

WATER SUPPLY BANK LEASE CONTRACT No. 237

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

LESSOR: TRACY DUNLAP
PO BOX 644
BELLEVUE, ID 83313

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 June 29, 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)
37-21849	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.070	15.75	4.50
37-21866	7/10/1884	BIG WOOD RIVER, tributary to MALAD RIVER	0.004	15.75	4.50
37-21883	9/18/1885	BIG WOOD RIVER, tributary to MALAD RIVER	0.040	15.75	4.50
37-21900	6/12/1886	BIG WOOD RIVER, tributary to MALAD RIVER	0.004	15.75	4.50
37-21917	6/15/1891	BIG WOOD RIVER, tributary to MALAD RIVER	0.120	15.75	4.50
37-21842	9/25/1954	GROUND WATER	0.090	15.75	4.50
Combined Limit Totals			0.300	15.75	4.50
Combined Lease Totals			0.300	15.75	4.50

SUPPORT DATA

IN FILE # 37-21849

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)
37-21849	0.060	12.60	3.60	0.017	3.50
37-21866	0.003	12.60	3.60	0.001	3.50
37-21883	0.030	12.60	3.60	0.008	3.50
37-21900	0.003	12.60	3.60	0.001	3.50
37-21917	0.100	12.60	3.60	0.028	3.50
37-21842	0.090	15.75	4.50	0.020	3.50
Combined Limit Totals	0.200	15.75	4.50	0.067	3.50

** 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, 2016 to December 31, 2020. 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: TRACY DUNLAP
PO BOX 644
BELLEVUE, ID 83313

By [Signature]
Title N/A
Date 12/3/2016

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

By [Signature] Date 12/9/2016
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR [Signature] Date 12-9-2016



**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 237**

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): 37-21842

GROUND WATER SESW Sec. 7 Twp 01N Rge 19E BLAINE County

Source and Location of Point(s) of Diversion for Water Right No(s): 37-21849, 37-21866, 37-21883, 37-21900, 37-21917

BIG WOOD RIVER NESWNW Sec. 36 Twp 02N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-21842	IRRIGATION	04/15	to	10/31	0.090 cfs	15.75 AF
37-21849	IRRIGATION	04/15	to	10/31	0.070 cfs	15.75 AF
37-21866	IRRIGATION	04/15	to	10/31	0.004 cfs	15.75 AF
37-21883	IRRIGATION	04/15	to	10/31	0.040 cfs	15.75 AF
37-21900	IRRIGATION	04/15	to	10/31	0.004 cfs	15.75 AF
37-21917	IRRIGATION	04/15	to	10/31	0.120 cfs	15.75 AF
Totals:					0.300 cfs	15.75 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	
01N	19E	7											4.5						4.5

Total Acres: 4.5

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. Property is also known as Lot 3, Blk 1, Bellevue Farms Subdivision.
13. Right Nos. 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 are limited to the irrigation of a combined total of 5 acres in a single irrigation season.
14. Point of diversion described above is the headgate for District 45 canal.
15. Use of water under this right is regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37
16. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Irrigation District #45 canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.06 cfs of the leased portions of water rights 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 into the Irrigation District #45 Canal whether they are rented or not.

Idaho Water Resource Board
Water Supply Bank Lease

37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917
Effective until December 31, 2020

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 0.5 1 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 29 2016

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Tracy Dunlap and Steve Gower

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

Water Right No. 37-21842

(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>500</u>	Received By: <u>AO</u>	Date Received: <u>6-29-16</u>	Receipt # <u>C102215</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Tracy Dunlap</u>	

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 Tracy Dunlap and Steve Gower

Mailing Address P.O. Box 644 Bellevue, ID 83313

Street

City

State

Zip Code

Email Address _____

Phone Number 208-788-4931

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

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

Phone Number 208-736-8543

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☒ The full water right is being offered to the Bank.

OR

☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map Attachment 3.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☒ No ☐
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.

Pressurized irrigation system provides irrigation water to the property.

