

FEB 25 2016

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT**

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

LESSOR: RON WILCOX
PO BOX 4860
HAILEY ID 83333
208-788-7329

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 December 15, 2015, 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
37-20924	3/24/1883	BIG WOOD RIVER	MALAD RIVER	0.27* cfs	46.6 af	13.3 ac
37-20926	11/26/1886	BIG WOOD RIVER	MALAD RIVER	0.55** cfs	46.6 af	13.3 ac

Lease Totals 0.66 cfs 46.6 af 13.3 ac

*The lease of 37-20924 is limited to 0.22 cfs, the remaining portion is used for conveyance losses.

**The lease of 37-20926 is limited to 0.44 cfs, the remaining portion is used for conveyance losses.

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.

SUPPORT DATA

Minimum Payment Acceptable: Current Rental Rate

IN FILE # 37-20924

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.

RON WILCOX
PO BOX 4860
HAILEY ID 83333

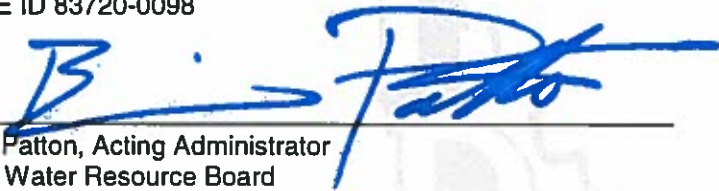
By 

Date 2/24/16

Printed Name RON WILCOX

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 2/26/2016

Lease approved by IDWR 

Date 2-26-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 37-20924 and 37-20926

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

Lessor: **RON WILCOX**
 PO BOX 4860
 HAILEY ID 83333
 208-788-7329

Location of Point(s) of Diversion for Water Right 37-20924 and 37-20926

BIG WOOD RIVER SWNW Sec. 20, Twp 03N, 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>
37-20924	IRRIGATION	04/15 to	10/31	0.27 cfs	46.6 af
37-20926	IRRIGATION	04/15 to	10/31	0.55 cfs	46.6 af
Total:				0.66 cfs	46.6 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	
02N	18E	4			13.1					0.2									13.3

Total Acres: 13.3

Conditions Applicable to All Leased Water Rights

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department, even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.

9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) 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. 37.
13. A portion of these rights provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.16 cfs of the leased portion of these rights into the Hiawatha Canal whether it is rented or not.
14. Unleased portions of these rights are limited to irrigation of a combined total of 6.6 acres in a single irrigation season.

Idaho Water Resource Board
Water Supply Bank Lease

37-20924 and 37-20926
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.



2013 USDA-FSA Aerial Photography

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



0 Feet 500

RECEIVED

DEC 15 2015

DEPARTMENT OF
WATER RESOURCESRECEIVED
JAN 05 2016
DEPARTMENT OF
WATER RESOURCESAPPLICATION 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 Ron Wilcox
(Select one owner – see item 1A on the application)

Water Right No. 37-20926
(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 *all owners* 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 ☒ ☐ *Notice of Change in Water Right Ownership* 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>500</u>	Received By:	Date Received: <u>12-15-15</u>	Receipt # <u>C101299</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Ron Wilcox</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 Ron Wilcox Email Address rgw13@cox.net
Mailing Address PO Box 4860, Hailey, ID 83333 Phone Number (208) 788-7329

☒ 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 James P. Speck Organization Speck & Aanestad, A Professional Corp.
Professional Title attorney Email Address jim@speckandaanestad.com
Mailing Address PO Box 987, Ketchum, Idaho, 83340 Phone Number (208) 726-4421

☐ 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 37-20926 ☐ 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.

Hiawatha Canal headgate, Hiawatha Canal, headgate & ditch from Canal to pond, pump from pond through buried pipelines to sprinkler irrigation systems

- 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.
37-20924

- 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. The portions of 37-20924 & 37-20926 NOT leased to the WSB shall continue to irrigate a portion of the decreed place of use for those rights

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 2020 (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]
Signature of Designated Applicant

Ron Wilcox
Printed Name

11/4/15
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

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). 37-20924 & 37-20926

	Designated Applicant	Applicant #2	Applicant #3
Name	Ron Wilcox	Lorraine Wilcox	
Mailing Address	PO Box 4860, Hailey, ID 83333	PO Box 4860, Hailey, ID 83333	
Phone Number	(208) 788-7329	(208) 788-7329	
Email Address	rgw13@cox.net		
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			

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

December 10, 2015

Cherie Palmer
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Ron and Lorraine Wilcox Water Leases; 37-20926 and 37-20924

Dear Ms. Palmer:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). Also, this letter will specifically address the proposed water being placed in the Water Bank for the aforementioned water rights.

The Hiawatha Canal Company is concerned about the amount of water being removed from the Canal and placed in the Water Bank by various water right holders. Generally, at this time, the Canal Company does not object to water rights conveyed in the Canal being placed in the Water Bank; provided that if the water rights are moved outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right to be left in the Canal as conveyance loss. I suggest that the Department place a condition on the leases to this effect.

Providing you some historical perspective, the Canal Company filed for mitigation (conveyance loss) rights in the adjudication for rights that had been forfeited or abandoned out of the Canal. The Department agreed that the conveyance loss in the Canal was twenty-percent (20%), and therefore, entered recommendations accordingly. See e.g. water rights 37-22630, 37-22631, 37-22632 and 37-22633. This conveyance has been recognized by the Idaho Department of Water Resources in similar transfers. Leaving twenty-percent (20%) of the leased rights in the Canal will insure that all rights in the Canal continue to be delivered without injury to water right holders in the Canal.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the water rights being placed in the Water Bank by Ron and Lorraine Wilcox under water rights 37-20924 and 37-20926, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss.

2. Since the Applicants are proposing leasing only a portion of each right to the Water Bank, the Hiawatha Canal would require a measuring device be placed and ready for use in the Spring of 2016, at the headgate on the Hiawatha Canal where the Applicants divert their water. The measuring device would have to meet the current requirements for measuring devices as published by the Idaho Department of Water Resources.

3. Finally, the Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the one- year lease period.

Thank You in advance for responding to this letter and addressing our concerns.

Sincerely,

HIAWATHA CANAL COMPANY

A handwritten signature in black ink, appearing to read "D. L. Cropper", written in a cursive style.

David L. Cropper, President

cc:

Jim Speck

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

- 3. Point(s) of diversion:**

[illegible]

- [illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 13.3



0 75 150 300 Feet

WILCOX - LUCKY 13

WSB LEASE AREAS 2015
NAIP 2013 AERIAL PHOTO.

Legend

- Parcels
- twship
- WSB_Lease_Ac_2015
- Sections
- Domestic Irr 42-111A, 0.5 Ac.
- Exempt 42-111B, 0.15 Ac.
- QQ Lines

BROCKWAY ENGINEERING, PLLC.

ALR - Date: 7/22/2015

WSB Lease Application - 97-20926 - Ron

& Lorraine Wilcox

Attachment 4

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS
120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

RECEIVED
JAN 05 2016
DEPARTMENT OF
WATER RESOURCES

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

December 22, 2015

Christine Field
Idaho Water Center
322 East Front Street
Boise, ID 83702

Re: Ron Wilcox Application Lease - Water Right 37-20926

Dear Ms. Field:

Your December 17, 2015 e-mail to Jim Speck indicated you had received a copy of the above-referenced Application rather than the original. I have enclosed the *original* Application to Lease which was returned to our office rather than a copy. I have retained a file stamped copy for our file.

Please call if you have any questions. Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: 
Jeanne Farnea, Assistant to
James P. Speck

Enclosure