

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: DAN BURR
PO BOX 60
TETONIA ID 83452

RECEIVED
JUN 06 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>
22-13436	0.08 CFS		5.1 AC	AC
22-13437	0.03 CFS		5.1 AC	
Combined Lease Totals:	0.11 CFS	AF	5.1 AC	AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 4/15 to 10/31

2. **COMPENSATION:** The Lessor has donated these water rights to the Water Supply Bank and no compensation shall be paid to the lessor for rental of these water rights.
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.
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 #

22-13436

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

DAN BURR
PO BOX 60
TETONIA ID 83452

By 
Printed Name Dan J Burr

Date 5/31/2014
Title _____

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 June 6, 2014

Lease approved by IDWR 

Date June 6, 2014

ATTACHMENT A
WATER RIGHT NO. 22-13436
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: DAN BURR
 PO BOX 60
 TETONIA ID 83452

Priority Date: 06/10/1897

Source: SOUTH LEIGH CREEK **Tributary:** TETON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/31	0.08 CFS	
	Total:		0.08 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SOUTH LEIGH CREEK NESESW Sec. 33, Twp 6N, Rge 45E, TETON County

Place Of Use

IRRIGATION within TETON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	45E	32															5.1		5.1

POU Total Acres: 5.1

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the Bank by the Idaho Water Resource Board (IWRB).
2. There is no rental payment to the lessor of the water right for rental of these rights by the IWRB.
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. 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.
11. This right when combined with 22-13437 is limited to the irrigation of 5.1 acres in a single irrigation season.



ATTACHMENT A
WATER RIGHT NO. 22-13437
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: DAN BURR
 PO BOX 60
 TETONIA ID 83452

Priority Date: 06/01/1898

Source: SOUTH LEIGH CREEK **Tributary:** TETON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/31	0.03 CFS	
	Total:		0.03 CFS	

LOCATION OF POINT(S) OF DIVERSION:
 SOUTH LEIGH CREEK NESESW Sec. 33, Twp 6N, Rge 45E, TETON County

Place Of Use

IRRIGATION within TETON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	45E	32															5.1		5.1

POU Total Acres: 5.1

ADDITIONAL CONDITIONS OF ACCEPTANCE

12. The water rights referenced above will be rented from the Bank by the Idaho Water Resource Board (IWRB).
13. There is no rental payment to the lessor of the water right for rental of these rights by the IWRB.
14. 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.
15. 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.
16. While a water right is in the bank, forfeiture provisions are stayed.
17. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
18. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

19. 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.
20. 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.
21. 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.
22. This right when combined with 22-13436 is limited to the irrigation of 5.1 acres in a single irrigation season.



RECEIVED

MAR 21 2014

DEPARTMENT OF
WATER RESOURCES
STATE OF IDAHO
WATER RESOURCE BOARD

WSB No. _____

Receipt No. _____

Date/by _____

(For Department Use Only)

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

Name of Seller/Lessor Dan and Patti Burr Phone 208-456-2752
 Mailing address P.O. Box 60, Teton, Idaho, 83452 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, check here ☒, list the water right number, and skip to Part B.

Water Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use
22-13436			_____ to _____
			_____ to _____
			_____ to _____

Total Amount: _____

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show total number of acres offered to the bank. Total Acres _____

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.

2. 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 to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

The diversion system consists of a headgate structure, with a single gate, located off of South Leigh Creek at the point of diversion described on the current water right report.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

Water right 22-13437 is also utilized to irrigate the place of use described on the current water right report. Water right 22-13437 will also be leased into the water supply bank.

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

Yes ☐ No ☒

If yes, describe. _____

4. 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 right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes
- ☐
- No
- ☒

If yes, describe. _____

D. REQUIRED ITEMS

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale
- ☐
- or lease
- ☒
- .

If lease, for a period from 1/1/2014 to 12/31/2018 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. 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.

This water right shall be rented by the Idaho Water Resource Board, through Idaho's Water Transaction Program.

