

STATE OF IDAHO
WATER RESOURCE BOARD

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

Designated Applicant Joyce Livestock Co

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

Water Right No. 57-173

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☒ No ☐

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

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

Department Use Only

Fee Amount \$ 250 - "Received By: KADate Received: 8.22.22Receipt # C113768W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

2425

Returned Incomplete

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 JOYCE LIVESTOCK CO.

Mailing Address C/O PAUL NETTLETON, 14568 JOYCE RANCH RD., MURPHY, IDAHO 83650
Street City State Zip Code

Email Address _____ Phone Number _____

☒ 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 Paul Nettleton, General Partner Organization Joyce Livestock Co.

Email Address _____

Mailing Address 14568 Joyce Ranch Rd., Murphy, Idaho 83650 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**.

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

- C. Describe another water right used for the same purpose at the same place of use as the water right being offered to the Bank.
57-173

- 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. 0.7 cfs

- 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 ☐
Private lease of water rights.

**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). 57-173, 57-174

	Designated Applicant	Applicant #2	Applicant #3
Name	Joyce Livestock Company		
Mailing Address	14568 Joyce Ranch Rd. Murphy, Idaho 83650		
Phone Number			
Email Address			
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			

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2022 to 2027 (maximum lease period 5 calendar years).
(Year) (Year)

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

See Lease of Water Rights attached hereto

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.

Joyce Livestock Co
Signature of Designated Applicant

Joyce Livestock Company

Printed Name

8-12-22
Date

Paul Nettleton
Signature of Authorized Representative

Paul Nettleton
Printed Name

8-12-22
Date

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



0004565785

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0004565785

Date Filed: 1/12/2022 10:37:39 AM

Entity Name and Mailing Address:

Entity Name: JOYCE LIVESTOCK COMPANY LIMITED PARTNERSHIP

The file number of this entity on the records of the Idaho Secretary of State is: 0000006840

Address: 14568 JOYCE RANCH RD
MURPHY, ID 83650-5051

Entity Details:

Entity Status: Active-Current

This entity is organized under the laws of: IDAHO

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: L1037

The registered agent on record is:

Registered Agent: PAUL H. NETTLETON
Registered Agent
Physical Address
14568 JOYCE RANCH RD
MURPHY, ID 83650
Mailing Address
83650

Limited Partnership General Partners

Name	Business Address
Paul Nettleton	14568 JOYCE RANCH RD. MURPHY, ID 83650

The annual report must be signed by an authorized signer of the entity.

