

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAY 18 2023
DEPARTMENT OF
WATER RESOURCES

APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF A WATER RIGHT

Section 42-222(4), Idaho Code, provides that a water right holder may apply to protect a valid water right from forfeiture. Upon a showing of reasonable cause, the Director may grant one (1) extension of five (5) years in which to resume use.

1. Water Right No. 65-10354 (one right per application)
☒ Attach a copy of the water right record, available at <http://www.idwr.idaho.gov>, *Water Right Transfers, Step 1*, or by contacting any Department office.
2. Applicant City of Cascade Phone (208) 382-4279
3. Are you the current water right holder of record? Yes ☒ No ☐
☐ If no, provide documentation of your authority to sign on behalf of the right holder -- OR -- attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee.
4. Mailing address ☐ Same as water right record -- OR -- complete the following information:
 Address P.O. Box 649 City Cascade
 State Idaho Zip code 83611 Email mayor@cascadeid.us
5. Give the last date water was beneficially used Beneficial use ongoing (as of 5/17/23)
6. Explain your reasons for non-use of the water right and your reasons for requesting an extension of time.
 Attach additional documentation if needed.
This water right continues to replenish the ground water relied upon by the City of Cascade.
This water right was leased to the Water Supply Bank until at least 2017.
The City of Cascade would like to re-lease this water right to the Water Supply Bank.

The information contained in this application is true to the best of my knowledge.

Signature of applicant or authorized agent

Judith R. Nissula

5/17/23

Print name (and title, if applicable)

Date _____

Signature of applicant or authorized agent

Janice Van Winkle

5/17/23

Print name (and title, if applicable)

Date _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby _____ said application, subject to the following conditions or reasons:

The right holder shall resume beneficial use of water *on or before* _____

Signed this _____ day of _____, 20____. _____
Title: _____

Stamped received ☐ Fee received by Ku Date 5.18.23 Receipt # C116284

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 65-10354

Current Owner: CITY OF CASCADE

Priority Date: 7/16/1888

Origin: Water Right

Status: Water Supply Bank Active

Basis: Decreed

Source

HAZARD CREEK

Tributary

NORTH FORK PAYETTE RIVER

Beneficial Use **From To**
MUNICIPAL 1/01 to 12/31
 Total Diversion

Diversion Rate **Annual Volume**
2.34 CFS
2.34 CFS

Location of Point(s) of Diversion

HAZARD CREEK
VALLEY County

NE1/4NW1/4 Sec. 33, Twp 14N, Rge 03E B.M.

HAZARD CREEK
VALLEY County

L3(NW1/4NW1/4) Sec. 3, Twp 14N, Rge 03E B.M.
(Rediversion)

Place of Use

MUNICIPAL Within VALLEY County

T13N R03E S1	Lot 1	NENE	T13N R03E S1	Lot 8	NENE
T13N R03E S1	Lot 2	NWNE	T13N R03E S1	Lot 7	NWNE
T13N R03E S1		SWNE	T13N R03E S1		SENE
T13N R03E S1	Lot 3	NENW	T13N R03E S1	Lot 6	NENW
T13N R03E S1	Lot 4	NWNW	T13N R03E S1	Lot 5	NWNW
T13N R03E S1		SWNW	T13N R03E S1		SENW
T13N R03E S1		NESW	T13N R03E S1		NWSW
T13N R03E S1		SWSW	T13N R03E S1		SESW
T13N R03E S1		NESE	T13N R03E S1		NWSE
T13N R03E S1		SWSE	T13N R03E S1		SESE
T13N R03E S2	Lot 1	NENE	T13N R03E S2	Lot 8	NENE
T13N R03E S2	Lot 2	NWNE	T13N R03E S11		NENE
T13N R03E S11		SENE	T13N R03E S11		NESE
T13N R03E S12		NENE	T13N R03E S12		NWNE
T13N R03E S12		SWNE	T13N R03E S12		SENE
T13N R03E S12		NENW	T13N R03E S12		NWNW
T13N R03E S12		SWNW	T13N R03E S12		SENW
T13N R03E S12		NESW	T13N R03E S12		NWSW
T13N R03E S12		SWSW	T13N R03E S12		SESW
T13N R03E S12		NESE	T13N R03E S12		NWSE

