

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1570

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

LESSOR: UNITED STATES OF AMERICA
ACTING THROUGH USDA FOREST SERVICE
324 25TH ST
OGDEN, UT 84401-2310

SUPPORT DATA
FILE # 71-41

RECEIVED
JAN 10 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 August 31, 2021.
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)
71-49B	5/1/1904	VALLEY CREEK, tributary to SALMON RIVER	4.80	Not Stated	151.9
71-41	5/1/1913	HANNA CREEK, tributary to VALLEY CREEK, VALLEY CREEK, tributary to SALMON RIVER	4.80	Not Stated	153.0
71-42B	5/1/1914	VALLEY CREEK, tributary to SALMON RIVER	1.59	Not Stated	45.7
71-43B	5/1/1915	VALLEY CREEK, tributary to SALMON RIVER	2.60	Not Stated	45.0
71-50	5/1/1915	VALLEY CREEK, tributary to SALMON RIVER	4.80	Not Stated	83.7
Combined Limit Totals			18.59	Not Stated	479.3
Combined Lease Totals			18.59	Not Stated	479.3

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)
71-49B	4.80	455.7	151.9	0.032	3.0
71-41	4.80	459.0	153.0	0.031	3.0
71-42B	1.59	137.1	45.7	0.035	3.0
71-43B	2.60	135.0	45.0	0.058	3.0
71-50	4.80	251.1	83.7	0.057	3.0
Limit Totals	18.59	1,437.9	479.3	0.039	3.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1570

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, 2121. 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.

IDAHO DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1570

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

LESSOR: UNITED STATES OF AMERICA
ACTING THROUGH USDA
FOREST SERVICE
324 25TH ST
OGDEN, UT 84401-2310

By Kathryn S. Conley
Title Director, Lands & Minerals
Date January 5, 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 1/10/23

Lease approved by IDWR TP

Date 1/10/23

IDAHO DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1570

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): 71-41

HANNA CREEK NWNESW Sec. 3 Twp 11N Rge 12E CUSTER County

Source and Location of Point(s) of Diversion for Water Right No(s): 71-41, 71-42B, 71-43B, 71-49B, 71-50

VALLEY CREEK NESWNE Sec. 4 Twp 11N Rge 12E CUSTER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
71-41	IRRIGATION	5/01	to	10/31	4.80 cfs	459.0 AF
71-42B	IRRIGATION	5/01	to	10/31	1.59 cfs	137.1 AF
71-43B	IRRIGATION	5/01	to	10/31	2.60 cfs	135.0 AF
71-49B	IRRIGATION	5/01	to	10/31	4.80 cfs	455.7 AF
71-50	IRRIGATION	5/01	to	10/31	4.80 cfs	251.1 AF
Totals:					18.59 cfs	1,437.9 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	
11N	12E	2											18.0	10.0					37.4
11N	12E	3							3.0		12.0	20.0	3.0	7.0			4.7	25.2	74.9
11N	12E	10	6.4																11.4
11N	12E	11		22.0	4.0		40.0	35.0	1.0	18.0					2.6			1.7	124.3
11N	12E	12										25.0	26.0	11.0			1.5		63.5
11N	12E	13	6.4	4.4	15.6	31.6	15.0	0.8							39.5	4.0		32.0	149.4
11N	12E	24	4.8																4.8
11N	13E	18										3.5	9.0						12.5
11N	13E	19						1.1											1.1

Total Acres: 479.3

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.

