

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1819

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

LESSOR: D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

RECEIVED

MAR 15 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 December 04, 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)
22-11900	4/15/1970	TETON CREEK, tributary to TETON RIVER	0.57	Not Stated	39.5
22-7394	4/22/1982	GROUND WATER	0.52	119	39.5
Combined Limit Totals			0.79	Not Stated	39.5
Combined Lease Totals			0.79	Not Stated	39.5

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)
22-11900	0.57	138	39.5	0.015	3.5
22-7394	0.52	119	39.5	0.013	3.0
Combined Limit Totals	0.79	138	39.5	0.020	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 for water right 22-11900.*

SUPPORT DATA
IN FILE # 22-7394

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1819

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.
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. 1819

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

LESSOR: D & C PROPERTIES LLC

PO BOX 390

REXBURG, ID 83440-0390

By David J. Walter
Title President
Date 3-13-24

IDAHO WATER RESOURCE BOARD

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

By Brian Patton Date 3/18/24
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR AP Date 3/18/24

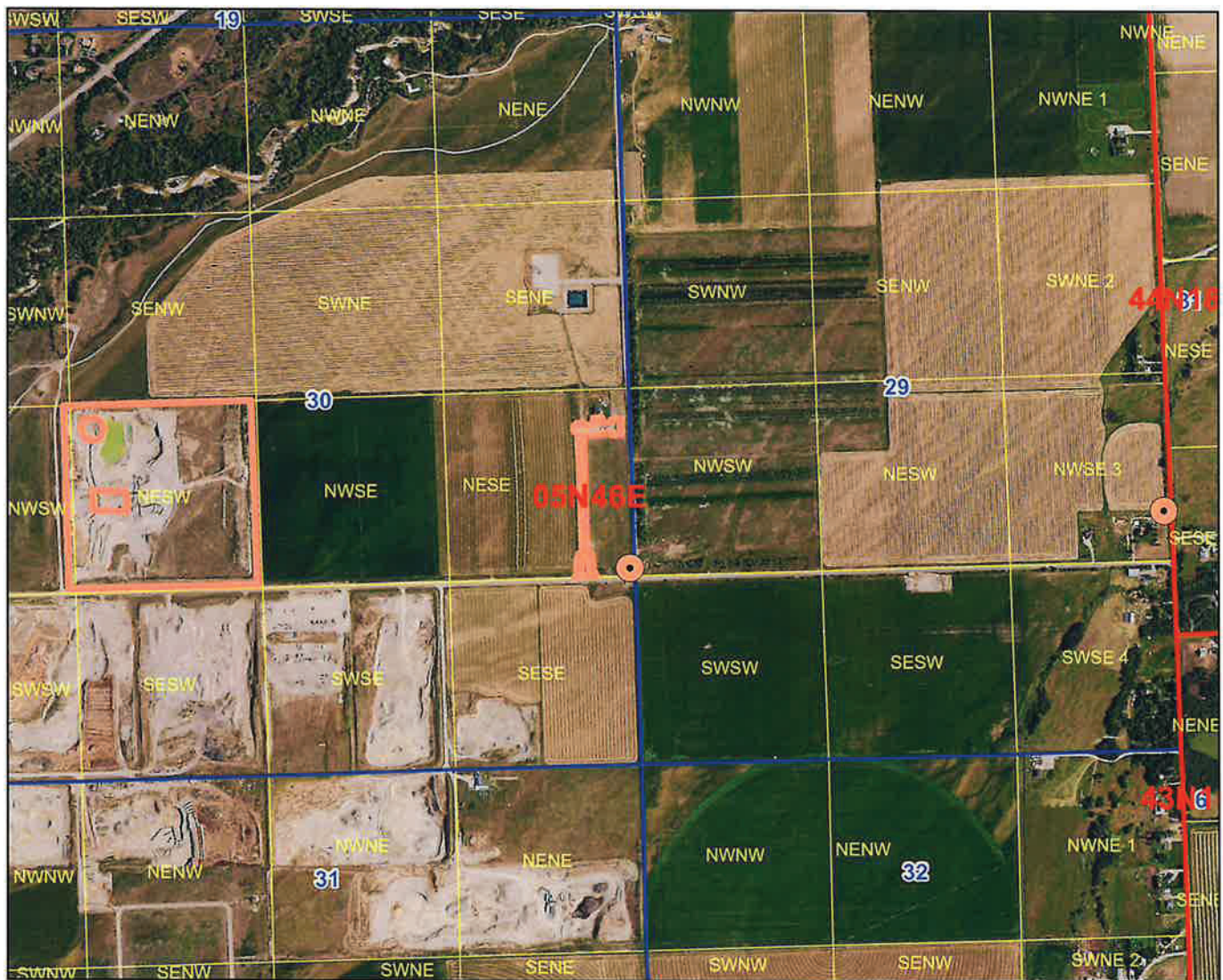
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1819