T13N R03E S12		SWSE	T13N R03E S12		SESE
T13N R03E S13		NENE	T13N R03E S13		NWNE
T13N R03E S13		SWNE	T13N R03E S13		SENE
T13N R03E S13		NENW	T13N R03E S13		NWNW
T13N R03E S13		SENW	T13N R03E S13		NESE
T13N R03E S13		NWSE	T13N R03E S13		SESE
T13N R04E S4		SWSW	T13N R04E S5	Lot 2	NWNE
T13N R04E S5	Lot 7	NWNE	T13N R04E S5		SWNE
T13N R04E S5		SENE	T13N R04E S5	Lot 3	NENW
T13N R04E S5	Lot 6	NENW	T13N R04E S5	Lot 4	NWNW
T13N R04E S5	Lot 5	NWNW	T13N R04E S5		SWNW
T13N R04E S5	Lot 9	SWNW	T13N R04E S5	Lot 12	SWNW
T13N R04E S5	Lot 10	SENW	T13N R04E S5		NESW
T13N R04E S5	Lot 11	NESW	T13N R04E S5		NWSW
T13N R04E S5	Lot 12	NWSW	T13N R04E S5		SWSW
T13N R04E S5	Lot 13	SWSW	T13N R04E S5	Lot 14	SWSW
T13N R04E S5		SESW	T13N R04E S5	Lot 14	SESW
T13N R04E S5		NESE	T13N R04E S5		NWSE
T13N R04E S5		SWSE	T13N R04E S5		SESE
T13N R04E S6	Lot 1	NENE	T13N R04E S6	Lot 7	NENE
T13N R04E S6		NWNE	T13N R04E S6		NWNE
T13N R04E S6	Lot 2	NWNE	T13N R04E S6	Lot 6	NWNE
T13N R04E S6		SWNE	T13N R04E S6	Lot 8	SWNE
T13N R04E S6	Lot 13	SWNE	T13N R04E S6		SENE
T13N R04E S6	Lot 8	SENE	T13N R04E S6	Lot 13	SENE
T13N R04E S6		NENW	T13N R04E S6		NENW
T13N R04E S6	Lot 5	NENW	T13N R04E S6	Lot 3	NWNW
T13N R04E S6	Lot 4	NWNW	T13N R04E S6	Lot 4	NWNW
T13N R04E S6	Lot 10	SWNW	T13N R04E S6		SENW
T13N R04E S6	Lot 9	SENW	T13N R04E S6		NESW
T13N R04E S6	Lot 11	NWSW	T13N R04E S6	Lot 12	SWSW
T13N R04E S6		SESW	T13N R04E S6		NESE
T13N R04E S6		NWSE	T13N R04E S6		SWSE
T13N R04E S6		SESE	T13N R04E S6	Lot 14	SESE
T13N R04E S7		NENE	T13N R04E S7	Lot 5	NENE
T13N R04E S7		NWNE	T13N R04E S7		SWNE
T13N R04E S7		SENE	T13N R04E S7		NENW
T13N R04E S7	Lot 1	NWNW	T13N R04E S7	Lot 2	SWNW
T13N R04E S7		SENW	T13N R04E S7		NESW
T13N R04E S7	Lot 3	NWSW	T13N R04E S7	Lot 4	SWSW
T13N R04E S7		SESW	T13N R04E S7		NESE
T13N R04E S7		NWSE	T13N R04E S7		SWSE
T13N R04E S7		SESE	T13N R04E S8		NENE
T13N R04E S8		NWNE	T13N R04E S8		SWNE
T13N R04E S8		SENE	T13N R04E S8		NENW
T13N R04E S8		NWNW	T13N R04E S8	Lot 1	NWNW
T13N R04E S8	Lot 3	NWNW	T13N R04E S8		SWNW
T13N R04E S8	Lot 2	SWNW	T13N R04E S8	Lot 3	SWNW

T13N R04E S8		SENE
T13N R04E S8	Lot 4	NESW
T13N R04E S8	Lot 3	NWSW
T13N R04E S8	Lot 6	SWSW
T13N R04E S8	Lot 5	SESW
T13N R04E S8		NWSE
T13N R04E S8		SESE
T13N R04E S9		NWNW
T13N R04E S9		SENE
T13N R04E S9		NWSW
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T13N R04E S17		NESW
T13N R04E S17	Lot 12	NESW
T13N R04E S17		SWSW
T13N R04E S17		SESW
T13N R04E S17	Lot 15	SESW
T13N R04E S17	Lot 9	NESE
T13N R04E S17		NWSE
T13N R04E S17		SWSE
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T13N R04E S18		NESW
T13N R04E S18	Lot 4	SWSW
T13N R04E S18		NESE
T13N R04E S18		SWSE
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T13N R04E S19		NWNE
T13N R04E S19	Lot 1	NWNW
T13N R04E S20		NWNE
T13N R04E S20	Lot 2	NWNE
T13N R04E S20	Lot 3	NENW
T14N R03E S23		SWNE
T14N R03E S23		SESW

T13N R04E S8		NESW
T13N R04E S8		NWSW
T13N R04E S8		SWSW
T13N R04E S8		SESW
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T13N R04E S17	Lot 10	NWSE
T13N R04E S17		SWSE
T13N R04E S17	Lot 17	SWSE
T13N R04E S17	Lot 17	SESE
T13N R04E S18		NWNE
T13N R04E S18		SENE
T13N R04E S18	Lot 1	NWNW
T13N R04E S18		SENE
T13N R04E S18	Lot 3	NWSW
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T13N R04E S20	Lot 1	NWNE
T13N R04E S20		NENW
T13N R04E S20		NWNW
T14N R03E S23		SENE
T14N R03E S23		NESE