SCANNED
JAN 5 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

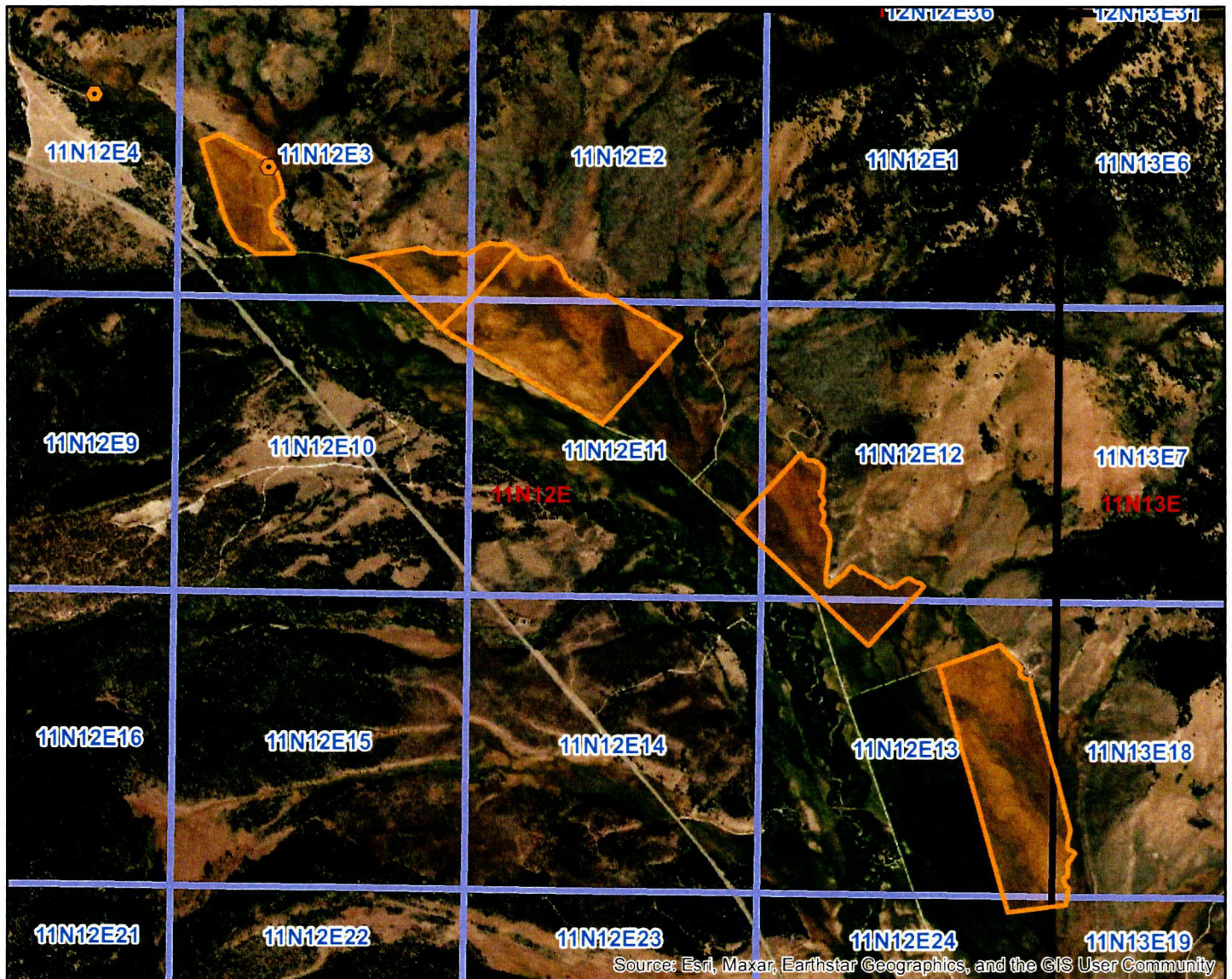
WATER SUPPLY BANK LEASE CONTRACT No. 1570

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.
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 following water rights are diverted from the point(s) of diversion described above: 71-00040A, 71-00040D, 71-00040E, 71-00040G, 71-00040H, 71-00041, 71-00042A, 71-00042B, 71-00043A, 71-00043B, 71-00045, 71-00047, 71-00049B, 71-00050, & 71-00052.
13. 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. 170.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1570

71-41, 71-42B, 71-43B, 71-49B, 71-50
Effective until December 31, 2122

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.



