

# WATER SUPPLY BANK LEASE CONTRACT

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

**LESSOR: REMBER PROPERTIES LLC**  
PO BOX 195  
STANLEY ID 83278  
208-774-3430

**RECEIVED**  
**FEB 22 2016**  
DEPARTMENT OF  
WATER RESOURCES

## RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. On January 11, 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
37-420	10/31/1889	BIG WOOD RIVER	MALAD RIVER	3.2 cfs	280.0 af	80.0 ac
37-601	09/18/1885	BIG WOOD RIVER	MALAD RIVER	2.4 cfs	280.0 af	80.0 ac

**Lease Totals** 5.6 cfs 280.0 af 80.0 ac

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

**Minimum Payment Acceptable: Current Rental Rate**

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2016 to December 31, 2020. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

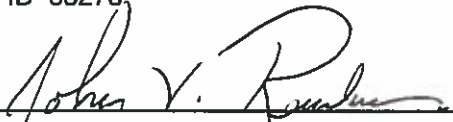
SUPPORT DATA  
IN FILE # 37-420

# WATER SUPPLY BANK LEASE CONTRACT

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

## REMBER PROPERTIES LLC

PO BOX 195  
STANLEY ID 83278

By 

Date 2/10/16

Printed Name JOHN V. REMBER

Title TRUSTEE/MGR

## 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 2/23/2016

Lease approved by IDWR 

Date 2-23-2016

## ATTACHMENT A

### WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 37-420 and 37-601

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

**Lessor:** REMBER PROPERTIES LLC  
 PO BOX 195  
 STANLEY ID 83278  
 208-774-3430

**Location of Point(s) of Diversion for Water Right 37-420 and 37-601**

BIG WOOD RIVER                      NWSESW                      Sec. 12, Twp 01N, 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>
37-420	IRRIGATION	04/15	to 10/31	3.2 cfs	280.0 af
37-601	IRRIGATION	04/15	to 10/31	2.4 cfs	280.0 af
<b>Total:</b>				<b>5.6 cfs</b>	<b>280.0 af</b>

**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		
01N	18E	23					40.0				40.0									80.0

Total Acres:    80.0

**Conditions Applicable to All Leased Water Rights**

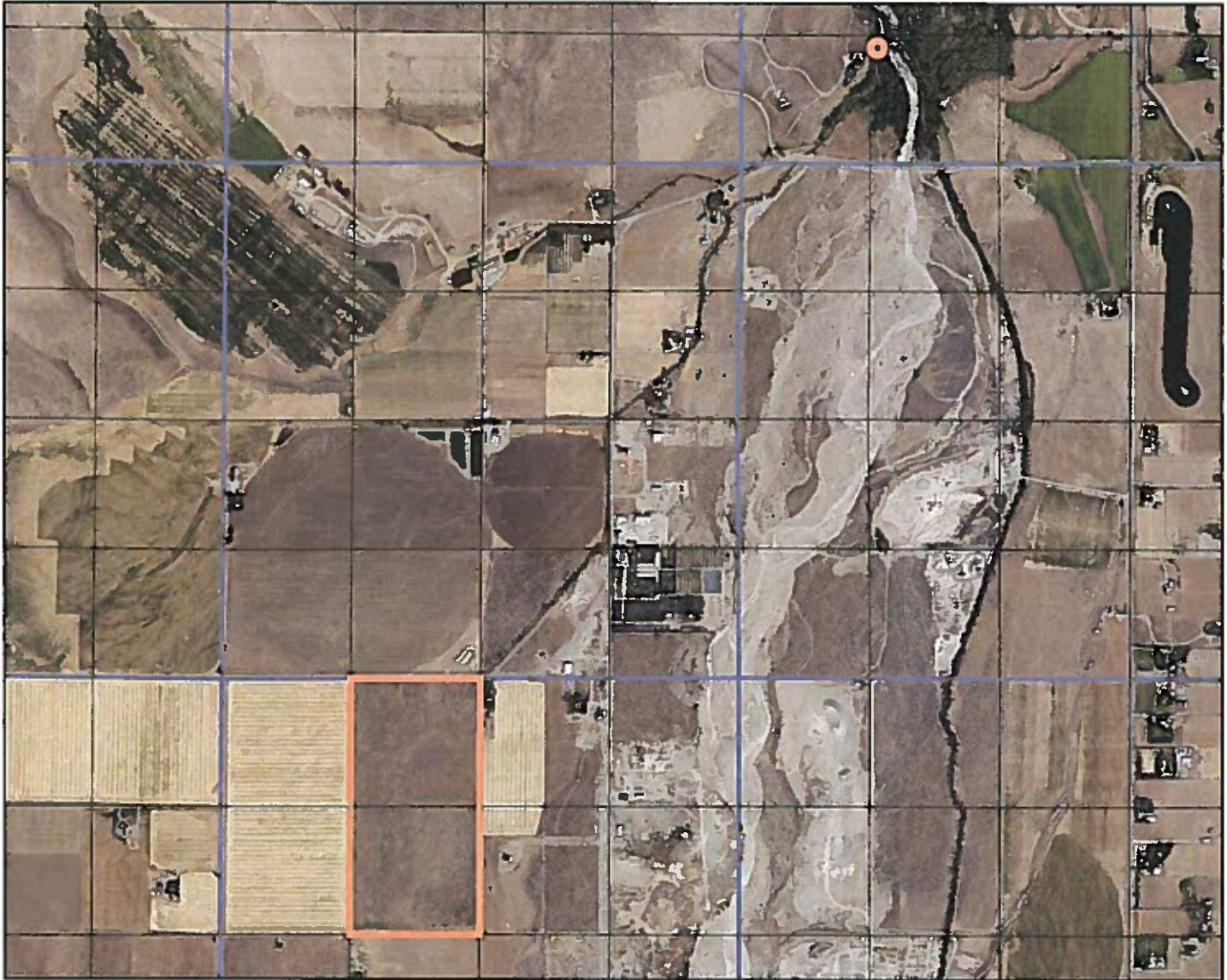
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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 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. 37.
13. Water rights 37-420 and 37-601 are limited to the irrigation of a combined total of 80 acres in a single irrigation season.