T14N R03E S23		NWSE
T14N R03E S23		SESE
T14N R03E S24		SENE
T14N R03E S24		NWSW
T14N R03E S24		SESW
T14N R03E S24		SWSE
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T14N R03E S25		NWSW
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T14N R03E S36	Lot 3	NWNE
T14N R03E S36		SENE
T14N R03E S36		NENW
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T14N R04E S30	Lot 1	NWNW
T14N R04E S30		SENE
T14N R04E S30	Lot 3	NWSW
T14N R04E S30		SESW

T14N R03E S23		SWSE
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T14N R04E S30	Lot 2	SWNW
T14N R04E S30		NESW
T14N R04E S30	Lot 4	SWSW
T14N R04E S30		NWSE

Page 5 of 5

T14N R04E S30		SWSE	T14N R04E S31		NENE
T14N R04E S31		NWNE	T14N R04E S31		SWNE
T14N R04E S31		SENE	T14N R04E S31		NENW
T14N R04E S31		NWNW	T14N R04E S31	Lot 1	NWNW
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T14N R04E S31	Lot 2	SENE	T14N R04E S31	Lot 3	SENE
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T14N R04E S31		SWSW	T14N R04E S31	Lot 6	SWSW
T14N R04E S31	Lot 7	SWSW	T14N R04E S31		SESE
T14N R04E S31	Lot 6	SESE	T14N R04E S31	Lot 7	SESE
T14N R04E S31		NESE	T14N R04E S31		NWSE
T14N R04E S31		SWSE	T14N R04E S31		SESE
T14N R04E S32		SWNW	T14N R04E S32		NWSW
T14N R04E S32		SWSW			

Conditions of Approval:

1. PLACE OF USE WITHIN THE CITY LIMITS OF CASCADE.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Decreed Date: 10/31/2000

Cheever, Skyler

From: Cheever, Skyler
Sent: Tuesday, June 13, 2023 1:34 PM
To: mayor@cascadeid.us
Subject: Application for Extension of Time to Avoid Forfeiture for Water Right 65-10354

Hello,

I am currently reviewing your application for Extension of Time to Avoid Forfeiture. As is stands, without more information regarding use, nonuse is beyond the end of the 6th year of nonuse. The water right was decreed in 2000 and would be protected for that year. However, from 2001-2004 nonuse occurred, 4 years. Then the water right was leased into the water supply bank in 2005-2015 for an "indefinite" period. Then the lease was renewed for an additional 5 years, until the end of 2020. The water right was not leased into the WSB, nor an extension was filed for the next two years, 2021-2022. This means it would be unlikely the Department could grant an Extension without further information regarding when use was resumed. Pumping records, photographs, Aerial photograph, etc. could be used as evidence of use. In your application you state that use resumed on 5/17/2023, if you have any documented evidence of that please provide that to me. If you provide credible evidence, you could be exempt from forfeiture under Idaho Code § 42-223(12). If you have any questions, please let me know.

Best,

Skyler

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



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 Mathew Weaver

September 10, 2024

CITY OF CASCADE
PO BOX 649
CASCADE, ID 83611

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION FOR
EXTENSION OF TIME TO AVOID FORFEITURE FOR WATER RIGHT 65-10354**

Dear Applicant:

The Department of Water Resources Department acknowledges receipt of your Application for Extension of Time to Avoid Forfeiture. A preliminary review of your application has been completed and it has been determined that additional information is required to proceed with processing.

Please provide the following information within 30 days of the date of this letter or the application will be returned:

- In Section 5 on the application, you state beneficial use has been “ongoing as of May 17th, 2023”. What does “ongoing use” entail? How long has water been or is still being diverted? For what uses, lumped within municipal use, is WR 65-10354 utilized? If irrigation is occurring, where and how many acres? How much (diversion rate or volume) water is used and what is the duration of use?
- In Section 6 on the application, you state “this water right continues to replenish the groundwater relied upon the City of Cascade”. Please provide information confirming how much and often WR 65-10354 was used to “replenish groundwater” during the determined nonuse period (2001-2004, and 2021- Present).
- Any additional information confirming beneficial use of WR 65-10354 within the determined nonuse period when the WR was not leased into the Water Supply Bank (2001-2004 and 2021-Present). Information confirming beneficial use can include but is not limited to pumping/diversion records, confirmed irrigated acres, or information confirming any other use utilizing WR 65-10354 during the nonuse period.

The Department will continue processing your application once you have submitted the requested information. If you have questions regarding this matter, please contact me at (208)-287-4913 or skyler.cheever@idwr.idaho.gov.

Sincerely,

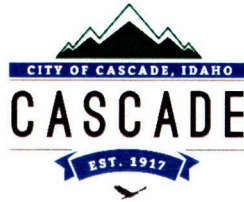
Skyler Cheever
Water Resource Agent, Sr – State Office
Idaho Department of Water Resources

Enclosures: Copy of Application for Extension of Time to Avoid Forfeiture.