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

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



0 1 2 Miles

SCANNED
JAN 25 2023

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 31 2021

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDEPARTMENT OF
WATER RESOURCESDesignated Applicant USDA Forest Service

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

Water Right No. 71-00041

(One water right per application)

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

Yes ☒ No ☐

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- 1A ☐ ☒ Signatures and contact information for *all owners* of the water right to be leased or sold on this application.
- 1B ☒ ☐ An [Internal Revenue Service \(IRS\) Form W-9](#) for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☒ ☐ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☒ ☐ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to [Section 42-222\(2\), Idaho Code](#).

Department Use Only

Fee Amount \$ 4000 -Received By: KuDate Received: 8-31-21Receipt # C110819W-9 received? Yes ☐ No ☒

(Route W-9 to Fiscal)

Name on W-9:

2133

SCANNED
JAN 25 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 United States of America acting through USDA Forest Service

Mailing Address 324 25th St. Ogden, UT 84401 ATTN: Director of Lands and Minerals

Street City State Zip Code

Email Address kathryn.conant@usda.gov

Phone Number 801-625-5150

☒ 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
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JUN 25 2013

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.
Historic use from headgate diverting into ditches.

- 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.

- 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. Water Right No. 71-00041 is currently in the water supply bank under lease contract No. 303. The purpose of this lease application is to amend the lease term from 5 years to indefinite.

- 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. This water right has been continuously leased into the Idaho Water Supply Bank since January 1, 2009.

- 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.

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 to Indefinite (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.
Commencing in 2022, the IWRB will permanently rent the water right for delivery to an IWRB MSF. There is no payment to the USFS for the rental. IWRB resolution included in the lease/rental app package.

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.

Kathryn J. Conant
Signature of Designated Applicant

Kathryn J. Conant, Director of Lands
Printed Name

8-30-2021
Date

Signature of Authorized Representative

Printed Name

Date

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

SCANNED
8-25-2021
Page 4

**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). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
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			

