

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1708

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

LESSOR: XK LLC
31040 HOT CREEK RD
BRUNEAU, ID 83604-5030

RECEIVED

APR 27 2023

DEPARTMENT OF
WATER RESOURCES

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 March 20, 2023.
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 the 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)
51-2149	9/15/1959	GROUND WATER	2.63	657.5	131.5
Combined Lease Totals			2.63	657.5	131.5

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, 2023 to December 31, 2027. 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.

SCANNED

AUG 30 2023

WATER SUPPLY BANK LEASE CONTRACT No. 1708

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.

SCANNED

AUG 30 2023

Page 2 of 5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1708

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

LESSOR: XK LLC
31040 HOT CREEK RD
BRUNEAU, ID 83604-5030

By Connie Prew
Title owner
Date 4/23/2023

IDAHO WATER RESOURCE BOARD

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 5/1/23

Lease approved by IDWR Phummm

Date 5/1/23

SCANNED

AUG 30 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1708

**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): 51-2149

GROUND WATER L Sec. 6 Twp 07S Rge 06E OWYHEE County
3SWNENW

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
51-2149	IRRIGATION	4/01	to	10/31	2.63 cfs	657.5 AF
Totals:					2.63 cfs	657.5 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	
06S	06E	31										9.7 L3	36.9 L4	29			2.9		78.5
07S	06E	6		4.0 L2	0.4		37 L3	9.1 L4		2.5									53.0

Total Acres: 131.5

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.

SCANNED

AUG 30 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1708

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, 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 use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 21 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
13. Use of this right with the rights listed below is limited to the irrigation of a combined total of 160 acres in a single irrigation season. Combined right No's: 51-00042B, 51-00043B, 51-00044B, 51-00045B, 51-00053B, 51-10235, 51-10236, 51-10237 & 51-10270.
14. Use of this right is combined with water from Hot Springs Ditch Company for the lands in T07S, R06E, S06 as shown above.

