

WATER SUPPLY BANK LEASE CONTRACT

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FEB 09 2016

DEPARTMENT OF
WATER RESOURCES

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

LESSOR: RUSSELL DION
PO BOX 1029
BELLEVUE ID 83313
208-788-5363

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 October 13, 2015, the Lessor filed an application to lease the water right(s) 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
37-2557R	09/25/1954	GROUND WATER	NA	0.080 cfs	14.0 af	4.0 ac
37-21858	03/24/1883	BIG WOOD RIVER	MALAD RIVER	0.080 cfs	17.5 af	5.0 ac
37-21875	07/10/1884	BIG WOOD RIVER	MALAD RIVER	0.005 cfs	17.5 af	5.0 ac
37-21892	09/18/1885	BIG WOOD RIVER	MALAD RIVER	0.050 cfs	17.5 af	5.0 ac
37-21909	06/12/1886	BIG WOOD RIVER	MALAD RIVER	0.005 cfs	17.5 af	5.0 ac
37-21926	06/15/1891	BIG WOOD RIVER	MALAD RIVER	0.130 cfs	17.5 af	5.0 ac

Lease Totals 0.35 cfs* 17.5 af* 5.0 ac

*Limited to 0.28 cfs & 14.0 af 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.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect from January 1, 2016 until December 31, 2020.

SUPPORT DATA

FILE # 37-2557R

FEB 09 2016

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

4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

RUSSELL DION
PO BOX 1029
BELLEVUE ID 83313

By 
Printed Name Russell Dion

Date 2/5/16
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 2/9/2016

Lease approved by IDWR 

Date 2-9-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO(S). 37-2557R, 37-21858, 37-21875,
37-21892, 37-21909, and 37-21926

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

Lessor: RUSSELL DION
PO BOX 1029
BELLEVUE ID 83313
208-788-5363

Location of Point(s) of Diversion for Water Right 37-2557R,

GROUND WATER L4 (SWSW) Sec. 07, Twp 01N, Rge 19E, BLAINE County

Location of Point of Diversion for Water Rights 37-21858, 37-21875, 37-21892, 37-21909 & 37-21926

BIG WOOD RIVER NESWNW Sec. 36, Twp 02N, 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>
37-2557R	IRRIGATION	04/15 to 10/31		0.080 cfs	14.0 af
37-21858	IRRIGATION	04/15 to 10/31		0.080 cfs	17.5 af
37-21875	IRRIGATION	04/15 to 10/31		0.005 cfs	17.5 af
37-21892	IRRIGATION	04/15 to 10/31		0.050 cfs	17.5 af
37-21909	IRRIGATION	04/15 to 10/31		0.005 cfs	17.5 af
37-21926	IRRIGATION	04/15 to 10/31		0.130 cfs	17.5 af
Total:				0.35 cfs	17.5 af

Place of Use to be Idled Under This Lease: IRRIGATION

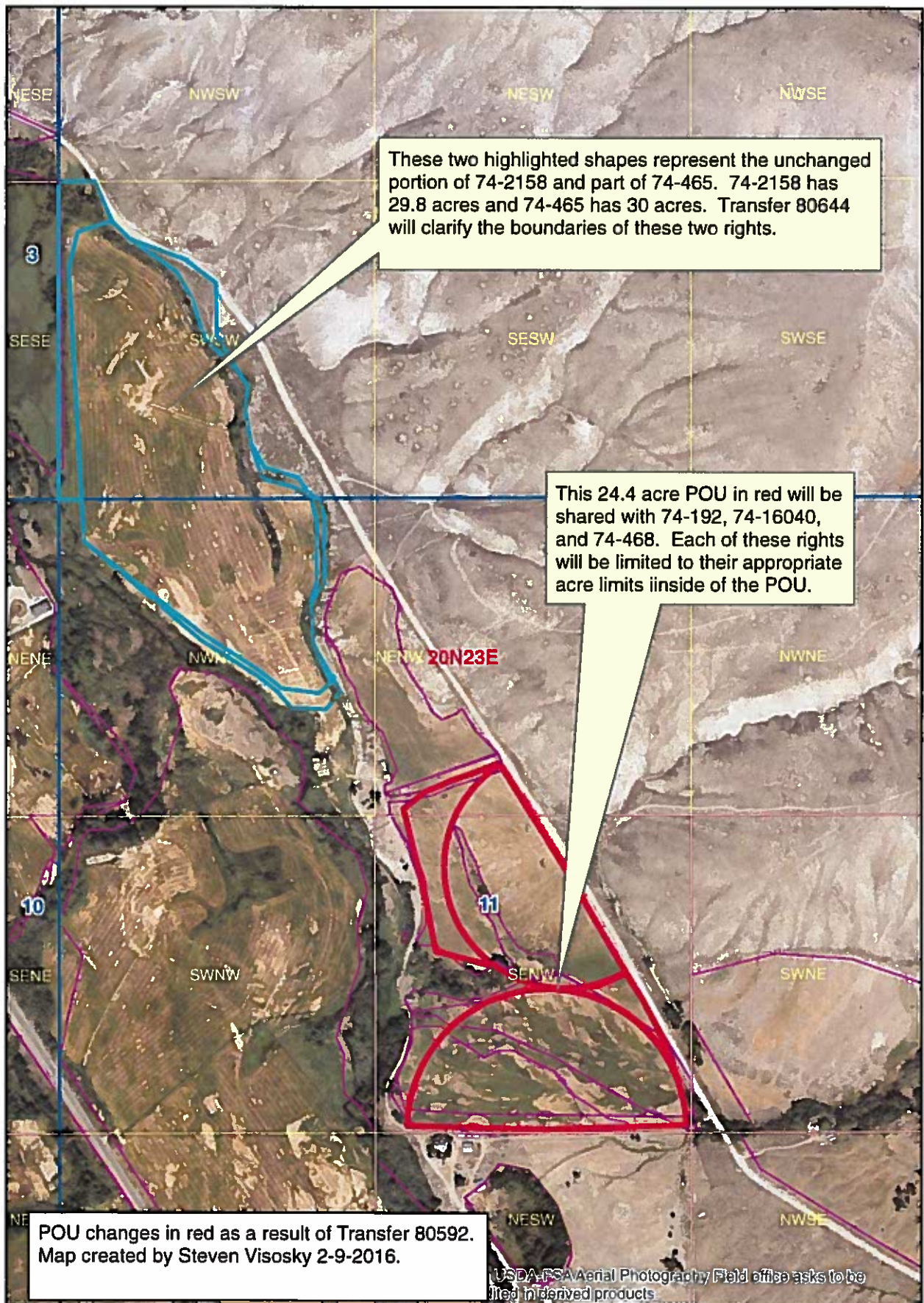
Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	19E	7											5.0 L4						5.0

