

# WATER SUPPLY BANK LEASE CONTRACT

RECEIVED  
DEC 30 2015  
DEPARTMENT OF  
WATER RESOURCES

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

**LESSOR: JUDE P & JULIA MANDEVILLE DAMASCO TRUST**  
PO BOX 4589  
HAILEY ID 83333  
650-479-9314

## 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 28, 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 |
|-------------|---------------|----------------|-------------|-------------|----------------------|--------------------|
| 37-297D     | 11/26/1886    | BIG WOOD RIVER | MALAD RIVER | 0.03 cfs    | 2.5 af               | 0.7 ac             |
| 37-20359    | 03/24/1883    | BIG WOOD RIVER | MALAD RIVER | 0.01 cfs    | 2.5 af               | 0.7 ac             |

**Lease Totals**

IN FILE # 37-297D

0.04 cfs

2.5 af

0.7 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.

## WATER SUPPLY BANK LEASE CONTRACT

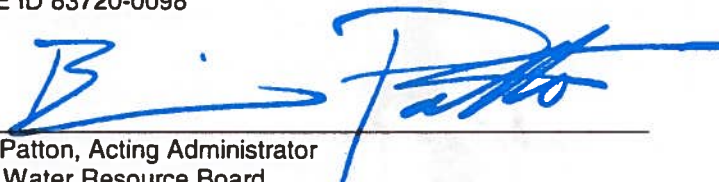
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

**JUDE P & JULIA MANDEVILLE DAMASCO TRUST**  
PO BOX 4589  
HAILEY ID 83333

By   
Printed Name: JULIA DAMASCO

Date 12/15/15  
Title TRUSTEE

**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 12/30/2015

Lease approved by IDWR 

Date 12-30-2015

## ATTACHMENT A

### WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO(S). 37-297D and 37-20359

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

**Lessor:** JUDE P & JULIA MANDEVILLE DAMASCO TRUST  
PO BOX 4589  
HAILEY ID 83333  
650-479-9314

**Location of Point(s) of Diversion for Water Right 37-297D.**

BIG WOOD RIVER                      SWNW                      Sec. 20, Twp 03N, Rge 18E, BLAINE County

**Location of Point(s) of Diversion for Water Right 37-20359**

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> |
|--------------------|-----------------------|----------------|-----------|-----------------------|---------------|
| 37-297D            | IRRIGATION            | 04/15 to 10/31 |           | 0.03 cfs              | 2.5 af        |
| 37-20359           | IRRIGATION            | 04/15 to 10/31 |           | 0.01 cfs              | 2.5 af        |
| <b>Total:</b>      |                       |                |           | <b>0.03 cfs</b>       | <b>2.5 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 |        |
| 03N | 18E | 33  |    |    |    |    |    |    |    |    |    |    |    | 0.7 |    |    |    |    | 0.7    |

