

RECEIVED

WATER SUPPLY BANK LEASE CONTRACTFEB 25 2015
DEPARTMENT OF
WATER RESOURCES

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

Lessor: MARJEAN BULCHER
MARK C BULCHER
2381 BOWLIN LN
TWIN FALLS ID 83301
(208) 734-3923

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>
37-2644E	0.07 CFS	12.3 AF	3.5 AC	3.5 AC
37-22822	0.32 CFS	19.6 AF	5.6 AC	5.6 AC
Combined Lease Totals:	0.11 CFS	19.6 AF	5.6 AC	5.6 AC

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: 04/01 to 11/01

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

IN FILE # 37-2644E

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

MARJEAN BULCHER

2381 BOWLIN LN
TWIN FALLS ID 83301

By Marjean Bulcher
Printed Name MARJEAN Bulcher

Date 02/23/15
Title owner

MARK C BULCHER

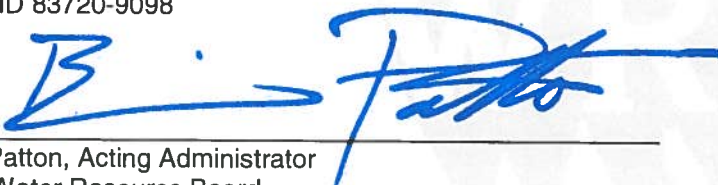
2381 BOWLIN LN
TWIN FALLS ID 83301

By Mark Bulcher
Printed Name Mark Bulcher

Date 02-23-2015
Title 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 February 25, 2015

Lease approved by IDWR Cherie Palmer

Date 2/25/2015

ATTACHMENT A
WATER RIGHT NO. 37-2644E
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: MARJEAN BULCHER
MARK C BULCHER
2381 BOWLIN LN
TWIN FALLS ID 83301
(208) 734-3923

Priority Date: 11/16/1989

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.07 CFS	12.3 AF
	Total:		0.07 CFS	12.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NWSENW Sec. 18, Twp 03N, Rge 18E, BLAINE County

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	
03N	18E	18					3.5												3.5

Total Acres: 3.5

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. Un-leased portions of the rights listed below are limited to the irrigation of a combined total of 2.2 acres in a single irrigation season. Combined Right Nos.: 37-153C, 37-2644C, 37-2644D, 37-2644E, 37-22822, 37-22826 and 37-22827.
13. Property also known as Lot 3 of Greenhorn Bench Subdivision.
14. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

ATTACHMENT A
WATER RIGHT NO. 37-22822
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: MARJEAN BULCHER
MARK C BULCHER
2381 BOWLIN LN
TWIN FALLS ID 83301
(208) 734-3923

Priority Date: 9/1/1885

Source: GREENHORN CREEK **Tributary to:** BIG WOOD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.32 CFS	19.6 AF
	Total:		0.32 CFS	19.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GREENHORN CREEK NESWNW Sec. 18, Twp 03N, Rge 18E, BLAINE County

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	
03N	18E	18					5.6												5.6

Total Acres: 5.6

Limited to acres within place of use described above: NA

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. Un-leased portions of the rights listed below are limited to the irrigation of a combined total of 2.2 acres in a single irrigation season. Combined Right Nos.: 37-153C, 37-2644C, 37-2644D, 37-2644E and 37-22822.
13. Place of use is located within Lot 3, Greenhorn Bench Subdivision.
14. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.
15. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

STATE OF IDAHO
WATER RESOURCE BOARD

**WATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLIST**

RECEIVED

DEC 03 2014

DEPARTMENT OF
WATER RESOURCES

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 MarJean or Mark C. Bulcher

Water Right No. 37-2644E
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 <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> 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. |
| 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>250⁰⁰</u>	Received By: <u>[Signature]</u>	Date Received: <u>12/03/14</u>	Receipt # <u>C099661</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Mark Bulcher and MarJean Bulch</u>	

**STATE OF IDAHO
WATER RESOURCE BOARD**

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 MarJean or Mark C. Bulcher Email Address mcb1@cableone.net
Mailing Address 2381 Bowlin Lane , Twin Falls, Id 83301 Phone Number 208 734 3923

☒ 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 _____ 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 37-2644E ☒ 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 on property with a .07 cfs irrigation right.

- 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.

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. _____

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 12/10/2014 to 12/10/2019 (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.

