

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED

NOV 16 2016

DEPARTMENT OF
WATER RESOURCES

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

LESSOR: PEOPLES CANAL & IRRIGATION COMPANY
1050 W. HWY 39
BLACKFOOT ID 83221

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. On April 01, 2016, the Lessor filed an application to lease the water rights described below into the Water Supply Bank.
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 the 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	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
1-147	08/18/1894	Snake River	Columbia River	2.61 cfs	Not Stated	99.4 ac
1-259	01/22/1916	Snake River	Columbia River	1.31 cfs	Not Stated	99.4 ac
Combined Limit Totals				3.92 cfs	Not Stated	99.4 ac
Combined Lease Totals				3.92 cfs	Not Stated	99.4 ac

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate	Diversion Volume	Acres (Limited)	Rate Per Acre	Vol. Per Acre
1-147	2.61 cfs	397.6 af	99.4 ac	0.03	4.0
1-259	1.31 cfs	397.6 af	99.4 ac	0.01	4.0
Combined Limit Totals	3.92 cfs	397.6 af	99.4 ac	0.04	4.0

** Diversion volumes for all rights in the Summary of Water Right Elements Rentable From the Bank table above are derived from volume per acre value, calculated from the combined limited diversion volume and acres of the water rights.*

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.

SUPPORT DATA

Minimum Payment Acceptable: Current Rental Rate

IN FILE # 1-147

WATER SUPPLY BANK LEASE CONTRACT

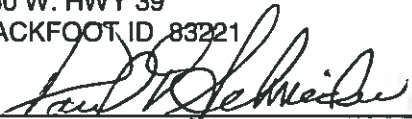
3. **TERM OF LEASE:** The term of this lease shall be January 1, 2016 to December 31, 2017. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **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.

PEOPLES CANAL & IRRIGATION COMPANY

1050 W. HWY 39
BLACKFOOT ID 83221

By



Date

11-10-16

Printed Name

PAUL T. SCHNEIDER

Title

President

IDAHO WATER RESOURCE BOARD

322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

By



Brian Patton, Acting Administrator
Idaho Water Resource Board

Date

11/17/2016

Lease approved by IDWR



Date

11-17-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 1-147 and 1-259

The water right or portion thereof leased to the bank is described as follows:

Lessor: PEOPLES CANAL & IRRIGATION COMPANY
1050 W. HWY 39
BLACKFOOT ID 83221

Location of Point(s) of Diversion for Water Right 1-147 and 1-259

SNAKE RIVER L1 (NWSENE) Sec. 26, Twp 01S, Rge 36E, FREMONT County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
1-147	IRRIGATION	04/01	to 10/31	2.61 cfs	397.6 af
1-259	IRRIGATION	04/01	to 10/31	1.31 cfs	397.6 af
Total:				3.92 cfs	397.6 af

Place of Use to be Idled Under This Lease: IRRIGATION;

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	34E	30									5.0					8.8			13.8
02S	34E	28		0.4	2.6				4.3	8.5		0.9							16.7
04S	33E	11	37			0.9													37.9
04S	33E	12					1	30											31.0

