

STATE OF IDAHO
WATER RESOURCE BOARD

JUL 03 2023

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Knife River Corp Mountain West
(Select one owner – see item 1A on the application)Water Right No. 25-14499
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. 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. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☒ ☐ Signatures and contact information for *all owners* of the water right to be 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 ☐ ☒ 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.
- 3 ☐ ☒ 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. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>KM</u>	Date Received: <u>7/3/23</u>	Receipt # <u>C116686</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Knife River Corporation - Mountain West</u>	

2692

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Knife River Corp Mountain West

Mailing Address 5450 W Gowen Rd., Idaho 83709-5625

Street

City

State

Zip Code

Email Address _____

Phone Number _____

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Thane Kindred Organization Rocky Mountain Environmental Assoc., Inc.

Professional Title Staff Geologist Email Address thane.rmea@gmail.com

Mailing Address 482 Constitution Way Suite 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. 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 authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).

- B. Please provide a description of the current water diversion and delivery system.
Existing well to pump to mainline and batch plant.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. Other Industrial rights are used at the current facility, including 25-14344, 25-14498, 25-14351 (mitigation only), and a portion of water from the Sunnyside Park Utilities company right 25-13979.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. The current POU will continue to receive water under the other industrial rights. At this time, the facility has not reached their expansion point where the proposed water right is needed.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The water right was purchased and a transfer was approved in October 2021. The applicant only had the ability to divert this water right for one year since owning it. In 2022, it was not diverted as it was intended to supply water for expansion at the facility.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?

If yes, describe.

Yes ☒ No ☐

6.1 acre-feet annual of the water right is being transfered to mitigate industrial use of the Applicant at another location.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. 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, specify the years when the use of water will be suspended: 2023 to 2024 (maximum lease period 5 calendar years).
(Year) (Year)

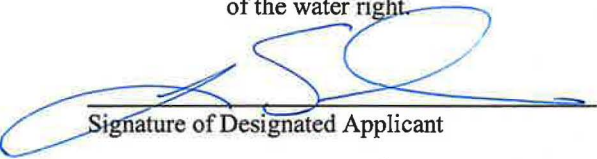
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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 is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.


Signature of Designated Applicant

Joseph Smith, Regional Environmental Manager
Printed Name

June 21, 2023
Date

Signature of Authorized Representative

Printed Name

Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: KNIFE RIVER CORP MOUNTAIN WEST

RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

Rocky Mountain Environmental Associates, Inc. (RMEA) is hereby authorized to act on behalf of Knife River Corp Mountain West regarding Water Supply Bank Application(s) for water right(s).



