

# WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("Lease") is effective January 1, 2014, between the Idaho Water Resource Board ("Board"), and

**Lessor: D & C PROPERTIES LLC**  
PO BOX 390  
REXBURG ID 83440  
208-356-5491

**RECEIVED**  
**JAN 30 2015**

## RECITALS

**DEPARTMENT OF  
WATER RESOURCES**

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

Water Right	Lease Rate	Lease Volume	Total Leased Acres
22-7394	0.64 CFS	147.0 AF	49.0 AC
22-11900	0.70 CFS	not stated	49.0 AC

**Combined Lease Totals: 0.98 CFS**      **not stated**      **49.0 AC**

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

Authorized Period of Use under Lease: April 15th 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, 2016.

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.

### SUPPORT DATA

IN FILE # 22-7394

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.

**D & C PROPERTIES LLC**  
PO BOX 390  
REXBURG ID 83440

By *David J. Walters*  
Printed Name DAVID J. WALTERS

Date 1-26-15  
Title Manager

**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

Lease approved by IDWR

*Cherie Palmer*

Date January 30, 2015  
Date 1/30/2015

**ATTACHMENT A**  
**WATER RIGHT NO. 22-7394**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** D & C PROPERTIES LLC  
PO BOX 390  
REXBURG ID 83440  
208-356-5491

**Priority Date:** 04/22/1982

**Source:** GROUND WATER

<b>BENEFICIAL USE</b>	<b>From</b>	<b>To</b>	<b>Diversion Rate</b>	<b>Volume</b>
IRRIGATION	04/15	to 10/15	0.64 CFS	146.8 AF
			<b>Total:</b> 0.64 CFS	<b>146.8 AF</b>

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

GROUND WATER SENESE Sec. 30 Twp 05N Rge 46E TETON 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	46E	30									37.0				12.0				49.0

Total Acres: 49.0

Limited to acres within place of use described above: 49.0 AC

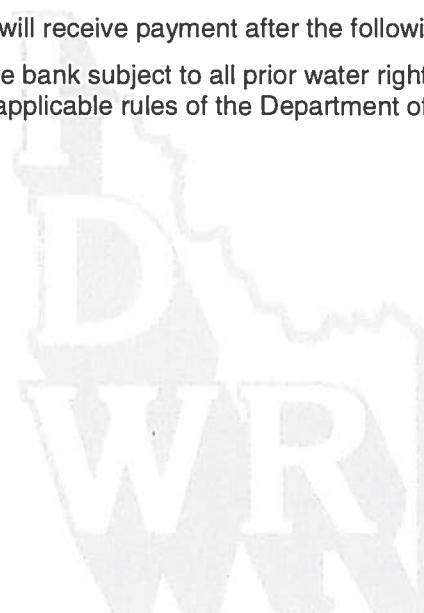
**COMBINED LIMITS OF LEASED RIGHT:**

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
22-7394 and 22-11900,	0.98 CFS	not stated	NA	49.0 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.



**ATTACHMENT B**  
**WATER RIGHT NO. 22-11900**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** D & C PROPERTIES LLC  
PO BOX 390  
REXBURG ID 83440  
208-356-5491

**RECEIVED**

**JAN 30 2015**

**DEPARTMENT OF  
WATER RESOURCES**

**Priority Date:** 04/15/1970

**Source:** TETON CREEK

**Tributary to:** TETON RIVER

<b>BENEFICIAL USE</b>	<b>From</b>	<b>To</b>	<b>Diversion Rate</b>	<b>Volume</b>
IRRIGATION	04/15	to 10/15	0.70 CFS	not stated
			<b>Total: 0.70 CFS</b>	

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

TETON CREEK L3(SENWSE) Sec. 29 Twp 05N Rge 46E TETON County

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

**IRRIGATION**

Twp	Rge	Sec	NE				NW				SW				SE				<b>Totals</b>
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	46E	30									37.0				12.0				49.0

Total Acres: 49.0

Limited to acres within place of use described above: 49.0 AC

**COMBINED LIMITS OF LEASED RIGHT:**

<b>Combined Rights</b>	<b>Lease Rate</b>	<b>Lease Volume</b>	<b>Acre Limit</b>	<b>Total Leased Acres</b>
22-7394 and 22-11900,	0.98 CFS	147.0 AF	NA	49.0 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.
12. 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.
13. The point of diversion for this water right is in Wyoming in T44N R118W.
14. This water right is also recorded as Wyoming Certificated Water Right No. 7308E.
15. This water right is subject to the delivery provisions contained in *Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941)* ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
16. The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted there from as set forth in *Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941)*.