**Idaho Water Resource Board**  
**Water Supply Bank Lease**

37-420 and 37-601  
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 Point of Diversion
-  Approved Lease Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

JAN 11 2016

DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant Remember Properties LLC  
(Select one owner - see item 1A on the application)

Water Right No. A37-00420  
(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.

MIMUMUM 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 *all owners* of the water right to be 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](http://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](http://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 [Section 42-222\(2\), Idaho Code](#). - Has been in Water Bank since 2011

Department Use Only

Fee Amount \$ <u>500.00</u>	Received By: <u>dy</u>	Date Received: <u>1-11-16</u>	Receipt # <u>0101401</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9: <u>Remember Properties LLC</u>	

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 Rember Properties LLC  
Mailing Address PO Box 195 Stanley ID 83278  
Street City State Zip Code  
Email Address jrember@ruralnetwork.net Phone Number 208-774-3430

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 John V. Rember Organization Rember Properties LLC  
Professional Title Manager Email Address (same)  
Mailing Address (same) Phone Number (same)

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.

Glendale canal diversion works IN 18E Sec.12 NWSE SW

- 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. Water right # A 37-00601 (also applying for water bank)

- 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.

- 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. None - in Water Bank since February 2011

- 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 2021 (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.

John V. Bowler  
Signature of Designated Applicant

John Rember, Manager  
Printed Name

1/8/2016  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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

Mr. Clay Webster  
Idaho Department of Water Resources  
PO Box 83720  
Boise, ID 83720-0098

Dear Mr. Webster,

On behalf of the Glendale Lateral Water Users Association, the Association Officers consent to the Rember Property LLC's application to lease water rights A37-00601 and A37-00420 to the state Water Bank.

Please call or email me if you have any further questions.

Respectfully,



Dr. Robin Tomasi  
Secretary-Treasurer

208-481-1600  
tomasirobin@gmail.com

Officers:  
Bryan Dilworth, President  
Dan Brown, Vice President  
Robin Tomasi, Secretary-Treasurer



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

February 24, 2016

REMBER PROPERTIES LLC  
PO BOX 195  
STANLEY ID 83278

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHTS 37-420 and 37-601**

Dear Lessor:

Water rights 37-420 and 37-601 were leased into the Water Supply Bank (Bank) as of January 11, 2016, in accordance with the enclosed executed lease contracts. **Your water rights, as described on the lease contracts, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2020**, unless the rights are 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 rights 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](http://www.idwr.idaho.gov). **Please note your water rights may not be available for immediate release if they have been rented or are 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: Allen Merritt - IDWR Southern Region  
Kevin Lakey - Water District 37  
Robin Tomasi - Glendale Lateral Water Users Association

## Hersley, Jean

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**From:** Kevin Lakey <watermanager@cableone.net>  
**Sent:** Monday, February 08, 2016 8:23 AM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease Application for Rember Properties 37-420 and 37-601

I have no concerns with this application.

