

WATER SUPPLY BANK LEASE CONTRACT

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

LESSOR: BLACK CANYON BLISS LLC

20511 F ST
RUPERT ID 83350
208-532-4119

RECEIVED

MAY 02 2015

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 March 3, 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
37-793	04/01/1888	SPRINGS	SNAKE RIVER	0.29 cfs	53.6 af	13.4 ac
37-7216	04/02/1973	SPRINGS	SNAKE RIVER	0.37 cfs	55.5 af	13.4 ac
37-21721	04/01/1888	SPRINGS	SNAKE RIVER	0.42 cfs	53.6 af	13.4 ac
Total Annual Combined Limits				0.70 cfs	53.6 af	13.4 ac

Lease Totals 0.70 cfs 53.6 af 13.4 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.

SUPPORT DATA

IN FILE # 37-793

WATER SUPPLY BANK LEASE CONTRACT

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.

BLACK CANYON BLISS LLC

20511 F ST
RUPERT ID 83350

By Rodney Jentzsch
Printed Name Rodney Jentzsch

Date 4-29-16
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 5/2/2016

Lease approved by IDWR Angie West

Date 5-2-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 37-793, 37-7216, and 37-21721,

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

Lessor: BLACK CANYON BLISS LLC
20511 F ST
RUPERT ID 83350
208-532-4119

Location of Point(s) of Diversion for Water Right 37-793 and 37-21721

SPRINGS	NENW	Sec. 17, Twp 06S, Rge 13E, GOODING County
SPRINGS	NENWNW	Sec. 17, Twp 06S, Rge 13E, GOODING County
SPRINGS	NESESE	Sec. 17, Twp 06S, Rge 13E, GOODING County

Location of Point(s) of Diversion for Water Right 37-7216

SPRINGS	NENWNW	Sec. 17, Twp 06S, Rge 13E, GOODING County
SPRINGS	SESWSW	Sec. 08, Twp 06S, Rge 13E, GOODING County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
37-793	IRRIGATION	03/15 to 11/15		0.29 cfs	53.6 af
37-7216	IRRIGATION	04/01 to 11/01		0.37 cfs	55.5 af
37-21721	IRRIGATION	03/15 to 11/15		0.42 cfs	53.6 af
Total:				0.70 cfs	53.6 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	
06S	13E	8											0.6						0.6
06S	13E	17						1.6	9.6 L1	0.5									11.7
06S	13E	18	1.1 L7																1.1

