

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED

APR 08 2016

DEPARTMENT OF
WATER RESOURCES

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

LESSOR: HEART ROCK RANCH LLC
PO BOX 3724
HAILEY ID 83333
650-851-0993

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 9, 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
37-449B	06/01/1881	SPRING CREEK	BIG WOOD RIVER	0.17 cfs	21.0 af	6.0 ac

Lease Totals *0.17 cfs *21.0 af *6.0 ac

*Rental of this water right is limited to 4.2 acres, 14.7 af and 0.11 cfs due to overlaps water rights 37-653, 37-655B & 37-21476.

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.

HEART ROCK RANCH LLC
PO BOX 3724
HAILEY ID 83333

By 
Printed Name HARRY R. HASEY

Date 4/5/16
Title owner

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 4/10/2016

Lease approved by IDWR 

Date 4-10-2016

ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
WATER RIGHT NO. 37-449B

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

Lessor: HEART ROCK RANCH LLC
PO BOX 3724
HAILEY ID 83333
650-851-0993

Location of Point(s) of Diversion for Water Right 37-449B

SPRING CREEK SWSESW Sec. 14, Twp 01S, Rge 18E, BLAINE County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
37-449B	IRRIGATION	04/01	to 11/01	0.17 cfs	21.0 af
Total:				0.17 cfs	21.0 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	
01S	18E	14												6.0					6.0

Total Acres: 6.0

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. 37.
13. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.
14. Due to overlaps with water rights 37-653, 37-655B and 37-21476, 1.8 acres of this right is un-rentable.

Idaho Water Resource Board
Water Supply Bank Lease

37-449B

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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 09 2016

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Heart Rock Ranch LLC

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

Water Right No. 37-449B

(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 \$ 250⁰⁰Received By: dhDate Received: 3-9-16Receipt # 0101612W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Harry L Haley
936 Olive St
Menlo Park CA 94025

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 Heart Rock Ranch LLC

Mailing Address P.O. Box 3724 Hailey, ID 83333

Street

City

State

Zip Code

Email Address _____

Phone Number 650-851-0993

- ☒ 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 Zach Latham

Organization Brockway Engineering PLLC

Professional Title Hydrologist

Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Suite #4 Twin Falls, ID 83301

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.
Pump and mainlines provide water to POU via sprinklers.

- 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. On south side of Willow Creek, the following water rights have POU's that overlap 37-449B's; 37-653, 37-655B and 37-21476.

- 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. Portion of 37-449B's place of use south of Willow Creek will remain irrigated under 37-653, 37-655B and 37-21476.

- 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. See previous WSB lease for 37-449B approved in late 2013 for two years, 2014 through end of 2015. 37-449B was decreed in SRBA on 1/28/2010.

- 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. N/A.

- H. 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. N/A.

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 ☒?

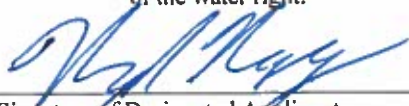
If lease, specify the years when the use of water will be suspended: 2016 to 2020 (maximum lease period 5 calendar years).
(Year) (Year)

- 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.



Signature of Designated Applicant

HARRY HAGEY

Printed Name

2/25/14

Date

Signature of Authorized Representative

Printed Name

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). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
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

