Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
JUL 20 2022
DEPARTMENT OF WATER RESOURCES

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

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

Water Right No. 63-5295
(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 $ 250.00	Received By: MJ	Date Received: 7/20/22	Receipt # C113487
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: Brassey Properties LLC	

2406

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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 Brassey Properties LLC

Mailing Address 1206 N 24th Street (Street) Boise (City) Idaho (State) 83706 (Zip Code)

Email Address sparry2602@gmail.com Phone Number 208-830-0232

☑ 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 Steve Parry Organization Brassey Properties LLC

Professional Title Manager Email Address sparry2602@gmail.com

Mailing Address 3075 Crescent Rim Dr #304, Boise, ID 83706 Phone Number 208-830-0232

☑ 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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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.
Diversion dam and then ditch delivery system.

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. N/A

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. 1.88 CFS diverted annually.

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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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.

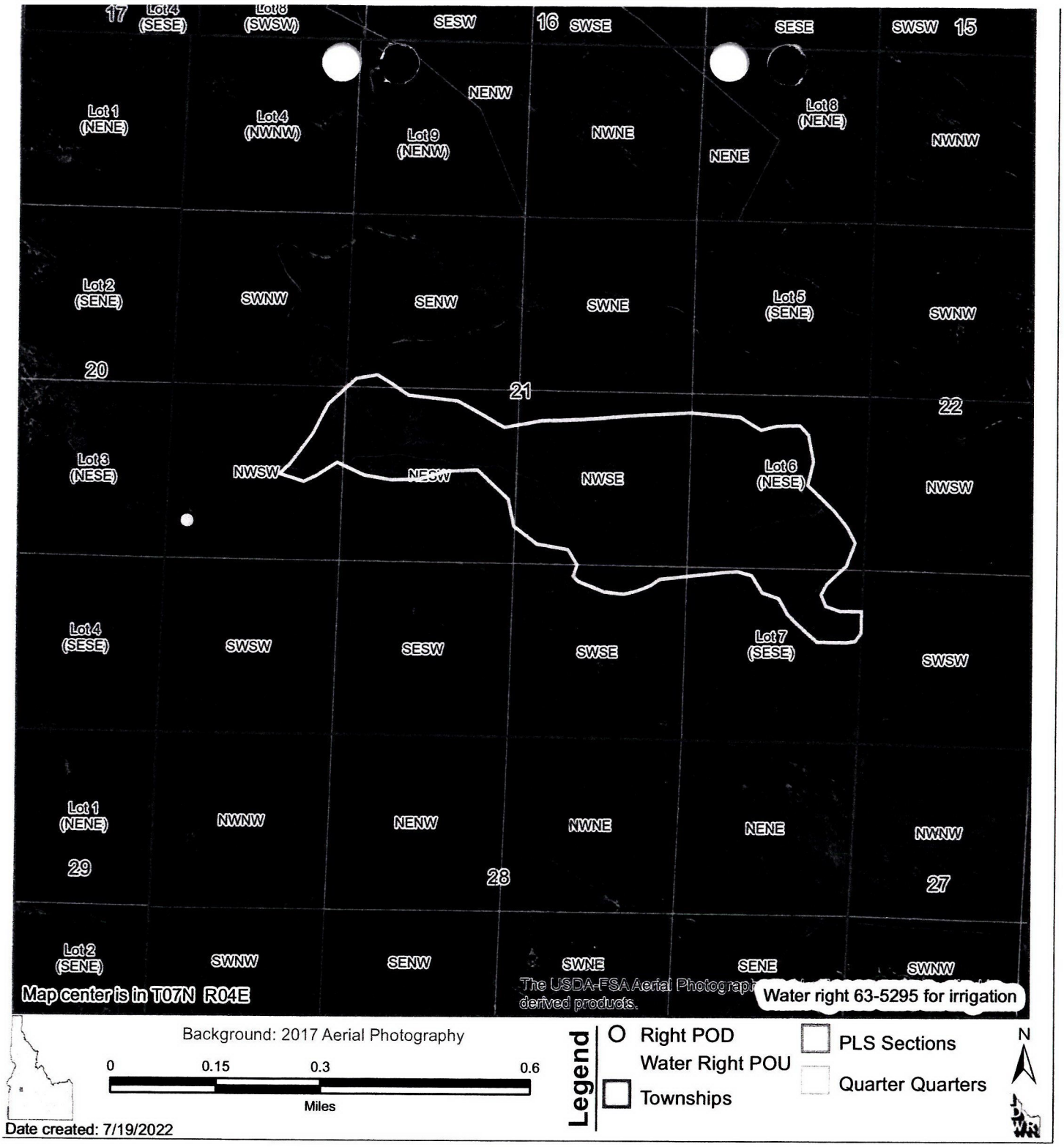
The Designated Applicant acknowledges the following:

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	Printed Name	Date
Signature of Authorized Representative	Steven M Parry Printed Name	7-19-2022 Date

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

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0004509524

STATE OF IDAHO
Office of the secretary of state, Lawerence Denney
ANNUAL REPORT
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: $0.00

For Office Use Only
-FILED-
File #: 0004509524
Date Filed: 12/1/2021 10:53:49 AM

Entity Name and Mailing Address:

Entity Name:	Brassey Properties, LLC
The file number of this entity on the records of the Idaho Secretary of State is:	0003718180
Address	1206 N 24TH ST BOISE, ID 83702-2303

Entity Details:

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

The registered agent on record is:

Registered Agent	Eve Chandler Registered Agent Physical Address 1206 N 24TH ST BOISE, ID 83702 Mailing Address 1206 N 24TH ST BOISE, ID 83702-2303

Limited Liability Company Managers and Members

Name	Title	Business Address
Steve Parry	Manager	3075 W. CRESCENT RIM #304 BOISE, ID 83706
Eve Chandler	Manager	1206 N. 24TH STREET BOISE, ID 83702

The annual report must be signed by an authorized signer of the entity.
Job Title: Manager

Eve Chandler — Sign Here
12/01/2021 — Date

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B0665-4867 12/01/2021 10:53 AM Received by ID Secretary of State Lawerence Denney

Execution Version

OPERATING AGREEMENT

OF

BRASSEY PROPERTIES, LLC

AN IDAHO LIMITED LIABILITY COMPANY

EFFECTIVE AS OF OCTOBER 1, 2020

The transfers of interests in Brassey Properties, LLC are prohibited unless the transfers comply with the provisions of Article 9 of this Operating Agreement.

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OPERATING AGREEMENT
OF
BRASSEY PROPERTIES, LLC

This Operating Agreement of Brassey Properties, LLC, an Idaho limited liability company ("**Company**"), is effective October 1, 2020 ("**Effective Date**") between Vernon K. Brassey II, Erin Brassey, Hope Brassey, Carolyn B. Chandler, Eve B. Chandler, Jane B. Chandler, Ann M. Norris, Steven M. Parry, and Claire C. Rosston.

ARTICLE 1.
BACKGROUND

1.1 **Formation**. The Company is organized pursuant to the Idaho Uniform Limited Liability Company Act ("**Act**") and was formed by filing a Certificate of Organization in the office of the Secretary of State of the State of Idaho ("**Secretary of State**") on December 27, 2019. At the time of the Company's formation, the Company was solely owned by The Vernon K. Brassey Family Partnership, LLP, an Idaho limited liability partnership ("**Partnership**"), which contributed to the Company all of the real property owned by the Partnership and all contracts, assets, and liabilities related to such real property effective December 30, 2019.

1.2 **2019 Ownership Conveyances**. Effective December 31, 2019, the Partnership distributed all of its ownership of the Company, represented by 100 Units (as defined in Section 3.3), to the partners of the Partnership based on each partner's percentage ownership of the Partnership effective as of December 31, 2019, as follows: (a) 20.284826 Units to Carol Brassey; (b) 20.284826 Units to Vernon K. Brassey II; (c) 20.284826 Units to Eve B. Chandler; (d) 20.284826 Units to Ann M. Norris; and (e) 18.860696 Units to VIB, LLC, an Idaho limited liability company ("**VIB**").

1.3 **2020 Ownership Conveyances**.

1.3.1 **Estate of Carol Brassey Transfer**. On June 1, 2020, Carol Brassey passed away. On August 15, 2020, Steve Parry received 20.284826 Units from the Estate of Carol Lynn Brassey ("**Estate of Carol Brassey**"), and on August 15, 2020, Steve Parry received the Estate of Carol Brassey's 10.3315% ownership interest in VIB. On August 15, 2020, Vernon K. Brassey II, Eve B. Chandler, Ann M. Norris, and VIB Admitted (as defined in Section 9.10) Steve Parry as a Member (as defined in Section 3.1).

