

DEC 13 2024

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 1924**

This Lease Contract ("Lease") is between the Idaho Water Resource Board ("Board"), and

LESSOR: AVISTA CORPORATION
1411 E MISSION AVE
SPOKANE, WA 99202-3727

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 and received by the Department on August 12, 2024.
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

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
95-16557	1/3/1969	GROUND WATER	0.50	89.6	25.6
Lease Totals			0.50	89.6	25.6

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:** The term of this lease shall be January 1, 2025 to December 31, 2029. This Lease shall bind the parties and take effect when both parties have signed it.
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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1924

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 1924**

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

LESSOR: AVISTA CORPORATION

1411 E MISSION AVE

SPOKANE, WA 99202-3727

By

 Gregory C. Hester
Title SVP, General Counsel : Chief Ethics/Compliance Officer

Date 12/13/2024

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By


Brian Patton, Executive Manager
Idaho Water Resource Board

Date

12/16/24

Lease approved by IDWR



Date

12/16/24

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1924

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 95-16557

GROUND WATER SESW Sec. 32 Twp 52N Rge 04W KOOTENAI County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
95-16557	IRRIGATION	03/15	to	11/15	0.50 cfs	89.6 AF
Totals:					0.50 cfs	89.6 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
52N	04W	32									5.6	1.1	5.4	9.3		3.0	1.2		25.6

Total Acres: 25.6

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, or the lease term expires. A right may be released from the bank upon request, 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 pursuant to Idaho Code § 42-223(5).
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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1924

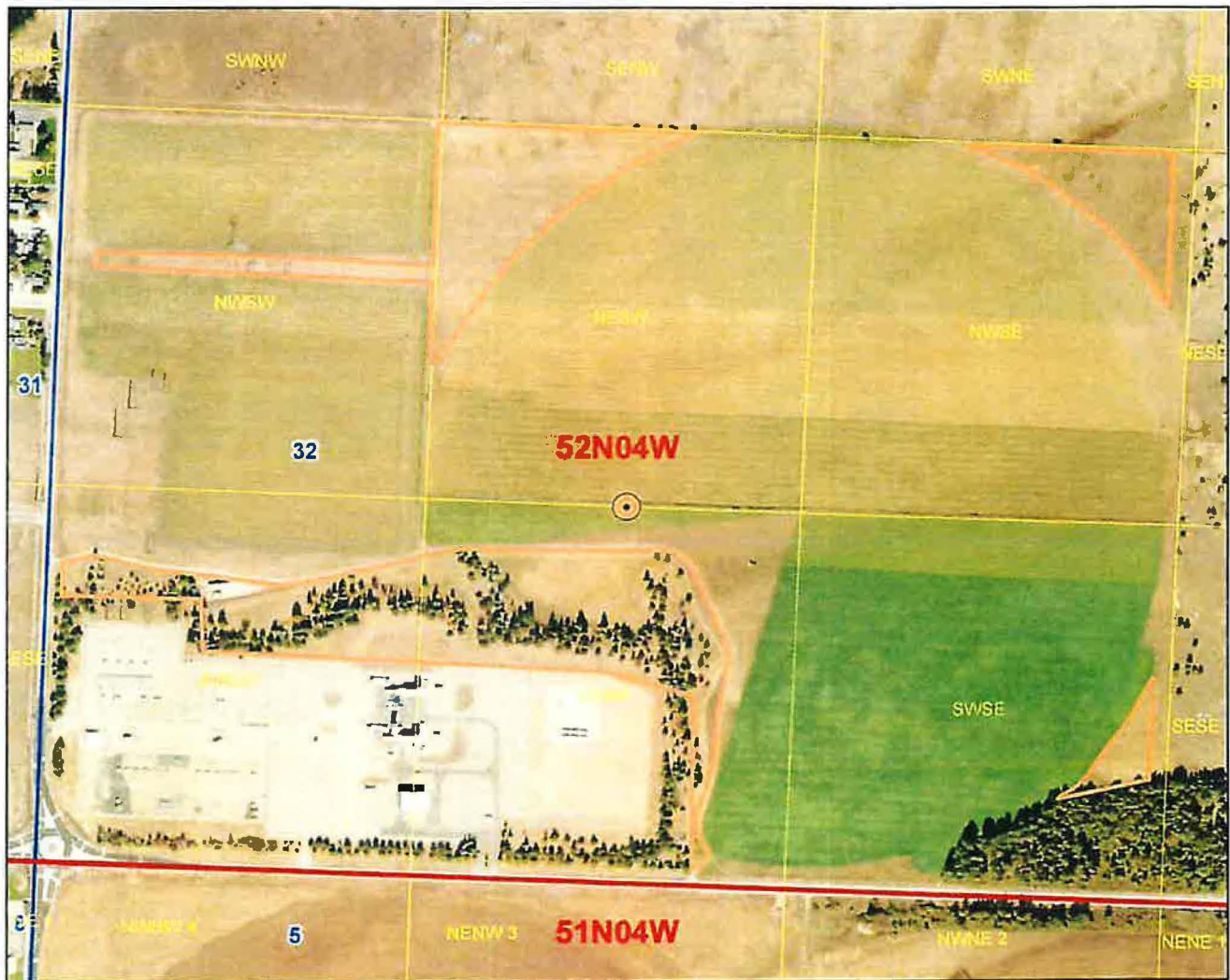
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into 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, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
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 leased portion of 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 place of use.
13. The unleased portion of water right 96-16557 shall not exceed a total diversion rate of 2.99 cfs, a total annual maximum diversion volume of 533.4 af at the field headgate, and the irrigation of 152.4 acres.
14. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
15. This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of the RPGWMA management plan approved by the director, including its conservation goals.
16. When notified by the Department, the right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Idaho Code § 42-701, and/or the management plan for the Rathdrum Prairie Ground Water Management Area.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1924

