STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1781

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

LESSOR: SCOTT W BROWN FAMILY TRUST
PO BOX 131
SODA SPRINGS, ID 83276-0131

RECEIVED
Mar 11, 2024
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 October 27, 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)	Acres (AC)
11-991B	5/1/1887	FORMATION SPRING CREEK, tributary to SINKS	0.40	Not Stated	20
Lease Totals			**0.40**	**Not Stated**	**20**

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)
11-991B	0.40	70.0	20	0.02	3.5
Combined Limit Totals	**0.40**	**70.0**	**20**	**0.02**	**3.5**

**** The water right elements rentable have been changed from the water right elements leased to account for the inclusion of a diversion volume.***

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

WATER SUPPLY BANK LEASE CONTRACT No. 1781

3. **TERM OF LEASE**: The term of this lease shall be January 1, 2023 to December 31, 2027. 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. 1781

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

LESSOR: SCOTT W BROWN FAMILY TRUST
PO BOX 131
SODA SPRINGS, ID 83276-0131

By _____
Title ~~3-7-24~~ TRUSTEE
Date 3-7-24

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

By _____ Date 3/12/24
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 3/12/24

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1781

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): 11-991B

FORMATION SPRING CREEK	SWSE	Sec. 28	Twp 08S	Rge 42E	CARIBOU County
FORMATION SPRING CREEK	NESE	Sec. 28	Twp 08S	Rge 42E	CARIBOU County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
11-991B	IRRIGATION	04/15	to	10/31	0.40 cfs	70.0 AF
				Totals:	0.40 cfs	70.0 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	42E	29				20													20

Total Acres: 20

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.

WATER SUPPLY BANK LEASE CONTRACT No. 1781

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. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
13. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
14. The unleased portion of water right 11-991B shall not exceed a total diversion rate of 5.60 cfs, and the irrigation of 280 acres.
15. This lease when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

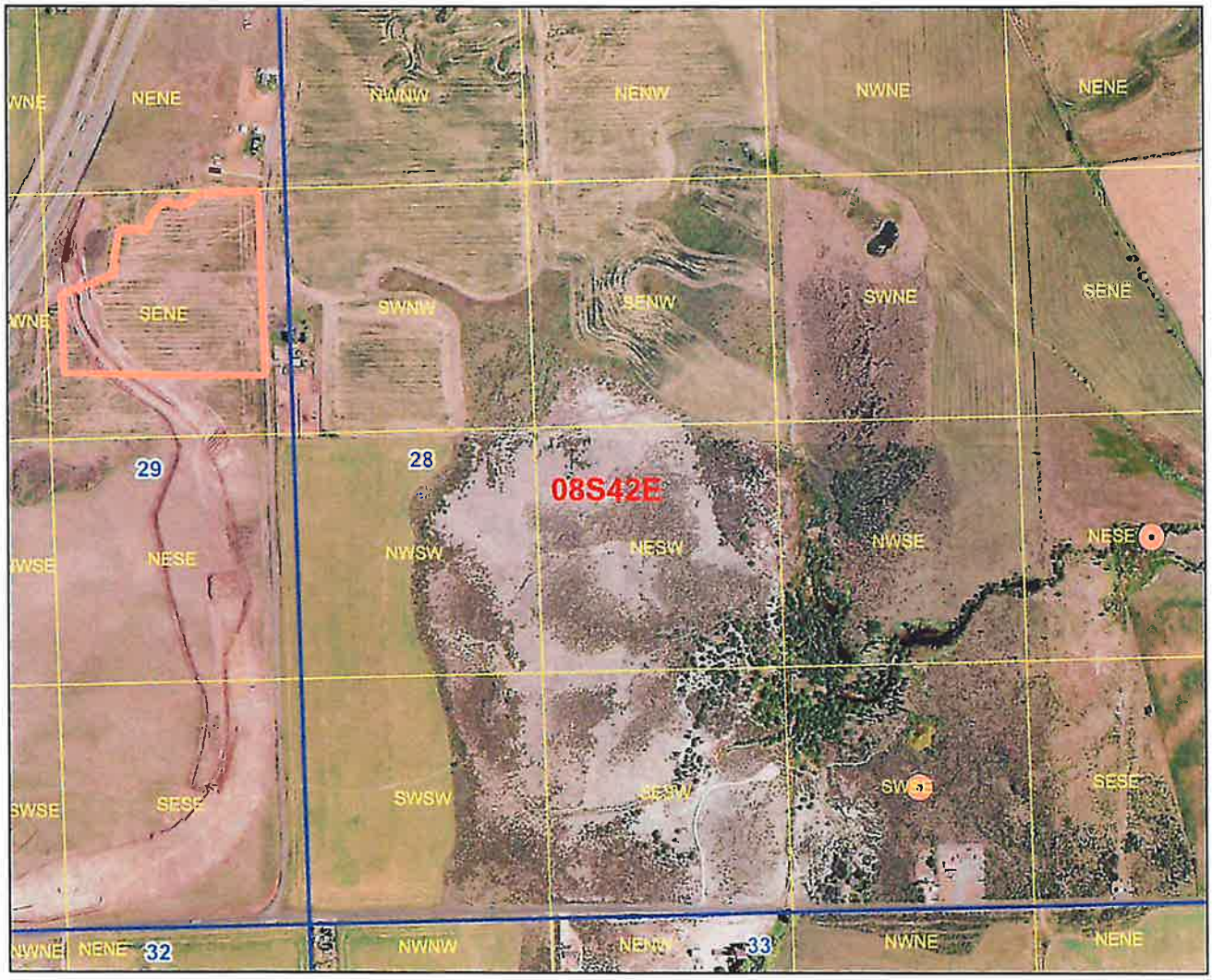
Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1781