1.3.2 **VIB Transfer**. On September 16, 2020, VIB distributed all of its ownership of the Company, represented by 18.860696 Units, to the members of VIB based on each member's then current percentage ownership of VIB, as follows: (a) 1.94859846544880 Units to Vernon K. Brassey II; (b) 2.21326118206880 Units to Erin Brassey; (c) 2.21326118206880 Units to Hope Brassey; (d) 2.21326118206880 Units to Carolyn B. Chandler; (e) 1.94859846544880 Units to Eve B. Chandler; (f) 2.21326118206880 Units to Jane B. Chandler; (g) 1.94859657937920 Units to Ann M. Norris; (h) 1.94859657937920 Units to Steven M. Parry; and (i) 2.21326118206880 Units to Claire C. Rosston.

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1.3.3 **Fractional Unit Transfer**. On September 30, 2020, members of the Company executed a Transfer of Fractional Units to simplify the number of decimal points used for fractional interests in the Units of the Company by (a) first rounding all Units to two decimal points ("**Rounding**") and (b) second issuing or transferring the aggregate 0.03 Units lost as a result of the Rounding evenly to each of Vernon K. Brassey II, Eve B. Chandler, and Ann M. Norris (i.e., 0.01 Unit to each).

1.4 **Ownership of Company**. The ownership of Units as of the Effective Date is set forth on Exhibit 1.4.

ARTICLE 2.
FORMATION

2.1 **Organization**. The Company is organized as an Idaho limited liability company pursuant to the provisions of the Act.

2.2 **Name**. The name of the Company is Brassey Properties, LLC, and all business of the Company shall be conducted under that name or under any assumed business name as may be authorized by a Manager (as defined in Section 4.1) and as permitted by applicable law.

2.3 **Nature of Business**. The business of the Company is to carry on any lawful business, purpose, or activity. The Company shall have the authority to do all things necessary or convenient to accomplish such business, purpose, or activity.

2.4 **Operating Agreement**. This Operating Agreement, as it may from time to time be amended ("**Operating Agreement**") shall govern the Company and the Members. The Members and Manager (a) shall be entitled to rely on the provisions of this Operating Agreement and (b) shall not be liable to the Company for any action or refusal to act taken in good faith reliance on the terms of this Operating Agreement.

2.5 **Term**. The term of the Company shall be perpetual until such time as it is dissolved and its affairs are wound up in accordance with this Operating Agreement and any nonwaivable provisions of the Act.

2.6 **Registered Agent**. The name and address of the initial registered agent for the service of process is set forth in the Certificate of Organization as filed in the office of the Secretary of State. A Manager may, from time to time, change the name and address of the registered agent through appropriate filings with the Secretary of State.

2.7 **Title to Company Property**. All property owned by the Company, whether real or personal, tangible or intangible, including money, confidential or proprietary information of the Company, other matters entrusted to any Person (as defined in Section 3.1) as a result of the Person's status as a Member or Manager, and any legal or equitable interest in the property (collectively, "**Property**") shall be owned by the Company as an entity. No Member, individually, shall have any ownership interest in any Property.

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ARTICLE 3.
MEMBERS

3.1 **Member.** A "**Member**" means Vernon K. Brassey II, Erin Brassey, Hope Brassey, Carolyn B. Chandler, Eve B. Chandler, Jane B. Chandler, Ann M. Norris, Steven M. Parry, or Claire C. Rosston, as long as each individual holds a Membership Interest (as defined in Section 3.3), and any other individual, trust, estate, or any incorporated or unincorporated organization or entity ("**Person**") permitted to be a member of a limited liability company under the laws of the State of Idaho. The names and addresses of the Members shall be maintained as provided under Section 8.1 and are set forth on Exhibit 1.4, which may be amended and restated by a Manager at any time if the Manager receives updated information about the identity or address of a Member.

3.2 **Spouse**. A spouse of a Member is not a Member. Concurrently with each Member's execution of this Operating Agreement, the Member, if married, shall cause the Member's spouse to execute and deliver to the Company a Spousal Consent in the form set forth on Exhibit 3.2. If any Member marries or remarries subsequent to the date of the Member's execution of this Operating Agreement, the Member shall within 30 days of the effective date of the marriage cause the Member's new spouse to execute and deliver to the Company a Spousal Consent in the form set forth on Exhibit 3.2.

