

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Minidoka Project Office
Burley, Idaho

Statement of Expenditures and Estimates

Jackson Lake Reservoir
Feature

For the Period Calendar Year 1984 and 1985

*Feds get
3 1/2 % cost
of being increased
for 1985*

Costs	Estimate 1984	Costs Calendar Year 1984 (Nov. & Dec. Est.)	Estimate Calendar Year 1985
Operations.	\$ 54,000	\$ 55,000	\$ 58,000
Maintenance	55,000	48,000	46,000
Gen. & Admin. Expenses. .	47,000	49,000	51,000
<u>SUB-TOTALS.</u>	<u>156,000</u>	<u>152,000</u>	<u>155,000</u>
Flood Allocation Credit .	-49,000	-48,000	-49,000
Recreation Credit/Fish & <u>Wildlife.</u>	<u>-12,000</u>	<u>-12,000</u>	<u>-12,000</u>
GRAND TOTALS.	\$95,000	\$92,000	\$94,000

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Statement of Expenditures and Estimates

Island Park Reservoir
Feature

For the Period Calendar Year 1984 and 1985

Costs	Estimate 1984	Costs Calendar Year 1984 (Nov. & Dec. Est.)	Estimate Calendar Year 1985
Operation	\$ 16,000	\$ 17,000	\$ 18,000
Maintenance	11,000	10,000	14,000
Gen. & Admin. Expenses. .	9,000	8,000	9,000
<u>SUB-TOTALS.</u>	<u>\$ 36,000</u>	<u>\$ 35,000</u>	<u>\$ 41,000</u>
Flood Allocation Credit .	-5,000	-5,000	-5,000
Recreation Credit/Fish & Wildlife.	-3,000	-3,000	-3,000
TOTALS - Island Park. . .	\$ 28,000	\$ 27,000	\$ 33,000
<u>Grassy Lake Reservoir</u> <u>Feature</u>			
Operation	\$ 7,000	\$ 8,000	\$ 9,000
Maintenance	9,000	11,000	6,000
Gen. & Admin. Expenses. .	8,000	8,000	9,000
Recreation Credit Fish & Wildlife.	-2,000	-2,000	-2,000
TOTALS - Grassy Lake. . .	\$ 22,000	\$ 25,000	\$ 22,000
GRAND TOTALS -- Island Park & Grassy Lake	\$ 50,000	\$ 52,000	\$ 55,000

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UNITED STATES
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Statement of Expenditures and Estimates

Palisades Reservoir
Feature

For the Period Calendar Year 1984 and 1985

Costs	Estimate 1984	Costs Calendar Year 1984 (Nov. & Dec. Est.)	Estimate Calendar Year 1985
Operation	\$ 35,000	\$ 34,000	\$ 36,000
Maintenance	15,000	6,000	16,000
Gen. & Admin. Expenses. .	36,000	35,000	37,000
Joint Expense Debits (Camp Operations) . . .	11,000	9,000	10,000
TOTALS.	\$ 97,000	\$ 84,000	\$ 99,000
<p style="text-align: right;">Total Multipurpose Cost \$290,000</p> <p style="text-align: right;">Irrigation 29.1% = \$ 84,390 rounded to \$ 84,000</p> <p style="text-align: right;">Flood Control 29.1% = \$ 84,390 rounded to \$ 84,000</p> <p style="text-align: right;">Power 33.8% = \$ 98,020 rounded to \$ 98,000</p> <p style="text-align: right;">Recreation Fish & Wildlife 8.0% = rounded to \$ 24,000</p>			

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Minidoka Project Office
Burley, Idaho

Statement of Expenditures and Estimates

American Falls Reservoir
Feature

For the Period Calendar Year 1984 and 1985

Costs	Estimate 1984	Costs Calendar Year 1984 (Nov. & Dec. Est.)	Estimate Calendar Year 1985
Operation	\$ 89,000	\$ 92,000	\$ 95,000
Maintenance	39,000	59,000	60,000
Gen. & Adm. Expenses. . .	40,000	39,000	41,000
<u>SUB-TOTALS</u>	<u>\$168,000</u>	<u>\$190,000</u>	<u>\$196,000</u>
Municipal/Industrial Credit.	-43,000	-51,000	-52,000
Flood Control	-42,000	-46,000	-48,000
Recreation Credit/ Fish & Wildlife	-10,000	-11,000	-12,000
BALANCE	\$73,000	\$82,000	\$84,000
Land Purchases - Erosion of Private Land, \$.10 Assessment for each acre foot. . .	\$170,000 (\$.20 for CY 1985)	\$170,000	\$340,000
TOTAL	\$243,000	\$252,000	\$424,000