STATE OF IDAHO  
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE  
APPLICATION CHECKLIST

RECEIVED  
NOV 10 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 D & C Properties, LLCWater Right No. 22-7394  
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	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contact information for <i>all owners</i> of the water right that is being leased or sold on this application.
1B		<input checked="" type="checkbox"/>	An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant.
1C	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).
1D	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Written consent from irrigation district or water delivery company.
1E	<input type="checkbox"/>	<input checked="" type="checkbox"/>	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	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Description of a water right portion offered to the Water Supply Bank.
3D	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
4	<input checked="" type="checkbox"/>		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 ( <a href="http://maps.idwr.idaho.gov/mapall/">http://maps.idwr.idaho.gov/mapall/</a> ) to locate a water right place of use or point of diversion.
5			Warranty Deed showing water right reservation for Lot 4 of Old Farm Subdivision

## Department Use Only

Fee Amount \$ <u>500<sup>00</sup></u>	Received By: <u>Q</u>	Date Received: <u>11/10/14</u>	Receipt # <u>C099592</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)		
Name on W-9:		<u>D&amp;C Properties LLC</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 D & C Properties, LLC Email Address \_\_\_\_\_  
 Mailing Address PO Box 390, Rexburg, ID 83440 Phone Number 208-356-5491

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 Kristin Moore Organization Rocky Mountain Environmental Assoc.  
 Professional Title Water Rights Analyst Email Address kristin.rmea@gmail.com  
 Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

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 22-7394  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.

Water is diverted from a well and delivered through a mainline to the 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.  
Water right no. 22-11900 is co-mingled with this water right. It is delivered through the South Side Ditch and is diverted into the same mainline.

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 ?

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.

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.

David J. Walters

**Signature of Designated Applicant**

DAVID Z. WALTERS

Printed Name

10-22-14

Date

**Signature of Authorized Representative**

---

**Printed Name**

Date

Mail to:

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

Authority to Act on Behalf

D & C Properties LLC hereby authorize Rocky Mountain Environmental Associates to act on our behalf regarding the Water Supply Bank applications for Water Right Nos. 22-7394 and 22-11900 in Teton County.

A handwritten signature in black ink, appearing to read "David Walters". The signature is written in a cursive style with a horizontal line through it.

By: David Walters

For: D & C Properties LLC

**STATE OF IDAHO  
WATER RESOURCE BOARD**

## ATTACHMENT 2

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

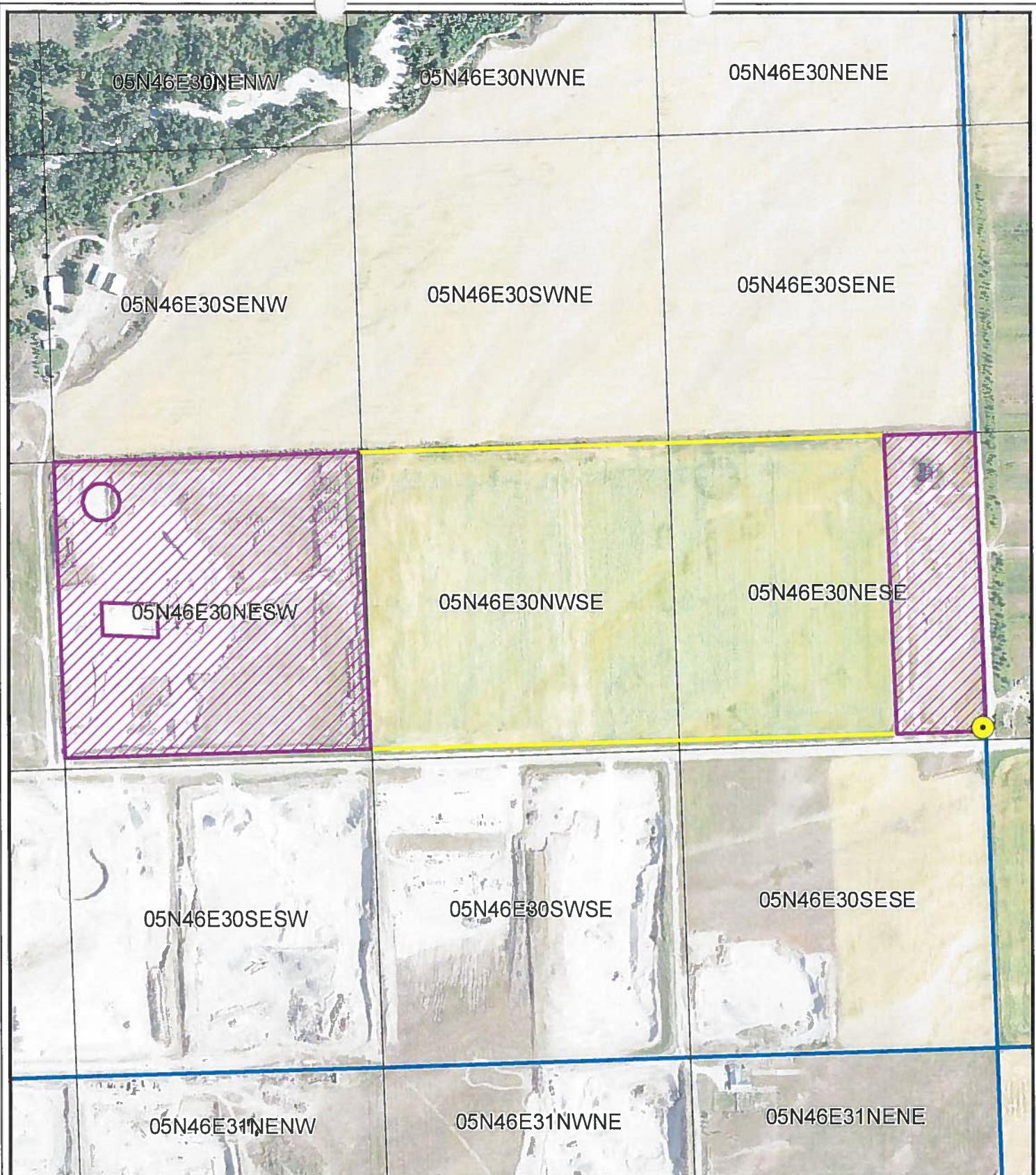
<u>1. Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>	
22-7394	0.64 cfs	Irrigation	4/15	to 10/15
				to _____
Total Amount:	0.64 cfs			