	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			

**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)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

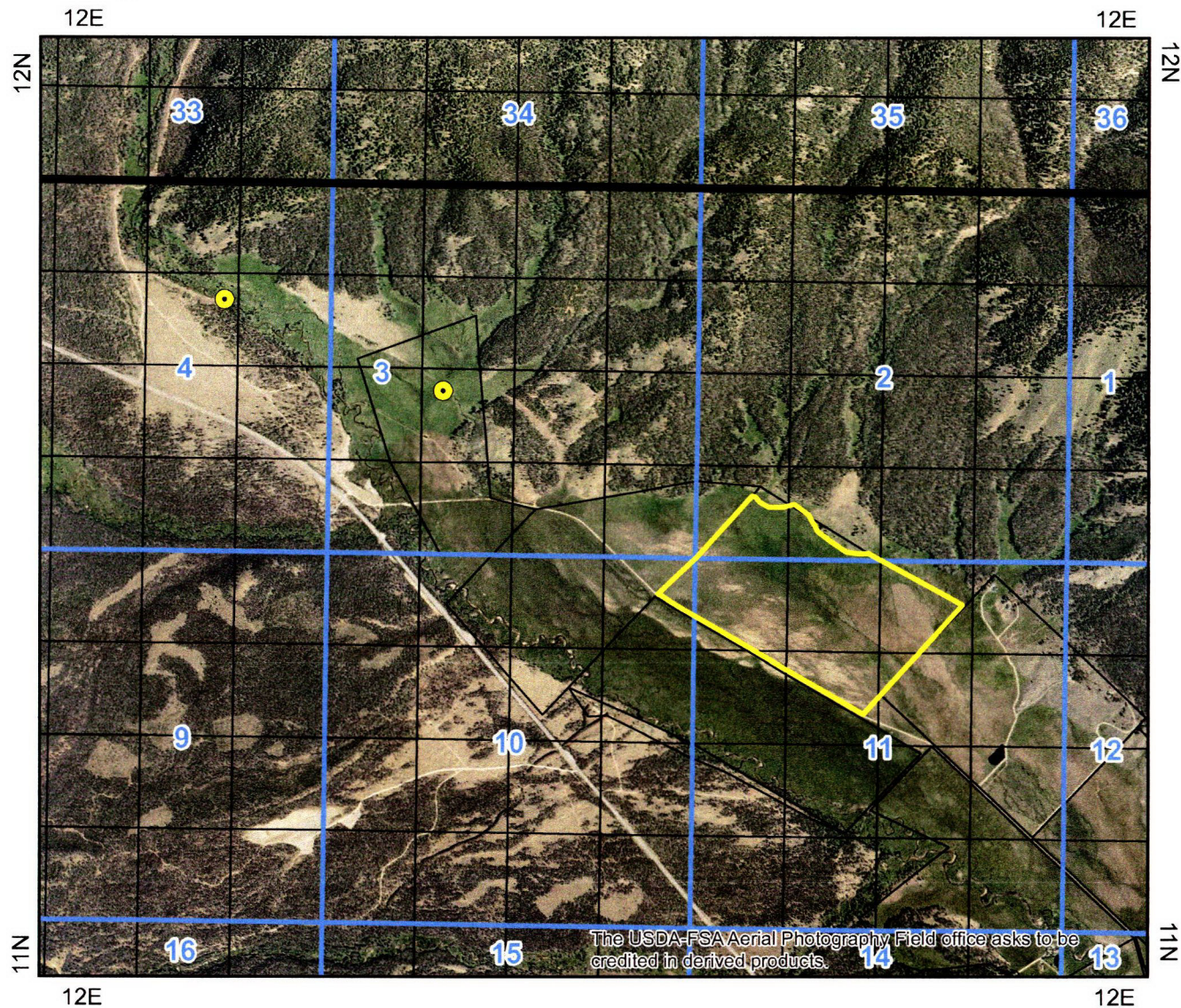
Twp	Rge	Sec	Lot	¼	¼	¼	County

State of Idaho
Department of Water Resources

Water Right 71-41

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 0.3 0.6 1.2 Miles

WSB Mailing Checklist for Leases

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

Key: Who Completes What?

CLERICAL STAFF: MC

REVIEWER: R Buyer

Received Date 8/31/2021

Desired Lease Duration 2022-Indefinite

Lease / Rental Package Y N

If yes, Renter Name: State of Idaho - IWRB

Application # 2415

Contract #

WR#s	#
# 71-41	#
# 71-42B	#
# 71-43B	#
# 71-49B	#
# 71-50	#
#	#

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: USA, acting through Forest Service	☐	☒	EMAIL:
Attorney:	☐	☐	EMAIL:
Consultants Name:	☐		Comments:
Watermaster: Morgan Miller & David Graybill	☐		
Delivery Entity:	☐		
Water District: 71 & 170	☐		WD 71 is subdistrict of 170
Ground Water District:	☐		
Region: Southern	☐		
Other:	☐	☐	
Address:			

Call up Date:

DO NOT SCAN



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

January 25, 2023

UNITED STATES OF AMERICA ACTING THROUGH USDA FOREST SERVICE
324 25TH ST
OGDEN, UT 84401-2310

**RE: WATER SUPPLY BANK LEASE CONTRACT 1570
FOR WATER RIGHTS 71-49B, 71-41-71-42B, 71-43B, 71-50**

Dear Lessor:

Water right **71-49B, 71-41-71-42B, 71-43B, 71-50** were 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 rights will automatically be released from the Bank on **December 31, 2121**, 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 this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Office

