

RECEIVED

AUG 25 2015

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

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

Lessor: STALKER CREEK RANCH LLC

PO BOX 739

SUN VALLEY ID 83353

208-726-3546

john@donderos.org

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. The Lessor has filed a completed application originally on April 8, 2015 to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
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 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

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
37-2609B	0.17 CFS	32.9 AF	NA	9.4 AC
37-2618	0.14 CFS	32.9 AF	NA	9.4 AC
Combined Lease Totals:	0.27 CFS	12.8 AF	NA	9.4 AC

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: See Individual Water Right

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 until December 31, 2015.
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.

SUPPORT DATA

IN FILE #

37-2609B

5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

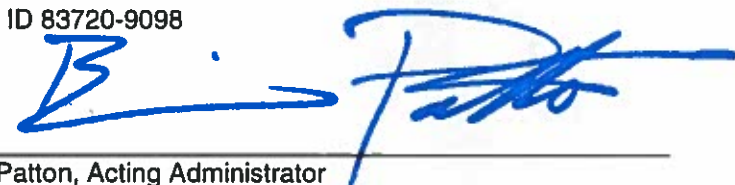
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

STALKER CREEK RANCH LLC
PO BOX 739
SUN VALLEY ID 83353

By 
Printed Name John Dondero

Date 8/21/2015
Title Managing Member

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 8/26/2015

Lease approved by IDWR 

Date 8-26-2015

ATTACHMENT A
WATER RIGHT NO. 37-2609B
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: STALKER CREEK RANCH LLC
 PO BOX 739
 SUN VALLEY ID 83353
 208-726-3546

Priority Date: 10/08/1958

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15 to	10/31	0.17 CFS	32.9 AF
	Total:		0.17 CFS	32.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW¼SE¼SW¼	Sec. 22, Twp 01S, Rge 19E, BLAINE County (I)
GROUND WATER	SW¼SE¼SW¼	Sec. 22, Twp 01S, Rge 19E, BLAINE County
GROUND WATER	NE¼NE¼SE¼	Sec. 27, Twp 01S, Rge 19E, BLAINE County ®

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	19E	27			1.3	0.2									2.3	5.6			9.4

Total Acres: 9.4

ADDITIONAL CONDITIONS OF ACCEPTANCE

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, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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, or improve the status of the right including the notion of 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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank 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. The unleased portions of water rights 37-2609B and 37-2618 are limited to a total combined diversion rate of 2.99 cfs and to a total combined diversion volume of 557.0 AF.
13. The unleased portion of water rights 37-2609B and 37-2618 are limited to the irrigation of a combined total of 153.5 acres in a single irrigation season.
14. The unleased portions of water rights 37-2609B, 37-2618 and 37-7800 are limited to the irrigation of a combined total of 262.08 acres in a single irrigation season.
15. The unleased portions of water rights 37-2609B, 37-2618 and 37-7800 are limited to a total combined diversion rate of 5.17 cfs and to a total combined annual diversion volume of 1027.77 AF.
16. The use of water under this right will be regulated by a watermaster with the responsibility for distributing water among appropriators. At the time of this approval, this water right is within State Water District No. 37.

ATTACHMENT A
WATER RIGHT NO. 37-2618
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: STALKER CREEK RANCH LLC
 PO BOX 739
 SUN VALLEY ID 83353
 208-726-3546

Priority Date: 06/29/1959

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.14 CFS	32.9
	Total:		0.14 CFS	32.9

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NE¼SW¼ Sec. 26, Twp 01S, Rge 19E, BLAINE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	19E	27			1.3	0.2									2.3	5.6			9.4

Total Acres: 9.4

ADDITIONAL CONDITIONS OF ACCEPTANCE

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, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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, or improve the status of the right including the notion of 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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank 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. The unleased portions of water rights 37-2609B and 37-2618 are limited to a total combined diversion rate of 2.99 cfs and to a total combined annual diversion volume of 557.0 af.
13. The unleased portions of water rights 37-2609B and 37-2618 are limited to the irrigation of a combined total of 153.5 acres in a single irrigation season.
14. The unleased portions of water rights 37-2609B, 37-2618 and 37-7800 are limited to the irrigation of a combined total of 262.08 acres in a single irrigation season.
15. The unleased portions of water rights 37-2609B, 37-2618 and 37-7800 are limited to a total combined diversion rate of 5.17 cfs and to a total combined diversion volume of 1027.77 af.
16. The unleased portions of water rights 37-2618 and 37-7800 are limited to a total combined annual diversion volume of 557.0 af.
17. The unleased portions of water rights 37-2618 and 37-7800 are limited to the irrigation of a combined of 254.5 acres in a single irrigation season.
18. The use of water under this right is regulated by a watermaster with the responsibility for distributing water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.

