

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1813

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

LESSOR: CITY OF CHUBBUCK
290 E LINDEN AVE
CHUBBUCK, ID 83202-1802

RECEIVED

MAR 13 2024

DEPT. 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 November 01, 2023.
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)
29-14012	8/19/1952	GROUND WATER	1.83	489
Combined Lease Totals			1.83	489

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)
29-14012	1.83	489	122.2	0.015	4.00
Combined Limit Totals	1.83	489	122.2	0.015	4.00

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, 2024 to December 31, 2024. This Lease shall bind the parties and take effect when both parties have signed it.

WATER SUPPLY BANK LEASE CONTRACT No. 1813

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

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

LESSOR: CITY OF CHUBBUCK
290 E LINDEN AVE
CHUBBUCK, ID 83202-1802

By 
Title Mayor
Date 8 Mar 2024

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 3/14/24

Lease approved by IDWR 

Date 3/14/24

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1813

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): 29-14012

GROUND WATER	SWSESW	Sec. 4	Twp 06S	Rge 34E	BANNOCK County
GROUND WATER	L13 SWSW	Sec. 10	Twp 06S	Rge 34E	BANNOCK County
GROUND WATER	NWNWSW	Sec. 3	Twp 06S	Rge 34E	BANNOCK County
GROUND WATER	SENWSW	Sec. 34	Twp 05S	Rge 34E	BANNOCK County
GROUND WATER	L4 NENWNW	Sec. 11	Twp 06S	Rge 34E	BANNOCK County
GROUND WATER	L2 NWNE	Sec. 4	Twp 06S	Rge 34E	BANNOCK County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
29-14012	MUNICIPAL	04/01	to	10/31	1.83 cfs	489 AF
Totals:					1.83 cfs	489 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: MUNICIPAL

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
05S	34E	33																X
05S	34E	34								X	X	X	X	X	X	X	X	X
06S	34E	2						X L4	X	X	X	X	X	X		X	X	
06S	34E	3	X L1	X L2	X	X	X L3	X L4	X	X	X	X	X	X	X	X	X	X
06S	34E	4	X L1	X L2	X	X	X L3			X	X	X	X	X	X	X	X	X
06S	34E	5													X	X	X	X
06S	34E	8	X L1				X L8											
06S	34E	9	X L1	X L2	X L7	X L8	X L3	X L4	X L5	X L6					X L9	X L10		
06S	34E	10	X L1	X L2	X L7	X L8	X L3	X L4	X L5	X L6	X L11	X L12	X L13	X L14	X L9	X L10	X L15	
06S	34E	11	X L1	X L2	X L7	X L8	X L3	X L4	X L5	X L6		X L12						
06S	34E	12						X L4	X L5									
06S	34E	15		X L2			X L3	X L4										

WATER SUPPLY BANK LEASE CONTRACT No. 1813

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.
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. Diversion of water from the point(s) of diversion authorized under Transfer 80952 shall not exceed a total combined maximum diversion rate as specified below: SENWSW, Sec. 34, T05S, R34E, B.M. limited to 22.216 cfs. SWSESW, Sec. 04, T06S, R34E, B.M. limited to 15.066 cfs. Lot 2 (NWNE), Sec. 4, T06S, R34E, B.M limited to 4.90 cfs.
13. Place of use is within the service area of the City of Chubbuck municipal water supply system as provided for under Idaho Law.
14. 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. 120.
15. The irrigation component of municipal use under this right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate.