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 unleased portions of rights 22-7394 shall not exceed a total diversion rate of 1.00 cfs, a total annual maximum diversion volume of 229 af at the field headgate, and the irrigation of 76.5 acres.
13. The unleased portions of rights 22-11900 shall not exceed a total diversion rate of 1.09 cfs and the irrigation of 76.5 acres.
14. The unleased portions of rights 22-7394 and 22-11900 when combined shall not exceed a total diversion rate of 1.53 cfs and the irrigation of 76.5 acres.
15. The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted there from as set forth in *Roxana Canal Co. v. Daniels*, Equity No. 2447 (D. Wy. Feb. 4, 1941).
16. The use of water for irrigation under right 22-7394 may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
17. This water right is also recorded as Wyoming Certificated Water Right No. 7308E.
18. This water right is subject to the delivery provisions contained in *Roxana Canal Co. v. Daniels*, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
19. The point of diversion for this water right is in Wyoming in T44N R118W section 22 NESW. The point of diversion shown above is where the conveyance system enters Idaho.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1819
22-7394, 22-11900
Effective until December 31, 2028

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.



0 1,500 3,000 4,500 Feet

-  Water Supply Bank Lease Point of Diversion
-  Water Supply Bank Lease Place of Use
-  Township/Range
-  Sections
-  QQ



Form 2-176-1 (1/1)

RECEIVED

DEC 04 2023

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

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

Designated Applicant D & C Properties, LLC
(Select one owner – see item 1A on the application)

Water Right No. 22-7394
(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 \$ <u>250.00</u>	Received By: <u>KM</u>	Date Received: <u>12.4.23</u>	Receipt # <u>C117450</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Walters Ready Mix Inc</u>	

2845

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 D & C Properties, LLC

Mailing Address PO Box 390 Rexburg Idaho 83440
Street City State Zip Code

Email Address _____ Phone Number (208) 356-5491

☒ 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 Kristin Moore Organization Rocky Mountain Environmental

Professional Title Senior Water Rights Analyst Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way, Suite 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.
- B. Please provide a description of the current water diversion and delivery system.
Water is diverted from a well and delivered through a mainline to the irrigation system

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. Water right no. 22-11900 is co-mingled with this water right. It is delivered through the South Side Ditch and is diverted into the same mainline.

- 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 portion of water rights 22-7394 and 22-11900 was leased into the Water Supply Bank in 2017-2023.

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

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

Current rental rate

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

The Designated Applicant acknowledges the following:

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

David Z. Walters
Signature of Designated Applicant

DAVID Z. WALTERS
Printed Name

11-27-23
Date

Signature of Authorized Representative

Printed Name

Date

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

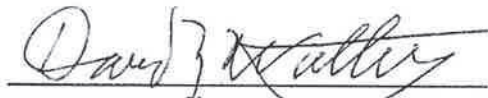
TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: D & C PROPERTIES, LLC

RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

Rocky Mountain Environmental Associates, Inc. (RMEA) is hereby authorized to act on behalf of Applicant regarding Water Supply Bank Application(s) for water right(s).


