

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("Lease") is effective March 31, 2014, between the Idaho Water Resource Board ("Board"), and

Lessor: JAMES E POULTER

~~456 HICKORY CIR~~ P.O. Box 429
~~IDAHO FALLS ID 83404~~ MOORE, ID 83255
(208) 360-6561

RECEIVED

JUL 28 2014

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>Acre Limit</u>	<u>Total Leased Acres</u>
34-14255	0.20 CFS	34.3 AF	9.8 AC	18.0 AC
34-14257	0.17 CFS	29.7 AF	8.5	18.0 AC
Combined Lease Totals:	0.37 CFS	63.0 AF	18.0	18.0 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 10/31

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, 2018.
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 # 34-14255

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.

JAMES E POULTER

~~456 HICKORY CIR~~ P.O. Box 429
~~IDAHO FALLS ID 83404~~ MOORE, ID 83255

By 

Date JUL 24, 2014

Printed Name JAMES E. POULTER

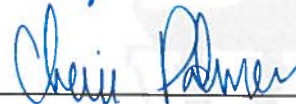
Title LESSOR

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 July 28, 2014

Lease approved by IDWR 

Date July 28, 2014

ATTACHMENT A
WATER RIGHT NO. 34-14255
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: JAMES E POULTER
~~456 HICKORY CIR~~ P.O. Box 429
~~IDAHO FALLS ID 83404~~ MOORE, ID 83255
(208) 360-6561

Priority Date: 7/5/1960

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	0.20 CFS	34.3 AF
	Total:		0.20 CFS	34.3 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNENE	Sec. 9, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NWNENW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NESW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NWSW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NENWSW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NWNWSW	Sec. 10, Twp 05N, Rge 26E, BUTTE 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	
05N	26E	9													4.0				4.0
05N	26E	10							2.0			12.0							14.0

Total Acres: 18.0

Limited to acres within place of use described above: 9.8 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>
34-14255 and 34-14257,	0.37 CFS	63.0 AF	18.0 AC	18.0 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.
12. Use of water under this water right will be regulated by the watermaster of State Water District No. 34, Big Lost River.
13. Rights 34-14255 and 34-14257 when combined shall not exceed the irrigation of 18 acres.
14. This right is limited to the irrigation of 9.8 acres within the place of use described above in a single irrigation season.
15. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
16. The total instantaneous diversion of water from all points of diversion under Rights 34-14255 and 34-14257 shall not exceed 0.37 cfs, nor a total combined annual volume of 63 af.
17. The combined diversion rate limit described in this right does not apply to the delivery of storage water to the place of use described in this right by the Big Lost River Irrigation District.
18. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
19. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.

ATTACHMENT A
WATER RIGHT NO. 34-14257
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: JAMES E POULTER
~~456 HICKORY CIR~~ P.O. Box 429
~~IDAHO FALLS ID 83404~~ MOORE, ID 83255
 (208) 360-6561

Priority Date: 4/10/1961

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	0.17 CFS	29.7 AF
	Total:		0.17 CFS	29.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NWNENE	Sec. 9, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NWNENW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NESW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NWSW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NENWSW	Sec. 10, Twp 05N, Rge 26E, BUTTE County
GROUND WATER	NWNWSW	Sec. 10, Twp 05N, Rge 26E, BUTTE 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	
05N	26E	9													4.0				4.0
05N	26E	10							2.0			12.0							14.0

Total Acres: 18.0

Limited to acres within place of use described above: 8.5

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>
34-14255 and 34-14257,	0.37 CFS	63.0 AF	18.0 AC	18.0 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.
12. Use of water under this water right will be regulated by the watermaster of State Water District No. 34, Big Lost River.
13. Rights 34-14255 and 34-14257 when combined shall not exceed the irrigation of 18 acres.
14. This right is limited to the irrigation of 8.5 acres within the place of use described above in a single irrigation season.
15. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
16. The total instantaneous diversion of water from all points of diversion under Rights 34-14255 and 34-14257 shall not exceed 0.37 cfs, nor a total combined annual volume of 63 af.
17. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
18. The combined diversion rate limit described in this right does not apply to the delivery of storage water to the place of use described in this right by the Big Lost River Irrigation District.
19. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

STATE OF IDAHO
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLISTRECEIVED
MAR 31 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 JAMES E. POULTERWater Right No. 34-14255; 34-14257All 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 _____ for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from _____).
- 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 (_____) to locate a water right place of use or point of diversion.

