

JAN 20 2015

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT**

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

Lessor: DAVID DANIEL
12197 DEER FLAT RD
NAMPA ID 83686
(208) 464-1525

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>
63-3330B	0.45 CFS	175.5 AF	39.0 AC	48.0 AC
63-7075B	0.35 CFS	137.5 AF	40.0 AC	48.0 AC
Combined Lease Totals:	0.80 CFS	180.0 AF	40.0 AC	48.0 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 10/15

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, 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 # 63-3330B

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

DAVID DANIEL
12197 DEER FLAT RD
NAMP A ID 83686

By David Daniel

Date 1/13/2015

Printed Name David Daniel

Title owner

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 January 24, 2015

Lease approved by IDWR Cherie Palmer

Date 1/26/2015

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. This right is limited to the irrigation of 39 acres within the place of use described above in a single irrigation season.



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.
14. This right is limited to the irrigation of 40 acres within the place of use described above in a single irrigation season.



STATE OF IDAHO
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLISTRECEIVED
OCT 14 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 David DanielWater Right No. 63-3330 B
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).
- 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>500⁰⁰</u>	Received By: <u>CD</u>	Date Received: <u>10/14/14</u>	Receipt # <u>C099508</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>David Daniel</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 David Daniel Email Address addaniel467@gmail.com
Mailing Address 12197 Deer Flat Rd, Nampa ID 83686 Phone Number 208 467-1525

☐ 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 63-3330 B ☒ 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.

There is a buried mainline with risers in place

- 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.

63- 7075 B covers the same POW
63- 33230 has 4 acres at the same place that will continue
to be used to irrigate from ground water.

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 12/31/2014 to 12/31/2019 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / Year)

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

Current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the ank does not, in itself, confirm the validity of the water right or any elements of the water right.

David Daniel
Signature of Designated Applicant

David Daniel
Printed Name

10/9/2014
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. 63-3330 B

	Designated Applicant	Applicant #2	Applicant #3
Name	David Daniel	Angela Daniel	
Mailing Address	12197 Deer Flat Rd Nampa, ID 83686	same	
Phone Number	208 467-1525	same	
Email Address	addaniel467@gmail.com	same	
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	David Daniel	Angela Daniel	

	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. Water Right Number 63-3330B Amount (cfs/ac-ft) .45 cfs / 175.5 ac-ft Nature of Use Irrigation Period of Use 3/1 to 11/15