- 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. Water rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are all appurtenant to the applicant's property. All portions of all six water rights are proposed to be leased to the water supply bank from 2016 through 2020.

- 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. 0.5 acres of exempt irrigation will occur surrounding the existing residence.

- 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 rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 were donated to the Wood River Basin Enhancement Supply Bank in 2012.

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

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

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

If yes, describe.

Yes ☐ No ☒

N/A.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

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

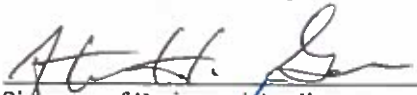
If lease, specify the years when the use of water will be suspended: 2016 to 2020 (maximum lease period 5 calendar years).
(Year) (Year)

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

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

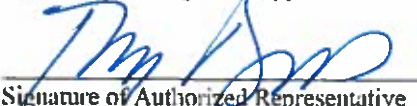
The Designated Applicant acknowledges the following:

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


Signature of Designated Applicant

STEVEN H. GOWER
Printed Name

5/11/2016
Date


Signature of Authorized Representative

Tracy Dunlap
Printed Name

5/11/2016
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

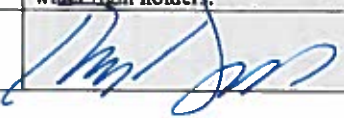
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

Water Right No(s). 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917

	Designated Applicant	Applicant #2	Applicant #3
Name	Tracy Dunlap	Steve Gower	
Mailing Address	P.O. Box 644 Bellevue, ID 83313	P.O. Box 644 Bellevue, ID 83313	
Phone Number	208-788-4931	208-788-4931	
Email Address			
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**

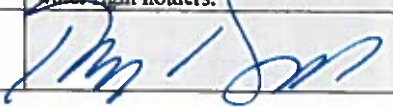
ATTACHMENT 1A

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). 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917

	Designated Applicant	Applicant #2	Applicant #3
Name	Tracy Dunlap	Steve Gower	
Mailing Address	P.O. Box 644 Bellevue, ID 83313	P.O. Box 644 Bellevue, ID 83313	
Phone Number	208-788-4931	208-788-4931	
Email Address			
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			

