                                                                                                                                                                                                                       | <input checked="" type="checkbox"/> |
| 10 | <input checked="" type="checkbox"/> | 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<br>( ) Ownership Change ( ) Transfer ( ) Mitigation ( ) Other - Explain in comments                                                                                                                                                                   | <input checked="" type="checkbox"/> |
| 13 |                                     | Narrative: The applicant wishes to place the entire right in the Bank. This right was decreed in 2010 and was placed in the Bank in 2011. There is no delivery system in place from the Hiawatha Canal. Forfeiture is not an issue. The Hiawatha Canal requires a 20% hold back for conveyance loss. This right is currently within WD 37. |                                     |

**SPECK & AANESTAD**  
A PROFESSIONAL CORPORATION  
ATTORNEYS

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340

TELEPHONE  
(208) 726-4421  
FACSIMILE  
(208) 726-0752

JAMES P. SPECK  
jim@speckandaanestad.com  
DOUGLAS J. AANESTAD  
doug@speckandaanestad.com

December 13, 2016

RECEIVED

DEC 15 2016

DEPARTMENT OF  
WATER RESOURCES

Remington Buyer  
Water Supply Bank Coordinator  
Idaho Department of Water Resources  
322 E. Front St.  
Boise, Idaho 83720-0098

*Re: Robert W. Pullen - Application to Sell or Lease A Water Right To the Water  
Supply Bank - 37-657A*

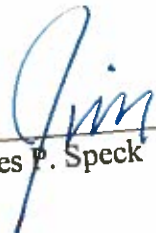
Dear Remington:

Enclosed you will find the original and one copy of an Application To Lease Water in the name of Robert W. Pullen. I have also enclosed my firm's check in the amount of \$250 to cover the filing fee. Please receipt date-stamp the copy and return it to me in the postage prepaid, self-addressed envelope I have included for that purpose. Contact me right away if you have any questions or concerns about this Application.

Thank you and Happy Holidays!

Sincerely yours,

SPECK & AANESTAD  
A Professional Corporation

By:   
James P. Speck

Enclosures  
cc: Client w/encl.