Signature

Joseph Smith
Regional Environmental Manager
Printed Name and Title

June 21, 2023
Date

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

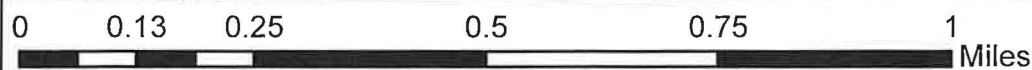
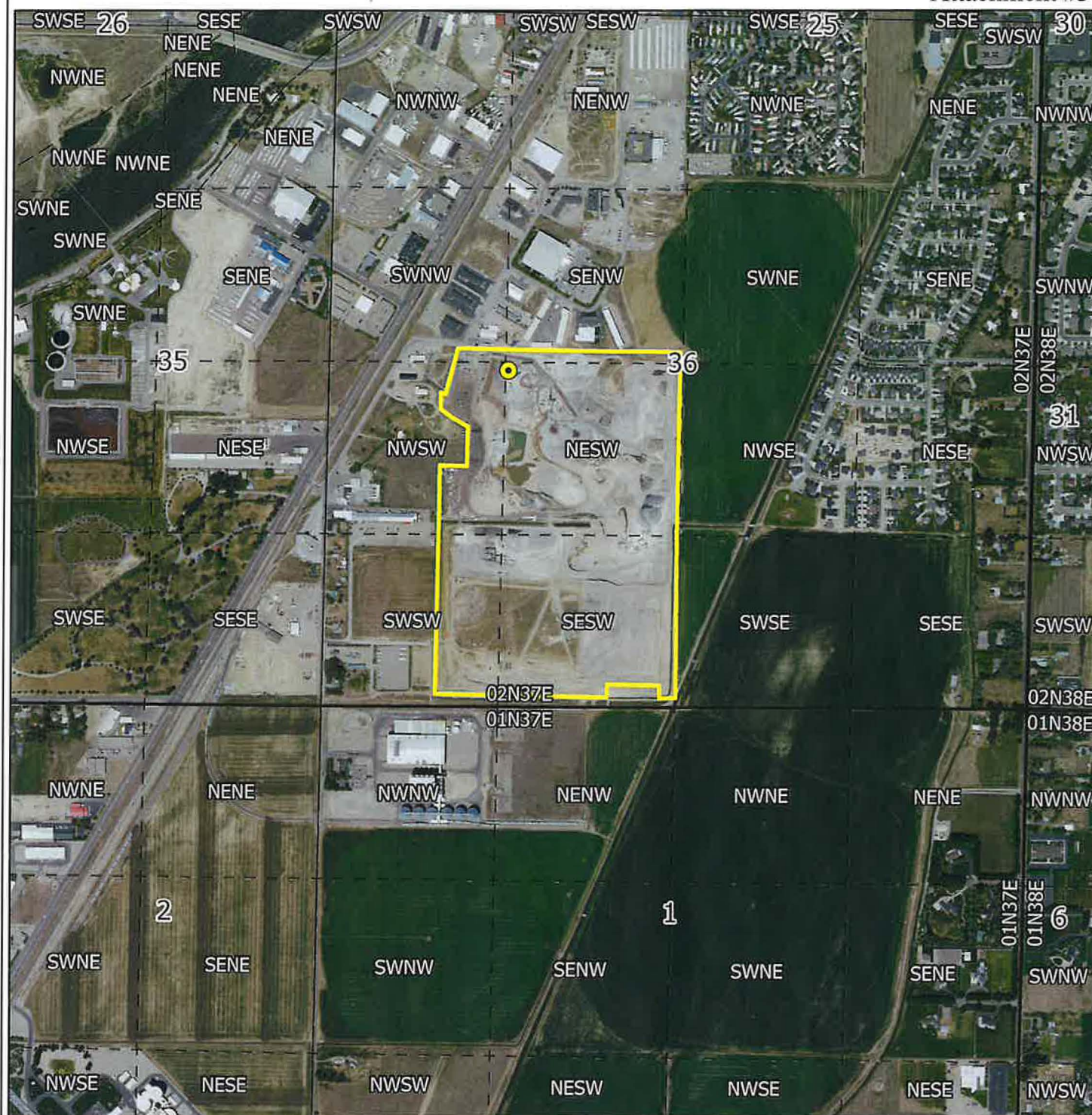
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
25-14499	Industrial	0.05	11.0	NA
	Total Amounts:			

2. Source of water Groundwater tributary to NA

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
02N	37E	36	0		NE	SW	Bonneville



2021 NAIP

- 25-14499 POU
- 25-14499 POD
- Township and Range
- Section
- QQ



Proposed Water Right Lease

Knife River Corp. Mountain West

Project #: 21-0063

Drawn by: TK

Date: 6/5/2023



CERTIFICATE

I, Karl A. Liepitz, hereby certify that I am the duly elected and qualified Assistant Secretary of Knife River Corporation – Mountain West, a Delaware corporation; and I further certify that, pursuant to a resolution adopted by Written Consent of the Board of Directors dated September 2, 2020, the persons named below have been duly elected, have qualified and are officers of the Company holding the offices set forth opposite their respective names:

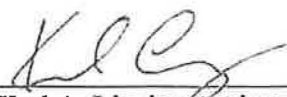
David C. Barney	Chair of the Board and Chief Executive Officer
James L. Lauteren	President
Justin W. Rosin	Vice President – Operations
Nancy K. Christenson	Treasurer and Chief Financial Officer
Daniel S. Kuntz	General Counsel and Secretary
Calvin R. DeWall	Region Controller and Assistant Secretary
Karl A. Liepitz	Assistant Secretary

* * * * *

I further certify that the following is a true and correct copy of Section 5.13 of the Bylaws of Knife River Corporation – Mountain West, which sets forth the powers of the officers to execute documents; and that said Bylaw Section is presently in full force and effect:

5.13 Execution of Instruments. All deeds, bonds, mortgages, notes, contracts and other instruments shall be executed on behalf of the Corporation by the Chairman of the Board, the Chief Executive Officer, the President, any Vice President or Assistant Vice President, the General Counsel, any other officer who performs a policy-making function (such as administration, operations, accounting, or finance) or such other officer or agent of the Corporation as shall be duly authorized by the Board of Directors. Any officer or agent executing any such documents on behalf of the Corporation may do so (except as otherwise required by applicable law) either under or without the seal of the Corporation and either individually or with an attestation, according to the requirements of the form of the instrument. If an attestation is required, the document shall be attested by the Secretary or an Assistant Secretary or by the Treasurer or an Assistant Treasurer or any other officer or agent authorized by the Board of Directors. When authorized by the Board of Directors, the signature of any officer or agent of the Corporation may be a facsimile.

IN WITNESS WHEREOF, I have hereunto set my hand on September 2, 2020.



Karl A. Liepitz, Assistant Secretary

September 1, 2020

Re: Appointment of Agents - Power of Attorney

To Whom It May Concern:

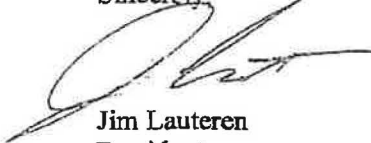
Pursuant to a Board resolution adopted by the Board of Directors of Knife River Corporation – Mountain West, I am authorized, as President, to designate certain individuals as agents of Knife River Corporation – Mountain West who shall be authorized, in the name and on behalf of Knife River Corporation – Mountain West, to execute and deliver construction contracts, subcontracts, agreements, documents, and other instruments with governmental authorities (federal, state, county, or local), with general contractors or subcontractors, and with private parties.

I hereby designate each of the following individual(s) an agent of Knife River Corporation – Mountain West, and each of them is authorized and empowered to execute and deliver documents, including but limited to, construction contracts, subcontracts, prime contractor proposals, subcontractor proposals, competitive bids for projects, price quotations or bids for materials, lien releases, and other related agreements, documents, and instruments with governmental authorities (federal, state, county, or local), with general contractors or subcontractors, and with private parties, in the name and on behalf of Knife River Corporation – Mountain West:

Norm Avery
Jim Madden
Justin Tietz
Bret Olson
Josh Smith

This authorization letter is effective and in full force and effect, until modified.

Sincerely,

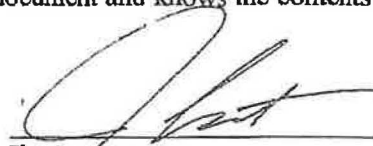
A handwritten signature in dark ink, appearing to read "Jim Lauteren", is written over a horizontal line.

Jim Lauteren
President
Knife River Corporation – Mountain West

STATE OF IDAHO

COUNTY OF ADA

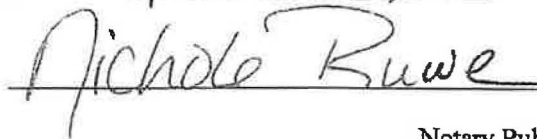
Jim Lauteren, being first duly sworn, deposes and says that he is the President for Knife River Corporation – Mountain West; that the execution of this instrument is the act and deed of the Corporation, that he has read the foregoing document and knows the contents thereof, and that the statements herein are true.



