

AUG 03 2015

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

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

Lessor: AWALT PARTNERSHIP
C/O BOB JONES
1766 ADDISON AVE E
TWIN FALLS ID 83301
208-733-0404

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 an application on April 15, 2015 to lease the water right described below into the Water Supply Bank.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to the conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
37-04191	4/15/1934	Unnamed Stream	Chimney Creek	1.680 cfs	261.0 af	95.0 ac

Annual Combined Lease Totals**1.680 cfs 261.0 af 95.0 ac**

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** 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.

AWALT PARTNERSHIP
C/O BOB JONES
1766 ADDISON AVE E
TWIN FALLS ID 83301

By 
Printed Name BOB JONES

Date 7-31-15
Title MANAGER

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 8/4/2015

Lease approved by IDWR 

Date 8-4-2015

ATTACHMENT A
WATER RIGHT NO. 37-04191
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: AWALT PARTNERSHIP
 C/O BOB JONES
 1766 ADDISON AVE E
 TWIN FALLS ID 83301
 208-733-0404

LOCATION OF POINT OF DIVERSION

UNNAMED STREAM

NENESE

Sec. 33, Twp 01N, Rge 12E, CAMAS County

BENEFICIAL USE
IRRIGATION

SEASON OF USE

04/15 to 10/31

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	12E	34									37.0	7.0		3.0		26.0	22.0		95.0

Total Acres: 95.0

CONDITIONS APPLICABLE TO ALL LEASED WATER RIGHTS

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department, even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment after the following rental season.
11. The water right leased to the bank is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Use of water under this right is regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37B.

APR 15 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 Awalt Partnership

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

Water Right No. 37-4191

(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 OnlyFee Amount \$ 250.00Received By: J. StangeDate Received: 4-15-15Receipt # C100302W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Christy Awalt

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 Awalt Partnership Email Address _____
Mailing Address PO BOX 392 SAN MIGUEL, CA 93451-0392 Phone Number (208) 308-6060

☒ 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 Bob Jones Organization _____
Professional Title _____ Email Address _____
Mailing Address 1766 Addison Ave East Twin Falls, Idaho 83301 Phone Number (208) 733-0404

☐ 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 37-4191 ☒ 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.

Concrete diversion, no measurement device required yet by the state in this water district.

- 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.

None

- 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. Watermaster (Rusty Kramer) has already been contacted and has approved this application.

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 2020 (maximum lease period 5 years).
(Year) (Year)

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

Current rental rate. _____

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

The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant

Printed Name

Date

Signature of Authorized Representative

Printed Name

Date

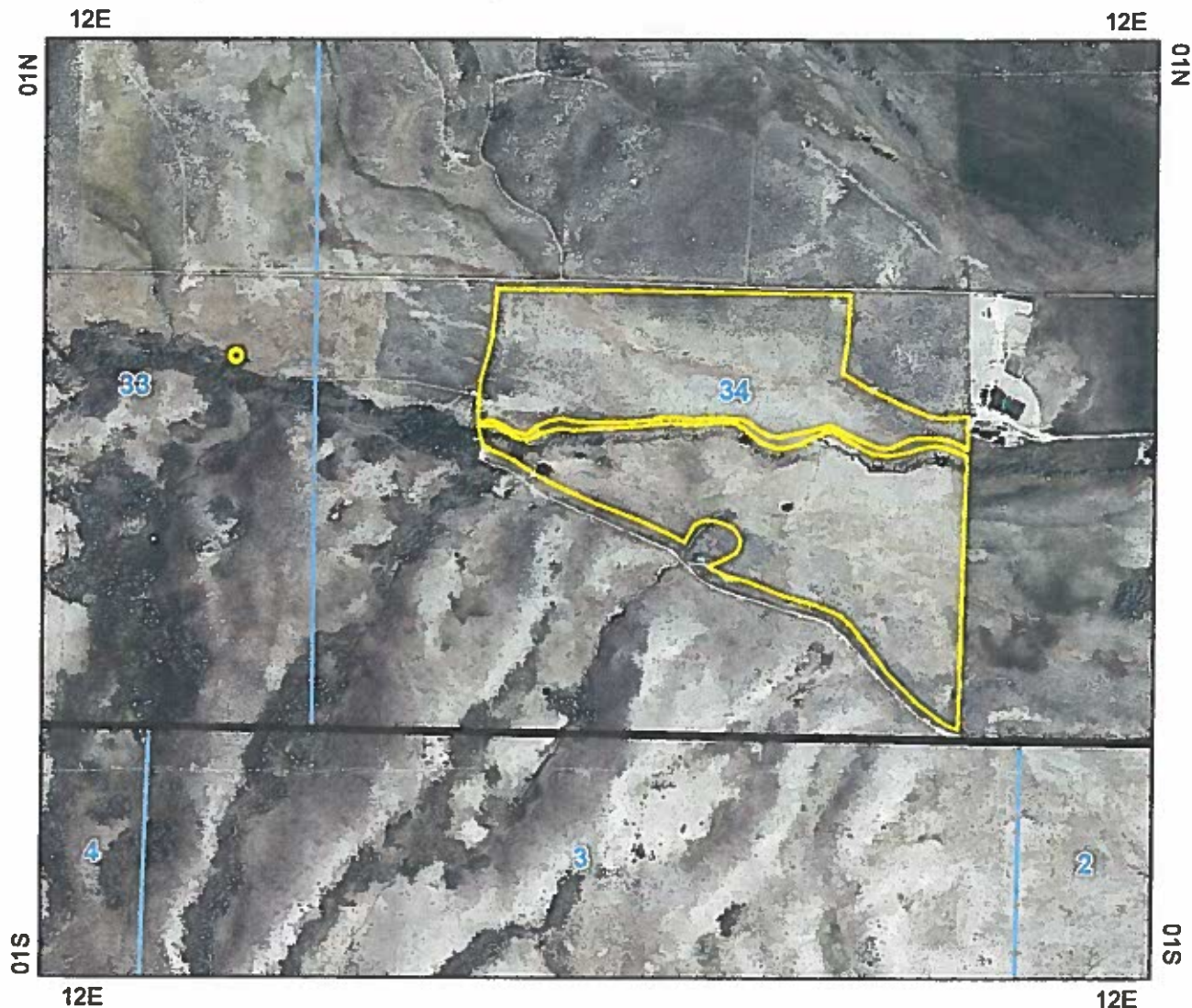
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right
37-4191