Total Acres: 13.4

Conditions Applicable to All Leased Water Rights

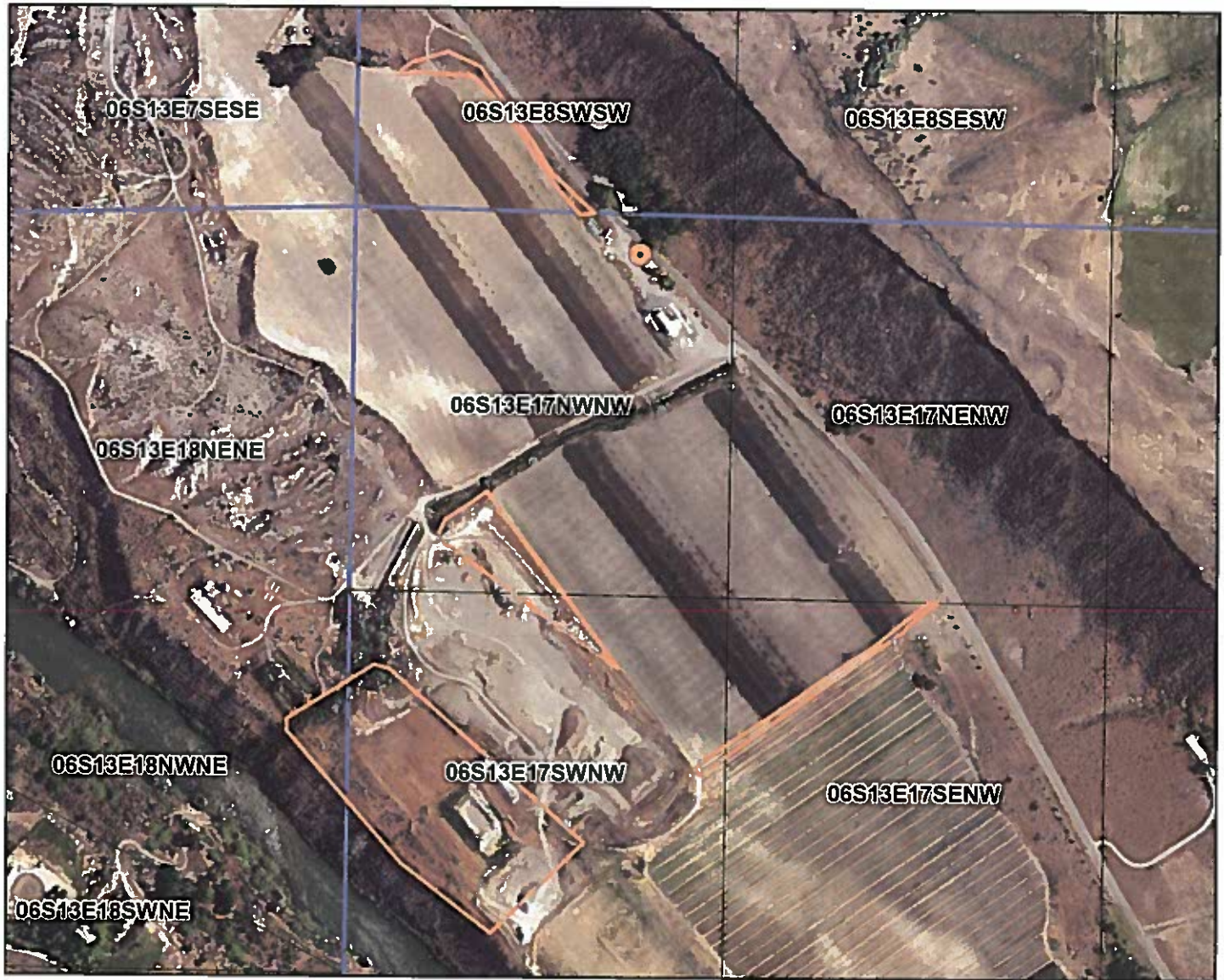
- The water rights referenced above will be rented from the bank at the current rental rate.
- There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
- While a right is in the bank, the lessor may not use the right without approval of the 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.
- 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. 130.
13. Unleased portions of rights 37-793, 37-7216 and 37-21721 are limited to irrigation of a combined total of 78.6 acres in a single irrigation season and a total combined diversion rate of 4.157 cfs,
14. Point of diversion sources for water rights 37-793 and 37-21721 are also known as Montana Mining company Ditch Spring No.9, Montana Mining Company Ditch Spring No. 10 and Montana Mining Company Ditch spring No. 11.
15. Water right 37-7216 has two points of diversion located in the NWNW, S17, T6S, R13E.
16. Source in T06S, R13E, S17, NENWNW for water right 37-7216 is also known as Montana Mining Company Ditch spring No.11.
17. In the event of a call in times of scarcity, the diversion of water for water rights 37-793 and 37-21721 from the point of diversion located in T06S, R13E, S17, NESESE (also known as Montana Mining Company Spring No. 9) is junior to the diversion of water from the same spring for water rights 37-7218 and 37-21222.
18. The use of water for irrigation under water right 37-7216 may begin as early as March 15 and may no 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 November 1 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and priority date earlier than the date a partial decree is entered for this right.
19. The unleased fish propagation use of 37-7216 is limited to a diversion rate of 3.63 cfs in a single season.
20. The unleased irrigation use of 37-7216 is limited to a total diversion rate of 2.17 cfs and a total diversion volume of 325.5 af in a single irrigation season.

Idaho Water Resource Board
Water Supply Bank Lease

37-793, 37-7216 and 37-21721
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



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

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

MAR 03 2016

DEPARTMENT OF
WATER RESOURCES

Designated Applicant BLACK CANYON BLISS LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-7216
(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 <i>all owners</i> of the water right to be 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 | ☒ | ☐ | 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>PJ</u>	Date Received: <u>3/14/2016</u>	Receipt # <u>C101649</u>
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 BLACK CANYON BLISS LLC

Mailing Address 20511 F ST. RUPERTY, IDAHO 83350

Street City State Zip Code

Email Address Phone Number (208) 532-4119

☒ 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 Amy Runser Organization Brockway Engineering, PLLC.

Professional Title Technician Email Address amy.runser@brockwayeng.com

Mailing Address 2016 N. Washington St. Suite 4 Phone Number (208) 736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

- B. Please provide a description of the current water diversion and delivery system.
Springs source collect in ditch, pumped and applied with use of wheel/hand lines.

- 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. 37-793, 37-7216 & 37-21721 have combined POU and limit 92.0 acres at this location

- 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. Only 13.4 acres of the 92 acres allowed will be placed in the wsb the remained will continue to be irrigated under these water rights.

- 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. The 76 acres has been diverted over the last 5 years, the remaining 15.9 acres was in the wsb from 2010-2015. These acres are being resubmitted to the water bank.

