

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1668

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

LESSOR: JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE, ID 83313

RECEIVED

FEB 23 2023

DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on December 22, 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)
37-22124	7/1/1887	BIG WOOD RIVER, tributary to MALAD RIVER	0.05	Not Stated	1.1
37-23060	7/25/1966	GROUND WATER	0.04	3.90	1.1
Combined Limit Totals			0.09	Not Stated	1.1
Combined Lease Totals			0.09	Not Stated	1.1

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-22124	0.050	3.85	1.1	0.045	3.50
37-23060	0.040	3.90	1.1	0.036	3.55
Combined Limit Totals	0.090	3.85	1.1	0.082	3.50

** The water right elements rentable have been reduced from the water right elements leased to account for combined limits and include a defined volume limit that is based on the regional field headgate irrigation standard of 3.5 afa/acre.*

SUPPORT DATA
FILE # 37-22124

WATER SUPPLY BANK LEASE CONTRACT No. 1668

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, 2023 to December 31, 2025. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1668

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

LESSOR: JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE, ID 83313

By Jane Lodato
Title owner
Date Feb 8 2023

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 3/8/23

Lease approved by IDWR Phumman

Date 3/8/23

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1668

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): 37-22124

BIG WOOD RIVER NENE Sec. 35 Twp 02N Rge 18E BLAINE County

Source and Location of Point(s) of Diversion for Water Right No(s): 37-23060

GROUND WATER NWNENE Sec. 35 Twp 02N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-22124	IRRIGATION	04/15	to	10/31	0.05 cfs	Not Stated
37-23060	IRRIGATION	04/01	to	11/01	0.04 cfs	3.90 AF
37-22124	STOCKWATER	01/01	to	12/31	0.02 cfs	Not Stated
Totals:					0.090 cfs	Not Stated

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	
02N	18E	35	1.1																1.1

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	35	x																0.0

Total Acres: 1.1

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).

WATER SUPPLY BANK LEASE CONTRACT No. 1668

6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
13. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
14. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
15. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
16. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
17. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Section 42-222, Idaho Code, or other Department approval.
18. The unleased portion of right 37-22124 shall not exceed the irrigation of 0.4 acres.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1668

37-22124
Effective until December 31, 2024

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



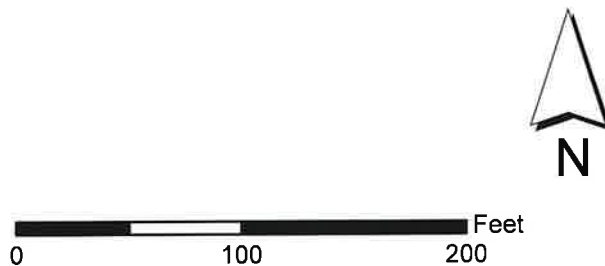
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1668

37-23060
Effective until December 31, 2024

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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 22 2022

DEPARTMENT OF
WATER RESOURCES

Designated Applicant

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

Jane Lodato

Water Right No.

37-22124
(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.

N/A

4G



Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Been used ongoing for irrigation
and then leased to Bank

Department Use Only

Fee Amount \$

250

Received By:

ku

Date Received:

12.22.22

Receipt #

C114941

W-9 received?

Yes ☒No ☐

(Route W-9 to Fiscal)

Name on W-9:

Jane Kathryn Lodato

2537

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 Jane Lodato
Mailing Address 19 East 88th St #4B New York NY 10128
Street City State Zip Code
Email Address janelodato@gmail.com Phone Number 415 9879677

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).
- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).
- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☒
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative _____ Organization _____
Professional Title _____ Email Address _____
Mailing Address _____ Phone Number _____

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

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.

water is not currently diverted from slough, in future a pump would be installed + attached to irrigation 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. *Ground water right 37-23060*

- 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. *Volume + rates of diversion not available -*

however pasture area was watered in past by tenants who had horses

- 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 ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒
 If lease, specify the years when the use of water will be suspended 2022 to 2027 (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.