SCANNED

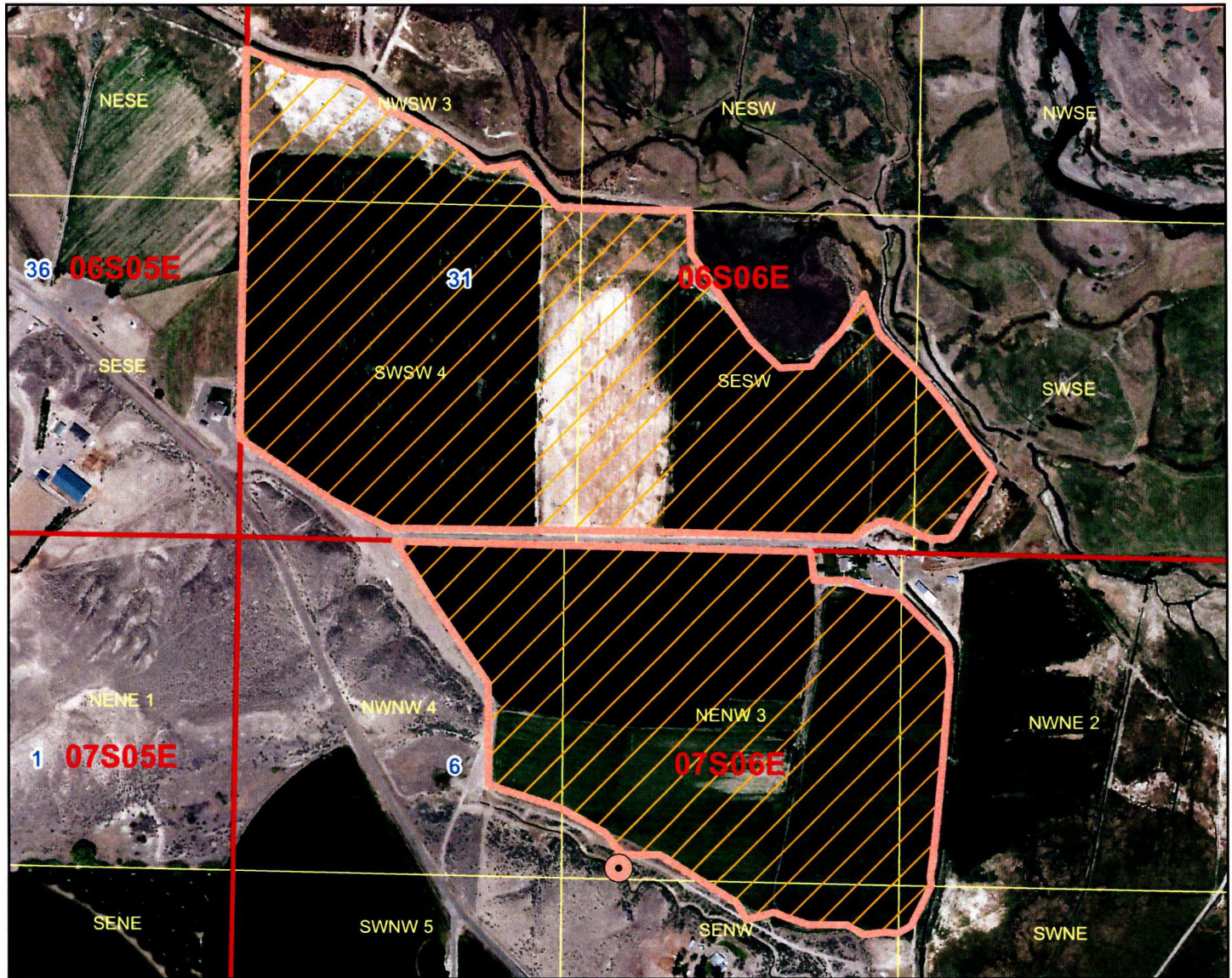
AUG 30 2023

Page 5 of 5

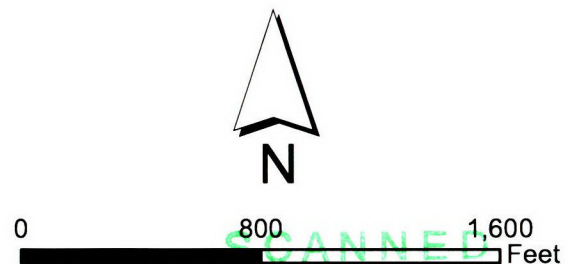
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1708

51-2149
Effective until December 31, 2027

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.



- Approved Lease Point of Diversion
- ▨ Approved Lease Place of Use
- ▭ Township/Range
- ▭ Sections
- ▭ QQ



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
MAR 20 2023
DEPARTMENT OF
WATER RESOURCES

Designated Applicant KK, LLC
(Select one owner – see item 1A on the application)

Water Right No. 51-2149
(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 <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>KU</u>	Date Received: <u>3.26.23</u>	Receipt # <u>C115620</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Connie m Prow</u>	

SCANNED

AUG 30 2023

2635

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 XK, LLC
Mailing Address 31040 Hot Creek Rd. Bruneau Idaho 83604
Street City State Zip Code
Email Address conniepro@rtai.net 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 _____ Organization _____
Professional Title _____ Email Address _____
Mailing Address _____ Phone Number _____

☐ 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**.

SCANNED

AUG 4 0 2023

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/pump

- 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. 51-00042B, 51-00043B, 51-00044B, 51-00045B

51-00053B, 51-10235, 51-10236, 51-10237

51-10270

- 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. But, not the leased portion

- 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.

- 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 ☒

SCANNED

AUG 30 2023

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 2027 (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.