Jim Lauteren
President

Knife River Corporation – Mountain West

Subscribed and sworn to before me on September 1, 2020.



, Notary Public

Ada

County, Idaho

My commission expires: March 24, 2023





Mountain West
5450 W. Gowen Road
Boise, ID 83709
(208) 362-6152
(208) 362-6199 FAX

June 14, 2023

Re: Appointment of Agents - Power of Attorney

To Whom It May Concern:

Pursuant to a Board resolution adopted by the Board of Directors of Knife River Corporation – Mountain West, I am authorized, as President, to designate certain individuals as agents of Knife River Corporation – Mountain West who shall be authorized, in the name and on behalf of Knife River Corporation – Mountain West, to execute and deliver construction contracts, subcontracts, agreements, documents, and other instruments with governmental authorities (federal, state, county, or local), with general contractors or subcontractors, and with private parties.

I hereby designate each of the following individual(s) an agent of Knife River Corporation – Mountain West, and each of them is authorized and empowered to execute and deliver documents, including but limited to, construction contracts, subcontracts, prime contractor proposals, subcontractor proposals, competitive bids for projects, price quotations or bids for materials, lien releases, and other related agreements, documents, and instruments with governmental authorities (federal, state, county, or local), with general contractors or subcontractors, and with private parties, in the name and on behalf of Knife River Corporation – Mountain West:

Matt Abrams
Mike Berg
Mike Cole
Will Haigh
Drew Harris
Bret Olson
Dustin Park
Bret Gant
Joseph Smith

This authorization letter is effective and in full force and effect, until modified.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Lauteren'.

Jim Lauteren
President
Knife River Corporation – Mountain West



Mountain West
5450 W. Gowen Road
Boise, ID 83709
(208) 362-6152
(208) 362-6199 FAX

STATE OF IDAHO

COUNTY OF ADA

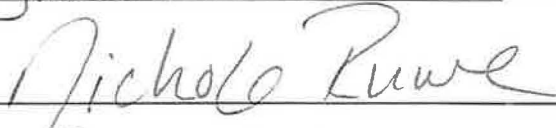
Jim Lauteren, being first duly sworn, deposes and says that he is the President for Knife River Corporation – Mountain West; that the execution of this instrument is the act and deed of the Corporation, that he has read the foregoing document and knows the contents thereof, and that the statements herein are true.



Jim Lauteren
President
Knife River Corporation – Mountain West

Subscribed and sworn to before me on June 14, 2023.





Boise, Idaho, Notary Public
Ada County, Idaho

My commission expires: 3/24/2029



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

11/5/2024

KNIFE RIVER CORPORATION
MOUNTAIN WEST
5450 W GOWEN RD
BOISE ID 83709-5625

**RE: WITHDRAWAL OF APPLICATIONS TO LEASE WATER RIGHT NO. 25-14499 TO THE
WATER SUPPLY BANK**

Dear Applicant:

Per your written email request received on October 14, 2024 the Department of Water Resources ("Department") acknowledges your request to withdraw your Lease Application(s) for the right(s) listed above. Department resources were expended in order to provide a full review of your application. Therefore, the lease application filing fees will not be refunded.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an [Application for Extension of Time to Avoid Forfeiture of a Water Right](#) form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have any questions, please contact us at (208) 287-4800.

Sincerely,

Aaron Olson
Water Resource Agent, Principal

Enclosure: Lease Application

c: Kristin Moore - Water Rights Analyst

Condon, Mary

From: Kristin Moore <kristin.rmea@gmail.com>
Sent: Monday, October 14, 2024 12:29 PM
To: Bank; Condon, Mary
Cc: Smith, Joe
Subject: Knife River lease application

Follow Up Flag: Follow up
Due By: Wednesday, October 16, 2024 8:30 AM
Flag Status: Flagged

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Knife River Corporation Mountain West submitted a lease application for water right 25-14499 in 2023. It has been on hold due to transfers and other issues that have arisen regarding the water right. Knife River desires to withdraw the lease application. And if possible, to refund the filing fees.