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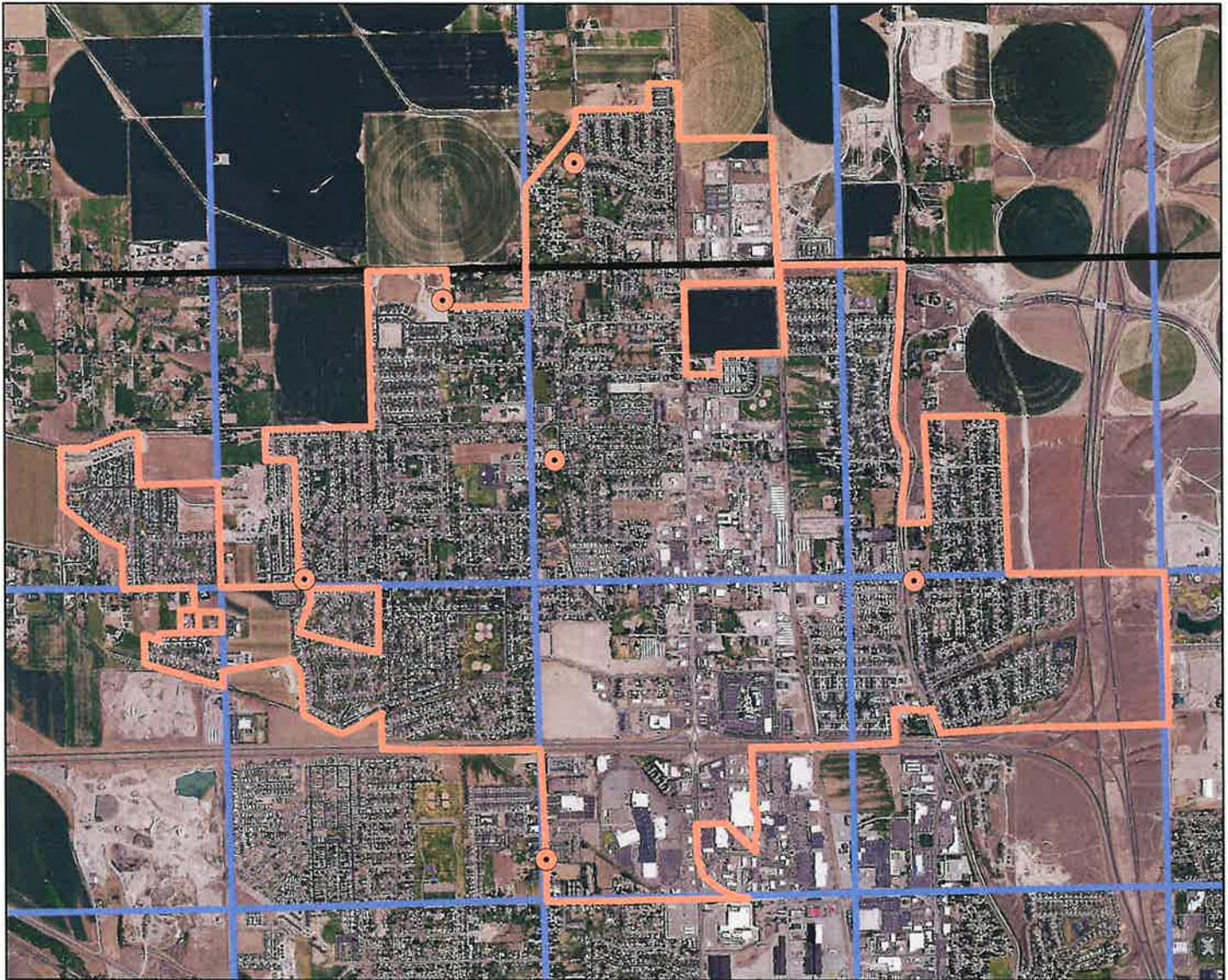
16. This right is limited to the irrigation of 122.2 acres within the authorized place of use in a single irrigation season.
17. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustrative purposes.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1813

29-14012

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



0 0.5 1 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
NOV 01 2023
DEPARTMENT OF
WATER RESOURCES

Designated Applicant City of Chubbuck Water Right No. 29-14012
(Select one owner – see item 1A on the application) (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 <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$250.00	Received By: <u>MJ</u>	Date Received: <u>11/1/2023</u>	Receipt # <u>C117258</u>
W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

2804

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 Chubbuck

Mailing Address <u>290 E. Linden Ave</u>	<u>Chubbuck</u>	ID <u>83202</u>	
Street	City	State	Zip Code

Email Address b Morrison@cityofchubbuck.us Phone Number (208) 237-2430

☒ 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 Jason C. Helms, PE Organization JCH Civil, LLC

Professional Title Consultant Email Address jasoncivil@alumni.nd.edu

Mailing Address 3158 NE Follett St. Roseburg, OR 97470 Phone Number (208) 308-2109

☐ 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.

