

AUG 11 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: SUN VALLEY LAND AND MINERALS INC
PO BOX 1959
SUN VALLEY ID 83353
(208) 309-1359

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 on January 22, 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>
37-22128	0.16 CFS	44.9 AF	NA	1.3 AC
Combined Lease Totals:	0.16 CFS	44.9 AF	NA	1.3 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: April 15 to October 31

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, 2019.
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.

SUN VALLEY LAND AND MINERALS INC
PO BOX 1959
SUN VALLEY ID 83353

By Donna R. Kelsey Date 8-6-15
Printed Name DONNA R KELSEY Title President
Sun Valley Land & Minerals, Inc

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

By Brian Patton Date 8/11/2015
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR Clay Walker Date 8-11-2015

ATTACHMENT A
WATER RIGHT NO. 37-22128
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: SUN VALLEY LAND AND MINERALS INC
 PO BOX 1959
 SUN VALLEY ID 83353
 (208) 309-1359

Priority Date: 07/01/1940

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	0.04 CFS	4.9 AF
HEATING	01/01	to 12/31	0.13 CFS	40.0 AF
RECREATION	01/01	to 12/31	0.13 CFS	24.0 AF
	Total:		0.16 CFS	44.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NW¼SW¼SE¼	Sec. 27, Twp 03N, Rge 17E, BLAINE County
GROUND WATER	NW¼SW¼SE¼	Sec. 27, Twp 03N, Rge 17E, BLAINE County
GROUND WATER	SW¼SW¼SE¼	Sec. 27, Twp 03N, Rge 17E, BLAINE County
GROUND WATER	NE¼SW¼SE¼	Sec. 27, Twp 03N, Rge 17E, BLAINE County
GROUND WATER	NW¼SW¼SE¼	Sec. 27, Twp 03N, Rge 17E, BLAINE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION, HEATING, RECREATION

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	17E	27															1.3		1.3

Total Acres: 1.3

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. Use of water under this right will be 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. The heating and recreation uses under this right are not rentable due to possible enlargement issues.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 22 2015

DEPARTMENT OF
WATER RESOURCESWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLIST

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 Sun Valley Land and Minerals, Inc.Water Right No. 37-22128

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. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is \$500.00.

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.
- 3D ☒ ☐ 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. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (<http://maps.idwr.idaho.gov/mapall/>) to locate a water right place of use or point of diversion.

Department Use Only

Fee Amount \$

Received By:

Date Received:

Receipt #

W-9 received? Yes ☐ No ☐

(Route W-9 to Fiscal)

Name on W-9:

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION 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 Sun Valley Land and Minerals, Inc. Email Address _____
Mailing Address P.O. Box 1959, Sun Valley ID 83353 Phone Number (208) 309-1359

☒ 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 Charles G. Brockway Organization Brockway Engineering
Professional Title Engineer Email Address _____
Mailing Address 2016 Washington St. North, 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 37-22128 ☒ 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.

Wells to heating, recreation, and irrigation.

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.
37-4368B

C. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
 If yes, describe. 37-4368B is sufficient to continue the current uses. This right and 37-22128 have no combined-use condition; therefore placing only one in the bank should be acceptable.

D. 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. _____

E. 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. 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, for a period from 6/24/2014 to 12/31/2019 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / 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.

Sun Valley Land & Minerals, Inc
Donna Kelsey 7-7-14
 Signature of Designated Applicant Printed Name Date
Donna Kelsey, Pres.

 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.