- 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.

- 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 2020 (maximum lease period 5 calendar years).
(Year) (Year)

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

Current rental rate

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

The Designated Applicant acknowledges the following:

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

Bryan Jentzsch
Signature of Designated Applicant

Bryan Jentzsch
Printed Name

2-12-16
Date

Rodney Jentzsch
Signature of Authorized Representative

Rodney Jentzsch
Printed Name

2-25-16
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

Water Right No(s). 37-7216

	Designated Applicant	Applicant #2	Applicant #3
Name	Black Canyon Bliss LLC		
Mailing Address	20511 F St Rupert, Idaho 83355		
Phone Number	(208) 532-4119		
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

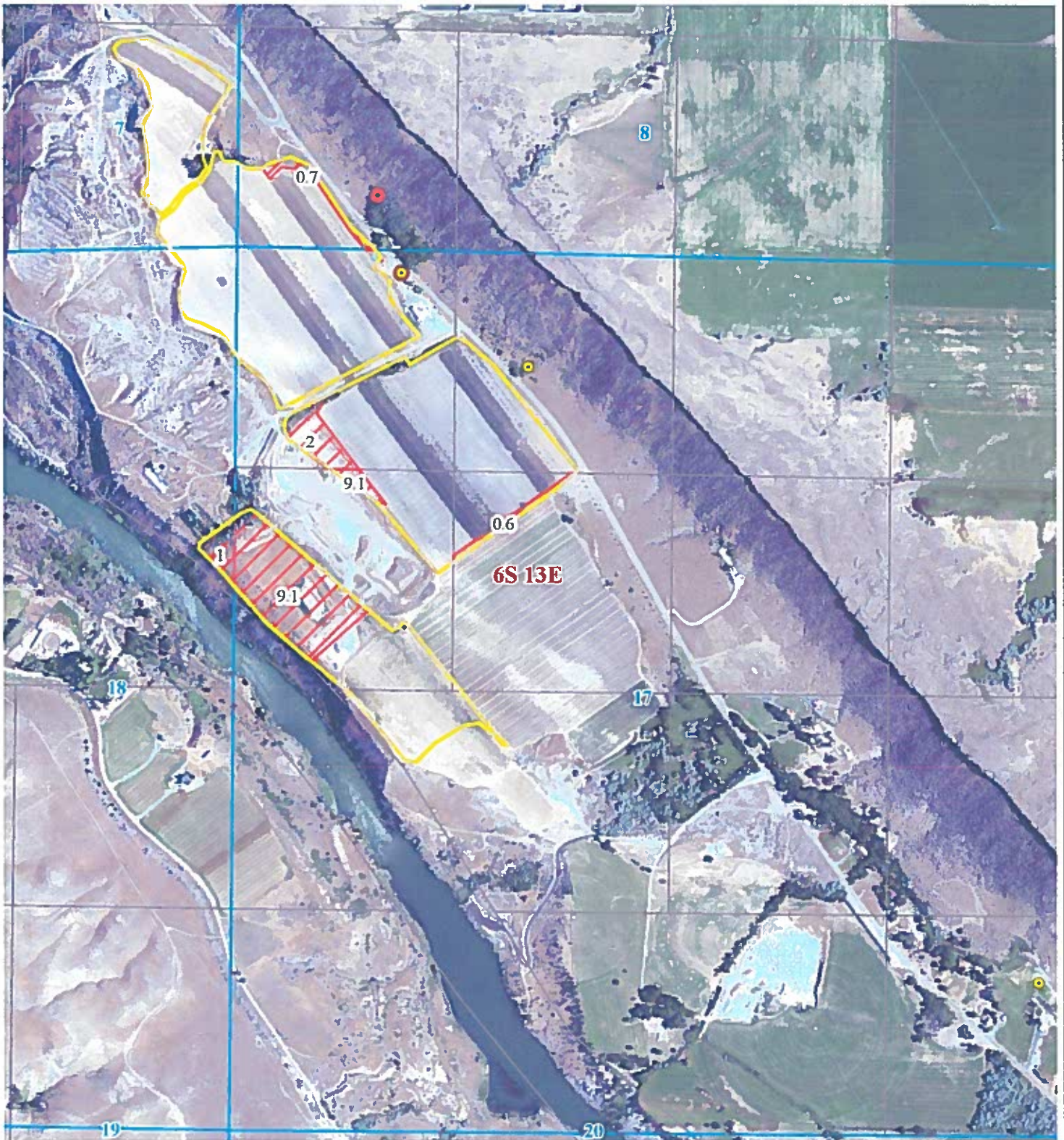
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