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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

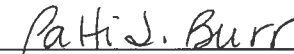
1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

x 
Signature of Applicant


Printed Name and Title*

10/11/13
Date

x 
Signature of Applicant


Printed Name and Title*

10/11/13
Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

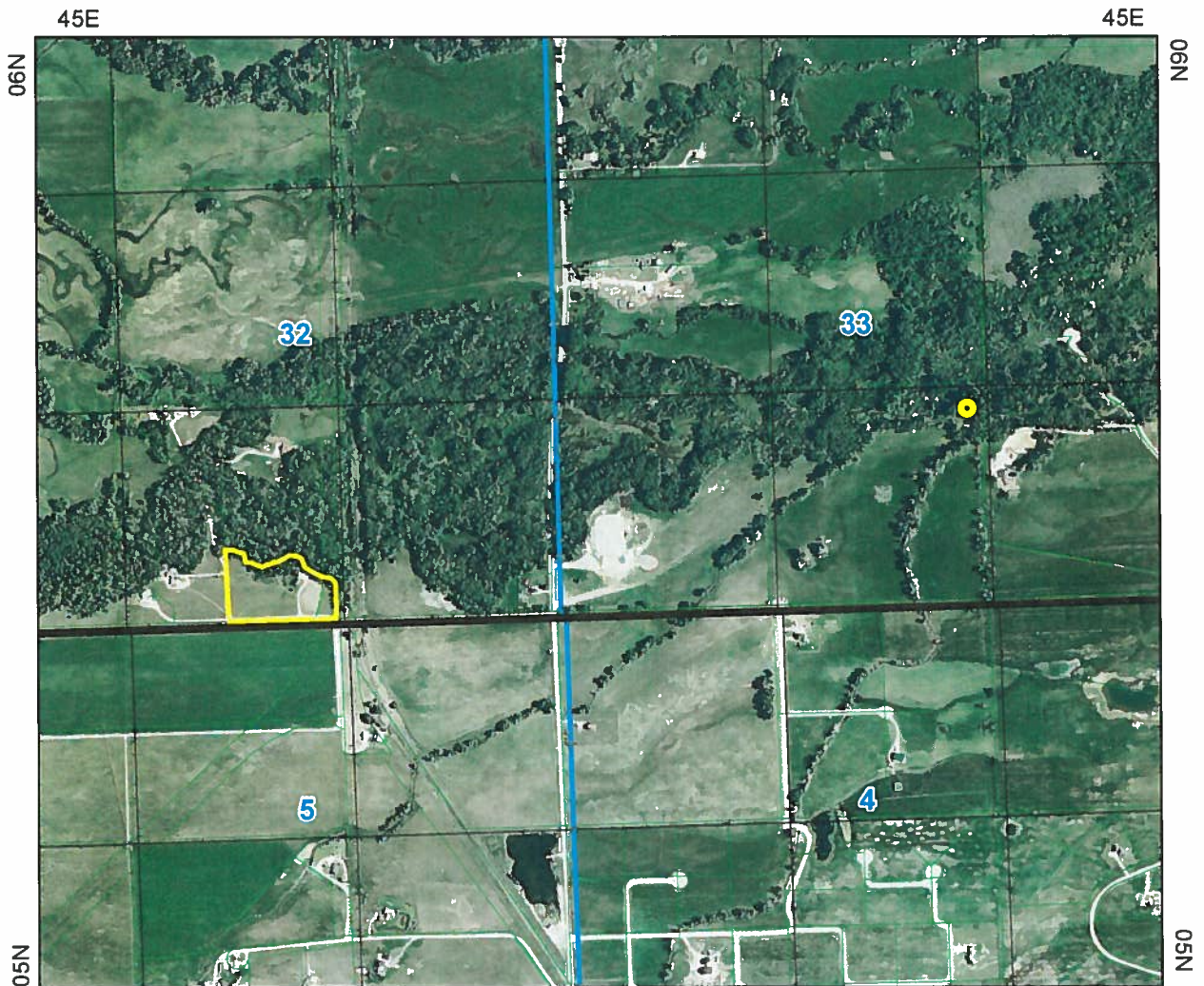
Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right
22-13436

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- 45E Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.125 0.25 0.5 Miles





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

June 6, 2014

DAN BURR
PATTI BURR
PO BOX 60
TETONIA ID 83452

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 22-13436 and 22-13437

Dear Lessor:

Water Right 22-13436 and 22-13437 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.**

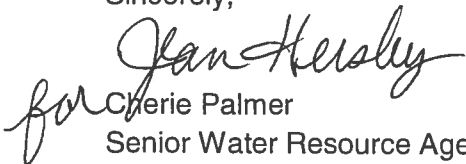
The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the 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 287-4944.

