STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1609

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

LESSOR: GEORGE M KELLEY
PO BOX 25
ALBION, ID 83311

RECEIVED
May 25, 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 May 09, 2022.

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)
45-7153	9/19/1973	GROUND WATER	0.17	39.3	11.2
45-7176	5/20/1974	GROUND WATER	0.17	22.7	12.4
45-7260	2/25/1976	GROUND WATER	0.07	15.4	4.4
Combined Lease Totals			**0.26**	**73.5**	**21.0**

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, 2022 to December 31, 2026. 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.

SUPPORT DATA
IN FILE # 45-4153

SCANNED
AUG 0 6 2023

WATER SUPPLY BANK LEASE CONTRACT No. 1609

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 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1609

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

LESSOR: GEORGE M KELLEY
PO BOX 25
ALBION, ID 83311

By George M Kelley
Title Owner
Date 5-25-23

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID ~~83720-~~0098

By _____ Date 5/25/23
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 5/25/23

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AUG 0 6 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1609

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): 45-7153, 45-7176, 45-7260

GROUND WATER	NWSWNW	Sec. 10	Twp 12S	Rge 25E	CASSIA County
GROUND WATER	NESENW	Sec. 10	Twp 12S	Rge 25E	CASSIA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
45-7153	IRRIGATION	03/15	to	11/15	0.17 cfs	39.3 AF
45-7176	IRRIGATION	03/15	to	11/15	0.17 cfs	22.7 AF
45-7260	IRRIGATION	03/15	to	11/15	0.07 cfs	15.4 AF
				Totals:	0.26 cfs	73.5 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	
12S	25E	9			3.0	7.0													10.0
12S	25E	10						5.0	0.5			5.5							11.0

Total Acres: 21.0

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.

SCANNED
AUG 0 6 2023

WATER SUPPLY BANK LEASE CONTRACT No. 1609

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 leased extent of water rights 45-7153, 45-7176 and 45-7260 when combined shall not exceed a total diversion rate of 0.26 cfs and a total annual maximum diversion volume of 73.5 af at the field headgate for the irrigation of 21.0 acres.
13. The unleased extent of water rights 45-7153, 45-7176 and 45-7260 when combined shall not exceed a total diversion rate of 4.27 cfs and a total annual maximum diversion volume of 1,230 af at the field headgate for the irrigation of 351.5 acres.
14. The unleased extent of water rights 45-7153, 45-7176, 45-7260 and 45-7498 when combined shall not exceed a total diversion rate of 4.27 cfs and a total annual maximum diversion volume of 2,142 af at the field headgate for the irrigation of 579.5 acres.
15. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
16. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.140.