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Minidoka Project Office
Burley, Idaho

Statement of Expenditures and Estimates

Minidoka Dam & Headworks
Feature

For the Period Calendar Year 1984 and 1985

Costs	Estimate 1984	Costs Calendar Year 1984 (Nov. & Dec. Est.)	Estimate Calendar Year 1985
Operation	\$ 30,000	\$ 31,000	\$ 33,000
Maintenance	50,000	40,000	51,000
Gen. & Admin. Expenses. .	29,000	30,000	31,000
<u>SUB-TOTAL</u>	<u>\$109,000</u>	<u>\$101,000</u>	<u>\$115,000</u>
Less: Power Allocation .	-50,000	-46,000	-53,000
Less: Fish & Wildlife and Recreation Credit	-9,000	-8,000	-9,000
GRAND TOTALS	\$ 50,000	\$ 47,000	\$ 53,000

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United States Department of the Interior

BUREAU OF RECLAMATION
MINIDOKA PROJECT OFFICE
1359 HANSEN AVENUE
BURLEY, IDAHO 83318

RECEIVED
APR 15 1985

Department of Water Resources

IN REPLY
REFER TO: 406
550.-

April 9, 1985

Mr. Kenneth Dunn, Director
Department of Water Resources
373 West Jefferson
Boise, Idaho 83706

Dear Mr. Dunn:

Pursuant to the provisions of Chapter 7, Section 41-701 and 41-702 of the Idaho Compiled Statutes, notice is hereby given that the United States, as owner of Jackson Lake, Grassy Lake, Island Park, Palisades, American Falls, and Ririe Reservoirs, desires to use the bed of the Snake River and its tributaries natural water courses in the State of Idaho, for the purpose of carrying the stored water from said reservoir to the several projects entitled to use the same, and requests that a special deputy be appointed as provided in said sections to adjust the headgates of the various canals diverting from said stream in such a manner that the parties having the right to the use of such stored water shall secure the volume thereof to which they are entitled.

The dates when the stored water will be discharged, its volume in acre-feet, and rate of flow in cubic feet per second will depend upon climatic and runoff conditions and cannot be determined at this time. Stored water released from Island Park and Grassy Lake Reservoirs during the 1985 irrigation season will be for the benefit of the Fremont-Madison Irrigation District.

It has been the custom in the past for the Watermaster of District 01 to act in the capacity of the special deputy under appointment by your office. The continuation of this custom is requested for the current year.

Sincerely yours,

Donald E. Tracy

Donald E. Tracy
Project Superintendent

cc: Reg. Dir., Boise, Idaho, Attn: 150 & 400
Watermaster, Idaho Department of Water Resources, Idaho Falls, Idaho

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BEFORE THE IDAHO WATER RESOURCE BOARD

OF THE

STATE OF IDAHO

IN THE MATTER OF APPOINTMENT
OF A LOCAL COMMITTEE FOR THE
WATER SUPPLY BANK -- UPPER
SNAKE RIVER BASIN

) A RESOLUTION TO APPOINT
)
) A LOCAL COMMITTEE FOR
)
) THE WATER SUPPLY BANK
)
) UPPER SNAKE RIVER BASIN

WHEREAS, Section 42-1765, Idaho Code, authorizes the Idaho Water Resource Board (Board) to appoint local committees to facilitate the rental of stored water; and,

WHEREAS, on June 2, 1980, the Board appointed the Committee of Nine as the local committee for the Water Supply Bank -- Upper Snake River Basin; and,

WHEREAS, the Water Supply Bank Rules and Regulations provide that the term of appointment of a local committee not exceed five (5) years but that the Board may make successive appointments for five (5) year terms; and,

WHEREAS, the Committee of Nine has requested reappointment as the local committee for the Water Supply Bank in the Upper Snake River Basin; and,