City of Chubbuck municipal water delivery system

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. Rights 29-2385, 2413, 2469, 7624, 8188, 8229, 8230, 14016, 14054, 14055, 14056, 14058, 14080, 14081, 14082, 14096, 14097, 14099, 14106 and 14107 will be in active use. The entirety of right 29-14012 and a portion of 29-14013 are proposed for lease from the common points of diversion and place of use.

- 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. Combined limits of water rights will be maintained as authorized.

- 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. Diversion volumes reported annually.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?

If yes, describe.

Yes ☐ No ☒

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: 2024 to 2024 (maximum lease period 5 calendar years).
(Year) (Year)

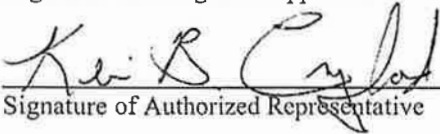
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate.

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:

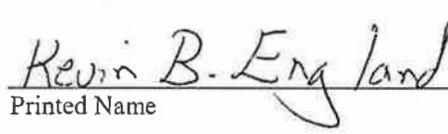
1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the 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



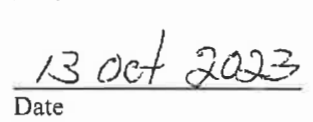
Signature of Authorized Representative

Printed Name



Printed Name

Date



Date

Mail to:

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

Rental 1								
				<i>Etransfer_V3_4-PEP_WSB2024-rental1.xls</i>				
water right	owner	lease term	rental term	priority	rate [cfs]	ac	vol [afa]	ESPA Cell
29-14012	City of Chubbuck	2024	2013-2024	8/19/1952	1.67	111.2	444.8	96,122
35-4062	Lindholm, P & P	2022-2026	2022-2024	5/1/1955	1.99	132.8	531.2	72,132
35-14041	LCSC Enterprises	2024	2024	10/16/1974	0.26	26.0	104.0	66,128
				TOTAL:	3.92	270.0	1080.0	77,106
Rental 2								
				<i>Etransfer_V3_4-PEP_WSB2024-rental2-part1.xls</i>				
water right	owner	lease term	rental term	priority	rate [cfs]	ac	vol [afa]	ESPA Cell
29-14013	City of Chubbuck	2024	2013-2024	8/19/1952	0.42	30.3	121.2	96,122
35-4062	Lindholm, P & P	2022-2026	2022-2024	5/1/1955	1.19	79.2	316.8	72,132
29-14263	Hart, R.	2022-2024	2024	2/28/1958	0.31	31.8	127.0	97,124
				subtotal	1.92	141.3	565.0	77,105
				<i>Etransfer_V3_4-PEP_WSB2024-rental2-part2.xls</i>				
water right	owner	lease term	rental term	priority	rate [cfs]	ac	vol [afa]	ESPA Cell
29-13143	Rupp, HL Sr. Trust	2021-2025	2022-2024	6/2/1953	0.17	37.6	71.0	96,124
29-13144				6/9/1953	0.38	84.5	159.7	96,124
29-2292				10/14/1950	1.27	109.0	436.0	96,124
35-13711	Larsen, M & N	2022-2026	2022-2024	4/28/1972	1.08	75.2	300.8	73,134
35-14041	LCSC Enterprises	2024	2024	10/16/1974	0.43	43.8	175.2	66,128
				subtotal	3.32	228.0	912.0	77,105
				TOTAL:	5.24	369.3	1477.0	77,105
Rental 3								
				<i>Etransfer_V3_4-PEP_WSB2024-rental3.xls</i>				
water right	owner	lease term	rental term	priority	rate [cfs]	ac	vol [afa]	ESPA Cell
29-14012	City of Chubbuck	2024	2013-2024	8/19/1952	0.16	11.0	44.0	96,122
29-14013	City of Chubbuck	2024	2013-2024	8/19/1952	1.07	77.5	310.0	96,122
35-14041	LCSC Enterprises	2024	2023-2024	10/16/1974	1.10	111.2	444.8	66,128
29-2395	Hart, J & D	2024-2028	2023-2024	2/28/1958	0.20	20.3	81.2	97,124
				TOTAL:	2.53	220.0	880.0	77,111
				Grand Total:	11.69	859.3	3437.0	
Proposed rentals summed by water right								
water right	owner	lease term	rental term	priority	rate [cfs]	ac	vol [afa]	ESPA Cell
29-2292	Rupp, HL Sr. Trust	2021-2025	2022-2024	10/14/1950	1.27	109.0	436.0	96,124
29-13143				6/2/1953	0.17	37.6	71.0	96,124
29-13144				6/9/1953	0.38	84.5	159.7	96,124
29-2395	Hart, J & D	2024-2028	2023-2024	2/28/1958	0.20	20.3	81.2	97,124
29-14012	City of Chubbuck	2024	2013-2024	8/19/1952	1.83	122.2	488.8	96,122
29-14013	City of Chubbuck	2024	2013-2024	8/19/1952	1.49	107.8	431.2	96,122
29-14263	Hart, R.	2022-2024	2024	2/28/1958	0.31	31.8	127.0	97,124
35-4062	Lindholm, P & P	2022-2026	2022-2024	5/1/1955	3.18	212.0	848.0	72,132
35-13711	Larsen, M & N	2022-2026	2022-2024	4/28/1972	1.08	75.2	300.8	73,134
35-14041	LCSC Enterprises	2024	2024	10/16/1974	1.78	181.0	724.0	66,128
				Grand Total:	11.69	859.3	3437.0	