Department Use Only

Fee Amount \$ 500.00Received By: CSDate Received: 3/31/14

Receipt #

CO90599W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

James E. Poulter

**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 JAMES E. POULTER Email Address jep.pgeo@gmail.com
Mailing Address PO Box 429 MOORE, ID 83255 Phone Number 208 360-6561

☒ 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 34-14255 ☒ 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 AT THE LOCATION PROVIDES WATER FOR RESIDENCE AND
A SEPARATE LINE FOR IRRIGATION

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.

NONE

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

Yes ☐ No ☒

If yes, describe. _____

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

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 APR 1 2014 to MAR 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 bank does not, in itself, confirm the validity of the water right or any elements of the water right.


Signature of Designated Applicant

JAMES E. POULTER
Printed Name

3/25/2014
Date

Signature of Authorized Representative

Printed Name

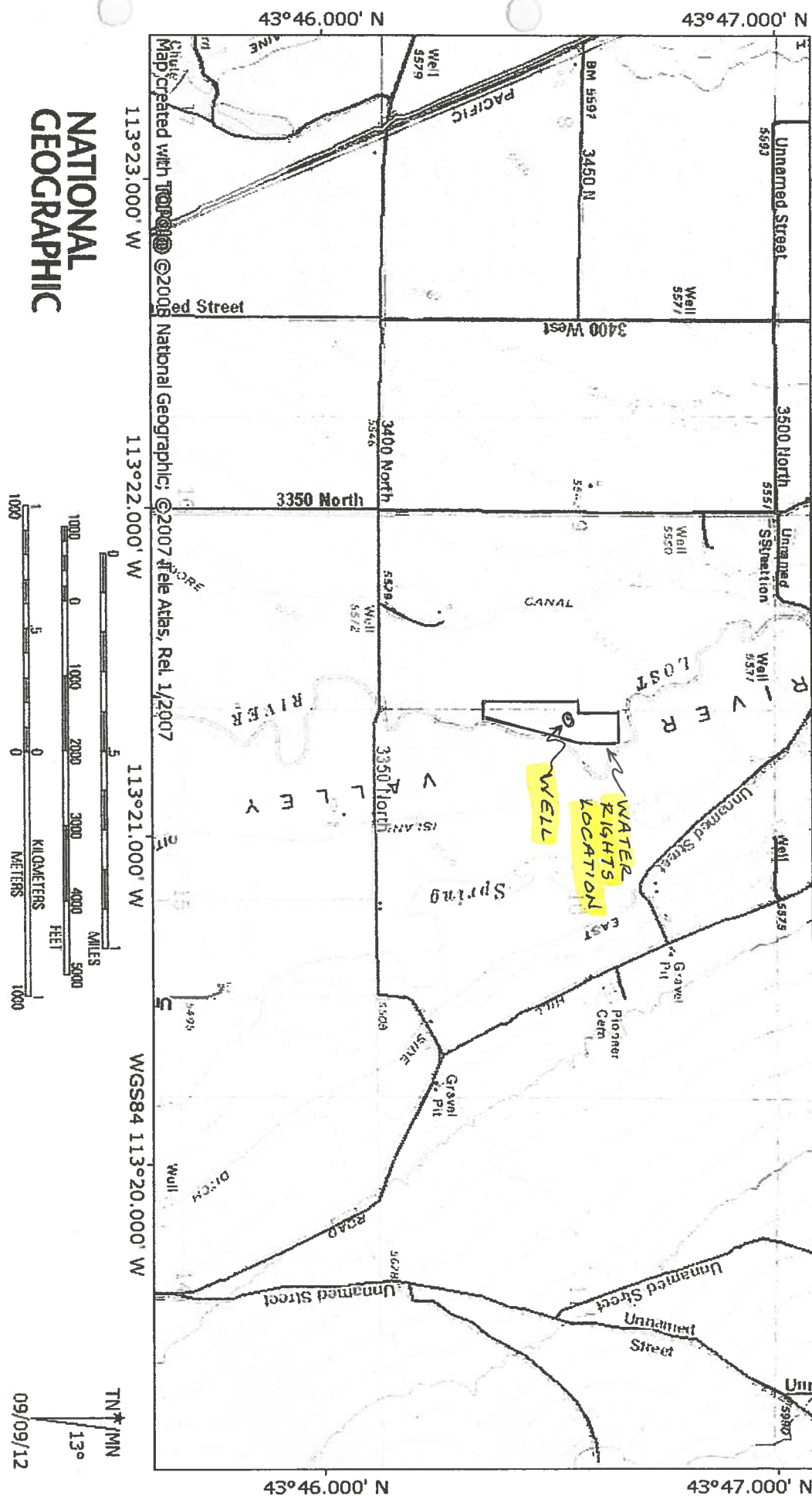
Date

Mail to:

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

TOPOL map printed on 09/09/12 from "Untitled.tpo"
113°22.000' W 113°21.000' W

WGS84 113°20.000' W



**NATIONAL
GEOGRAPHIC**

J.E. POULTER
WATER RIGHTS
34-14255, 34-14257
SECS 9, 10 T5N R26E

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 3 12 2014

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 JAMES E. POULTER Email Address jep.pgeo@gmail.com
Mailing Address PO BOX 429, MOORE, ID 83255 Phone Number 208 360-6561

☒ 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 34-14257 ☐ 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 AT THE LOCATION PROVIDES WATER FOR RESIDENCE AND
A SEPARATE LINE FOR IRRIGATION.

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.

NONE

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

Yes ☐ No ☒

If yes, describe. _____

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

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 4/01/2014 to 3/31/2019 (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:

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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

JAMES E. FOULTER
Printed Name

3/25/2014
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 2

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

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>34-14257</u>	<u>0.170/29.7</u>	<u>IRRIGATION</u>	<u>04/01 to 10/31</u>
			to
			to
			to
			to
			to
Total Amount:	<u>0.170/29.7</u>		

2. Source of water GROUND WATER tributary to _____

3. Point(s) of Diversion:

[illegible]

