

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED

JUL 27 2016

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

LESSOR: MARK MC DONOUGH
PO BOX 74
MELBA ID 83641
208-730-5081

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 June 28, 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
2-2240	10/25/1963	SNAKE RIVER	COLUMBIA RIVER	0.85 cfs	191.5 af	42.5 ac
2-2431	12/05/1958	SNAKE RIVER	COLUMBIA RIVER	0.65 cfs	245.0 af	49.0 ac

Total annual combined limits of these water rights 1.00 cfs 436.5 af 49.0 ac

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, 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.

SUPPORT DATA

Page 1 of 4

IN FILE #

2-2240

WATER SUPPLY BANK LEASE CONTRACT

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

MARK MC DONOUGH
PO BOX 74
MELBA ID 83641

By Mark Mc Donough Date July 27 2016
Printed Name MARK McDONOUGH Title owner

IDAHO WATER RESOURCE BOARD
322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 7/29/2016

Lease approved by IDWR Chay Webster

Date 7-29-2016

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 2-2240 and 2-2431

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

Lessor: MARK MC DONOUGH
PO BOX 74
MELBA ID 83641
208-730-5081

Location of Point(s) of Diversion for Water Right 2-2240 and 2-2431

SNAKE RIVER L2(NWSE) Sec. 06, Twp 01S, Rge 02W, CANYON County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>
2-2240	IRRIGATION	03/15	to 11/15
2-2431	IRRIGATION	04/01	to 10/31

Place of Use to be Idled Under This Lease: IRRIGATION 2-2431

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	02W	5										3.0	1.0						4.0
01S	02W	6			4.0 L3	11.0									25.0 L2			5.0 L1	45.0

Total Acres: 49.0

Place of Use to be Idled Under This Lease: IRRIGATION 2-2240

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	02W	5										3.0	1.0						4.0
01S	02W	6			3.0 L3	11.0									22.0 L2			2.5 L1	38.5

Total Acres: 42.5

Conditions Applicable to All Leased Water Rights

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, 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 of Water Resources.
12. The use of water for irrigation under water right 2-2240 may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
13. The use of water for irrigation under water right 2-2431 may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
14. The unleased portions of right nos. 2-2240, 2-2431, 63-361, 63-8389 and 63-9807 are limited to a total combined diversion rate of 3.21 cfs.
15. The unleased portions of right nos. 2-2240, 2-2431, 63-361, 63-8389 and 63-9807 are limited to the irrigation of a combined total of 141.8 acres in a single irrigation season.

Idaho Water Resource Board Water Supply Bank Lease

2-2240 and 2-2431
Effective until December 31, 2017

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



- Approved Lease Point of Diversion
- Approved Lease Place of Use
- Townships
- PLS Sections
- Quarter Quarters

0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 28 2016

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Mark McDonough

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

Water Right No. 2-2431

(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. *on file IDWR*

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 \$ 250.00

Received By: AO

Date Received: 6-28-16

Receipt # C102210

W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

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

Designated Applicant Mark M. McDonough

Mailing Address <u>P.O. Box 74</u>	<u>Melba</u>	ID. <u>83641</u>	
Street	City	State	Zip Code
Email Address <u>mark.mcdonough54@gmail.com</u>	Phone Number <u>208 730-5081</u>		

☒ 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 <u>Hal N. Anderson</u>	Organization <u>Idaho Water Engineering</u>
Professional Title <u>Managing Partner</u>	Email Address <u>hal@idahowaterengineering.com</u>
Mailing Address <u>2918 N. El Rancho Pl., Boise ID. 83704</u>	Phone Number <u>208 830-5525</u>

☐ 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.

Pump located in Snake River

- 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. WR 2-2240 has overlapping POU and Common POD

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐

Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒

If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Right was in the Water Supply Bank until 2014

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

If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. Water was in the water supply bank until 2014. The property is for sale and was taken out of bank due to potential sale. Since then a sale was not completed but a portion on the water and property is being leased for farming. The remainder of the water right not being used is what this application is for.