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

March 14, 2024

CITY OF CHUBBUCK
290 E LINDEN AVE
CHUBBUCK, ID 83202-1802

**RE: WATER SUPPLY BANK LEASE CONTRACT 1813
FOR WATER RIGHT 29-14012**

Dear Lessor:

Water right **29-14012** is leased into the Water Supply Bank (Bank) as of January 2024 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, 2024**, unless the rights are released earlier by the Water Resource Board (Board). 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 are rented.**

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

Sincerely,
Signature

Catalina Beck

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region Office
Water District No. 120



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

February 22, 2024

RECEIVED

MAR 13 2024

DEPT. OF WATER RESOURCES

CITY OF CHUBBUCK
290 E LINDEN AVE
CHUBBUCK, ID 83202-1802

**RE: APPLICATION TO LEASE WATER RIGHTS 29-14012 TO THE WATER SUPPLY BANK
CONTRACT 1813**

******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,

Catalina Beck

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

MEMORANDUM FOR APPLICATIONS #2804 & #2805

To: Water Right(s) 29-14012 & 29-14013
From: Mackenzie Kienholz
Date: 2/9/2024
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE: Applications #2804 and #2805 to lease the entirety of right 29-14012 and a 107.8 acre portion of right 29-14013, respectively, were submitted by Jason C. Helms (JCH Civil, LLC) on behalf of the City of Chubbuck and were received by the Department on 11/1/2023. These lease applications were submitted with rental applications for PEP, LLC. Both rights are for municipal use, but designated for irrigation, and have a combined limit of 285.0 acres. Right 29-14012 has a condition limiting it to the irrigation of 122.2 acres; right 29-14013 has a condition limiting it to the irrigation of 162.8 acres. Therefore, the combined limit for these rights is additive and they can be rented independently.

Both water rights are within the ESPA GWMA and WD 120.

AUTHORITY TO FILE: Both water rights are owned by the City of Chubbuck. The applications were signed by Kevin B. England who is the mayor of the City of Chubbuck. No concerns with authority to file.

WATER RIGHT VALIDITY: Both rights have undergone several splits since parent rights 35-2241A and 35-2242 were decreed on January 31, 2002.