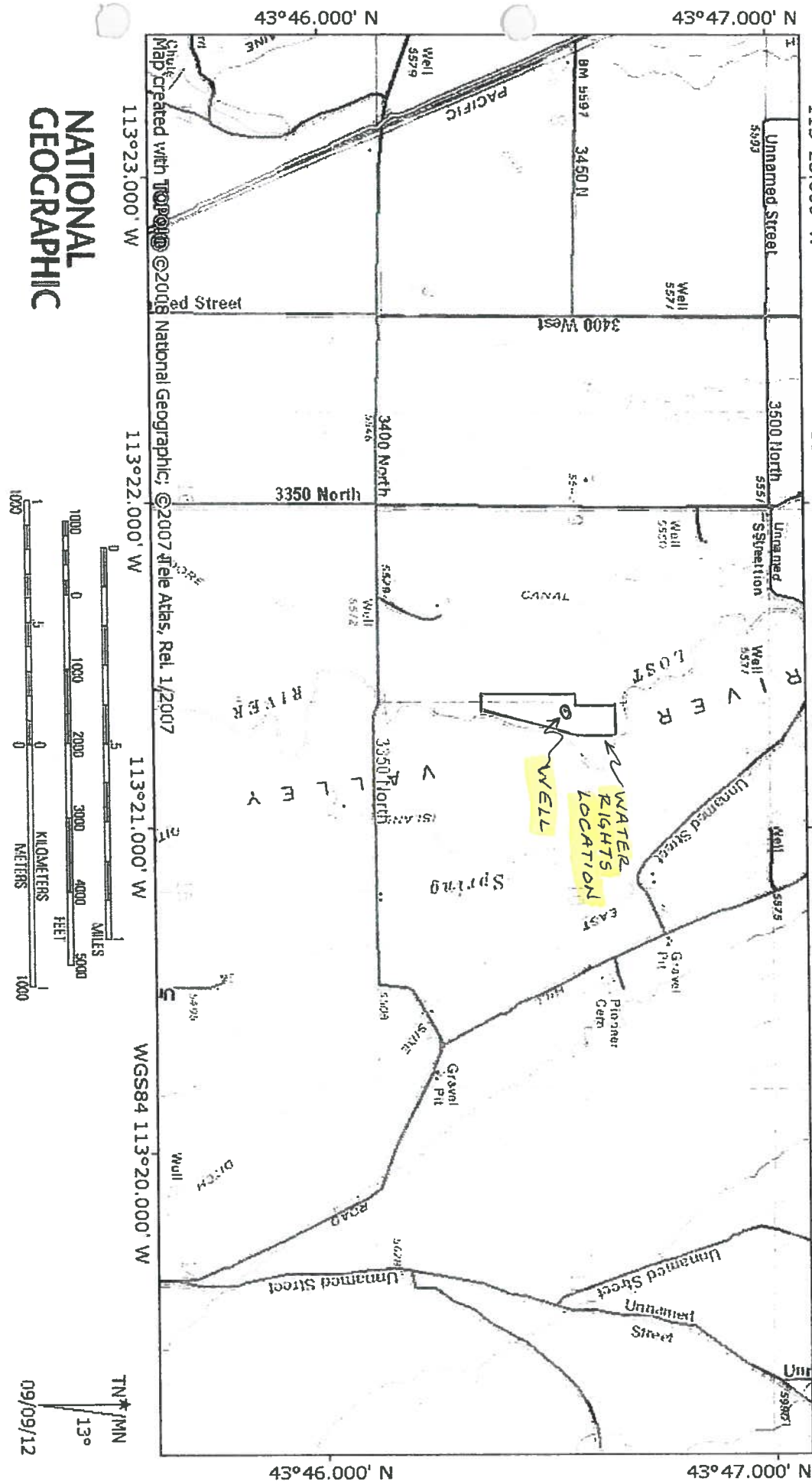
4. Lands irrigated or place of use:

[illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 15.2

WGS84 113°20.000' W

WGS84 113°20.000' W



**NATIONAL
GEOGRAPHIC**

J.E. POULTER
WATER RIGHTS
34-14255, 34-14257
SECS 9, 10 T5N R26E



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

July 28, 2014

C.L. "BUTCH" OTTER

Governor

JAMES E POULTER

PO BOX 429

MOORE ID 83255

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 34-14255 and 34-14257

Dear Lessor:

Water Rights 34-14255 and 34-14257 were leased into the Water Supply Bank on March 31, 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.**

The rights will automatically be released from the Bank on **December 31, 2018**, 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

Technical Records Specialist

Enclosure: Executed Lease Contract

c: M. Todd Perkes – State Water District 34
James Cefalo – IDWR Eastern 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

July 16, 2014

JAMES E POULTER
465 HICKORY CIR
IDAHO FALLS ID 83404

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 34-14255 AND 34-14257 TO THE WATER SUPPLY BANK

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2018**, 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
Technical Records Specialist

Enclosure: Proposed Lease Contracts

RECEIVED

JUL 14 2014

Attention: Clay Webster Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES 208-282-6200
RECOMMENDATION OF WATERMASTER

WSB Lease Application Water Right No: 34-14255 and 34-14257

Applicant's Name: James E. Poulter

Watermaster's Recommendation:

a) ☒ I do not oppose approval of this application.

b) ☐ I do not oppose approval of this application if conditioned as follows:

c) ☐ I oppose approval of this application for the following reasons:

d) ☐ Additional comments:

Dated this 12 day of July, 2014

Water District No. 34

M. Todd Perkins
Watermaster's signature

Webster, Clay

From: Cefalo, James
Sent: Monday, July 14, 2014 8:29 AM
To: Webster, Clay
Subject: RE: Water Supply Bank Lease Application for James Poulter

Clay,

I think it is highly unlikely that any irrigation took place in 2010. However, if you feel that there is not clear and convincing evidence of forfeiture, I am not opposed to approving the WSB lease. I agree with the proposed conditions.

