

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1775

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

LESSOR: LAYNE H ASTLE
24377 A AND A RD
GRAND VIEW, ID 83624-5051

RECEIVED
FEB 12 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 September 25, 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)
2-7275	12/13/1978	SNAKE RIVER, tributary to COLUMBIA RIVER	0.09	21.5	4.3
Combined Lease Totals			0.09	21.5	4.3

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, 2028. 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.

WATER SUPPLY BANK LEASE CONTRACT No. 1775

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. 1775

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

LESSOR: LAYNE H ASTLE
24377 A AND A RD
GRAND VIEW, ID 83624-5051

By Layne Astle
Title Owner
Date 2/7/24

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 2/12/24

Lease approved by IDWR HP

Date 2/12/24

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1775

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): 2-7275

SNAKE RIVER L9 SESW Sec. 34 Twp 05S Rge 04E OWYHEE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
2-7275	IRRIGATION	03/15	to	11/15	0.09 cfs	21.5 AF
Totals:					0.09 cfs	21.5 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	
06S	03E	9		1.0	3.3														4.3

Total Acres: 4.3

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1775

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 use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
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. 2.
14. The unleased portion of water right 2-7275 is limited to a diversion rate of 2.17 cfs, a total annual maximum diversion volume of 544 af at the field headgate, and the irrigation of 109 acres during a single irrigation season.
15. The unleased portion of right 2-7275 and the rights listed below are limited to a total combined diversion rate of 48.35 cfs. Combined Right Nos.: 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7237A, 2-7275, 2-7279A, 2-7279B, 2-7060A, 2-7060B, 2-7157C.
16. The point of diversion for the Bybee Canal shared by the rights listed below is limited to a total diversion rate of 43.08 cfs. Combined Right Nos.: 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7237A, 2-7275, 2-7279A, 2-7279B, 2-7060A, 2-7060B, 2-7157C. The original 48.44 cfs limit has been reduced by 5.36 cfs to account for rental agreement 504 which moved water outside of the Bybee Canal.

STATE OF IDAHO
WATER RESOURCE BOARD

Print Form

SEP 25 2023
DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Layne H Astle

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

Water Right No. 2-7275

(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 <i>all owners</i> 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 \$

Received By: KMDate Received: 9.25.23

Receipt #

W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

2767

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 Layne H Astle

Mailing Address 24377 A and A Road Grand View Idaho 83624

Street City State Zip Code

Email Address majekcattle@gmail.com Phone Number 208-861-5732

☐ 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.

Bybee Lateral Water Users

- 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.

2-7059

2-7279B

57-7022

- 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 water right was in the waterman the last five (5) years.

- 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.

In water bank.... See (F)

- 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 2029 (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

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.

Layne H. Astle
Signature of Designated Applicant

LAYNE H ASTLE
Printed Name

9-19-23
Date

Signature of Authorized Representative

Printed Name

Date

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

Print Form

**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>2-7275</u>	<u>Irrigation</u>	<u>0.09</u>	<u>21.5</u>	<u>4.3</u>
Total Amounts:				

2. Source of water Snake River tributary to Columbia River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
05S	04E	34	L9				Owyhee

To Whom It May Concern:

Bybee Lateral Water Users does hereby give consent for Layne Astle to transfer partial water rights for the following water right numbers to the water bank:

2-72798

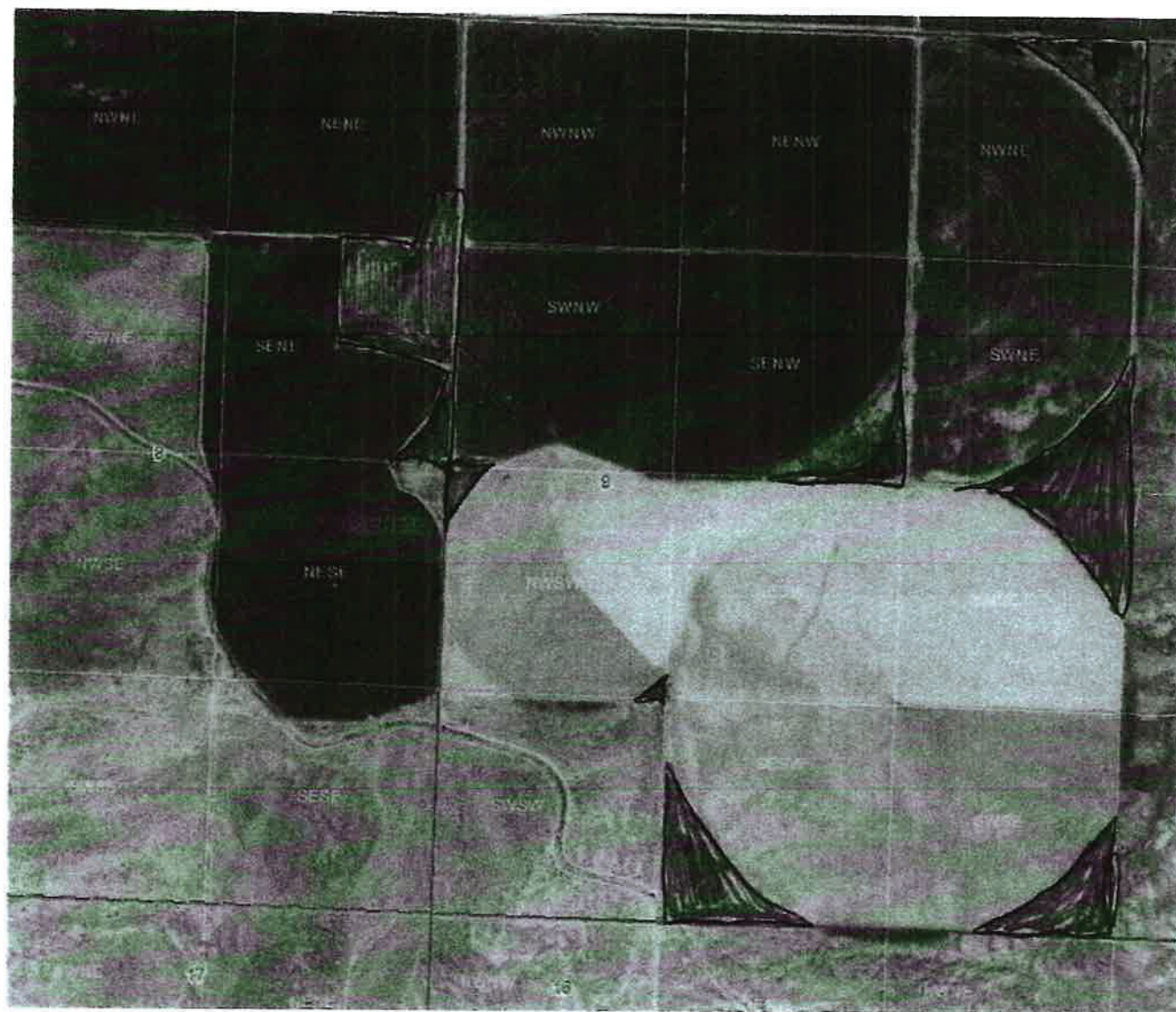
2-7275

2-7059

Daniel G. Wood President

Bybee Water Lateral Users

Lease Map Layne Astle



~~1~~ Dried up.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

11/23/2018

Water Right 2-7275

Owner Type **Name**
Current Owner LAYNE H ASTLE
Original Owner DARREL F YOST
Original Owner MUD FLAT CANAL CO
Original Owner HELEN I YOST
Previous Owner CARLEEN M ASTLE

Priority Date: 12/13/1978

Basis: Decreed

Status: Active

Water Supply Bank Status: Active

Source
SNAKE RIVER

Tributary
COLUMBIA RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	2.260 CFS	565.0 AF
	Total Diversion		2.260 CFS	565.0 AF

Source and Point(s) of Diversion

SNAKE RIVER L9(SESW) Sec. 34, Twp 05S, Rge 04E, OWYHEE County

Place Of Use

IRRIGATION within OWYHEE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	03E	9		35.0	39.0		39.0												113.0

POU Total Acres: 113.0

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. F06 The following rights are diverted through point of diversion described above: 02-7059, 02-7060B, 02-7061, 02-7062, 02-7064, 02-7168A, 02-7168B, 02-7168C, 02-7237A, 02-7275, 02-7279A, 02-10180, & 02-10181.

Combined Use Limits

Rate	Volume	Acres
48.440		
2-7060A, 2-7275, 2-7059, 2-7062, 2-7061, 2-7157C, 2-7279A, 2-7168B, 2-7064, 2-7060B, 2-7237A, 2-7279B, 2-7168A		

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

11/23/2018

SubCase:

N/A

Water Supply Bank:

Lessor Name:

Lease Status: Active

Lease Amount: 21.5

Rental Availability: None

Date Received: 3/21/2014

Lease Begin Date: 3/21/2014

Expiration Date: 12/31/2018



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 13, 2024

LAYNE H ASTLE
24377 A AND A RD
GRAND VIEW ID 83624-5051

**RE: WATER SUPPLY BANK LEASE CONTRACT 1775
FOR WATER RIGHT 02-7275**

Dear Lessor:

Water right **02-7275** 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, 2028**, 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

Technical Records Specialist I
Enclosure: Executed Lease Contract

c: IDWR- Western Region Office
Water District No. 02



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

January 5, 2024

LAYNE HASTLE
24377 A AND A RD
GRAND VIEW, ID 83624-5051

**RE: APPLICATION TO LEASE WATER RIGHTS 2-7059, 2-7275, 2-7279B, & 57-7022 TO THE
WATER SUPPLY BANK CONTRACTS 1774, 1775, AND 1776**

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water rights 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 of each to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2028**, unless the rights are released earlier by the Board, or upon your request. To release the 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. 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 rights 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,

Bob Howe-Water Resource Agent

Enclosures: Proposed Lease Contracts

C: WD-2- Rob Whitney
Bybee Lateral Water Users
Western Regional Manager- Nick Miller

MEMORANDUM FOR RENTAL APP # 2765, LEASE CONTRACTS # 1774, 1775, 1776

To: Water Right(s) 2-7059, 2-7275C, 2-7279B & 57-7022

From: Bob Howe

Date: 11/22/2023-12/20/2023

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

PURPOSE/NARRATIVE: On September 25, 2023, the Department received rental application 2765 and companion lease applications 2766, 2767, & 2768 for rights 2-7059, 2-7275C, 2-7279B and 57-7022, signed and submitted by Layne H Astle. The applicant is seeking to rent the leased portions of his own rights as well as a portion or right 2-7062, owned by John Terry Field, for the irrigation of 45 acres on land owned by Terry Field. The leases/rent applications are for a 5-year term from 2024-2028. However, lease 1307 for right 2-7062 (requested by the applicant) ends in 2025 and the elements of 2-7062 are fully rented. Right 2-7061 (same lease and right owner as 2-7062) will be used as a substitution to fulfill the rental for a 2-year term, 2024-2025.

The application was submitted with the 2014 Lease Agreement between Terry Field and Layne Astle. Mr. Field is obligated to provide Mr. Astle with access to Mr. Field's 45 acres, inclusive of *"water, irrigation equipment, and all expenses incurred while operating it"* for which Mr. Astle will pay Mr. Field *"the sum of fifty dollars per acre"*. This lease agreement for 45 acres is therefore equivalent to \$2,250 annually. The approval of a diversion volume of 225 AF for the irrigation of 45 acres equates to \$2,250/225 AF, or \$10/AF, which the Bank will authorize, however the admin fees for this rental will be based on the current rental rates of \$23/AF.

Applications 2766 and 2767 proposes the partial leases of right 2-7059 (0.43cfs and 106.5 AF for the irrigation of 21.3 acres) and right 2-7275 (0.09cfs and 21.5 AF for the irrigation of 4.3 acres). Current contracts 969 & 970 respectively carry the same portions and rights with terms ending December 31, 2023.

Application 2768 proposes to lease 11 acres of irrigation right 2-7279B (surface water) and 2.5 acres of irrigation right 57-7022 (groundwater). These rights when combined are limited to the irrigation of 154 acres. Right 57-7022 is limited to the irrigation of 146.5 acres, all of which are stacked with right 2-7279B, which is limited to the irrigation of 154 acres. The annual irrigated area from 2019-2023, for the combined rights is approximately 142.6-143 acres, measured using GIS and several years of aerial imagery and Landsat imagery (see figures 2-5). As the combined irrigated area is approximately 143 acres and right 2-7279B allows for the irrigation of 154 acre, the idle area available for lease is approximately 11 acres (154 acres limit- 143 acres irrigated=11 acres idle). As the right 57-7022 is limited to the irrigation of 146.5 acres, the idle area available for lease is approximately 3.5 acres (146.5-acre limit - 143 acres irrigated=3.5 acres idle). The full available unused portion of right 57-7022, 3.5 acres will be leased into the WSB as it is supplemental to the 11 acres of right 2-7279B being leased into the bank.

AUTHORITY TO FILE: IDWR records list the applicant as current owner of the right proposed for lease into the bank Owyhee County tax records list the applicant as current owner of the parcels appurtenant to rights 2-7275, 2-7279B & 57-7022. Owyhee County tax records list Majek Cattle Inc. as current owners of the parcel appurtenant to right 2-7059. The previous lease review for right 2-7059 stated the applicant as the incorporator and founding director of Majek Cattle Inc. The POD for all the rights proposed for lease is the Bybee Canal, which is also

the POD for several other rights. A letter of consent from the Bybee Lateral Water Users Association was provided with the lease applications. There are no concerns regarding the authority to lease the proposed rights.