*35-2241A split into 35-14032 split into 35-14069 split into 35-14149 split into **29-14012***

*35-2242 split into 35-14019 split into 35-14157 split into **29-14013***

Child rights 29-14012 and 29-14013 and/or their parent rights have been leased to the Water Supply Bank since 2011. See the attached copy of a memorandum from Shelley Keen dated September 1, 2011 regarding the forfeiture protections from 2002-2011 of rights 35-14069 and 35-14019, which are parent rights of rights 29-14012 and 29-14013.

No concerns with validity of the water right and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Lease of this water right would not cause injury to other water rights. Proper review to prevent injury if rented.

ENLARGEMENT OF USE: While the rights have a combined limit of 285 acres, this limit is additive not restrictive. 29-14012 nor 29-14013 are combined with any other rights and can therefore be rented independently. There are many other municipal rights that will continue to be used within the POU boundary, but as previously stated, rights 29-14012 and 29-14013 do not have any combined limits that would restrict them from being separated from these other municipal rights.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the lease POD is subject to Water District #120. A request for comments was sent to the WD 120 watermaster and IDWR Eastern Regional Office on 2/9/2024.

MEMORANDUM

DATE: September 1, 2011

TO: Water Right Files 35-14069 and 35-14019

FROM: Shelley W. Keen SWK

RE: Forfeiture protections

Issue

The following timeline was developed to address these two questions:

- Have portions of Rights 35-2241A and 35-2242 been forfeited because resumption notices were not submitted?
- How should IDWR respond to the unprocessed request for extension of time to avoid forfeiture of a portion of Right 35-14032?

Timeline

Right 35-2241A was decreed on January 31, 2002.

Right 35-2242 was decreed on January 31, 2002.

On May 21, 2007, IDWR rejected applications to lease Rights 35-2241A and 35-2242 to the Water Supply Bank (WSB). IDWR based the rejections primarily on lack of evidence that the rights had not been forfeited due to five years of non-use. However, on July 5, 2007, IDWR determined that Rights 35-2241A and 35-2242 had not been forfeited. IDWR based its conclusion on the fact that IDWR had not processed Transfer Application 72724 (subsequently withdrawn), which had been filed on January 12, 2006. The transfer applicant had not pursued forfeiture protection earlier because he expected the transfer to be processed and the rights to be in use by 2007. IDWR encouraged the owner of Rights 35-2241A and 35-2242 to resubmit WSB lease applications.

On December 24, 2007, IDWR received the right holder's request for extension of time to avoid forfeiture for Rights 35-2241A (38 acres) and 35-2242 (33 acres). The request was finally approved on January 6, 2010. The extension protected 71 acres from forfeiture through October 31, 2010.

Memo: Forfeiture protections for Rights 35-14069 and 35-14019

September 1, 2011

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On June 7, 2010, IDWR approved Transfer 76491 splitting Right 35-2242 into Rights 35-14019 and 35-14020. It is not clear whether the extension request approved in January applied to one or both of the splits.

On September 1, 2010, IDWR sent notice that resumption of use for Rights 35-2241A and 35-2242 (now 35-14019 and 35-14020) would be due October 31, 2010.

On September 14, 2010, IDWR approved Transfer 76655 splitting Right 35-2241A into Rights 27-12215 and 35-14032. It is not clear whether the extension request approved in January applied to one or both of the splits.

On September 20, 2010, IDWR received a Resumption of Beneficial Use notice for Right 35-14020 (4 acres).

On September 29, 2010, IDWR received the following four items:

- An application for extension of time to avoid forfeiture of 39.4 acres of Right 35-2241A (later split into 35-14032 and then into 35-14069). This is the application that has not been addressed by IDWR.
- An application for extension of time to avoid forfeiture of 41.7 acres of Right 35-14019.
- An application to lease 39.4 (later amended to 38.4) acres of Right 35-2241A (later split into 35-14032 and then into 35-14069) into the WSB.
- An application to lease 41.7 acres of Right 35-14019 into the WSB.