Total Acres:    0.7

**Conditions Applicable to All Leased Water Rights**

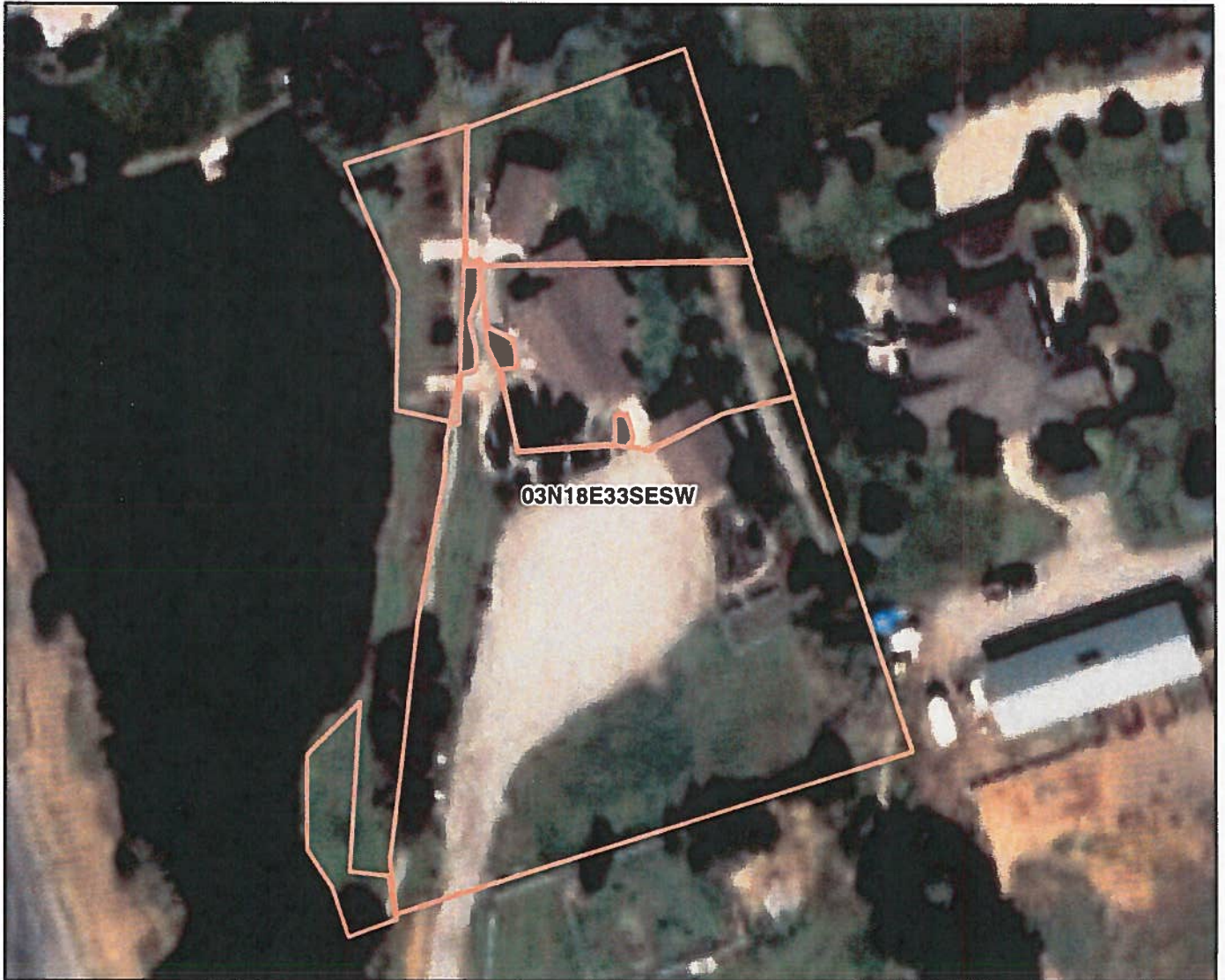
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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. 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 0.009 of the leased portion of these right into the Hiawatha Canal whether it is rented or not.
14. Unleased portions of rights 37-297D and 37-20359 are limited to irrigation of a combined total of 0.4 acres in a single irrigation season.
15. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.

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

37-297D and 37-20359  
Effective until December 31, 2015

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



0 100 200 Feet

RECEIVED

OCT 28 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 Jude P and Julia Mandeville Damasco  
(Select one owner – see item 1A on the application)

Water Right No. 37-20359  
(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 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Contact information for <b>all owners</b> of the water right that is being leased or sold on this application.                                                                                                                                                                                                                                         |
| 1B | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | An <a href="#">Internal Revenue Service (IRS) Form W-9</a> for the Designated Applicant.                                                                                                                                                                                                                                                               |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).                                                                                                                                                                                                                   |
| 1D | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Written consent from irrigation district or water delivery company.                                                                                                                                                                                                                                                                                    |
| 1E | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank.                                                                                                                                                                                                                                                                                 |
| 3E | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to <a href="#">Section 42-222(2), Idaho Code</a> .                                                                                                                                                                                              |
| 4  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 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: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .                                                            |

#### Department Use Only

|                                                                                   |                        |                                              |                          |
|-----------------------------------------------------------------------------------|------------------------|----------------------------------------------|--------------------------|
| Fee Amount \$ <u>250.00</u>                                                       | Received By: <u>dy</u> | Date Received: <u>10-28-15</u>               | Receipt # <u>C101141</u> |
| W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | (Route W-9 to Fiscal)  | Name on W-9: <u>Julia Mandeville Damasco</u> |                          |

PO Box 4589  
Hailey ID 83333 Page 1

## 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 Jude P and Julia Mandeville Damas Email Address \_\_\_\_\_

Mailing Address P.O. Box 4589 Hailey, ID 83333 Phone Number 650-479-9314

☒ 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 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

Water Right Number 37-20359 ☐ 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.