95-16557

Effective until December 31, 2029

This map depicts the **place of use** to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



Legend

-  Water Supply Bank Lease Point of Diversion
-  Water Supply Bank Lease Place of Use
-  Township/Range
-  Sections
- QQ

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 12 2024

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Avista Corporation Water Right No. 95-16557
(Select one owner – see item 1A on the application) (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 <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>250</u>	Received By: <u>KM</u>	Date Received: <u>8.12.24</u>	Receipt # <u>C118742</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Avista Corporation</u>	

3016

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 Avista Corporation

Mailing Address 1411 E. Mission Ave. Spokane WA 99202-3727
Street City State Zip Code

Email Address sarah.thomas@avistacorp.com Phone Number 509-495-8045

☒ 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 Chris M. Bromley Organization McHugh Bromley, PLLC

Professional Title Attorney Email Address cbromley@mchughbromley.com

Mailing Address 380 S. 4th, Ste. 103, Boise, ID 83702 Phone Number 208-287-0991

☐ 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.

Well and pump to an irrigation system and center pivot.

- 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. None.

- 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. T52N, R04W, Section 32, SWSW and SESW, along the tree line, by the buildings, are irrigated with City of Rathdrum municipal water and will continue to be irrigated with municipal water and will not be irrigated with the leased water right.

- 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. 3.5 acre-feet per acre and 0.02 cfs per acre, as partially decreed in the CSRBA.

- 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. The right was partially decreed by the CSRBA district court on 11/8/2019.

- 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 ☒

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: 2025 to 2029 (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.

Bruce Howard
Signature of Designated Applicant

Bruce Howard
Printed Name

08/07/2024
Date

Chris M. Bromley
Signature of Authorized Representative

Chris M. Bromley
Printed Name

08/08/2024
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

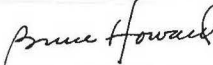
ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 95-16557

	Designated Applicant	Applicant #2	Applicant #3
Name	Avista Corporation		
Mailing Address	1411 E. Mission Ave. Spokane, WA 99202-3727		
Phone Number	509-495-8045		
Email Address	sarah.thomas@avistacorp.com		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			



Gregory C. Hesler
SVP, General Counsel, Corporate Secretary &
Chief Ethics & Compliance Officer
1411 E. Mission Avenue, MSC-10
Spokane, WA 99202
Greg.hesler@avistacorp.com
Admitted in Washington and Idaho

RECEIVED

OCT 03 2024

DEPARTMENT OF
WATER RESOURCES

VIA U.S MAIL

Mary Condon
Idaho Dept. of Water Res.
Water Supply Bank Program Coordinator
PO Box 83720
Boise, ID 83720-0098

Dear Ms. Condon:

Avista Corporation hereby authorizes Bruce Howard to sign documents on behalf of Avista Corporation regarding water right filings and water supply bank filings with the Idaho Department of Water Resources.

If you have any questions, please do not hesitate to contact me or Chris Bromley, Avista's water law attorney.