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

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

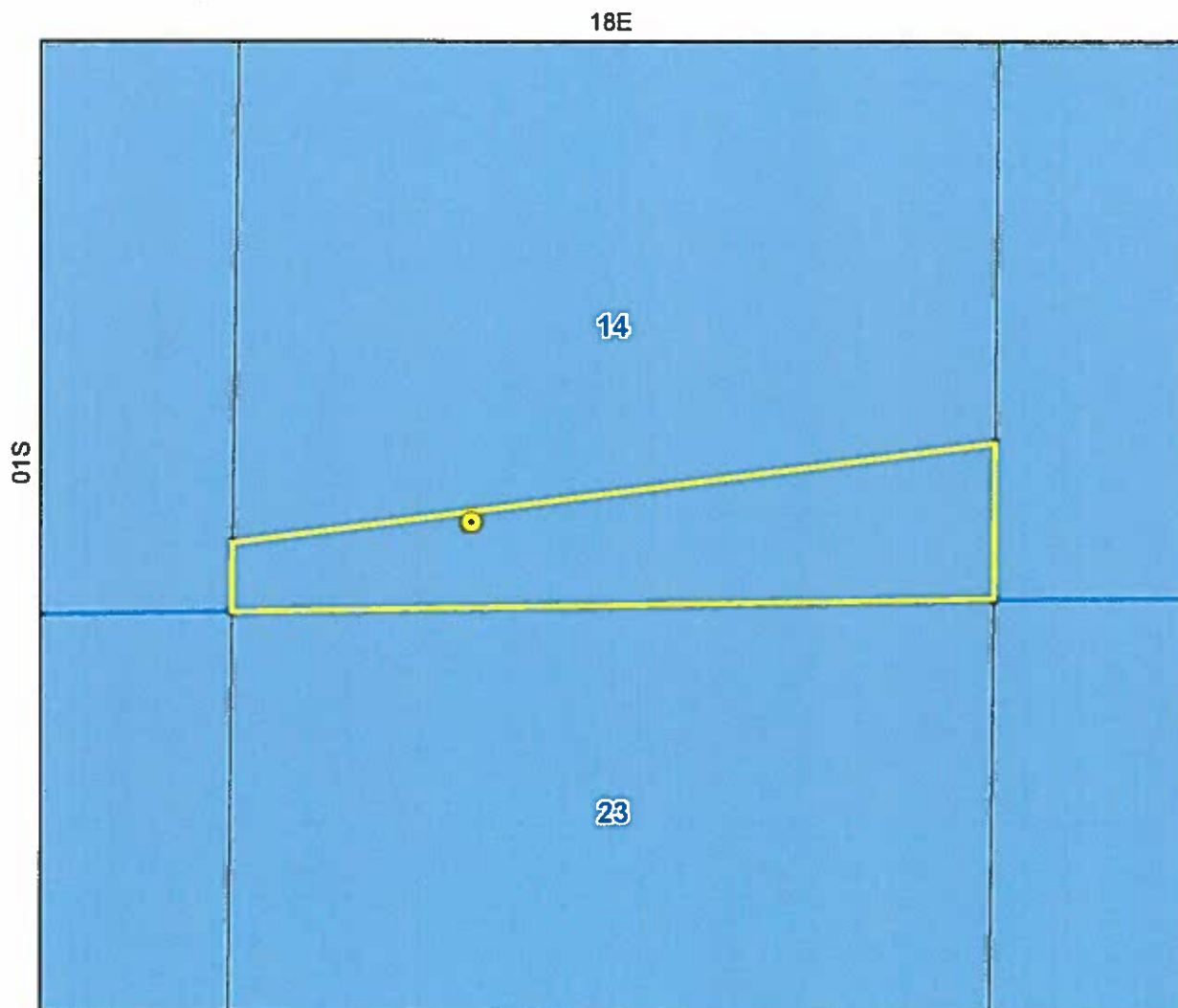
Twp	Rge	Sec	Lot	¼	¼	¼	County

State of Idaho
Department of Water Resources

Water Right
37-449B

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 0.0375 0.075 0.15 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 12, 2016

HEART ROCK RANCH LLC
PO BOX 3724
HAILEY ID 83333

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-449B

Dear Lessor:

Water right **37-449B** was leased into the Water Supply Bank (Bank) as of March 9, 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 me at 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Zach Latham – Brockway Engineering
Allen Merritt - IDWR Southern Region
Kevin Lakey – Water District 37

Hersley, Jean

From: Kevin Lakey <watermanager@cableone.net>
Sent: Thursday, March 17, 2016 8:56 AM
To: Hersley, Jean
Subject: RE: WSB Lease for Heart Rock Ranch LLC 37-449B

Jean,
I have no concerns with this application.

Kevin Lakey

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Thursday, March 17, 2016 8:40 AM
To: Merritt, Allen; Kevin Lakey
Subject: WSB Lease for Heart Rock Ranch LLC 37-449B

Attached is the review memo, draft contract and map of idled acres. Please let me know within 7 days if you have any comments or concerns. Thank you.

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

Hersley, Jean

From: Merritt, Allen
Sent: Thursday, March 17, 2016 4:35 PM
To: Hersley, Jean
Subject: RE: WSB Lease for Heart Rock Ranch LLC 37-449B

I do not have an issue.

From: Hersley, Jean
Sent: Thursday, March 17, 2016 8:40 AM
To: Merritt, Allen; Kevin Lakey
Subject: WSB Lease for Heart Rock Ranch LLC 37-449B

Attached is the review memo, draft contract and map of idled acres. Please let me know within 7 days if you have any comments or concerns. Thank you.

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

March 17, 2016

HEART ROCK RANCH LLC
PO BOX 3724
HAILEY ID 83333

RE: APPLICATIONS TO LEASE WATER RIGHT 37-449B TO THE WATER SUPPLY BANK

****TIME SENSITIVE RESPONSE REQUIRED****

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2020**, unless the right is released earlier by the Board, or upon your request. To release the 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. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:
"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."

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

for Jan Hershey

Clay Webster
Water Resource Agent
Water Supply Bank Point of Contact

Enclosure: Proposed Lease Contracts

c: Brockway Engineering PLLC

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, March 17, 2016 8:40 AM
To: Merritt, Allen; 'Kevin Lakey'
Subject: WSB Lease for Heart Rock Ranch LLC 37-449B
Attachments: Idled Acres.pdf; Lease Application Review Checklist Oct 2015.xls; Lease contract.docx

Attached is the review memo, draft contract and map of idled acres. Please let me know within 7 days if you have any comments or concerns. Thank you.

