

WATER SUPPLY BANK LEASE CONTRACT

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JUL 14 2016

DEPARTMENT OF
WATER RESOURCES

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

**LESSOR: CORP OF THE PRESIDING BISHOP
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
REAL ESTATE SERVICES DIV
50 E NORTH TEMPLE ST
SALT LAKE CITY UT 84150-6320
801-240-4657**

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 February 4, 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
34-13752	01/30/1961	GROUND WATER	NA	0.005 cfs	1.8 af	0.5 ac
34-13754	08/31/1976	GROUND WATER	NA	0.020 cfs	4.2 af	1.2 ac
34-13756	05/01/1905	BIG LOST RIVER	NA	0.014 cfs	2.4 af	0.7 ac
34-13758	05/01/1906	BIG LOST RIVER	NA	0.004 cfs	0.7 af	0.2 ac
34-13760	05/01/1977	BIG LOST RIVER	NA	0.005 cfs	1.1 af	0.3 ac

Total Annual Combined Limits:	0.03 cfs	4.2 af	1.2 ac
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Lease Totals SUPPORT DATA 0.03 cfs 4.2 af 1.2 ac

IN FILE # 34-13752

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.

WATER SUPPLY BANK LEASE CONTRACT

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.

CORP OF THE PRESIDING BISHOP
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
REAL ESTATE SERVICES DIV
50 E NORTH TEMPLE ST
SALT LAKE CITY UT 84150-6320

By 
Printed Name Matt Davidson

Date July 11, 2016
Title P.E.

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 7/15/2016

Lease approved by IDWR 

Date 7-15-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 34-13752, 34-13754,
34-13756, 34-13758, and 34-13760

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

Lessor: CORP OF THE PRESIDING BISHOP
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
REAL ESTATE SERVICES DIV
50 E NORTH TEMPLE ST
SALT LAKE CITY UT 84150-6320
801-240-4657

Location of Point(s) of Diversion for Water Right 34-13752 and 34-13754

GROUND WATER SWNWSW Sec. 10, Twp 06N, Rge 25E, CUSTER County

Location of Point(s) of Diversion for Water Right 34-13756, 34-13758 and 34-13760

BIG LOST RIVER NENESW Sec. 10, Twp 06N, Rge 25E, CUSTER County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
34-13752	IRRIGATION	04/01	to 10/31	0.005 cfs	1.7 af
34-13754	IRRIGATION	04/01	to 11/01	0.020 cfs	4.2 af
34-13756	IRRIGATION	05/01	to 10/15	0.010 cfs	2.4 af
34-13758	IRRIGATION	05/01	to 10/15	0.004 cfs	0.7 af
34-13760	IRRIGATION	05/01	to 10/15	0.005 cfs	1.0 af
Total:				0.04 cfs	4.2 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	
06N	25E	10																0.5	0.5
06N	25E	11											0.7						0.7

Total Acres: 1.2

Conditions Applicable to All Leased Water Rights

- The water rights referenced above will be rented from the bank at the current rental rate.
- 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.
- 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.
- 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. 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. 34.
13. When combined with all other rights, the leased rights shall provide not more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
14. Unleased portions of rights 34-13752, 34-13754, 34-13756, 34-13758 and 34-13760 are limited to irrigation of a combined total of 1.3 acres in a single irrigation season, a total combined diversion rate of 0.05 cfs, and a total combined annual diversion volume of 4.6 af.
15. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
16. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right for land with an appurtenant surface water right(s) to those times when the surface water supply is not available or reasonably sufficient to irrigate the place of use authorized under this right.
17. Water right 34-13760 is an enlargement of water rights 34-13756 and 34-13758 pursuant to Section 42-1426, Idaho code.
18. The period of use for irrigation described above may be extended in season of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
19. The unleased portions of 34-13756, 34-13758 and 34-13760 when combined shall not exceed a total diversion rate of 0.02 cfs.
20. The leased portions of 34-13756, 34-13758 and 34-13760 when combined shall not exceed a total diversion rate of 0.02 cfs.

Idaho Water Resource Board
Water Supply Bank Lease

34-13752, 34-13754, 34-13756, 34-13758, 34-13760
Effective until December 31, 2020

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



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



0 100 200 Feet

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FEB 04 2013

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

DEPARTMENT OF
WATER RESOURCES

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 The Corporation of the Presiding Bishop
of the Church of Jesus Christ of Latter day Saints Water Right No. 34-13754
(Select one owner — see item 1A on the application) (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 <u>Internal Revenue Service (IRS) Form W-9</u> 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 <u>Section 42-222(2), Idaho Code</u> . |
| 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>500.00</u>	Received By: <u>alt</u>	Date Received: <u>2/4/14</u>	Receipt # <u>C101492</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Corp. of Presiding Bishop</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.

Corporation of the Presiding Bishop of the Church
Jesus Christ of Latter Day Saints, C/O Matt Davidson

Designated Applicant Jesus Christ of Latter Day Saints, C/O Matt Davidson Email Address mpdavidson@ldschurch.org
50 East North Temple St. 12th Flr Natural Resources
Salt Lake City, Ut. 84150-0012
 Mailing Address _____ Phone Number 801-240-3840

☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ 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 34-13754 ☐ 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.

On-site well with distribution piping and lateral from Angelo Ditch (Big Lost River)

- 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.

Ground Water: 34-13752

Surface Water (Big Lost River): 34-13756, 34-13758, 34-13760

- 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. _____

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: 2016 to 2021 (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.

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

Matt Davidson

Printed Name

11/8/16

Date

Signature of Authorized Representative

Printed Name

Date

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

Custer County Idaho MapServer

Leslie, Idaho Chapel

Location of Water Rights to be
Banked

34-13752, -13754, -13756,
13758, -13760



Land to be idled.



Highways



County Road



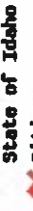
Other Road



BLM



US Forest Service



State of Idaho



Cities

2013 Aerial Photography



NORTH

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0 110 220 330 ft

10/9/2013



Custer County Idaho
MapServer

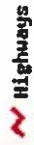
Leslie, Idaho Chapel

Location of Water Rights to be
Banked

34-13752, -13754, -13756,
13758, -13760



Land to be Dried Up



Highways



County Road



Other Road



BLM



US Forest Service



State of Idaho



Cities

2013 Aerial Photography



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0 110 220 330 ft

10/9/2015

