

# WATER SUPPLY BANK LEASE CONTRACT

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DEC 19 2013

DEPARTMENT OF  
WATER RESOURCES

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

**Lessor:** TEAUNA NEWTON  
1852 N W YOHN RANCH RD  
MCMINNIVILLE, OR 97128  
(971)241-1885  
t2newton@comcast.net

## 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> |
|-------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 29-2523                       | 2.56 CFS          | 464.7 AF            | NA                | 132.0 AC                  |
| <b>Combined Lease Totals:</b> | <b>2.56 CFS</b>   | <b>464.7 AF</b>     | <b>NA</b>         | <b>132.0 AC</b>           |

The water rights described herein shall be available for rental from the Bank as follows:  
Authorized Period of Use under Lease: January 1<sup>st</sup> to December 31<sup>st</sup>

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, 2015.
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.

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

**TEAUNA NEWTON**

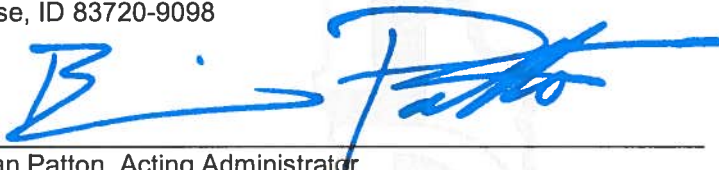
1852 N W YOHN RANCH RD  
MCMINNVILLE, OR 97128

By TeAuna Newton  
Printed Name TeAuna Newton

Date 12-16-13  
Title owner

**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 12/20/13

Lease approved by IDWR Cherie Palmer

Date 12/20/13

**ATTACHMENT A**  
**WATER RIGHT NO. 29-2523**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:**           **TEAUNA NEWTON**  
1852 N W YOHN RANCH RD  
MCMINNVILLE, OR 97128  
(971)241-1885

**Priority Date:** 5/2/1966

**Basis:** Decreed

**Status:** Active

**Source**

GROUND WATER

**Beneficial Use**

IRRIGATION  
STOCKWATER

**From**

04/01

**To**

11/01

**Diversion Rate**

2.560 CFS

**Volume**

462.0 AF

01/01    12/31

0.040 CFS

2.7 AF

**Total Diversion**

2.560 CFS

464.7 AF

**Source and Point(s) of Diversion**

GROUND WATER

NESW

Sec. 20, Twp 11S, Rge 37E, BANNOCK County

**Place Of Use**

IRRIGATION within BANNOCK 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 |        |
| 11S | 37E | 20  |    |    |    |    |    |    |    |    | 33.0 | 33.0 | 33.0 | 33.0 |    |    |    |    | 132.0  |

POU Total Acres: 132.0

**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. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
13. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
14. 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.

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DEPARTMENT OF  
WATER RESOURCES

STATE OF IDAHO  
WATER RESOURCE BOARD

Form 42-1761-1 04/13

Receipt No. 0097948  
Fee Amount \$ 25000  
Date/by 11/7/13 dy  
(For Department Use Only)

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

Name of Seller/Lessor TeAuna Newton Phone 971-241-1885  
Mailing address 1852 N.W. Yohn Ranch Rd. McMinnville, OR 97128 Email t2newton@comcast.net

### 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.

| 1. Water Right Number                   | Amount (cfs/ac-ft)         | Nature of Use     | Period of Use                |
|-----------------------------------------|----------------------------|-------------------|------------------------------|
| <u>29-2523</u>                          | <u>2.56 cfs / 462.0 AF</u> | <u>Irrigation</u> | <u>04/01</u> to <u>11/01</u> |
|                                         | <u>0.040 cfs/ 2.7 AF</u>   | <u>Stockwater</u> | <u>01/01</u> to <u>12/31</u> |
|                                         |                            |                   | to                           |
| Total Amount: <u>2.56 cfs/ 464.7 AF</u> |                            |                   |                              |

2. Source of water Groundwater tributary to Snake River

3. Point(s) of Diversion:

| Twp | Rge | Sec | Lot | 1/4 | 1/4 | 1/4 | County  |
|-----|-----|-----|-----|-----|-----|-----|---------|
| 11S | 37E | 20  |     | NE  | SW  |     | Bannock |
|     |     |     |     |     |     |     |         |
|     |     |     |     |     |     |     |         |
|     |     |     |     |     |     |     |         |

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

| Twp | Rge | Sec | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | Totals |
|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |        |
| 11S | 37E | 20  |        |    |    |    |        |    |    |    | 33     | 33 | 33 | 33 |        |    |    |    | 132    |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 132

### B. OWNERSHIP

- 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.
- 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.