- 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: 2016 to 2017 (maximum lease period 5 calendar years).
(Year) (Year)

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

Current Rental Rate

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

The Designated Applicant acknowledges the following:

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

Mark A. McDonough
Signature of Designated Applicant

Mark A. McDonough

Printed Name

6-23-16
Date

Hal N. Anderson
Signature of Authorized Representative

Hal N. Anderson

Printed Name

6/28/16
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

RECEIVED**JUL 01 2016**

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

**DEPARTMENT OF
WATER RESOURCES**

ATTACHMENT 2**DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK**

<u>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>2-2431</u>	<u>Irrigation</u>	<u>.64</u>	<u>240</u>	<u>48</u>
Total Amounts:				

2. Source of water Snake River tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
01S	02W	6	2		NW	SE	

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

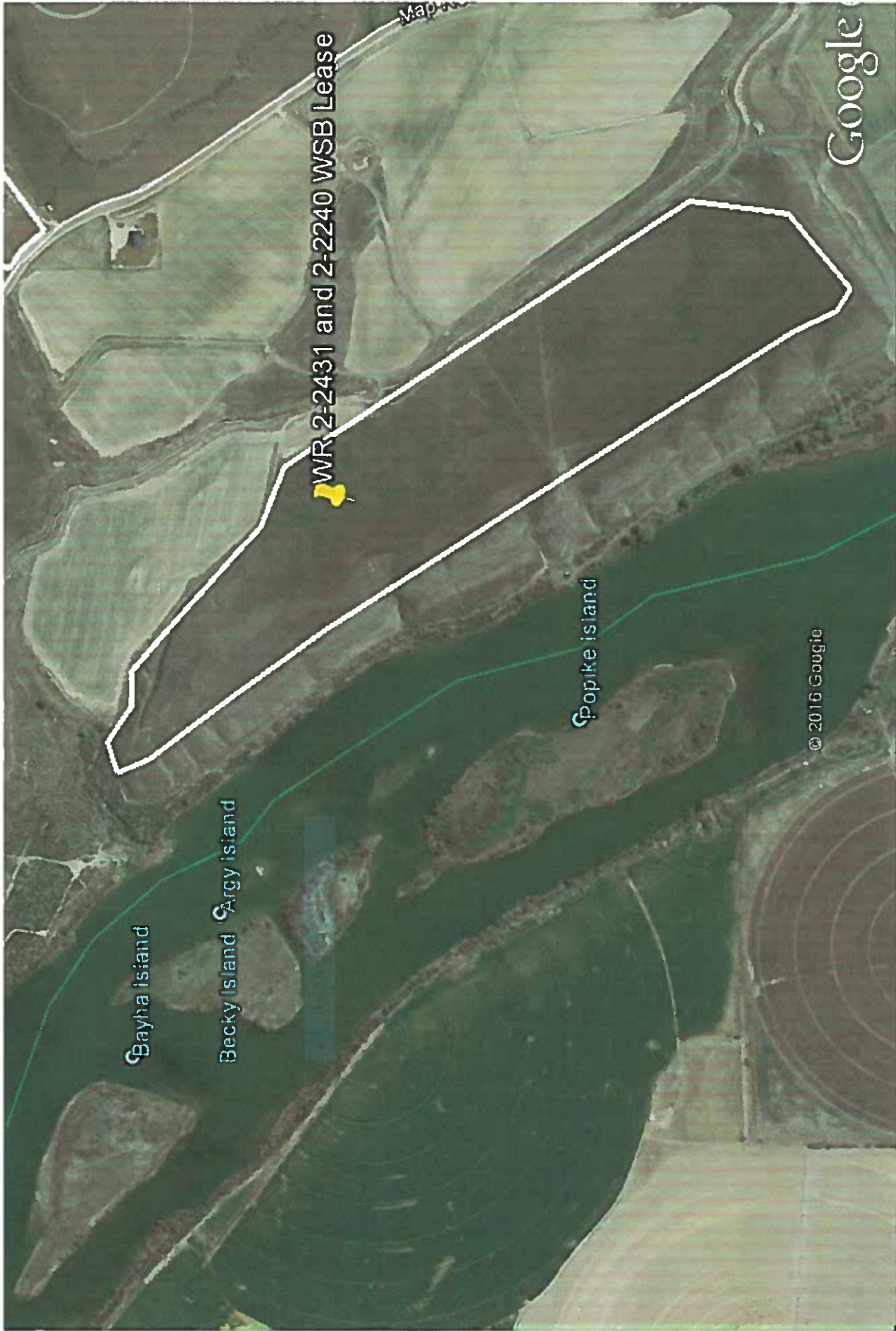
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	2. <u>Nature of Use</u>	3. <u>Leased Rate</u> (cfs)	4. <u>Leased Volume</u> (af)	5. <u>Leased Acres</u> (ac)
<u>2-2431</u>	<u>Irrigation</u>	<u>1.24</u>	<u>279</u>	<u>62</u>
	Total Amounts:			