2. Source of water Ground Water tributary to .....

3. Point(s) of Diversion:

4. Lands irrigated or place of use:

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 49



POD 22-7394   Twp & Rng  
 Water Right POU   Section  
 Irrigated   QQ  
 Water Bank

2013 NAIP Photography

## Attachment #4

D & C Properties LLC

0      300      600      1,200 Feet





201477 NOV 25 2008 PM 2:36

Attachment # 5  
1-35-Walters-KL  
ALLIANCE TITLE & ESCROW  
P.O. BOX 732  
REXBURG, ID 83440

## WARRANTY DEED

FOR VALUE RECEIVED

D & C Properties, LLC, an Idaho Limited Liability Company

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Dave Z. Walters and Charlene B. Walters, Husband and Wife  
whose current address is

342 W 4<sup>th</sup> N Rexburg, Idaho 83440

the grantee(s), the following described premises, in Teton County, Idaho, TO WIT:

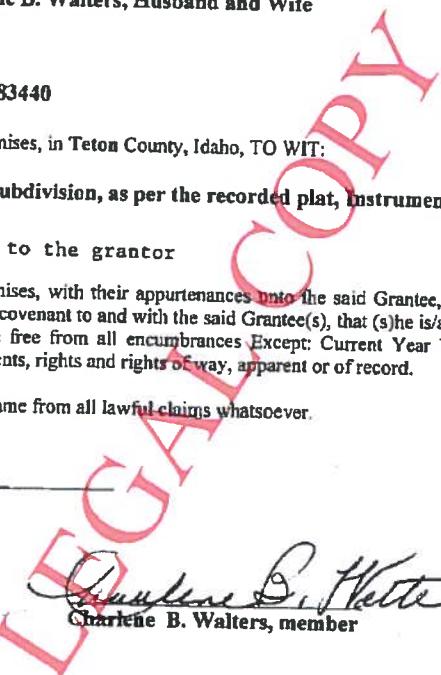
Lot 4 of the Final Plat of Old Farm Subdivision, as per the recorded plat, Instrument No. 201107

All water rights are reserved to the grantor

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that they will warrant and defend the same from all lawful claims whatsoever.

Dated: 11-24-08

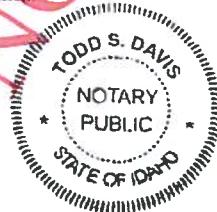
  
Dave Z. Walters, member

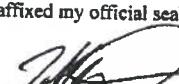
Charlene B. Walters  
Charlene B. Walters, member

State of Idaho  
County of Madison

On this 24 day of November 2008, before me, a Notary Public in and for said state, personally appeared Dave Z. Walters and Charlene B. Walters, known or identified to me to be the Managing Members in the Limited Liability Company known as D & C Properties, LLC, who executed the foregoing instrument, and acknowledged to me that they executed the same in said LLC name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



  
Notary Public for the State of  
Residing at:  
Commission Expires:

Residing in Sugar City, ID  
Commission exp 12-21-2011

This instrument filed  
as an accommodation only.  
It has not been examined  
as to its execution, insurability  
or effect on title.

