

APR 13 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:** DANIAL LISTER  
227 SUNRISE RIM RD  
NAMPA ID 83686  
(208) 921-0736

**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>Acre Limit</u> | <u>Total Leased Acres</u> |
|-------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 63-32060                      | 0.08 CFS          | 39.0 AF             | NA                | 9.8 AC                    |
| <b>Combined Lease Totals:</b> | <b>0.08 CFS</b>   | <b>39.0 AF</b>      | <b>NA</b>         | <b>9.8 AC</b>             |

The water rights described herein shall be available for rental from the Bank as follows:  
Authorized Period of Use under Lease: 03/15 to 11/15

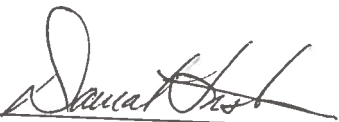
2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

**Minimum Payment Acceptable:** Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2015.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
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.

**DANIAL LISTER**  
227 SUNRISE RIM RD  
NAMPA ID 83686

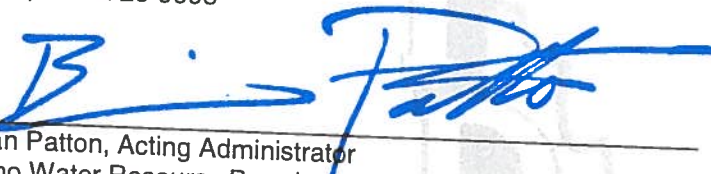
By 

Printed Name DANIAL LISTER

Date 7 APRIL 2015

Title WATER RIGHT/PROPERTY OWNER

**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 April 13, 2015

Lease approved by IDWR 

Date 4/13/2015

## WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

**Lessor:** DANIAL LISTER  
227 SUNRISE RIM RD  
NAMPA ID 83686  
(208) 921-0736

**Priority Date:** 4/13/1967

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u>     | <u>Diversion Rate</u> | <u>Volume</u>  |
|-----------------------|-------------|---------------|-----------------------|----------------|
| IRRIGATION            | 03/15       | to 11/15      | 0.08 CFS              | 39.0 AF        |
|                       |             | <b>Total:</b> | <b>0.08 CFS</b>       | <b>39.0 AF</b> |

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

GROUND WATER SENENW Sec. 15, Twp 02N, Rge 03W, CANYON County

**PLACE OF USE TO BE IDLED UNDER THIS LEASE:** IRRIGATION

[illegible]

Total Acres: 9.8

### 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. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
14. Property is also known as Lot 4, Salmon Ridge Subdivision.
15. The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

FEB 23 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 DANIAL LISTERWater Right No. 63-32060  
One water right per applicationAll 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 \$                                                                     | Received By:          | Date Received                     | Receipt # |
| W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | (Route W-9 to Fiscal) | Name on W-9: <u>Danial Lister</u> |           |

STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

FEB 23 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 DANIAL LISTER Email Address LISTERKUN@GMAIL.COM  
Mailing Address 227 SUNRISE RIM RD. Nampa, ID 83686 Phone Number 208-921-0736

☒ 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). COURTS DECREE 2009\*

Name of Representative \_\_\_\_\_ Organization \_\_\_\_\_

Professional Title \_\_\_\_\_ Email Address \_\_\_\_\_

Mailing Address \_\_\_\_\_ Phone Number \_\_\_\_\_

☐ 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 63-32060 ☒ 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.

NO IRRIGATION SYSTEM / WATER WELL IN EXISTENCE -

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

Yes ☐ No ☒

If yes, describe. \_\_\_\_\_

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. DECREED BY COURT - 2009

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. REQUEST FOR TRANSFER TIME EXTENSION WAS DENIED.  
INTEND TO TRANSFER WATER RIGHT TO NEW LOCATION.

#### 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 2015 to 2019 (maximum lease period 5 years).  
(Month / Day / Year) (Month / Day / Year)

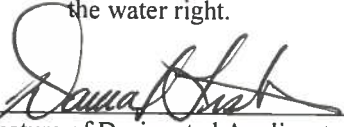
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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.