RECEIVED

MAY 18 2023

DEPARTMENT OF
WATER RESOURCES



May 17, 2023

Jean Hersley
Idaho Department of Water Resources
322 E. Front St., Suite 648
Boise, ID 83702-0098

Re: Non-Forfeiture of Water Right No. 65-10354

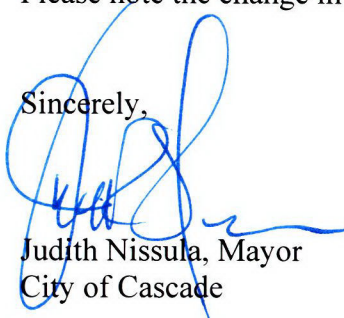
Dear Jean,

Enclosed, please find a copy of the City of Cascade response to the March 10, 2023 packet you sent related to the Water Right noted above.

1. \$100.00 fee payment;
2. Water Right Record (see enclosed); and
3. Response Letter (see enclosed).

Please note the change in mailing address for the City of Cascade.

Sincerely,



Judith Nissula, Mayor
City of Cascade

WHITE PETERSON

ATTORNEYS AT LAW

WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
CANYON PARK AT THE IDAHO CENTER
5700 E. FRANKLIN RD., SUITE 200
NAMPA, IDAHO 83687-7901

TEL (208) 466-9272

FAX (208) 466-4405

EMAIL: dgoodman@whitepeterson.com

KATELIN E. BARTLES
KELSY R. BRIGGS
MARC J. BYBEE
WM. F. GIGRAY, III
DANIEL W. GOODMAN
MATTHEW A. JOHNSON
BRYAN W. KNOX
WILLIAM F. NICHOLS *

BRIAN T. O'BANNON *
PHILIP A. PETERSON
WILLIAM L. PUNKONEY

TERRENCE R. WHITE
OF COUNSEL
WILLIAM F. "BUD" YOST
OF COUNSEL

* Also admitted in OR

RECEIVED

MAY 18 2023

DEPARTMENT OF
WATER RESOURCES

May 16, 2023

Jean Hersley
Idaho Department of Water Resources
322 E Front Street, Suite 648
Boise, ID 83702

Re: Non-Forfeiture of Water Right No. 65-10354

Dear Jean Hersley,

I am writing to you on behalf of the City of Cascade as their legal representative and in the capacity of City Attorney for the City of Cascade. We received your May 9, 2023 letter regarding Water Right No. 65-10354 which you claim has been abandoned or forfeited. Pursuant to I.C. §§ 42-223(2) and (12), this water right has not been lost through abandonment nor forfeiture and remains valid for the following reasons:

1. **Municipal Provider Status:** Water Right No. 65-10354 has been continuously held by the City of Cascade, which operates as a municipal provider, for the specific purpose of meeting reasonably anticipated future needs. As you are aware, I.C. § 42-223(2) expressly protects water rights held by a municipal provider to fulfill such needs. The City of Cascade has diligently managed and maintained this water right in accordance with the law and has not engaged in any activities indicating an intent to abandon nor forfeit it.
2. **Reasonably Anticipated Future Needs:** The quantity of water authorized for use under the license for Water Right No. 65-10354 remains necessary to meet reasonably anticipated future needs of the City of Cascade. The City of Cascade has thoroughly evaluated its current and projected water requirements, and it has determined that the full allocation of this water right is still essential to fulfill its current and future obligations as a municipal provider ensuring the sustainable development of the community.
3. **Resumption of Use:** Despite the passage of more than five (5) years of nonuse, the City of Cascade's submitted application seeking to re-release Water Right No. 65-10354 to the Water Supply Bank constitutes a resumption of use pursuant to I.C. § 42-223(12). Since no third party has made a claim of right to Water Right No. 65-10354 prior to (nor since) said application's submission, Water Right No. 65-10354 remains valid and has been neither abandoned nor forfeited.

Jean Hersley
Idaho Department of Water Resources
May 16, 2023
Page 2

Given these considerations, it is clear that Water Right No. 65-10354 has not been abandoned nor forfeited and thus cannot be subject to such a determination. The legislative intent behind I.C. § 42-223(2) is to safeguard water rights held by municipal providers, acknowledging their critical role in providing essential services to the public. The City of Cascade has met all statutory requirements and has actively maintained this water right for the sole purpose of meeting reasonably anticipated future needs.

As such, we respectfully insist that you acknowledge the validity of Water Right No. 65-10354 and dismiss any notions of abandonment or forfeiture. The City of Cascade remains committed to responsibly managing its water resources and ensuring the sustainable growth and development of the community it serves.

We look forward to a prompt resolution of this matter in accordance with the applicable provisions of the law. Thank you for your attention to this important issue.