Kevin Lakey  
Water District 37

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**From:** Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]  
**Sent:** Thursday, February 04, 2016 11:42 AM  
**To:** Merritt, Allen; Kevin Lakey  
**Subject:** WSB Lease Application for Rember Properties 37-420 and 37-601

These rights have been in the Bank since 2011 so this is a renewal. The entirety of both rights are being offered to the Bank. Attached in the review memo, draft contract and map. Please let me know if you have any comments or concerns within 7 days. 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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

February 5, 2016

REMBER PROPERTIES LLC  
PO BOX 195  
STANLEY ID 83278

**RE: APPLICATIONS TO LEASE WATER RIGHT 37-420 and 37-601 TO THE WATER SUPPLY BANK**

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

Dear Applicant:

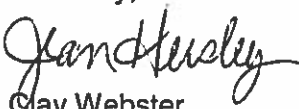
The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** 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*   
Clay Webster  
Water Resource Agent  
Water Supply Bank Point of Contact

Enclosure: Proposed Lease Contracts  
Receipt # C101401

## Hersley, Jean

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**From:** Merritt, Allen  
**Sent:** Thursday, February 04, 2016 1:04 PM  
**To:** Hersley, Jean  
**Subject:** RE: WSB Lease Application for Rember Properties 37-420 and 37-601

I do not have any issue.

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**From:** Hersley, Jean  
**Sent:** Thursday, February 04, 2016 11:42 AM  
**To:** Merritt, Allen; Kevin Lakey  
**Subject:** WSB Lease Application for Rember Properties 37-420 and 37-601

These rights have been in the Bank since 2011 so this is a renewal. The entirety of both rights are being offered to the Bank. Attached in the review memo, draft contract and map. Please let me know if you have any comments or concerns within 7 days. Thank you.

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

Hersley, Jean

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**From:** Hersley, Jean  
**Sent:** Thursday, February 04, 2016 11:46 AM  
**To:** Merritt, Allen; 'Kevin Lakey'  
**Subject:** WSB Lease Application for Rember Properties 37-420 and 37-601  
**Attachments:** Idled Acres 37-420 37-601.pdf; Lease Application Review 37-420 & 37-601.xls; Lease Contract 37-420 37-601.docx

These rights have been in the Bank since 2011 so this is a renewal. The entirety of both rights are being offered to the Bank. Attached in the review memo, draft contract and map. Please let me know if you have any comments or concerns within 7 days. Thank you.

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



RECEIVED  
JAN 11 2016  
DEPARTMENT OF  
WATER RESOURCES

January 8, 2016

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

Dear Mr. Clay Webster,

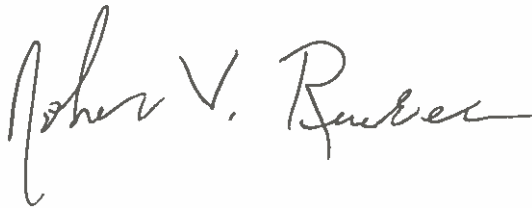
Attached please find two applications to lease a water right to the water supply bank from Rember Properties LLC. These water rights – A37-00420 and A37-00601 were in the water bank since 2011 and we are applying to lease them to the water bank for another five years.

We have included:

- Application forms for each water right
- A W-9 for Rember Properties LLC
- A copy of Rember Properties LLC's most recent annual report with the Idaho Secretary of State, showing that John V. Rember is a manager of the LLC
- A map of the property where the water right will not be used while it is in the bank
- A letter from the Glendale Lateral Water Users Association, saying they consent to our application
- A \$500 check to the IDWR

Please let me know if you need any further information.

Sincerely,



John V. Rember  
Manager, Rember Properties LLC  
P.O. Box 195  
Stanley, ID 83278  
208-774-3430