

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective February 6, 2015, between the Idaho Water Resource Board ("**Board**"), and

Lessor: TOBY B LAMBERT TRUST
TOBY B LAMBERT- TRUSTEE
142 BARLOW RD
KETCHUM ID 83340
208-727-0004
tobylambert@yahoo.com

RECEIVED

FEB 27 2015
DEPARTMENT OF
WATER RESOURCES

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>
37-8372	0.03 CFS	7.9 AF	2.25 AC
Combined Lease Totals:	0.03 CFS	7.9 AF	2.25 AC

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, 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.

TOBY B LAMBERT TRUST

142 BARLOW RD
KETCHUM ID 83340

By Toby Lambert

Printed Name Toby B Lambert

Date 2/19/15

Title Trustee

IDAHO WATER RESOURCE BOARD

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

By Brian Patton

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date February 27, 2015

Lease approved by IDWR Cherie Palmer

Date 2/27/2015

ATTACHMENT A
WATER RIGHT NO. 37-8372
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: TOBY B LAMBERT TRUST
142 BARLOW RD
KETCHUM ID 83340
208-727-0004

Priority Date: 08/09/1988

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.03 CFS	7.9 AF
	Total:		0.03 CFS	7.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 10 Twp 05N Rge 17E 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	
05N	17E	10														2.25			2.25

Total Acres: 2.25

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. Irrigation use under this right is authorized only in connection with a domestic use.
13. This right when combined with all other rights shall provide no more than 0.03 cfs per acre or more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

FEB 06 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.**

Lambert Living Trust

Designated Applicant Toby B. Lambert, Trustee of the Toby B.
(Select one owner – see item 1A on the application)

Water Right No. 37-8372
(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 Only

Fee Amount \$ <u>250.00</u>	Received By: <u>J. Strange</u>	Date Received: <u>2-9-2015</u>	Receipt # <u>CO99904</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Toby B. Lambert</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.

Toby B. Lambert Living Trust

Designated Applicant Toby B. Lambert, Trustee of the Toby B. Lambert Living Trust Email Address tobylambert@yahoo.com

Mailing Address 142 Barlow Road, Ketchum, Idaho, 83340 Phone Number (208) 727-0004

☒ 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 James P. Speck Organization Speck & Aanestad, A. Professional Corp.

Professional Title attorney Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, Idaho, 83340 Phone Number (208) 726-4421

☐ 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 37-8372 ☐ 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.

Well & pump to underground sprinkler 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.

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. The portion of this right to irrigate 0.75 acres will continue to be used - the rest will not be irrigated

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](#).

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 2015 (maximum lease period 5 years).
(Year) (Year)

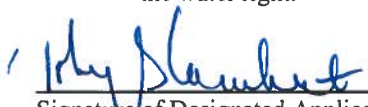
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Toby B. Lambert, Trustee
Printed Name

2/4/15
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 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> |
|------------------------------|---------------------------|----------------------|-----------------------|
| 37-8372 | 0.03 cfs/7.9 AF | irrigation | April 1 to October 31 |
| | | | to |
| | | | to |
| | | | to |
| | | | to |
| | | | to |
| Total Amount: | 0.03 cfs/7.9 AF | | |

2. Source of water ground water tributary to

- 3. Point(s) of diversion:**

[illegible]