MarJean Bulcher
Signature of Designated Applicant

MarJean Bulcher
Printed Name

12/2/2014
Date

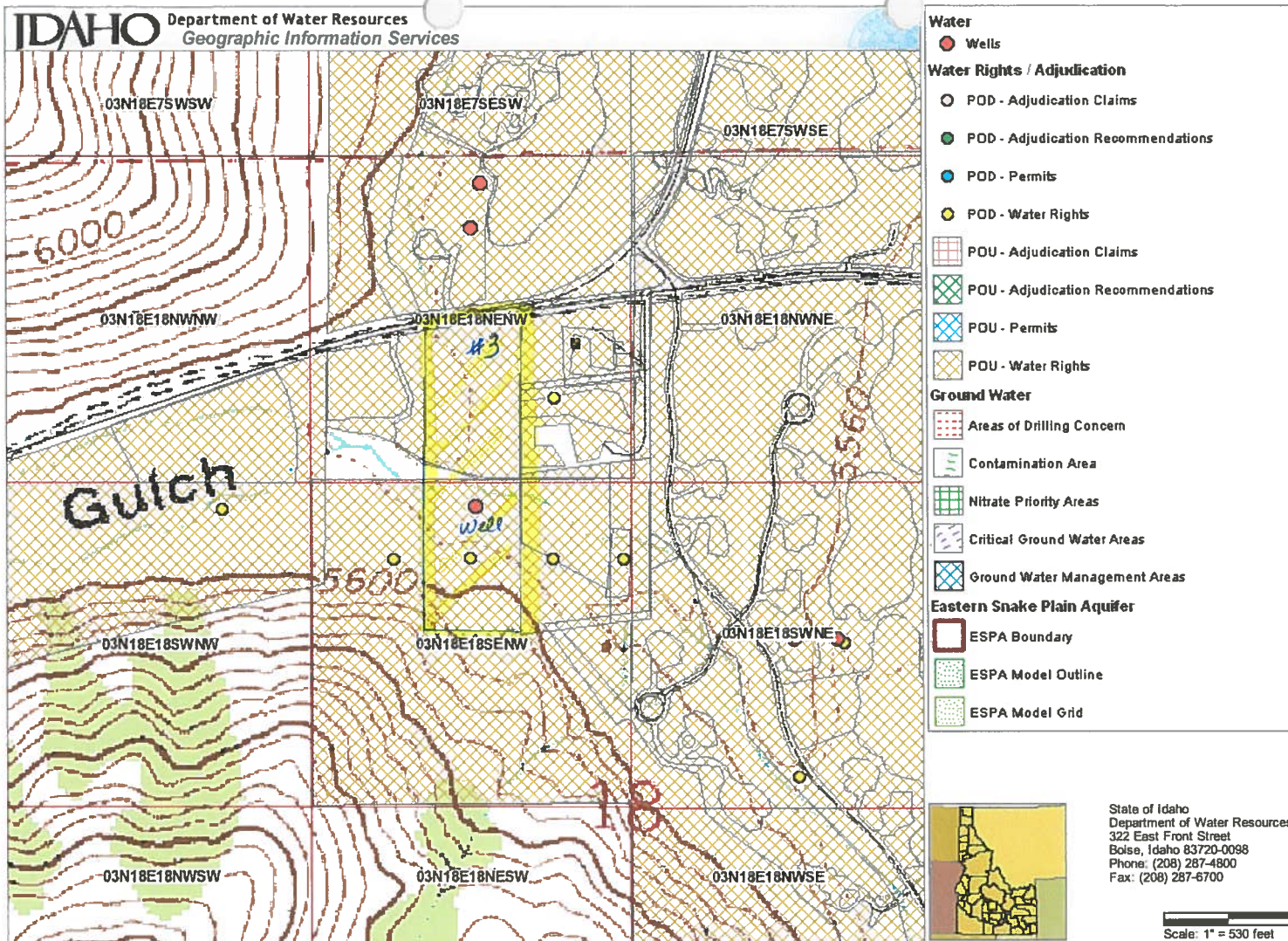
Mark C. Bulcher
Signature of Authorized Representative

Mark C. Bulcher
Printed Name

12/02/14
Date

Mail to:

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



Blaine Co. - Greenhorn Bench Lot "3"



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 26, 2015

MARJEAN & MARK BULCHER
2381 BOWLIN LN
TWIN FALLS ID 83301

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-2644E & 37-22822

Dear Lessor:

Water Rights 37-2644E & 37-22822 were leased into the Water Supply Bank in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

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

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

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

Sincerely,


Clay Webster

Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Allen Merritt – Southern Region
Kevin Lakey – Water District 37



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 12, 2015

MARJEAN AND MARC C BULCHER
2381 BOWLIN LN
TWIN FALLS ID 83301

RE: APPLICATION(S) TO LEASE WATER RIGHTS 37-2644E AND 37-22822 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 rights 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, 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,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts
Receipt # C099884

Webster, Clay

From: Kevin Lakey [watermanager@cableone.net]
Sent: Monday, February 09, 2015 12:58 PM
To: Webster, Clay
Subject: RE: Watermaster and Region Comments for WSB Lease Applications for Bulcher 37-2644E and 37-22822

Clay,
I have no concerns with this application.

Kevin Lakey

From: Webster, Clay [<mailto:Clay.Webster@idwr.idaho.gov>]
Sent: Friday, February 06, 2015 8:44 AM
To: Merritt, Allen; Kevin Lakey
Subject: Watermaster and Region Comments for WSB Lease Applications for Bulcher 37-2644E and 37-22822

Allen and Kevin,

We are processing these lease applications for the entire rights. Do you have any concerns? Thanks

Clay

Webster, Clay

From: Merritt, Allen
Sent: Friday, February 06, 2015 12:46 PM
To: Webster, Clay
Subject: Re: Watermaster and Region Comments for WSB Lease Applications for Bulcher 37-2644E and 37-22822

I do not have any issues.

Sent from my iPhone

On Feb 6, 2015, at 8:43 AM, Webster, Clay <Clay.Webster@idwr.idaho.gov> wrote:

Allen and Kevin,

We are processing these lease applications for the entire rights. Do you have any concerns? Thanks

Clay

<Lease Review Memo Bulcher 37-2644E and 37-22822.docx>

MEMORANDUM

To: Water Right No(s). 37-2644E and 37-22822
From: Clay Webster
Date: January 14, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The department received an application to lease the entire water right 37-2644E into the water supply bank on December 3, 2014 for five years. We received the application to lease the entire right 37-22822 into the water supply bank on Feb 3, 2015. The W9 received was accepted with both names on it.

Upon reviewing the rights associated with a combined acre limit, I determined that these two rights combined can irrigate 5.6 acres.

AUTHORITY TO FILE: This application was signed by both water right owners MarJean and Mark C Bulcher. They are the current owners of these rights.

WATER RIGHT VALIDITY: These rights were decreed in 2010. 37-22822 was split from 37-153C in an ownership change in 2013. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: While reviewing the overlap of these rights, I determined that this right is a supplemental right to 37-22822. No enlargement is evident as long as both rights are idled together. 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.