Signature


Printed Name

11-27-23
Date

STATE OF IDAHO
WATER RESOURCE BOARD

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

ATTACHMENT 2

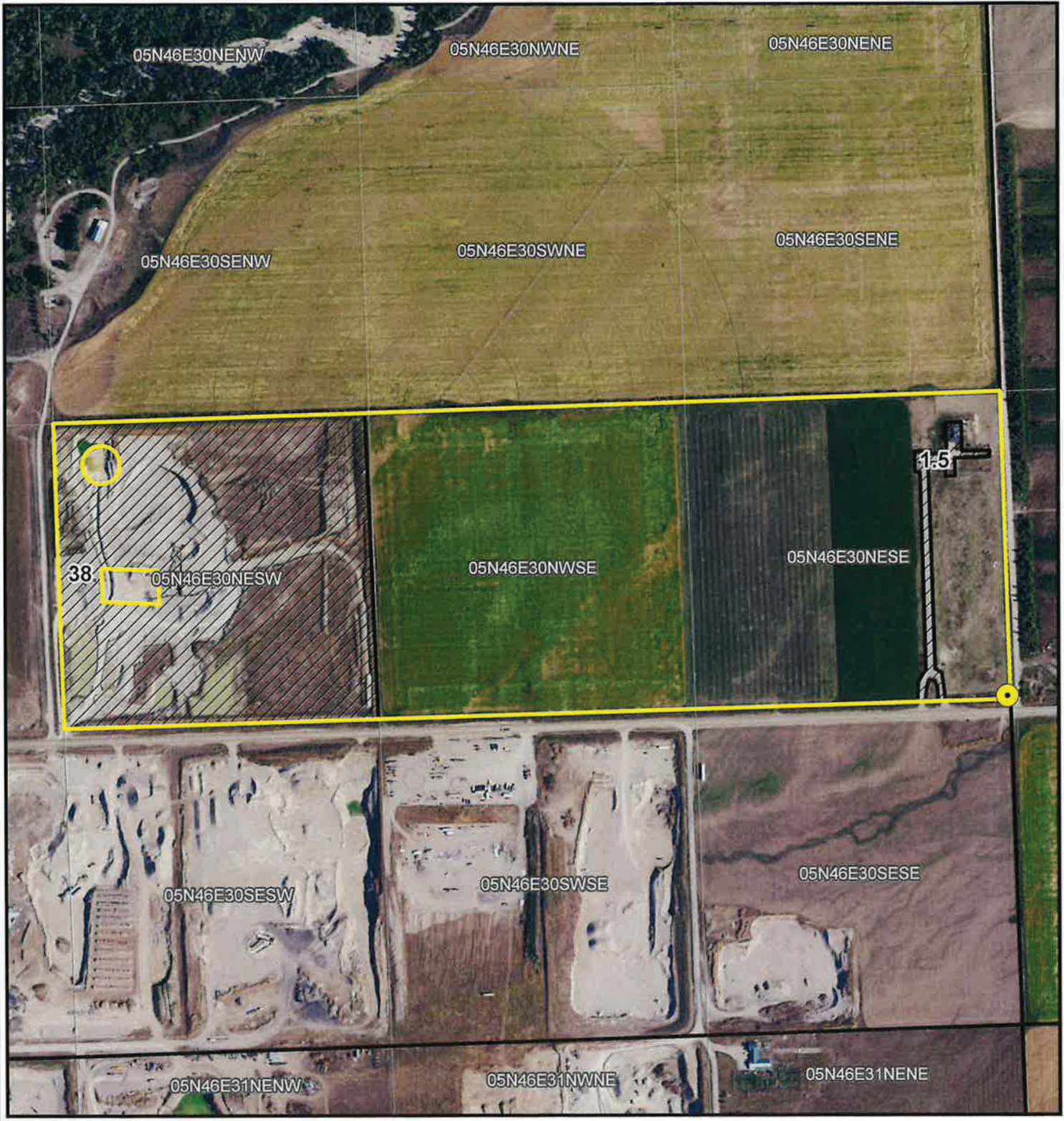
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1.	<u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
	22-7394	Irrigation	0.52	118.5	39.5
		Total Amounts:			

