

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: WILLIAM R WILKERSON SR
2520 S POWERLINE RD
NAMPA ID 83686
(208) 466-2175

RECEIVED

JUN 02 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>
02-02318A	0.27 CFS	NA	NA	13.3 AC
Combined Lease Totals:	0.27 CFS	NA	NA	13.3 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 03/15 to 11/15

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, 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.

SCANNED

JUN 07 2014

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

WILLIAM R WILKERSON SR
2520 S POWERLINE RD
NAMPA ID 83686

By William Wilkerson

Date 6-2-14

Printed Name William Wilkerson

Title _____

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 06-02-2014

Lease approved by IDWR Camila S Skaggs

Date 06-02-2014

ATTACHMENT A
WATER RIGHT NO. 02-02318A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: WILLIAM R WILKERSON SR
 2520 S POWERLINE RD
 NAMPA ID 83686
 (208) 466-2175

Priority Date: 6/5/1964

Source: SNAKE RIVER

Tributary to: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.27 CFS	NA
	Total:			0.27 CFS
				NA

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L6(NWNW) Sec. 14, Twp 03N, Rge 05W, OWYHEE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	05W	14							4.3	9.0									13.3
									L6	L5									

Total Acres: 13.3

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.

STATE OF IDAHO
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLISTRECEIVED
JUN 02 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 William WilkersonWater Right No. 2-2318A
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 \$ 250⁰⁰Received By: CADate Received: 06/02/14

Receipt #

W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

William Wilkerson

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. Since SRBA decree in 2011

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 6-2-14 to 6-2-2018 (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.

William Wilkerson
Signature of Designated Applicant

William Wilkerson
Printed Name

6-2-14
Date

Signature of Authorized Representative

Printed Name

Date

Mail to:

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

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 2-2318A

6/2/2014

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	JON C GOULD RINGERT CLARK PO BOX 2773 BOISE, ID 83701 (208)342-4657
Current Owner	WILLIAM R WILKERSON SR 2520 S POWERLINE RD NAMPA, ID 83686 (208)466-2175
Current Owner	IMOGENE E WILKERSON 2520 S POWERLINE RD NAMPA, ID 83686 (208) 899-3399
Original Owner	DOUGLAS D LARZELIER PO BOX 323 HOMEDALE, ID 83628 (208)337-4700
Original Owner	PEGGY J JACKSON PO BOX 245 HOMEDALE, ID 83628 (208)337-4444
Original Owner	J C JACKSON & SONS INC HOMEDALE, ID
Original Owner	MARY JO LARZELIAR PO BOX 323 HOMEDALE, ID 83628 (208)337-4700
Original Owner	LOREN R WITTROCK 2475 E SPRING CREEK RD CLARK FORK, ID 83811 (208)266-0390
Original Owner	PAMELA WITTROCK PO BOX 2123 HOMEDALE, ID 83628 (208)337-4858
Original Owner	WILLIAM F SPELLMAN 1112 W 17TH ST TEMPE, AZ 85281 (602)967-0309

Priority Date: 6/5/1964

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 2-2318A

6/2/2014

Basis: Decreed
Status: Active

Source
 SNAKE RIVER

Tributary
 COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.270 CFS	
	<u>Total Diversion</u>		0.270 CFS	

Source and Point(s) of Diversion

SNAKE RIVER L6(NWNW) Sec. 14, Twp 03N, Rge 05W, OWYHEE County

Place Of Use

IRRIGATION within OWYHEE 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	
03N	05W	14							4.3	9.0									13.3
									L6	L5									

POU Total Acres: 13.3

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. This water right is a split from former license 02-2318. As a result, access to the decreed point of diversion and delivery system for this water right is located on property other than that to which this water right is appurtenant. The decreed elements for this water right do not constitute a judicial determination of the validity of any right to access the point of diversion and/or conveyance system located on property other than to which this water right is decreed appurtenant. The judicial determination of the right of access to the point of diversion and conveyance system was decided separately in Wilkerson v. Snake River R.V. Resort, et. al., Third Judicial District, Owyhee County (Case No. CV-06-05541). Any right of access to the point of diversion and the conveyance system located on property other than to which this water right is decreed appurtenant is subject to any final judgement entered in that proceeding.

Comments:

1. jshurte 11/19/2010 Objection Resolution
 Objection resolution in the final stages (after SM Dolan issued his decision to recommend this portion and not consider it forfeited) was to add the remark This right does not grant any right of way or easement across the land of another. This remark was agreed upon by the water right holder due to the recent court case involving the easement for the pipeline that used to deliver water to this property when the property was owned by one owner.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 2-2318A

6/2/2014

2. jshurte 1/9/2012 Obj Resolution cont
After several legal filings Judge Wildman issued a partial decree which did not include the remark concerning the water right does not grant a right of way and instead added a general remark which explained the situation much better. The right of way remark is already state law and was not the preferred method of settlement. See Judges remark on recommendation and partial decree.

Dates and Other Information

Decreed Date: 10/31/2011
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: Or
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

SubCaseNumber: 2-2318A
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: mmount (N/A)
Basis of Claim: License
Date Filed: 1/25/2007
Objection Status: Active

Water Supply Bank:

N/A

State of Idaho
Department of Water Resources

Attachment To Water Supply Bank Lease Application

2-2318A



MEMORANDUM

To: Water Right No(s). 02-02318A
From: Clay Webster thru Pam Skaggs
Date: June 2, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The applicant visited the State Office on 6/2/2014 to complete the mailed lease application for water right 2-2381A after discussion with the Bank Coordinator. The applicant proposes to lease the entire right into the bank until 2018. The applicant submitted the application and received the executed Lease Agreement during a scheduled office visit today.

AUTHORITY TO FILE: William R. and Imogene E. Wilkerson (Sr) are the current owners of this right per Department records. Both owners have signed the submitted application.

WATER RIGHT VALIDITY: This right was partially decreed in October, 2011. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS: No injury is apparent. Access and right of way issues to the point of diversion have made it difficult to access the water by the current owners.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Right is located within the Gem Irrigation District boundary, but conditions don't note any overlapping rights or combined right limits. The applicant notes on the application that no other water is used to irrigate these acres and confirmed that they own no shares in Gem Irrigation District. 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 not subject to a Water District. Western Region staff commented by telephone today on this proposed lease and has no concerns.