Total Acres: 99.4

Conditions of Acceptance

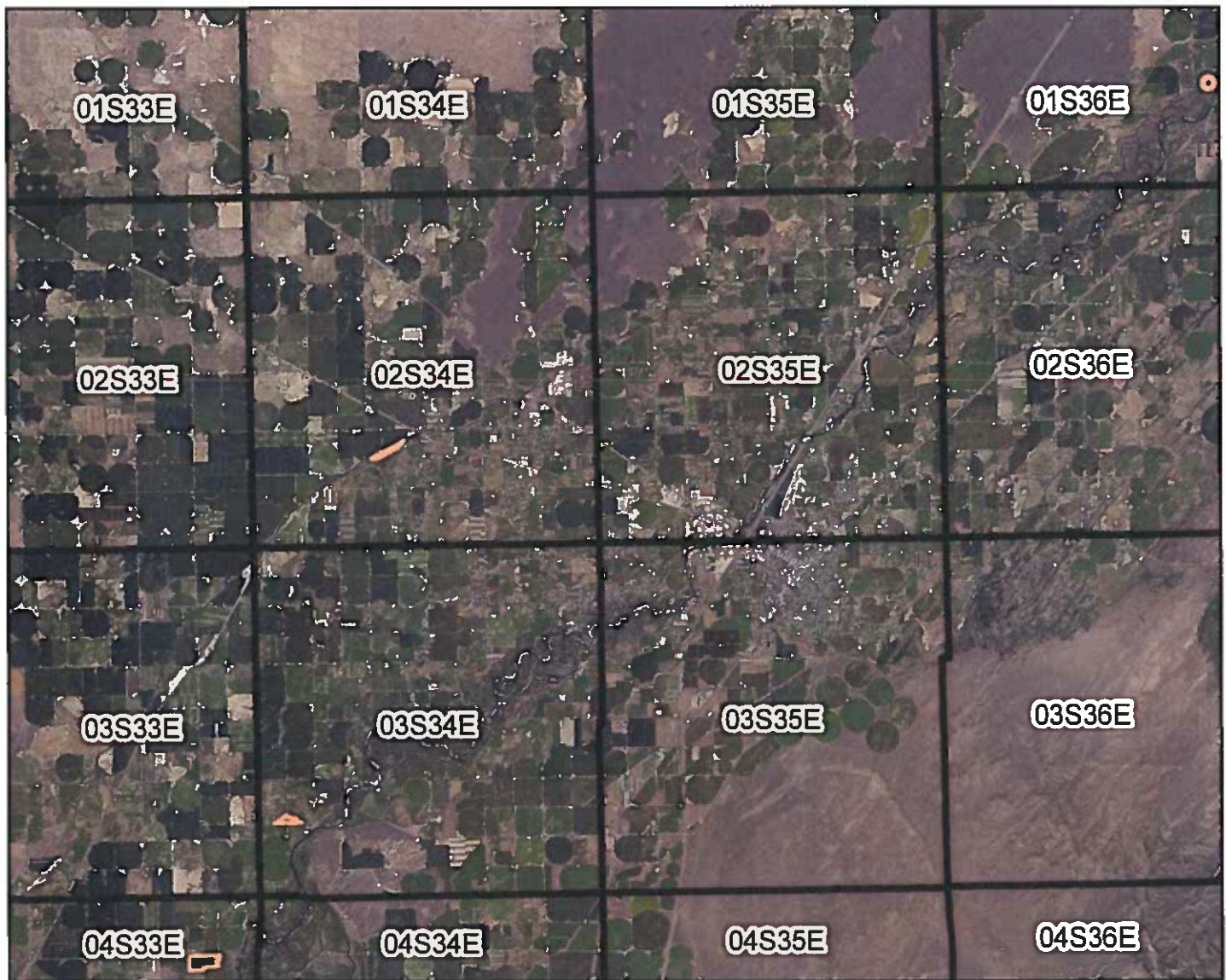
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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 Board or 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, nor does it improve the status of the right or accomplish the 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 after the following rental season.
11. The water rights leased to the bank are subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department.
12. 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. 01.
13. These rights when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation.
14. Unleased portion of water rights 1-147 is limited to the irrigation of 15,122.6 acres and a diversion rate of 397.39 cfs in a single irrigation season.
15. Unleased portion of water right 1-259 is limited to the irrigation of 15,122.6 acres and a diversion rate of 198.69 cfs in a single irrigation season.

Idaho Water Resource Board
Water Supply Bank Lease

1-147 & 1-259
Effective until December 31, 2017

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



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Townships



 Miles
0 1 2 3 4

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 01 2016

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Peoples Canal & Irrigation Co.

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

Water Right No. 1-147

(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 \$ 500.-Received By: dlwDate Received: 4/1/16Receipt # C101787W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Peoples Canal & Irrigation Co.

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 Peoples Canal & Irrigation Co. - Paul Schneider - President

Mailing Address	<u>1050 W. Hwy. 39</u>	<u>Blackfoot</u>	<u>ID</u>	<u>83221</u>
	Street	City	State	Zip Code

Email Address _____ Phone Number 208-681-8595

☒ 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 Peter Cooper Organization SPF Water Engineering

Professional Title Engineer Email Address pcooper@spfwater.com

Mailing Address 300 E. Mallard Dr., Ste. 350, Boise, ID 83706 Phone Number 208-383-4140

☐ 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.

Headgate from river to canal, lateral headgates & ditches

- 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. 1-259, 1-10474, 1-10476 and ground water rights 35-2898B, 35-7548, 35-13070 and 35-4054 (see spreadsheet)

- 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. Current irrigation under overlapping supplemental GW rights has been dedicated to the Bingham GW District Mitigation Plan, will not be used, and are not required to be leased to the bank.

- 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. Right decreed in 2011

- 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. Right decreed in 2011

- 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 ☒?

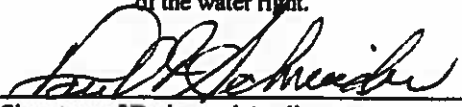
If lease, specify the years when the use of water will be suspended: 1 yr to (maximum lease period 5 calendar years).
(Year) (Year)

- 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.
Rental of this water has been designated. Payment is to include administrative costs only.

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.

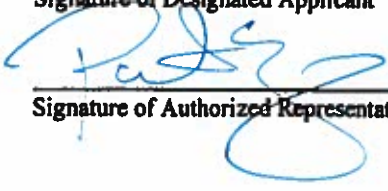
The Designated Applicant acknowledges the following:

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

PAUL T. SCHNEIDER
Printed Name

3-31-16
Date


Signature of Authorized Representative

Peter Cooper - SPF
Printed Name

3-31-16
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

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

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>1-147</u>	<u>Irrigation</u>	<u>2.18</u>		<u>109</u>
	Total Amounts:	<u>2.18</u>		<u>109</u>

2. Source of water Snake River tributary to Columbia River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
1S	36E	26	1	NW	SE	NE	Bingham