Jane Lodato
Signature of Designated Applicant

Jane Lodato
Printed Name

10/17/2017
Date

Signature of Authorized Representative

Printed Name

Date

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

POU.pdf

Open with CloudConvert



**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>37-22124</u>	<u>Irrigation</u>	<u>0.05</u>	<u>3.85</u>	<u>1.1</u>
	<u>stock water</u>	<u>1.02</u>		
		<u>0.05</u>		
	Total Amounts:			

2. Source of water Big Wood River tributary to Malad River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
02N	18E	35					Blaine



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

March 9, 2023

JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE ID 83313

COPY

**RE: WATER SUPPLY BANK LEASE CONTRACT 1668
FOR WATER RIGHTS 37-22124 & 37-23060**

Dear Lessor:

Water right(s) **37-22124 & 37-23060** was/were leased into the Water Supply Bank (Bank) as of January 1, 2023, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right(s) will automatically be released from the Bank on **December 31, 2025**, 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- Southern Region Office
Water District No. 37



322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

January 27, 2023

JANE LODATO TRUST
C/O JANE LODATO
106 ELDERBERRY LN
BELLEVUE ID 83313

RE: APPLICATION TO LEASE WATER RIGHTS 37-22124 & 37-23060 TO THE WATER SUPPLY BANK CONTRACT 1668

******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, 2024**, 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

Hersley, Jean

From: jane lodato <jane.lodato@gmail.com>
Sent: Friday, January 27, 2023 8:43 AM
To: Hersley, Jean
Subject: Re: Water Supply Bank Lease for 37-23060

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 Jean.

Can you look up what I had leased previously (it expired 12/31), as I'm trying to simply repeat that. It's confusing as I don't really understand the difference- maybe we should talk?

Jane

On Jan 27, 2023, at 9:56 AM, Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

The Department is in the process of reviewing your applications to place water rights 37-22124 (surface water) and 37-23060 (groundwater) in the Water Supply Bank. It appears you would like to place 1.1 acres of irrigation and the stockwater use for water right 37-22124 in the Bank. I have attached the application for water right 37-23060. You stated you wanted a 1.1-acre portion of this water right in the Bank also, see attachment 2 of the application. The total irrigation for this right is 1.1 acres and there is no stockwater use. I am assuming you want to place the entirety of water right 37-23060 in the Bank and continue to irrigate 0.4 acres with water right 37-22124.

I will move forward with leasing these rights as follows: 1.1 acres of irrigation and the stockwater use of water right 37-22124 and the entirety of water right 37-23060. If this isn't correct, please let me know.

<image001.jpg>

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

<20230127074724.pdf>

Memo

To: 37-22124 & 37-23060

From: Jean Hersley

Date: 1/27/23

Re: WSB amounts

On January 27, 2023, I sent an email to Jane Lodato requesting clarification on how much of each water right she wanted to place in the Bank. She responded via email that she wanted the same as her last contract. She then called and asked to change the lease term to 2023 and 2024.

WATER SUPPLY BANK			Quick Tools	
Lease Review Checklist			Decreed Year	No Forfeiture Concerns Thru:
Applicant(s) Name: Jane Lodato Trust			2011	2017
Memo Date: January 6, 2023			2012	2018
Water Right Number(s): 37-22124 & 37-23060			2013	2019
Reviewers Name: Jean			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)			2010
	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		x	
8	Enlargement concerns	Check box		
	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	x		
11	Area Headgate requirement (write in Comments)			3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	
13	Narrative: The Department received these applications on December 22, 2022. The applicant wishes to place 1.1 acres and the stockwater from 37-22124 and the entirety of 37-23060 in the Bank. The parent of 37-23060, 37-2639B, and 37-22421 were decreed in 2010. The rights were involved in transfers in 2017, which validated the water rights. Before the transfers, there were no supplemental conditions on 37-23060. The portions offered to the Bank were placed in the Bank in 2018-2022. There are no issues with forfeiture. 37-22124 is an irrigation and stockwater right of 1.5 acres from the Big Wood River. 37-23060 is an irrigation right for 1.1 acres from ground water. This will leave 0.4 acres for irrigation around the house. These rights are currently within WD 37, Big Wood River moratorium, SRB area moratorium, BWR groundwater management area and the Galena Groundwater District.			