Joe Smith of Knife River is copied on this email in the case that you need confirmation directly from him in regards to this request.

Thank you,

Kristin Moore

Water Rights Analyst
482 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



CONFIDENTIALITY NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination or distribution of this communication to other than the intended recipient is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email to the sender or collect telephone call to (208) 524-2353. Thank you.

Novak, Shilynn

From: Lafortune, Thomas
Sent: Thursday, January 25, 2024 9:36 AM
To: Novak, Shilynn
Subject: RE: 25-14499 Transfer - WSB Lease #2692

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Shilynn,

Those values are still correct after amendments were made to the application. That is what was advertised. However, after looking at the WMIS data I had concerns that they were already using the entirety of their water right and didn't have any available to transfer. I contacted their representatives at Rocky Mountain Environmental in November and they said they would look into the issue. I will reach out to them again for an update and get back to you.

Tom

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Wednesday, January 24, 2024 4:54 PM
To: Lafortune, Thomas <Thomas.Lafortune@idwr.idaho.gov>
Subject: RE: 25-14499 Transfer - WSB Lease #2692

Hi Thomas,

I was wondering if the transfer values below are still correct as you are working through processing the transfer. I am just curious so I can project if I need to ask for a Water Supply Bank (WSB) lease amendment after the transfer is approved. I am just trying to think ahead.

	Rate	Volume
WSB Lease	0.05	11.0
<u>Transfer</u>	<u>0.02</u>	<u>6.1</u>
WR Total	0.07	17.1

Thank you!
Shilynn

From: Lafortune, Thomas <Thomas.Lafortune@idwr.idaho.gov>
Sent: Monday, September 11, 2023 10:26 AM
To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Subject: RE: 25-14499 Transfer - WSB Lease #2692

Shilynn,

I have the Knife River transfer and associated application for permit on my desk. They have not been advertised yet because the proposed mitigation plan did not fully mitigate for the impacts on each reach of the Snake River. I have discussed this with Thane Kindred and Kristin Moore at RMEA, and they plan to amend the applications so that the transferred portion of 25-14499 will be used as the consumptive portion of the new water use. This will essentially have

the same effect on right 25-14499 as the previously proposed mitigation plan. They are working on getting new signatures from Knife River.

Thank you,

Thomas Lafortune
(208) 497-3779
Senior Water Resource Agent
900 N Skyline Dr, Ste A
Idaho Falls, ID 83402



From: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Sent: Monday, September 11, 2023 9:36 AM
To: Lafortune, Thomas <Thomas.Lafortune@idwr.idaho.gov>
Subject: FW: 25-14499 Transfer - WSB Lease #2692

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Thursday, September 7, 2023 2:50 PM
To: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: 25-14499 Transfer - WSB Lease #2692

Hi Blake,

I am working on processing a Water Supply Bank (WSB) lease for water right 25-14499 for Knife River. The application mentions that they have a transfer application for mitigation of 6.1 af of their right. The WSB lease application proposes to put the remainder of their right (11.0 AF) into the WSB from 1/1/2023 to 12/31/2024. I was wondering if you could send a copy of their transfer application and if you could provide a quick status of the transfer if you have it. I am just trying to figure out if we need to process the lease after the transfer is approved. I've attached their WSB lease application if you wanted to check it out.

Thank you so much for your help!

Sincerely,
Shilynn



Shilynn Novak
Water Resource Agent, Sr. | Water Rights Section
322 E Front St Ste 648 | Boise ID 83702-7371
Direct: 208.287.4915 | Front Desk: 208.287.4800