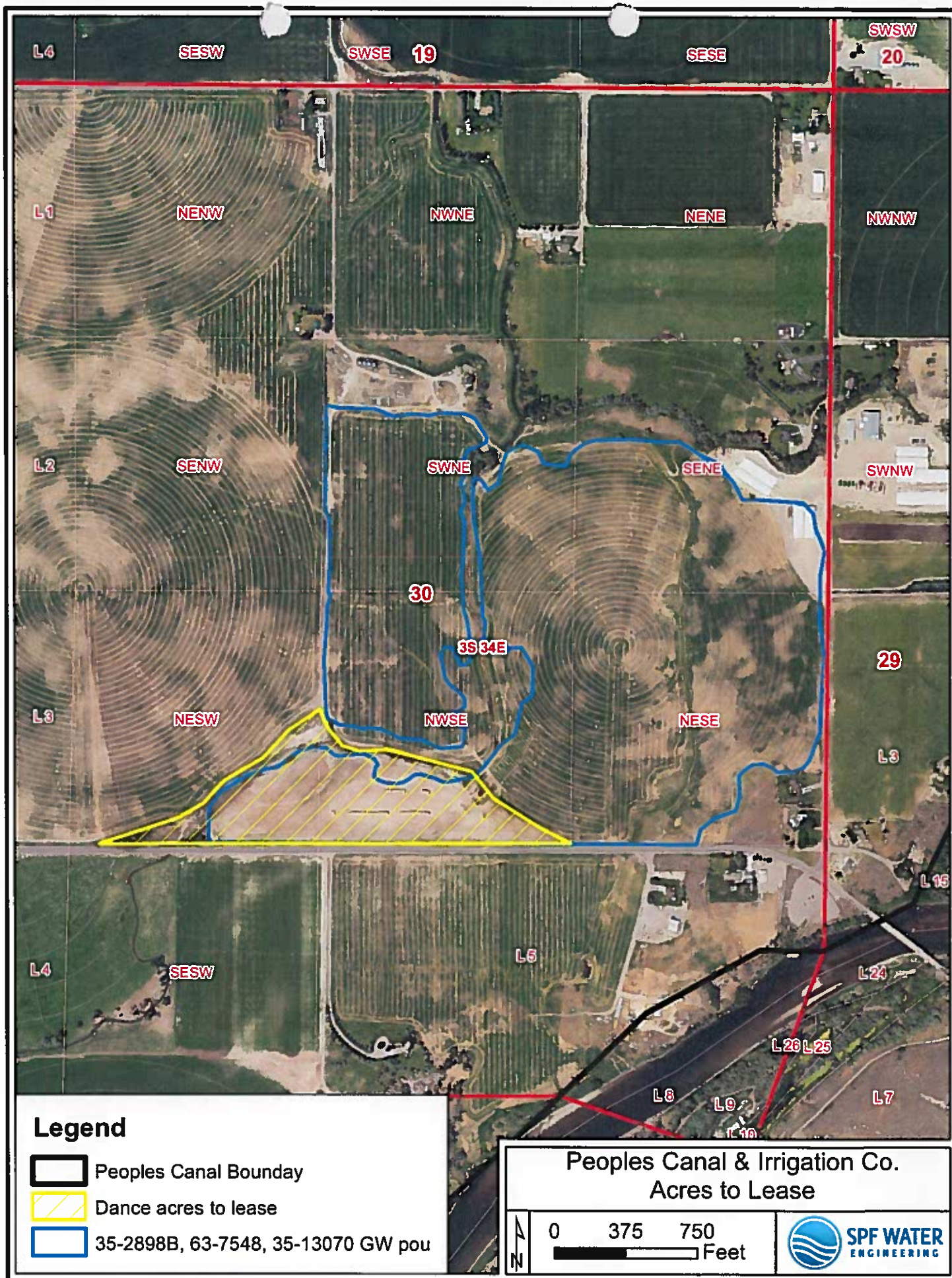
Peoples Canal Assessed Acres Distribution