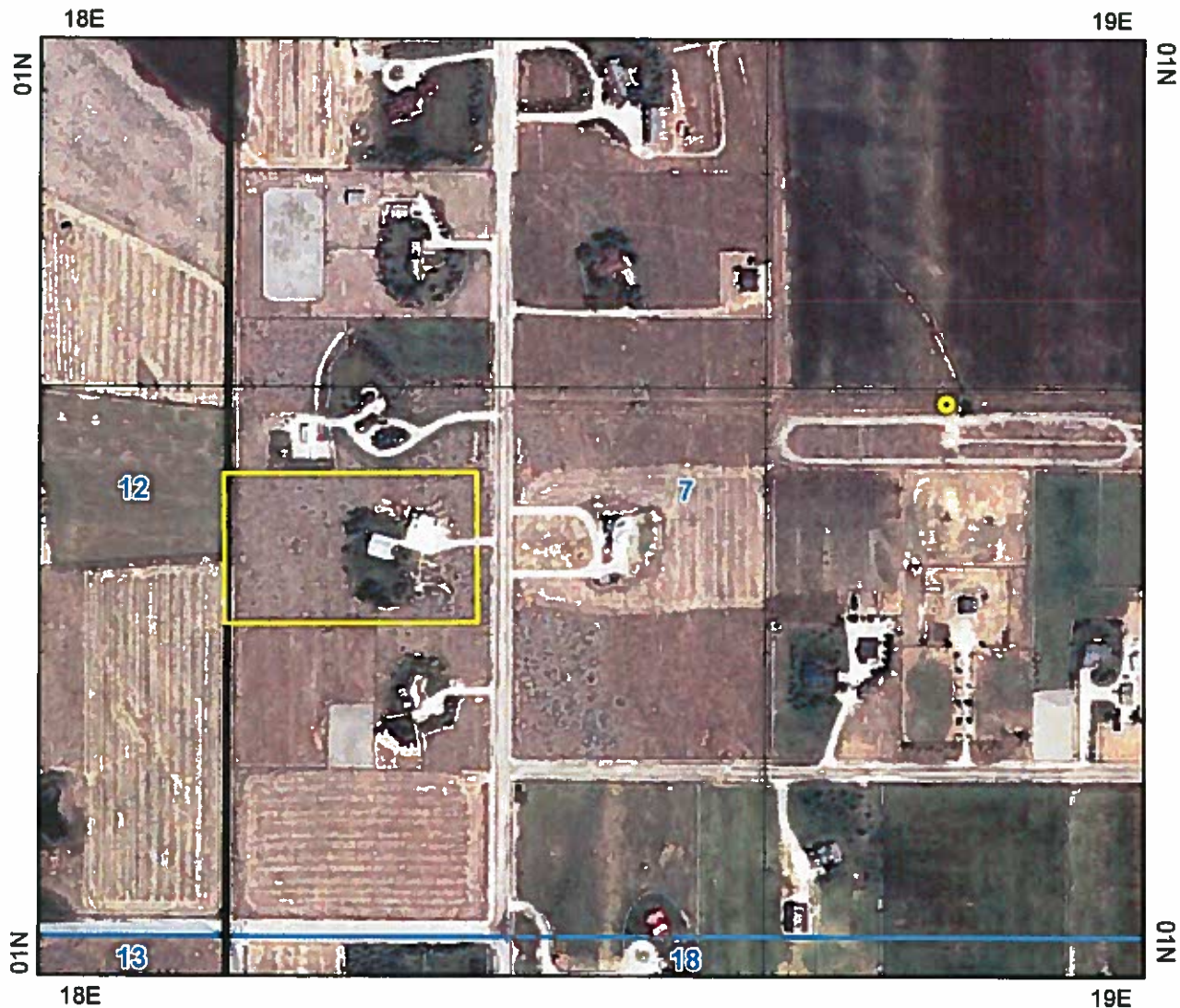
	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

State of Idaho
Department of Water Resources

Water Right
37-21842

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 0.05 0.1 0.2 Miles





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

December 12, 2016

TRACY DUNLAP
PO BOX 644
BELLEVUE ID 83313

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHTS 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917

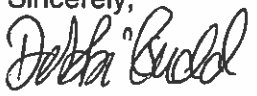
Dear Lessor:

Water rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 were leased into the Water Supply Bank (Bank) as of June 29, 2016, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2020**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,


for Water Supply Bank

Enclosure: Executed Lease Contract

c: Zach Latham – Brockway Engineering
Corey Skinner - IDWR Southern Region
Kevin Lakey – Water District 37
Wood River Valley Irrigation District 45
Triangle Irrigation District



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

December 1, 2016

TRACY DUNLAP
PO BOX 644
BELLEVUE ID 83313

RE: APPLICATIONS TO LEASE WATER RIGHT 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 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, 2020**, 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,


for Water Supply Bank

Enclosure: Proposed Lease Contracts
Receipt # C102215

c: Brockway Engineering PLLC

WATER SUPPLY BANK
Agent Lease Review Checklist
Applicant(s) Name: Tracy Dunlap

Memo Date: July 11, 2016- updated November 30, 2016

Water Right Number(s): 37-21842, 21849, 21866, 21883, 21900, 21917

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2009	2015
2010	2016
2011	2017
2012	2018
2013	2019

		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			
	All of right	x		
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	x		
	SOS Web site checked for business entity			
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2010
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?		x	
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?	x		
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			20%
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?			1/2 acre
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 proposed to put the entirety of all rights in the Bank. These rights together are limited to the irrigation of 5 acres. The Department will place 4.5 acres in the Bank as the applicant wants to continue irrigating the 1/2 acre around the house. There is not a domestic water right on this property. These rights were decreed in 2010 so forfeiture is not an issue. There are no other overlapping rights. These rights are currently within the Wood River Irrigation District No. 45, an email from Jim Super stated District 45 did not have a quorum but was ok to continue with a 20% hold back. IDWR Legal said we could go ahead and accept the email. Consent was also given by Triangle Irrigation District and Cove Irrigation District.			