37-20359 is re-diverted from a lateral off of the Hiawatha Canal. A buried pressurized sprinkler system irrigates to the property.

- 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.  
Portions of 37-297D and 37-20359 are being offered for lease.

- 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. 37-297D and 37-20359

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. N/A.

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. N/A.

#### 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.

The current market rate for rentals in the Wood River Valley is approximately \$3000 per acre per year, (assumed diversion volume of 3.5 ac-ft/ac for surface water). Therefore, acceptable payment for this right is \$850 per ac-ft.

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

Printed Name

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**

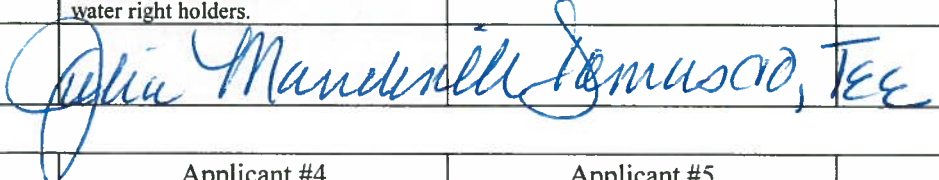
**ATTACHMENT 1A**

**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). 37-297D, 37-20359

|                       | Designated Applicant                                                                                 | Applicant #2                                                                  | Applicant #3                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Name                  | Jude P and Julia Mandeville<br>Damasco Trust                                                         |                                                                               |                                                                               |
| Mailing Address       | P.O Box 4589 Hailey, ID 83333                                                                        |                                                                               |                                                                               |
| 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**

## ATTACHMENT 2

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

- | 1. <u>Water Right Number</u> | <u>Amount (cfs/ac-ft)</u> | <u>Nature of Use</u> | <u>Period of Use</u>        |
|------------------------------|---------------------------|----------------------|-----------------------------|
| <u>37-20359</u>              | <u>0.013 cfs</u>          | <u>Irrigation</u>    | <u>4/15</u> to <u>10/31</u> |
|                              |                           |                      | to                          |
|                              |                           |                      | to                          |
|                              |                           |                      | to                          |
|                              |                           |                      | to                          |
|                              |                           |                      | to                          |
|                              |                           |                      | to                          |
|                              |                           |                      | to                          |
| <b>Total Amount:</b>         | <b>0.013 cfs</b>          |                      |                             |