3.3 **Membership Interests and Units**. Each Member's entire interest in the Company ("**Membership Interest**") shall be denominated in units ("**Units**"). A Membership Interest includes a Member's rights in the following: (a) the governance and management of the Company as set forth in this Operating Agreement and the Act; (b) the Company's profits and losses; (c) Distributions; and (d) such other rights and privileges that the Member may enjoy by being a Member. The allocation of Units as of the Effective Date is set forth in Exhibit 1.4, which may be amended and restated by a Manager at any time if the Manager receives updated information about the allocation of Units.

3.4 **Capital Contributions**. The Members shall make capital contributions based on the proportion that the Units of each Member bear to the total Units of all of the Members ("**Ownership Percentage**") as may be required from time to time upon Majority Member Approval (as defined in Section 3.5). No interest shall accrue on any capital contribution, and the Members shall not have the right to withdraw or be repaid any capital contribution except as provided in this Operating Agreement. A Manager or a Manager's designees shall keep a record of all capital contributions made by the Member.

3.5 **Actions by Members**. Each Member shall have one vote per Unit, and each Member shall vote all of the Member's Units the same. An action that requires majority Member approval is approved if the action is approved by more than 50% of the issued and outstanding Units ("**Majority Member Approval**"). Majority Member Approval shall be evidenced by either (a) minutes of a meeting at which Members holding more than 50% of the Units are in attendance or (b) a written consent signed by Members holding more than 50% of the Units. An action that requires supermajority Member approval is approved if the action is approved by more than 67% of the issued and outstanding Units ("**Supermajority Member Approval**"). Supermajority Member Approval shall be evidenced by either (a) minutes of a meeting at which Members holding

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more than 67% of the Units are in attendance or (b) a written consent signed by Members holding more than 67% of the Units. Written consents are not required to be unanimous but only require Majority Member Approval or Supermajority Member Approval, as the case may be. Written consents shall be transmitted to every Member within a reasonable time following the effective date of the written consent. A formal meeting is not required for an effective Member action.

ARTICLE 4.
MANAGEMENT

4.1 **Management by Managers**. All management authority of the Company is vested in one or more Persons responsible for conducting the business and affairs of the Company (each, a "**Manager**"). Eve B. Chandler and Steve Parry are the initial Managers of the Company. All actions taken prior to the Effective Date by Eve B. Chandler and Steve Parry related to the Company are hereby approved and ratified by the Members. The appointment of an additional Manager may be made by Majority Member Approval.

4.2 **Term**. Each Manager shall hold office until the Manager resigns, becomes Incapacitated, dies, or is removed by Majority Member Approval for any reason or no reason. The removal of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member. Any vacancy occurring in the office of Manager may be filled by Majority Member Approval. "**Incapacitated**" means the occurrence of either: (a) the appointment of a guardian or conservator of an individual's person or estate by a court of competent jurisdiction or (b) written certification that the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning individual's property and affairs by two medical doctors licensed to practice under the laws of the state where the individual is domiciled.

4.3 **Management Rights; Authority of Manager to Bind Company**. The business of the Company shall be conducted solely and exclusively by each Manager, and all management of the Company shall be solely and exclusively vested in each Manager. Each Manager may act independently of each other Manager, with or without conferring with the other Manager, unless the consent of the Members is required under this Operating Agreement or the Act. Only the Managers and employees and other agents of the Company authorized by a Manager shall have the authority to bind the Company. Except as set forth in Section 4.4, each Manager has the power, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company.

4.4 **Restrictions on Authority of Manager**.

4.4.1 **Majority Member Approval**. Majority Member Approval is required for a Manager to cause or commit the Company to do any of the following:

4.4.1.1 Purchase, sell, receive, lease, or enter into any acquisition, sale, ownership, holding, improvement, use, contract, instrument, or dealing of or with goods, services, financial obligations, or property, wherever located, make any donation, or make any capital expenditure worth $50,000 or more;

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4.4.1.2 Dispose of all or substantially all of the Company's property;

4.4.1.3 Borrow money for the Company from banks or other lending institutions;

4.4.1.4 Make a Distribution other than a Distribution made pursuant to Section 7.4;

4.4.1.5 Require a capital contribution from any Member;

4.4.1.6 Fix the amount of the compensation of any Manager;

4.4.1.7 Remove another Manager from office or fill a vacancy occurring in the office of Manager;

4.4.1.8 Resolve any disagreement between the Managers;

4.4.1.9 Undertake a merger, interest exchange, conversion, domestication, or dissolution of the Company; or

4.4.1.10 Undertake any other act outside the ordinary course of the Company's business.

4.4.2 **Supermajority Member Approval**. Supermajority Member Approval is required for a Manager to cause or commit the Company to do any of the following:

4.4.2.1 Issue additional Units to any Person;

4.4.2.2 Admit any new Member to the Company except as provided in Article 9;

4.4.2.3 Approve a proposed Transfer (as defined in Section 9.1) to a Person who is not Family (as defined in Section 9.4.1);

4.4.2.4 Approve the dissociation of a Member;

4.4.2.5 Purchase or redeem any Units of the Company pursuant to Section 9.7.2 or otherwise;

4.4.2.6 Create, or authorize the creation of, or issue, or obligate the Company to issue, any additional class or series of Units of the Company; or

4.4.2.7 Reclassify, alter, or amend any existing Units of the Company in respect of rights of redemption, Transfer restrictions, Distributions on the liquidation of the Company or otherwise, or allocations or otherwise reclassify, alter, or amend the economic rights of any Units.

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4.5 **Delegation of Authority and Duties**. A Manager may, from time to time, delegate to one or more Persons such authorities and duties as the Manager may deem advisable. In addition, a Manager may create offices of the Company (including President, Vice President, Secretary, Assistant Secretary, Treasurer, and Assistant Treasurer), appoint Persons to be officers of the office, and to delegate to such individuals such authorities and duties as the Manager may deem advisable. Any number of titles may be held by the same individual. Any delegation of authorities and duties, any office, and any appointment of a Person as an Officer pursuant to this Section 4.5 may be revoked by a Manager at any time and for any reason or no reason. Any Person dealing with the Company may rely on the authority of any officer in taking any action in the name of the Company without inquiry into the provisions of this Operating Agreement or compliance with this Operating Agreement, regardless of whether that action actually is taken in accordance with the provisions of this Operating Agreement.

4.6 **Manager Expenses and Compensation**. The Managers shall be reimbursed all reasonable expenses incurred on behalf of the Company and shall be entitled to reasonable compensation in an amount to be determined from time to time by Majority Member Approval. If compensation is paid to a Manager who is a Member, the compensation shall be paid as a guaranteed payment for management and other services rendered to the Company. The Manager's compensation shall be cumulative and shall be a debt of the Company to the Manager to the extent not paid in any taxable year. Amounts paid pursuant to this Section 4.6 are intended to constitute guaranteed payments within the meaning of Section 707(c) of the Internal Revenue Code, as amended ("**Code**"), and shall not be treated as distributions for purposes of computing the recipient's capital account.

4.7 **Partnership Representative**. A Manager shall serve as the "partnership representative" pursuant to Section 6223 of the Code, and, if required by the Code and the Treasury Regulations issued under the Code ("**Regulations**"), such Manager shall appoint a "designated individual" through which the partnership representative shall act for the Company ("partnership representative" and "designated individual" collectively "**Partnership Representative**"). The Partnership Representative is expressly authorized on behalf of the Company or any Member (a) to perform any act that may be necessary to make this designation effective, and (b) make any applicable election under the Code or the Regulations, including an election under Code Section 754, elections regarding allocation methods under Regulations Section 1.704-3 and an election out of subchapter C, chapter 63, of the Code, pursuant to Code Section 6221(b).

ARTICLE 5.
STANDARDS OF CONDUCT AND LIABILITY OF MEMBERS AND MANAGERS

5.1 **Duties**. Any fiduciary duties existing among the Company, the Members, and the Managers shall exist only to the extent set forth in this Operating Agreement. Each Manager owes to the Company the fiduciary duties of loyalty and care stated in Sections 5.2 and 5.3 and the other duties otherwise stated in this Article 5. Each Manager who performs such duties as a Manager shall not have any liability to the Company or any Person by reason of being or having been a Manager of the Company. No Manager guarantees the return of any capital contributions or a profit from the operations of the Company.