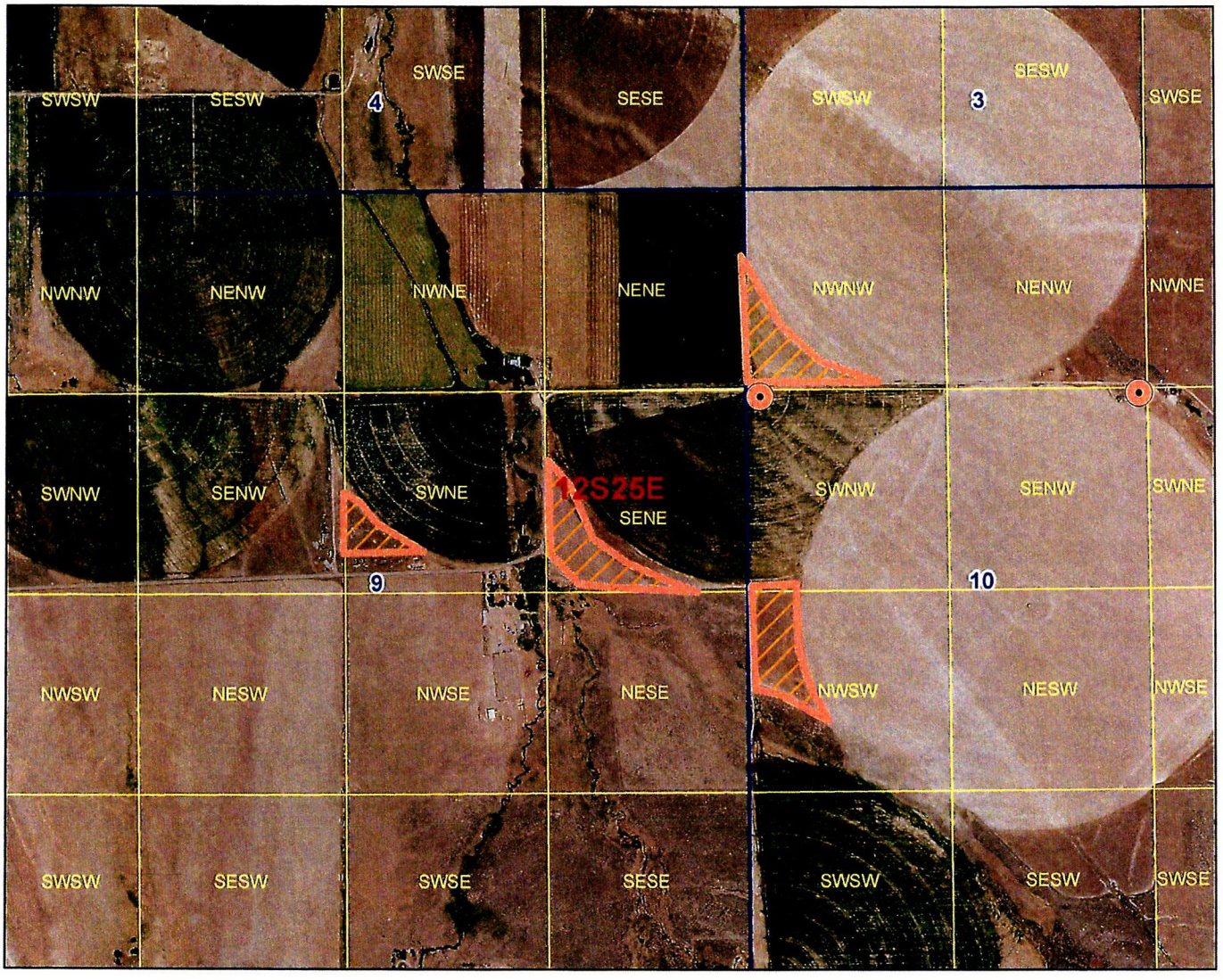
SCANNED
AUG 06 2023

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1609

45-7153, 45-7176, 45-7260
Effective until December 31, 2026

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

N

0 1,000 2,000 Feet

SCANNED
AUG 06 2023

Form 42-1761-1 10/15

RECEIVED
MAY 09 2022
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
MAY 02 2022
DEPT OF WATER RESOURCES SOUTHERN REGION

Designated Applicant George Kelley
(Select one owner – see item 1A on the application)

Water Right No. 45-7153
(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.**

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

		Yes	
		☑	Completed *Application to Sell or Lease a Water Right to the Water Supply Bank.*
		☑	Application filing fee of $250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is $500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
		☑	Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.
Attachment	**N/A**	**Yes**	
1A	☐	☑	Signatures and contact information for ***all owners*** of the water right to be leased or sold on this application.
1B	☐	☑	An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
1C	☐	☑	*Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
1D	☐	☑	Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
2	☐	☑	Description of a water right portion offered to the Water Supply Bank.
3	☐	☑	A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
4A	☑	☐	Written consent from irrigation district or water delivery company.
4G	☐	☑	Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount $	750.00	Received By:	SG.	Date Received:	5.2.22	Receipt #	S039216
W-9 received?	Yes ☑ No ☐	(Route W-9 to Fiscal)		Name on W-9:	Amber Acres, INC.		

SCANNED
AUG 16 2023

2369

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 George Kelley

Mailing Address P.O. Box 25, Albion, Idaho 83311
Street City State Zip Code

Email Address _____ Phone Number 208-312-0087

☐ 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 Sarah W. Higer Organization Barker Rosholt & Simpson LLP

Professional Title Attorney Email Address swh@idahowaters.com

Mailing Address P.O. Box 2139, Boise, Idaho 83701-2139 Phone Number 208-336-0700

☐ 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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AUG 16 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.
Two wells are connected to sprinkler system and 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. 45-7176; 45-7260 and 45-7498

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.