11-991B

Effective until December 31, 2027

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.



Form 42-1761-1 10/15

AMENDED
STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
JAN 22 2024
DEPT. OF WATER RESOURCES

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

Designated Applicant The Scott W. Brown Family Trust
(Select one owner – see item 1A on the application)

Water Right No. 11-991B
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package? Yes ☐ No ☑

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MIMUMUM REQUIREMENT CHECKLIST
All items must be checked as either *Attached* (Yes) or *Not Applicable* (N/A)

Attachment	N/A	Yes	
		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.
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 $	Received By:	Date Received:	Receipt #
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9:	

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 Scott W. Brown, Trustee of the Scott W. Brown Family Trust

Mailing Address PO Box 131, Soda Springs, Idaho 83276
Street City State Zip Code

Email Address swb0203@msn.com Phone Number 801-557-5123

☑ 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 T.J. Budge Organization Racine Olson

Professional Title Attorney Email Address tj@racineolson.com

Mailing Address PO Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☐ 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.
A diversion dam pushes water into one of two ditches and a headgate can be turned to direct water into one ditch or the other. The second ditch runs through a pipe to a regulating pond located in the SWNE of Section 28.

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. 11-993

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. This lease is a 28 acre portion of the land served by water right nos. 11-991B and 11-993. The amount of water delivered to this 28 acre portion is not separately measured.

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 ☐
A claim has been filed for this right in the Bear River Basin Adjudication.

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 (Year) to 2028 (Year) (maximum lease period 5 calendar years).

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

Current rental rate.

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

The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant	Scott W. Brown Printed Name	10/25/23 Date
Signature of Authorized Representative	T.J. Budge Printed Name	Date

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

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

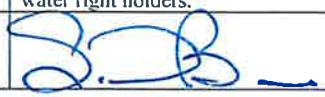
ATTACHMENT 1A

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). 11-991B and 11-993

	Designated Applicant	Applicant #2	Applicant #3
Name	Scott W. Brown, Trustee of the Scott W. Brown Family Trust		
Mailing Address	PO Box 131, Soda Springs, Idaho 83276		
Phone Number	801-557-5123		
Email Address	swb0203@msn.com		
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			

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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.