SCANNED
JAN 25 2023



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

December 27, 2022

UNITED STATES OF AMERICA
ACTING THROUGH USDA FOREST SERVICE
324 25TH ST
OGDEN, UT 84401-2310

**RE: APPLICATION TO LEASE WATER RIGHTS 71-49B, 71-41, 71-42B, 71-43B, 71-50 TO THE
WATER SUPPLY BANK CONTRACT 1570**

******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, 2021**, 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
IDWR Receipt: C110819

SCANNED
JAN 25 2023

Buyer, Remington

From: Buyer, Remington
Sent: Friday, August 12, 2022 2:10 PM
To: Graybill, David; Skinner, Corey
Cc: Bank
Subject: WSB Applications 2415 and 2140
Attachments: Draft Lease Contract - 1570.docx; Lease Review Memo - Contract 1570.docx; Map - Lease Contract 1570.pdf; Rental Review Memo Application 2140.docx; Draft Rental Agreement 654.docx; Rental Map - Agreement 654.pdf

Corey, David,

I've completed a review of WSB lease application 2415 and rental application 2140, which propose a lease-rental of Valley Creek irrigation water rights 71-41, 42B, 43B, 49B and 50, to help maintain Valley Creek minimum streamflow water right 71-10886.

My review memos, maps and draft approval documents are attached. Please advise on whether you have any questions, comments or concerns.