Both extensions of time to avoid forfeiture and enrollment in the WSB protect rights from forfeiture. Essentially, the applicant filed the extension requests because the WSB applications were taking a long time to be processed.

On October 4, 2010, IDWR returned the request for extension of time to avoid forfeiture of Right 35-14019 because it was about to be leased into the WSB. Although Right 35-14032 would soon also be leased to the WSB, its extension request was not returned.

On October 13, 2010, 80.1 acres of Rights 35-14032 (38.4 acres) and 35-14019 (41.7 acres) were leased to the Water Supply Bank. The lease expiration date was December 31, 2015.

On October 31, 2010, notices of resumption of beneficial use were due for Rights 35-2241A (now 35-14032) and 35-2242 (now 35-14019 and 35-14020). A resumption of beneficial use notice was received timely only for Right 35-14020. It seems that the right holder pursued the leases approved on October 13, 2010, instead of resuming use and filing a Resumption of Beneficial Use.

Memo: Forfeiture protections for Rights 35-14069 and 35-14019

September 1, 2011

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On February 1, 2011, IDWR approved Transfer 76296 splitting Right 35-14032 into Rights 35-14069 (267.2 acres) and 35-14070 (3.5 acres). It is not clearly indicated in the file, but it seems that the 38.4 acre portion of Right 35-14032 in the WSB became part of Right 35-14069.

On May 2, 2011, IDWR accepted all of Rights 35-14019 and 35-14069 into the Water Supply Bank. The lease expiration date is December 31, 2012. The October 2010 lease of a portion of Right 35-14032 was superseded by the lease of Right 35-14069.

On May 11, 2011, IDWR received a Resumption of Beneficial Use notice for Right 35-14070 (3.5 acres).

Conclusion

Idaho Code § 42-222(4)(d) states:

If the use of the water has not been resumed and report thereon made on or before the date set for resumption of use such right shall revert to the state and again be subject to appropriation, as provided in this section.

Resumption of use was not provided timely for portions of Rights 35-14069 and 35-14019. However, it is not clear whether resumption of use is required if other defenses to forfeiture, such as enrollment in the Water Supply Bank, apply. It is unlikely that IDWR would pursue a forfeiture decision due to non-submittal of the resumption report. However, other parties may seek a finding of forfeiture from IDWR based on the resumption requirement.

As for the pending application for extension of time to avoid forfeiture of Right 35-14069, since the right is in the Water Supply Bank and, therefore, protected from forfeiture already [unless the protection does not trump the resumption requirement of Idaho Code § 42-222(4)(d)], I recommend asking the applicant to withdraw the application or denying it. If the application were approved, it would establish the requirement that use be resumed by a certain date. If the right holder would rather leave the right in the Water Supply Bank instead of resuming use, approving the extension request would repeat the dilemma between the requirement to resume use and the reliance on other defenses to forfeiture.

Kienholz, Mackenzie

From: Kienholz, Mackenzie
Sent: Friday, February 9, 2024 2:51 PM
To: Jason Helms
Subject: RE: Confirming Lease Amounts for 29-14012

Hi Jason,

Thank you for checking. I noticed that I completely switched the two rights in my mind when I sent my first email, but nonetheless I will make the requested changes for 29-14013. I should have my final drafts for these leases and rentals completed and ready for supervisor review today.

Thank you and have a great weekend,

Mackenzie Kienholz
Water Supply Bank Specialist



IDAHO DEPARTMENT OF
WATER RESOURCES

Planning & Projects

Mackenzie.kienholz@idwr.idaho.gov

Phone: (208) 287-4822

From: Jason Helms <jasoncivil@alumni.nd.edu>
Sent: Friday, February 9, 2024 2:38 PM
To: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: Re: Confirming Lease Amounts for 29-14012

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.

Hi Mackenzie,

I talked with the City of Chubbuck and based on current peak diversion they can place 4.02 cfs in the water supply bank. If the total 1.83 cfs of 29-14012 is leased then an additional 2.19 cfs (158.8 acres/635.1 afa) can be leased under 29-14013.