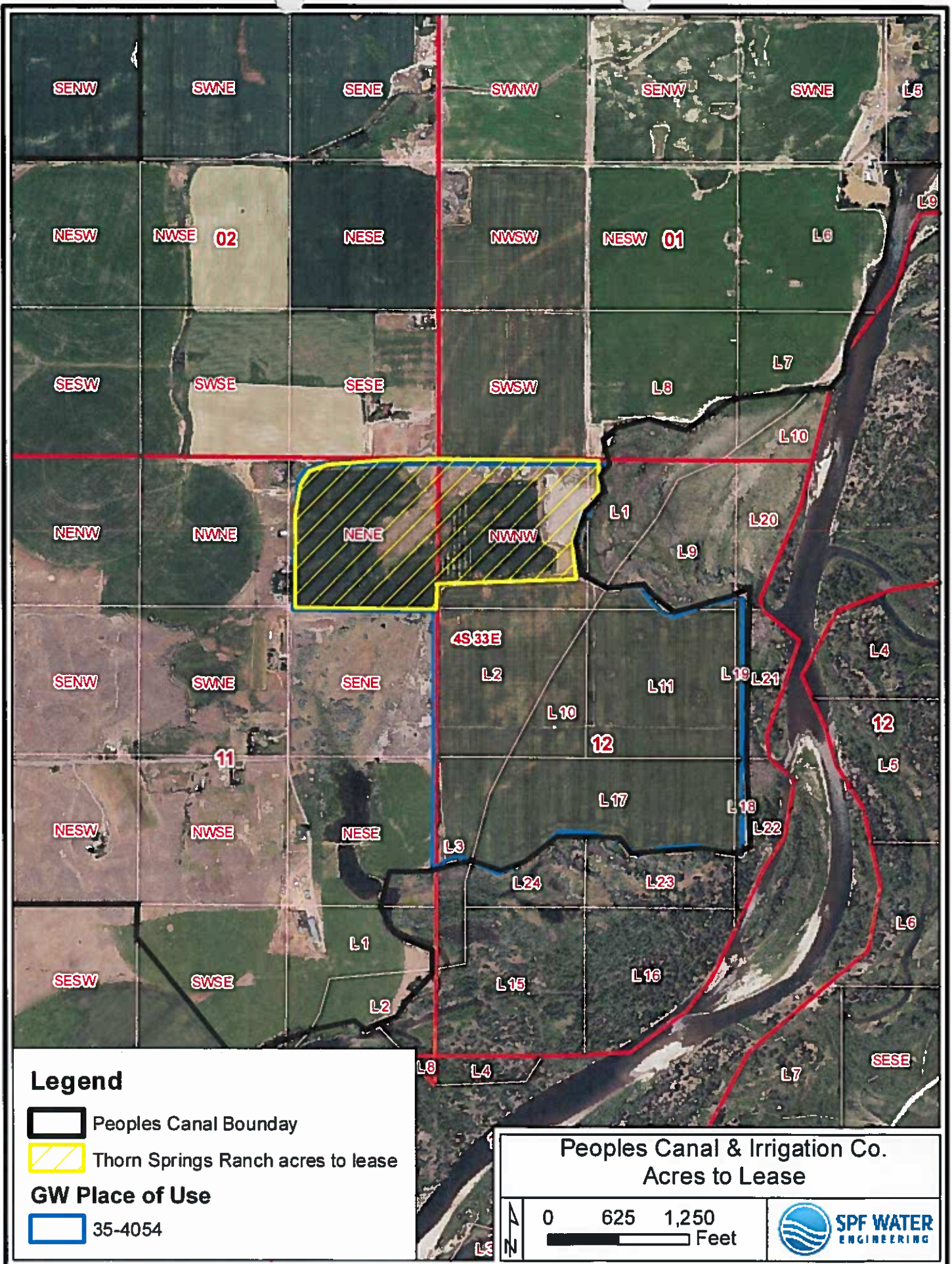
Peoples Canal Total Shares: 20,000 shares

Water Rights:

WR#	Priority	Diversion Rate	
1-147	8/18/1894	400 cfs	
1-259	1/22/1916	200 cfs	

Peoples Canal Shareholder	Total Assessed Acres	Assessed Shares per Acre	Assessed Acres to Lease	Affected Shares	8/18/1894 Diversion Rate (cfs)	1/22/1916 Diversion Rate (cfs)	Overlapping Ground Water Rights
Thorn Springs Ranch							
T4S R33E S11							
NENE	37	1	37	37	0.74	0.37	35-4054
T4S R33E S12							
NWNW	32	1	32	32	0.64	0.32	35-4054
NENW L1	1	1	1	1	0.02	0.01	35-4054
Saunders							
T2S R34E S28							
NWNE	0.5	1	0.5	0.5	0.01	0.01	
SWNE	3	1	3	3	0.06	0.03	
SENE	10.5	1	10.5	10.5	0.21	0.11	
SWNW	4.5	1	4.5	4.5	0.09	0.05	
NWSW	0.5	1	0.5	0.5	0.01	0.01	
Dance							
T3S R34E S30							
NESW	8	1	8	8	0.16	0.08	35-2898B, 35-7548, 35-13070
NWSE	12	1	12	12	0.24	0.12	35-2898B, 35-7548, 35-13071
TOTALS	109		109	109	2.18	1.09	







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

November 18, 2016

PEOPLES CANAL & IRRIGATION CO
1050 W HWY 39
BLACKFOOT ID 83221

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHTS 1-147 and 1-259

Dear Lessor:

Water rights 1-147 and 1-259 were leased into the Water Supply Bank (Bank) as of April 1, 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, 2017**, 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: Scott King – SPF Water Engineering
Corey Skinner - IDWR Southern Region
Lyle Swank – Water District 01



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

October 28, 2016

RESPONSE DEADLINE: November 11, 2016

PEOPLES CANAL & IRRIGATION
COMPANY
C/O PAUL SCHNEIDER – PRESIDENT
1050 W. HWY 39
BLACKFOOT, ID 83221

RE: Action Required on WSB Lease Application

Dear Sir,

The Department of Water Resources (Department) has concluded its review of your application to lease water rights to the Water Supply Bank. The following items are required to conclude processing of your application:

- signatures in duplicate on the enclosed lease contracts.

Please provide the items listed above before the response deadline listed at the top of this letter.

Also please note that your water rights, as presently acceptable for lease to the Water Supply Bank may only be rented out for the beneficial use of irrigation within the service boundaries of People's Canal and Irrigation Company. In order for the Department to process the companion rental application submitted by Bingham Ground Water District in conjunction with your lease proposal, we require that you submit the following information to the Department for our review:

- a shapefile confirming the location of the 15,222 acres within PCIC's 21,610.97 acre large place of use where irrigation might occur during 2016 and 2017,
- Confirmation that the remaining 6,388.97 acres within the boundaries of PCIC's 21,610.97 acre large place of use are not being irrigated with PCIC water rights,
- Confirmation that water rights 1-70417 and 1-70476 will not be used for irrigation upon the 99.4 acres being leased to the Water Supply Bank,
- Historic diversion records (either from the past five years, or for another period of time if suitable) identifying:
 - o maximum daily diversion rates for water rights 1-147 and 1-259,
 - o beginning and ending dates for water diversions under rights 1-147 and 1-259,
 - o total daily and annual volumes of water diverted for rights 1-147 and 1-259.