Total Acres: 5.0

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 right(s) leased to the bank <is/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. Water right 37-2557R may only be rented for use as a supplemental right in conjunction with a primary surface water right.
13. 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.
14. When combined with all other rights, the water right shall provide not more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
15. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Irrigation District #45 canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.07 cfs of the leased portion of this right into the Irrigation District #45 Canal whether it is rented or not.
16. Water right 37-2557R shall not be used if the surface water rights appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
17. Water rights 37-2557R, 37-21858, 37-21875, 37-21892, 37-21909 and 37-21962 are limited to the irrigation of a combined total of 5 acres in a single irrigation season.
18. Point of diversion described for water rights 37-21858, 37-21875, 37-21892, 37-21909 and 37-21962 is the headgate for District 45 canal.



Idaho Water Resource Board
Water Supply Bank Lease

37-2557R, 37-21858, 37-21875, 37-21892, 37-21909, 37-21926

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



100 0 Feet

RECEIVED

OCT 13 2015

DEPARTMENT OF
WATER RESOURCES

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

Water Right No. 37-21926
(One water right per application)

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Contact information for <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 1E | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☒ | ☐ | Description of a water right portion offered to the Water Supply Bank. |
| 3E | ☐ | ☒ | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to <u>Section 42-222(2), Idaho Code</u> . |
| 4 | | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |

Department Use Only

Fee Amount \$ <u> </u>	Received By: <u>di</u>	Date Received: <u>10-13-15</u>	Receipt # <u>C101089</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Russell A Dion</u>	

PO Box 1029
Bellevue ID 83313

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 Russell Dion Email Address _____

Mailing Address P.O. Box 1029, Bellevue, ID 83313 Phone Number (208) 788-5363

☐ 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 Roxanne Brown Organization SPF Water Engineering

Professional Title _____ Email Address rbrown@spfwater.com

Mailing Address 300 E. Mallard Dr., Ste. 350, Boise, ID 83706 Phone Number (208) 383-4140

☐ 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 37-21926 ☒ 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.

The current delivery system does not reach the applicant's property due to subdivision development.

- 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.
Overlapping water rights: 37-2557R, 37-21858, 37-21875, 37-21892, 37-21909, 37-21926

- 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. Less than 1/2-acre of landscape irrigation is now provided by the applicant's domestic well.

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. An SRBA decree of this water right was issued September 24, 2010.

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)

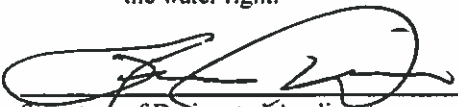
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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 of Designated Applicant

Russell Dion
Printed Name

9/8/15
Date


Signature of Authorized Representative

Roxanne Brown
Printed Name

Date

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



 Property_Boundary

Place of Use Idled

 37-2557R

 37-21858, 37-21875, 37-21892, 37-21909, 37-21926

Dion IWSB Lease Applications

N
↑

500

Feet



**STATE OF IDAHO
WATER RESOURCE BOARD**

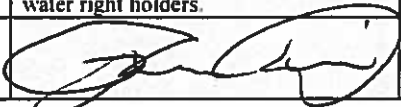
ATTACHMENT 1A

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). 37-2557R, 37-21858, 37-21875, 37-21892, 37-21909, 37-21926

	Designated Applicant	Applicant #2	Applicant #3
Name	Russell Dion	Michelle Dion	
Mailing Address	P.O. Box 1029 Bellevue, ID 83313	same	
Phone Number	(208) 788-5363	same	
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			