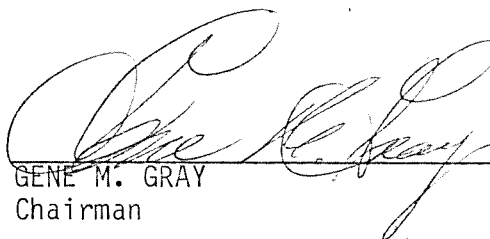
WHEREAS, the Director, Idaho Department of Water Resources has reviewed the procedures, forms and bylaws of the Committee of Nine and has determined them to be consistent with the Board's Water Supply Bank Rules and Regulations;

NOW, THEREFORE, BE IT RESOLVED that the Committee of Nine is reappointed as the local committee for the Water Supply Bank -- Upper Snake River Basin subject to the provisions of Section 42-1765, Idaho Code, and the adopted rules and regulations for the Water Supply Bank. This designation is

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effective for a period of five (5) years or until amended or revoked by action of the Water Resource Board.

DATED AND ADOPTED this 26th day of April, 1985.



GENE M. GRAY
Chairman

ATTEST:



JAMES SHAWVER
Secretary

1985

THE HISTORY OF WATER BANKING
ON THE UPPER SNAKE RIVER

By

Ronald D. Carlson

The underlying philosophy of western water law is to protect the use of water for beneficial purposes in ascending order of priority. The subtle implication of this philosophy is that the right to use water for beneficial purposes does not convey title to water. Thus, when a water right holder is unable to benefit from the diversion of water he has no right, and can not assign his right to use water to someone else. The beneficial use of water under any water right is attached to the thing through which beneficial use is attained. The statutes do provide for transfers of water rights but the transfer means that the original use must cease.

Unfortunately, water rights do not assure a right holder of a water supply. During times of scarcity there may only be water available to fill the very earliest rights. This uncertainty in water supplies caused water users to look for supplemental supplies. The drought of 1905 may have been the first water shortage that caused irrigators to seriously consider the construction of supplemental storage.

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STORAGE

The first storage built on the Upper Snake was a log crib dam at the outlet of Jackson Lake in 1906. This dam, unfortunately, only lasted for three years before washing out. During 1906, Lake Walcott was also constructed as a catch basin and equilizing reservoir. Over the next fifty years storage capacity totalling nearly four million acre-feet was constructed on the upper Snake to provide supplemental water to lands that had inadequate water supplies.

Legally, the only difference between a storage right and a natural flow right involves the fact that under a storage right, water is first diverted into storage, when water was available, for later use on specific lands or for other specified beneficial purposes. Stored water that was not needed in a given year could be carried-over for another year or released without beneficial use. There were no statutory provisions for "allowing" someone else to use surplus stored water. The State Constitution, in fact, made this a risky practice. Article 15, Section 4 reads as follows: "Whenever any waters have been, or shall be, appropriated or used for agricultural purposes, under a sale, rental, or distribution thereof, such sale, rental or distribution shall be deemed an exclusive dedication to such use: (emphasis added) . . . However, even with the risks, those

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owning storage space did, at times, allow surplus stored water to be used by others needing supplemental water for irrigation. For while the statutes did not treat storage and natural flow differently, it was intuitively clear that they were different. It is difficult, for example, to argue that unused stored water must go to fill the right of the next appropriator. The time in retention alters the availability of stored water to the extent that generally no one is entitled to the use of surplus stored water.

RENTAL POOL

The rentals of stored water in Water District No. 1 have a long history. During the drought year of 1932, 14,700 acre-feet of storage water was rented at \$.17 per acre-foot. (Because storage space, rather than water, was leased the price per acre-foot of space leased was \$.12.) By 1934 the price had risen to \$.25 per acre-foot. That year 40,000 acre-feet of water was leased to upper valley canals to provide water at times when no other sources of water were available.

In 1937, the Upper Valley Storage Pool was formed to establish the price and policy for annual rentals of storage. The price of stored water was set at \$.50 per acre-foot measured at the point of river diversion. Because of the Bureau of Reclamation (BOR) interpretation of the storage contract with the American Falls Reservoir District any lease amount in excess of \$.12 was divided between the spaceholder and the BOR.

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The rental varied from year-to-year depending upon demand. In 1938, 5,091 acre-feet of water was leased to two canals near Blackfoot for \$.13 per acre-foot measured at the canal headgates. In 1929, the rental price was raised to \$.35 per acre-foot, a rate that held through 1940 except for a \$.05 surcharge on the Teton River for use of the Cross-cut Canal. In 1942, a new arrangement was implemented for leasing space in American Falls Reservoir. The rental price was set at \$.30 per acre-foot with one-half of the lease price being retained by the federal government and the other half being reimbursed to the leasing company. This arrangement continued for the next eighteen (18) years. In 1961, the rental rate was raised to \$.50 per acre-foot where it remained through 1977.