Thank you,

A handwritten signature in blue ink, appearing to read "G. Hesler", is written over the typed name "Greg Hesler".

Greg Hesler

c.c. Chris Bromley, McHugh Bromley (via e-mail only)

Amended

**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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>95-16557</u>	<u>Irrigation</u>	<u>0.51</u>	<u>89.53</u>	<u>25.58</u>
	Total Amounts:	<u>0.51</u>	<u>89.53</u>	<u>25.58</u>

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

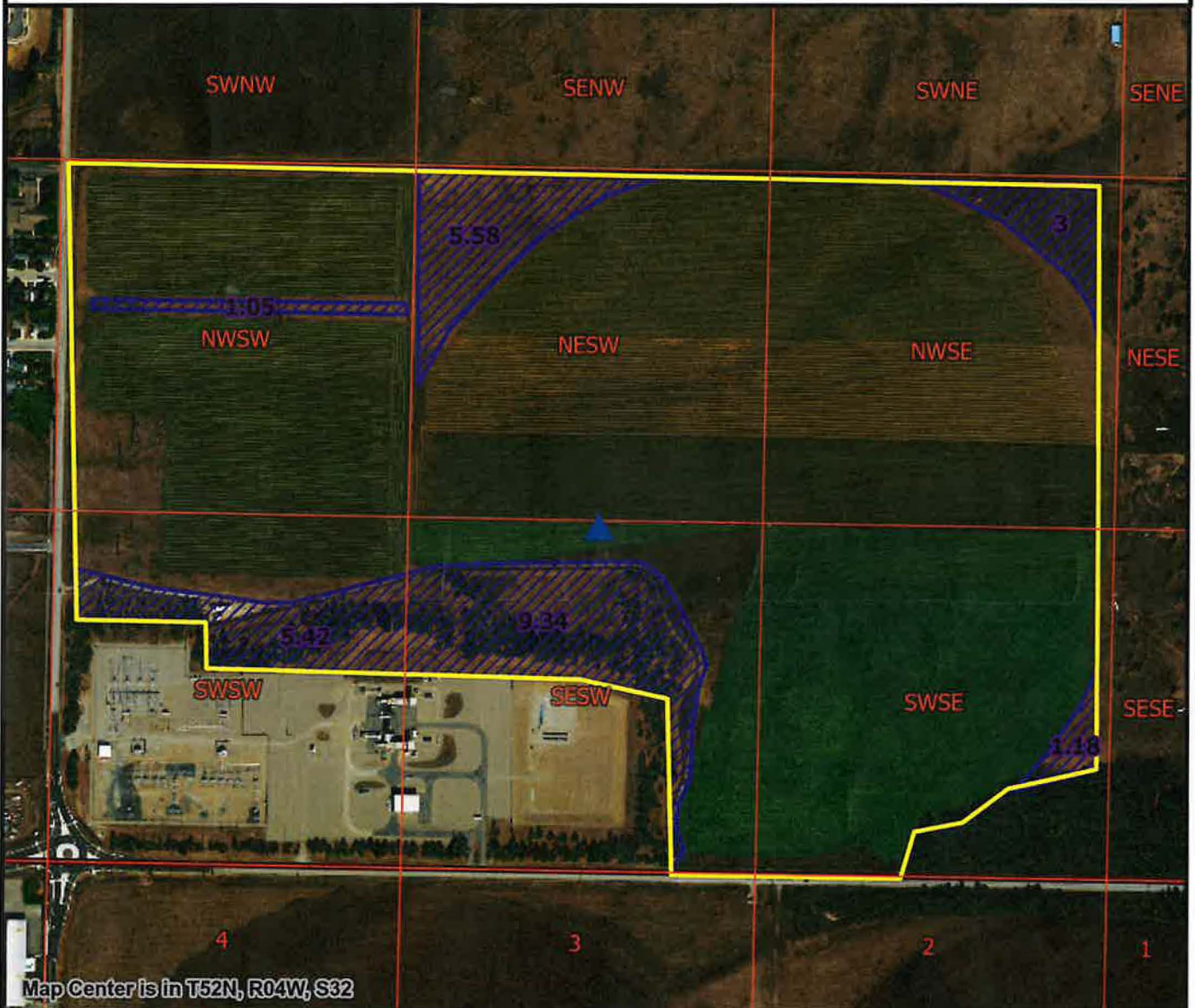
Twp	Rge	Sec	Lot	¼	¼	¼	County
52N	04W	32		SE	SW		Kootenai

AVISTA CORPORATION

95-16557

Rathdrum CT - Lease Irrigation

The Point of Diversion is located in T52N, R04W, Section 32.
and the Place of Use is located in T52N, R04W, Section 32 - NESW, NWSE, SESW, SWSE, SWSW.