2. Source of water Groundwater tributary to

3. Point(s) of diversion:

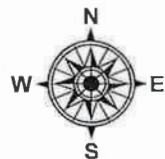
Twp	Rge	Sec	Lot	¼	¼	¼	County
5N	46E	30		SE	NE	SE	Teton



2017 NAIP

Legend

- POD 22-7394
- Water Right POU
- WSB Lease Acres
- Twp & Rng
- Section
- QQ



WSB Lease Application Map
D & C Properties LLC

RMEA #14-0053

by: KM

Date: 12/17/2019



DEC 04 2023
DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARD**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**Designated Applicant D & C Properties, LLC
(Select one owner – see item 1A on the application)Water Right No. 22-11900
(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 CHECKLISTAll items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☒ ☐ Signatures and contact information for **all owners** of the water right to be leased or sold on this application.
- 1B ☐ ☒ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ <u>250 -</u>	Received By: <u>KM</u>	Date Received: <u>12.4.23</u>	Receipt # <u>C117450</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Walters Ready Mix Inc</u>	

2845

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 D & C Properties, LLC

Mailing Address PO Box 390 Rexburg Idaho 83440
Street City State Zip Code

Email Address _____ Phone Number (208) 356-5491

- ☒ 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 Kristin Moore Organization Rocky Mountain Environmental

Professional Title Senior Water Rights Analyst Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way, Suite 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

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

OR

- ☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.

Water is delivered from Teton Creek through the South Side Ditch and is diverted into a mainline irrigation system. The point of diversion for this water right is in Wyoming in T44N R118W Section 22NESW.

- 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. Water right no. 22-7394 is co-mingled with this water right and is diverted from a well and delivered through the same mainline.

- 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 portion of water rights 22-7394 and 22-11900 was leased into the Water Supply Bank in 2017-2023.

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

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

Current rental rate

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

The Designated Applicant acknowledges the following:

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

David M. Walters
Signature of Designated Applicant

DAVID L. WALTERS
Printed Name

11-27-23
Date

Signature of Authorized Representative

Printed Name

Date

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

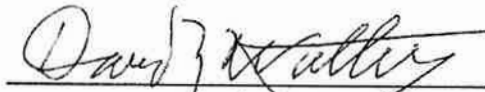
TO: IDAHO DEPARTMENT OF WATER RESOURCES

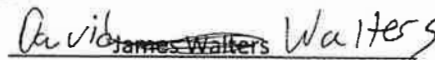
FROM: D & C PROPERTIES, LLC

RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

Rocky Mountain Environmental Associates, Inc. (RMEA) is hereby authorized to act on behalf of Applicant regarding Water Supply Bank Application(s) for water right(s).