James

From: Webster, Clay
Sent: Thursday, July 10, 2014 1:37 PM
To: Cefalo, James
Subject: Water Supply Bank Lease Application for James Poulter

James,

Good afternoon. I am currently processing a lease application for James Poulter for all of water right 34-14255 and 15.2 acres of water right 34-14257. I have been in contact with Mr. Poulter and it appears that King Mountain Ranch, the previous owners raised hay on the property in 2010. He is in need of this lease to protect his water rights from possible forfeiture. The lease will have conditions that will only allow it to be rented as supplemental water to Big Lost River Irrigation District water. Do you have any concerns with this lease? I appreciate any input.

Sincerely,

Clay Webster

Technical Records Specialist
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

Webster, Clay

From: Webster, Clay
Sent: Thursday, July 10, 2014 1:34 PM
To: 'watermaster34@atcnet.net'
Subject: Watermaster Comments for Water Supply Bank Lease Application
Attachments: DOC.pdf; DOC000.pdf; Watermaster recommendation form.docx

Mr. Perkes,

I am currently processing a lease application for James Poulter for all of water right 34-14255 and 15.2 acres of water right 34-14257. I have been in contact with Mr. Poulter and it appears that King Mountain Ranch, the previous owners raised hay on the property in 2010. He is in need of this lease to protect his water rights from possible forfeiture. The lease will have conditions that will only allow it to be rented as supplemental water to Big Lost River Irrigation District water. Do you have any concerns with this lease? I appreciate any input.

Sincerely,

Clay Webster

Technical Records Specialist
clay.webster@idwr.idaho.gov

208-287-4910

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Boise, ID 83720-0098

208-287-4800

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Webster, Clay

From: Webster, Clay
Sent: Thursday, July 10, 2014 1:37 PM
To: Cefalo, James
Subject: Region comments for Water Supply Bank Lease Application for James Poulter
Attachments: Lease Review Memo Poulter 34-14255 and 34-14257.docx; DOC.pdf; DOC000.pdf

James,

Good afternoon. I am currently processing a lease application for James Poulter for all of water right 34-14255 and 15.2 acres of water right 34-14257. I have been in contact with Mr. Poulter and it appears that King Mountain Ranch, the previous owners raised hay on the property in 2010. He is in need of this lease to protect his water rights from possible forfeiture. The lease will have conditions that will only allow it to be rented as supplemental water to Big Lost River Irrigation District water. Do you have any concerns with this lease? I appreciate any input.

Sincerely,

Clay Webster

Technical Records Specialist
clay.webster@idwr.idaho.gov

208-287-4910

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MEMORANDUM

To: Water Right No(s).
From: Clay Webster thru Cherie Palmer
Date: June 26, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received applications to Lease the entirety of water rights 34-14255 and 34-14257 into the water supply bank on March 31, 2014. Upon initial review it appeared that the water rights were supplemental in nature to Big Lost River Irrigation Rights. However, after speaking with Mr. Poulter on the phone on June 26, 2014, he explained that he bought this property in October 2010 and has not used the water since. He purchased the property from King Mountain Ranch. He said that they had just cut hay on the property. He has just built a home on the property and is now considering landscaping. He realizes that he is close to his five years of non-use and wishes to protect his rights from forfeiture.

AUTHORITY TO FILE: This application was signed by James Poulter, Current water rights owner.