Sincerely,


Cherie Palmer

Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Lyle Swank- IDWR Eastern Regional Manager



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 27, 2014

DAN AND PATTI BURR
PO BOX 60
TETONIA ID 83452

RE: APPLICATION TO LEASE WATER RIGHTS 22-13436 AND 22-13437 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. Please review the conditions of acceptance listed on the Lease Contract, including condition #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."

If you have questions regarding this matter, please contact me at 287-4918.

Sincerely,

Remington Buyer
Water Supply Bank Coordinator

Enclosure: Proposed Lease Contracts

MEMORANDUM

To: Water Right No(s). 22-13436 and 22-13437
From: Remington Buyer
Date: May 26, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: Dan and Patti Burr, holders of water rights 22-13436 and 22-13437, submitted applications to lease their water rights into the Water Supply Bank. Applications were received 21 March, 2014.

AUTHORITY TO FILE: Dan and Patti Burr are the recognized holders of these water rights. They have donated these water rights to the Water Supply Bank. The Idaho Water Resource Board is paying the lease application fee for both rights and they will also pay the 10% administrative fee associated with the rental of these water rights.

WATER RIGHT VALIDITY: The partial decrees for these water rights were issued in 2009. Forfeiture is not a concern.

INJURY TO OTHER WATER RIGHTS: The intent of this lease is to leave water in South Leigh Creek. 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: Water District No 1 Program Manager and IDWR Eastern Regional staff Tony Olenichak has reviewed this lease application and provided support for it.



MEMORANDUM

To: Idaho Water Supply Bank

From: Sarah Lien, Friends of the Teton River

Date: March 19, 2014

Re: Idaho Water Transactions Program Leases/Rental - Teton River Basin Program

South Leigh Creek is a tributary to the Teton River located in the upper Teton Valley. The tributary offers excellent fish and wildlife habitat and supports a Yellowstone cutthroat trout (YCT) population. Currently, irrigation withdrawals result in the annual dewatering of the stream. Pervasive yearly dewatering serves to restrict fish movement and migration, reduce valuable habitat, and elevate stream temperatures. Restoring flow to specific reaches in South Leigh Creek will have a positive impact on the YCT fishery in that tributary, serving to create valuable habitat, allowing for fish passage and migration, decreasing stream temperatures, and ultimately helping to encourage the recovery of YCT populations in the upper Teton Valley.

Friends of the Teton River and the Idaho Water Resource Board (IWRB) have been working with two water right owners who divert water from South Leigh Creek. These two water right owners include the following: Osagia, LLC (water right nos. 22-13815 and 22-13817) and Dan and Patti Burr (water right nos. 22-13436 and 22-13437). Each is committed to leasing their water rights into the Idaho Water Supply Bank.

The IWRB voted unanimously on January 24, 2014 to approve each of these transactions and, at that time, passed funding resolutions authorizing the expenditure of funds by the IWRB to fund the lease and rental (where applicable) of these water rights through the Idaho Water Supply Bank.

It is anticipated that the rental and lease fees for these water rights will be as follows:

Dan and Patti Burr – These water rights have been *donated* to the Idaho Water Transaction Program, to be placed into the Water Supply Bank for a term of five years, and to be rented by the IWRB for delivery to the Teton River minimum stream flow right. The value of the water rights, and therefore the Board's 10% Administrative Rental Fee, has been calculated utilizing the consumptive use portion of the water rights (at 2.5 AF/acre) and the current base rental rate in the Water Supply Bank (of \$17/AF).