AUG 06 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 Stalker Creek Ranch LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-2609B
(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 Internal Revenue Service (IRS) Form W-9 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 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 \$	Received By:	Date Received:	Receipt #
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9:	

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 Stalker Creek Ranch LLC Email Address john@donderos.org
Mailing Address PO Box 739, Sun Valley, ID 83353 Phone Number 208-726-3546

☒ 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, ID 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 37-2609B ☐ 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.

- 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.

- 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. _____

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: 2015 to 2015 (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.

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

John Dondoro
Printed Name

3-19-15
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 2

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

1. Water Right Number Amount (cfs/ac-ft) Nature of Use Period of Use

37-2609B 0.17cfs/32.9AF irrigation April 15 to October 31

_____ to _____

_____ to _____

_____ to _____

_____ to _____

Total Amount: 0.17cfs/32.9AF

2. Source of water _____ ground water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
1S	19E	22		SW	SE	SW	Blaine
1S	19E	22		SW	SE	SW	Blaine (injection)
1S	19E	27		NE	NE	SE	Blaine (rediversion)

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

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1S	19E	27			1.3	0.2									2.3	5.6			9.4

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 9.4



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 27, 2015

STALKER CREEK RANCH LLC
PO BOX 739
SUN VALLEY ID 83353

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-2609B and 37-2618

Dear Lessor:

Water Rights **37-2609B and 37-2618** were leased into the Water Supply Bank on in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** 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. This form is available from our public website at www.idwr.idaho.gov.

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
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Speck & Aanestad
IDWR Southern Region
Kevin Lakey – Water District No. 37



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 18, 2015

AMENDED

STALKER CREEK RANCH LLC
PO BOX 739
SUN VALLEY ID 83353

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-2609B and 37-2618 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(s) to the Water Supply Bank. **I have enclosed two original of each 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 rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are 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 Gary Webster
Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c: Speck & Aanestad

Webster, Clay

From: Webster, Clay
Sent: Monday, August 17, 2015 1:53 PM
To: 'Jim Speck'
Subject: Stalker Creek Ranch WSB Lease Contracts for 37-2609B and 37-2618

Jim,

You were correct on the acre limits on this lease. We will be sending a new contract to your clients and a copy to you. Please have them discard the contract that was already sent. They should get the new one within a few days. Thank you for the assistance.

Sincerely,

Clay Webster

Water Resource Agent
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098
208-287-4800
www.idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 12, 2015

STALKER CREEK RANCH LLC
PO BOX 739
SUN VALLEY ID 83353

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-2609B, 37-2618 and 37-7800 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(s) to the Water Supply Bank. **I have enclosed two original of each 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 rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are 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
Gary Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c: Speck & Aanestad



State of Idaho

DEPARTMENT OF WATER RESOURCES

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August 12, 2015

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PO BOX 739
SUN VALLEY ID 83353

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-2609B, 37-2618 and 37-7800 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(s) to the Water Supply Bank. **I have enclosed two original of each 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 rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are 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,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c: Speck & Aanestad

MEMORANDUM

To: Water Right No(s). 37-2609B and 37-2618
From: Jean Hersley
Date: July 22, 2015 and August 7, 2015 (see remarks in red)
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: These application(s) were received on April 8, 2015. The applicant wishes to place a portion, 9.4 acres of each water right in the Bank. These rights are overlapping so it is the same 9.4 acres. These are pivot corners.

AUTHORITY TO FILE: John Dondero, current registered agent and manager, signed the applications.

WATER RIGHT VALIDITY: Water right 37-2609B was decreed in 2008. A review of aerial photography between 2008 and 2014 showed no evidence of irrigation on the acres proposed to be leased to the Bank. This application is being denied and returned to the applicant. Since the proposed acres completely overlap with water right 37-2618, this application is also being denied. We can't lease one without the other or enlargement would be an issue.