Connie M. Prow

Signature of Designated Applicant

Connie M. Prow

Printed Name

3/20/2023

Date

Signature of Authorized Representative

Printed Name

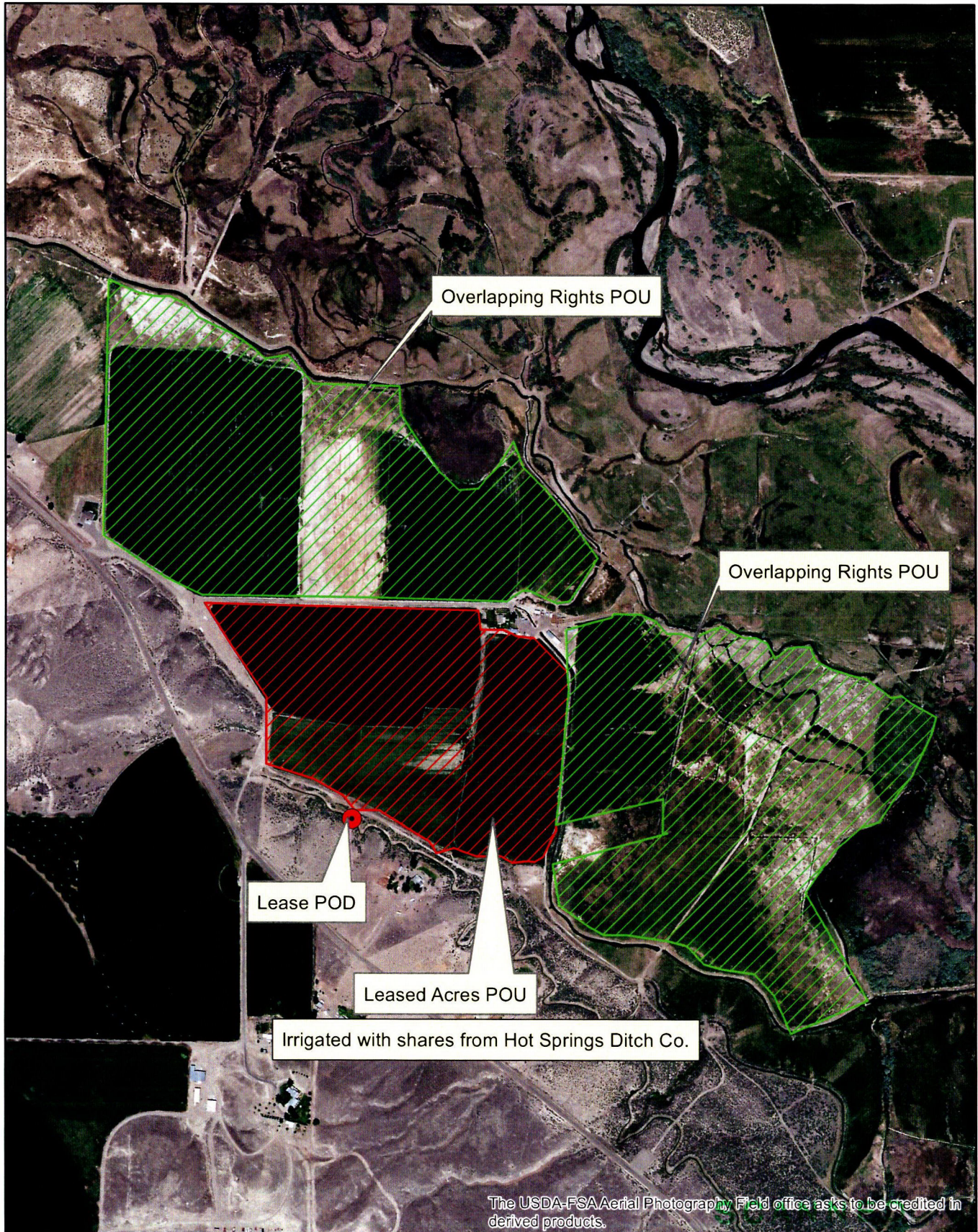
Date

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

SCANNED

AUG 30 2023

WSB Lease Application WR 51-2149



AUG 30 2023

**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>51-2149</u>	<u>Irrigation</u>	<u>1.06</u>	<u>265.0</u>	<u>53.0</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Total Amounts:		<u>1.06</u>	<u>265.0</u>	<u>53.0</u>

2. Source of water GROUND WATER tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
07E	06E	06	3	SW	NE	NW	OWYHEE

SCANNED

AUG 30 2023

Attachment 2

WSB Mailing Checklist for Leases

Instructions: Staple to outside of lowest numbered water right file during processing.

Executed
5/1/23

Key: Who Completes What?

CLERICAL STAFF: MK

REVIEWER:

Received Date 3/20/2023

Desired Lease Duration 2023-2027

Lease / Rental Package

Y

N

If yes, Renter Name:

Application # 2635

Contract # 1708

WR#s		#
		51-2149
#		#
#		#
#		#
#		#
#		#
#		#

Applicant Authorized?	Y / N
Multiple owners, Attach 1A included?	Y / N NA
If portion is offered, Attach 2 included?	Y / N NA
Map of POU and POD?	Y / N NA
POD Consent (if required)?	Y / N NA
Application Complete?	Y / N
Minimum checklist in data base?	☐
Request for additional information letter sent:	Y NA
WSB Action Request for deficiencies	☐

Stacked Water Rights Need to be Leased?