Pump mainline and pivot irrigation system

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

none

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

Yes ☒ No ☐

- If yes, describe.
- The Buyers intent is to rent water from the IDWR water bank for future irrigation use

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. Idaho Water Company has an option to purchase the property their intent is to transfer the water right**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.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

**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 01/01/14 to 12/31/15 (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.

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 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.

TeAuna Newton  
Signature of ApplicantTeAuna Newton Owner  
Printed Name and Title\*10/29/13  
Date\_\_\_\_\_  
Signature of Applicant\_\_\_\_\_  
Printed Name and Title\*\_\_\_\_\_  
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



To see all the details that are visible on the screen, use the "Print" link next to the map.



115 R37E Sec 20  
SW 1/4



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

December 20, 2013

TEAUNA NEWTON  
1852 N W YOHN RANCH RD  
MCMINNVILLE OR 97128

### RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 29-2523

Dear Lessor:

Water Right 29-2523 was 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, 2015**, 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. To request an extension of the lease period, submit a *Request to Extend the Lease Term* form along with applicable fees to the Department prior to the release date. These forms are available from our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4879.

Sincerely,

*for Clay Webster*  
Sandra Thiel

Water Resource Planner

Enclosure: Executed Lease Contract

c James Cefalo- IDWR Eastern Region



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

December 8, 2013

TEAUNA NEWTON  
1852 N W YOHAN RANCH RD  
MCMINNVILLE OR 97128

### RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 29-2523 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.

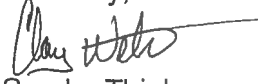
The rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To request an extension of the lease period, submit a Request to Extend the Lease Term form along with applicable fees to the Department prior to the release date. 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 287-287-4879.

Sincerely,

for 

Sandra Thiel  
Water Resource Planner  
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts  
Receipt #C097948

To: Water Right File 29-2523  
From: Sandra Thiel  
Date: December 6, 2013  
Subject: Phone conversation with Del Kohtz

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Del Kohtz called me on Thursday, December 5, 2013 to talk about the email below. He is working with TeAuna. She plans to sell her land and is leasing the right into the bank in anticipation of selling. Mr. Kohtz is helping her sell the land and lease the water right. The buyers intend to keep the water in the bank after they purchase the land. However, they may irrigate the land by renting the water from the bank.

Email sent to TeAuna Newton on Monday, December 2, 2013

Hello, I am processing your lease application and had a few questions. According to the application you plan to rent the water back in the future. Do you plan to rent the water during the lease period – 1/1/2014 - 12/31/2015? You also said that Idaho Water Company has the option to purchase the property. Do they plan to make the purchase in the near future, during the lease period? I noticed on the aerial photography that the land was irrigated in 2009. Is the purpose for leasing the right into the bank to prevent forfeiture?

## MEMORANDUM

**To:** Water Right No. 29-2523  
**From:** Sandy Thiel  
**Date:** December 3, 2013  
**Re:** Review of Applications to Lease Water Rights to the State Water Supply Bank

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**PURPOSE/NARRATIVE:** The Department received the application on November 7, 2013. They intend to lease the water from January 2014 through December 2015. The owner state on the application that they intend to rent their own water in the future. Idaho Water Company has the option to purchase the property and assume the ownership of the water right.

**AUTHORITY TO FILE:** TeAuna Newton is the current water right holder.

**WATER RIGHT VALIDITY:** This right is a partial decreed, priority date 5/2/1966. The 2009 imagery clearly shows the field as irrigated. The area covered by the pivot is green and the pivot itself is visible.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent.

