

# WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective January 1, 2015, between the Idaho Water Resource Board ("**Board**"), and

**Lessor: IDAHO WATER RESOURCE BOARD**  
PO BOX 83720  
BOISE ID 83720  
(208) 287-4829

## 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> |
|------------------------------|-------------------|---------------------|---------------------------|
| 2-10300A                     | 8.00 CFS          | 1339.0 AF           | 400.0 AC                  |
| 2-10300B                     | 8.00 CFS          | Not Stated          | 400.0 AC                  |
| <b>Combined Lease Limits</b> | <b>8.00 CFS</b>   | <b>1600.0 AF</b>    | <b>400.0 AC</b>           |

The water rights described herein shall be available for rental from the Bank as follows:  
Authorized Period of Use under Lease: April 1 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.

SUPPORT DATA

FILE # 2-10300A

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

**IDAHO WATER RESOURCE BOARD**

PO BOX 83720  
BOISE ID 83720

By

Printed Name

BRIAN PATTON

Date

2/17/2015

Title

EXEC OFFICER, IWAB

**IDAHO WATER RESOURCE BOARD**

322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-9098

By

Brian Patton, Acting Administrator  
Idaho Water Resource Board

Date

May 14, 2015

Lease approved by IDWR

Cherie Palmer

Date

5/14/2015

**ATTACHMENT A**  
**WATER RIGHT NO. 2-10300A**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** IDAHO WATER RESOURCE BOARD  
 PO BOX 83720  
 BOISE ID 83720  
 (208) 287-4829

**Priority Date:** 02/25/1963

**Source:** SNAKE RIVER

**Tributary to:** COLUMBIA RIVER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>    |
|-----------------------|---------------|-----------|-----------------------|------------------|
| IRRIGATION            | 04/01         | to 10/31  | 8.00 CFS              | 1339.0 AF        |
|                       | <b>Total:</b> |           | <b>8.00 CFS</b>       | <b>1339.0 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

SNAKE RIVER L4(SE¼SW¼SW¼) Sec. 22 Twp 05S Rge 04E ELMORE 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 |        |
| 04S | 04E | 32  |    | 40.0 | 39.0 |    | 40.0 |    | 2.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 |    | 39.0 | 40.0 |    | 400.0  |

Total Acres: 400

Limited to acres within place of use described above: NA

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u> | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|------------------------|-------------------|---------------------|-------------------|---------------------------|
| 2-10300A and 2-10300B, | 8.00 CFS          | 1600.0 AF           | 400 AC            | 400 AC                    |

**ADDITIONAL CONDITIONS OF ACCEPTANCE**

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

7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
  - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
  - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
  - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 7/31/2012.
13. Rights 2-10300A and 2-10300B when combined shall not exceed a total diversion rate of 8.00 cfs, a total annual maximum diversion volume of 1600.0 af at the field headgate, and the irrigation of 400 acres.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
15. 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. 2 (Snake River – Milner to Swan Falls).

**ATTACHMENT A**  
**WATER RIGHT NO. 2-10300B**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** IDAHO WATER RESOURCE BOARD  
 PO BOX 83720  
 BOISE ID 83720  
 (208) 287-4829

**Priority Date:** 05/10/1965

**Source:** SNAKE RIVER

**Tributary to:** COLUMBIA RIVER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>     |
|-----------------------|---------------|-----------|-----------------------|-------------------|
| IRRIGATION            | 03/01         | to 11/15  | 8.00 CFS              | Not Stated        |
|                       | <b>Total:</b> |           | <b>8.00 CFS</b>       | <b>Not Stated</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

SNAKE RIVER L4(SE¼SW¼SW¼) Sec. 22 Twp 05S Rge 04E ELMORE 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 |        |
| 04S | 04E | 32  |    | 40.0 | 39.0 |    | 40.0 |    | 2.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 |    | 39.0 | 40.0 |    | 400.0  |