Signature


Printed Name

11-27-23
Date

STATE OF IDAHO
WATER RESOURCE BOARD

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

ATTACHMENT 2

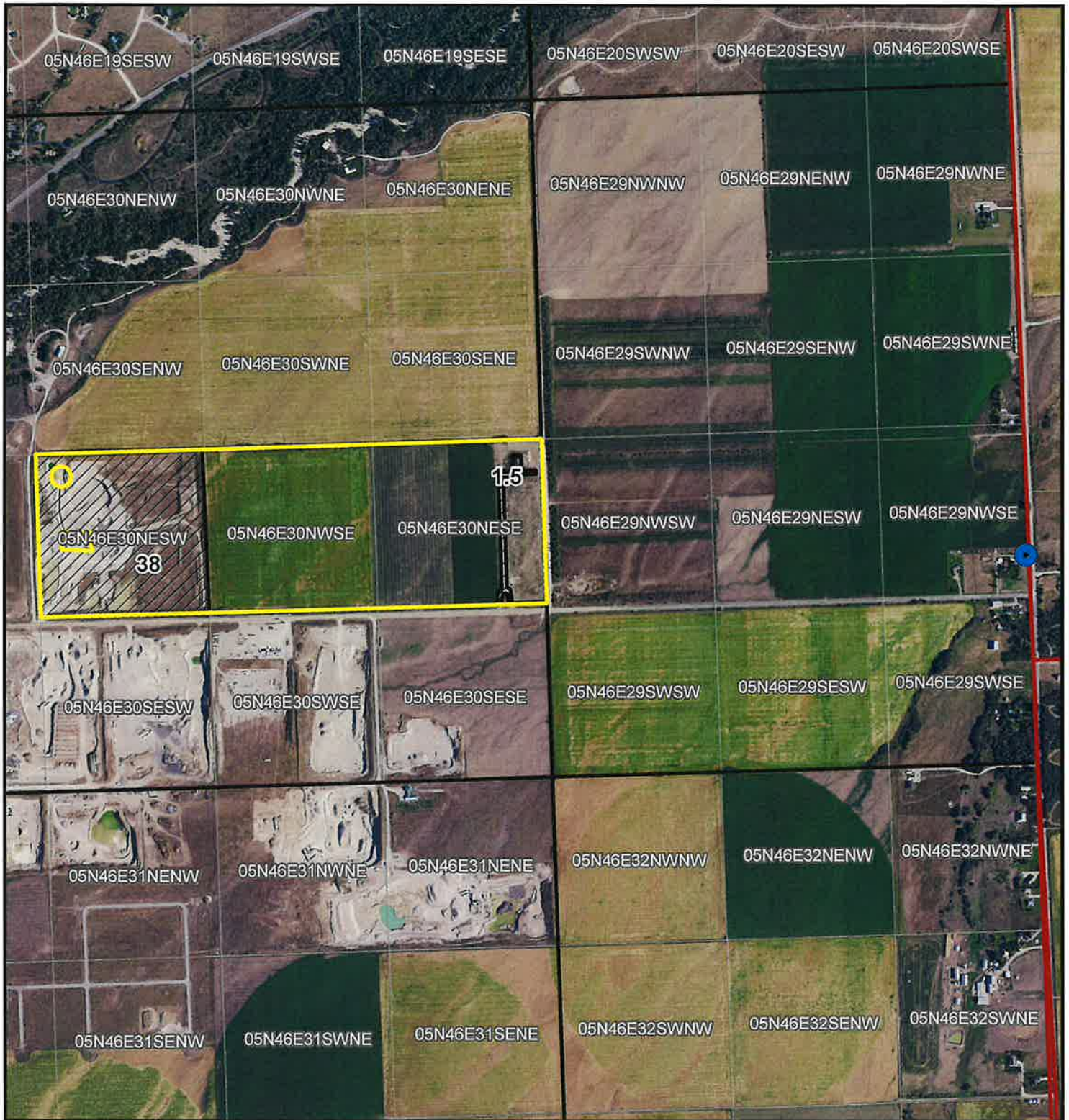
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
22-11900	Irrigation	0.57	138.3	39.5
	Total Amounts:			

2. Source of water Teton Creek tributary to Teton River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5N	46E	29	3	SE	NW	SE	Teton

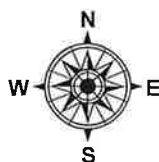


0 0.25 0.5 1 Miles

2017 NAIP

Legend

- POD 22-11900
- Water Right POU
- WSB Lease Acres
- Twp & Rng
- Section
- QQ



WSB Lease Application Map

D & C Properties LLC

RMEA #14-0053

by: KM

Date: 12/17/2019





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 18, 2024

D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

**RE: WATER SUPPLY BANK LEASE CONTRACT 1819
FOR WATER RIGHT 22-11900,22-7394**

Dear Lessor:

Water right **22-11900,22-7394** 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

Catalina Beck

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region Office



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 5, 2024

D & C PROPERTIES LLC
PO BOX 390
REXBURG, ID 83440-0390

**RE: APPLICATION TO LEASE WATER RIGHTS 22-7394 AND 22-11900 TO THE WATER
SUPPLY BANK CONTRACT 1819**

******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, 2028**, 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.