Map Location



N



0 500 1,000

Feet

Map created: 6/6/2024



Non-Irrigated Acres



Point of Diversion



Place of Use Boundary



Townships



PLS Sections



Quarter Quarter Sections



NOTICE: Data files provided are to be used only to determine the general location of Avista facilities; they are not to be used to locate facilities in relationship to property lines, section lines, streets, or any other acceptable survey techniques.



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

December 17, 2024

AVISTA CORPORATION
1411 E MISSION AVE
SPOKANE WA 99202-3727

**RE: WATER SUPPLY BANK LEASE CONTRACT 1924
FOR WATER RIGHT 95-16557**

Dear Lessor:

Water right **95-16557** is leased into the Water Supply Bank (Bank) as of January **2025** in accordance with the enclosed executed lease contract. **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.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right(s) will automatically be released from the Bank on **December 31, 2029**, unless the rights are released earlier by the Water Resource Board (Board). To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they are rented.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,


Technical Records Specialist I

Enclosure: Executed Lease Contract

c: IDWR Northern Region Office
Representative

Mansfield, Debra

From: Mansfield, Debra
Sent: Monday, December 16, 2024 11:37 AM
To: Chris Bromley; Richman, Michelle
Cc: Bank
Subject: Executed WSB Lease Contract 1924
Attachments: Executed WSB Lease Contract 1924, Avista Corporation 2025-2029.pdf

Hello,

Please see the attached copy of executed WSB Lease Contract 1924, for Avista Corporation, for your records.

Thank you,

Debra Mansfield | Technical Records Specialist 1
IDWR – State Office
322 E Front St, Boise ID 83702-7371
(208) 287-4921 | Debra.Mansfield@idwr.idaho.gov

Hersley, Jean

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Friday, December 13, 2024 4:40 PM
To: IDWR File
Cc: Cheever, Skyler; Condon, Mary
Subject: WSB Lease No. 1924
Attachments: Signature page - WSB Agreement - Lease 1924 - Water Right 95-16557.pdf; 2024-12-13
- WSB Agreement - Lease 1924 - Water Right 95-16557 - signed.pdf

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.

Hello,

Please find attached for filing a signed lease acceptance from the Avista Corporation for WSB Lease No. 1924. If you have any questions, please do not hesitate to contact me.

Thank you,

Chris M. Bromley
McHugh Bromley, PLLC
PO Box 107
Boise, Idaho 83701
(208) 287-0991
www.mchughbromley.com



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

December 9, 2024

AVISTA CORPORATION
1411 E. MISSION AVE.
SPOKANE, WA 99202-3727

**RE: APPLICATION TO LEASE WATER RIGHTS 95-16557 TO THE WATER SUPPLY BANK
CONTRACT 1924**

******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 ALL 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 right will automatically be released from the Bank on **December 31, 2029**, 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 propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if 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 this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Skyler Cheever
Water Resource Agent, Sr – State Office
Idaho Dept. of Water Resources

Enclosures: Two Proposed Lease Contracts

Cheever, Skyler

From: Cheever, Skyler
Sent: Monday, December 9, 2024 10:11 AM
To: Richman, Michelle
Cc: Bell, Chace
Subject: RE: Water Supply Bank Lease Application 3016 Avista Corporation

Good Morning Michelle,

Thank you for your comments. I apologize for my later reply. First, if a portion of a water right is proposed for lease, like transferring a portion of a WR, the proportional amount of the WR decree or license regardless of the local headgate volume is taken into the bank. However, if the water right is rented then the Department would consider the local standard headgate if the renter doesn't have water rights or holds water rights limited to 3.0 af/acre. If a rental applicant holds water rights authorizing 3.5 af/acre they could rent the full 3.5/acre. Finally, The lease ID numbers you see in the proof report correspond to the lease application, 3016 and lease contract ID, 1924. The ID # on the paper lease contract will be 1924 but since the data entry has an application and contract side there are two separate ID numbers. If you have any additional questions or concerns, please let me know.