Total Acres: 400.0

Limited to acres within place of use described above: NA

**COMBINED LIMITS OF LEASED RIGHT:**

| <u>Combined Rights</u> | <u>Lease Rate</u> | <u>Lease Volume</u> | <u>Acre Limit</u> | <u>Total Leased Acres</u> |
|------------------------|-------------------|---------------------|-------------------|---------------------------|
| 2-10300A and 2-10300B, | 8.00 CFS          | 1600.0 AF           | 400 AC            | 400 AC                    |

**ADDITIONAL CONDITIONS OF ACCEPTANCE**

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

7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
  - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
  - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
  - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water right having no subordinated early or late irrigation use and a propriety date earlier than 7/31/2012.
13. Rights 2-10300A and 2-10300B when combined shall not exceed a total diversion rate of 8.00 cfs, a total annual maximum diversion volume of 1600.0 af at the field headgate, and the irrigation of 400 acres.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
15. 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. 2 (Snake River – Milner to Swan Falls).

STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

JAN 08 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 Idaho Water Resource BoardWater Right No. 2-10300B

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](http://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 \$ <u>250.00</u>                                            | Received By: <u>DAB</u> | Date Received: <u>1/8/2015</u> | Receipt # <u>C099797</u> |
| W-9 received? Yes <input type="checkbox"/> No <input type="checkbox"/> | (Route W-9 to Fiscal)   | Name on W-9:                   |                          |

STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

JAN 08 2015

DEPARTMENT OF  
WATER RESOURCESAPPLICATION 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 Idaho Water Resource Board Email Address mandi.pearson@idwr.idaho.gov  
Mailing Address PO Box 83720, Boise ID 83720 Phone Number 208)287-4829

☒ 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 Brian Patton Organization Idaho Dept of Water Resources  
Professional Title Administrator Email Address brian.patton@idwr.idaho.gov  
Mailing Address PO Box 83720 Boise ID 83720 Phone Number 208)287-4837

☐ 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 2-10300B ☒ 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.

Pumping platform, intakes, pumps, motors, penstock (according to Simplot lease application)

- 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.  
61-7088, 61-11747

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

Yes ☒ No ☐

If yes, describe. Groundwater diverted under rights identified in prior question.

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 1/1/2015 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 ank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant



Printed Name

Brian Patton

Date

1/5/2015

Signature of Authorized Representative



Printed Name

Date

Mail to:

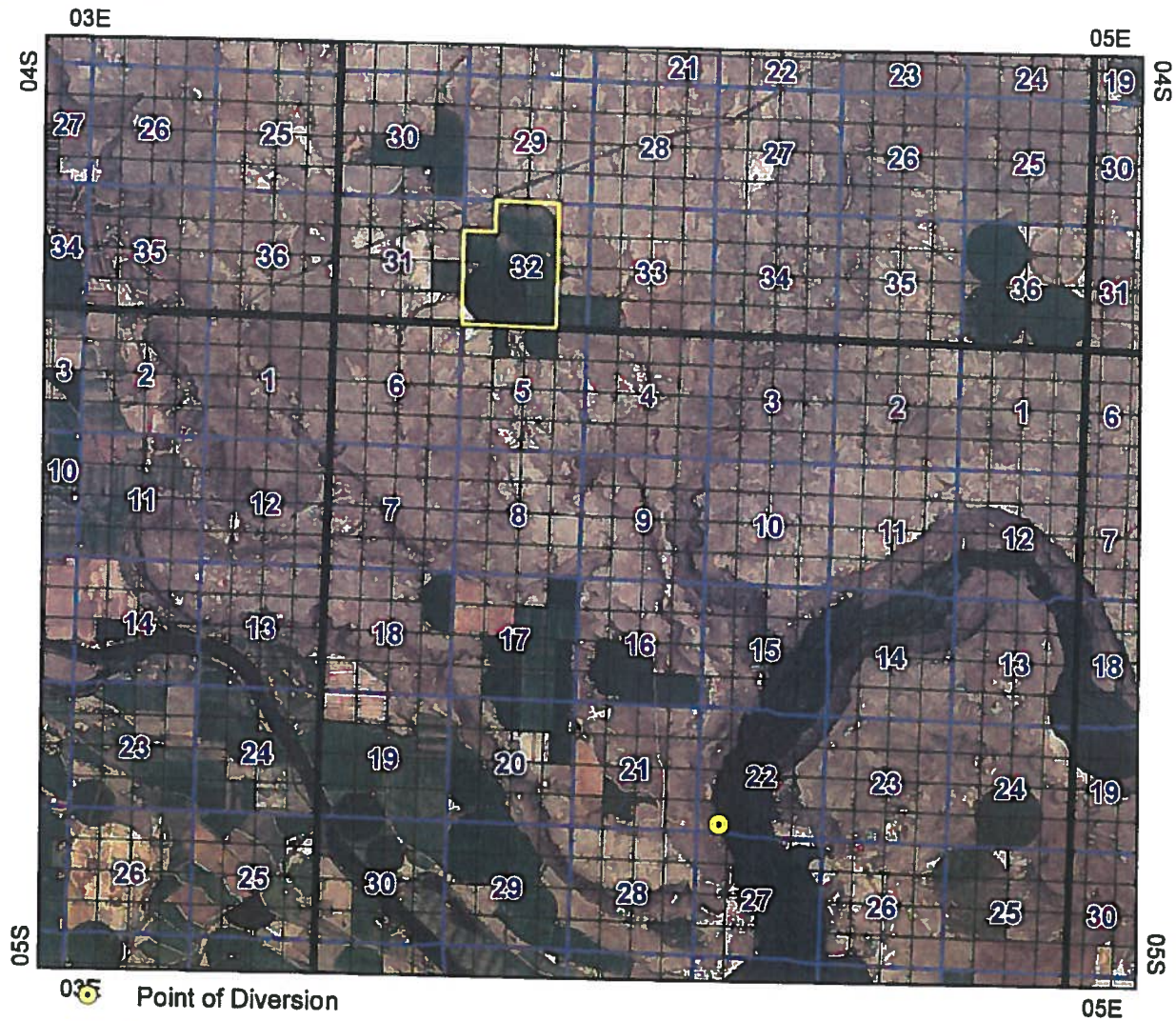
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

State of Idaho  
Department of Water Resources

**Water Right  
2-10300B**

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.



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

0 0.75 1.5 3 Miles



**Kelly, Patrick**

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**From:** Kelly, Patrick  
**Sent:** Wednesday, January 28, 2015 2:23 PM  
**To:** Grimm, Angie  
**Subject:** RE: WSB review

Great thank you Angie. I will be sure to include this information with the lease.  
Patrick

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**From:** Grimm, Angie  
**Sent:** Wednesday, January 28, 2015 10:42 AM  
**To:** Kelly, Patrick  
**Subject:** RE: WSB review

Patrick,

Good morning! Steve asked me to respond to your request for regional comments. This right has a long, convoluted story (as your memo indicates you are becoming aware), but it appears between your research and Dan's, the picture has been painted. Only thing I'd mention is that this right is in the Mountain Home Ground Water Management Area and the Trust Water Area meaning caution should be used when filling a WSB rental app with this right I'd think. No local area concerns come to mind on the lease though. Thank you for the opportunity to comment.

Thanks,  
Angie

Angela M. Grimm, P.G.  
Water Resources Agent, Sr.  
IDWR - Western Region  
2735 Airport Way  
Boise, ID 83705-5082  
(208) 334-2190 phone  
(208) 334-2348 fax

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**From:** Kelly, Patrick  
**Sent:** Wednesday, January 14, 2015 3:06 PM  
**To:** Lester, Steve  
**Subject:** WSB review

Steve,  
Attached is a review memo from a water supply bank lease application. Please review the water right and provide any comment.  
Thank you,

*Patrick Kelly*

Water Resource Agent  
Idaho Department of Water Resources  
322 E. Front St.  
Boise, Idaho 83702  
d: 208.287.4933  
f: 208.287.6700