Regards,

Skyler Cheever

Water Resource Agent

Enclosure: Lease Contracts

Cheever, Skyler

From: Cheever, Skyler
Sent: Thursday, February 15, 2024 11:19 AM
To: Cefalo, James
Subject: Water Supply Bank Lease Application 2845 D+C Properties LLC.
Attachments: Lease Review Memo 2845.pdf; Lease 1819 Map.pdf

Hello James,

I have completed my review of a Water Supply Bank Lease Application 2845 with the point of diversions within basin 22, and Water District 1 but not administered The applicant is D+C Properties LLC. The applicant proposes to lease a 39.5-acre portion of water rights 22-7394 and 22-11900 from 2024-2028. Attached is a copy of a review memo and map 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

MEMORANDUM FOR WSB LEASE APPLICATION # 2845

To: Water Right No(s). 22-7394, 22-11900

From: Skyler Cheever, Water Resource Agent

Date: 2/15/2024

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

PURPOSE/NARRATIVE:

Application 2845 was sent in by D+C Properties LLC and received on December 4th, 2023, with the correct fee payment received on the same date. The applicant proposes to lease 39.5-acre portion of rights 22-7394 and 22-11900 into the water supply bank from 2024-2028. The lease place of use used for the previous contracts did not indicate where idled acres were located. However, a map was provided with the first lease application in 2014 giving a better idea of where idled acres were located but proposed more acres. Google Earth Imagery and the water right report were also used to determine currently proposed idle acres. The water rights include mitigation by non-use. The mitigation portion will not be leased into the bank. The point of diversion is within the Snake River Basin Moratorium Area, Water District 1 but not administered, and Non-Trust Water Area. This application is intended as a renewal of contract 1552 which expired on December 31st, 2023.

AUTHORITY TO FILE:

David Walters signed the application. Mr. Walters has the authority to file this agreement because he is the registered agent with the LLC according to the Idaho Secretary of States Office Database. D+C Properties LLC is the current owner of water rights 22-7394, and 22-11900 according to Department records.

WATER RIGHT VALIDITY:

Water rights 22-7394 and 22-11900 were decreed in 2008. Portions of both rights were leased into the water supply bank from 2014-December 31st, 2023. Any water right leased into or rented from the water supply bank are likely within a valid defense to forfeiture according to Idaho Code §42-223(5). Therefore, enough information is available to the bank to conclude water rights 22-7394 and 22-11900 are likely not lost to forfeiture and can be leased into the bank.

INJURY TO OTHER WATER RIGHTS:

Water right 22-7394 diverts from the South Side Ditch Pipeline which diverts from the Teton River in the State of Wyoming. Therefore, any rental in Idaho that proposes to move the point of diversion into Idaho would require the State of Wyoming to approve any change in POD. Therefore, this lease should only be rentable if the proposed POD diverts from the South Side Ditch Pipeline. Authorization for the ditch company is likely not necessary since any rental would be required to divert from the same ditch, negating conveyance losses.

ENLARGEMENT OF USE:

Water right 22-1794 and 22-11900 when combined are limited to 2.32 cfs and the irrigation of 116 acres. If the water rights were leased a rented separately it's likely more rate and irrigated acres would occur than was historically leading to enlargement. Therefore, rights 22-7394 and 22-11900 should be leased into the bank together. Since the applicant is proposing a portion of each right be idled a condition should be added limiting the unleased portion water rights 22-7394 and 22-11900 to 1.53 CFS and the irrigation of 76.5 acres. There are no other enlargement concerns.