In 1978, major changes were implemented on the upper Snake. These changes included significant tightening in regulation of diversions and recognition of water rights. Through the use of computer technology it became possible to distribute stored water with little effect on natural flow. Major changes in water rentals were also made. The rental price was set at \$.75 per acre-foot with \$.50 going to the spaceholders and \$.25 going to Water District No. 1 to cover administrative costs.

THE WATER BANK

The value of being able to lease surplus stored water within

Water District No. 1 is well established. However, over the years no significant changes in state statutes had been made to overcome the legal questions associated with the process. The Water Resources Board took the first step in the process of creating a statutory basis for water leases with the adoption of Policy 11 in the State Water Plan. This policy called for the creation of a water supply bank. In 1979, the Idaho Legislature added statutory provisions in Title 42, § 1761 through 1766 for the creation of a water supply bank and the appointment of a local committee to administer water rentals. Shortly after the enactment of this act, the Water Resources Board appointed the Committee of Nine as the local (operating) committee for the upper Snake Water Bank. That year rules and regulations for administering the water bank were adopted and a procedure was established for setting the lease price. A price restraint remained because of the Bureau of Reclamation's restriction on "profiteering." By using a formula which had been approved by the Bureau, the Committee of Nine set the 1979 rental price at \$1.19 per acre-foot. This price included \$.50 which was retained by Water District No. 1 to cover administrative costs. That year the Idaho Power Company requested, and received, 60,000 acre-feet of water. This was of a total of 73,960 acre-feet leased that year.

With the lease to Idaho Power Company came a concern over another legal problem; there were no provisions in the statutes to allow changes in the nature of use of water. Because of the apparent danger in allowing water, which had been allocated for agricultural uses, to be diverted to other uses no water was leased to the Idaho Power Company during 1980. The price to irrigators was established at \$1.20 with administrative costs set at \$.56 leaving \$.64 as the net payback to the spaceholder.

In 1981, the Idaho Legislature changed Idaho Code, § 42-222 to allow for changes in the nature of use of a water right. With the statutory recognition that the nature of use of water rights could be changed without jeopardy, rentals to the Idaho Power Company were resumed. During 1981, 125,000 acre-feet of water was leased to Idaho Power. An additional 24,000 acre-feet was leased to irrigators at the established price of \$2.30.

The formula adopted by the Committee of Nine for establishing the lease price allowed the lease price of water to be too variable. When the Bureau of Reclamation sanctioned a sale of storage space at \$50 per acre-foot the Committee of Nine had a standard against which profiteering could be measured. Consequently, in 1983 the Committee of Nine abandoned the formula that had previously been used to establish the annual rental price and have since continued the price established in 1981 with

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small adjustments for inflation. During the past two years (1983, 1984) the lease price was set at \$2.40 and \$2.50 per acre-foot respectively. The amount paid to the spaceholder is reduced by \$.50. Monies thus generated are allocated to Water District No. 1 improvement fund. Funds in the improvement fund are disbursed by the Snake River watermaster for such improvements as the Committee of Nine approves.

During 1983, a total of 353,084 acre-feet was leased from the water bank, of which 350,000 went to the Idaho Power Company. Similarly in 1984, the Idaho Power Company leased 275,000 acre-foot of the 277,433 acre-feet leased. However, this is a small percentage of the 800,000 acre-feet assigned to the bank.

The upper Snake Water Supply Bank is the state's only effective mechanism for the annual marketing of stored water. The water bank is recognized by the Secretary of Interior as the official mechanism through which surplus storage supplies can be reallocated without violating federal spaceholder contracts.

One of the provisions of the Swan Falls Agreement calls for the "establishment of an effective water marketing system." The question remaining should not be how can an effective water marketing system be established, but rather, what additions or modifications are needed in the upper Snake's Water Banking system to satisfy the concepts envisioned by those framing the agreement.

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NOTES

COMMITTEE OF NINE'S PROCEDURES

Summary of Changes

Rule 3 - The equation to determine the cost per acre-foot of water has been changed.

- The equation has been changed slightly in two (2) ways:

1. The cost of stored water used from reservoirs now uses the five (5) year average of storage use rather than the low flow year. (First part of the equation).
2. A cost has been added to account for canal operation and maintenance due to storage water delivery. (Second part of equation).

