

AUG 05 2015

WATER SUPPLY BANK LEASE CONTRACTDEPARTMENT OF
WATER RESOURCES

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

Lessor: JOHN L WELSH REVOCABLE TRUST

PO BOX 4967

HAILEY ID 83333

(208) 928-7194

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 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>Total Leased Acres</u>
37-20354	0.08 CFS*	NOT STATED	1.3 AC
37-20355	0.03 CFS**	NOT STATED	1.3 AC
Combined Lease Totals: 0.08 CFS		NOT STATED	1.3 AC

*The lease of 37-20354 is limited to 0.06 cfs, the remaining portion is used for conveyance losses.

**The lease of 37-20355 is limited to 0.02 cfs, the remaining portion is used for conveyance losses.
See conditions of approval for more details.

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 4/15 to 10/31

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.

SUPPORT DATA

IN FILE # 37-20354

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.

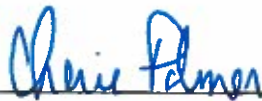
IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

JOHN L WELSH REVOCABLE TRUST
PO BOX 4967
HAILEY ID 83333

By  Date 8/3/2015
Printed Name JOHN L. WELSH Title TRUSTEE

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By  Date August 5, 2015
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR  Date 8/5/2015

ATTACHMENT A
WATER RIGHT NO. 37-20354
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: JOHN L WELSH REVOCABLE TRUST
PO BOX 4967
HAILEY ID 83333
(208) 928-7194

Priority Date: 11/26/1886

Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15 to	10/31	0.08 CFS	NOT STATED
	Total:		0.08 CFS	NOT STATED

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW¼NW¼ Sec. 20, Twp 03N, Rge 18E, 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	
02N	18E	4		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. Property is known as Lot 1, Block 1, buckhorn Subdivision No.3.
13. The unleased portion of 37-20354 and 37-20355 is limited to the irrigation of 2.2 acres.
14. 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.
15. These water rights are delivered through the Hiawatha Canal.
16. A portion of water rights 37-20354 and 37-20355 provide 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 0.03 cfs of the leased portion of water rights 37-20354 and 37-20355 into the Hiawatha Canal whether it is rented or not.

ATTACHMENT A
WATER RIGHT NO. 37-20355
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: JOHN L WELSH REVOCABLE TRUST
 PO BOX 4967
 HAILEY ID 83333
 (208) 928-7194

Priority Date: 03/24/1883

Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 11/15	0.03 CFS	NOT STATED
	Total:		0.03 CFS	NOT STATED

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW¼NW¼ Sec. 20, Twp 03N, Rge 18E, 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	
02N	18E	4		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:
 - d. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - e. 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.
 - f. 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. Property is known as Lot 1, Block 1, buckhorn Subdivision No.3.
13. The unleased portion of 37-20354 and 37-20355 is limited to the irrigation of 2.2 acres.
14. 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.
15. These water rights are delivered through the Hiawatha Canal.
16. A portion of water rights 37-20354 and 37-20355 provide 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 0.03 cfs of the leased portion of water rights 37-20354 and 37-20355 into the Hiawatha Canal whether it is rented or not.

RECEIVED

JUN 12 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 John L Welsh Revocable Trust
(Select one owner – see item 1A on the application)

Water Right No. 37-20354
(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>500</u>	Received By: <u>John</u>	Date Received: <u>6-12-15</u>	Receipt # <u>C100596</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>John L Welsh Revocable Trust</u>	

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 John L Welsh Revocable Trust Email Address _____

Mailing Address PO BOX 4967 Hailey, ID 83333 Phone Number 208-928-7194

☐ 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 37-20354 ☐ 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.

Buried pressurized mainline provides water to pressurized irrigation 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.

37-20354 and 37-20355 are both owned by the applicant and a portion of each right is offered to the WSB 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. Remaining portion of 37-20354 and 37-20355 will be used at authorized POU.

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: 2015 to 2019 (maximum lease period 5 years).
(Year) (Year)

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

Current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.


Signature of Designated Applicant

Printed Name

Date

6/2/2015

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). 37-20354 and 37-20355

	Designated Applicant	Applicant #2	Applicant #3
Name	John L Welsh Revocable Trust	Cheryl L Welsh Revocable Trust	
Mailing Address	P.O. Box 4967 Hailey, ID 83333	P.O. Box 4967 Hailey, ID 83333	
Phone Number	208-928-7194	208-928-7194	
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			



0 55 110 220 Feet

JOHN L. WELSH
WATER BANK LEASE 2015
NAIP 2013 AERIAL PHOTO.