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. Acres have been enrolled in CRP for 10 years, from 2010 to 2021.

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 ☑

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AUG 06 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: 2022 (Year) to 2027 (Year) (maximum lease period 5 calendar years).

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	Bill Kelley for George Kelley Printed Name	5-2-22 Date
Signature of Authorized Representative	Sarah W. Higer Printed Name	Date

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

SCANNED
AUG

George Kelley
P.O. Box 25
Albion, ID 83311

June 20, 2022

Idaho Dept. of Water Resources
Attn: Water Supply Bank
322 East Front Street, Ste. 600
Boise, ID 83702

Re: Letter of Authorization for Water Supply Bank Lease Number 2369

To Whom It May Concern;

I, George Kelley, hereby authorize Bill Kelley to sign on my behalf regarding the Water Supply Bank Lease Application number 2369 and the lease of the following water rights to the Idaho Department of Water Resource's Water Bank:

- 45-7153
- 45-7176
- 45-7260
- 45-7498

Sincerely,

George Kelley

SCANNED
AUG 0 6 2023

Form 42-1761-1 10/15

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). 45-7153, 45-7176, 45-7260 and 45-7498

	Designated Applicant	Applicant #2	Applicant #3
Name	George Kelley	JoAnn Kelley	
Mailing Address	P.O. Box 25 Albion, Idaho 83311	P.O. Box 25 Albion, Idaho 83311	
Phone Number	(208) 312-0087	(208) 312-0087	
Email Address			
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	George Kelley	JoAnn Kelley	

	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			

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AUG 0 6 2023

Form 42-1761-1 10/15

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. Water Right Number	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
45-7153	Irrigation	3.0		25.5
	Total Amounts:	3.0		25.5

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
12S	25E	10		NW	SW	NW	Cassia
12S	25E	10		NE	SE	NW	Cassia

AUG 16 2023

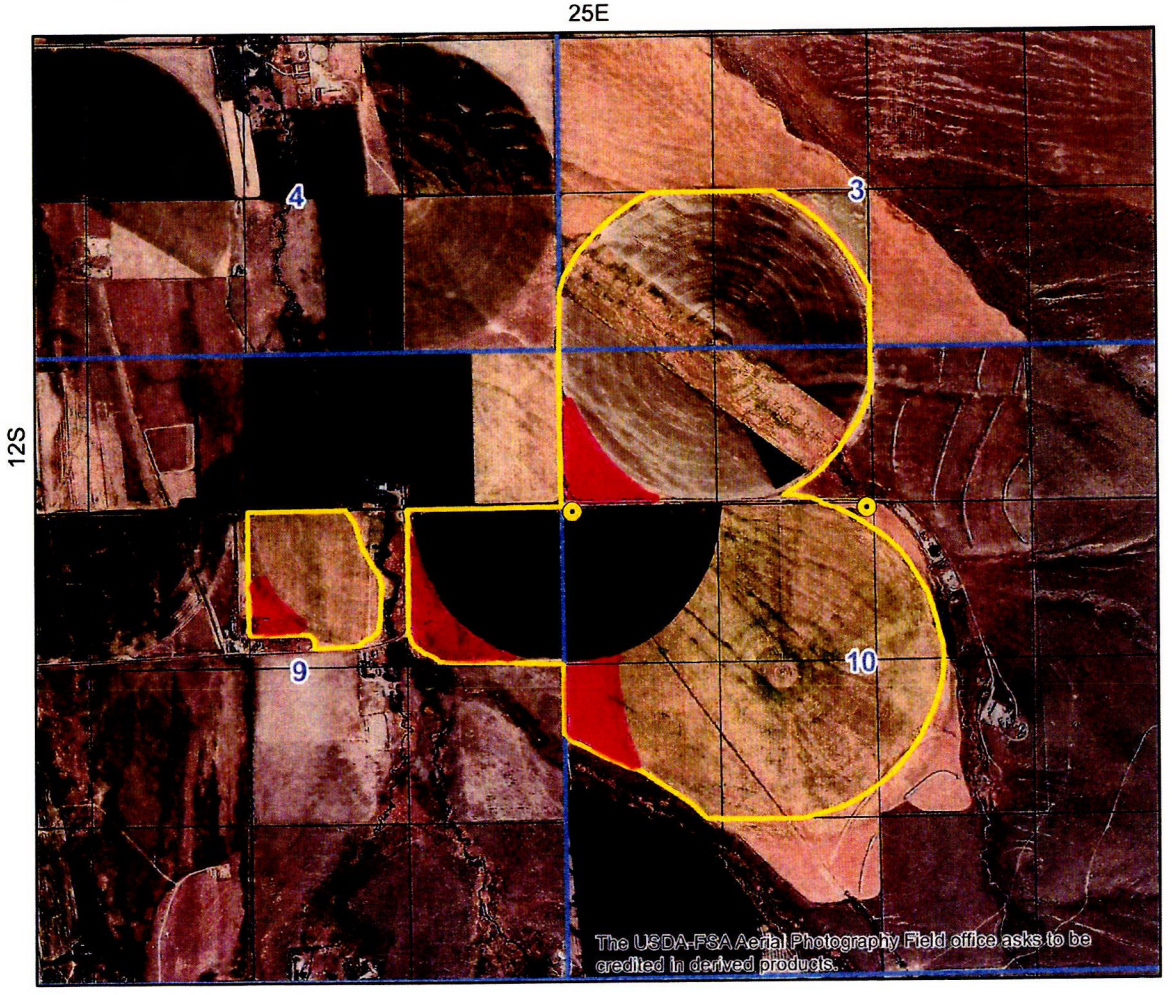
State of Idaho
Department of Water Resources