Rule 4.e. - Now provides for an administrative charge for operation of the rental program and for operational improvements in stored water delivery.

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Upper Snake Water Bank Rules and Regulations

Rule 1. A rental committee composed of three members of the Committee of Nine and the watermaster shall be appointed by the chairman for the following purposes:

1. To determine general policies regarding rental water not covered by the adopted rules and regulations.
2. To assist the watermaster in the allocation of rental water.
3. To consult with the watermaster on ways to most fully utilize available storage water.
4. To advise the Committee of Nine on rental activities.

Rule 2. The operation of the "Water Bank" shall be consistent with the statutes creating the Water Supply Bank and the Rules and Regulations of the Water Resource Board.

Rule 3. Water accepted into the water bank is on a contingency basis with payments to be made to the lessor only if the water is subsequently leased from the water bank.

Holders of space in Palisades Reservoir or in any other reservoir may notify the Upper Snake River Watermaster by July 1 of each year of water they designate as available for rental from the Water Rental Pool for that year's irrigation season. All such holders will share proportionately in the proceeds from the rental of all or any part of the water offered by July 1 for use in that year.

Holders of space in Palisades Reservoir or other reservoirs who notify the Upper Snake River Watermaster after July 1 of any year of water they desire to designate as available for rental from the Water Rental Pool for that year's irrigation season shall share proportionately in the proceeds from the rental of all or any part of the water rented which was designated for rental after July 1 of that year.

All of the water designated for rental before July 1 of any year will be rented before any of the water designated for rental on or after July 1 will be rented.

The lessor shall be entitled to receive payment for the percentage of his water rented from the water supply bank according to the following formula:

FORMULA

Definitions:

- Sp = Space holder payback
Rc = Annual reservoir O & M + construction
A₅ = Five-year average total storage use
i = Inflation factor
C_c = Average canal O & M
N₅ = Five-year average total flow delivered
AF = Acre-feet leased

$$Sp = \left[\frac{(Rc)}{A_5} + (C_c + i) \frac{A_5}{N_5} \right] AF$$

Rule 4. Any water available through the water bank shall be provided on a priority according to the following priorities:

a. First priority in the rental of available water shall be given to those water users owning rights in the various storage reservoirs of the Water and Power Resources service in the Snake River Basin above Milner Dam.

b. Second priority in the rental of available water shall be given to other irrigation water users in the areas of beneficial use described in the licenses issued by the State of Idaho for use of the waters from the storage reservoirs described in (a) above.

c. Priority among water users of each priority listed in (a) and (b) above and who execute leases to rent water during an irrigation season shall be determined by the date on which that water user's executed lease is received at the office of the Upper Snake River Watermaster at Idaho Falls, Idaho; the earlier in the year the executed lease is received by the watermaster, the higher priority in that priority group the entity will receive.

d. Any water user having once initiated a lease agreement may request water in subsequent years by confirming, in writing, that all of the information on the original lease

is true and correct and identifying the amount of water he wishes to lease.

e. A \$0.25 per acre-foot charge shall be added to the price calculated using the formula in Rule 3 above. This shall be the price charged those renting water from the bank with the exception noted below. The lessors pay-back calculated using the formula in Rule 3 shall be reduced by \$0.25 per acre-foot. The monies thus generated shall cover the water district's costs in administering the rental program and to make improvements within Water District No. 1 that will assist the watermaster in improving accuracy in allocating, accounting, and delivery of stored water. This improvement fund shall be managed and maintained by the watermaster of Water District No. 1 but disbursements from the fund shall be made for improvements authorized by the Committee of Nine. The Committee of Nine may designate up to \$0.15 per acre-foot to go to the Water Resource Board for the purposes as outlined in Rule 6.2 of the Water Supply Bank Rules and Regulations adopted by the Idaho Water Resource Board.

f. Any water not leased by August 15 may be provided to the highest bidder for such uses as may be determined beneficial by the Committee of Nine. Any lease of water which shall result in a price in excess of that calculated using the formula in Rule 3, plus administrative charges, shall be used for the general benefit of the water users in Water District No. 1.

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LEASE

The undersigned lessee does hereby agree to pay \$_____ in consideration for the lease of _____ acre feet of storage water which is excess to the needs of some waterusers of Water District No. 1 for the irrigation season of 19__.

