

WATER SUPPLY BANK LEASE CONTRACT

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

LESSOR: IDAHO POWER CO
PO BOX 70
BOISE ID 83707
208-388-2905

RECEIVED

JUL 20 2016

**DEPARTMENT OF
WATER RESOURCES**

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. On July 8, 2016, the Lessor filed an application to lease the water right 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 RIGHT:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water right described as follows:

Summary of Water Right or Portion Leased to the Bank

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
2-33	04/01/1937	SNAKE RIVER	COLUMBIA RIVER	0.2 cfs	40.0 af	10.0 ac

Lease Totals 0.2 cfs 40.0 af 10.0 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, 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. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

WATER SUPPLY BANK LEASE CONTRACT

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

IDAHO POWER CO
PO BOX 70
BOISE ID 83707

By Jonathon C. Bowling

Date 7/20/2016

Printed Name Jonathon C. Bowling

Title ENGINEERING LEADER

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 7/21/2016

Lease approved by IDWR Chris White

Date 7-21-2016

ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
WATER RIGHT NO. 2-33

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

Lessor: IDAHO POWER CO
PO BOX 70
BOISE ID 83707
208-388-2905

Location of Point(s) of Diversion for Water Right 2-33

SNAKE RIVER L2(NWNE) Sec. 03, Twp 08S, Rge 13E, TWIN FALLS County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
2-33	IRRIGATION	03/15	to 11/15	0.2 cfs	40.0 af
Total:				0.2 cfs	40.0 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	
07S	13E	34												10.0 L6					10.0

Total Acres: 10.0

Conditions Applicable to Leased Water Right

1. The water right 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 right leased to the bank is 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. 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. 02.

JUL 08 2016

DEPARTMENT OF
WATER RESOURCES

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

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. 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. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant Idaho Power Company
(Select one owner – see item 1A on the application)

Water Right No. 2-33
(One water right per application)

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ 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.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Contact information for <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | | ☒ | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 1E | ☐ | ☒ | 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. |
| 3E | ☐ | ☒ | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code . |
| 4 | | ☒ | 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 . |

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>AO</u>	Date Received: <u>7-8-16</u>	Receipt # <u>C102255</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Idaho Power Company</u>	

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

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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 Idaho Power Company Email Address jbowling@idahopower.com
Mailing Address PO Box 70 Boise, ID 83707 Phone Number (208) 388-2905

☒ 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 completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

- 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 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 1D).

- E. 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 1E).

Name of Representative Jonathon C. Bowling, P.E. Organization _____
Professional Title Engineering Leader Email Address jbowling@idahopower.com
Mailing Address P.O. Box 70 Boise, ID 30707 Phone Number (208) 388-2905

☒ 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

Water Right Number 2-33 ☒ 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

There is a head gate in the Snake River and water is delivered to the POU by a earthen ditch. A small portion is pumped from the Snake River to a pressurized irrigation system.

- B. 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 right 2-36 is used to irrigated the homes in 07S 13E 34 Lot 6 SWSW. This area will remain irrigated under water right 2-36

- C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☐ No ☒

Stacked water rights are water rights that are utilized 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.

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

If yes, describe. Only those areas receiving water under water right 2-36 in in 07S 13E 34 Lot 6 SWSW.

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

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

F. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

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: 2015 to 2019 (maximum lease period 5 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.

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 provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant

Printed Name

Date

Jonathon C. Bowling
Signature of Authorized Representative

Jonathon C. Bowling
Printed Name

7/7/2016
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

List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to 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.