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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 7/20/2022

Desired Lease Duration 2022 - 2026

Lease / Rental Package Y (N)

If yes, Renter Name: _____

Application # 24066 Contract # _____

WR#s	# 63-5295
#	#
#	#
#	#
#	#
#	#
#	#

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: Brassey Properties	☐	☐	EMAIL:
Attorney:	☐	☐	EMAIL:
Consultants Name:	☐		Comments:
Watermaster:	☐		
Delivery Entity:	☐		
Water District:	☐		
Ground Water District:	☐		
Region:	☐		
Other:	☐	☐	
Address:			

No refund

Call up Date: _____

DO NOT SCAN

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

April 3, 2023

BRASSEY PROPERTIES LLC
C/O STEVEN PARRY
1206 N 24TH STREET
BOISE ID 83706

RE: RETURNED APPLICATION TO LEASE WATER RIGHT NOS. 63-5295 & 63-5304 TO THE WATER SUPPLY BANK

Dear Applicant:

On July 20, 2022, the Idaho Department of Water Resources (Department) received your application(s) to lease water right no(s). 63-5295 and 63-5304 to the Water Supply Bank (Bank). Per your request, the lease applications were modified to remove consideration of the irrigation components of the rights, and only consider the mining portions. The Department has sent two separate requests dated November 18, 2022, and January 5, 2023 for additional information to support a defense to forfeiture for the mining portion of these rights and for authority to sign.

There is not enough information made available to us to verify whether the mining portion of these rights meet the criteria under Idaho Code § 42-223(11) for a defense from forfeiture, nor has Article 9 of the Operating Agreement for Brassey Properties been submitted per our request to verify your authority to act on behalf of the company to enter into a lease contract with the Department and Idaho Water Resource Board. Therefore, the lease applications are incomplete and cannot be processed. This letter is notice that **the attached application(s) to lease water to the Bank are returned.**

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may file an Application for Extension of Time to Avoid Forfeiture of a Water Right form.

You can reapply to lease the water right(s) in the future by submitting new application form(s) along with applicable fees. Water right forms are available from the Department's web site at www.idwr.idaho.gov. Due to the time and resources expended on the review of the lease applications, the lease application fees will not be refunded.

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

Sincerely,

Mary Condon
Water Supply Bank Coordinator

SCANNED
AUG 07 2023

Condon, Mary

From: Steven M Parry <sparry2602@gmail.com>
Sent: Thursday, January 5, 2023 11:08 AM
To: Condon, Mary
Subject: Re: FW: Water Supply Bank Lease Brassey Properties

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.

Thank You for the email. It clarifies many things.

I appreciate the statutes you quoted in that it gives me a better understanding of what the Department of Water Resources is looking for with respect to our applications. I probably mis-interpreted your earlier email to mean that the Department was wanting to revisit the issues we addressed through the adjudication process. That led me to believe that the time, effort and money spent on the adjudication was for naught.

Your email has provided me with a potential roadmap going forward of what information the Department needs to verify the applications. I totally understand and appreciate the Department's need to verify and authenticate these issues. Again it was the Watermaster that contacted me and suggested that Brassey Properties place these water rights in the water bank.

Am I correct in assuming that at the time the Department adjudicated the water rights in question all of the elements of the statutes in question had been satisfied. If that is correct then I need to provide the Department with acceptable proof of maintenance of the property and continued ownership of the mineral rights since the adjudication.

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On the maintenance issue Brassey Properties has gated and done minimal fencing of the property. The gate posts are in concrete. Due to terrain minimal fencing is all that is required. We have logged the property in the past. At present we are working on eliminating all diseased timber from the properties and then more aggressive logging. I can provide you contracts and canceled checks for both the logging and gates/fencing.

Brassey Properties has title commitment policies (approximately two years old) on the properties. The only transfer in ownership since adjudication has been from the Vernon K Brassey Family Partnership to Brassey Properties. The same family members have the same ownership. At the time of transfer in ownership I had the water rights transferred to the new entity. I have the property tax records and payments for the last several years.

Just to provide some clarity on the properties. It is my understanding from the title commitment that the property the water rights are associated with is owned with the mineral rights. Contiguous to this property Brassey Properties owns land through the Homestead Act and that property is subject to vexatious mining claims. When I speak of gates, fences and logging this covers all of Brassey Properties lands in Boise County. It includes the land the land the water rights are associated with. I did not want to give you the impression that Brassey Properties was only logging and gating the land associated with the water rights.

After you get an interpretation of the statute let me know what documentation you need from Brassey Properties and we can go from there. Hopefully this email provides you with what knowledge and documentation Brassey Properties has with respect to the property.

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AUG 17 2023

Again Thank You for your email today it provided much clarification.