Water Right

45-7153

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.



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

0 0.175 0.35 0.7 Miles

N

Map produced on April 27, 2022

SCANNED
AUG 16 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**

May 26, 2023

GEORGE M KELLEY
PO BOX 25
ALBION ID 83311

RE: WATER SUPPLY BANK LEASE CONTRACT 1609 FOR WATER RIGHT NOS 45-4153, 45-7176 & 45-7260

Dear Lessor:

Water right(s) **45-4153, 45-7176 & 45-7260** are leased into the Water Supply Bank (Bank) as of January 1, 2022, 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, 2026,** 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.**

If you have any questions, please contact me at (208) 287-4936.

Sincerely,

Mary Condon
Water Supply Bank Coordinator

Enclosures: Executed Lease Contract

c: Southern Regional Office
Marten Law
Water District 140

SCANNED
AUG 0 6 2023

Hersley, Jean

From: Jess Nielsen <jnielsen@martenlaw.com>
Sent: Thursday, May 25, 2023 2:55 PM
To: IDWR File
Cc: Sarah W. Higer; Hummer, Phill; Condon, Mary; Jess Nielsen
Subject: Kelley WSB Lease 2369/1609 and Rental 2370/681
Attachments: 2023-05-25 signed WSB Lease Contract No. 1609.pdf; 2023-05-25 signed WSB Rental Agreement No. 681.pdf

Follow Up Flag: Follow up
Flag Status: Completed

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.

Attached, for filing please find the signed copies of the *Lease Contract No. 1609* and *Rental Agreement No. 681* regarding George and Bill Kelley.

Thank you,

Jess Nielsen
Legal Assistant

D – 208.999.5904
M – 208.968.8370
E - jnielsen@martenlaw.com

martenlaw.com
163 Second Ave. W.
Twin Falls, ID 83301

MARTEN LAW

This e-mail may contain confidential and privileged information and is sent for the sole use of the intended recipient. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

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SCANNED
AUG 0 6 2023

Condon, Mary

From: Condon, Mary
Sent: Monday, January 30, 2023 5:29 PM
To: Adam McCoy
Cc: Skinner, Corey
Subject: Kelley - Lease and Rental Review 2022-2026
Attachments: Lease Review Memo v2.docx; Rental Review Memo - 2370.docx; Move Map 2022-2026.pdf

Adam - Please see the attached review memos for companion WSB lease rental and move map, and kindly respond with comments or concerns within 10 days.