Water Right Number	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
11-991B	Irrigation	0.4		20
	Total Amounts:	0.4		20

2. Source of water Formation Spring and Formation Creek tributary to Sinks

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8S	42E	27			NW	SW	Caribou

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
OCT 27 2023
DEPARTMENT OF WATER RESOURCES

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

Designated Applicant The Scott W. Brown Family Trust
(Select one owner – see item 1A on the application)

Water Right No. 11-991B
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package? Yes ☐ No ☑

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MIMUMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached* (Yes) or *Not Applicable* (N/A)

		Yes	
		☑	Completed *Application to Sell or Lease a Water Right to the Water Supply Bank.*
		☑	Application filing fee of $250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is $500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
		☑	Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.
Attachment	**N/A**	**Yes**	
1A	☐	☑	Signatures and contact information for ***all owners*** of the water right to be leased or sold on this application.
1B	☐	☑	An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
1C	☐	☑	*Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
1D	☑	☐	Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
2	☐	☑	Description of a water right portion offered to the Water Supply Bank.
3	☐	☑	A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
4A	☑	☐	Written consent from irrigation district or water delivery company.
4G	☑	☐	Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

SUPERCEDED

Department Use Only

Fee Amount $ 250.00	Received By: KM	Date Received: 10.27.23	Receipt # C117242
W-9 received? Yes ☑ No ☐ (Route W-9 to Fiscal)		Name on W-9:	

2792

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 Scott W. Brown, Trustee of the Scott W. Brown Family Trust

Mailing Address PO Box 131, Soda Springs, Idaho 83276
Street City State Zip Code

Email Address swb0203@msn.com Phone Number 801-557-5123

☑ 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 T.J. Budge Organization Racine Olson

Professional Title Attorney Email Address tj@racineolson.com

Mailing Address PO Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☐ 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.
A diversion dam pushes water into one of two ditches and a headgate can be turned to direct water into one ditch or the other. The second ditch runs through a pipe to a regulating pond located in the SWNE of Section 28.

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. None

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.

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 ☐
A claim has been filed for this right in the Bear River Basin Adjudication.

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 (Year) to 2028 (Year) (maximum lease period 5 calendar years).

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

Current rental rate.

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

The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant	Scott W. Brown Printed Name	10/25/23 Date
Signature of Authorized Representative	T.J. Budge Printed Name	Date

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

Form 42-1761-1 10/15

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). 11-991B

	Designated Applicant	Applicant #2	Applicant #3
Name	Scott W. Brown, Trustee of the Scott W. Brown Family Trust		
Mailing Address	PO Box 131, Soda Springs, Idaho 83276		
Phone Number	801-557-5123		
Email Address	swb0203@msn.com		
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			

Scott W. Brown, Trustee of the Scott W. Brown Family Trust
WR 11-991B
Lease to Water Supply Bank
20
21
22
08S42E
28
29
Legend
11-991B and 11-992 POD
11-991B WSB (28 AC)
PLSS_Section_Corners
PLSS_Townships
PLSS_Sections
PLSS Intersected
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Compiled by the Bureau of Land Management (BLM), National Operations Center (NOC), OC-530.

Form 42-1761-1 10/15

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.

Water Right Number	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
11-991B	Irrigation	0.09		28
	Total Amounts:	0.09		28

2. Source of water Formation Spring and Formation Creek tributary to Sinks

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8S	42E	27			NW	SW	Caribou

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

SCOTT W BROWN FAMILY TRUST
PO BOX 131
SODA SPRINGS, ID 83276-0131

RE: WATER SUPPLY BANK LEASE CONTRACT 1781
FOR WATER RIGHT 11-00991B

Dear Lessor:

Water right **11-00991B is** leased into the Water Supply Bank (Bank) as of January 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, 2027,** 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 Representative
Water District No. 11

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 28, 2024

SCOTT W. BROWN FAMILY TRUST
PO BOX 131
SODA SPRINGS, ID 83276-0131

RE: APPLICATION TO LEASE WATER RIGHT 11-991B TO THE WATER SUPPLY BANK CONTRACT 1781

******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, 2027,** 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 <u>not</u> 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.

Regards,

Skyler Cheever

IDAHO DEPARTMENT OF
WATER RESOURCES
Skyler Cheever | Water Resource Agent
322 E Front St, PO Box 83720, Boise, ID 83720
(208) 287-4800 | www.idwr.idaho.gov

Cheever, Skyler

From: Cheever, Skyler
Sent: Monday, February 12, 2024 7:57 AM
To: Cefalo, James
Subject: Water Supply Bank Lease Applications 2792 and 2915 The Scott W. Brown Family Trust
Attachments: Lease 1781 Map.pdf; Lease Review Memo 2792.pdf; Lease 1815 Map.pdf; Lease Review Memo 2915.pdf

Hello James,

I have completed my review of a Water Supply Bank Lease Applications 2792 and 2915 with the point of diversions within basin 11, Water District 11 but not administered. The applicant is The Scott W. Brown Family Trust. The applicant proposes to lease a total of 28 acres between water rights 11-991B and 11-993 from 2023-2027. Attached is a copy of the review memos and maps of the place of use. If you have any comments on the applicant's proposal or my review, please let me know within 7 days. If you have any questions or concerns, please let me know.