☐

If checked, list water rights:

If the WR owner provided a different address on the application than what's in our database, update address in workflow.

Mailings (per lease application)

CC Original

Designated

Applicant: XK LLC

☐
☐

EMAIL:

Attorney: c/o Connie Prow

☐
☐

EMAIL:

Consultants

Name:

☐

Comments:

Watermaster:

☐

Delivery Entity:

☐

Water District:

☐

Ground Water District:

☐

Region:

☐

Other:

☐
☐

Address:

Call up Date:

DO NOT SCAN

* acres proposed for lease
watered with 66 2/3 shares
water from Hot Springs
Ditch Co



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 Gary Spackman

July 7, 2023

XK LLC
31040 HOT CREEK RD
BRUNEAU, ID 83406-5030

RE: WATER SUPPLY BANK LEASE CONTRACT 1708, FOR WATER RIGHTS 51-2149

Dear Lessor:

Water right(s) **51-2149** are leased into the Water Supply Bank (Bank) as of January 1, 2023, 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, 2027**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. 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 have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact me at 287-4936.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Condon", written over a horizontal line.

Mary Condon
Water Supply Bank Coordinator

Enclosure: Executed Lease Contract

c: IDWR – Western Regional Office

SCANNED

AUG 30 2023



IDAHO DEPARTMENT
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 Gary Spackman

April 17, 2023

XK LLC
31040 HOT CREEK RD
BRUNEAU, ID 83406-5030

**RE: APPLICATION TO LEASE WATER RIGHTS 51-2149 TO THE WATER SUPPLY BANK
CONTRACT 1708**

******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, 2027**, 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

SCANNED
AUG 30 2023

Kienholz, Mackenzie

From: Kienholz, Mackenzie
Sent: Monday, April 3, 2023 2:11 PM
To: Howe, Bob
Subject: FW: Water Supply Bank Lease Application and Overlapping Water Rights

Good to go!

From: Connie Prow <conniepro@rtci.net>
Sent: Monday, April 3, 2023 1:55 PM
To: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Water Supply Bank Lease Application and Overlapping Water Rights

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, Mackenzie!

I see that this is just for the well water (ground water) right and that is the one we were working with, so I am good with that. I confirm that this works for me.

Thank you!!!!!!!!!!!!!!
Connie

Sent from [Mail](#) for Windows

From: [Kienholz, Mackenzie](#)
Sent: Monday, April 3, 2023 12:47 PM
To: [Connie Prow](#)
Cc: [Howe, Bob](#)
Subject: RE: Water Supply Bank Lease Application and Overlapping Water Rights

Good afternoon Connie,

I am reaching out because after further discussion we believe leasing in the whole of water right 51-2149 will be the easiest way to move forward. If this is alright with you, we will go ahead and note that the whole of water right 51-2149 should be leased. It will most likely be unrentable. **Please confirm if this plan works for you**, and we will continue processing your application.

Thank you!
Mackenzie

From: Connie Prow <conniepro@rtci.net>
Sent: Monday, March 27, 2023 7:36 AM
To: Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](#)>
Subject: RE: Water Supply Bank Lease Application and Overlapping Water Rights

SCANNED
AUG 30 2023

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.

Hi MackKenzie,

I checked with Reed to make sure he was irrigating these portions. They are not used as farm ground and we have always used them for pasture ground. They are irrigated off of the end of the wheel lines. The portion on the right is low and the wastewater off the lines irrigate it by gravity...it slopes down. The left part is also irrigated with the ends of the wheel lines and by emptying out the lines each move. The water goes out into this area and is flood irrigated by that. I wanted to make sure he knew that it has to be irrigated. He has been doing that. Yeah!!!!

Again, thanks so much for looking out for me. I can't tell you how much I appreciate your help.

Connie

Sent from [Mail](#) for Windows

From: [Kienholz, Mackenzie](#)

Sent: Thursday, March 23, 2023 12:15 PM

To: conniepro@rtci.net

Cc: [Cheever, Skyler](#)

Subject: Water Supply Bank Lease Application and Overlapping Water Rights

Hello Connie,

I looked over the Water Supply Bank Lease Application that we filled out on Monday for your groundwater right 51-2149. After looking through the water rights in more depth, it looks like we can move forward with the lease as planned.