Best,

Skyler

From: Richman, Michelle <Michelle.Richman@idwr.idaho.gov>
Sent: Thursday, November 21, 2024 1:49 PM
To: Cheever, Skyler <Skyler.Cheever@idwr.idaho.gov>
Cc: Bell, Chace <Chace.Bell@idwr.idaho.gov>
Subject: RE: Water Supply Bank Lease Application 3016 Avista Corporation

Skyler,

Thanks for the opportunity to comment on this WSB lease application. We don't review many of these, but here are a few comments and questions. In looking up the headgate requirement for the parcel in question, it appears the correct headgate requirement is 3.0 Acre-feet per acre annually instead of the 3.5 AFA/acre identified in your memo. I believe that would reduce the volume from 89.5 AF to 76.8 AF for 25.6 acres. Would that lead to an unleased volume of 546.2 AF?

I also have a second question. On the proof report for water right 95-16557, I see two water supply bank lease id numbers: 1924 and 3016? Will lease 1924 replicate lease 3016?

Chace, If you have any additional comments, today is the day to submit those.

Thanks,
Michelle

From: Cheever, Skyler <Skyler.Cheever@idwr.idaho.gov>
Sent: Thursday, November 14, 2024 7:57 AM
To: Richman, Michelle <Michelle.Richman@idwr.idaho.gov>
Subject: Water Supply Bank Lease Application 3016 Avista Corporation

Hello Michelle,

I have completed my review of a Water Supply Bank Lease Application 3016 (Contract 1924) with the point of diversion within Administrative Basin 95. The applicant is Avista Corporation. The applicant proposes to lease a 25.6 acre portion of WR 95-16557 into the water supply bank from 2025-2029. Attached is a copy of the review memo and map of the place of use. If you have any comments on the applicant's proposal or my review, please let me know within 7 days. If you have any questions or concerns, please let me know.

Best,

Skyler



Skyler Cheever

Water Resource Agent, Sr - State Office

(208)-287-4913

Skyler.cheever@idwr.idaho.gov

Idaho Dept. of Water Resources

322 E. Front St., P.O. Box 83720 Boise, ID 83720

www.idwr.idaho.gov

Cheever, Skyler

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Wednesday, December 4, 2024 8:41 AM
To: Cheever, Skyler
Subject: RE: Water Supply bank Lease Application 3016 Avista Corp.

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.

Skyler,

Unless you see a reason for it to start in 2024, then let's have it start in 2025. We sent it in early to give plenty of time for processing.

Thanks,

Chris

From: Cheever, Skyler <Skyler.Cheever@idwr.idaho.gov>
Sent: Monday, December 2, 2024 5:05 PM
To: Chris Bromley <cbromley@mchughbromley.com>
Subject: Water Supply bank Lease Application 3016 Avista Corp.

Hello Mr. Bromley,

I am currently finishing my review of lease application 3016 for water right 95-16557. The application was received in 2024 for the applicant Avista Corp. The current lease term is from 2025-2029. Since the lease was received in 2024 the lease term can start in 2024 and would be backdated to Jan 1st. This would change the lease period to 2024-2028. Please let me know if the applicant would like to change the lease period. If you have any questions or concerns, please let me know.

Best,

Skyler



Skyler Cheever

Water Resource Agent, Sr - State Office

(208)-287-4913

Skyler.cheever@idwr.idaho.gov

Idaho Dept. of Water Resources

322 E. Front St, P.O. Box 83720 Boise, ID 83720

www.idwr.idaho.gov

MEMORANDUM FOR WSB LEASE APPLICATION # 3016

To: Water Right No(s). 95-16557

From: Skyler Cheever, Water Resource Agent, Sr

Date: 11/8/2024

Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE:

Application 3016 was sent in by the Avista Corporation and received by the Department on August 12th, 2024, with the correct fee payment received on the same date. The applicants propose to lease a 25.6-acre portion of water right 95-16557 into the water supply bank from 2025-2029. The WR point of diversion is within the Rathdrum Prairie Groundwater Management Area. This is the first time this water right has been proposed to be leased into the WSB.

AUTHORITY TO FILE:

Bruce Howard signed the application. When the application was submitted documentation demonstrating Mr. Howard had the authority to file on behalf Avista Corporation was not provided. After email correspondence between the applicant on September 27th, 2024, documentation was received on October 3rd, 2024, granting Mr. Howard Authority to file. Greg Hesler signed the documentation. He is a secretary with the company according to the Idaho Secretary of States Office Database. Avista Corporation is the current owner of water right 95-16557 according to Department records.