Corey - I sent the lease review and rental review to you back in November, but after consulting with the applicant's representative on the low rate per acre for one of the rights, they have requested to remove right 45-7498 from the lease rental. The authorized acres do not overlap the lease POU.

Thank you,
Mary

Mary Condon
Water Supply Bank Coordinator
IDAHO DEPARTMENT OF WATER RESOURCES
Planning & Projects
mary.condon@idwr.idaho.gov
Direct: (208) 287-4936

SCANNED
AUG 16 2023

Memorandum

To: Water Supply Bank Application 2369
From: Remington Buyer, Mary Condon
Date: November 8, 2022, updated January 28, 2023
Re: Lease to the Bank of water rights 45-7153, 45-7176, 45-7260

SCANNED
AUG 0 6 2023

Purpose/Narrative: An application was received by the Department on May 2, 2022, from George Kelley, through Sarah Higer of Barker Rosholt & Simpson LLP, proposing to lease into the Bank irrigation ground water rights 45-7153, 45-7176, 45-7260 and 45-7498 for period of 2022-2026, for the purpose of authorizing an irrigation rental of the water rights by Mr. Kelley at another property he owns.

Water rights 45-7153, 7176 and 7260 feature combined limited (non-additive) overall diversion rates, volumes, and irrigable acreage. Water right 45-7498 appears to be an enlargement water right that provides standalone, additional additive diversion volume and acreage, but with no additional increase in the combined diversion rate. Effectively, without exceeding the combined limited overall diversion rate of water rights 45-7153, 45-7176 and 45-7260, additional volume was applied to additional acres under 45-7498. The irrigable acres under right 45-7498 do not overlap the other three rights.

A draft lease contract for the original request for all four rights did not provide sufficient rate to run a pivot at the rental place of use, due to the combined limits with a lease of 115 acres worth of 45-7498, and the consultant for both the lessor and the renter requested instead to lease in only rights 45-7153, 45-7176 and 45-7260 for 21 acres and remove the lease request of 115 acres under 45-7498.

Authority to File: The lands associated with the water rights are owned by the Kelley Trust, and Jo Ann Kelley is listed as a trustee for the Trust. Jo Ann and George Kelley are listed as the owners of the water rights proposed for lease. No concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: The lands associated with the portions of the water rights proposed for lease appear vegetated in recent years. No concerns about forfeiture of the water rights. The points of diversion for the water rights are associated with Water Management Information System (WMIS) ID number 1000172. For the period of 2015 through 2021, an annual average of 588 af has been diverted under these four water rights. Collectively, the four water rights are combined limited to an annual diversion volume of 2,216 af, as follows:

Water Rights	Priority	Use	Source	Div. Rate	Div. Vol	Acres	PPU Acres	Rate/AC	Vol/AC
45-7153	9/19/1973	Irrigation	Ground Water	3.00	697	199	372.5	0.015	3.50
45-7176	5/20/1974	Irrigation	Ground Water	3.00	402	220	372.5	0.014	1.83
45-7260	2/25/1976	Irrigation	Ground Water	1.17	273	78	372.5	0.015	3.50
Combined Limit		Irrigation	Ground Water	4.53	1304	372.5	372.5	0.012	3.50
45-7498	6/16/1995	Irrigation	Ground Water	4.53	912	228	228	0.020	4.00
Combined Limit				4.53	2216	600.5	600.5	0.008	3.69

The 21 acres offered for lease on lands associated with water rights 45-7153, 45-7176 and 45-7260, would have a combined lease limit as follows:

Lease / Rentable CLs

Water Rights	Priority	Use	Source	Div. Rate	Div. Vol	Acres	PPU Acres	Rate/AC	Vol/AC
45-7153	9/19/1973	Irrigation	Ground Water	0.169	39.29	11.2	21.0	0.015	3.50
45-7176	5/20/1974	Irrigation	Ground Water	0.169	22.66	12.4	21.0	0.014	1.83
45-7260	2/25/1976	Irrigation	Ground Water	0.066	15.39	4.4	21.0	0.015	3.50
Combined Limit		Irrigation	Ground Water	0.255	73.51	21.0	21.0	0.012	3.50

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Injury Evaluation: No injury is apparent through this lease alone. Rights offered for lease are not within a ground water management area.