Water Right No. 37-22128

	Designated Applicant	Applicant #2	Applicant #3
Name	Sun Valley Land and Minerals, Inc.		
Mailing Address	P.O. Box 1959 Sun Valley, ID 83353		
Phone Number	(208) 309-1359		
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	<i>Sun Valley Land & Minerals, Inc. Danna Kelsey, Pres.</i>		

	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			

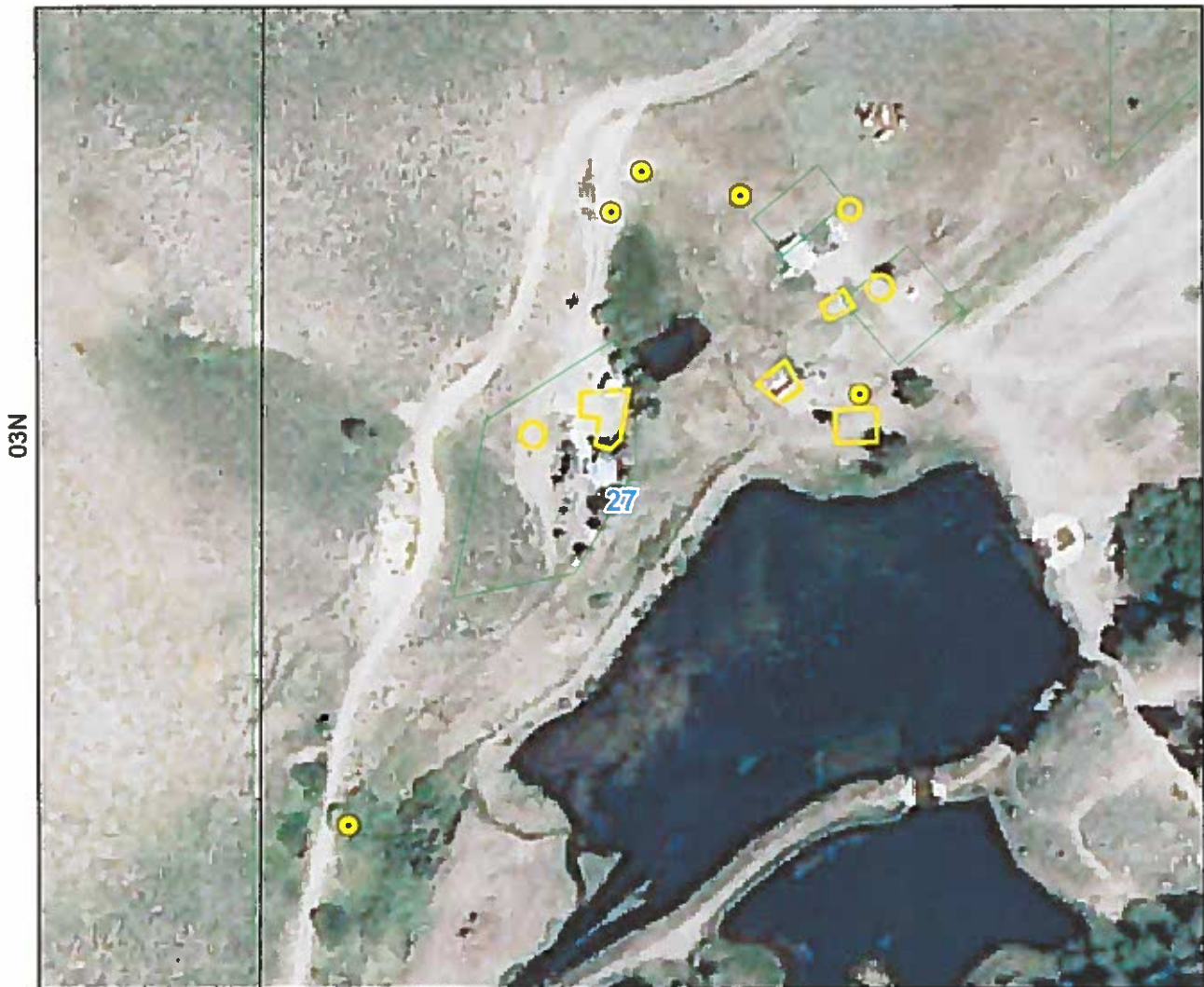
State of Idaho
Department of Water Resources

Water Right
37-22128

HEATING

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

17E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters
-  Taxlots

0 0.025 0.05 0.1 Miles





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 12, 2015

SUN VALLEY LAND AND MINERALS INC
PO BOX 1959
SUN VALLEY ID 83353

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 37-22128

Dear Lessor:

Water Right **37-22128** was leased into the Water Supply Bank on January 22, 2015 in accordance with the executed original Lease Contract enclosed. **Your water right as described on the Lease Contract is considered leased into the Bank and should remain unused until it is formally released from the Bank.**

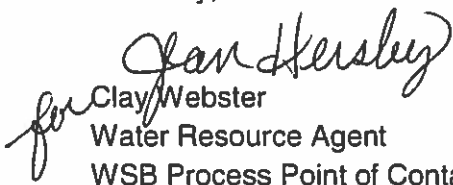
The right will automatically be released from the Bank on **December 31, 2019**, unless the right is released earlier by the Board, or upon your request. **Please note your right may not be available for immediate release if it has been rented.** To release the right from the Bank prior to the release 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: Brockway Engineering PLLC
Lawson Laski Clark & Pogue PLLC
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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER

Governor

August 4, 2015

GARY SPACKMAN

Director

SUN VALLEY LAND AND MINERALS INC
PO BOX 1959
SUN VALLEY ID 83353

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-22128 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 AMENDED Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH 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, 2019**, 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. Brockway Engineering PLLC

MEMORANDUM

DATE: July 29, 2015

TO: Water Right File 37-22128

FROM: Shelley W. Keen ^{SWK}

RE: Proposed Water Supply Bank Lease

Sun Valley Land and Minerals, Inc., applied to lease all of Water Right 37-22128 into the Water Supply Bank (WSB). Water Right 37-22128 authorizes the diversion of ground water for irrigation, heating, and recreation purposes. IDWR staff members raised concerns about the heating and recreation uses because Right 37-4368B authorizes use of water from Clarendon Hot Springs for recreation and heating purposes at the same location. When multiple water rights are used for the same beneficial use at the same place of use, they are "stacked." IDWR does not usually allow only one of a set of stacked rights to be leased because renting it to someone else would result in an enlargement of the overall beneficial use.

It is not entirely clear from the water right records whether the heating and recreation uses on Right 37-22128 and 37-4368B are actually stacked. The two rights could be alternative sources for the same recreation and heating use, or they could be for separate increments of beneficial use. The maps depicting their places of use are very similar, but the two rights do not have combined use limits as most stacked rights do. Charles G. Brockway (Brockway), the applicant's consultant, told me that various structures have come and gone at the place of use over many years.

Because it's not clear whether the heating and recreation uses authorized by Rights 37-22128 and 37-4368B are stacked or not, IDWR staff members have been reluctant to approve the proposed lease for those water uses.

According to Brockway, the purpose of the WSB lease application is forfeiture protection for Right 37-22128, which is currently not used. Brockway asked me for reassurance that if the heating and recreation uses on Right 37-22128 cannot be leased because they are stacked, then they are also no subject to forfeiture. I told Brockway that because the heating and recreation uses might be stacked, I would not support a lease that would allow them to be rented to someone else. I also told Brockway that I could not provide certainty that the heating and recreation portions of Right 37-22128 would not be subject to forfeiture, even if they are stacked. While IDWR commonly recognizes that stacked supplemental irrigation rights are not subject to forfeiture for non-use, I do not know if the same logic applies to other beneficial uses.

As a compromise solution, I suggested that IDWR would be willing to include the heating and recreation uses in the lease on the condition that they cannot be rented to anyone else. The compromise provides the desired forfeiture protection and prevents enlargement at a small labor cost to IDWR, since a lease would be prepared for the irrigation use anyway.

Hersley, Jean

From: Charles G. Brockway <charles.g.brockway@brockwayeng.com>
Sent: Monday, July 06, 2015 4:34 PM
To: Hersley, Jean
Cc: 'Donna Kelsey'
Subject: RE: Sun Valley Land & Minerals Inc Water Supply Bank Application for 37-22128
Attachments: doc01869320150706163134.pdf

Jean,

Right 37-4368B and 37-22128 are appurtenant to different sources, as follows:

Right 37-4368B is appurtenant to an artesian spring, the historic main hot spring for the property. It is this artesian flow which is covered under 37-4368B. The artesian flow has been measured several times over the last 15 years and is does not exceed the 0.13 cfs diversion rate on 37-4368B.