After further review of the file, Don McGrath, who has an agreement with Stalker Creek Ranch, filed an Application for Temporary Change in the POU of a portion of water right 37-2609B. The acres not being irrigated during this term of the TC are the same acres the applicant wishes to place in the Bank. Therefore, these rights will be accepted into the Bank until the end of 2015.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right(s) ~~are not~~ subject ~~any Water District or~~ are subject to Water District # ~~2~~

37. *gnt*

Hersley, Jean

From: Jim Speck <jim@speckandaanestad.com>
Sent: Monday, July 27, 2015 11:04 AM
To: Hersley, Jean
Cc: Webster, Clay; Buyer, Remington; 'John Dondero'
Subject: Re: Dondero/Stalker Creek Ranch
Attachments: Memo 2 - Forfeiture Review Period.pdf; order authorizing temp change.pdf

Jean,

I just received a copy of your letter to my client denying the Applications to Lease for portions of Water Rights 37-2609B and 37-2618 which irrigate 9.4A. 37-2609B was decreed in 2008. Therefore, per the Department's Administrator's Memorandum on Forfeiture Review Period, dated March 5, 2012 (copy attached), resumption of use in 2014 should be considered a defense against the forfeiture even if the right was not used during the 2009 through 2013 period. 37-2609B was in fact used in 2014 pursuant to the attached Order Authorizing Temporary Change. Therefore, we believe the WSB lease applications have been timely submitted. Please call me to discuss.

Than you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

CONFIDENTIAL COMMUNICATION

This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

RECEIVED

AUG 06 2015

DEPARTMENT OF
WATER RESOURCES

August 4, 2015

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

At the request of Jim Speck, we are respectfully resubmitting our application to lease water rights 37-2609B and 37-2618.

A copy of email correspondence with Jim Speck is also enclosed for your reference.

Thanks you.

Sincerely,



John Dondero

Stalker Cr Ranch, LLC
P.O. Box 739
Sun Valley, ID 83353
john@donderos.org

cc: Jim Speck

From: Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]

Sent: Tuesday, August 04, 2015 10:31 AM

To: Jim Speck

Subject: RE: RE: Dondero/Stalker Creek Ranch

I did send the application for 37-2618 back. Stalker Ranch can send that application back to me also.

From: Jim Speck [<mailto:jim@speckandaanestad.com>]

Sent: Tuesday, August 04, 2015 10:14 AM

To: Hersley, Jean

Cc: 'John Dondero'

Subject: RE: RE: Dondero/Stalker Creek Ranch

Jean,

How about the 37-2618 lease application? That right was decreed June 29, 2010 so the 5 year forfeiture period has not run. Did you send the original, signed applications back to the applicant?

Thanks.

Jim

From: Hersley, Jean

Sent: Tuesday, August 04, 2015 10:04 AM

To: Jim Speck

Jim,

I missed the Temporary change in the file. Please resubmit the application for water right 37-2609B to my attention with no fee. The Department will process the application as soon as it is received. Sorry for the confusion.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

From: Jim Speck [<mailto:jim@speckandaanestad.com>]

Sent: Monday, July 27, 2015 11:04 AM

To: Hersley, Jean

Cc: Webster, Clay; Buyer, Remington; 'John Dondero'

Subject: Re: Dondero/Stalker Creek Ranch

Jean,

I just received a copy of your letter to my client denying the Applications to Lease for portions of Water Rights 37-2609B and 37-2618 which irrigate 9.4A. 37-2609B was decreed in 2008. Therefore, per the Department's Administrator's Memorandum on Forfeiture Review Period, dated March 5, 2012 (copy attached), resumption of use in 2014 should be considered a defense against the forfeiture even if the right was not used during the 2009 through 2013 period. 37-2609B was in fact used in 2014 pursuant to the attached Order Authorizing Temporary Change. Therefore, we believe the WSB lease applications have been timely submitted. Please call me to discuss.

Thank you.

Jim

James P. Speck

SPECK & AANESTAD

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P.O. Box 987

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208.726.4421

208.726.0752 (fax)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

July 23, 2015

STALKER CREEK RANCH LLC
PO BOX 739
SUN VALLEY ID 83353

RE: DENIAL OF APPLICATION(S) TO LEASE A PORTION OF WATER RIGHT NO(S). 37-2609B and 37-2618 TO THE WATER SUPPLY BANK

Dear Applicant:

On April 8, 2015, the Department of Water Resources (Department) received your application(s) to lease water right(s) 37-2609B and 37-2618 to the Water Supply Bank (Bank). Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

A review of aerial photography between 2008 when water right 37-2609B was partially decreed in the Snake River Basin Adjudication and 2014 shows no evidence of irrigation on the acres proposed to be leased to the Bank. The proposed acres are commonly called the pivot corners, or corners that would no longer be irrigated when a pivot is installed.