Sincerely,

Daniel W. Goodman, City Attorney

"W:\Work\C\Cascade, City of 22248\DWG\Water Rights\2023.05.16 Response Letter to Water Supply Bank - Alleged Forefeiture of Right.doc"



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

May 9, 2023

CITY OF CASCADE
PO BOX 759
CASCADE ID 83611-0759

**RE: RETURNED APPLICATION(S) TO LEASE WATER RIGHT NO(S). 65-10354 TO THE
WATER SUPPLY BANK**

Dear Applicant:

The Department of Water Resources (Department) has completed its review of your application(s) to lease water right(s) to the Water Supply Bank (Bank). Based on that review, the Department cannot accept water right(s) 65-10354 into the Bank.

This letter is notice that the attached application to lease water to the Bank is being returned. The Bank rules provide criteria to be considered when determining whether to accept a water right into the Bank. One of the criteria for consideration is to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, *"All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."* The review of this water right found there appears to have been 6 years of non-use.

A letter was sent to you on February 28, 2023 requesting additional information to prove the right had not been lost through abandonment or forfeiture. As of the date of this letter, no information has been received.

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 consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have any questions, please contact the Department at (208) 287-4800.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure: Lease Application(s)

SCANNED

MAY 19 2023

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 27 2023

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant City of Cascade

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

Water Right No. 65-10354

(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 \$ 500Received By: KUDate Received: 2.27.22Receipt # C115422W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

City of Cascade

2607

SCANNED

FEB 27 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 City of Cascade

Mailing Address P.O. Box 759 Cascade Idaho 83611
Street City State Zip Code

Email Address mayor@cascadeid.us Phone Number (208) 382-4279

☒ 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 Judith R. Nissula Organization _____

Professional Title Mayor Email Address mayor@cascadeid.us

Mailing Address P.O. Box 759 Cascade, ID 83611 Phone Number (208) 382-4279

☐ 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**.

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.

Municipal water 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. 65-10353 and 65-3138 (these rights have the same place of use because they are municipal rights with the place of use being within the city limits of the City of Cascade).

- 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. Municipal general use.

- 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. Leased to supply bank since 2005.

- 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 ☒

SCANNED

MAY 09 2022 Page 3

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2023 to 2028 (maximum lease period 5 calendar years).
(Year) (Year)

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

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Signature of Designated Applicant

City of Cascade

01/19/2023

Printed Name

Date

Signature of Authorized Representative

Judith R. Nissula, Mayor

01/19/2023

Printed Name

Date

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

SCANNED

Page 4

MAY 09 2023

**STATE OF IDAHO
WATER RESOURCE BOARD**

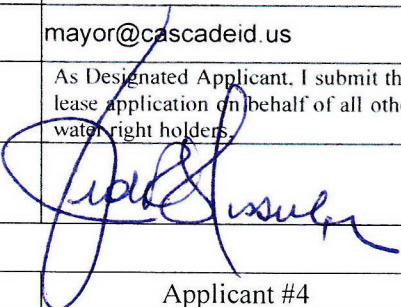
ATTACHMENT 1A

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). 65-10353; 65-3138; and 65-10354.

	Designated Applicant	Applicant #2	Applicant #3
Name	City of Cascade		
Mailing Address	P.O. Box 759 Cascade, Idaho 83611		
Phone Number	(208) 382-4279		
Email Address	mayor@cascadeid.us		
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			

ATTACHMENT 1B

SCANNED

MAY 09 2023

ATTACHMENT 1D

SCANNED

MAY 09 2023

**CITY OF CASCADE
VALLEY COUNTY, STATE OF IDAHO
RESOLUTION NO. 23-10**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CASCADE, VALLEY COUNTY, STATE OF IDAHO, MAKING CERTAIN FINDINGS; AUTHORIZING THE WATER DIVISION SUPERVISOR TO EXECUTE THREE APPLICATIONS TO LEASE THREE WATER RIGHTS TO THE WATER SUPPLY BANK; DIRECTING THE CITY CLERK; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED by the City Council of the City of Cascade, Valley County, State of Idaho:

Section 1. Findings

- 1.1 The City Council finds that the City of Cascade owns three (3) water rights designated as Water Right No. 65-3138, Water Right No. 65-10353, and Water Right No. 65-10354, that these water rights are not currently used by the City for its beneficial use of irrigation, and that it is in the best interests of the City to lease these water rights to the Idaho Water Supply Bank for a period of five (5) years in order to avoid forfeiture of said water rights due to nonuse.

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

Section 2. Authorizing

- 2.1 The City of Cascade, Mayor, in his/her capacity as the Mayor of the City of Cascade is hereby authorized to sign each of the Applications to Sell or Lease a Water Right to the Water Supply Bank on behalf of the City of Cascade for the purpose of leasing Water Right No. 65-3138, Water Right No. 65-10353, and Water Right No. 65-10354 to the Water Supply Bank for a period of five (5) years, and to represent the City of Cascade in all matters related to said Application.

Section 3. Directing the City Clerk

- 3.1 The City Clerk is hereby directed to file this Resolution forthwith in the official records of this City.

