



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

December 4, 2013

BLAINE COUNTY RECREATION DISTRICT
1050 FOX ACRES RD RM 100
HAILEY ID 83333

**RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT(S) 37-22809
(Supercedes Lease of 37-2627D)**

Dear Lessor:

Water Right(s) 37-22809 was leased into the Water Supply Bank on November 01, 2013 in accordance with the executed original Lease Contract enclosed. **The portion of your right(s) described on the Lease Contract is considered leased into the Bank, and should remain unused, until it is formally released from the Bank.**

The right will automatically be released from the Bank on **December 31, 2015**, unless the right is 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 our public website at <http://www.idwr.idaho.gov>. Please note your right is not be available for immediate release if because it has 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 287-4944.

Sincerely,

A handwritten signature in black ink, appearing to read "Cherie Palmer", is written over a horizontal line.

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James P. Speck – SPECK & AANESTAD
Allen Merritt- IDWR Southern Regional Manager

Skaggs, Pam

From: Jim Keating [jkeating@bcd.org]
Sent: Monday, December 02, 2013 12:36 PM
To: Jim Speck
Cc: Skaggs, Pam
Subject: Re: BCRD/Water Supply Bank Lease Contract for 37-22809

This has been sent via mail. Thanks to you both.

-jim

On Nov 25, 2013, at 3:50 PM, Jim Speck wrote:

Jim,

After discussions with IDWR about the above-referenced contract, sent to you under a November 18, 2013 cover letter from Pam Skaggs at IDWR, go ahead and sign BOTH originals of the Contract and return them as directed in the letter. Call me if you have any questions.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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Jim Keating
Executive Director
BCRD

1050 Fox Acres Road
Hailey, Idaho 83333
(208) 578 5451
jkeating@bcrd.org





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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 18, 2013

BLAINE COUNTY RECREATION DISTRICT
1050 FOX ACRES RD RM 100
HAILEY ID 83333

**RE: APPLICATION TO LEASE WATER RIGHT 37-22809 (Transferred Portion of 37-2627D)
TO THE WATER SUPPLY BANK**

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

Dear Lessor:

I reviewed the existing lease of part of Right 37-2627D and your request to release portions of 37-2627D by a stepped schedule related to approval of Transfer 78396. The existing lease identifies Right 37-2627D which was split and changed through Transfers 78396 and 78398. The stepped release from the Bank is related to non-irrigation of portions of the 3.0 acres under Right 37-22809 in Transfer 78396. One rental expired at the end of the 2013 irrigation season and a portion of the leased Right 37-2627D now identified as 37-22809 can be released from the Bank.

In order to document the release of a portion of the right and maintain accurate Bank records, a new lease contract has been prepared reflecting the change to Right 37-22809 for the remaining 0.02 cfs, and 3.5 af of water for irrigation of 1.0 acre obligated to the Bank through 2015. This lease will supercede the previous lease and provide water for the remaining rental as described in condition no. 18 of the lease.

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. Once the lease is executed, the previous lease under 37-2627D will be marked superceded.

This right will automatically be released from the Bank on **December 31, 2015**, unless the right is released earlier by the Board, or by early cancelation of the remaining rental. 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>.

RECEIVED

DEC 03 2013

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

This Lease Contract ("**Lease**") is effective November 01, 2013, between the Idaho Water Resource Board ("**Board**"), and

BLAINE COUNTY RECREATION DISTRICT ("**Lessor**")
1050 FOX ACRES RD RM 100
HAILEY ID 83333
(208) 726-4421

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>
37-22809	0.02 CFS	3.5 AF	1.0 AC	3.0 AC
Combined Lease Totals:	0.02 CFS	3.5 AF	1.0 AC	3.0 AC

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: April 15 to October 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.

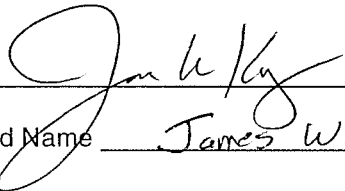
Minimum Payment Acceptable: Current Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue until 12-31-2015.
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.

BLAINE COUNTY RECREATION DISTRICT

1050 FOX ACRES RD RM 100
HAILEY ID 83333

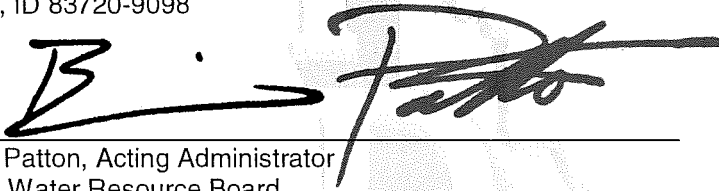
By 
Printed Name James W. Keating

Date 12/2/13

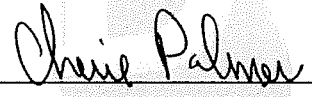
Title Executive Director

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 12/3/2013

Lease approved by IDWR 

Date 12/3/2013

ATTACHMENT A
WATER RIGHT NO. 37-2627D
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: **BLAINE COUNTY RECREATION DISTRICT**
1050 FOX ACRES RD RM 100
HAILEY ID 83333
(208) 726-4421

Priority Date: 12/09/1959

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/31	0.02 CFS	3.5 AF
	Total:		0.02 CFS	3.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE¼SE¼ Sec. 7, Twp 03N, Rge 18E, BLAINE County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	7													2.2	0.8			3.0

Total Acres: 3.0

Right Acre Limit: 1.0

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. Three irrigated acres under Right 37-00154C will no longer be irrigated to mitigate use of Right 37-22809 as a primary groundwater right.
13. To prevent injury to water rights 37-7919 and 37-8307, held by the Idaho Water Resource Board for minimum stream flows in the Big Wood River, the use of ground water authorized by transfers 78396 and 78398 shall be subject to curtailment four (4) days after flows at the Hailey gauge drop below 189 cfs.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
16. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the water master suitable control of the diversion.
17. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
18. Right 37-22809 is a changed portion of Right 37-2627D through approved Transfer 78396. This lease of 37-22809 supercedes previous lease of 37-2627D approved 05-28-2013, and provides water for rental of 37-2627D in the name of Richard and Helen Spaulding that expires on 10-31-2015.