I am reaching out because I noticed that there are portions of your 160 acres which the other water rights cover that looked questionable as to whether they have been irrigated in the last five years. I have pointed out two of the areas with arrows in the image below. I know you were concerned about forfeiting any rights or portions of your rights, so I wanted to point this out so you can talk with whoever will be irrigating the property. You can irrigate these acres, but if you are not planning on doing so it would be worth looking into protection options for these portions. This could include the Water Supply Bank, an application for extension of time to avoid forfeiture, or some other possibilities. I just want to make sure you are aware of the full 160 acre boundary that your water rights cover so you can ensure the full amount is being irrigated or protected. If you have any questions about your options after talking with the person irrigating the property, please feel free to call our main office number at (208) 287-4800 and ask to talk with the Water Rights Agent of the Day.

Best,

Mackenzie Kienholz

Water Supply Bank Specialist

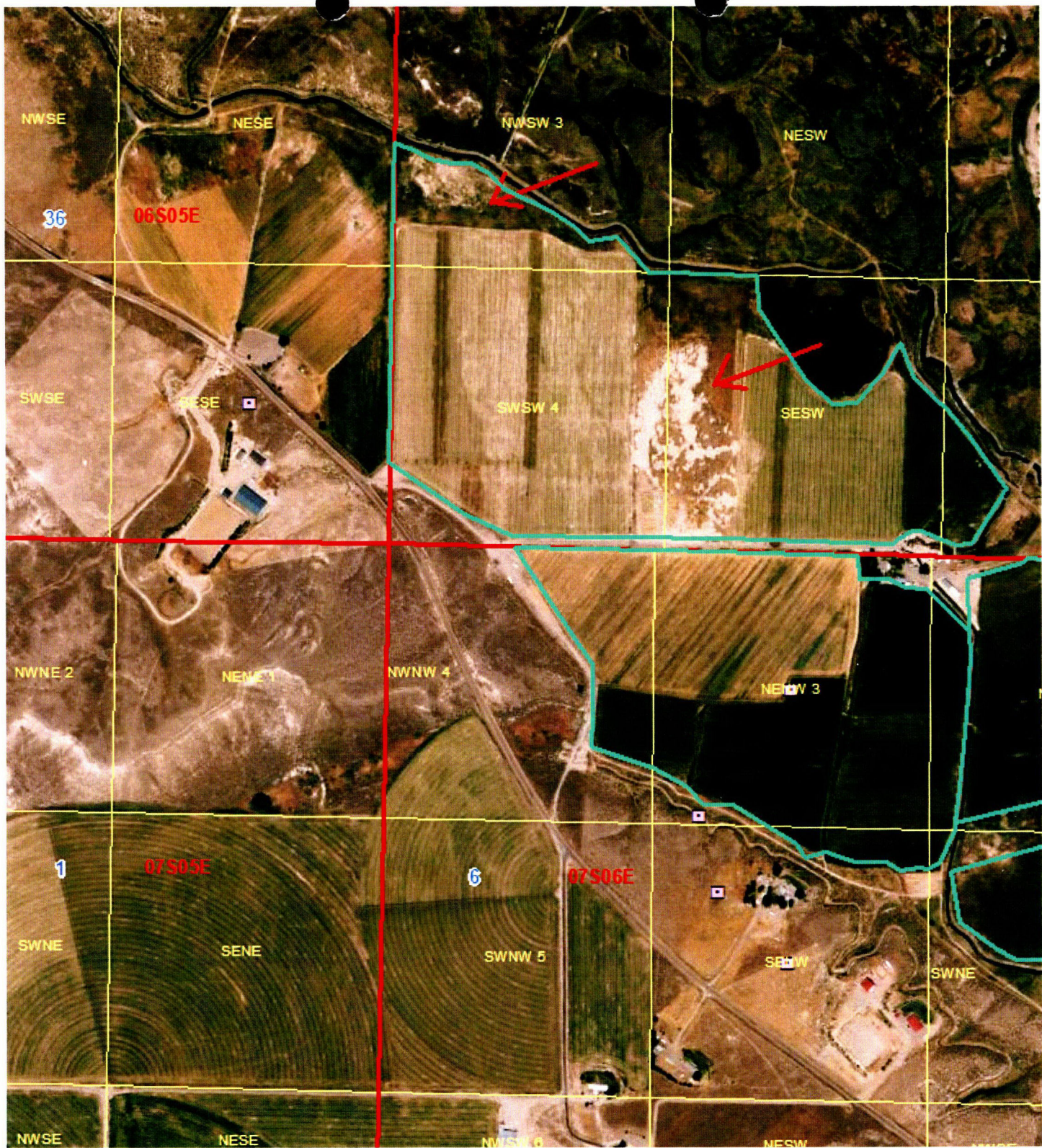


Planning & Projects

Mackenzie.kienholz@idwr.idaho.gov

Phone: (208) 287-4822

SCANNED
AUG 30 2023



SCANNED

AUG 30 2023

MEMORANDUM FOR APPLICATION # 2635

To: Water Right 51-2149

From: Bob Howe

Date: 03/29/2023

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

PURPOSE/NARRATIVE:

The complete application for lease to the water supply bank with applicable fee for water right 51-2149 was received on March 20th, 2023, signed by Connie M. Prow. The purposed lease is for the full right diverting groundwater for the irrigation of 131.5 acres. The applicant wishes to lease the ground water right into the bank and use Hot Springs Ditch Co. shares to irrigate 53 acres. However, the right offered to the bank has conditions limiting use combined with nine other surface water rights not being offered to the bank.

AUTHORITY TO FILE:

The lease application was signed by Connie M. Prow, member of XK, LLC. The 2022 Annual Report for XK, LLC on the Idaho Secretary of State website confirms the signing party as an authorized member. IDWR records list XK, LLC as the current owner of the water rights appurtenant to the acres offered in the purposed lease. The parcel data lists XK, LLC as the current owner of the parcel RP07S06E061452, appurtenant to the portion of water right offered for the purposed lease. There are no signing authority concerns regarding the purposed lease.