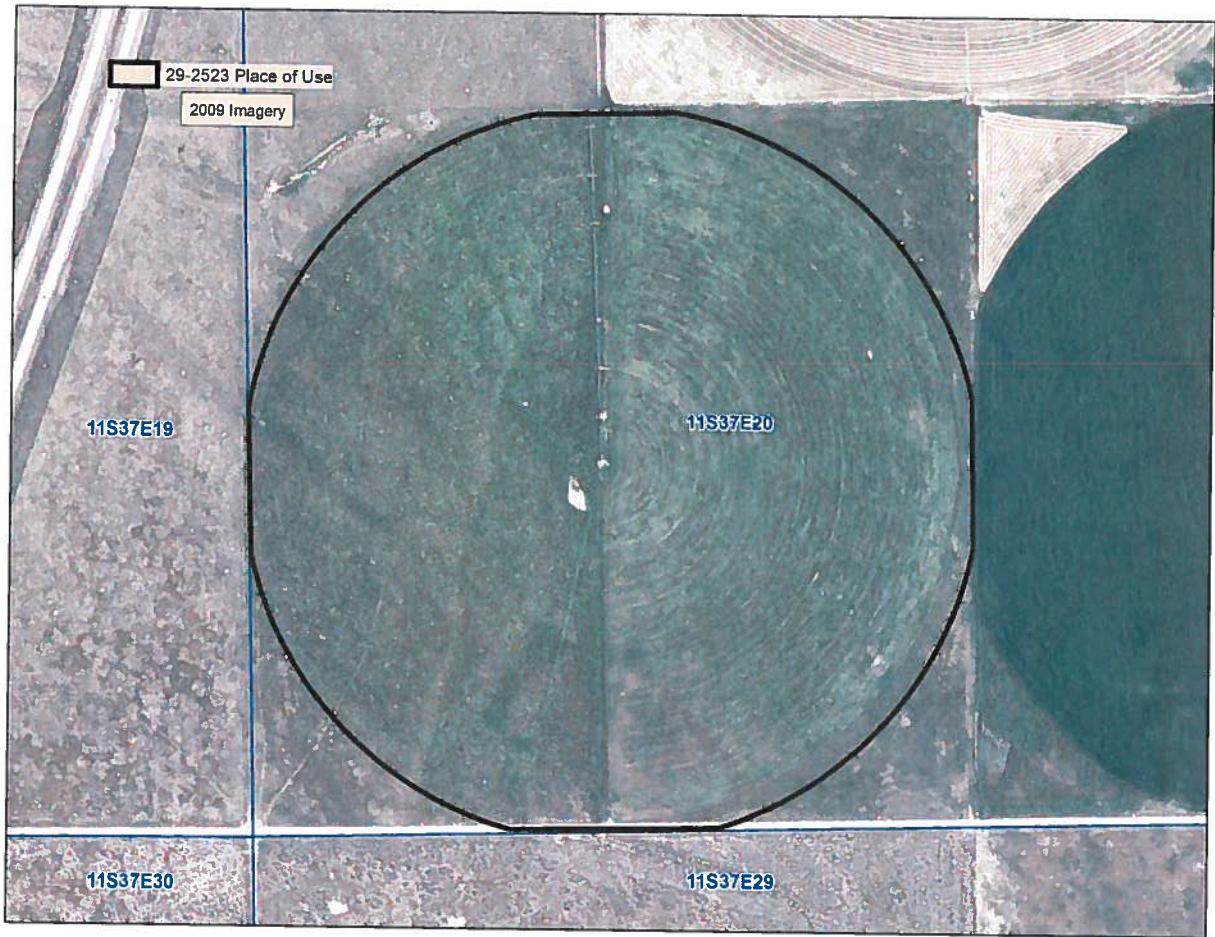
**ENLARGEMENT OF USE:** No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

**LOCAL PUBLIC INTEREST:** Review staff has no information to suggest this application is inconsistent with the local public interest. The leased right is within the Non-Trust water area.

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

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:**

James Cefalo responded to a request for comments on December 3, 2013. He had no concerns provided the land had been irrigated during the past 5 years (see attached email)



## **Thiel, Sandra**

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**From:** Cefalo, James  
**Sent:** Tuesday, December 03, 2013 1:12 PM  
**To:** Thiel, Sandra  
**Cc:** Swank, Lyle  
**Subject:** RE: Water supply bank lease application 29-2523

Sandra,

As watermaster for WD120, I don't have any objection to water right 29-2523 being accepted into the WSB, provided it has been used in the last five years. Because this is a ground water right, you won't need comments from WD01.

James

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**From:** Swank, Lyle  
**Sent:** Tuesday, December 03, 2013 11:14 AM  
**To:** Cefalo, James; Holliday, Michael  
**Cc:** Thiel, Sandra  
**Subject:** FW: Water supply bank lease application 29-2523

James or Michael,

Could you assign this lease application to one of our regional agents or look into this soon? Do we want to solicit watermaster comments? I'd like to get a response back to Sandra by the time she needs it.

Thanks,  
Lyle

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**From:** Thiel, Sandra  
**Sent:** Tuesday, December 03, 2013 10:32 AM  
**To:** Swank, Lyle  
**Subject:** Water supply bank lease application 29-2523

Good morning, We received a lease application for water right 29-2523 for 2.56 cfs. The point of diversion is located in T11S R37E Sec 20. NESW in Bannock County. The right lists both stockwater and irrigation as beneficial uses. Aerial photography shows irrigation as recent as 2009. They would like to lease the entire right into the bank from January 2014 through December 2015. Please let me know if you have any concerns about leasing this right into the bank by December 13 if possible. Thanks for your help.

Let me know what I can do to make this process as easy as possible on your end.

**Sandra Beer Thiel**  
Idaho Department of Water Resources  
322 East Front Street  
Boise, Idaho 83720-0098  
(208)287-4881  
[sandra.thiel@idwr.idaho.gov](mailto:sandra.thiel@idwr.idaho.gov)