Section 4. Effective Date

- 4.1 This resolution shall be in full force and effect when passed and approved by the Mayor and City Council of the City of Cascade.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL of the City of Cascade this 13th day of February, 2023.

Signed: _____

Judith R. Nissula, Mayor

ATTEST:

I certify that the above Resolution was duly adopted by the City Council of the City of Cascade
on February 13, 2023 by the following vote:

Ayes: 4

Noes: 0

Absent: 0

By Janice Van Winkle
Janice Van Winkle, City Clerk

"W:\Work\C\Cascade, City of 22248\DWG\Resolutions\2023\02 - February\2023.02.03 Water Rights Lease
Resolution.docx"

**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>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
65-10354	Municipal	2.34 CFS	N/A	N/A
Total Amounts:				

2. Source of water Hazard Creek tributary to Cascade Reservoir

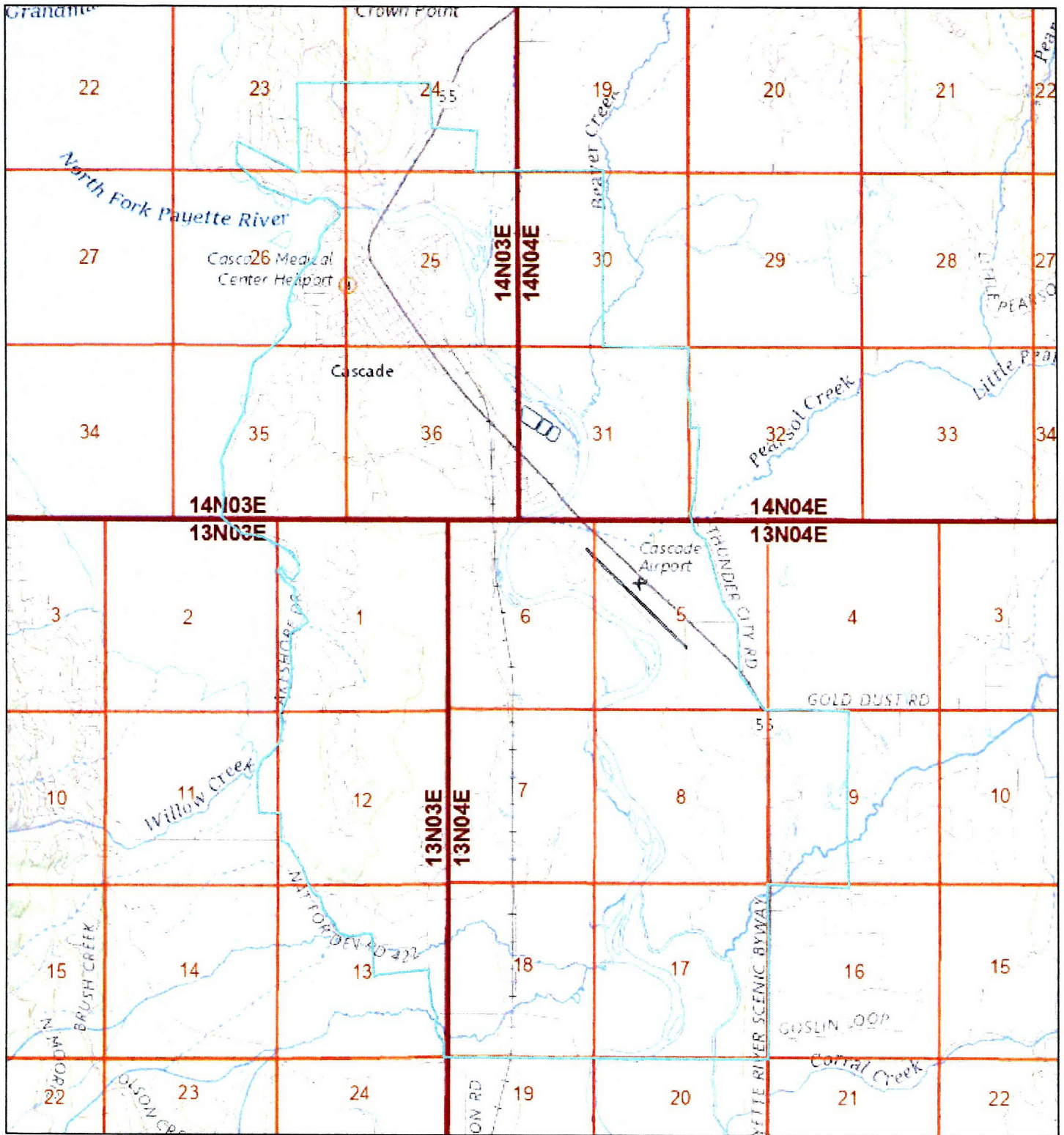
3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
14N	03E	3	3	NW	NW		Valley
14N	03E	33	3	NE	NW		Valley