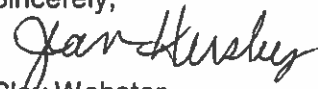
Because of this evidence of more than five years of non-use, the requirements of Water Supply Bank Rule 25 cannot be met and the attached lease application(s) is **denied**. Since water right 36-2618 overlaps with 36-2609B, both applications are being denied and returned to you. Department resources were expended in order to provide a full review of your applications. Therefore, the lease application filing fees will not be refunded.

Water right 37-7800 meets the Department criteria, the portions you requested will be leased to the Bank.

Please note that a water right is not protected from forfeiture unless it is accepted into the Bank or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may also consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form(s) available from the Department's website at www.idwr.idaho.gov.

If you have any questions regarding this matter, please contact me at (208) 287-4944.

Sincerely,


for Clay Webster
Water Resource Agent
WSB Process Point of Contact

C: Speck & Aanestad

RECEIVED

APR 08 2015

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

DEPARTMENT OF
WATER RESOURCES

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 Stalker Creek Ranch LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-2609B
(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>750.00</u>	Received By: <u>LSH</u>	Date Received: <u>4-8-15</u>	Receipt # <u>C106262</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Stalker Creek Ranch LLC</u>	

D. Will the present place of use continue to receive water from any other source?

Yes ☐ No ☒

If yes, describe. _____

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: 2015 to 2015 (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.

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

John Dendero
Printed Name

3-19-15
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 2

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

<u>I. Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>37-2609B</u>	<u>0.17cfs/32.9AF</u>	<u>irrigation</u>	<u>April 15</u> to <u>October 31</u>
			to
			to
			to
			to
			to
Total Amount:	<u>0.17cfs/32.9AF</u>		

2. Source of water ground water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
1S	19E	22		SW	SE	SW	Blaine
1S	19E	22		SW	SE	SW	Blaine (injection)
1S	19E	27		NE	NE	SE	Blaine (rediversion)

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 9.4



STALKER CREEK RANCH, LLC
APPLICATIONS TO LEASE PORTIONS OF WATER RIGHTS
37-2609B, 37-2618 & 37-7800
ATTACHMENT 4

- [illegible]

LEGEND

BOUNDARY LINE
SECTION LINES
FOUND OR SET MONUMENT AS SHOWN
CURRENTLY IRRIGATED AREAS
IRRIGATED AREA PER IDWR

MEMORANDUM

To: Water Right No(s). 37-2609B and 37-2618
From: Jean Hersley
Date: July 22, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: These application(s) were received on April 8, 2015. The applicant wishes to place a portion, 9.4 acres of each water right in the Bank. These rights are overlapping so it is the same 9.4 acres. These are pivot corners.

AUTHORITY TO FILE: John Dondero, current registered agent and manager, signed the applications.

WATER RIGHT VALIDITY: Water right 37-2609B was decreed in 2008. A review of aerial photography between 2008 and 2014 showed no evidence of irrigation on the acres proposed to be leased to the Bank. This application is being denied and returned to the applicant. Since the proposed acres completely overlap with water right 37-2618, this application is also being denied. We can't lease one without the other or enlargement would be an issue.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right(s) <are not subject any Water District or are subject to Water District # ?.>

No. W 88840	Due no later than Dec 31, 2014 Annual Report Form		2. Registered Agent and Address (NO PO BOX)
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE			JOHN DONDERO 118 RAIL RD KETCHUM 83340 3. <u>New</u> Registered Agent Signature:*
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.			
Office Held MANAGER	Name JOHN D DONDERO	Street or PO Address PO BOX 739	City State Country Postal Code SUN VALLEY ID USA 83353
5. Organized Under the Laws of: ID W 88840	6. Annual Report must be signed.* Signature: John Dondero Date: 10/16/2014 Name (type or print): John Dondero Title: Manager		
Processed 10/16/2014 * Electronically provided signatures are accepted as original signatures.			

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
APR 14 2015
TELEPHONE (208) 726-4421
FACSIMILE (208) 726-0752
DEPARTMENT OF WATER RESOURCES

April 6, 2015

Mr. Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

Re: *Stalker Creek Ranch LLC - Applications to Lease Portions of Water Rights Nos. 37-2609B, 37-2618 and 37-7800 to the Water Supply Bank*

Dear Remington:

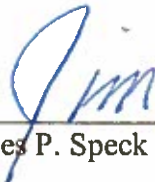
Enclosed you will find the original and one copy each of the above-referenced Applications to Lease Water Rights to the Water Supply Bank together with my firm's check payable to the Department in the amount of \$750 for the filing fees.

Please receipt date-stamp the copies and return them to me in the postage prepaid self-addressed envelope I have included for that purpose. Please call me if you have any questions about these Applications.

Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures
cc: Clients w/encl.