  
Signature of Designated Applicant

DANIAL LISTER  
Printed Name

9 FEB 2015  
Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Mail to:

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

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**ATTACHMENT 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. 63-32060

|                       | Designated Applicant                                                                                 | Applicant #2                                                                  | Applicant #3                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Name                  | DANIAL LISTER                                                                                        |                                                                               |                                                                               |
| Mailing Address       | 227 SUNRISE RM RD                                                                                    |                                                                               |                                                                               |
| Phone Number          | 208-921-0736                                                                                         |                                                                               |                                                                               |
| Email Address         | LISTERKUN@gmail.com                                                                                  |                                                                               |                                                                               |
| 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             |                                                                               |                                                                               |                                                                               |

**STATE OF IDAHO  
WATER RESOURCE BOARD**

## ATTACHMENT 2

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

| 1. <u>Water Right Number</u> | <u>Amount (cfs/ac-ft)</u> | <u>Nature of Use</u> | <u>Period of Use</u>             |
|------------------------------|---------------------------|----------------------|----------------------------------|
| <u>63-32060</u>              | <u>0.08/39.00</u>         | <u>IRRIGATION</u>    | <u>02/2015</u> to <u>02/2019</u> |
|                              |                           |                      | to                               |
|                              |                           |                      | to                               |
|                              |                           |                      | to                               |
|                              |                           |                      | to                               |

Total Amount: 0.08 / 39.00

2. Source of water GROUND WATER tributary to \_\_\_\_\_

3. Point(s) of Diversion:

[illegible]

4. Lands irrigated or place of use:

[illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** 9.8

02H03V119ENY

63-32037

63-32058

63-32069

63-32069

9.8 Acres



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

April 14, 2015

DANIAL LISTER  
227 SUNRISE RIM RD  
NAMPA ID 83686

### RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 63-32060

Dear Lessor:

Water Right **63-32060** 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, 2015**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at [www.idwr.idaho.gov](http://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: IDWR Western Region



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

April 3, 2015

DANIAL LISTER  
227 SUNRISE RIM RD  
NAMPA, ID 83686

RE: APPLICATION(S) TO LEASE WATER RIGHT # 63-32060 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 to the Water Supply Bank. **I have enclosed two original 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, 2015**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

*for Dana Hedley*

Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts  
Receipt #C100100

## MEMORANDUM

**To:** Water Right No(s). 63-32060

**From:** Clay Webster

**Date:** 3/18/2015

**Re:** Review of Application to Lease Water Right to the State Water Supply Bank and Rent a Water Right from the State Water Supply Bank

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**PURPOSE/NARRATIVE:** These applications were received on February 23, 2015. This application is to place the entire water right into the WSB to protect it from forfeiture. This application was accompanied by a companion application to rent the entire right back from the bank. The applicant got an approved transfer (71811) on this water right to move the POD. They have since been given two extensions to complete the transfer. However, the third request for extension was denied due to concerns that the water right could become forfeited while on the third extension. The applicant was advised that they could lease the right into the bank to stay forfeiture on the condition that they resume use immediately once the right is removed from the bank. See "Letter Re: Extension of Forfeiture Concerns" dated 11/25/2014 from Pam Skaggs.

The rental was denied and I received a call from Mr. Lister on 4/2/2015 to only lease this right for one year.

**AUTHORITY TO FILE:** The Lease and rental applications were signed by Danial Lister, designated applicant for the lease and property owner for the rental.

**WATER RIGHT VALIDITY:** This water right was split from 63-31287 in the adjudication process. 63-31287 was split from 63-3597D in Transfer 66108. This water right was then decreed in 2009. This water right is up against forfeiture. The applicant must be ready to resume use upon removal from the Water Supply Bank to avoid forfeiture. The owners were informed of this in the letter from Pam Skaggs dated 11/25/2014.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent. This rental proposes to utilize the water from the leased POD for the leased POU. However, there is no well constructed at the POD location. The rental does not authorize the construction of a well.

**ENLARGEMENT OF USE:** There are no overlapping water rights. Enlargement is not an issue.

**LOCAL PUBLIC INTEREST:** Review staff has no information to suggest the lease application is inconsistent with the local public interest. However, renting this right to a location without the well constructed may be inconsistent with the Local Public Interest. This would preclude any other user from renting this water right.

**BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:** The lease is consistent with the conservation of water resources in Idaho. The rental application would preclude this right from being put to beneficial use. Therefore it will be denied.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** The leased right is not subject to a Water District.