

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1669

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

LESSOR: ELMAR GRABHER
PO BOX 91
SUN VALLEY, ID 83353

RECEIVED
MAR 20 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 January 17, 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 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)
37-574	5/30/1894	WARM SPRINGS CREEK, tributary to BIG WOOD RIVER	5.00	Not Stated	2.0
Lease Totals			5.00	Not Stated	2.0

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-574	5.00	7.0	2.0	2.5	3.5
Lease Totals	5.00	7.0	2.0	2.5	3.5

** The water right elements rentable have been changed from the water right elements leased to account for the inclusion of a diversion volume.*

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

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WATER SUPPLY BANK LEASE CONTRACT No. 1669

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.
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.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1669

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

LESSOR: ELMAR GRABHER
PO BOX 91
SUN VALLEY, ID 83353

By 
Title Elmar Grabher
Date 3/15/2022

IDAHO WATER RESOURCE BOARD

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 3/22/23

Lease approved by IDWR 

Date 3/22/23

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MAR 23 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1669

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): 37-574

WARM SPRINGS SWSE Sec. 11 Twp 04N Rge 17E BLAINE County
CREEK

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-574	IRRIGATION	04/15	to	10/31	5.00 cfs	Not Stated
Totals:					5.00 cfs	Not Stated

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	
04N	17E	12												2.0					2.0

Total Acres: 2.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, 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. 1669

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.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1669

37-574
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.



Legend

-  Water Supply Bank Lease POD
-  Water Supply Bank Lease POU
-  Township/Range
-  Sections
- QQ

0 750 1,500 2,250 Feet



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MAR 7 3 2023

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 17 2023

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Elmar Grabher

(Select one owner – see item 1A on the application)

Water Right No. 37-574

(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 \$ 250Received By: KUDate Received: 1.17.22Receipt # 2115107W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Elmar Grabher Properties

2563

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MAR 7 3 2023

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 Elmar Grabher
Mailing Address P.O. Box 91, Sun Valley, ID 83353
Street City State Zip Code
Email Address elmar@grabherconstruction.com Phone Number 208-720-1360

☒ 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 Heather E. O'Leary Organization Lawson Laski Clark, PLLC
Professional Title Attorney Email Address heo@lawsonlaski.com
Mailing Address P.O. Box 3310, Ketchum, ID 83340 Phone Number 208-725-0055

☐ 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**.

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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.
None exists
- 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. The place of use is now and has been served for many years by the City of Ketchum municipal water system.
- 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. None
- 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. See Addendum
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe.

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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)

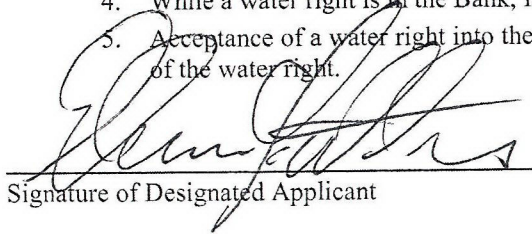
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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.


Signature of Designated Applicant

Elmar Grabher
Printed Name

1/11/23
Date

Signature of Authorized Representative

Printed Name

Date

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

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MAR 23 2023

ADDENDUM TO APPLICATION TO LEASE WATER RIGHT NO. 37-574

WATER SUPPLY BANK

The delivery system for this water was destroyed many years ago by the subdivision and development into residential lots of the lands between the historic point of diversion on Warm Springs Creek and the place of use. The right was decreed in the SRBA so the relevant time period is 2010 to the present. Attached are aerial photos from 2010, 2013 and 2016 on which the decreed point of diversion and place of use have been noted. It can be seen that there has been, and is now, no physically practical or financially feasible way to obtain the necessary easements to locate a current delivery system for this water right. The Applicant does not have any control over this situation.

From 2018 to 2022, this Water Right was leased to the Water Supply Bank pursuant to Water Supply Bank Lease Contract No. 756.