Owyhee County tax records list John Terry Field as the current owner of the parcel appurtenant to the proposed rental POU. As previously stated, Mr. Field has a signed agreement with Layne H. Astle for lease of the rental POU. Right 2-7062, the only irrigation right overlapping the rental POU has been leased into the bank until the end of 2025. There are no concerns regarding the authority to apply for this rental.

WATER RIGHT VALIDITY: All rights proposed for lease were decreed in 2009 and have had portions equivalent to or greater than portions requested in the current leases submitted to the Water Supply Bank (WSB) since 2014. Aerial imagery indicates that the areas idled for lease previously have remained idle. No concerns with validity of the water right and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Any rights effected by the lease of the rights are delivered water by the Bybee Lateral Water Users (the Bybee Canal). The proposed rental will also divert water from the Bybee Canal. A letter of consent was received from the Bybee Lateral Water Users stating they have no concerns regarding proper administration of the rights leased and rented as proposed.

ENLARGEMENT OF USE: Consistent with the previous rental, the applicant requested a diversion rate of 0.80 cfs and a diversion volume of 219.5 AF for the irrigation of 45 acres (equivalent to 0.018 cfs/ac and 4.9 afa/ac). His water rights authorize irrigation of lands with Snake River water at a rate of 0.02 cfs/ac and 4.5 afa/ac or 5.0 afa/ac. To match the duty of water the rental will also authorize a diversion rate and volume sufficient to irrigate 45 acres with a duty of water of 0.02 cfs/ac and 5.0 afa/ac, equivalent to 0.9 cfs and 225.1 AF.

Rights 2-7275 and 2-7059 are part of a combined limit with 13 other rights for 48.44 cfs. Of the 13 rights, 2-7060B (0.80 cfs), 2-7168A (3.08 cfs), 2-7168B (3.82 cfs), 2-10435 (0.90 cfs), and 2-10436 (2.92 cfs) are not leased into the bank, rights 2-7059 (0.43 cfs), 2-7275 (0.09 cfs), and 2-7279 (0.22 cfs) are partially leased, and 2-7061 (6.32 cfs), 2-7062 (4.10 cfs), 2-7064 (6.36 cfs), 2-7157C (7.37 cfs), and 2-7237A (5.90 cfs) are fully leased. The unleased portions are limited to 17.65 cfs, see the table below. 5.36 cfs of right 2-7157C is rented outside of the Bybee Lateral Water Users delivery area and the rights diverting from the Bybee Canal that have the combined rate limit of 48.44 cfs. This rental should be conditioned limiting the rented portions of rights and the unleased portions of the leased rights to a combined total diversion rate of 43.08 cfs, reduced to prevent an enlargement due to use in areas not administered by Bybee Lateral Water Users. Note that the total rate authorized for diversion into the Bybee Canal is subject to change upon acceptance of additional rights into the bank and depending on whether the leased rights are rented for use from the Bybee Canal or another point of diversion.

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: This rental approval is subject to review and recommendations from IDWR Western Region and Water District 2 staff. Comments will be requested.

Basin	Sequence	Suffix	Rate	Leased Portion	Remaining Portion
2	7059		6.40	0.43	5.97
2	7060	B	0.80	0.00	0.80
2	7061		6.32	6.32	0.00
2	7062		4.10	4.10	0.00
2	7064		6.36	6.36	0.00
2	7157	C	7.37	7.37	0.00
2	7168	A	3.08	0.00	3.08
2	7168	B	3.82	0.00	3.82
2	7237	A	5.90	5.90	0.00
2	7275		2.26	0.09	2.17
2	7279	B	3.08	0.22	2.86
2	10435		0.90	0.00	0.90
2	10436		2.92	0.00	2.92

sum of leased rate 30.79
new combined limit 17.65

Figure 1. The leased and remaining portions of the water rights in the 48.44 cfs combined limit.