IRRIGATION

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.



0 0.125 0.25 0.5 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections



SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That CHRISTY AWALT, AWALT FAMILY PARTNERSHIP AND AWALT FAMILY REVOCABLE TRUST, does hereby constitute and appoint Robert Jones, of ROBERT JONES REALTY, INC. of Twin Falls, Idaho, to act as my true and lawful attorney-in-fact in my name and in my powers, to do any and all things with respect to the execution of farm management and all transactions involving Idaho Department of Water Resources, Twin Falls Canal Company and State and Federal Farm Agencies. This power of attorney does not allow attorney-in-fact to buy or sell real estate on my behalf.

I HEREBY GIVE AND GRANT to my attorney-in-fact all other powers necessary or reasonable to carry out the powers above granted and do hereby ratify all actions or actions taken by my attorney-in-fact under this instrument.

THIS SPECIAL POWER OF ATTORNEY shall continue in full force and effect until revoked by me, and all persons unto whom these presents shall be entitled to rely on the powers herein granted until such persons may have received written notice that said Special of Attorney and designator of Special Power of Attorney has been revoked or until written notice of said revocation may be recorded.

IN WITNESS WHEREOF, the undersigned has set his hand and seal this 7 day of April 2015.

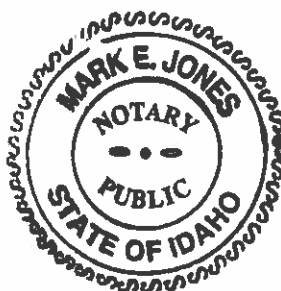
Signature:

Print:

State of Idaho)
County of W. Falls) ss:

On this 7 day of April, 2015, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Christy Lou Ault, known to me to be such person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he/she executed the same.

In Witness Whereof, I have hereunto set my hand and seal, the day and year in this certificate first above written.



Notary Public

Residing at: 1414 FALL

Commission Expires: 12-1-2018



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 6, 2015

AWALT PARTNERSHIP
C/O BOB JONES
1766 ADDISON AVE E
TWIN FALLS ID 83301-5301

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 37-04191

Dear Lessor:

Water Right **37-04191** was 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 287-4910.

Sincerely,

For: Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Awalt Partnership: PO Box 392, San Miguel CA 93451
Allen Merritt – IDWR Southern Region
Rusty Kramer – Water District #37B



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

AWALT PARTNERSHIP
C/O BOB JONES
1766 ADDISON AVE E
TWIN FALLS ID 83301-5301

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-04191 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 287-4910.

Sincerely,

For - Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts
Receipt # C100302

c. Awalt Partnership

MEMORANDUM

To: Water Right No. 37-4191

From: Clay Webster

Date: 7/21/2015

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on April 15, 2015 from Awalt Partnership to place the entire right into the bank. This right is in the Camas Creek Drainage Area

AUTHORITY TO FILE: Robert Jones of Robert Jones Realty Inc signed the lease application and provided a Special Power of Attorney from Christy Awalt of Awalt Partnership.

WATER RIGHT VALIDITY: This right was decreed in 2010. Forfeiture is not an issue at this time. I checked satellite imagery to verify that the POU has been idled this season.

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 is subject to Water District # 37B. The water master had no concerns with this proposal.

Webster, Clay

From: Rusty Krame [waterdistrict37b@outlook.com]
Sent: Tuesday, July 21, 2015 2:52 PM
To: Webster, Clay; Merritt, Allen
Subject: RE: WSB Lease Application for Awalt Partnership 37-4191

I have no concerns with this application.

Thank You

**Rusty Kramer - Water Master
Water District 37B
208-870-3217**

From: Clay.Webster@idwr.idaho.gov
To: Allen.Merritt@idwr.idaho.gov; waterdistrict37b@outlook.com
Subject: WSB Lease Application for Awalt Partnership 37-4191
Date: Tue, 21 Jul 2015 18:38:44 +0000

Allen and Rusty,

We are currently processing an application to place this entire right into the bank. Do you have any concerns?
Thanks.

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

Webster, Clay

From: Merritt, Allen
Sent: Tuesday, July 21, 2015 1:21 PM
To: Webster, Clay
Subject: RE: WSB Lease Application for Awalt Partnership 37-4191

I do not have any concerns.

From: Webster, Clay
Sent: Tuesday, July 21, 2015 12:39 PM
To: Merritt, Allen; Rusty Krame
Subject: WSB Lease Application for Awalt Partnership 37-4191

Allen and Rusty,

We are currently processing an application to place this entire right into the bank. Do you have any concerns? Thanks.

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

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