ATTACHMENT 3

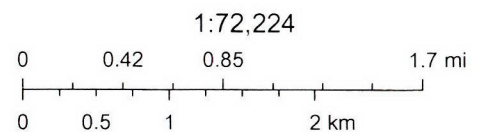
SCANNED

MAY 09 2023



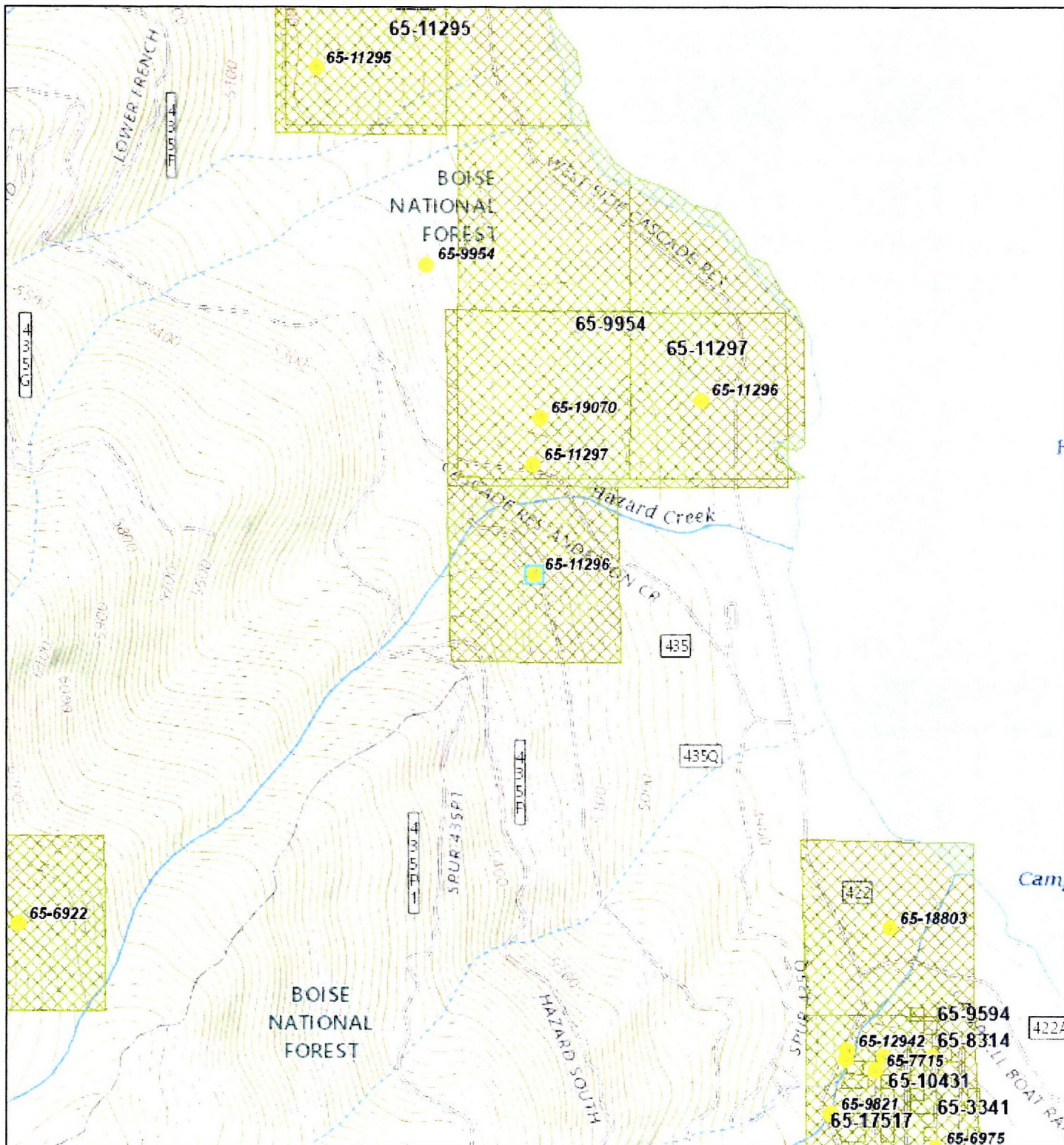
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- PLS Sections
- Townships



SCANNED

USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census



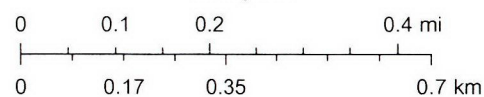
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POU - Water Rights

 All Other POU (non-provider)