BROCKWAY ENGINEERING, PLLC.
ALR - Date: 8/2/2015

Legend

- | | |
|----------------|----------|
| WSB Lease 2015 | township |
| Welsh_Lot | Sections |
| | ladesc |



**FRITZ X. HAEMMERLE
HAEMMERLE LAW, P.L.L.C.
P.O. Box 1800
400 South Main Street, Suite 102
Hailey, Idaho 83333
Tel: (208) 578-0520
Fax: (208) 578-0564
ISB #3862**

Attorneys for Applicants

**BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE**

**IN THE LEASE OF WATER RIGHTS
37-20354 AND 37-20355**

) Case No. CV-13-350

) AFFIDAVIT OF JOHN L. WELSH

**STATE OF IDAHO,)
) ss.
County of Blaine.)**

JOHN L. WELSH, being sworn upon oath, deposes and states as follows:

1. I am a trustee of the John L. Welsh Revocable Trust. I am over the age of eighteen (18) years, and I make the averments contained herein of my own personal knowledge and would testify to the facts as presented herein if called upon to do so.

2. On November 2012, I, along with my wife Cheryl, each on behalf of our Revocable Trusts, purchased the property covered by water rights 37-20355 and 37-20354. When we purchased the property, there was an existing house and driveway as indicated in Exhibit A. I do

AFFIDAVIT OF JOHN L. WELSH - 1

not know when the house and driveway were constructed. When we purchased the property, there were hand lines on all the irrigated property, including the hardscape indicated to the east of the house and driveway. We irrigated with the hand lines in 2013.

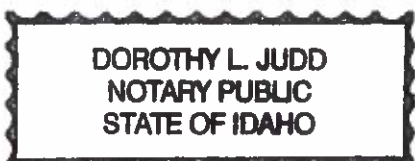
3. In 2014, we began a construction project of the hardscape area located to the east of the house and driveway. The area now has an arena, barn, hay barn and loafing shed. Except for the arena, most of the area indicated in hardscape is no longer being irrigated. The arena uses water for dust control.

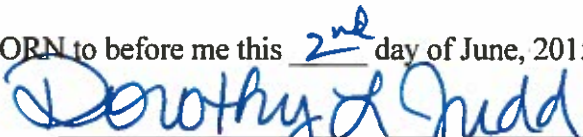
FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 2 day of June 2015.


JOHN L. WELSH

SUBSCRIBED AND SWORN to before me this 2nd day of June, 2015.




NOTARY PUBLIC FOR IDAHO
Residing at: Blaine County, Idaho
Commission expires: 6/11/2018



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 6, 2015

JOHN L WELSH REVOCABLE TRUST
PO BOX 4967
HAILEY ID 83333-4967

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-20354 AND 37-20355

Dear Lessor:

Water Rights 37-20354 and 37-20355 were leased into the Water Supply Bank 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, 2019**, 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 287-4944.

Sincerely,

For- Cherie Palmer
Water Rights Supervisor

Enclosure: Executed Lease Contract

c: Zach Latham – Brockway Engineering PLLC
Hiawatha Canal
Allen Merritt – IDWR Southern Region
Kevin Lakey – Water District #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

July 23, 2015

JOHN L WELSH REVOCABLE TRUST
PO BOX 4967
HAILEY ID 83333-4967

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-20354 AND 37-20355 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 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 287-4944.

Sincerely,


FER-Cherie Palmer
Water Rights Supervisor

Enclosure: Proposed Lease Contracts
Receipt # C100596

c. Hiawatha Canal
Zach Latham – Brockway Engineering PLLC

MEMORANDUM

To: Water Right No(s). 37-20354 and 37-20355
From: Cherie Palmer
Date: July 10, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: These applications were received on June 12, 2015. The applicant is proposing to lease in 1.3 acres of these stacked water rights, leaving 2.2 acres out of the Bank. The portion that they are placing in the Bank is hardscape (house, driveways, etc.) and cannot be irrigated.

Water right 37-20354 provides irrigation from 4/15 to 10/31 while 37-20355 provides an irrigation season from 4/15 to 11/15 —the standard irrigation season for the area is 4/15 to 10/31.

AUTHORITY TO FILE: Zach Latham assisted in filling out these applications on behalf of John L Welsh Revocable Trust (the water right holder). Fritz Haemmerle of Haemmerle Law PLLC. Cheryl L Welsh Revocable Trust is also a water right holder and has signed Attachment 1A authorizing the rights to be placed in the Bank. This water is delivered through the Hiawatha Canal Co who has given their consent to lease these rights into the Bank so long as a 20% conveyance is reserved on the lease.