Right 37-22128 is not appurtenant to the POD covered by 37-4368B. It is appurtenant to five wells, known as Well #3, Well #75-1, Well #5, Well #7, and Well #75-4. Well #3 and Well #75-1 are connected to the heating/recreation system; the other three are not connected to anything at this time. Wells #3 and Well #75-1 have shutoff valves which would remain closed if 37-22128 is accepted into the WSB, so that under this situation the only water going through heating/recreation systems would be the artesian flow under 37-4368B.

Hopefully this makes it clear that the two rights cover different water sources and the flow rates are additive so that the rights are mutually exclusive which should allow 37-22128 to be placed in the bank without 37-4368B. However, I can understand the difficulty the Department is having in analyzing this situation. It would be acceptable to the applicant to place only the irrigation portion of 37-22128 in the bank, as along as the Department can assure the applicant that the heating/recreation portion of 37-22128 would be protected from forfeiture.

Please let me know if I can be of further assistance in clarifying the water usage.

Thanks,
Chuck

Charles G. Brockway, Ph.D., P.E.
Brockway Engineering, PLLC
2016 Washington St. North, Suite 4
Twin Falls, ID 83301
(208) 736-8543
charles.g.brockway@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Monday, July 06, 2015 1:44 PM
To: charles.g.brockway@brockwayeng.com
Subject: Sun Valley Land & Minerals Inc Water Supply Bank Application for 37-22128

The Department is in the process of reviewing the Water Supply Bank lease application for the above mentioned water right. This email is to notify you that we can only accept the irrigation portion of water right 37-22128 into the Bank unless more information is submitted.

We can't accept the heating and recreation uses because we cannot decipher the place of use for heating and recreation use under 37-22128 and 37-4368B. Because the two water rights may be covering the same place of use, we could not ensure that an enlargement occurred if right 37-22128 was accepted into the bank and rented without 37-4368B.

We acknowledge these rights have at least 4 different POD's and no combined conditions which means they may not be stacked. But, if the place of use is the same, leasing one without the other could create an enlargement.

Please provide evidence enlargement won't occur if the Department leases the heating and recreation use under 37-22128 without 37-4368B within 14 days. If the Department does not receive sufficient evidence that an enlargement would not occur, the Department will issue a lease for the irrigation portion of 37-22128 only.

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

July 20, 2015

SUN VALLEY LAND AND MINERALS INC
PO BOX 1959
SUN VALLEY ID 83353

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-4100, 37-8205, 37-21614 and 37-22128
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 three (3) 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, 2019**, 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 
Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Brockway Engineering PLLC

MEMORANDUM

To: Water Right No. 37-22128
From: Clay Webster
Date: May 4, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received an application to lease this right in its entirety into the Water Supply Bank from Brockway Engineering on January 22, 2015 on behalf of Sun Valley Land & Minerals Inc.

This right authorizes:
 Irrigation of 1.3 acres
 Heating
 Recreation

However, on questions 3B and 3C on the application form, the applicant indicated that the present place of use will continue to receive water from water right 37-4368B. This would be on the heating and recreation portion of the right. The application indicates that since this right has no combined use conditions with 37-4368B, placing this right into the bank should be acceptable. The Department will accept the irrigation portion into the bank but not the heating or recreation.

AUTHORITY TO FILE: These applications were signed by Donna R. Kelsey, president of Sun Valley Land & Minerals Inc., the current owner of these water rights.

WATER RIGHT VALIDITY: This right was partially decreed by the SRBA in May of 2011. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. At this point in time we have never received a request to rent the heating portion of any water right through the WSB. This makes this portion very unlikely to be rented. However, since the applicant intends to still use another water right to continue to provide the heating component of water to the POU, rental review should be thorough to 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 subject to Water District # 37.