Enlargement of Use: Enlargement will be avoided if the maximum use of water under the leased amounts and unleased water rights is limited as follows during the term of the lease:

	Water Rights	Priority	Use	Source	Div. Rate	Div. Vol	Acres	PPU Acres	Rate/ AC	Vol/ AC
Unleased portions and CLs	45-7153	9/19/1973	Irrigation	Ground Water	2.831	657.7	187.8	351.5	0.015	3.50
	45-7176	5/20/1974	Irrigation	Ground Water	2.831	379.3	207.6	351.5	0.014	1.83
	45-7260	2/25/1976	Irrigation	Ground Water	1.104	257.6	73.6	351.5	0.015	3.50
	Combined Limit		Irrigation	Ground Water	4.275	1230.5	351.5	351.5	0.012	3.50
	45-7498	6/16/1995	Irrigation	Ground Water	4.53	912.0	228.0	228.0	0.020	4.00
	Combined Limit				4.275	2142.5	579.5	579.5	0.007	3.70

Right 45-7498, while licensed with a diversion rate equal to 0.02 cfs per acre, is equal to and only worth the combined limited diversion rate of the other three senior rights. A lease of portions of the three rights reduces the overall allowable diversion at the leased POD, and therefore also reduces the annual rate allowable under unleased right 45-7498.

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/Watermaster Comments: Comments were requested from IDWR's Southern Region for region and Water District 140 on November 14, 2022, and again on January 30, 2023 with a lease of only the three senior rights and none of the junior right 45-7498.

Water Supply Bank Evaluation: WSB review staff recommend approval of the lease.

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Condon, Mary

From: Sarah Higer <swh@idahowaters.com>
Sent: Wednesday, November 16, 2022 9:52 AM
To: Condon, Mary
Subject: RE: Kelley Water Bank Rentals

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 Mary,
Thanks for the clarification. Please set it up as a private agreement for admin fees only.
Thanks,
Sarah

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Tuesday, November 15, 2022 10:06 AM
To: Sarah Higer <swh@idahowaters.com>
Subject: FW: Kelley Water Bank Rentals

Sarah,

A W-9 was received for the lease applications from Kelley, as well as Attachment 1A – Designated Lessor Form, and the lease application stated current rental rate vs private agreement for admin fees only...Is the Bank collecting the owner payment for this self-serve lease rental package?

Thanks,
Mary

Mary Condon
Water Supply Bank Coordinator
IDAHO DEPARTMENT OF WATER RESOURCES

From: Condon, Mary
Sent: Tuesday, November 15, 2022 9:28 AM
To: Sarah Higer <swh@idahowaters.com>
Subject: RE: Kelley Water Bank Rentals

Hi Sarah,

Condition 206 on existing rights 45-4084 and 45-4236 for Mr. Kelley is that the exact acres to be irrigated under the 57 acres within the PPU must be identified and updated prior to the irrigation season if changing. A map and land list identifying the specific 57 acres is not in the water right backfile and may not have been received by IDWR after the approved transfer in 2010. Existing RA 555 is for 70.5 acres on the east half of the center pivot during 2022. Please provide a map and land list of the specific 57 acres under existing rights for 2022 and for 2023 if changing between the two due to RA 555 expiring this year.

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The map provided with the rental application I am reviewing only shows the POU existing RA 555. I also need a map identifying the 136 acres requested under this rental to finish my review, which acknowledges and is different than shapefiles for RA 555 and existing rights.

Best,
Mary
Mary Condon
Water Supply Bank Coordinator
IDAHO DEPARTMENT OF WATER RESOURCES

From: Sarah Higer <swh@idahowaters.com>
Sent: Thursday, November 10, 2022 3:25 PM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: RE: Kelley Water Bank Rentals

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If Mr. Kelley wants to try to rent 45-13998 & 45-14000, should we file an application now so that we're ready to go if/when it gets approved?