2. Source of water Grouch Drain tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
01S	02W	6			SE	NE	Canyon
		6			SW	NE	
		6			NW	SE	
		6			NE	SE	
		6			SE	SE	
		5			NW	SW	
		5			SW	SW	



WR 2-2431 and 2-2240 WSB Lease

Bayha Island

Becky Island

Argy Island

Popike Island

Google

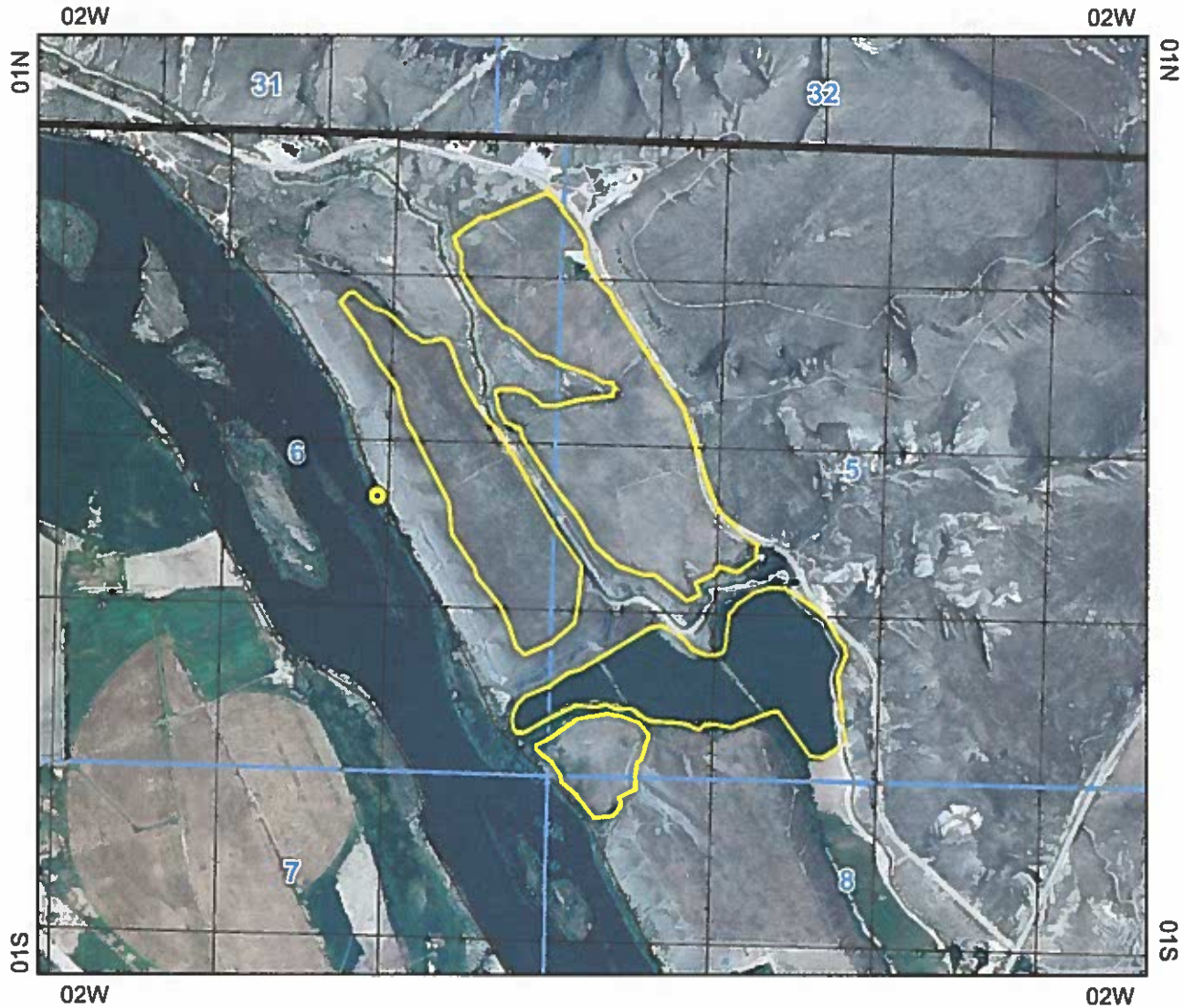
© 2016 Google

State of Idaho
Department of Water Resources

Water Right
2-2431

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 0.175 0.35 0.7 Miles