<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>37-7216</u>	<u>IRRIGATION</u>	<u>0.37</u>		<u>13.4</u>
	Total Amounts:			

2. Source of water SPRINGS tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06S	13E	8		SE	SW	SW	SPRINGS
06S	13E	17		NE	NW	NW	SPRINGS



JENTZSCH-KEARL FARMS- BLISS FARM, BLACK CANYON

WATER BANK LEASE 2016-2020

ATTACHMENT #3

NAIP 2015 AERIAL

0 300 600 1,200 Feet

BROCKWAY ENGINEERING, PLLC.
ALR - Date: 2/12/2016

Legend

BCB_PODs

37-21721, 793

37-7216

IRRIGATION POU

WSB LEASE 2016-20 BCB

township

Sections

labeled



MEMORANDUM

DATE: March 25, 2016

TO: Water Right File 37-7216

FROM: Shelley W. Keen *SWK*

RE: Authorized diversion rate and volume

In 1992 Water Right 37-7216 was licensed for the irrigation of 127 acres and for fish propagation. The licensed rate and volume for irrigation were 2.54 cfs and 381 AFY, or 0.02 cfs per acre and 3.0 AFY per acre. The licensed carried a condition limiting the use of the licensed right to 0.02 cfs per acre and 3.0 AFY per acre when combined with other rights for irrigation.

In the Snake River Basin Adjudication, Right 37-7216 was decreed for the licensed rate and volume, but the irrigated place of use was limited to 92 acres. Consequently, the rate and volume exceeded the licensed limits of 0.02 cfs per acre and 3.0 AFY per acre. Nevertheless, the condition limiting the use of the right to 0.02 cfs per acre and 3.0 AFY per acre when combined with other rights was retained in the explanatory remarks for the right. In other words, the condition does not appear on the face of the partial decree, but it was retained in the computer database as useful information.

Because the condition in explanatory remarks is more restrictive than the rate and volume limits on the face of the partial decree for Right 37-7216, we have a dilemma. Is the right for 2.54 cfs and 381 AFY, which exceed 0.02 cfs per acre and 3.0 AFY per acre, or is it limited to 0.02 cfs per acre and 3.0 AFY per acre?

To resolve the contradiction, I first looked for information on whether explanatory remarks have any validity in the administration of a water right. In 2012 SRBA Judge Eric Wildman ruled on that question in his *Order Denying Request for Attorney's Fees and Costs* for Right 37-21112. One page 5 Judge Wildman states:

Despite not appearing in the *Partial Decree*, and ultimately lacking the same binding or claim preclusive effect as the information included in the Partial Decree, explanatory material still provides clarification, guidance and relevant information to the Department when examining the water right for purposes in conjunction with a future administrative proceeding. In a transfer proceeding pursuant to Idaho Code § 42-222, the Department is still required to "examine all evidence and available information" when approving a change. I.C. § 42-222. The information contained in the explanatory material section therefore assists the Department in complying with the statutory directive. Such explanatory material may also assist the Department by providing background information in conjunction with an administrative enforcement proceeding.

Based on Judge Wildman's ruling, the explanatory remark is not as "binding" as the information on the face of the partial decree, but it still can be relied upon to help clarify the water right.

Next, I consulted staff in the Adjudication Section to determine if the decreed rate and volume intentionally exceeded 0.02 cfs per acre and 3.0 AFY per acre. The response was that many Hagerman Valley claimants successfully argued that they beneficially used more than 0.02 cfs per acre and 3.0 AFY per acre. Therefore, even when the partial decree reduced the number of irrigated acres from the licensed total, the partial decree sometimes retained the licensed rate and volume. That's what happened when Right 37-7216 was decreed. It was also the practice in the adjudication review to retain in explanatory remarks the license conditions limiting the rate per acre and volume per acre, but not to evaluate or modify them. That also is what happened to Right 37-7216. Based on this explanation, it's clear that the decision to exceed 0.02 cfs per acre and 3.0 AFY per acre was intentional, while the decision to retain the condition in explanatory remarks was procedural without consideration for its content.

Based on this review, I think the dilemma between the explanatory remark and the rate and volume on the face of the right should be resolved in favor of the rate and volume on the face of the right. The information on the face of the partial decree defines the water right, whereas the explanatory remarks are "ultimately lacking the same binding or claim preclusive effect" and are meant only to "assist" the Department in administering the right. Moreover the rate and volume on the face of the partial decree defining the right were established intentionally, not in error.

In addition to the conclusion for this right, I think we should accept a general approach that when there is a discrepancy between the two, it seems most reasonable to decide in favor of the dispositive information on the partial decree over the advisory role of the explanatory remark.