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Thursday, November 10, 2022 12:47 PM
To: Sarah Higer <swh@idahowaters.com>
Subject: RE: Kelley Water Bank Rentals

Sarah,

Lessors for 45-13998 & 45-14000 are under review for 2023-2027. I do not see any rental applications requesting them. Right 45-2746 is unrentable due to Ragan Curtailment.

Mary Condon
Water Supply Bank Coordinator
IDAHO DEPARTMENT OF WATER RESOURCES

From: Sarah Higer <swh@idahowaters.com>
Sent: Thursday, November 10, 2022 10:12 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: Kelley Water Bank Rentals

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 Mary,

I'm following up on our phone call last week about Bill Kelley's Water Bank rentals. He is interested in renewing the contract that expires at the end of this year, # 555 (water rights 45-13998 & 45-14000), is that lease being renewed? Another rental he is interested in is Simplot's water lease contract # 1465 for water right 45-2746 which was placed in the bank earlier this year, is that water available for rental?

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Thank you for your help on this,
Sarah

Sarah W. Higer
Barker Rosholt & Simpson LLP
1010 W Jefferson, Suite 102
Boise, Idaho 83702
(208) 336-0700
CONFIDENTIALITY NOTICE: This e-mail and its attachments are confidential and may be privileged. If you believe this e-mail has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute or copy this transmission.

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Condon, Mary

From: Condon, Mary
Sent: Monday, November 14, 2022 12:11 PM
To: Skinner, Corey
Subject: WSB Lease for George Kelley - WD 140
Attachments: Lease Review Memo.docx; Lease_Map.pdf

Hello Corey,

Please see the attached lease review memo and map, and kindly respond with comments or concerns within 10 days.

This is part of a companion package. (Remington completed this lease, and I will provide the rental review within the week for comment).

Best,
Mary

Mary Condon
Water Supply Bank Coordinator
IDAHO DEPARTMENT OF WATER RESOURCES
Planning & Projects
mary.condon@idwr.idaho.gov
Direct: (208) 287-4936

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Barker Rosholt & Simpson LLP

Sarah W. Higer
EMAIL: swh@idahowaters.com
PHONE: 208.336.0700
WEB: idahowaters.com

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Sarah W. Higer
Michael A. Short
John A. Rosholt
(1937-2019)

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MAY 02 2022
DEPT OF WATER RESOURCES
SOUTHERN REGION

RECEIVED
MAY 09 2022
DEPARTMENT OF
WATER RESOURCES

May 2, 2022

Via Hand Delivery

Idaho Dept. of Water Resources
Attn: Water Supply Bank
650 Addison Ave. W., Ste. 500
Twin Falls, ID 83301

Re: Application to Rent Water from the Board's Water Supply Bank (Bill Kelley) / Applications to Lease Water to the Water Supply Bank (Water Rights 45-7153, 45-7176, 45-7260 and 45-7498)

Dear Mary,

Enclosed, please find the following:

- Application to Rent Water from the Water Supply Bank;
- Application to Lease Water to the Water Supply Bank (WR 45-7153);
- Application to Lease Water to the Water Supply Bank (WR 45-7176);
- Application to Lease Water to the Water Supply Bank (WR 45-7260); and
- Application to Lease Water to the Water Supply Bank (WR 45-7498).

Also enclosed, please find check number 7235 from Bill Kelley in the amount of $750.00 regarding the fees for the Applications to Lease Water from the Water Supply Bank.

If you have any questions, or need additional information, please email or call me at (208) 336-0700.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

Sarah W. Higer

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AUG 06 2023

Enclosures

2369 & 2370

Kienholz, Mackenzie

From: Kienholz, Mackenzie
Sent: Tuesday, June 21, 2022 4:23 PM
To: Sarah Higer
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Sarah,

Thank you for being so prompt. This should be all we need for now!