Thanks,

Remington

Memorandum

To: Water Supply Bank Application 2415

From: Remington Buyer

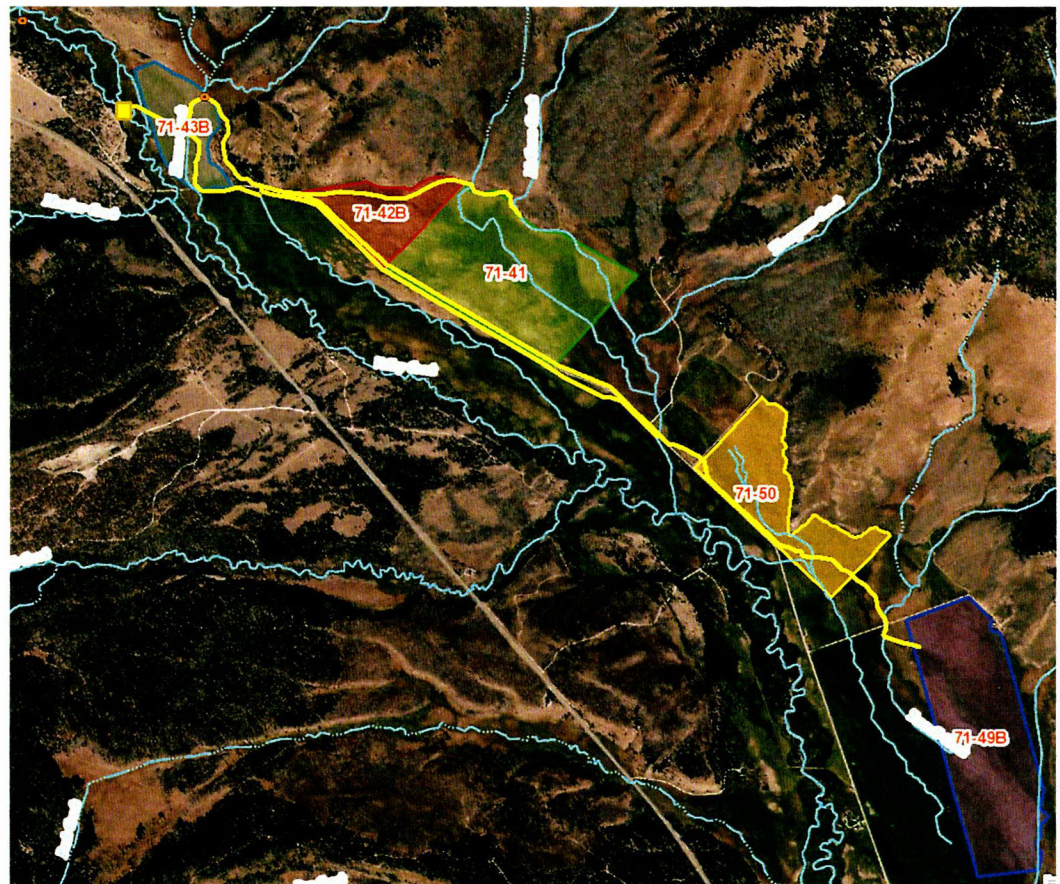
Date: August 12, 2022

Re: Water Supply Bank Lease of Water Rights 71-41, 42B, 43B, 49B and 50

Purpose/Narrative: On August 31, 2021, the Water Supply Bank (Bank) received from the United States Department of Agriculture (USDA) Forest Service (FS), applications to lease basin 71 water rights: 71-41, 42B, 43B, 49B, 50, 59, 61, 64B, 66, 68, 2004D, 2053A, 7002, 10277, 10278, 10728, 10766, 10772 and 10871, to the Bank for an indefinite period of time, so that the Idaho Water Resource Board (IWRB) might rent the water rights to their minimum streamflow water rights on Alturas Lake Creek (71-10890), Valley Creek (71-10886) and on the Salmon River (72-16668). This lease review memo pertains specifically to the lease of water rights 71-41, 71-42B, 71-43B, 71-49B and 71-50 which are intended to be rented to the IWRB's minimum streamflow (MSF) water right on Valley Creek.

These five water rights are irrigation water rights that originally attached to FS homestead entries 133, 134, 270, 271 and 274, which were granted as early as 1913. The FS reacquired the homesteads in the 1980s and claims were submitted for these rights in 1993. Per adjudication backfile information, in the 1940s, the FS built a canal to bring Valley Creek water to Hanna Creek, after which the water was turned into ditches running southeast along the valley floor, and parallel to Cow Camp Road. The ditches provided irrigation water from top of the canal (homestead 274 where water right 71-43B exists) to the bottom of the ditch system (homestead 134 where water right 71-49B exists). Along the way the ditches pick up McGown, Tennell and Thompson Creek water, though those sources were not claimed or decreed for these rights.

The image to the right depicts the canal and ditch system in yellow. The yellow square is the actual point of diversion (POD) for the canal and it is located in Section 3 of T11N, R12E. The orange circles correlate to decreed points of diversion for these water rights. The Valley Creek POD common to all five water rights is in Section 4, not Section 3.



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JAN 25 2023

The ditch system is described in adjudication backfiles where it is noted homesteads between water rights 71-43B and 49B were irrigated “concurrently” as there was sufficient water available through drains (and with water from other sources) to reach the place of use for water right 71-49B. Adjudication process notes also indicate the FS measured a flow of 35 cfs into the canal from Valley Creek in 1959. The reviewer further noted the source of water for some of these claims could have been waste water, though they were not claimed in this way. The same reviewer also noted “it is virtually impossible to quantify” water right 71-49B.

Finally, these five water rights authorize the irrigation of five different acreages, and they could be leased into the Bank separately, on different lease contracts. However, because the rights are diverted from a common point of diversion, and delivered via a common ditch system, and because they are owned by the same water user, and because the term of the lease is the same for all five water rights, the rights will be leased together on a single lease contract.

Authority to File: The applications were submitted by Kathryn J. Conant, Director of Lands and Minerals for the Forest Service. The lands on which the points of diversion and places of are situated belong to the federal government, and they are under the administration of either the Forest Service or the Bureau of Land Management (BLM). Notwithstanding the federal government's ownership of the underlying lands, all five water rights were decreed to the Forest Service. No concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: All five water rights were decreed on March 16, 1999. In 2004, following five years of non-use, a request for an extension of time to avoid forfeiture was granted by IDWR and the water rights were protected from forfeiture under that approval, until 2009. In 2009, the water rights were leased to the Water Supply Bank, and the rights have remained in the Bank ever since. No concerns about water right validity.