The updated attachment for the lease portion is attached.

Thanks,

Jason C. Helms, PE
JCH Engineering & Consulting, PLLC
208-308-2109

On Thu, Feb 8, 2024 at 9:42 AM Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov> wrote:

Jason,

I am finalizing my reviews of the leases and rentals for James Hart, City of Chubbuck, County Line Farms, and PEP LLC. The lease application for 29-14012 states that a 107.8 acre portion is offered for lease, however the rentals request the full 122.2 acres of this water right. How much of 29-14012 is being offered for lease? There should be enough water left from 29-14013 to cover the rentals, but I need to clarify the lease amounts.

Thank you,

Mackenzie Kienholz

Water Supply Bank Specialist



Planning & Projects

Mackenzie.kienholz@idwr.idaho.gov

Phone: (208) 287-4822

**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

I. <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)
29-14013	Irrigation	1.49	431.2	107.8
Total Amounts:		1.49	431.2	107.8

Grand Total:					11.69	859.3	3437.0	
Proposed rentals summed by water right								
water right	owner	lease term	rental term	priority	rate [cfs]	ac	vol [afa]	ESPA Cell
29-2292	Rupp, HL Sr. Trust	2021-2025	2022-2024	10/14/1950	1.27	109.0	436.0	96,124
29-13143				6/2/1953	0.17	37.6	71.0	96,124
29-13144				6/9/1953	0.38	84.5	159.7	96,124
29-2395	Hart, J & D	2024-2028	2023-2024	2/28/1958	0.20	20.3	81.2	97,124
29-14012	City of Chubbuck	2024	2013-2024	8/19/1952	1.83	122.2	488.8	96,122
29-14013	City of Chubbuck	2024	2013-2024	8/19/1952	1.49	107.8	431.2	96,122
29-14263	Hart, R.	2022-2024	2024	2/28/1958	0.31	31.8	127.0	97,124
35-4062	Lindholm, P & P	2022-2026	2022-2024	5/1/1955	3.18	212.0	848.0	72,132
35-13711	Larsen, M & N	2022-2026	2022-2024	4/28/1972	1.08	75.2	300.8	73,134
35-14041	LCSC Enterprises	2024	2024	10/16/1974	1.78	181.0	724.0	66,128
Grand Total:					11.69	859.3	3437.0	

Kienholz, Mackenzie

From: Cefalo, James
Sent: Friday, February 9, 2024 4:16 PM
To: Kienholz, Mackenzie
Subject: RE: Comments Request - J Hart & City of Chubbuck Leases

Mackenzie,

I don't have any concerns with the proposed WSB Leases.

James

From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Sent: Friday, February 9, 2024 3:54 PM
To: Jordan, Blake <Blake.Jordan@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: Comments Request - J Hart & City of Chubbuck Leases

Good afternoon,

Please see the attached lease review documents for the following applications:

Lease Application #2786, James W Hart, WR 29-2395
Lease Application #2804, City of Chubbuck, WR 29-14012
Lease Application #2805, City of Chubbuck, WR 29-14013

Kindly respond with any questions or comments within 10 days.

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist



Planning & Projects
Mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

Kienholz, Mackenzie

From: Kienholz, Mackenzie
Sent: Friday, February 9, 2024 3:54 PM
To: Jordan, Blake; Cefalo, James
Cc: Bank
Subject: Comments Request - J Hart & City of Chubbuck Leases
Attachments: Lease Review Memo 29-14012 & 29-14013 - City of Chubbuck 2024.pdf; Lease Map 29-14012.pdf; Lease Map 29-14013.pdf; Lease Review Memo App 2786 J Hart 2024.pdf; Lease Map 29-2395 2024.pdf

Good afternoon,

Please see the attached lease review documents for the following applications:

Lease Application #2786, James W Hart, WR 29-2395
Lease Application #2804, City of Chubbuck, WR 29-14012
Lease Application #2805, City of Chubbuck, WR 29-14013

Kindly respond with any questions or comments within 10 days.

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist



Planning & Projects

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Phone: (208) 287-4822