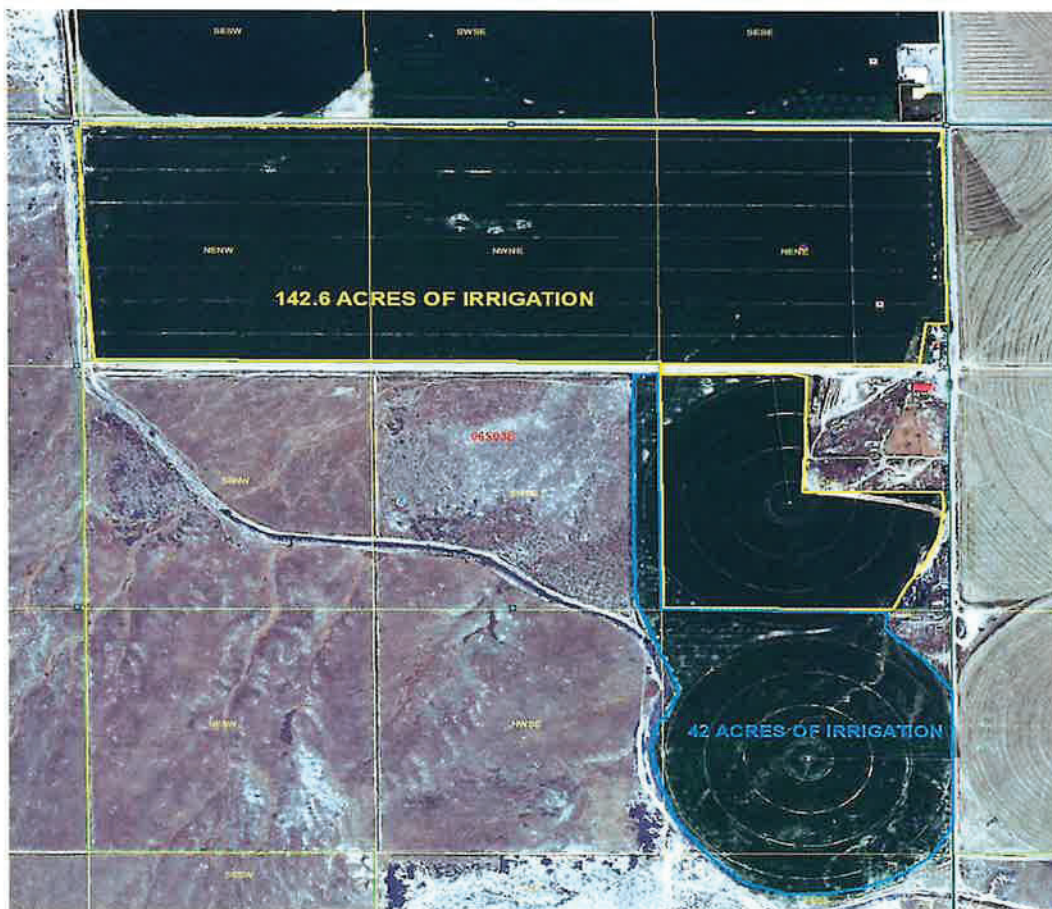


Figure 2- 2019 GIS imagery of areas irrigated by rights 2-7279B and 57-7022 within the POU (outlined in yellow). The rental POU is outlined in blue.



Figure 3- 2021 GIS imagery of irrigated areas of rights 2-7279B and 57-7022 (area within the right POUs is outline in yellow). Rental POU is outlined in blue.



Figures 4 & 5- 2022 and 2023 Landsat images of irrigation (from left to right respectively) within the right POU for 2-7279B and 57-7022 and the rental POU (outlined in blue).

Howe, Bob

From: Howe, Bob
Sent: Thursday, January 4, 2024 4:12 PM
To: Whitney, Rob; Chris Alzola; Miller, Nick
Cc: Bank
Subject: Comment Request-Lease Contracts 1774, 1775, & 1776 for Layne H. Astle
Attachments: Lease Contract 1774 -right 2-7059.pdf; Lease 1774, 1775, 1776 POD MAP.pdf; Lease 1774 Map.pdf; Lease Contract 1775-right 2-7275.pdf; Lease 1775 POU Map.pdf; Lease Contract 1776-57-7022 and 2-7279B.pdf; Lease 1776 Map.pdf; Rental-Lease Review Memo-v-2.pdf

Dear Interested Agencies:

The Department of Water Resources is seeking comment from your agency, regarding the Water Supply Bank (WSB) Lease Contracts 1774, 1775, & 1776, for Layne H. Astle. The leases are for the same rights and portions as current contracts ending 12/31/2023. However, the new contracts have conditions added to address enlargement concerns, for the new term from 2024-2028. Copies of the proposed lease contracts, the lease/rental review, and maps are attached for your reference.

Please submit your comments within 14 days, no later than January 19, 2024. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the execution of the lease.

Comments are preferred to be received by e-mail to bob.howe@idwr.idaho.gov. However, comments by regular mail and/or FAX to 208-287-6700 are acceptable.

If you have any questions, don't hesitate to contact me at the State Office at (208) 287-4847.

Bob Howe



IDAHO DEPARTMENT OF
WATER RESOURCES

Bob Howe | Water Resource Agent

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(208) 287-4800 | www.idwr.idaho.gov