Additionally, information has also been requested of Bingham Ground Water District so that we can dispose of their rental request. Bingham Ground Water District is being provided with thirty (30) days to submit the necessary information. The Department will return Bingham Ground Water District's rental request if the necessary information is not received by Thursday, December 1, 2016. Please ensure all the above information requested of PCIC is submitted to the Department no later than December 1, 2016 so that we may conclude our review of Bingham Ground Water Districts' rental request.

Finally, please note a water right holder may not utilize any leased portion of their water rights that have been leased to the Bank without prior approval of the Department. Failure to comply with the conditions of acceptance on your lease contract is cause for the Director to rescind acceptance of the lease. Violation of the terms of a lease contract may also 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 any questions, please contact me at (208) 297-4918

Sincerely,

A handwritten signature in black ink, appearing to be 'RM' followed by a horizontal line.

Remington Buyer
Water Supply Bank Coordinator

Enclosures: Water Supply Bank lease contracts

cc: Scott King – SPF Engineering

MEMORANDUM

To: Water Right No(s). 1-147 & 1-259
From: Remington Buyer
Date: September 30, 2016
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: On April 01, 2016, the Water Supply Bank received applications to lease portions of water rights 1-147 and 1-259 into the Water Supply Bank. The water rights are natural flow, irrigation water rights belonging to Peoples Canal and Irrigation Company ("PCIC"). A rental request from Bingham Ground Water District accompanied the lease applications. This memo pertains solely to the lease applications.

AUTHORITY TO FILE: The lease applications were submitted by Peter Cooper of SPF Engineering, who is a consultant for PCIC. The applications were signed by Paul Schneider, President of PCIC. No concerns about the authority to file these applications.

WATER RIGHT VALIDITY: The water rights were decreed in 2011. No concerns about validity.

INJURY TO OTHER WATER RIGHTS: The applicant did not ask for a conveyance loss holdback. Because the applicant is the canal company we will move forward without reserving conveyance losses. No other injury issues exist at this time.

ENLARGEMENT OF USE: Water rights 1-147 and 1-259 are two of four PCIC water rights that cumulatively authorize irrigation of up to 15,222 acres within PCIC's 21,610.97 acre permissible place of use (PPU) boundary. The other two PCIC water rights (1-10474 and 1-10476) jointly authorize irrigation of up to 1,059 acres, separate from water rights 1-147 and 1-259. Thus, subtracting out water rights 1-10474 and 1-10476 from the combined limited acres for all PCIC water rights, the two water rights proposed for lease authorize irrigation of up to 14,163 acres. Approximately 99.4 acres have been proposed for lease to the Bank.

The 99.4 acres proposed for lease are located in three different parts of the PCIC PPU. Two of the three lease locations identified to be idled through this lease proposal overlap with ground water rights belonging to PCIC shareholders. The PCIC shareholders who have overlapping ground water rights will not be irrigating these acres with ground water as they have instead committed the idled acres to a mitigation plan being undertaken by the Bingham Ground Water District. The ground water rights overlapping with the idled acres are not supplemental ground water rights and thus it is not an enlargement for the ground water rights to be committed to a mitigation plan while the surface water rights are simultaneously leased to the Water Supply Bank.

While no enlargement is expected via a reduction of the PCIC water rights (through the lease to the Bank of 99.4 acres) it is not certain that an enlargement can be avoided if these water rights are rented, particularly if the intended rental use is anything other than the authorized use of irrigation. To ensure no enlargement in the use of water occurs, PCIC must confirm which specific acres will and will not be irrigated within their large PPU during the lease term and they must also confirm the location where water rights 1-10474 and 1-10476 will be used during the lease term (to be certain they won't be applied to the leased acres).

Thus, prior to any rental of these water rights, the Bank must confirm:

- 1) the locations where water rights 1-10474 and 1-10476 will be used during the term of the lease and which acres, if any, are within the boundaries of PCIC's large PPU, but not overlapping the acres proposed to be leased and idled (necessary to confirm no PCIC irrigation use will occur on the 99.4 leased acres of water rights 1-147 and 1-259); and,
- 2) whether water rights 1-10474 and 1-10479 will or will not be used on the same acres where the unleased portions of water rights 1-147 and 1-259 may be used (necessary to confirm whether water rights 1-147 and 1-259 together jointly authorize irrigation of 15,222 acres or 14,163 acres, the latter being 15,222 acres minus the 1,059 acres authorized under 1-10474 and 1-10479).

In addition to the above, to accomplish a rental of these water rights for a purpose of anything other than irrigation, historic diversion records should be considered, including:

- 1) maximum daily diversion rates for both water right 1-147 and 1-259,
- 2) beginning and end dates for water diversions under both water rights, and
- 3) total daily and annual diversion volumes for both water rights.