WATER RIGHT VALIDITY:

This application is for the full lease of WR 51-2149, for 2.63cfs and 657.5 AF by suspending the use of ground water on 131.5 acres. Aerial imagery was reviewed to confirm that the POU of WR 51-2149 has been active over the last five years. There are no concerns regarding the validity of the water right and the portion offered to the bank.

ENLARGEMENT OF USE:

Right 51-2149 is a ground water right for irrigation, which when combined with surface water rights 51-42B, 51-43B, 51-44B, 51-45B, 51-53B, 51-10235, 51-10236, 51-10237 & 51-10270 are limited to a combined total of 160 acres of irrigation in a single season. As the lessor is not offering to lease relevant portions of the combined rights, any rental of the purposed lease could cause enlargement. Therefore, any rental purposed would need to consider the historic use of the leased groundwater to prevent enlargement.

LOCAL PUBLIC INTEREST:

There is no indication 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 location for the purposed lease POD is within IDWR Administrative Basin #51 and the Bruneau-Grandview Ground Water Management Area. A copy of the purposed lease contract, map and application will be attached to a comment request emailed to the Western Regional Manager

SCANNED

AUG 30 2023



0004838820

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State

PO Box 83720

Boise, ID 83720-0080

(208) 334-2301

Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0004838820

Date Filed: 8/3/2022 8:06:41 AM

Entity Name and Mailing Address:

Entity Name: XK, LLC
The file number of this entity on the records of the Idaho
Secretary of State is: 0004418476
Address: CONNIE M. PROW
31040 HOT CREEK RD
BRUNEAU, ID 83604-5030

Entity Details:

Entity Status: Active-Existing
This entity is organized under the laws of: IDAHO
If applicable, the old file number of this entity on the records of
the Idaho Secretary of State was:

The registered agent on record is:

Registered Agent: Connie M. Prow
Registered Agent
Physical Address
31040 HOT CREEK ROAD
BRUNEAU, ID 83604
Mailing Address
31040 HOT CREEK RD
BRUNEAU, ID 83604-5030

Limited Liability Company Managers and Members

Name	Title	Business Address
■ Connie M. Prow	Member	31040 HOT CREEK ROAD BRUNEAU, ID 83604

The annual report must be signed by an authorized signer of the entity.

Job Title: Counsel

Thomas G. Walker

Sign Here

08/03/2022

Date

B0728-5419 08/03/2022 8:06 AM Received by ID Secretary of State Lawrence Denney

SCANNED

AUG 3 2022