Hersley, Jean

From: Zach Latham <zach.latham@brockwayeng.com>
Sent: Thursday, November 03, 2016 9:41 AM
To: Hersley, Jean
Cc: Palmer, Cherie; Webster, Clay; Keen, Shelley
Subject: RE: Dunlap/Gower Lease applications
Attachments: Dunlap Gower Cove Irrg. Dist Consent Letter.pdf; Dunlap Gower Triangle Irrigation District Consent Letter.pdf; WRVID45 Consent Email.pdf

Jean,

Attached are all three consent letters for the proposed Dunlap/Gower WSB lease applications; the Wood River Valley Irrigation District #45, Triangle Irrigation District, Cove Irrigation District. It's my understanding that with these three consent letters, IDWR can continue to process the proposed lease applications.

I am requesting IDWR consider all 5.0 acres of the Dunlap/Gower water rights for lease. The water rights being proposed for lease are NOT being used. Currently, 0.5 acres are being irrigated under 42-111(A.) on the property. 5.0 acres will be idled under the proposed lease. Dunlap/Gower could sell all 5.0 acres at any time and irrigate the same 0.5 acres under the same exemption. IDWR has processed multiple water right leases where a water right place of use has been leased and 0.5 acres remains irrigated under 42-111A within the leased water rights POU. I can provide examples for you if needed.

Please let me know if you have any further comments or questions, thanks for your time.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c. 208-721-2114
f. 208-736-8506
zach.latham@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Wednesday, August 31, 2016 9:24 AM
To: Zach Latham
Cc: Palmer, Cherie
Subject: RE: Dunlap/Gower Lease applications

Thank you for your email. The statute pertaining to leasing water rights into the Bank says:

42-1762. Rules and regulations -- Acquisition of water rights.

(2) The board may contract with lessors and lessees to act as an intermediary in facilitating the rental of water. The board may purchase, lease, or otherwise obtain decreed, licensed or permitted water rights to be credited to the water supply bank. The use to which the owner is entitled under the water right shall be reduced by the portion of the water right leased to the bank. The water rights may be retained in the water supply bank for a period as determined by the board, all under such provisions as are specified in the terms of the purchase or lease.

I draw your attention to the sentence that says "the use to which the owner is entitled under the water right shall be reduced by the portion of the water right leased to the bank."

It clearly sets forth that if you lease 5 acres, you must idle 5 acres. If you say a domestic exemption exists and is stacked with that 5 acre water right, it too must be accepted into the bank...thus avoiding enlargement. However, a domestic exemption cannot obviously be leased into the bank.

As defined in the Transfer Processing Policies and Procedures Memorandum (Transfer Processing No. 24, part 5d.3) water rights are "stacked" when two or more water rights, generally of different priorities and often from different sources, are used for the same use and overlie the same place of use. For example, rights may be stacked or overlapping if they have a common place of use or common diversion or common diversion volume. Similar to the transfer process, applicants are generally required to offer the corresponding portion of each of the stacked rights for lease to the Bank to avoid enlargement of the right through "unstacking" one or more of the water rights. Consequently, land irrigated with stacked water rights generally must be "dried up" for the duration of the lease period. Disclaimer: This explanation assumes that there is indeed a domestic exemption taking place at the water right place of use--which I am not confirming in this email.

If you have any other questions, please contact Cherie Palmer, 208-287-4944. Thank you.

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

From: Zach Latham [<mailto:zach.latham@brockwayeng.com>]
Sent: Wednesday, August 17, 2016 11:53 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: RE: Dunlap/Gower Lease applications

Jean-
Thank you for the email. I am currently seeking input from the Triangle Irrigation District for approval of the lease. We didn't make their regularly scheduled August meeting, so I should have comment after their September meeting. I will provide you with that comment as soon as I receive it.