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MAR 23 2023

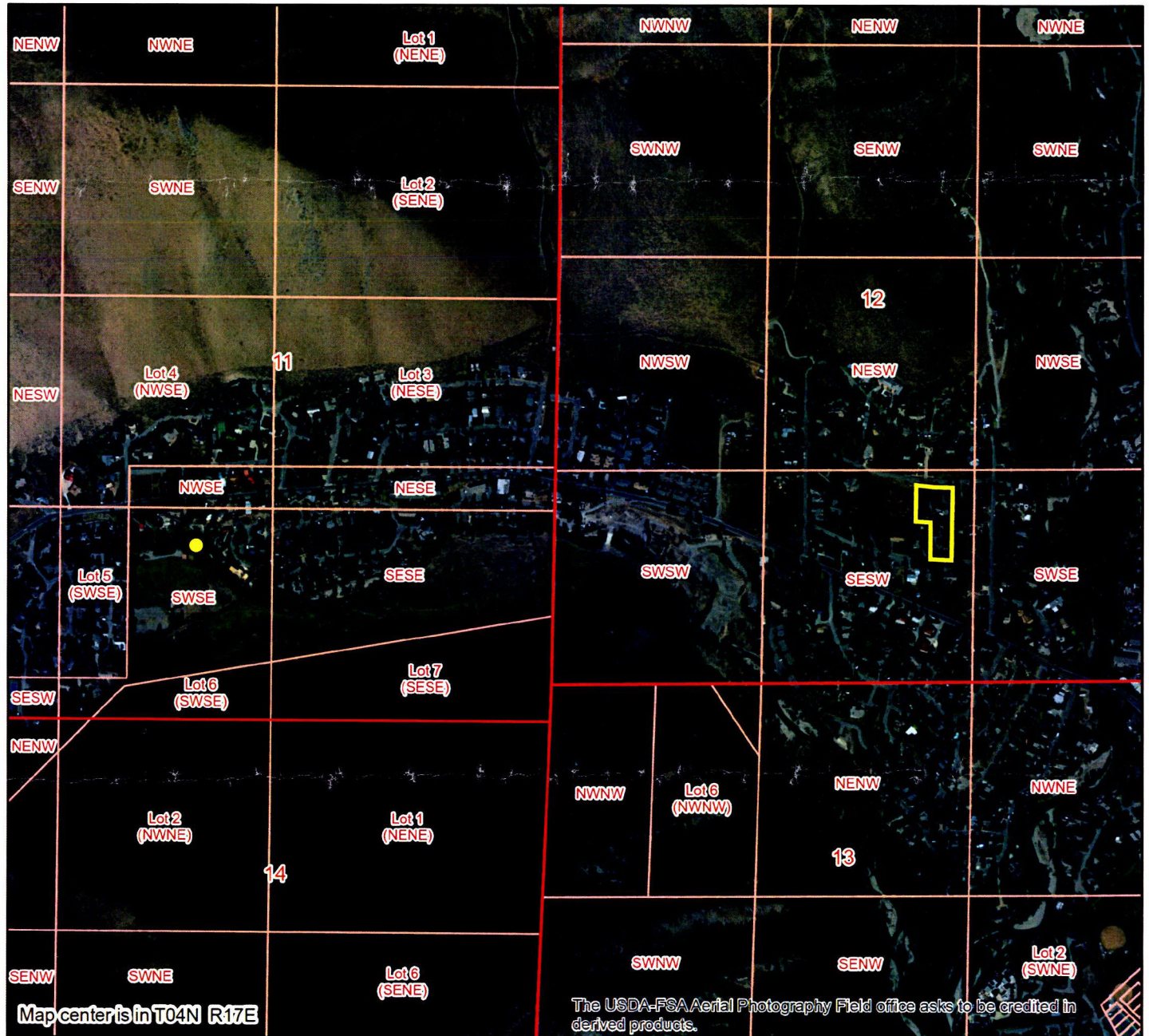
State of Idaho
Department of Water Resources

Water Right

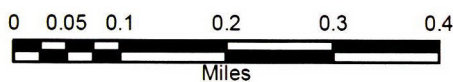
37-574

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Date created: 1/9/2023



Legend

- Point of Diversion
- Place of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



