

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1584

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

LESSOR: CITY OF POST FALLS
408 N SPOKANE ST
POST FALLS, ID 83854-7538

RECEIVED
DEC 19 2022
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 June 03, 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)
95-2141	5/31/1966	GROUND WATER	1.27	420.1	120.0
Lease Totals			1.27	420.1	120.0

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.

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AUG 17 2023

WATER SUPPLY BANK LEASE CONTRACT No. 1584

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1584

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

LESSOR: CITY OF POST FALLS
408 N SPOKANE ST
POST FALLS, ID 83854-7538

By 
Title Public Works Director
Date 12/12/22

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 12/23/22

Lease approved by IDWR 

Date 12/23/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1584

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): 95-2141

GROUND WATER SENW Sec. 26 Twp 51N Rge 05W KOOTENAI County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
95-2141	IRRIGATION	4/01	to	10/31	1.27 cfs	420.1 AF
Totals:					1.27 cfs	420.1 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	
51N	05W	26						2.0	39.0	40.0									81.0
51N	05W	27				39.0													39.0

Total Acres: 120.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1584

9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

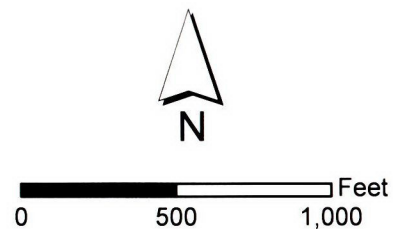
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1584

95-2141
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



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:	<i>Jan</i>

Received Date 6/3/2022

Desired Lease Duration 2022-2026

Lease / Rental Package Y N

If yes, Renter Name: _____

Application # 2388 Contract # 1584

WR#s		# 95-2141
#		#
#		#
#		#
#		#
#		#
#		#
#		#

Applicant Authorized?	<u>Y</u> / N
Multiple owners, Attach 1A included?	Y / N <u>NA</u>
If portion is offered, Attach 2 included?	<u>Y</u> / N NA
Map of POU and POD?	<u>Y</u> / N NA
POD Consent (if required)?	Y / N <u>NA</u>
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: <u>City of Post Falls</u>	☐	☐	EMAIL: _____
Attorney: <u>Chris Bromley</u>	☐	☐	EMAIL: _____
Consultants Name: _____	☐		Comments: _____
Watermaster: <u>NA</u>	☐		<u>HG 3</u>
Delivery Entity: _____	☐		
Water District: <u>NA</u>	☐		<u>Rathdrum GWA</u>
Ground Water District: _____	☐		<u>12/23/2022</u>
Region: <u>Northern</u>	☐		
Other: _____	☐	☐	
Address: _____			

Call up Date: 11-14-22

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

October 26, 2022

CITY OF POST FALLS
408 N SPOKANE ST
POST FALLS ID 83854-7538

**RE: APPLICATION TO LEASE WATER RIGHTS 95-2141 TO THE WATER SUPPLY BANK
CONTRACT 1584**

******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, 2026**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: McHugh Bromley PLLC

SCANNED

AUG 17 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 23, 2022

CITY OF POST FALLS
408 N SPOKANE ST
POST FALLS ID 83854-7538

**RE: WATER SUPPLY BANK LEASE CONTRACT 1584
FOR WATER RIGHTS 95-2141**

Dear Lessor:

Water right **95-2141** was be 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, 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. 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,

Jean Hersley

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Northern Region Office
McHugh Bromley Law

SCANNED
AUG 17 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

October 26, 2022

CITY OF POST FALLS
408 N SPOKANE ST
POST FALLS ID 83854-7538

**RE: APPLICATION TO LEASE WATER RIGHTS 95-2141 TO THE WATER SUPPLY BANK
CONTRACT 1584**

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The right will automatically be released from the Bank on **December 31, 2026**, 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.