- 4. Acres to be idled within the place of use:**

[illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 2.25

TOBY B, LAMBERT LIVING TRUST
APPLICATION TO LEASE PORTION OF
37-8372 TO WATER SUPPLY BANK

Help Blaine County Web Page Blaine County GIS Map Services

Parcel Information

Print Results Find Owner Find Parcel Find Address Find Legal

1:2,221

Go

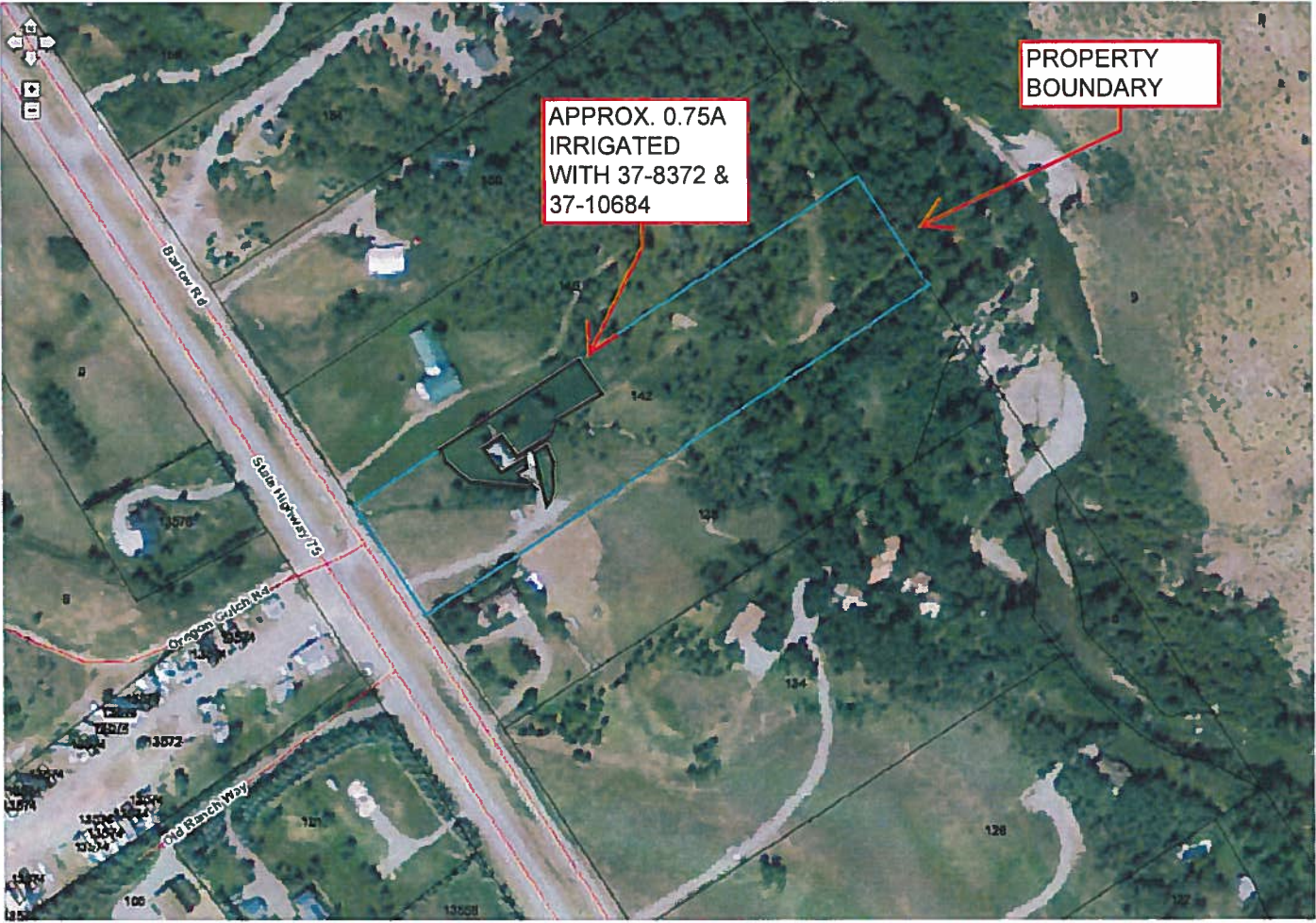
Results

Clear All

RP00040000
RP000

Map Contents

- Parcel Inform
- Milepc
- Main R
- Roads
- House
- Plats
- Parcel
- Mines
- Water
- Water
- Water
- 1-4 Se
- Towns
- Section
- Cities
- 2011T
- Herd I
- Public
- Voter
- Schoo
- USGS Topos
- USGS
- 2011 Aerials
- RGB
- 2009 Aerials