LOCAL PUBLIC INTEREST: There is a public interest in ensuring proper water resource management of the ground water resources of the Eastern Snake Plane Aquifer (ESPA). Though this lease is not specifically a concern, proper review of any rental of these water rights for a use other than irrigation should be evaluated to ensure consistency with relation to the management of the ESPA.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

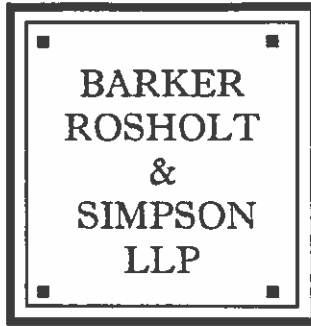
DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right(s) are located within Water District # 1 and the IDWR Eastern Region. IDWR Eastern staff members Lyle Swank (Water District 1 watermaster) and Tony Olenichak (WD 1 Program Manager) will be notified of the lease proposal.

RECEIVED

Albert P. Barker
John A. Rosholt
John K. Simpson
Travis L. Thompson
Shelley M. Davis
Paul L. Arrington*
Scott A. Magnuson

JUL 26 2016

DEPARTMENT OF
WATER RESOURCES



* Licensed in Idaho & Washington

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pla@idahowaters.com

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July 25, 2016

SENT VIA EMAIL (BANK@IDWR.IDAHO.GOV)

Remington Buyer
Idaho Department of Water Resources
P. O. Box 83720
Boise, ID 83720-0098

RE: *Groundwater Recharge Companion Applications
Peoples Canal Company/Bingham Ground Water District*

Dear Remington:

In response to the Department's request for public comments on the above-referenced water bank applications, I am writing on behalf of our clients A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company. This letter is also joined by Kent Fletcher on behalf of his clients American Falls Reservoir District #2 and Minidoka Irrigation District. Our clients are collectively referred to as the "Surface Water Coalition" or "Coalition."

As surface water users in Water District 1, and as signatories to a recent Settlement Agreement with several ground water districts, the Coalition is concerned about groundwater levels and surface water supplies in the Upper Snake River Basin. To that the end the Coalition has an interest in the proposed water bank transaction contemplated by the companion applications filed by Peoples Canal Company and Bingham Ground Water District ("Bingham GWD") on April 1, 2016.

The companion applications seek to lease portions of irrigation surface water rights owned by Peoples Canal & Irrigation Company to the state water bank. Bingham Ground Water District would then apparently rent those rights for "groundwater recharge" uses in the "Aberdeen Springfield canal system and Hilton Spill recharge site." The Coalition opposes the companion applications as currently submitted for various reasons. As discussed below, there are several errors and omissions that require IDWR to reject the companion applications.

First, Peoples has identified acres that will allegedly be dried up as a part of the companion applications. However, a review of the aerial photos provided with the applications, as well as historical photos of the same area, reveal that large portions of the "dried up" acres have not been

irrigated for some time. Most notably, the “Dance acres to lease” aerial photo appears to show that the eastern portion of the property has not been irrigated at all. Similarly, the “Thorn Springs Ranch acres to lease” aerial photo shows a large area on the eastern portion that has not been irrigated. Historical photos of this same area appear to show that much of the center portion of the property has also not been irrigated. There is no information in the applications showing that the alleged number of acres will actually be dried up as compared to the historic delivery and use of water by Peoples and its water users.

Second, the applications fail to explain how recharge will occur, when it will occur, how it will be monitored, how it will be measured, and how it will be reported. The applications further fail to explain how the applicants will differentiate the proposed recharge activities from the incidental recharge already occurring in the identified recharge locations necessary to effectuate delivery of Aberdeen Springfield Canal Company (“ASCC”) irrigation water to its shareholders. The applications identify the “Aberdeen Springfield canal system and Hilton Spill recharge site” as the recharge locations. However, these systems already provide significant incidental recharge to the aquifer system as a component of ASCC’s irrigation deliveries. It is our understanding that the ASCC system already loses large quantities of water seeping through its canal system as part of its irrigation deliveries. Further, the Hilton Spill recharge site is already used by ASCC for operational system spill and water regulation. None of this incidental recharge can or should be credited to Bingham GWD to mitigate for junior groundwater pumping. *See* I.C. § 42-234(5) (“incidental recharge may not be used as the basis for a claim of a separate or expanded water right”).

Finally, any lease or rental in the Water Bank must include an analysis of injury to other water rights. *C.f.* I.C. § 42-222. As currently presented, however, the applications fail to account for historical water use practices and the impacts on other water rights resulting from a change in those practices. The water rights being leased to the bank have apparently historically been used for irrigation purposes. Importantly, not all irrigation water is consumed by the crop. Rather, conveyance loss, field seepage and/or return flow to the river all impact the amount of water used. Water lost to conveyance loss, field seepage or return flows is then available for use by downstream water users. By discontinuing irrigation diversions, the historical conveyance loss, field seepage and/or return flows will change and likely no longer be available for use downstream – thereby reducing the quantity of water and likely injuring downstream water users. The Coalition relies upon water in the downstream reaches (Near Blackfoot to Milner). If the water has been diverted and returns to the river, it has been part of the Coalition’s water supply. If the water has not been diverted, as indicated by the lack of irrigation, then that water has been part of the Coalition’s historic water supply as well.

The applications fail to account for these impacts – and instead appear to request the ability to recharge that water without proper analysis, including the historic beneficial use of the water rights made by Peoples. The Coalition objects to any leases that are not properly evaluated pursuant to the criteria set forth in I.C. § 42-222.