Relative to the proposed lease of the 5.0 acres of the Dunlap/Gower water rights, all 5.0 acres of each right is eligible or lease as they have not been used in conjunction with the surface water rights that have proposed to be leased. The applicant will not be irrigating using these rights. Irrigation under 42-111A in conjunction with a residence is exempt. IDWR has set a precedence for allowing the lease of valid irrigation water rights that may or may not overlap with exempt irrigation under 42-11A. Please see active leases that you processed relative to existing water rights 37-297D and 37-20359, as well as the approved lease for 37-276H amongst others.

Thanks for your time and I will be in touch relative to providing additional consent from the Triangle Irrigation District for the lease of the applicant's water rights to the WSB.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c.208-721-2114
f. 208-736-8506
zach.latham@brockwayeng.com

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From: Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]
Sent: Tuesday, July 12, 2016 9:14 AM
To: Zach Latham
Cc: Palmer, Cherie
Subject: Dunlap/Gower Lease applications

Zach,

The Department is going to need authorization from the Triangle Irrigation District also. Both irrigation companies use the District 45 canal and water users from both companies can be affected. The Department will hold the lease contracts until this authorization is received.

Also, Department policy is to avoid situations where an enlargement could occur. Therefore, the Department is only going to allow 4.5 acres of the Dunlap/Gower water rights to be leased to the Bank.

Decreed water rights: B/U is 5 acres of irrigation on a 5 acre lot.

Conclusions:

* Amount available to lease without causing an enlargement if/when rented is 4.5 acres (5 acres - 0.5 acres for lawn)

* If we allowed 5 acres into the bank, 5.5 acres would be irrigated if fully rented (5 acres to a renter and 0.5 acre of lawn)

42-1762. Rules and regulations -- Acquisition of water rights.

(2) The board may contract with lessors and lessees to act as an intermediary in facilitating the rental of water. The board may purchase, lease, or otherwise obtain decreed, licensed or permitted water rights to be credited to the water supply bank. The use to which the owner is entitled under the water right shall be reduced by the portion of the water right leased to the bank. The water rights may be retained in the water supply bank for a period as determined by the board, all under such provisions as are specified in the terms of the purchase or lease.

I draw your attention to the sentence that says "the use to which the owner is entitled under the water right shall be reduced by the portion of the water right leased to the bank."

It clearly sets forth that if you lease 5 acres, you must idle 5 acres. If you say a domestic exemption exists and is stacked with that 5 acre water right, it too must be accepted into the bank...thus avoiding enlargement. However, a domestic exemption cannot obviously be leased into the bank.

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

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Zach Latham, Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301

RECEIVED
OCT 31 2016

MR. Latham,

The Cove Irrigation District has reviewed the following request for approval of a water bank application.

- Owners Tracy Dunlap and Steve Gower
- 109 Quarter Horse Dr., Lot 3 Blk 1 Bellevue Farms Sub., Bellevue, ID.

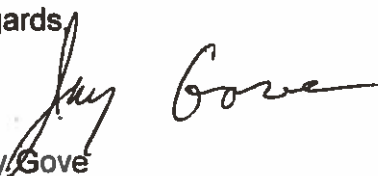
To lease all portions of their water rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 (5.0 acres) to the WSB for the five year period starting in 2016 and ending in 2020

Cove Irrigation District approves this application subject to the following conditions:

1. If any of this water is leased from the water bank carriage loss sufficient to convey water to the CID headgates must be left in the river.
2. Carriage loss sufficient to convey water within the CID system without injury to other users must be left in the system – the minimum amount required is 20%.