Best,

Skyler

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

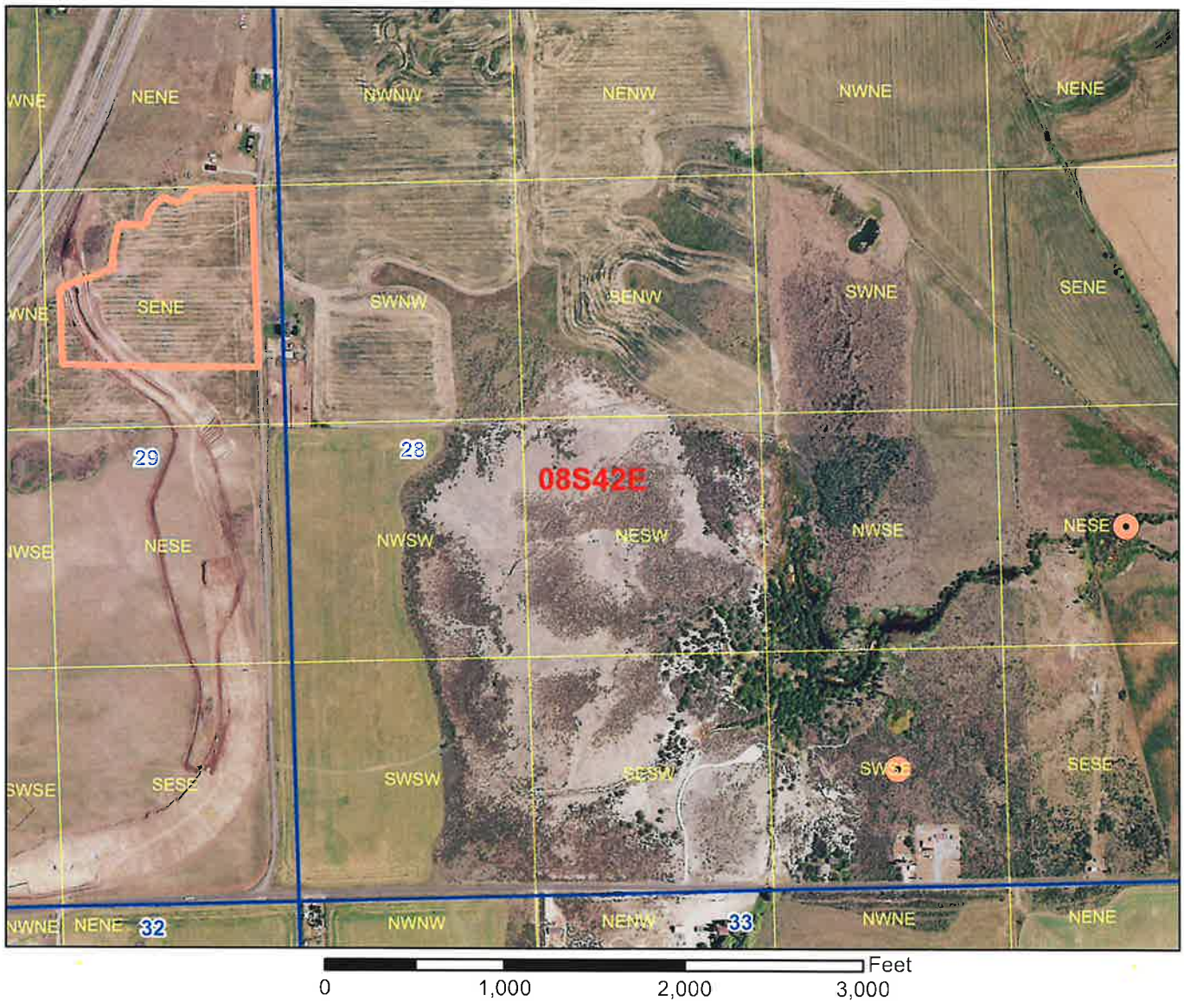
Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1781

11-991B

Effective until December 31, 2027

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.