WATER RIGHT VALIDITY: Water right 37-20354 was decreed on 10/22/2009 and water right 37-20355 was decreed on 5/13/2009. These water rights must be used or protected from forfeiture in some manner by the end of this year or else forfeiture may become an issue. Because the applicants are applying to place the rights in the Bank this year, forfeiture concerns are not an issue. Admin. Memo, Multiple Programs No. 2 established the forfeiture period for water rights and is being applied in this case.

INJURY TO OTHER WATER RIGHTS: No injury is apparent. Conveyance loss will be held back on the lease to avoid injuring the Hiawatha Canal.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone; there are no other water rights at the place of use of these rights. 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 subject to Water District #37.

Palmer, Cherie

To: Fritz Haemerle
Subject: RE: WSB Lease Application for John L Welsh Revocable Trust

From: Fritz Haemerle [<mailto:fxh@haemlaw.com>]
Sent: Tuesday, July 14, 2015 4:12 PM
To: Palmer, Cherie
Subject: RE: WSB Lease Application for John L Welsh Revocable Trust

Cherie:

Please find attached a PDF letter from Dave Cropper. The original is in the mail.

Thank you for your patience.

Fritz

Fritz X. Haemmerle
HAEMMERLE LAW, P.L.L.C.
P.O. Box 1800
Hailey, ID 83333
Tel: (208) 578-0520
FAX: (208) 578-0564

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From: Palmer, Cherie [<mailto:Cherie.Palmer@idwr.idaho.gov>]
Sent: Friday, July 10, 2015 1:30 PM
To: Fritz Haemerle
Cc: Zach Latham
Subject: WSB Lease Application for John L Welsh Revocable Trust

Dear Fritz,

The Department of Water Resources received lease applications for water rights 37-20354 and 37-20355 and is in the process of evaluating the applications for completeness. Unfortunately, the lease applications do not meet the minimum requirements and cannot be processed at this time. On question 1D of the application, the applicant marked that written consent from an irrigation district or water delivery company is not applicable; however, that is not the case. Water rights 37-20354 and 37-20355 are both delivered by the Hiawatha Canal Co. Applicants wishing to lease their rights to the Water Supply Bank must acquire consent from the delivery entity pursuant to IC 42-108 and WSB Rule 37.02.03.25.02.e.

Please provide the required consent from the Hiawatha Canal Co. within 30 days. If the consent is not received within 30 days, the applications will be returned to your client and a refund of the filing fees will not be issued.

Please let me know if you have any questions regarding this matter.

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

RECEIVED

JUL 17 2015

DEPARTMENT OF
WATER RESOURCES

July 14, 2015

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

Re: Welsh Lease Application: 37-20354 and 37-20355

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 moved outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right to 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.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the water rights being placed in the Water Bank by John and Cheryl Welsh under water rights 37-20354 and 37-20355, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss.

2. Since the Applicants are proposing leasing only a portion of each right to the Water Bank, the Hiawatha Canal would require a measuring device be placed on the headgate on the Hiawatha Canal where the Applicants divert their water. The measuring device would only have to meet the current requirements for measuring devices as published by the Idaho Department of Water Resources.

3. Finally, the Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the five-year lease period.

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



David L. Cropper, President

HAEMMERLE LAW, P.L.L.C.

Attorney & Counselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333
June 10, 2015

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

RECEIVED

JUN 12 2015

DEPARTMENT OF
WATER RESOURCES

Idaho Dept. of Water Resources
c/o Water Bank, Remington Buyer
P.O. Box 83720
Boise, ID 83720-0098

Re: Request to Water Bank 37-20354 & 37-20355 (John L. Welsh, Applicant)

Dear Remington:

This firm represents the Applicant, the John L. Welsh Trust. The purpose of this letter is to place the aforementioned water rights in the Water Bank.

I have enclosed with this letter: (1) Application forms to sell or lease a water right to the Water Supply Bank the two water rights; (2) completed W-9 Forms for the John L. Welsh and Cheryl L. Welsh Trusts; (3) a map showing the appurtenant area where water is to be placed into the Bank; (4) an Affidavit of John Welsh on water use in the last five years; and (5) a pay in the amount of \$500.00.

Please confirm receipt of this Application. If you require any further information, please advise.

Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.



Fritz X. Haemmerle

FXH: fxh
Encl
cc: client