On Thu, Jan 5, 2023 at 8:59 AM Condon, Mary <Mary.Condon@idwr.idaho.gov> wrote:

Mr. Parry,

The adjudication was an inventory of water rights, allowing valid rights and disallowing rights that were not valid. An adjudication does not protect the water rights in perpetuity since rights with more than 5 years of non-use can be subject to forfeiture. I asked our AG's about the wording in statute for protection from forfeiture on water rights for mining, so I can evaluate whether the rights are protected from forfeiture and can be leased. The result of the lease review would be to either find validity and bring the rights into the bank or find the application does not provide enough evidence to support validity and return the applications.

The lease applicant is responsible for providing evidence the right is either valid or protected from forfeiture. Since the right has not been used in the last five years, then it needs to be protected from forfeiture, which brought me to §42-223(11), Idaho Code, "*No portion of any water right with a beneficial use related to mining, mineral processing or milling shall be lost or forfeited for nonuse, so long as the nonuse results from a closure, suspension or reduced production of the mine, processing facility or mill due in whole or in part to mineral prices, if the mining property has a valuable mineral, as defined in section 47-1205, Idaho Code, and the water right owner has maintained the property and mineral rights for potential future mineral production*." The maintenance of mineral rights is the portion I wanted clarification on since some lands have been sold with language of including mineral rights, but no one verified whether the mineral rights were transferred through each owner or if a previous owner withheld them. A mining claim status (through BOL) is unlikely to prove one way or another about possession of mineral rights on the lands, so some documentation showing the mineral rights have stayed with the land and are now held by Brassey Properties would be required to show protection from forfeiture and accept the rights into the water supply bank.

Best,

Mary

From: Steven M Parry <sparry2602@gmail.com>
Sent: Wednesday, January 4, 2023 11:06 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: Re: FW: Water Supply Bank Lease Brassey Properties

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AUG 07 2023

I wanted to clarify my email from yesterday. The two mining water rights that are in the water bank are associated with actual mines that were at one time in full production. At the time of the Snake River Adjudication we provided the attorney we hired, Jo Beaman, a geologist report analyzing what the economics would have to be to restart the two mines. The report was not done for the adjudication but provided evidence establishing the water rights. We went through the adjudication process and the Department of Water Resources either did not object or did not appeal the granting of the two water rights.

Having gone through the Snake River Adjudication I thought all issues concerning the validity and priority of the water rights had been determined. If my thinking is wrong on this or if you are asking the Attorney General's office to re-evaluate the validity of the water rights please let me know.

The report from the Department of Lands has no relationship to Brassey Properties as far as I can tell. The Brassey family settled in Placerville in the 1860s. There are other branches of the family that may have had the activities shown on the Department of Lands report.

We still own the property. This past year we hired a contractor to construct gates and fence portions of the property where the mines are located. Now I think one needs to go through two locked gates to get to either of the mines.

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AUG 17 2023

I think the question for the Attorney General's office is if there is a valid adjudicated mining water right is it subject to forfeiture due to lack of use. The lack of use is based on the economics of reopening the mine.

I do appreciate your efforts in looking into our situation. As I indicated to you it was the Watermaster that called me this summer and suggested putting some of our water rights into the water bank. At that time I did not know that there was a water bank. I have asked for a complete copy of the operating agreement for Brassey Properties and will forward it to you if it becomes necessary.

Thanks again for your work on this situation.

On Tue, Jan 3, 2023 at 1:31 PM Condon, Mary <Mary.Condon@idwr.idaho.gov> wrote:

Mr. Parry,

I'm going to ask our legal team about this some more. When I went to DOL to look at mining claims, all the returns on 'Brassey' were 'Closed' for the same lands. I don't know enough about mining claims to make a decision one way or the other yet, but within their site, it said dues must be paid annually to stay active.

Best,

Mary

From: Steven M Parry <sparry2602@gmail.com>
Sent: Friday, December 30, 2022 10:33 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: Re: FW: Water Supply Bank Lease Brassey Properties

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Thank You for taking the time yesterday to answer some of my questions. I assume that we could prove that Brassey Properties has a valid mining claim by showing Fee Simple ownership or ownership of the mineral rights. Is that correct?

Best wishes in the new year.

On Fri, Dec 30, 2022 at 7:54 AM Condon, Mary <Mary.Condon@idwr.idaho.gov> wrote:

Mr. Parry,

I will also need proof Brassey Properties, or a member of Brassey, still holds a mining claim on the lands under the water rights. This will show protection from forfeiture, per Idaho Code § 42-223(11).