The undersigned lessee waives any claim to the water herein leased under Article XV, Section IV of the Idaho Constitution and Idaho Code §42-914, and further acknowledges:

- (1) That the use of such leased water by undersigned lessee does not constitute a dedication of the water to lessee's use;
- (2) Said lease does not constitute an abandonment or forfeiture of the right by waterusers of Water District No. 1;
- (3) That the use of leased water by lessee shall be supplemental to other water rights on Snake River held by lessee for beneficial use on the hereinafter described lands; and
- (4) The lessee hereby agrees to comply with all Federal Reclamation Laws and regulations to the extent the same are applicable to the use of this lease water.

Description of Point of Diversion:

Description of lands where water will be beneficially used:

DATED this ____ day of _____, 19__.

ATTEST:

Lessor
Watermaster, Water District No.1
As Agent for Owner of Water Right

Water District Secretary

Lessee

STATE OF IDAHO)
) ss.
County of)

On this ____ day of _____, 19__, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, known

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to me to be the Watermaster of Water District No. 1, the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC IN AND FOR IDAHO
Residing at: _____

ACKNOWLEDGEMENT FOR INDIVIDUAL LESSEE

STATE OF IDAHO)
) ss.
County of)

On this ____ day of _____, 19__, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC IN AND FOR IDAHO
Residing at: _____

ACKNOWLEDGEMENT FOR CORPORATE LESSEE

STATE OF IDAHO)
) ss.
County of)

On this ____ day of _____, 19__, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, known to me to be the _____ of _____, the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC IN AND FOR IDAHO
Residing at: _____

1985

WATER BANK LEASE AGREEMENT FOR _____
EXCHANGE AGREEMENT

The Committee of Nine, hereafter lessor, being authorized pursuant to Idaho Code §42-1765 to operate the Upper Snake River Water Supply Bank does agree to lease to _____ of _____, hereafter lessee, _____ A.F. of water for the irrigation year starting April 1, _____. This agreement is subject to the adopted Rules and Regulations of the Water Supply Bank and applicable conditions on the requisite water right permit granted by the Idaho Department of Water Resources.

Upon execution of this agreement and receipt of \$ _____, the Snake River Watermaster will assign to the Director of the Department of Water Resources _____ A.F. of storage to be released at his discretion in exchange for water pumped from groundwater at a well(s) located within:

_____ 1/4 _____ 1/4, Sec. _____, T. _____, R. _____:

Other: _____

For the irrigation of _____ acres of land within:

The lessee understands and agrees that this lease in no way obligates the lessor to future leases or in any other manner not specified above.

(Name)

(Address)

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State of Idaho

County of _____

On this ____ Day of _____ 19____, before me the undersigned Notary Public in and for said county and state, personally appeared _____, known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he executed the same.

In WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first written.

Notary Public in and for Idaho

Residing at :

I have accepted the request of _____
to purchase water from the Water Supply Bank this ____ day of
_____, 19____.

Watermaster, Water District No. 1

Agent for the Committee of Nine

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1985

RENTAL BANK RULES AND REGULATIONS

11. WHEREAS, the annual lease of stored water is the responsibility of the Committee of Nine, and;

WHEREAS, certain rules and regulations for the administration of the annual lease of reservoir space is essential to an orderly water banking process;

NOW, THEREFORE, BE IT RESOLVED that the following rules and regulations for administering storage rentals and sales be adopted:

Rule 1. A rental committee composed of the watermaster, the Superintendent of the BOR Minidoka Project, and three members of the Committee of Nine shall be appointed by the chairman for the following purposes:

1. To determine general policies regarding the annual rental of storage space and sales of water from this space which are not covered by the adopted rules and regulations.

2. To assist the watermaster in the allocation of water sold from the bank.

3. To consult with the watermaster on ways to most fully utilize available storage water.

4. To advise the Committee of Nine on water banking activities.

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Rule 2. The operation of the "Water Bank" shall be consistent with the statutes creating the Water Supply Bank and the Rules and Regulations of the Idaho Water Resources Board and the provisions of the spaceholder contracts with the United States.

Rule 3. Storage space is leased by the water bank on a contingency basis and will return payments to the lessor only if the water is subsequently sold from the water bank.