Instrument # 201477  
TETON COUNTY, IDAHO  
11-26-2008 02:36:00 No. of Pages: 2  
Recorded for: ALLIANCE TITLE  
MARY LOU HANSEN Fee: \$ 0.00  
Ex-Officio Records Deputy  
Index to DEED WARRANTY

State of Idaho }  
County of Madison }ss.  
}

On this 24 day of November, in the year 2008, before me, a Notary Public in and for said state, personally appeared Charlene B. Walters known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

*Kathy Lords*  
Notary Public for the State of Idaho  
Residing at Lightfoot, Id  
Commission Expires: 4/23/2011



NOT A LEGAL COPY



**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

February 2, 2015

D & C PROPERTIES  
PO BOX 390  
REXBURG ID 83440

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 22-7394 & 22-11900**

Dear Lessor:

Water Rights **22-7394 & 22-11900** were leased into the Water Supply Bank on January 1, 2014 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.**

Please note that during our final review of these lease documents, we found that there was a lease volume limit added that does not apply. Pages 1 and 3 of these documents have been corrected to remove that volume limit.

The rights will automatically be released from the Bank on **December 31, 2016**, 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,

*Clay Webster*  
for Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Rocky Mt Environmental  
IDWR Eastern Region  
Lyle Swank- Water District No. 1



**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

January 21, 2015

D & C PROPERTIES LLC  
PO BOX 390  
REXBURG ID 83440

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 22-7394 and 22-11900 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, 2016**, 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*  
Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Rocky Mountain Environmental Associates Inc

## MEMORANDUM

**To:** Water Right No(s). 22-7394 and 22-11900

**From:** Ashley Newbry, Engineer Associate

**Date:** 1/13/2015

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

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**PURPOSE/NARRATIVE:** On November 10, 2014 IDWR received WSB lease applications for 22-7394 (groundwater) and 22-11900 (Teton Creek surface water). The applications were submitted by Rocky Mountain Environmental Associates Inc., on behalf of D & C Properties LLC.

Water rights 22-7394 and 22-11900 were decreed on 12/2/2008. They overlap the same place of use for both beneficial uses. Both 22-7394 and 22-11900 are subject to a combined use limit of 116 acres in a single irrigation season and a combined diversion rate of 2.32 cfs.

Water right 22-11900 (Teton Creek surface water) is delivered via South Side Ditch. It is also recorded as Wyoming Certificated Water Right No. 7308E. This water right is subject to the delivery provisions contained in the "Roxana decree," Equity No. 2447 (see WR conditions).

**AUTHORITY TO FILE:** Mr. David Walters retains the right to file the water right applications. He is the authorized representative of D & C Properties LLC, per Idaho Secretary of State documentation.

**WATER RIGHT VALIDITY:** Both water rights were decreed in 2008, which is within 7 years of 2014. These rights are valid and may be placed in the WSB as 2014 rentals.

**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 rights are subject to Water District 01.

Cefalo – I don't have any concerns or comments about the proposed WSB Lease.

Bohac – These guys are not within WD 120, but I think they are still in WD 01 for Lyle's comment.

Swank – N/C



November 4, 2014

RMEA 14-0053

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

Re: Water Supply Bank Rental Applications

Dear Agent,

Enclosed are two applications to Lease Water to the Water Supply Bank for right nos. 22-7394 and 22-11900. Applicant operates a gravel pit and these water rights are proposed to be preserved for those areas not currently under irrigation.

A portion of the water rights overlay Lot 4 of Old Farm Subdivision, which consists of 4 lots on the eastern side of the property. Lot 4 is owned by James Walters of Walters Ready Mix. The water rights were reserved on this lot and are still owned by D & C Properties, LLC. A deed is included to show ownership of the right on this lot.

If you have questions or concerns, please contact me at 524-2353 or through my email [kmoore@rockymountainenvironmental.com](mailto:kmoore@rockymountainenvironmental.com) .

Thank you,

A handwritten signature in blue ink that reads "Kristin Moore".

Kristin Moore  
Water Rights Analyst

Enclosures:      WSB Applications  
                          Check #17572 for \$500

RECEIVED  
NOV 10 2014  
DEPARTMENT OF  
WATER RESOURCES