Thank you,

Mary

Mary Condon

Water Supply Bank Coordinator

IDAHO DEPARTMENT OF WATER RESOURCES

From: Condon, Mary
Sent: Thursday, December 29, 2022 4:57 PM
To: sparry2602@gmail.com
Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: Water Supply Bank Lease Brassey Properties

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AUG 17 2023

Mr. Parry,

It was a pleasure speaking to you on the phone. Per our conversation, you have asked to remove the irrigation portion offered for lease application under rights 63-5304 and 63-5295, and only consider the mining portion for lease for years 2022-2027. Please confirm with reply to this email.

Additionally, I have requested from you the full Operating Agreement of Brassey Properties, effective October 1, 2020, or newer version if issued, to ensure there is not a clause under Article 9 prohibiting the lease of water rights held by a single member, or within any other article of the agreement. Please provide the entire operating agreement within thirty (30) days. Electronic scan and submittal are sufficient.

Best,

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 17 2023

MEMORANDUM

To: **Water Right File No(s). 63-5304, 63-5295**

From: **Skyler Cheever – Water Resource Agent**

Date: **December 23, 2022**

Re: **Water Supply Bank Applications Withdrawal Conversation**

Applications 2406 and 2407 to lease water rights 63-5304 and 63-5295 into the water supply bank were sent in by Brassy Properties on July 20th, 2022, with fee payments received the same date. The initial review indicated that GIS imagery could not indicate if mining or irrigation occurred at either proposed lease place of use.

I sent an email to the representative for Brassy Properties, Steven Parry on October 14th, 2022, detailing that the applicant needed to send documentation that would show both water rights were valid. No response was received. A formal information letter was sent on November 18th, 2022, with no response.

On December 22nd, 2022, I called Steven Parry to hopefully get clarification on the situation, no answer was received, I left a voice message. Mr. Parry called me back today December 23rd, 2022, and clarified he acquired Brassy Properties recently and did not know much about the water rights in the lease proposal. He told me it would be beneficial if the department return the applications and issue a refund while they investigate the validity of the water rights in Summer 2023.

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AUG 07 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

November 18, 2022

BRASSEY PROPERTIES
1206 N 24TH STREET
BOISE ID, 83554

RE: Water Supply Bank Lease Application Nos. 2407, & 2406 - Additional Information Required

Dear Applicant:

The Department of Water Resources (Department) received your water supply bank lease applications for water rights 63-5304 and 63-5295 on July 20th, 2022. The initial review of the applications determined additional information is necessary to continue processing this application. The following is a list of items that need addressed:

In both applications, 2406 and 2407 the validity of water rights could not be determined. According to Water Supply Bank Rules, IDAPA 37.02.03.025.02c, information must be provided to show that the water right has not been lost through abandonment or forfeited as defined by Idaho Code § 42-222(2). You need provide proof that these rights have not been abandoned or forfeited.

Water Supply Bank Rule 25 (IDAPA 37.02.03.025.08c) direct the department to consider whether a water right has been abandoned or forfeited when determining to accept a water right into the water supply bank.
-Please submit information necessary to address the items described above for the applications within 30. If the requested information is not received in 30 days, the Department cannot determine whether or not water rights 63-5304 and 635295 are valid, the Department will consider the application to be no longer valid and will return the applications

If you have any questions on this matter, please contact me at (208) 287-4913 or email at skyler.cheever@idwr.idaho.gov.

Sincerely,

Skyler Cheever
Water Resource Agent

CC Steven Parry

SCANNED
AUG 17 2023

Cheever, Skyler

From: Cheever, Skyler
Sent: Friday, October 14, 2022 3:17 PM
To: sparry2602@gmail.com
Subject: Clarifications for Filed Water Supply Bank Lease Applications

Hello Mr. Parry,

I am a resource agent with the Department of Water Resources reviewing your company's lease applications. As it stands right now there is some clarification needed. In applications that were filed, for water rights 63-5304 and 63-5295 it was claimed both rights have no portion that has gone unused in 5 years, that would be 2018. However, after looking at arial imagery through our GIS program, Google Earth and even vegetation modeling I cannot defiantly prove that water has been used for the beneficial uses listed in their respective right during or after 2018. According to Water Supply Bank Rules, 37.02.03 Sec 25, 02c, information must be provided to show that the water right has been used in the last five years and is not abandoned or forfeited under Idaho Code § 42-222(2). You need provide proof that these rights have not been abandoned or forfeited. You must return this information in 30 days, or your applications would be returned. If you have any questions, please let me know.

Best,
Skyler Cheever

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

SCANNED
AUG 07 2023