_____ to _____

_____ to _____

_____ to _____

_____ to _____

Total Amount: .45 cfs

2. Source of water ground tributary to _____

3. Point(s) of Diversion:

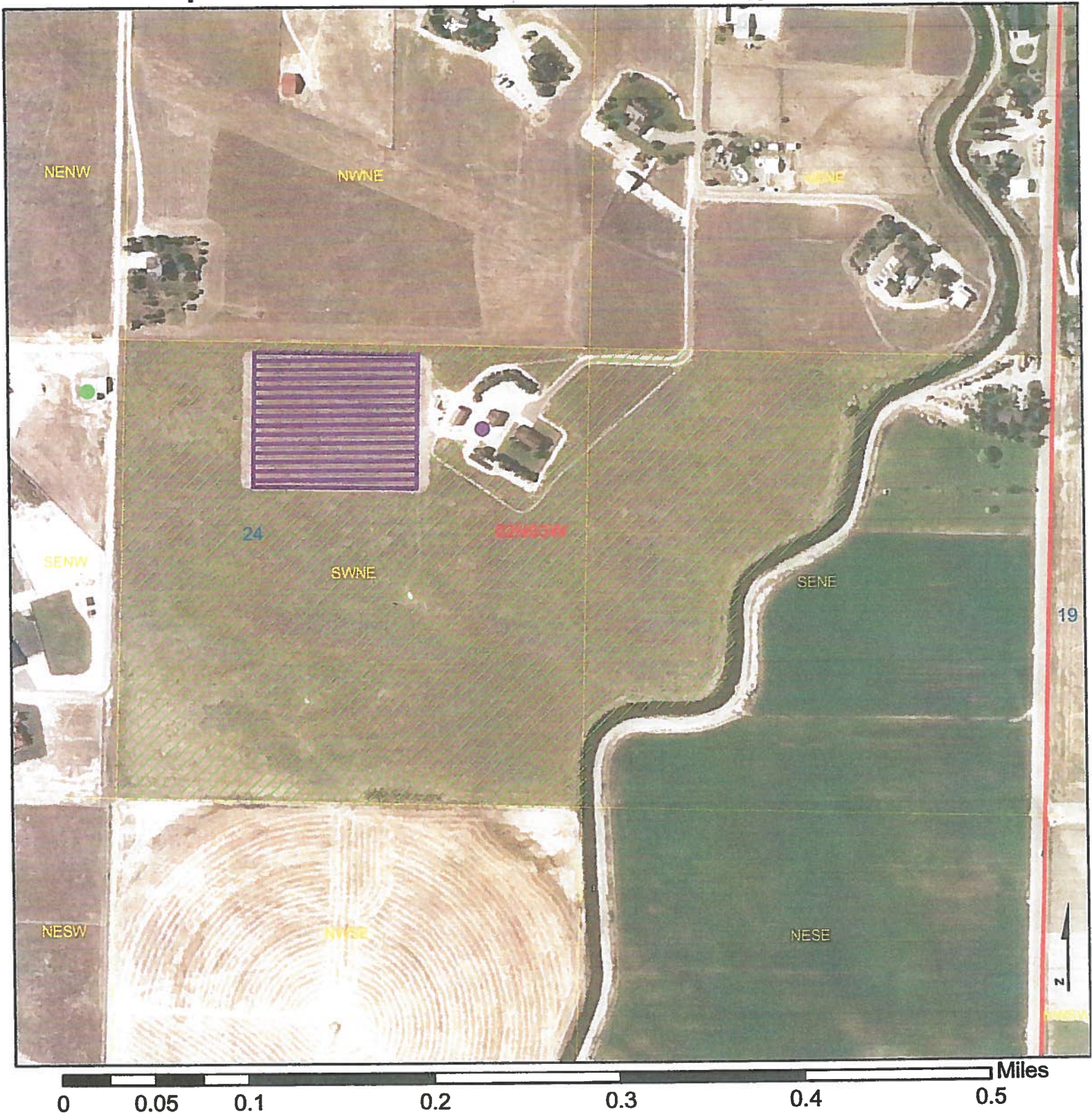
Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
2N	3W	24		SE	NW		Canyon

4. Lands irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	3W	24			34	14													48

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 48

Proposed/Corrected Daniel WR Spatial Data



Legend

- 63-3330B & 63-7075B POD
- 63-33230 POD
- ▨ 63-3330B & 63-7075B POU
- ▨ 63-33230 POU
- Township/Range
- Sections
- ▨ QQ

2009 Aerial Photo
 water supply bank
 lease map for David Daniel
 63-3330B



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

January 27, 2015

DAVID DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 63-3330B and 63-7075B

Dear Lessor:

Water Rights **63-3330B** and **63-7075B** were 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.**

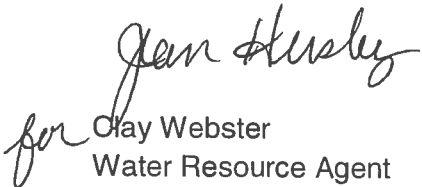
The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the 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,


for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: IDWR Western Regional Office



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

January 9, 2015

DAVID DANIEL
12197 DEER FLAT RD
NAMPA ID 83686

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 63-3330B and 63-7075B 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, 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 # C099508

MEMORANDUM

To: Water Right No(s). 63-3330B and 63-7075B
From: Clay Webster
Date: January 7, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received applications to lease these entire water rights into the Water Supply Bank on October 14, 2014. The applicant incorrectly states on his application that 63-33230 is located at the same place. Upon review, I found that this water right has a distinct POU that does not overlap these two rights.