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist

IDAHO DEPARTMENT OF WATER RESOURCES

Planning & Projects
mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

From: Sarah Higer <swh@idahowaters.com>
Sent: Tuesday, June 21, 2022 4:02 PM
To: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Mackenzie,

Attached is a filled out and signed Attachment 1A. Please let me know if you need anything else to move forward with this application. Thanks for your help on this!
Sarah

From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Sent: Tuesday, June 21, 2022 10:48 AM
To: Sarah Higer <swh@idahowaters.com>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Sarah,

It would be preferable for JoAnn and George to both sign the blank copy I sent, but they only need to fill out the one page (Attachment 1A) listing George as the designated applicant for the lease. This form is needed so that we know all owners are aware and accepting of the leasing of the water rights. George would fill out and sign the Designated Applicant box, and JoAnn would fill out and sign the Applicant #2 box. Once this is filled out I can add it to their lease file, and then we should be all good on authorization because George gave Bill permission to act on their behalf.

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I know the chain of authorization can get in the weeds a bit, so please let me know if you have any more questions or need further clarification.

Thanks again,

Mackenzie Kienholz
Water Supply Bank Specialist

IDAHO DEPARTMENT OF WATER RESOURCES

Planning & Projects
mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

From: Sarah Higer <swh@idahowaters.com>
Sent: Tuesday, June 21, 2022 10:36 AM
To: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Mackenzie,

The form attached to your email was blank, do you need JoAnn to fill out that form? Or can she sign the lease applications that we filed previously and resubmit?
Thanks,
Sarah

From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Sent: Tuesday, June 21, 2022 9:28 AM
To: Sarah Higer <swh@idahowaters.com>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Sarah,

I apologize for the back and forth, but I believe the only other information we will need is authorization from JoAnn Kelley to lease the water rights as she is listed as an owner. If Attachment 1A from the lease application is signed, we will have the authorization we need. I have attached the lease application to this email, and Attachment 1A is page 5.

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist

IDAHO DEPARTMENT OF WATER RESOURCES

Planning & Projects
mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

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AUG 2023

From: Kienholz, Mackenzie
Sent: Tuesday, June 21, 2022 8:19 AM
To: Sarah Higer <swh@idahowaters.com>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Sarah,

I will be sure to let you know if anything else comes up. Thank you for sending this along!

Best,

Mackenzie Kienholz
Water Supply Bank Specialist

IDAHO DEPARTMENT OF WATER RESOURCES

Planning & Projects
mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

From: Sarah Higer <swh@idahowaters.com>
Sent: Monday, June 20, 2022 4:06 PM
To: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Mackenzie,

Attached is an authorization letter signed by George Kelley. Please let me know if you need anything else to process these applications.

Thank you,
Sarah

From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Sent: Friday, June 17, 2022 10:39 AM
To: Sarah Higer <swh@idahowaters.com>
Subject: RE: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Sarah,

Here is the link for the Change in Ownership form which should be completed if Bill is planning on taking ownership of the water rights. We are still able to process the Water Supply Bank application with just the previously mentioned authorization documentation, but I thought I would pass this along to you as well.

https://idwr.idaho.gov/wp-content/uploads/sites/2/forms/waterrightsforms/notice-of-change-of-water-right-ownership-1.pdf

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Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist

IDAHO DEPARTMENT OF WATER RESOURCES

Planning & Projects
mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

From: Kienholz, Mackenzie
Sent: Friday, June 17, 2022 9:20 AM
To: swh@idahowaters.com
Subject: ADDITIONAL INFORMATION NEEDED FOR WATER SUPPLY BANK RENTAL APPLICATION #2369

Hi Sarah,

We are working on the initial intake and review for George Kelley's Water Supply Bank Rental Application #2369 and need some additional information. Because the water rights are still in George Kelley's name, we need some sort of documentation giving Bill authority to sign on his behalf. This could be an explicit authorization letter or something along the lines of documentation showing Bill is authorized to handle the estate.

Let me know if you have any questions or need further clarification.

Have a great day,

Mackenzie Kienholz
Water Supply Bank Specialist

IDAHO DEPARTMENT OF WATER RESOURCES

Planning & Projects
mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

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