WATER RIGHT VALIDITY: Satellite imagery shows possible use in May and July of 2010 (see below)

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

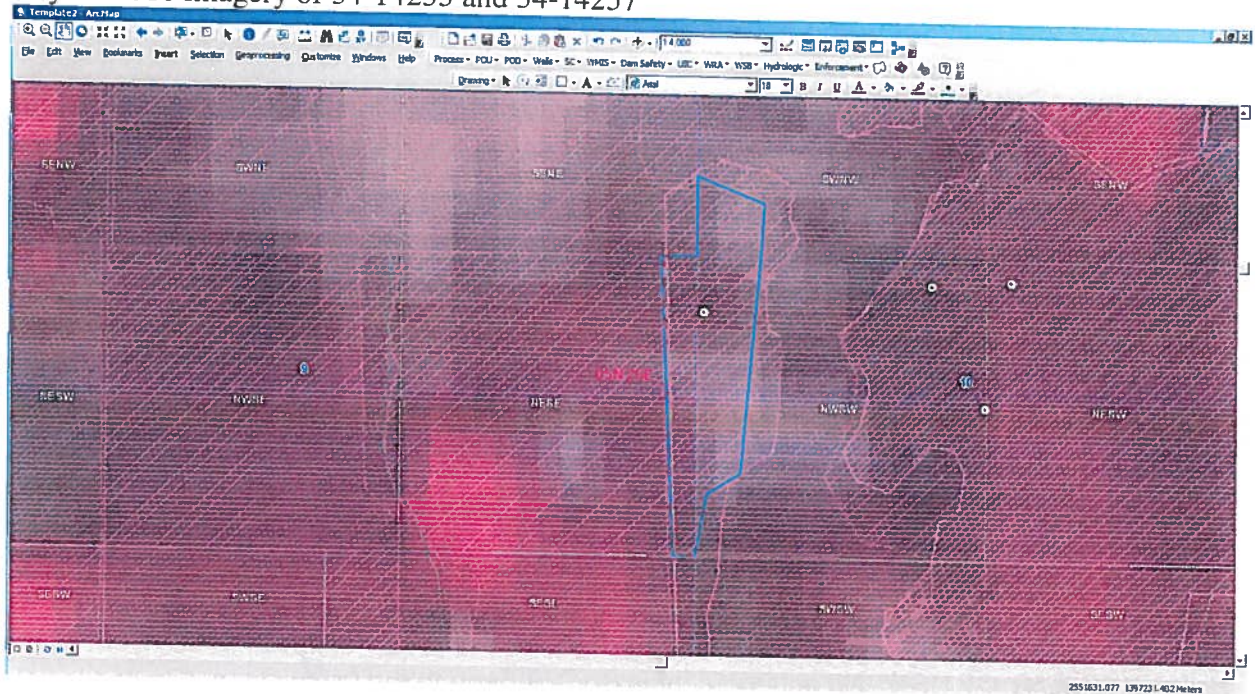
ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

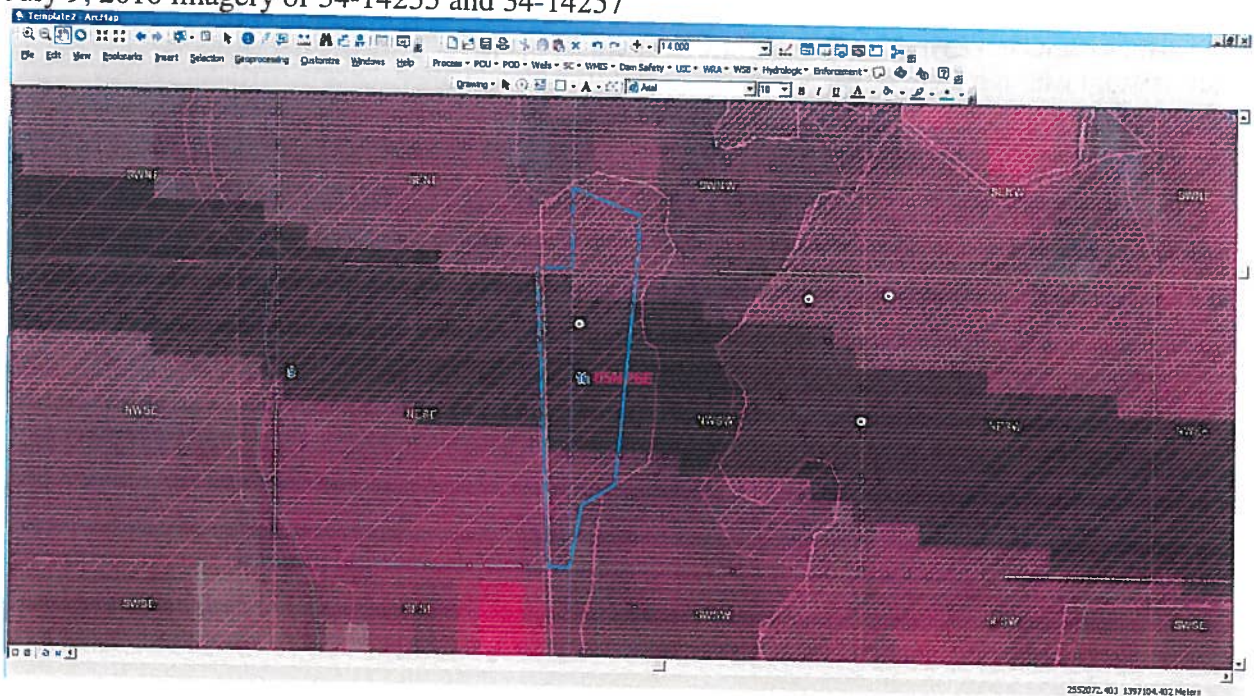
BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right(s) are subject to Water District # 34. James Cefalo from the Eastern Region had concerns over whether this right had been irrigated in 2010. Satellite imagery was inconclusive.