LOCAL PUBLIC INTEREST:

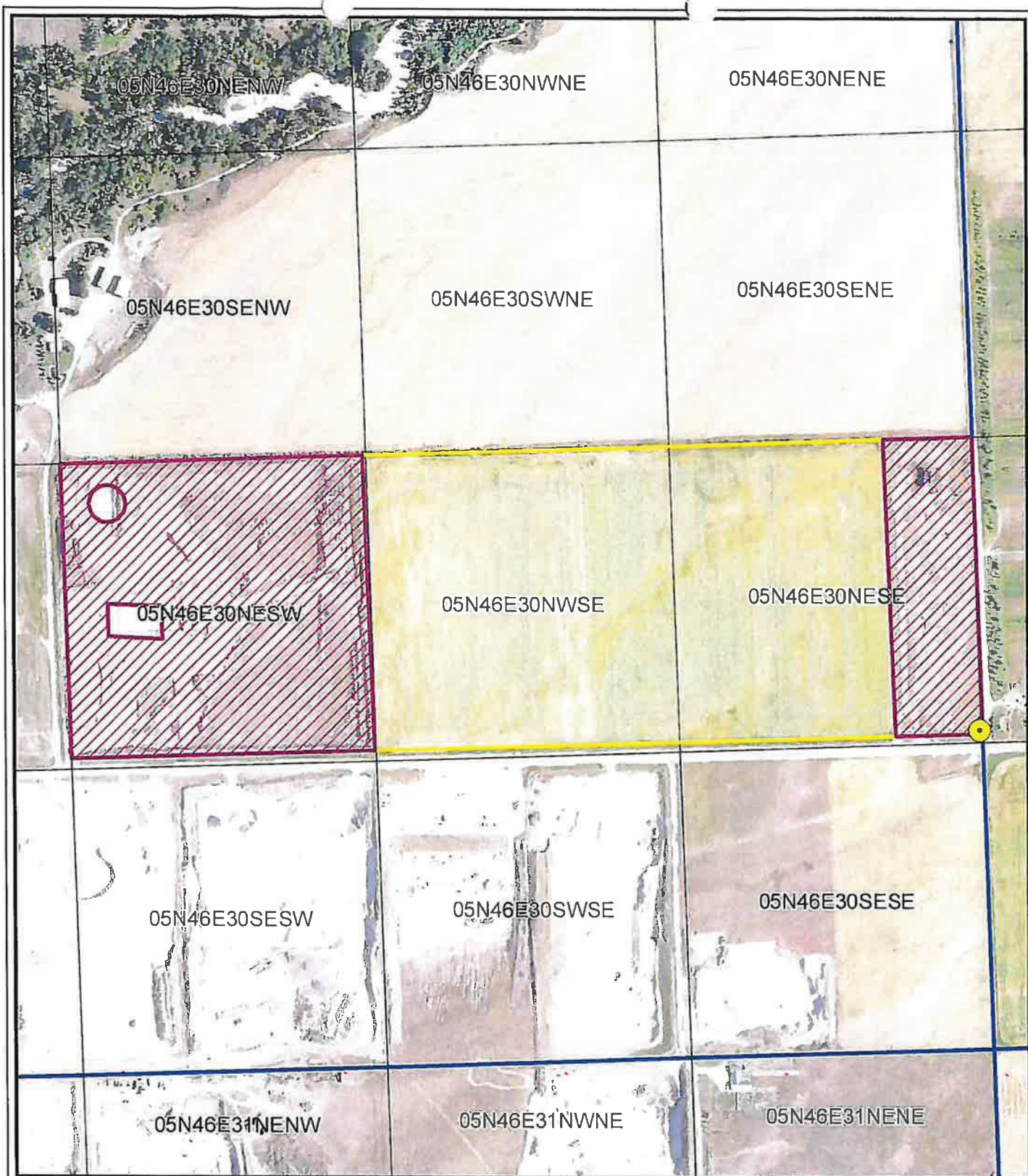
Review staff has no information to suggest this application is inconsistent with the local public interest.

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 22 and Water District 1 but not administered. The Eastern Regional Manager was contacted for comment on February 15th, 2024. No response was received, it is assumed there are no concerns with the applicant's proposal.



POD 22-7394

Water Right POU

Irrigated

Water Bank



Twp & Rng



Section



QQ

Attachment #4

D & C Properties LLC

2013 NAIP Photography