AUTHORITY TO FILE: These applications were signed by David Daniel, partial owner and designated applicant.

WATER RIGHT VALIDITY: These water rights were decreed in June 2009 and were leased into the WSB from 2009 through 2014. 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. These rights are within the S Canyon County ground water area where Western Region has several large applications for new permits pending, many of which are protested. The department is has done ground water monitoring in the area due to concerns of lowering ground water levels.

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 not subject any Water District. Western Region had concerns about these rights being in the S Canyon County ground water area. See Angie Grimm's e-mail.

Webster, Clay

From: Grimm, Angie
Sent: Tuesday, January 06, 2015 12:03 PM
To: Webster, Clay
Cc: Van Dyke, Nick
Subject: RE: Regional Comments on WSB Lease Applications for 63-3330B and 63-7075B Daniel

Clay,

Good morning! Steve requested Nick and I look at this WSB lease to provide comments (we're all getting exposure to new duties with staff changes, etc. – no double review because of concerns or anything in particular, just new duties, etc.). Nick provided his comments below. The only thing I'd add, is to note that these rights are within the S Canyon County ground water area within which Western Region has several large applications (98 cfs for example) for new permits pending, many of which are protested. Along with large quantities proposed for diversion, the Department has done ground water monitoring in the area due to concerns of lowering ground water levels. These factors would more likely affect a rental application in this area rather than a lease, but I thought it might be worth noting as a local area concern in this area. Just an FYI.

No concerns on this particular lease application though. Thank you for the opportunity to comment. Hope these comments are helpful (if not for this lease perhaps future rentals).

Thanks,
Angie

P.S. More information on the South Canyon County Ground Water issue is available in ArcMap via : Basin 63 Areas of Concern layer file on x:\IDWR RegulatoryAreas\Other Regulated Areas\Basin63Concern. Again, just FYI if you'd like to know more just 'cause ;) Thanks!

From: Van Dyke, Nick
Sent: Tuesday, December 30, 2014 7:39 AM
To: Grimm, Angie
Subject: RE: Regional Comments on WSB Lease Applications for 63-3330B and 63-7075B Daniel

I agree with Clay's assessment/review. No concern or comment to add. – Nick

From: Lester, Steve
Sent: Monday, December 29, 2014 4:00 PM
To: Grimm, Angie
Cc: Webster, Clay
Subject: FW: Regional Comments on WSB Lease Applications for 63-3330B and 63-7075B Daniel

Angie:

Please ask Nick to review this & provide you with a reply you can send to Clay by January 10.

Thx to both you & Nick.

SL

From: Webster, Clay
Sent: Monday, December 29, 2014 3:46 PM
To: Lester, Steve
Subject: Regional Comments on WSB Lease Applications for 63-3330B and 63-7075B Daniel

Steve,

I am processing lease applications for these two water rights entirely into the WSB. They have been in the bank since they were decreed in 2009. Do you have any concerns? Thank you.

Sincerely,

Clay Webster

Water Resource Agent
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098
208-287-4800
www.idwr.idaho.gov

October 10, 2014

IDAHO DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK APPLICATIONS
PO BOX 83720
BOISE, ID 83720-0098

RECEIVED
OCT 14 2014
DEPARTMENT OF
WATER RESOURCES

RE: Renewal Water Supply Bank Applications for Rights 63-3330B and 63-7075B

Please find enclosed two Water Supply Bank Applications and our check for \$500.

Thank you,

A handwritten signature in blue ink, appearing to read "David and Angela Daniel".

David and Angela Daniel
12197 Deer Flat Rd.
Nampa, ID 83686
208 467-1525