- Water Right Nos.: 22-13436 and 22-13437
 - Duration of Lease: 5 years
 - Anticipated Water Supply Bank Fees:
 - **Lease Application Fee: \$500** (\$250/water right)
 - **10% Administrative Rental Fee: \$127.50** (6 irrigated acres * 2.5 AF/acre * 5 years * \$17/AF = \$743.75 * 10% = \$127.50)

Osagia, LLC – These water rights are being leased into the Idaho Water Supply Bank through the Idaho Water Transaction Program, for a term of 1 year. These rights, however shall not be rented by the IWRB for delivery to the Teton River minimum stream flow right. Rather, the rights shall be available for rental, but may only be rented with specific IWRB review and approval.

- Water Right Nos.: 22-13815 and 22-13817
 - Duration of Lease: 1 years
- Anticipated Water Supply Bank Fees:
 - **Lease Application Fee: \$500** (\$250/water right)

Each of the water rights and the proposed lease/rental (where applicable) has been reviewed by Tony Olenichak of Water District 1 (WD1). No delivery or injury concerns have been raised.

From: [Olenichak, Tony](#)
To: [Case, Morgan](#)
Cc: [Sarah Rupp](#); [Swank, Lyle](#)
Subject: RE: South Leigh Creek Water Transactions
Date: Thursday, November 07, 2013 5:16:54 PM

Case,

Reviewing the information sent to me by Sarah Rupp indicates the two water rights 22-13436 and 22-13437 currently assigned to the Bell-McCracken Ditch on South Leigh Creek will be deposited into the Idaho Water Supply Bank and then rented by the IWRB for delivery to the Teton River point of diversion described in minimum stream flow right 22-7369. The intent of the transaction appears to be to increase the flow in South Leigh Creek in the reach from the Bell-McCracken Ditch on South Leigh Creek to the point(s) of diversion on the Teton River for water right 22-7369 resulting from not diverting water rights 22-13436 and 22-13437 through the Bell-McCracken Ditch for irrigation when they are in priority. It does not appear that this transaction would interfere with the delivery to other water rights on South Leigh Creek or the Teton River.

Changing the point of diversion for water rights 22-13436 and 22-13437 so that these rights are not delivered to the Bell-McCracken Ditch may result in additional water in the reach from the Bell-McCracken Ditch to the Teton River but does not necessarily guarantee this result. If the flow at the mouth of South Leigh Creek is greater or equal to the flow rates of water rights 22-13436 and 22-13437, it wouldn't be necessary for the Watermaster to curtail any other South Leigh Creek water rights to provide additional water to the lower reach on South Leigh Creek because the IWRB would be receiving its entire amount of South Leigh Creek water delivered to the Teton River for water rights 22-13436 and 22-13437, even if the South Leigh Creek channel was dry at some point between the Bell-McCracken Ditch and the mouth of South Leigh Creek.

The transaction also includes depositing water right 22-13817 into the Idaho Water Supply Bank and then rented by the IWRB for the purpose of changing the nature of use from irrigation to insteam flow without changing the point of diversion. Water right 22-13817 is for diverting South Leigh Creek water for irrigation through the Desert Ditch. The intent of the transaction is to keep the flow rate and priority for water right 22-13817 assigned to the Desert Ditch ensuring that the water right flow rate will be delivered in the South Leigh Creek channel to the point where the Desert Ditch diverts water from the creek, as it has been delivered to that point in the past for irrigation. It does not appear that this transaction would interfere with the delivery to other water rights on South Leigh Creek.

One final thought.....Because the land irrigated by water right 22-13817 is also covered by ground water right 22-13815, and the proposal indicates the owner of the water rights will not irrigate the 36 acres described in both water rights, perhaps both water rights owned by Osagia, LLC for the 36 acres should be included in the transaction.

Tony Olenichak
Program Manager
Water District #1

208-525-7171

From: Case, Morgan
Sent: Tuesday, November 05, 2013 5:13 AM
To: Olenichak, Tony
Subject: South Leigh Creek Water Transactions

Tony,

As you are aware, Friends of the Teton River has been developing water transactions in the Teton River Basin in partnership with the IWRB. Sarah Rupp will be presenting two proposed transactions on South Leigh Creek to the IWRB Streamflow Enhancement and Minimum Stream Flow Committee on November 18th. As a local expert on water administration and delivery in the Upper Snake, I would like to request your opinion on the proposed transactions. I believe that Sarah spoke to you of the transactions in detail, but to refresh your memory...