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
March 2, 2013

C.L. "BUTCH" OTTER
Governor

TOBY B LAMBERT TRUST
TOBY B LAMBERT- TRUSTEE
142 BARLOW RD
KETCHUM ID 83340

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 37-8372

Dear Lessor:

Water Right **37-8372** was leased into the Water Supply Bank on January 1, 2015 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,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James P. Speck – Speck and Aanestad
Allen Merritt – IDWR Southern Regional Manager
Kevin Lakey – Watermaster WD 37

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

RECEIVED

FEB 27 2015

DEPARTMENT OF
WATER RESOURCES

February 24, 2015

Clay Webster
Water Resource Agent
IDWR
322 E. Front St.
Boise, Idaho 83720-0098

Re: Toby B. Lambert, Trust - Application to Lease Water Right No. 37-8372 To The Water Supply Bank

Dear Clay:

Enclosed you will find the two original Water Supply Bank Lease Contracts which have been signed by my client, Toby B. Lambert, Trustee of the Toby B. Lambert Trust. As I have previously discussed with Remington Buyer and you, this Lease Contract is part of a "companion" application that includes the Application to Rent Water filed by William J. McMorrow, Trustee of the William J. McMorrow Revocable Trust. Therefore, the validity of this Lease Contract for 37-8372 is subject to and contingent upon the Department's approval of the rental by the McMorrow Trust of all of the water leased under the Lease Contract.

Please reply to this letter to acknowledge your receipt of the signed originals of the Lease Contract and the Department's agreement to the conditional effectiveness of that contract.

Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures

cc: Toby Lambert w/encl.
Kent Mouton w/encl.



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

February 18, 2015

TOBY B LAMBERT TRUST
TOBY B LAMBERT- TRUSTEE
142 BARLOW RD
KETCHUM ID 83340

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-8372 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 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 Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts
Receipt # C099904

c. Speck & Aanestad

Hersley, Jean

From: Merritt, Allen
Sent: Tuesday, February 17, 2015 9:23 AM
To: Hersley, Jean
Subject: RE: WSB Lease for 37-8372

No apparent issues.

From: Hersley, Jean
Sent: Tuesday, February 17, 2015 9:09 AM
To: Merritt, Allen; Kevin Lakey
Subject: WSB Lease for 37-8372

This is an extension of a lease we have had before, just a new owner. The applicant wishes to place 2.25 acres, 0.03 cfs and 7.9 af into the Bank for the 2015 irrigation season. Attached is the review memo. Please let me know your comments or concerns within 10 days so I can continue processing this application. Thank you.

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

MEMORANDUM

To: Water Right No(s). 37-8372
From: Jean Hersley
Date: 2/17/2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on February 6, 2015, along with an ownership change. The applicant wishes to extend the lease that was in the Bank for the 2014 irrigation season.

Under this application, Toby B Lambert Trust intends to lease 2.25 acres (0.03 cfs and 7.9 af) of 37-8372 into the Bank and retain the remainder of the right for the irrigation of 0.25 acres (0.01 cfs and 2.6 af). The property is 3 acres. They will continue to irrigate 0.75 acre with ½ acre from right 37-10684 and the 0.25 acres of 37-8372. This is for the 2015 irrigation season.

This water right has Condition 041 "Irrigation use under this right is authorized only in connection with a domestic use" which may limit the rental of this right.

The water right is part of the Ground Water Management areas for the Big Wood River.

AUTHORITY TO FILE: Toby B Lambert, trustee, signed the application.

WATER RIGHT VALIDITY: This right was decreed in 2008 and was in the Bank for the 2014 irrigation season. Forfeiture is not an issue.

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(s) are subject to Water District # 37.