Hersley, Jean

From: Condon, Mary
Sent: Tuesday, January 17, 2023 4:25 PM
To: Hersley, Jean; Hummer, Phill; Parker, Cody
Subject: RE: water rights 37-22124 and 37-23060 to WSB

All,

First, it looks like on the 2017-2022 lease, they requested to lease in only 0.7 acres of the ground water, per their Attachment 2, but I leased the entire right. (I don't know why, but considering I was 3 months new it's likely a mistake). The new applications for 2023-2027 have a duplicate of the same attachment 2 for the surface right with them, so the one for the ground water right wasn't submitted to us for only 0.7 acres of the ground water. Both the previous and current lease applications state only a portion is offered of each right, and that they need to install a new pump to divert the surface right. The applicant should have resolved the pump issue during the last 5 years, and perhaps this should be a requirement before we approve another lease to avoid enlargement of the ground water right. A new lease for these rights should probably be as they requested, with 0.4 acres of both sources unleased.

Sunny with WD 37 is now aware of their delivery of ground water over surface water, and ***should*** work with them to resolve the discrepancy, but we can guide the applicants as well by sending an email that -1. While the attachment 2 for the ground water right was not included, the amount of ground water leased would only be 0.7 acres vs 1.1 acres. -2. They are required per a condition of their water rights to use the surface water first (-3. They are required to install a new surface water pump before we would lease in the remainder of the two rights into the bank to avoid enlargement of the rights).

Considering they asked to do something right the first time, and my mistake made them ***partially*** out of compliance, I don't think what they did in the past was entirely their fault. We should work to set them up for success going forward.

Thanks,
Mary

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Tuesday, January 17, 2023 3:45 PM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>; Hummer, Phill <Phill.Hummer@idwr.idaho.gov>; Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: FW: water rights 37-22124 and 37-23060 to WSB

I sent an email to the watermaster (see below) and she isn't sure why the water hasn't been delivered. I am going to send an email to the applicant and the attorney that has helped her in the past to see if I can get some answers. I am not sure how to state that we could place the entirety of the surface water right in the Bank and 0.7 acres of the groundwater right so she can continue to irrigate 0.4 acres but then we will turn this over to compliance for a violation if there is in fact a violation. Below is what I have started:

I am in the process of reviewing these applications to lease a portion of 37-22124 (surface water) and all of 37-23060 (groundwater) to the Water Supply Bank. It appears you wish to continue to irrigate 0.4 acres with the groundwater right, 37-23060 as there is no system in place to divert the surface water right, 37-22124. There is a condition on water right 37-23060 that states: *"The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this*

right. The right holder may divert ground water under this right to irrigate and with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Section 42-222, Idaho Code, or other Department approval." This condition makes the groundwater right a supplemental right. The transfer approved in 2017 was to move the point of diversion. It appears that this has not been accomplished within the one-year time frame allowed with the transfer.



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

From: watermanager <watermanager@wd37.org>
Sent: Tuesday, January 17, 2023 2:17 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: water rights 37-22124 and 37-23060 to WSB

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'm not sure exactly when or why they have not been receiving delivery. I am guessing they need to do some work on their delivery system to receive water from the Broadford Slough to their property.

Sunny Healey
Water District 37
208-309-0034

From: watermstr <watermstr@wd37.org>
Sent: Friday, January 13, 2023 9:07 AM
To: watermanager <watermanager@wd37.org>
Subject: FW: water rights 37-22124 and 37-23060 to WSB

Sorry, I thought I sent you this yesterday!!

Thanks!

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Thursday, January 12, 2023 1:05 PM

To: watermstr <watermstr@wd37.org>

Subject: water rights 37-22124 and 37-23060 to WSB

These rights are owned by the Jane Lodato Trust. 37-22124 is a surface water right from the Big Wood River (Irrigation of 1.5 acres and stockwater). 37-23060 is a supplemental groundwater right (irrigation of 1.1 acres). Jane would like to put the entirety of these rights in the Bank, except 0.4 acres of the surface water right. She wants to continue to irrigation 0.4 acres.

However, it appears that the surface water right has not been delivered since at least 2005. The water comes from the Broadford Slough. Why hasn't the surface water ever been delivered?

Please let me know if you need additional information or have any questions. Please respond within 30 days so I can continue reviewing this application.



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