WATER RIGHT VALIDITY:

Water Right 95-16557 was decreed in the CSRBA on November 8th, 2019. The applicant proposes a start date of 2025. Therefore, there are only 4 possible years of nonuse (2020-2024). Enough evidence is available to the bank to conclude water right 95-16557 is likely not lost to forfeiture and can be leased into the bank.

INJURY TO OTHER WATER RIGHTS:

The water right is within the Rathdrum Prairie Groundwater Management Area and the authorized source of WR 95-16557 is groundwater. Therefore, the standard conditions applied to water rights within the RPGWMA will be added to the contract. There are no other injury concerns with leasing this water right into the bank. Any additional injury concerns would be assessed with the review of any rental applications proposing to use or could use this leased WR.

ENLARGEMENT OF USE:

The applicant proposes to rent a 25.6-acre portion of WR 95-16557 into the WSB. To prevent enlargement of the unleased portion a condition will be added to contract limiting the unleased portion to 2.99 cfs, 533.4 af, and the irrigation of 152.4 acres. Another condition will be added to the contract limiting the leased portion to the standard diversion rate and headgate volume of 0.02 cfs/acre and 3.5 af/acre respectively. There are no other enlargement concerns.

LOCAL PUBLIC INTEREST:

Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

The authorized WR point of diversion is within Administrative Basin 95. The Northern Regional Manager was contacted for comment on November 14, 2024. No comment was received, it is assumed there are no concerns with the applicant's proposal.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1924

95-16557
Effective until December 31, 2029

This map depicts the **place of use** to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



0 500 1,000 1,500 Feet

Legend

-  Water Supply Bank Lease Point of Diversion
-  Water Supply Bank Lease Place of Use
-  Township/Range
-  Sections
-  QQ



Condon, Mary

From: Condon, Mary
Sent: Friday, September 27, 2024 1:32 PM
To: Chris Bromley
Cc: Bank
Subject: RE: Avista Corporation - Lease Application 3016

Chris,

Please provide a letter of authority for Mr. Howard to sign on behalf of the company for water right transactions. The only letter of authority for Mr. Howard I could find was in the backfile of an unrelated water right claim for Avista dated in 2019.

Thank you,
Mary

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Friday, September 27, 2024 12:33 PM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: RE: Avista Corporation - Lease Application 3016

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Hi Mary,

Bruce has signed all water right claims for Avista in the CSRBA. Please let me know if you need something beyond that fact and I can get something put together.

Thanks,

Chris

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Friday, September 27, 2024 9:58 AM
To: Chris Bromley <cbromley@mchughbromley.com>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: Avista Corporation - Lease Application 3016

Good morning, Chris,

We received the lease application (attached) for water right 95-16557 on August 12, 2024, with a requested start date in 2025. There was not an Attachment 1D from Avista Corporation authorizing Bruce Howard to act on behalf of the company to lease the water right, and his name is not listed under the company's leadership page of their website, nor is he listed on the 2024 annual report for the company filed with the Idaho Secretary of State (attached).

Please provide the authority to file and label Attachment 1D per the lease application checklist filing requirements, or file an amended application and signature page with an authorized agent for the company and evidence of their authority, within 14 days to complete the lease application filing.

Additionally, if the water right was idled during 2024, you may request to amend the requested start date to begin in 2024 since the application was received during 2024 (so long as the authority to file is received prior to December 31, 2024).

Thank you,
Mary

Mary Condon
Water Supply Bank Program Coordinator



Planning & Projects

mary.condon@idwr.idaho.gov

Direct: (208) 287-4936

McHUGH BROMLEY
ATTORNEYS AT LAW, PLLC

RECEIVED

AUG 12 2024

DEPARTMENT OF
WATER RESOURCES

Candice M. McHugh
cmchugh@mchughbromley.com

380 S. 4th Street, Ste. 103
Boise, Idaho 83702
(208) 287-0991

Chris M. Bromley
cbromley@mchughbromley.com

August 8, 2024

Idaho Water Resources Board
PO Box 83720
Boise, ID 83720-0098

Re: Water Right No. 95-16557 Lease Application

Dear Water Supply Bank:

Please find enclosed a check in the amount of \$250 and a completed *Application to Sell or Lease a Water Right to the Water Supply Bank* as to a portion of water right no. 95-16557, owned by the Avista Corporation. If you have any questions, please do not hesitate to contact me.

Sincerely,



CHRIS M. BROMLEY
McHugh Bromley, PLLC

Encl.