South Leigh Creek Burr - A five-year lease/rental of 0.11 cfs of water rights irrigating 5 acres.

South Leigh Creek Osagia - A one-year agreement not to divert 0.74 cfs of water rights irrigating 36 acres.

Thank you for your help.

Morgan Case



IDAHO DEPARTMENT OF FISH AND GAME

UPPER SNAKE REGION

4279 Commerce Circle

Idaho Falls, Idaho 83401

C.L. "Butch" Otter / Governor

Virgil Moore / Director

November 6, 2013

Dear Sarah:

The Idaho Department of Fish and Game is charged with the Preservation, Protection, Perpetuation and Management of all of Idaho's fish and wildlife. As such, we are continually trying to increase the abundance of our fish and wildlife resources across the state. We do this through a variety of means, but one key mechanism we implement is the creation and improvement of habitat.

The water transaction project you have proposed on South Leigh Creek should result in more wetted channel within South Leigh, downstream to the Desert Canal diversion. This habitat can then be utilized by the allopatric population of native Yellowstone cutthroat trout. Because South Leigh does not connect to the Teton River consistently, the fish population in South Leigh consists only of native cutthroat trout, and they would be the species that would benefit from this increased habitat.

As your water transaction program grows in the future, it is important to keep in mind that connecting the few allopatric populations of cutthroat in the Teton drainage to the Teton River is not in the best interest of our native fish. However, in-stream programs that improve cutthroat habitat without creating additional connectivity are very worthwhile, and the Department supports additional work like you have outlined in this project.

Please contact me at 208-525-7290 if you have additional thoughts or comments on this. Thank you for your contribution to Idaho's fishery and wildlife resources.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Garren".

Dan Garren

Regional Fisheries Manager

Keeping Idaho's Wildlife Heritage

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE)
SOUTH LEIGH CREEK)
WATER DONATION AGREEMENT)
_____)

A RESOLUTION TO MAKE
A FUNDING COMMITMENT

WHEREAS, South Leigh Creek is a tributary to the Teton River that provides quality spawning and rearing habitat for Yellowstone cutthroat trout and other resident fish, but is flow and passage limited at certain times of the year; and

WHEREAS, it is in the interest of the State of Idaho to increase stream flow in the Teton River and its tributaries to encourage recovery of Yellowstone cutthroat trout, which are currently designated as an Idaho Species of Greatest Conservation Need; and

WHEREAS, staff has developed a five-year donation agreement with Dan and Patti Burr to improve stream flow for native fish in South Leigh Creek; and

WHEREAS, the donated water rights shall be leased into the Board's Idaho Water Supply Bank, to be rented by the Idaho Water Resource Board (IWRB) for the beneficial use of instream flow in the Teton River, for a period of five years; and

WHEREAS, a proposal to fund the Dan and Patti Burr donation in the amount of \$704.00 has been submitted to the Columbia Basin Water Transaction Program, to be used to pay the Idaho Water Supply Bank Application Fee (\$500.00), 10% Idaho Water Supply Bank Administrative Fee (\$179.00), and Recording Fee (\$25.00); and

WHEREAS, staff anticipates the funds being placed into the IWRB Revolving Development Account for payment to the Idaho Water Supply Bank; and

WHEREAS, the South Leigh Creek donation transaction is in the public interest and in compliance with the State Water Plan.

NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into a lease/rental agreement with Dan and Patti Burr, and/or their successors for water rights 22-13436 and 22-13437 for delivery to minimum stream flow 22-7369, using an amount not to exceed \$704.00.

NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition that the IWRB receives the requested funding from the Columbia Basin Water Transaction Program in the amount of \$704.00.

DATED this 24th day of January, 2014.

ROGER CHASE, Chairman
Idaho Water Resource Board

ATTEST: _____
BOB GRAHAM, Secretary