There should be no impact on minimum stream flow.

regards,



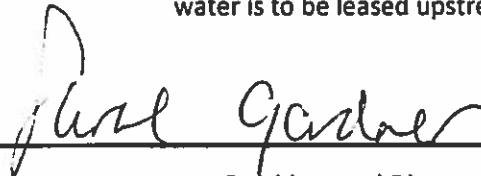
Jay Gove
Chair, Cove Irrigation District

TRIANGLE IRRIGATION DISTRICT

P.O. BOX 424

BELLEVUE, IDAHO 83313

At the Triangle Irrigation District Board meeting on 9-6-16, the directors accepted the water bank application from Dunlap / Gower subject to and with the continuing condition of a 20 percent hold back in the system and on the further condition that there be no adverse impact on the minimum stream flow in the river and that carriage loss sufficient to convey water to the Triangle Irrigation District head gate must be left in the river if the water is to be leased upstream.



President and Director

Zach Latham

From: Jim Super <js.super.13@gmail.com>
Sent: Monday, June 20, 2016 6:15 PM
To: 'Zach Latham'
Cc: 'Andy Waldera'; 'WRVID 45'
Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

Zach,

The D45 board does not have a quorum, we are short two members. In the past the Board would approve this type of application with a 20% hold back for ditch loss and conveyance. If you would like you can use this e-mail as an approval from one Board Member based on previous Board action. I have a couple of interested parties for appointment, however that will not happen till June 24th and the next regular meeting will be the 2nd Monday in July.

Not sure if the IDWR will accept this, however I have no objection to the application for your client as long as there is a 20% hold back.

Thanks,

"The Last Man Standing" (for now)

Jim Super
208-720-6727

From: Zach Latham [mailto:zach.latham@brockwayeng.com]
Sent: Monday, June 20, 2016 1:09 PM
To: 'Jim Super' <js.super.13@gmail.com>
Cc: 'Andy Waldera' <andy@sawtoothlaw.com>; 'WRVID 45' <wrvirrigation45@gmail.com>
Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

Jim-

I would like to proceed with submission of the Dunlap/Gower water bank lease applications. Have you had a chance to review my emails? If so please let me know if you need any additional information in order to issue consent from the WRVID #45. Please let me know where you are on issuing a consent letter. Thanks again for your time and give me a call to discuss if needed.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c. 208-721-2114
f. 208-736-8506
zach.latham@brockwayeng.com

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From: Zach Latham [mailto:zach.latham@brockwayeng.com]
Sent: Wednesday, June 01, 2016 2:46 PM
To: 'Jim Super'

Cc: 'Andy Waldera'; 'WRVID 45'

Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

Jim-

Thank you for the email reply. I contacted Shelley Keen at IDWR to discuss furnishing consent from the WRVID#45 before or after lease application submittal and IDWR requires consent from the WRVID#45 to accompany the lease applications or else they will be deemed incomplete. I will forward you the email correspondence from Mr. Keen. Also, please let me know if you would like to review the lease applications for water rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917.

Thanks and please advise me how to proceed.

Zach Latham

Hydrologist

Brockway Engineering, P.L.L.C.

2016 Washington Street North, Suite 4

Twin Falls, ID 83301

t. 208-736-8543

c. 208-721-2114

f. 208-736-8506

zach.latham@brockwayeng.com

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From: Jim Super [<mailto:js.super.13@gmail.com>]

Sent: Monday, May 30, 2016 9:04 AM

To: 'Zach Latham'

Cc: Andy Waldera; WRVID 45

Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

Zack,

Has the application been submitted to IDWR? I have not seen one.

When IDWR gets an application they send the request to both Districts (WRVID45 and the Triangle District) for approval. Both districts normally approve with a 15% hold back to the top of the B'vue Triangle and an additional 5% per mile hold back below that to the individuals diversion. For the Bellevue Farms area in the past, the hold back has been a total of 20% for both (15 plus 5). The hold backs are for conveyance and ditch loss so other users would not be harmed with the removal of the water from the system.

Until the Districts get the application from the IDWR, they can't take the statutory action required.

Hope this helps in the process.