Injury Evaluation: The five water rights share a common point of diversion on Valley Creek and a common delivery channel (the Cow Creek Road ditch). Injury could occur through this lease if an insufficient amount of water was not left in the ditch to maintain flows in the system for the benefit of other water users; the following water rights can also receive water from the common POD and Cow Creek Road ditch:

Water Right	Priority Date	Water Use	Water User	Diversion Rate
71-40A	5/1/1912	Irrigation	David & Lisa Muscave	1.20 cfs
71-40D	5/1/1912	Irrigation	Lisa & Andrew Plumb	0.48 cfs
71-40E	5/1/1912	Irrigation	Paul & Ann Hill	1.08 cfs
71-40G	5/1/1912	Irrigation	Paul & Ann Hill	0.41 cfs
71-40H	5/1/1912	Irrigation	James Peters	0.43 cfs
71-42A	5/1/1914	Irrigation	Martha Sadler	3.21 cfs
71-43A	5/1/1915	Irrigation	Martha Sadler	0.60 cfs
71-45	5/1/1914	Irrigation	Browning Family Trust	3.00 cfs
71-47	5/1/1914	Irrigation	Daniel Mahoney	3.60 cfs
71-52	5/1/1915	Irrigation	Antony Yacomella	2.40 cfs
Sum:				16.41 cfs

Many of the above water rights are also overlapped by McGown or Thompson Creek water rights, so there may be sufficient water available from other sources to avoid injury to these rights, if flows from Valley Creek into the ditch were to decrease through this lease. No injury concerns.

Enlargement of Use: The places of use are high-alpine meadow pastures that were historically irrigated to grow forage grass for livestock. The places of use are still functioning as pasture and they are vegetated. The current pasture vegetation appears to grow naturally through sub-irrigation and not through active irrigation by water users. Because the place of use is naturally vegetated, any rental of the water rights should consider the consumptive use extent of the pasture, to ensure an overall enlargement in consumptive use of water does not occur. However, no enlargement is apparent through the lease.

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JAN 25 2023

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

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 the Water District 170 watermaster and IDWR Southern Region on August 12, 2022.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the application be approved.

SCANNED
JUL 25 2023



United States
Department of
Agriculture

Forest
Service

Intermountain Region

324 25th Street
Ogden, UT 84401

File Code: 2540

Date: August 31, 2021

RECEIVED

AUG 31 2021

**DEPARTMENT OF
WATER RESOURCES**

Idaho Department of Water Resources
322 E Front St. Ste. 648
Boise, ID 83706

HAND DELIVERED

Dear IDWR:

Attached are 19 Applications to Lease Water Rights to the Water Supply Bank for water right nos. 71-00041, 71-00042B, 71-00043B, 71-00049B, 71-00050, 71-00059, 71-00061, 71-00064B, 71-00066, 71-00068, 71-02004D, 71-02053A, 71-07002, 71-10277, 71-10278, 71-10728, 71-10766, 71-10772, 71-10871.

All of these water rights are currently leased into the Idaho Water Supply Bank. The purpose of these Lease Applications is to amend the existing lease terms from 5 years to indefinite beginning January 1, 2022.

The filing fee of \$4000.00 is being submitted by phone using a credit card to Sascha Marston.

If you have any questions please contact Jamie Gough, USDA Forest Service, at 208-204-4571 or gayla.gough@usda.gov.

Sincerely,

KATHRYN CONANT Digitally signed by KATHRYN CONANT
Date: 2021.08.31 11:29:36 -04'00'

KATHRYN J. CONANT
Director Lands and Minerals

Enclosures (19)

2133



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SCANNED
JUN 25 2024



United States
Department of
Agriculture

Forest
Service

Intermountain Region

324 25th Street
Ogden, UT 84401

File Code: 2540

Date: August 31, 2021

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