MEMORANDUM FOR WSB LEASE APPLICATION # 2792

To: Water Right No(s). 11-991B

From: Skyler Cheever, Water Resource Agent

Date: 2/7/2024

Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

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PURPOSE/NARRATIVE:
Application 2792 was sent in by the Scott W. Brown Family Trust and received on October 27th, 2023, with the correct fee payment received on the same date. The applicant proposes to lease a 28-acre portion of water right 11-991B into the water supply bank from 2023-2027. However, according to the legal description only 20 acres are authorized in the SENE Quarter/Quarter, containing the proposed place of use. Water right 11-993 is also authorized within the same Q/Q. The right does not include the number of authorized acres within its POU. According to the diversion rate of 0.5 cfs and the standard diversion rate per acre of 0.02 cfs/acre 11-993 would authorize 25 acres. Since water right 11-991B authorizes 20 acres in the Q/Q it is likely 11-993 only authorizes 20 acres. Therefore, the place of use for this lease should be reduced to 20 acres.

The applicant was contacted about the situation via email and phone call on November 30th, 2023, and did not know water right 11-993 existed. The applicant filed an ownership change, approved on December 20th, 2023. A water supply bank lease application was filed and received for water right 11-993 on Jan 24th, 2024. The point of diversion is within the Bear River Groundwater Management Area and Water District 11 but not administered. This is the first time this water right has been leased into the water supply bank.

AUTHORITY TO FILE:
Scott W. Brown signed the application. Mr. Brown has the authority to file this agreement because he is a trustee of the Scott W. Brown Family Trust according to Tax Parcel Data. The Scott W. Brown Family Trust is the current owner of water right 11-991B according to Department records.

WATER RIGHT VALIDITY:
Water Right 11-991B was originally decreed in 1919. The applicant has claimed it in the current Bear River Basin Adjudication. Google Earth Imagery indicated the place of use has been irrigated from 1992- 2019. Therefore, it is likely the POU was irrigated since it was decreed. Aeiral Imagery indicated the right may not have been used for the three preceding years, 2020-2022. Therefore, enough evidence is available to the bank to conclude water right 11-991B is likely not lost to forfeiture and can be leased into the bank.

INJURY TO OTHER WATER RIGHTS:
There are no injury concerns with the idling of this water right.

ENLARGEMENT OF USE:
Water right 11-993 could overlap 11-991B's place of use. However, there are no combined limits between the rights. Water right 11-991B authorizes 20 acres within SENE Quarter/Quarter of Section 29. 11-993 does not include authorized acres within its place of use. The water right backfile for the parent right of 11-991B,11-991, indicated 20 acres within the NESE was not owned by the original owner. A transfer was approved in 1981 removing those 20 acres. A claim was filed for under those acres creating water right 11-993. Therefore, there is likely no overlap

so both rights can be leased and rented from the WSB without causing enlargement. There are no other enlargement concerns.

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 point of diversion is within basin 11 and Water District 11 but not administered. The Eastern Regional Manager was contacted for comment on February 9th, 2024. No response was received, it is assumed there are no concerns with the applicant's proposal.

RACINE OLSON
ATTORNEYS

RECEIVED
OCT 27 2023
DEPARTMENT OF
WATER RESOURCES

October 25, 2023

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

Re: Applications to Rent Water from the Water Supply Bank

To Whom It May Concern,

Enclosed please find for filing the original and extra copies of the following documents:

1. Applications to Sell or Lease a Water Right to the Water Supply Bank in the name of The Scott W. Brown Family Trust.
2. Notice of Change in Water Right Ownership of Water Right Nos. 11-991B and 11-992;
3. Check in the amount of $300.00 for the filing fees.

Please file the originals and conform stamp and return the extra copies in the enclosed stamped and addressed return envelope.

Thank you for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

T. J. BUDGE

c: Scott Brown

2792

201 E. Center St. I P.O Box 1391 I Pocatello, ID 83204
P: (208) 232-6101 I F: (208) 232-6109 I racineolson.com
Offices in Boise and Pocatello