May 30 2010 imagery of 34-14255 and 34-14257



July 9, 2010 imagery of 34-14255 and 34-14257





State of Idaho

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

May 27, 2013

JAMES E POULTER
PO BOX 429
MOORE ID 83255

**RE: APPLICATION TO LEASE WATER RIGHT NO(S). 34-14255 and 34-14257
TO THE WATER SUPPLY BANK**

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of your application to lease these water rights to the Water Supply Bank ("Bank"). The conditions of these rights describe them as being used to supplement surface water sources.

The Water Supply Bank Rules provide criteria to be considered when determining whether to accept a water right into the Bank. Some of the criteria for consideration are the historic use¹ of the water right and the probability of selling or renting the water right from the Bank. In addition, the rules prohibit enlargement of the use of the water right.

Section III, part 1A(D)(4)(d) of the Water Supply Bank Processing Handbook states that:

An application proposing to lease a supplemental irrigation water right to the Bank for rental as a primary water right for irrigation or other use constitutes an enlargement. An exception is when the applicant can demonstrate there would be no enlargement of the water right being changed or other related water rights because the supplemental water right has been used on a regular basis and the extent of beneficial use under all associated rights prior to the lease will be proportionately reduced.

A supplemental water right can be rented from the Bank for a primary use only if historic beneficial use is established prior to the acceptance into the Bank, and the use of the primary water rights associated with the leased right is proportionately reduced.

Because your application to lease 34-14255 and 34-14257 to the Bank has not met the provisions described above, we only have two choices.

The first is to lease these rights into the Water Supply Bank as supplemental rights. In this case the rights will only be rentable as supplemental rights. The second choice is for us to deny the lease of these rights.

¹ Per Transfer Processing Policies & Procedures #5, (5d)(5), When it is necessary to determine the historic consumptive use under a supplemental right, the average annual historic consumptive use, over an appropriately representative time period not less than five years but that may require greater than five years, will be the basis for the volume available for transfer. For supplemental irrigation rights, a representative time period will include years with both good and bad surface water supplies for the area.

Page 2
James E. Poulter
Water Rights 34-14255 and 34-14257

The Department needs additional historic use information to allow us to determine if these rights can be rented as supplemental rights. Please include information on your intent regarding the surface water provided by the Big Lost River Irrigation District.

Please provide any historical use information within 30 days. If a response is not received within 30 days this application will be denied and returned to you.

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

A handwritten signature in black ink, appearing to read "Clay Webster", with a long horizontal line extending to the right.

Clay Webster
Technical Records Specialist

Enclosure: Receipt C098599