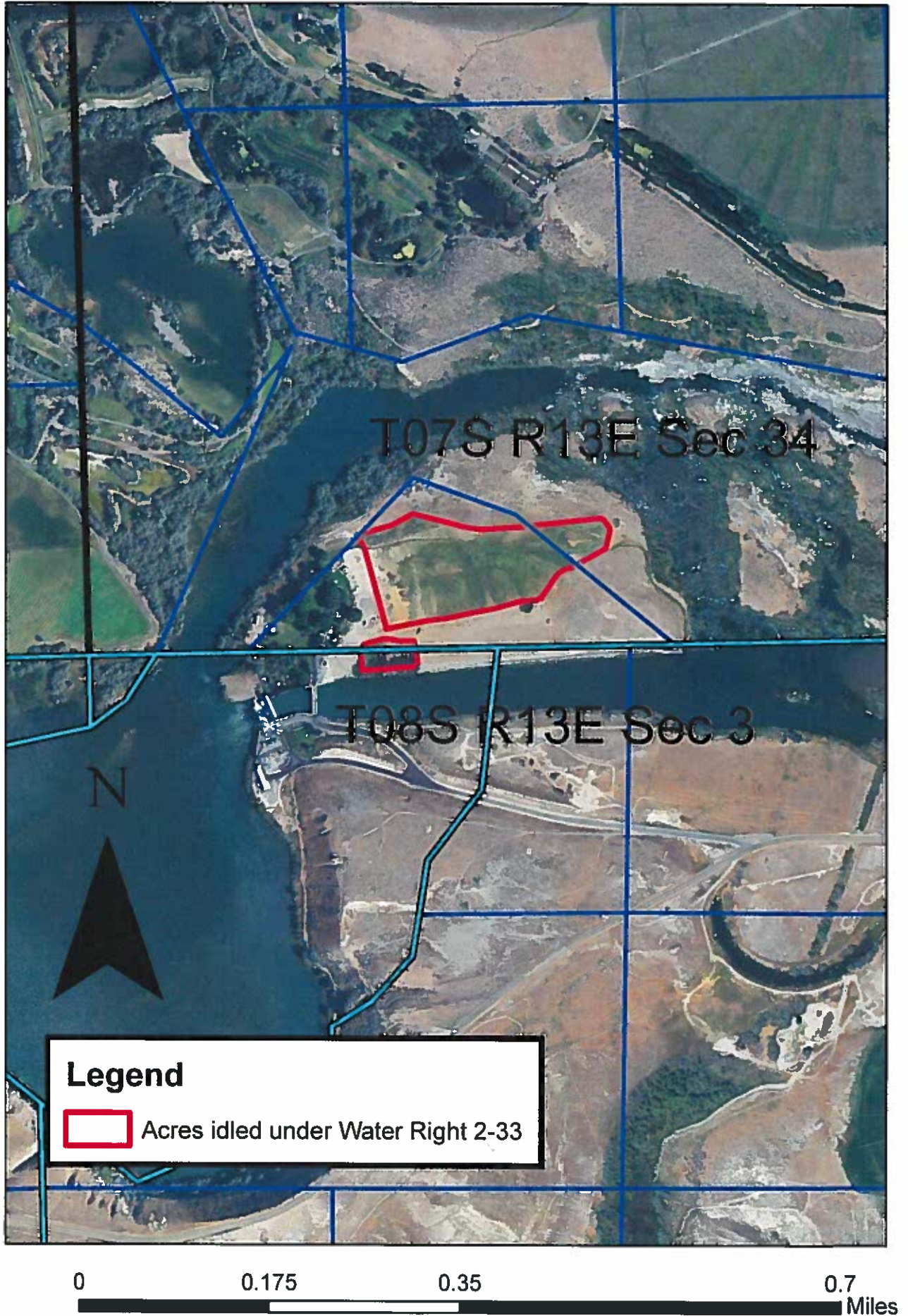
If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

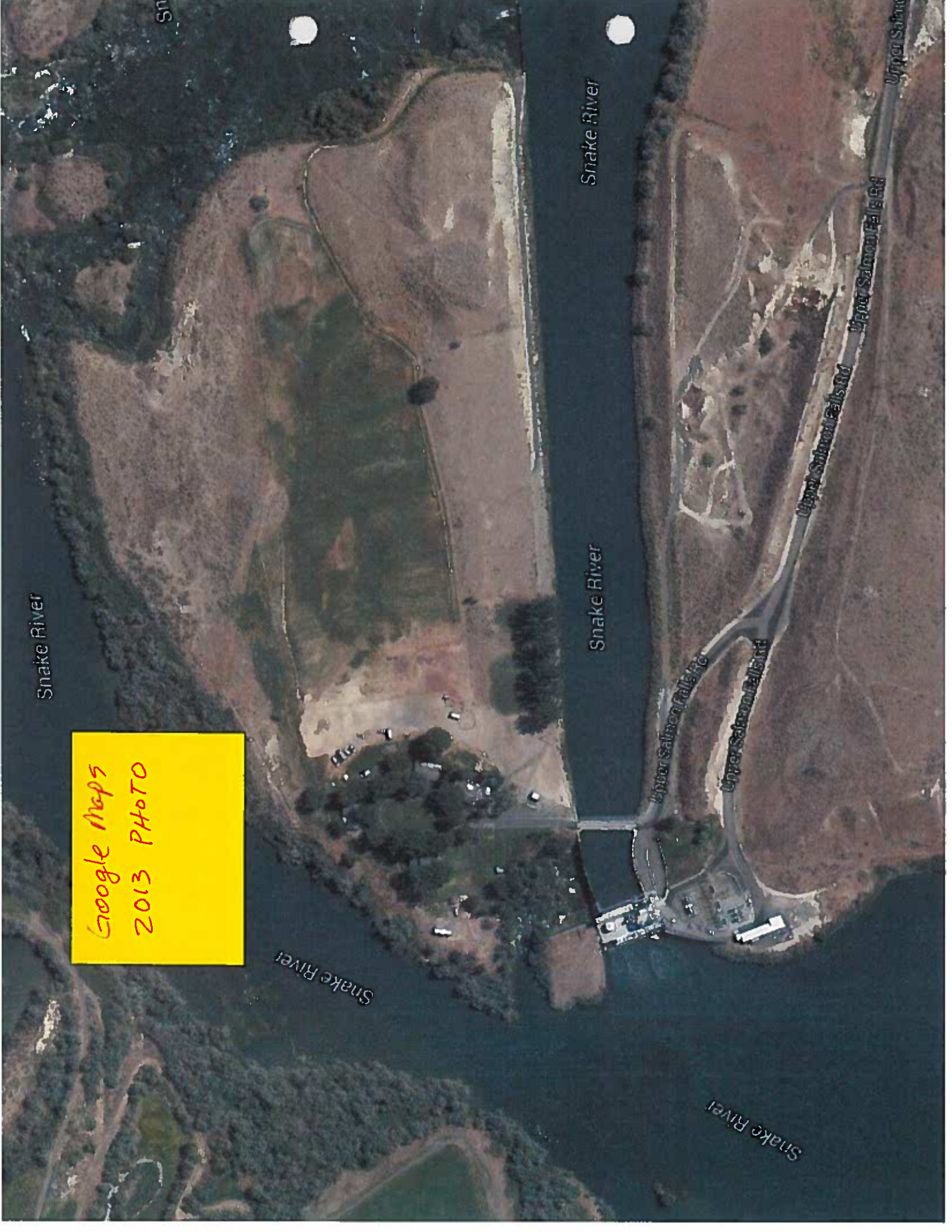
Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name	Idaho Power Co		
Mailing Address	PO Box 70 Boise, ID 83707		
Phone Number	(208) 388-2905		
Email Address	jbowling@idahopower.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