The applications need to be updated with the necessary information to show that existing water rights won’t be injured and that there is a system for the monitoring and reporting of any recharge activities. Absent such information, the applications should not be accepted. The Coalition reserves the right to provide further comment upon submission of acceptable applications. Further,

the Coalition reserves the right to request a hearing on any action taken by the Department on these companion applications pursuant to I.C. § 42-1701A(3).

While the Coalition fully supports groundwater recharge and proper management of the ESPA, it opposes efforts to change natural flow irrigation rights, either temporarily or permanently, that result in injury or enlargement of the water rights. Indeed, the Coalition opposed similar efforts in the SRBA whereby certain water right holders claimed "groundwater recharge" as a purpose of use under their senior natural flow irrigation rights.

The Coalition requests that IDWR provide notice of any action taken with respect to the companion applications. Please contact me at 733-0700 or Kent Fletcher at 678-3250 if you have any questions or need additional information.

Thank you for considering these comments.

Sincerely yours,



Paul L. Arrington

PLA/jf

cc: Gary Spackman, Director (email)
Brian Patton, IWRB (email)
Jerry Rigby, c/o Peoples (email)
Randy Budge, c/o Bingham GWD (email)
Kent Fletcher (email)
John Lind, BID (email)
Alan Hansten, NSCC (email)
Brian Olmstead, TFCC (email)
Dan Temple, A&B (email)
Lynn Harmon, AFRD#2 (email)
Walt Mullins, Milner (email)

Buyer, Remington

From: Buyer, Remington
Sent: Friday, September 30, 2016 1:24 PM
To: 'Scott King'
Cc: Paul Schneider
Subject: RE: Peoples Canal Water Bank Application

Scott,

Thank you for confirming this. We will proceed with our lease of portions of water rights 1-147 and 1-259 into the Bank for 2016 and 2017 and we will delay review of the rental request for these water rights until 2017.

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street, Boise, ID, 83720
T: (208) 287-4918 | F: (208) 287-6700

From: Scott King [<mailto:SKing@spfwater.com>]
Sent: Friday, September 30, 2016 10:02 AM
To: Buyer, Remington
Cc: Paul Schneider
Subject: Peoples Canal Water Bank Application

Remington,
Per our telephone conversation this morning, please extend Peoples Canal Company's water bank application to the end of 2017. I anticipate the information you requested should be available near year's end.

Thanks,
Scott

Scott N. King, P.E. | Supervising Engineer
SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350 | Boise, ID 83706
phone 208.383.4140 | fax 208.383.4156
email sking@spfwater.com | web www.spfwater.com

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Buyer, Remington

From: Scott King [SKing@spfwater.com]
Sent: Friday, August 05, 2016 3:56 PM
To: Buyer, Remington
Cc: Craig Evans; okbarranches@hotmail.com; Paul Schneider; stevenmurdock@gmail.com
Subject: Peoples Canal and Bingham GWD water bank applications

Remington,

On behalf of Peoples Canal & Irrigation Co and Bingham Ground Water District and per our earlier discussion, please hold these applications for future processing. Both entities are working to gather the information requested by IDWR. We hope that this information will all be available by year's end or early 2017 so that the applications can move to processing.

Please let me know if you have any questions.

Thank you,
Scott

Scott N. King, P.E. | Supervising Engineer

SPF Water Engineering, LLC
300 E Mallard Drive, Suite 350 | Boise, ID 83706
phone 208.383.4140 | fax 208.383.4156
email sking@spfwater.com | web www.spfwater.com

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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

June 17, 2016

PEOPLES CANAL & IRRIGATION COMPANY
C/O PAUL SCHNEIDER – PRESIDENT
1050 W. HWY 39
BLACKFOOT, ID 83221

RE: WATER SUPPLY BANK LEASE PROPOSAL FOR WATER RIGHTS 1-147 & 1-259

Mr. Schneider,

The Water Supply Bank has received from Peoples Canal and Irrigation Company ("PCIC") a proposal to lease portions of PCIC water rights 1-147 and 1-259 into the Water Supply Bank for 2016. The lease proposal, submitted by PCIC's representative SPF Engineering, was accompanied by a rental request by Bingham Ground Water District ("BGWD"). BGWD's rental request, also submitted by SPF Engineering ("SPF"), seeks to rent PCIC's leased water rights for the purposes of ground water recharge of the Eastern Snake Plane Aquifer ("ESPA").

The Department requires additional information from PCIC to conclude processing of the lease proposal. Specifically, the following is required:

- PCIC water rights 1-147, 1-259, 1-10474 and 1-10476 collectively authorize irrigation of 15,222 acres within PCIC's 21,610.97 acre large place of use boundary. Please submit to the Department a shapefile confirming the location of the 15,222 acres within PCIC's large place of use where irrigation will occur during 2016.
- PCIC's lease application identified approximately 100 acres that are proposed to be idled during the term of the Water Supply Bank lease contract. Please submit to the Department a shapefile outlining the locations of the specific acres that will not be irrigated with PCIC's water rights during 2016.
- PCIC water rights 1-70474 and 1-10476 jointly authorize irrigation of 1,059 of the 15,222 acres within PCIC's 21,610.97 acre large place of use boundary. In your response to the Department, please confirm that water rights 1-70474 and 1-70476 will not be used for irrigation upon the approximately 100 acres proposed to be idled by PCIC through the Water Supply Bank lease.
- Historic diversion records (either for the past five years, or for another period of time if suitable) for water rights 1-147 and 1-259, identifying:
 - Maximum daily diversion rates for both water rights,
 - Beginning and ending dates for water diversions under both water rights,
 - Total daily and annual volume of water diverted for both water rights.