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MAR 23 2023

State of Idaho
Department of Water Resources

Water Right

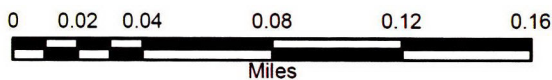
37-574

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Date created: 1/9/2023



Legend

- Place of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



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MAR 23 2023



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
March 23, 2023

Director Gary Spackman

ELMAR GRABHER
PO BOX 91
SUN VALLEY ID 83353

**RE: WATER SUPPLY BANK LEASE CONTRACT 1669
FOR WATER RIGHT 37-574**

Dear Lessor:

Water right **21-13201** was leased into the Water Supply Bank (Bank) as of January 1, 2023, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2027**, unless the rights is 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 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. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is 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 this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Debbi Judd

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Office – *via email*
Heather O'Leary – Lawson Laski Clark PLLC – *via email*
Water District 37 – *via email*

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MAR 23 2023



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 Gary Spackman

March 9, 2023

ELMAR GRABHER
PO BOX 91
SUN VALLEY ID 83353-0091

**RE: APPLICATION TO LEASE WATER RIGHTS 37-574 TO THE WATER SUPPLY BANK
CONTRACT 1669**

******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,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Heather E O'Leary- Lawson Laski Clark PLLC

SCANNED
MAR 7 3 2023

Cheever, Skyler

From: Cheever, Skyler
Sent: Monday, January 30, 2023 8:31 AM
To: Skinner, Corey; watermanager
Subject: Water Supply Bank Lease Application 2563
Attachments: Lease Review Memo 2563.docx; Lease Contract 1669.docx; Lease 1669 Map.pdf

Hello Mr. Skinner and Mr. Lakey,

I am currently working on reviewing a lease application within Basin and Water District 37. The applicant is Elmar Grabher. The application proposes to lease water right 37-574 into the the water supply bank from 2023-2027. Attached to this email is a copy of the draft lease contract, review memo, and map of the place of use. If you have any comments you would like to make, please reply to this email within 14 days if as needed.

Best,

Skyler

Skyler Cheever
Water Resource Agent, State Office
Email: skyler.cheever@idwr.idaho.gov
Phone: 208-287-4913

MEMORANDUM FOR APPLICATION # 2563

To: Water Right No. 37-574

From: Skyler Cheever – Water Resource Agent

Date: 1/27/2023

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

PURPOSE/NARRATIVE:

Application 2563 was sent in by Elmar Grabher and received on January 27th, 2023, with fee payment received the same date. The application proposes to lease water right 37-574 into the water supply bank from 2023-2027. The point of diversion is within the Big Wood River GWMA and Moratorium, Snake River Moratorium, Groundwater District Galena, and Trust Water Area. This application is a renewal of contract 756, which expired in 2022.

AUTHORITY TO FILE:

Elmar Grabher signed the application. Mr. Grabher has the authority to file this application because he is the current owner of water right 37-574 according to Department records.

WATER RIGHT VALIDITY:

The water right was decreed in 2010. Since then, access to the point of diversion was destroyed by development of a subdivision, a written statement was provided with the application. It is currently not physically or financially feasible to deliver water to the place of use. The water right was leased into the water supply bank from 2018-2022. Adequate evidence exists to suggest the right has not been lost to forfeiture, it can be accepted for lease.

ENLARGEMENT OF USE:

The place of use will continue to receive water from the City of Ketchum municipal system. Because this water right was never used at the same time with municipal water there is no concern with enlargement. The rights would not need to be stacked together.

Water right 37-2569's shapefile overlaps the place of use. This licensed water right authorizes the irrigation of 38 acres and overlaps the proposed place of use according to Department records. After speaking with adjudication staff, it was discovered there was a recommendation for 0.5 acre of irrigation and domestic use. A claim was filed and amended, reducing irrigation to 2/3 of an acre but never completed processing. It is unlikely the original license can be considered active with an active amended claim and recommendation for a different property present. Therefore, there would be no overlap with 37-2569 and no 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 point of diversion is within Basin and Water District 37. The Water Master and Southern Regional Manager were contacted for comment on January 30th, 2023. No response was received, it is assumed there is no concern with this proposal.