Jim Super

208-720-6727

From: Zach Latham [<mailto:zach.latham@brockwayeng.com>]

Sent: Wednesday, May 25, 2016 10:04 AM

To: 'WRVID 45' <wrvirrigation45@gmail.com>

Cc: 'Jim Super' <js.super.13@gmail.com>

Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

Thank you very much, I look forward to hearing from Jim. Jim, you can call me anytime during business hours, 721-2114, thanks again.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c.208-721-2114
f. 208-736-8506

zach.latham@brockwayeng.com

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From: WRVID 45 [<mailto:wrvirrigation45@gmail.com>]

Sent: Wednesday, May 25, 2016 8:18 AM

To: Zach Latham

Cc: Jim Super

Subject: Re: Water Bank Lease Comment Letter Request- Dunlap/Gower

Good Morning Zach,
I'm sending your email over to Jim Super, Director of WRVID#45.
Shirley
Treasurer

On Mon, May 23, 2016 at 3:20 PM, Zach Latham <zach.latham@brockwayeng.com> wrote:

WRVID#45

I am contacting you on behalf of Tracy Dunlap and Steve Gower who reside at 109 Quarter Horse Dr., Lot 3 Blk 1 Bellevue Farms Sub., Bellevue, ID. Brockway Engineering PLLC is proposing to lease all portions of their water rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 (5.0 acres) to the WSB for the five year period starting in 2016 and ending in 2020.

Can the District please provide me a comment letter authorizing the lease of these portions of these water rights to the WSB for this duration? Please give me a call or send me an email with comments or questions. Thanks for your time and I look forward to hearing from you in the near future.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. [208-736-8543](tel:2087368543)

c.[208-721-2114](tel:2087212114)

f. [208-736-8506](tel:2087368506)

zach.latham@brockwayeng.com

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Version: 2016.0.7598 / Virus Database: 4591/12335 - Release Date: 05/31/16

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BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JUN 29 2016

DEPARTMENT OF
WATER RESOURCES

June 27th, 2016

Mr. Remington Buyer
Idaho Department of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, ID 83720

Re: WSB Lease Application; All of 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 on Behalf of Tracy Dunlap and Steve Gower.

Dear Remington,

On behalf of Tracy Dunlap and Steve Gower, Brockway Engineering PLLC is submitting six Water Supply Bank (WSB) lease applications and associated IDWR maps which propose to lease all portions of water rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 to the WSB for the five year period of 2016 through 2020. Email correspondence from the Wood River Irrigation District #45 allowing the lease to occur is also included.

Also attached is a check from Ms. Dunlap for \$500.00 to cover the cost of the lease application fee as all six water rights are stacked and share the same 5.0 acre place of use. Please copy our office on all correspondence regarding these water supply bank lease applications. Thank you for your assistance on this matter and if you have questions or comments, please don't hesitate to call.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

Regards,

Zach Latham, M.S., Hydrologist

Enc: (6) Water Supply Bank Lease Applications and IDWR Maps.
(1) Email Correspondence with WRVIR #45
(1) Dunlap Check #1345

Cc: Tracy Dunlap

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Zach Latham

From: Jim Super <js.super.13@gmail.com>
Sent: Monday, June 20, 2016 6:15 PM
To: 'Zach Latham'
Cc: 'Andy Waldera'; 'WRVID 45'
Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

RECEIVED

JUN 29 2016

DEPARTMENT OF
WATER RESOURCES

Zach,

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Jim Super
208-720-6727

From: Zach Latham [mailto:zach.latham@brockwayeng.com]
Sent: Monday, June 20, 2016 1:09 PM
To: 'Jim Super' <js.super.13@gmail.com>
Cc: 'Andy Waldera' <andy@sawtoothlaw.com>; 'WRVID 45' <wrvirrigation45@gmail.com>
Subject: RE: Water Bank Lease Comment Letter Request- Dunlap/Gower

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Zach Latham

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zach.latham@brockwayeng.com

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From: Zach Latham [mailto:zach.latham@brockwayeng.com]
Sent: Wednesday, June 01, 2016 2:46 PM
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