Holders of space in Palisades Reservoir or in any other reservoir may notify the Upper Snake River Watermaster by July 1 of each year of reservoir space they designate as available for lease by the water bank for that year's irrigation season. All such holders will share proportionately in the proceeds from the sale of all or any part of the water sold from storage space offered by July 1 for use in that year.

Holders of space in Palisades Reservoir or other reservoirs who notify the upper Snake River Watermaster after July 1 of any year of reservoir space they desire to lease to the water bank for that year's irrigation season shall receive any proceeds from the sale of all or any part of the water sold which was made available for sale after July 1 of that year on a "first come" basis.

All of the water designated for sale before July 1 of any year will be sold before any water assigned to the bank on or after July 1 will be sold.

The lessor shall be entitled to receive payment for the percentage of his water sold from the water supply bank. Such payment shall be determined by the Renal Pool Committee and adopted by the Committee of Nine pursuant to Rule 2 above.

Rule 4. Any water available through the water bank for annual use shall be provided on a priority basis according to the following priorities:

a. First priority in purchasing water from the water bank shall be given to those water users owning space in the various storage reservoirs of the Bureau of Reclamation in the Snake River Basin above Milner Dam.

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b. Second priority in acquiring stored water shall be given to other irrigation waterusers in the areas of beneficial use described in the water rights records of the Department of Water Resources for the storage reservoirs described in (a) above.

c. Priority among waterusers of each priority listed in (a) and (b) above and who execute annual contracts to obtain stored water during a given year shall be determined by the date on which the wateruser's contract and payment is received at the office of the Upper Snake River Watermaster at Idaho Falls, Idaho; the earlier in the year the executed lease is received by the watermaster, the higher priority in the priority group the entity will receive.

d. Any wateruser having once initiated a contract for stored water may request water in subsequent years by confirming, in writing, that all of the information on the original lease is true and correct, and identifying the amount of water he wishes to obtain.

e. The Committee of Nine may charge the lessor and buyer each twenty-five cents (\$.25) to cover administrative costs, costs of the Committee of Nine, and to secure funds to make such needed improvements in the water district as the committee may deem necessary and beneficial to the waterusers.

Rule 5. Spaceholders who wish to lease their reservoir storage space to the water supply bank on a long-term basis may request consideration by contacting the Snake River Watermaster or the Chairman of the Committee of Nine in writing. Any such request shall be reviewed by the Rental Committee and if it is deemed proper, it shall be presented at the next regular meeting of the Committee of Nine. Upon approval, the committee shall commence seeking a lessee. No lessee shall be eligible if his proposed point of diversion is outside Water District No. 1 or if the requested water will be used for non-consumptive purposes. If a suitable lessee is found, the lessor will be notified and a contract between the lessor, lessee, and the Committee of Nine shall be executed setting forth the terms of the lease, lease price, point of delivery, and place of use. Any administrative costs to be imposed by the Water Supply Bank may also be contained in said contract. The parties shall be exempt from Water Bank Rules 3 and 4, except the contracted lease price may not exceed that set by the Committee of Nine.

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Anyone assigning water to the water bank for mitigation purposes shall be considered to be the recipient of water released for mitigation and shall receive no proceeds from water bank leases. All leases for mitigation shall be pursuant to the instruction of the Director of the Department of Water Resources.

Rule 6. Irrigation districts will be given first opportunity to lease water to patrons within their district subject to the following conditions.

1. The total number of acres within the district is not increased.

2. The point of diversion is not under the control of the watermaster on a river or stream.

3. If it is on the river, the district will file a transfer in accordance with Idaho Code §42-222.

4. Affidavit that lands were previously irrigated and that lessee pays irrigation district assessments will be provided to the Upper Snake River Watermaster.

5. The district will be obligated to pay the minimum charge assessed by Water District No. 1 for each diversion added.

Rule 7. By July 10th of each year each person leasing storage space to the Water Bank shall be provided with a list showing all entities who have assigned space to the bank, the date their space was assigned, and the quantity assigned. At the end of each season all those who have assigned space shall receive an accounting of water banking activities including disbursements made to each lessor during that year.

Rule 8. Any time after July 1, receipts exceed \$250,000 the watermaster shall call a Rental Pool Committee meeting. The committee shall evaluate the water bank status and water use forecast for the year and if it is deemed appropriate to make a partial payment to the lessors, the Committee of Nine can request the watermaster to make a partial payment to the lessors.

Rule 9. Water rental costs to the lessee shall be \$2.50 per acre-foot for 1985.

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