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If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: McHugh Bromley PLLC

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AUG 17 2023

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: City of Post Falls

Memo Date: October 13, 2022 *John*

Water Right Number(s): 95-2141

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases (Front of File)	x	
2 Reason for lease of water rights (Brief description of lease proposal in narrative)		
Portion of right	x	
All of right		
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)		
	Yes No	
4 Rentable? (If no explain in comments or narrative)	x	
5 Authority to file		
Current owner or designated applicant	x	
SOS Web site checked for business entity		
Other (explain in comments)		
6 Water Right validity		
Decreed/Licensed/Statutory claim date (write in comments section)		2019
Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		
Has this right previously been leased to the bank or in CREP?	x	
7 Injury to other water rights		
If the POD is through a delivery entity, was consent provided?	na	
If the POD is through a delivery entity, was holdback required? (percentage in comments)		%
Any other concerns		
8 Enlargement concerns		
Complete a POU comparison overlap analysis	x	
Complete a combined limits review	x	
Complete POD overlap analysis (if there is an overlap add condition to lease)	x	
	Yes No	
Are there overlapping rights that need to be placed in the bank also?	x	
Will the place of use continue to receive water? (if yes explain in comments)	x	
9 Local Public Interest		
Does the processor know of any problems this action will cause for the local public?	x	
10 Have you contacted regional office and watermaster for comment/concerns?	x	
Send the watermaster comment request form or e-mail request		
11 Area Headgate requirement (write in Comments)		3
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments	x	

Narrative: The Department received this lease application on June 3, 2022. The applicant wishes to place 120 acres in the Bank. A Change in ownership was received on June 21 and the equivalent of 120 acres was conveyed to Ross Point Water District. According to the map submitted with the lease application and a map provided by The City of Post Falls' attorney in an email, the acres are different. And additional map submitted showed the correct acres to be leased. This right was decreed in 2019. There are no issues with forfeiture. This lease is from 2022-2026. This water right is not currently within a WD but is within the Rathdrum GWMA.

SCANNED
AUG 17 2023

Hersley, Jean

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Wednesday, October 26, 2022 9:18 AM
To: Hersley, Jean
Cc: jbeacham@postfallsidaho.org
Subject: RE: City of Post Falls WSB Lease Application
Attachments: City of Post Falls Map of Idled Acres.pdf

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.

Jean,

I went through this with John Beacham. What we think is going on is the map that was sent with the application identified 2 acres in NWNW that your review may not have noticed. You'll see this in the acre table below (yellow highlighting are the acres you identified to get to 118; green highlighting is the legal description where the 2 acres are located):

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
51N	05W	26	20.0	39.0	40.0	20.0	39.0	38.0	39.0	40.0									275.0
51N	05W	27				39.0													39.0

I'm also attaching the map that accompanied the application, now with red arrows, showing where the two acres are visually located.

Please let me know if this helps answer your questions about the 2 acres you're looking for.

Thanks,

Chris

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Wednesday, October 26, 2022 8:03 AM
To: Christopher Bromley (cbromley@mchughbromley.com) <cbromley@mchughbromley.com>
Cc: jbeacham@postfallsidaho.org
Subject: RE: City of Post Falls WSB Lease Application

Chris,

If the Department doesn't hear from you within 7 days, I will go ahead and process the lease for 118 acres to match the map that was provided with the application. If you want to lease 120 acres, I need to know where the 2 acres will come from.

 Jean Hersley
Technical Records Specialist II

SCANNED
AUG 17 2023

From: Hersley, Jean
Sent: Thursday, October 13, 2022 11:48 AM
To: Christopher Bromley (cbromley@mchughbromley.com) <cbromley@mchughbromley.com>
Cc: jbeacham@postfallsidaho.org
Subject: City of Post Falls WSB Lease Application

I am in the process of creating the contract for the City of Post Falls to lease a portion of water right 95-2141 to the Water Supply Bank. The map you provided for the idled acres, attached, is only for 118 acres. The highlighted acres in the chart below are what is allowed per the partial decree. If your client wants 120 acres in the Bank, we will have to take 2 acres from another QQ. Or I can continue with the lease of 118 acres. Please let me know as soon as possible so I can get these contracts in the mail. Thank you.

IRRIGATION within KOOTENAI County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
51N	05W	26	20.0	39.0	40.0	20.0	39.0	38.0	39.0	40.0									275.0
51N	05W	27				39.0													39.0

 Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942

SCANNED
AUG 17 2023

WR 95-2141 WSB Application Exhibit



2/2022, 9:45:13 AM

-  City Post Falls Boundary
-  New TaxParcels
-  Common Areas
-  TaxParcels