SCANNED
MAR 7 3 2023

HEATHER E. O'LEARY
HEO@LAWSONLASKI.COM



RECEIVED

JAN 17 2023

DEPARTMENT OF
WATER RESOURCES

January 13, 2023

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

Re: Application to Lease a Water Right [Water Right No. 37-574]
Our File No. 12307-001

Dear Idaho Department of Water Resources:

We represent Elmar Grabher, the owner of Water Right No. 37-574. Enclosed for processing you will find an Application to Sell or Lease a Water Right to the Water Supply Bank along with my firm's check in the amount of \$250.00 for the required filing fee.

Please let me know if you have any questions or require additional information from Mr. Grabher to support this Application. Thank you for your assistance in this matter.

Sincerely,

LAWSON LASKI CLARK, PLLC

A handwritten signature in blue ink, appearing to read "Heather E. O'Leary".

Heather E. O'Leary

Enclosures

2563

SCANNED

MAR 7 3 2023

WSB Mailing Checklist for Leases

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

Key: Who Completes What?

CLERICAL STAFF: MK

REVIEWER:

Received Date

1/17/2023

Desired Lease Duration

2023-2027

Lease / Rental Package

Y

N

If yes, Renter Name:

Application # 2563

Contract # 1669

WR#s		#
		37-574
#		#
#		#
#		#
#		#
#		#
#		#
#		#

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

Stacked Water Rights Need to be Leased?

☐

WSB Action Request for deficiencies

☐

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: Elmar Grabher

☐
☒

EMAIL:

Attorney:

Heather E. O'Leary - Lawson

☒
☐

EMAIL:

Consultants

Name: Laski Clark, PLLC

☐

Comments:

Watermaster:

☐

Delivery Entity:

☐

Water District: 37

☐

Ground Water District:

Galena

☐

Region:

Southern

☐

Other:

☐
☐

Address:

Call up Date:

3-24-23

DO NOT SCAN

WSB Mailing Checklist for Leases

(For use on all lease applications-Multiple leases can be on one form if the WRs are stacked)

Key: Who Completes What?

CLERICAL STAFF

REVIEWER: RSmith

Received Date

2/5/18

Desired Lease Duration

2018-2022

Water Dist. Y # 37 N

(if yes fill in contact below)

Application # 1008		Contract # 756		Applicant and Owner Match?		
WR#s	# 37-574				Y / N	If no, check to see if a Notice of change in water right ownership has been filed or the owner gave the applicant consent to file a lease.
#	#			Y / N	Y / N	
#	#			Y / N	Y / N	
#	#			Y / N	Y / N	
#	#			Y / N	Y / N	
#	#			Y / N	Y / N	

If portion is offered, Attach 2 submitted?

Y / N NA

Multiple owners, attach 1A included?

Y / N NA

Deficiencies: Applicant not Authorized? ☐

No Map (always required)? ☐

No PD Consent (if required)? ☐

Incomplete Application: ☐

Stacked Water Rights Need to be Leased? ☐ If checked, list water rights: _____

Minimum checklist in data base? ☐

Mailings (per lease application)	CC	Original	If the WR owner provided a different address on the application than what's in our database, update address in workflow.
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Designated Applicant: Elmar Grabher ☐ ☒ EMAIL: _____

Attorney/Consultant: James Speck ☒ ☐ EMAIL: _____

Watermaster: Kevin Lacey ☒ ☐ Comments: _____

Delivery Entity: _____ ☐

Water District: 37 ☐

Ground Water District: _____ ☐

Region: Southern ☒

Other: _____ ☐ ☐

Address: _____

Instructions: Staple to outside of water right file during processing. Tack this sheet down inside the lowest numbered file once lease complete.

DO NOT SCAN