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

Lands Idled Under Water Right 2-33 WY 2013





Google Maps
2013 PHOTO

Snake River

Snake River

Snake River

Snake River

Snake River

Upper Salmon Falls Rd

Upper Salmon Falls Rd

Upper Salmon Falls Rd

Upper Salmon Falls Rd



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

July 22, 2016

GARY SPACKMAN
Director

IDAHO POWER CO
PO BOX 70
BOISE ID 83707

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 2-33

Dear Lessor:

Water right 2-33 was leased into the Water Supply Bank (Bank) as of July 8, 2016, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

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

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

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Rob Whitney – Water District 02

Hersley, Jean

From: Bowling, Jon <JBowling@idahopower.com>
Sent: Monday, July 18, 2016 8:44 AM
To: Hersley, Jean
Subject: RE: Water Supply Bank Lease Application for 2-33

Jean,

Please place the water right in the water bank for years 2016 – 2020. The water right had been used continuously in past years, prior to 2015, to irrigate the pasture during the irrigation season. Therefore the land has been irrigated in the past 5 years.

Please let me know if you have additional questions.

Thanks

Jon

Jonathon C. Bowling, P.E.
Engineering Leader
Resource Planning and Operations
Idaho Power Company
PO Box 70, Boise Idaho 83707
(208) 388-2905
jbowling@idahopower.com

From: Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]
Sent: Wednesday, July 13, 2016 3:34 PM
To: Bowling, Jon
Subject: [EXTERNAL] Water Supply Bank Lease Application for 2-33

Mr. Bowling,

The Department received your application to lease water right 2-33 to the Water Supply Bank on July 8. We are in the process of reviewing this application but needed clarification on the lease dates. Item number 5 (A) asks the applicant to specify the years when the water will be suspended. The years 2015 to 2019 were listed. Since the Department received this application is 2016, we cannot place the water right in the Bank for the 2015 season. Please let me know if you would like to change the years of the lease.

Also, aerial photography is inconclusive on whether irrigation has taken place on the 10 acres located in T07S, R13E, Section 34, L6(SESW). Has this 10 acres been irrigated in the last 5 years?

Please provide this information within 30 days so the Department can continue processing the application. Thank you.

If you have any questions, please contact me.

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



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Hersley, Jean

From: Bowling, Jon <JBowling@idahopower.com>
Sent: Wednesday, July 13, 2016 3:34 PM
To: Hersley, Jean
Subject: Automatic reply: Water Supply Bank Lease Application for 2-33

I am out of the office until July 18. I will contact you when I return.

Best regards.

Jon

This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you.

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, July 13, 2016 3:34 PM
To: 'jbowling@idahopower.com'
Subject: Water Supply Bank Lease Application for 2-33

Mr. Bowling,

The Department received your application to lease water right 2-33 to the Water Supply Bank on July 8. We are in the process of reviewing this application but needed clarification on the lease dates. Item number 5 (A) asks the applicant to specify the years when the water will be suspended. The years 2015 to 2019 were listed. Since the Department received this application is 2016, we cannot place the water right in the Bank for the 2015 season. Please let me know if you would like to change the years of the lease.

Also, aerial photography is inconclusive on whether irrigation has taken place on the 10 acres located in T07S, R13E, Section 34, L6(SESW). Has this 10 acres been irrigated in the last 5 years?

Please provide this information within 30 days so the Department can continue processing the application. Thank you.

If you have any questions, please contact me.

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