Please submit the above information within the next thirty days so that we can conclude processing of your lease application.

If you have any questions about this matter, you can reach me at 208-287-4918, or by email at remington.buyer@idwr.idaho.gov.

Remington Buyer
Water Supply Bank Coordinator

C: Peter Cooper – SPF Engineering



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

May 4, 2016

Peoples Canal & Irrigation Co.
Paul Schneider - President
1050 W. Hwy 39
Blackfoot, ID 83221

RE: Water Supply Bank lease-rental proposal

Dear Mr. Schneider,

On April 1, 2016, the Idaho Water Resource Board's Water Supply Bank (WSB) received a paired lease-rental application package. The applications were submitted by Peter Cooper (engineer, SPF Water Engineering) on behalf of Peoples Canal & Irrigation Co and Bingham Ground Water District. Peoples Canal & Irrigation Co is requesting to lease portions of three of its rights for irrigation use into the WSB and Bingham Ground Water District is requesting to rent those same portions from the WSB for the purpose of ground water recharge. I have been assigned to review and if possible, to process those two applications.

Peoples Canal & Irrigation Co's water rights enjoy certain protection from forfeiture under Idaho Code § 42-223, so a scrutiny of the water rights for forfeiture will not be necessary in the overall review of the lease proposal. Nevertheless, the WSB needs additional information about Peoples Canal & Irrigation Co's historic water diversion practices. The additional information will ensure that the impact of the proposed rental of water for ground water recharge is fully understood and that it is consistent with the purpose of the WSB, as stated in Rule 1 of the Water supply Bank Rules (IDAPA 37.02.03). Therefore, please provide the following information to support the lease proposal:

- Identify the acres within Peoples permissible place-of-use that will be idled for the duration of the lease contract, as well as the specific acres that Peoples Canal & Irrigation Co will continue to irrigate throughout the lease. Please submit this information in the form of a map or a GIS shapefile.
- Provide information from the last five years which illustrates Peoples Canal & Irrigation Co's
 - Maximum diversion rate of water for each of the water rights proposed to be leased to the WSB;
 - Beginning and ending dates of water diversion for each of the water rights proposed to be leased to the WSB; and
 - Total volume of water diverted for each of the water rights proposed to be leased to the WSB

Finally, because the proposed rental would change the nature-of-use for Peoples Canal & Irrigation Co's water rights from irrigation to groundwater recharge, the WSB requires information sufficient for determining the historic consumptive use for the acreage intended to be idled. Therefore,

- Please provide documentation of the crops that were grown on the acreage proposed to be idled, through a reasonable historical period and report the annual precipitation deficit for those crops.

This request for additional information is intended to add detail to the proposal so that it can be fully understood and so that the review criteria can be thoroughly evaluated.

In addition, because the proposed rental is unprecedented in many ways, IDWR will seek public comment on the proposal. A larger, but similar lease-rental proposal was submitted by Fremont Madison Irrigation District for consideration in 2016 season. IDWR is currently advertising Fremont Madison Irrigation

District's rental proposal on its website (refer to <https://idwr.idaho.gov/water-supply-bank>) and in regional newspapers to invite public comments that may help IDWR evaluate the proposal.

Please provide the information listed above with the next thirty (30) days so that the WSB can conclude its processing for the 2016 season. If the requested information is not received within thirty (30) days, the rental application may be approved but for a smaller amount or it may be returned without being processed.

If you have any questions, you may contact me Michele Edl at 208-287-4946 or Remington Buyer, Water Supply Bank Coordinator at (208)287-4918.

Respectfully,



Michele D Edl
Senior Water Resources Agent

cc: Peter Cooper SPF Water Engineering

c: CRAIG B EVANS, BOARD CHAIRMAN
BINGHAM GROUND WATER DISTRICT
PO BOX 1268
BLACKFOOT ID 83221



SPF WATER
ENGINEERING

RECEIVED

APR 01 2016

**DEPARTMENT OF
WATER RESOURCES**

March 31, 2016

Remington Buyer
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

Subject: *Water Bank Lease and Rental Application Package*

Dear Remington,

Enclosed on behalf of Peoples Canal Company and Bingham Ground Water District are two water supply bank lease applications and one rental application. The intent of the lease/rental package is to offset all or a portion of Bingham Ground Water District's mitigation obligation to the Surface Water Coalition by diverting Snake River irrigation water to be retired from the Peoples Canal Company service area and diverting that water as recharge within the Aberdeen Springfield service area via their canal system and Hilton Spill recharge site.

Check No. 010513 is enclosed for the \$500 filing fee required for the two lease applications. Payment for the rental water is to include Department administrative costs only and will be submitted at the time of contract. The original signature pages are currently in transit and will be submitted upon mail delivery.

Please let me know if there are any questions. Thanks Remington.

Sincerely,

Peter Cooper, Engineer
SPF Water Engineering

Cc:

Enclosures

SPF file number: 1210.0020