2. Source of water Big Wood River tributary to Malad River

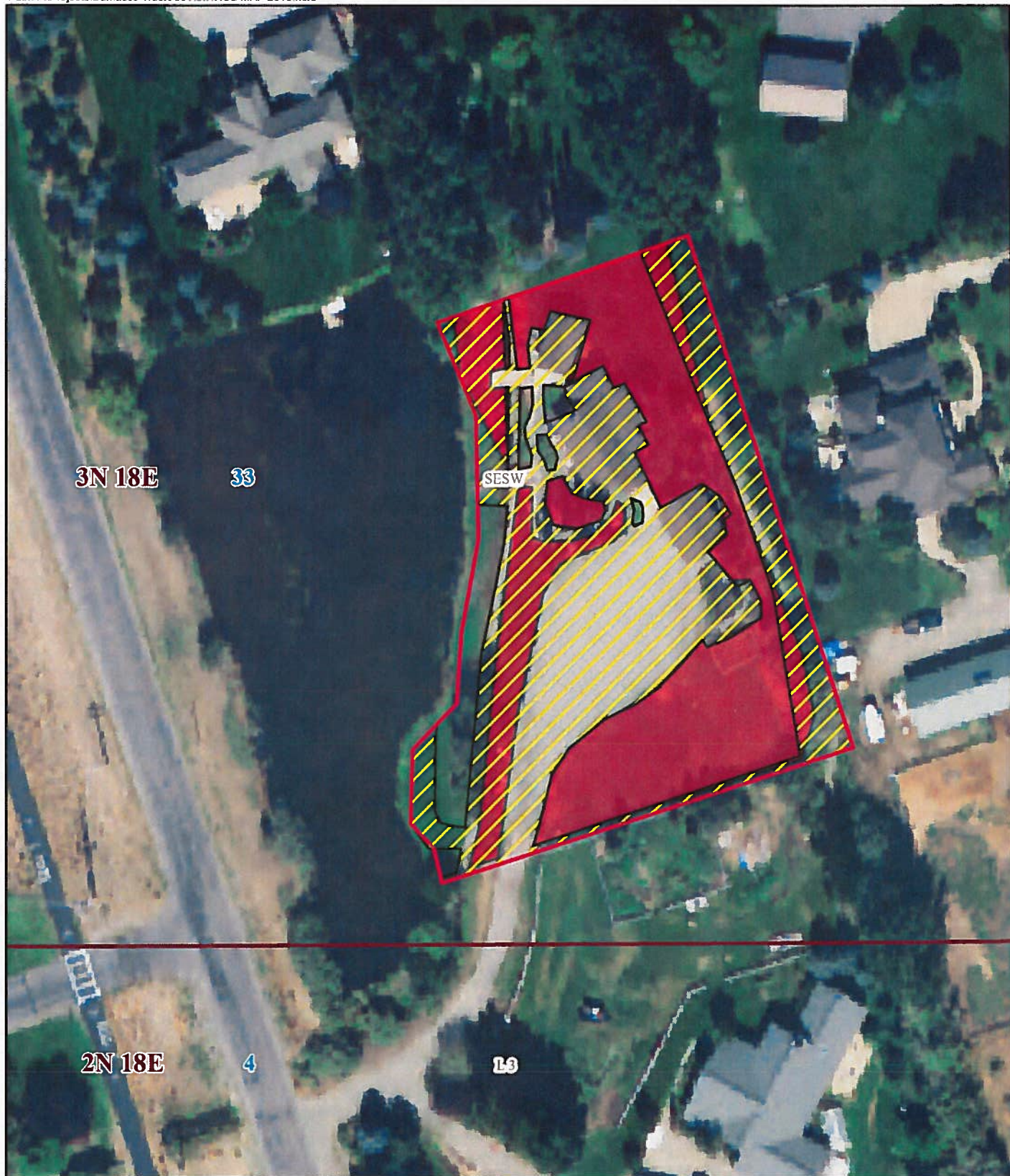
3. Point(s) of diversion:

[illegible]

- 4. Acres to be idled within the place of use:**

[illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 0.7



0 20 40 80 Feet

**JUDE P & JULIA MANDEVILLE DAMASCO TRUST  
WATER BANK LEASE 37-297D & 37-20359  
NAIP 2013 AERIAL**

BROCKWAY ENGINEERING, PLLC.  
ALR - Date: 10/26/2015

**Legend**

**WaterUse**

IRRIGATION POU

WSB\_LEASE 0.7 AC.

Domestic\_Exception 0.5

twshp  
first  
ledesc



RECEIVED

SEP 11 2015

DEPARTMENT OF  
WATER RESOURCES

# HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

September 4, 2015

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

*Re: Hiawatha Canal Water Leases; Jude P. and Julia Mandeville Damasco Trust, 37-297D, 37-20359; Red Devil Mountain Homeowners Association, 37-28F, 37-297K; Koss Family Limited Partnership, 37-20925 and 37-20927*

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 rights 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 Hiawatha Canal being placed in the Water Bank provided that if the water rights are leased to parties outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right 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.

Cherie Palmer  
Page 2  
September 4, 2015

Accordingly, the Canal Company does not presently object to the water rights being placed in the Water Bank by Jude P. and Julia Mandeville Damasco, 37-297D, 37-20359; Red Devil Mountain Homeowners Association, 37-28F, 37-297K; and the Koss Family Limited Partnership, 37-20925 and 37-20927, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss.

Furthermore, since each user is placing a portion, and not all, of each water right into the Water Bank, then the Canal requires that each user place measuring devices at the point of diversion off of the Canal to insure that the water right holders are not being delivered more water than is allowed under the Leases.

Thank you in advance for responding to this letter and addressing our concerns. If you have any questions, please do not hesitate to call me.

Sincerely,

HIAWATHA CANAL COMPANY

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

David Cropper, President

FXH: fxh  
cc: client  
Zack Latham