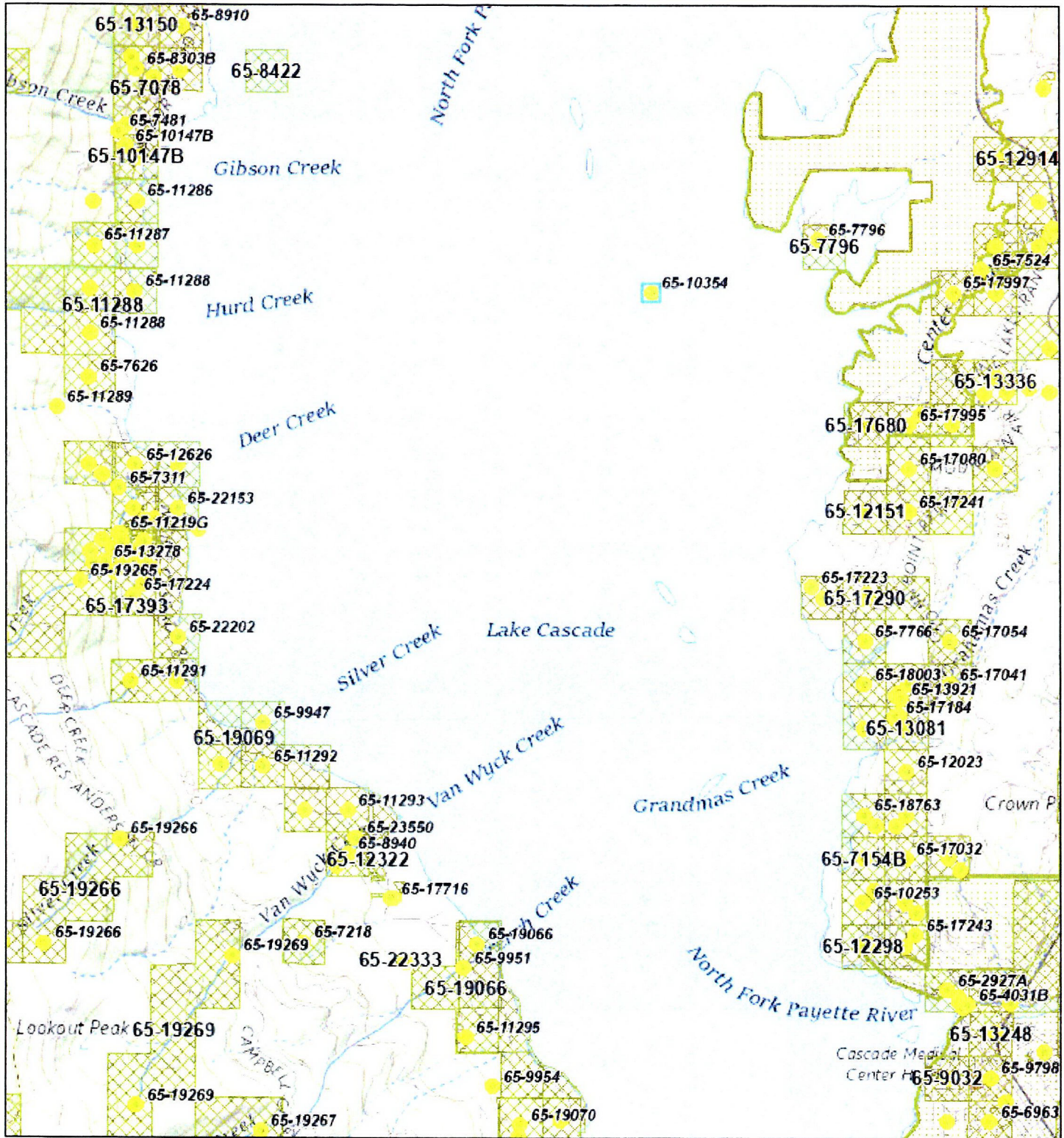
 POD - Water Rights

1:18,056



SCANNED

USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census



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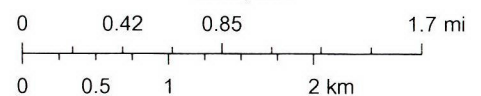
POU - Water Rights

 All Other POU (non-provider)

Irrigation Providers and Municipal Service Areas

POD - Water Rights

1:72,224



USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, May 9, 2023 11:02 AM
To: IdwrPayable
Subject: refund
Attachments: City of Cascade- WSB.doc

Please process the attached refund as soon as possible. Thank you.



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

MEMORANDUM

TO: Sascha Marston
FROM: Jean Hersley
DATE: May 9, 2023
RE: **Refund: WSB application returned**

Please refund \$250.

NAME: CITY OF CASCADE
PO BOX 759
CASCADE ID 836311-0759

RECEIPT #: C115422

Thank you.

Jean

SCANNED

MAY 09 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

February 28, 2023

CITY OF CASCADE
PO BOX 759
CASCADE ID 83611-0759

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO. 65-10354 TO THE WATER SUPPLY BANK**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed, and your application fee will be refunded:

- Additional information to prove this right has not been lost through abandonment or forfeiture. This right was decreed in 2000. It was placed in the Bank in 2005 and released from the Bank in 2020. Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated." There have been 6 years of non-use.

The department will continue processing your application once you have submitted the requested information. You can provide the requested information by responding to this letter or sending the documents via email to file@idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

for Water Supply Bank

SCANNED

MAY 09 2023