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

Hersley, Jean

From: Zach Latham <zach.latham@brockwayeng.com>
Sent: Wednesday, March 16, 2016 1:39 PM
To: Hersley, Jean
Cc: Webster, Clay
Subject: RE: WSB Lease Application for Heart Rock Ranch LLC 37-449B

Jean-

Thanks for the email. I would ask IDWR to move forward with option #1, **"The Department can write the contract leasing the 6 acres from 37-449B but 1.8 will be considered un-rentable"**. The 6 acres can not be physically irrigated under 37-449B because the POD from Spring Creek is not operable and we want to protect 100% of that water right from forfeiture. Please let me know if you need any additional information, thanks again.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c.208-721-2114
f. 208-736-8506
zach.latham@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Wednesday, March 16, 2016 1:34 PM
To: Zach Latham
Cc: Webster, Clay
Subject: WSB Lease Application for Heart Rock Ranch LLC 37-449B

The Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department is in the process of reviewing the application.

Item 4E asks, "Will the present place of use continue to receive water from any other source?" and the "Yes" box was marked. The explanation was that the place of use south of Willow Creek will remain irrigated under 37-653, 37-655B and 37-21476. If these acres, which is 1.8 acres, is going to continue to receive water, there are two options for the lease contract.

The Department can write the contract leasing the 6 acres from 37-449B but 1.8 will be considered un-rentable, or the lease contract and be drawn up placing 4.2 acres of 37-449B in the Bank. Please let me know how your client would like the Department to continue. You can let the Department know by responding to this email.

The department will continue processing the application once the requested information has been submitted. If you have any questions, please contact Clay at (208) 287-4910.

Sincerely,

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

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2016.0.7497 / Virus Database: 4542/11819 - Release Date: 03/15/16

WATER SUPPLY BANK
Agent Lease Review Checklist
Applicant(s) Name: Heart Rock Ranch LLC

Memo Date: March 16, 2016

Water Right Number(s): 37-449B

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2009	2015
2010	2016
2011	2017
2012	2018
2013	2019

		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right			
	All of right	x		
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? If no explain in comments	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity	x		
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?	x		
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?			
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?	x		
	Will the place of use continue to receive water?	x		
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request	x		
11	Area Headgate requirement			3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	
13	Narrative: The applicant wishes to place the entire right in the Bank. This right overlaps with water rights 37-653 and 37-655B, 1.8 acres. The Department can place the 6 acres in the Bank but will condition it so 1.8 acres is un-rentable. Correspondence will be sent to Brockway letting them know. The right offered to the Bank was decreed in 2010 and was placed in the Bank in 2012. The 4.2 acres acceptable for the Bank have not been used. Forfeiture is not an issue. This water right is currently with WD 37.			

No. W 98265	Due no later than Nov 30, 2015 Annual Report Form	2. Registered Agent and Address (NO PO BOX)
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		FRITZ X HAEMMERLE 400 S MAIN ST SUITE 102 HAILEY ID 83333 3. <u>New</u> Registered Agent Signature:*
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.		
Office Held	Name	Street or PO Address City State Country Postal Code
MEMBER	SHIRLEY & HARRY R HAGEY COMMUNITY PROPERTY TRUST	936 OLIVE ST MENLO PARK CA USA 94025
5. Organized Under the Laws of: ID W 98265	6. Annual Report must be signed.* Signature: Harry Hagey Date: 10/15/2015 Name (type or print): Harry Hagey Title: Trustee of Member Trust	
Processed 10/15/2015 * Electronically provided signatures are accepted as original signatures.		



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Hydraulics

Hydrology

Water Resources

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MAR 09 2016

DEPARTMENT OF
WATER RESOURCES

March 7th, 2016

Clay Webster
Idaho Department of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, ID 83720

Re: Water Supply Bank Lease Application for Heart Rock Ranch LLC- 37-449B.

Dear Clay,

Attached is a water supply bank lease application for water right 37-449B appurtenant to the Heart Rock Ranch property in Blaine County, ID. This water right was released from the WSB on December 31st 2015. All of 37-449B is proposed to be leased to the WSB for 5 more years, starting in 2016. The attached IDWR map shows the point of diversion and place of use for the water right.

Also attached is a check for \$250.00 to cover the cost of the WSB lease application. Please copy our office on all correspondence regarding this water supply bank lease application. Thank you for your assistance on this matter and if you have questions or comments, please don't hesitate to call.

Regards,

Zach Latham, M.S., Hydrologist

Enc: (1) Water Supply Bank Lease Applications and Associated Map.
(1) Brockway Engineering Check # 13229.

Cc: Harry and Shirley Hagey
Fritz Haemmerle

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

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