Job Title: General partner

Paul Nettleton

Sign Here

01/12/2022

Date

B0675-9522 01/12/2022 10:37 AM Received by ID Secretary of State Lawrence Denney

ATTACHMENT 3

Parcel 1 31.52 acres 43°08'52.92" N 116°30'37.86 W

Parcel 2 35.71 acres 43°09'09.69" N 116°30'37.81W

Point of Diversion 43°05'35.91N 116°32'40.93" Murphy Mutual Canal

Untitled Map

Attachment 3

Legend

Parcel 1

Parcel 2

78

78

Joyce Livestock

Point of Diversion

Google Earth

2 mi

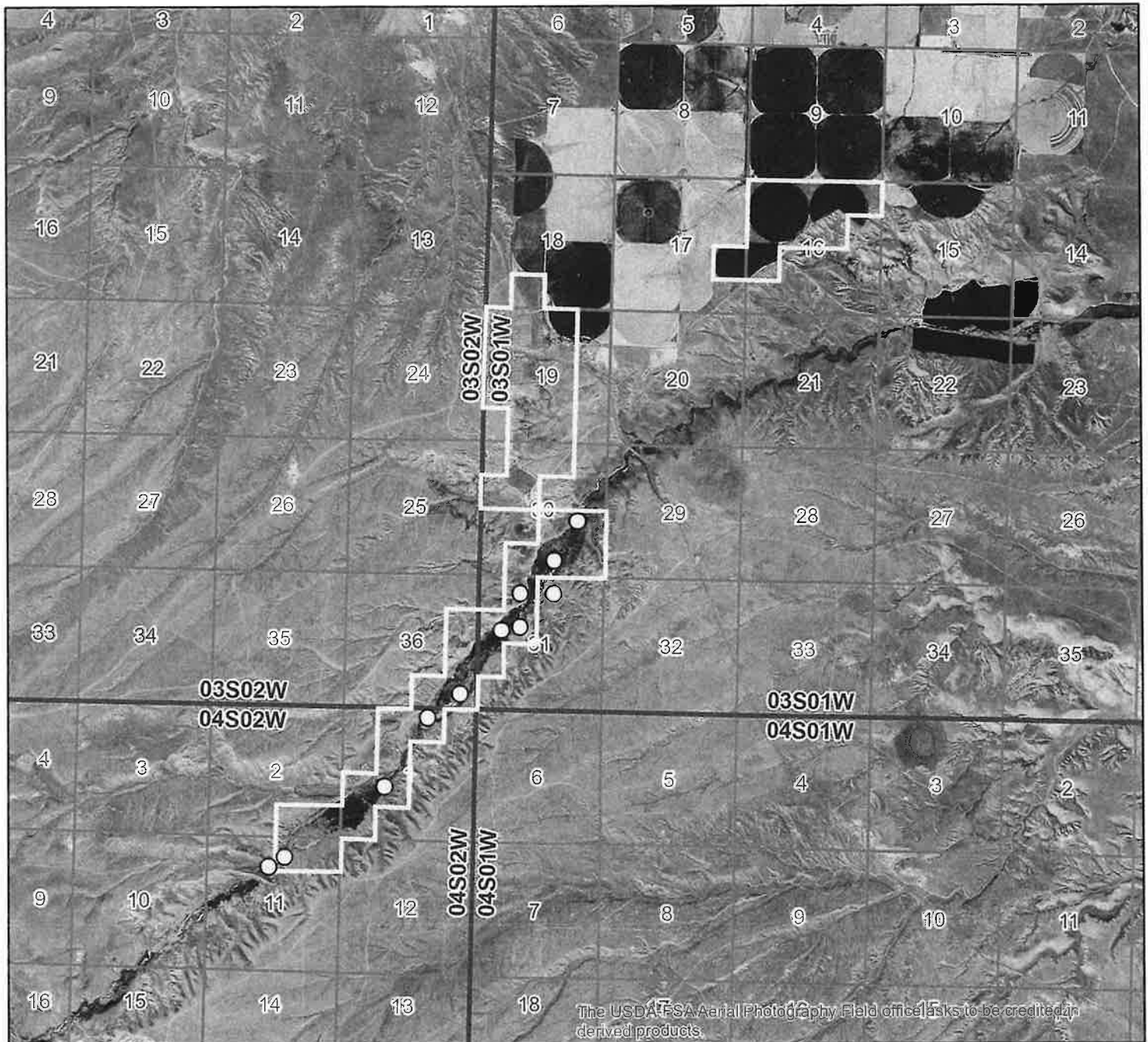


Water Right

57-173

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Date created: 8/21/2022



Legend

- Point of Diversion
- Place of Use Boundary
- Townships
- PLS Sections





IDAHO DEPARTMENT OF
WATER RESOURCES

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

Governor Brad Little

Director Gary Spackman

5/8/23

JOYCE LIVESTOCK
C/O PAUL NETTLEON
14568 JOYCE RANCH RD
MURPHY ID 83650

RE : Water Supply Bank Lease Application No. 2425 – Incomplete Application

Dear Applicant,

The Department of Water Resources (Department) received your application to lease water right no. 57-173 and no. 57-174 into the water supply bank to make water available to satisfy rental application 2426 submitted by Owyhee Noble Metals LLC. The rental application was received incomplete. On January 30, 2023 I sent an email to Owyhee Noble Metals LLC and Al Barker requesting additional information supporting the proposed lease and rental package. Specifically, the application package did not provide a mitigation plan or information demonstrating that the proposed lease and rental of surface water rights from Sinker Creek would offset or mitigate depletions caused by industrial use of ground water pursuant to the pending application for permit. Since January I have made several attempts to acquire the information needed to evaluate the lease and rental applications without result.

Without a mitigation plan or detailed information demonstrating the proposed rental would reduce impacts the lease and rental applications are incomplete and can not be evaluated. Lease application no. 2425 is returned and application processing is concluded. I have requested a refund of the application fee on your behalf.

If you have any questions about the return of your application, please contact me.

Respectfully,

Phill Hummer
Water Rights Supervisor
IDWR State Office
(208) 287-4925
phill.hummer@idwr.idaho.gov

Enclosure: Application to Lease a Water Right to the Water Supply Bank No. 2425, Incomplete

MEMORANDUM

TO: Right 57-173 and 57-174
FROM: Phill Hummer
DATE: 5/8/23
RE: WSB Application Returned

Water Supply Bank lease application 2425 was received as part of a lease and rental package. Rental application 2426 submitted by Owyhee Noble Metals LLC was intended to mitigate industrial ground water use pursuant to pending application for permit no. 57-12092. Application 57-120922 is currently on hold because the proposed point of diversion is within the Snake River Basin Moratorium Area boundary. Owyhee Noble Metals LLC and their representative was contacted several times to provide information supporting the proposed water right application and water supply bank application. A mitigation plan or information supporting the applications has not been received.

It is my understanding the applicant requested that IDWR return the lease application if the rental application was not approved. On May 8, 2023 rental application 2426 was returned incomplete, therefore lease application 2425 is returned.

MEMORANDUM

TO: Sascha Marston
FROM: Phill Hummer
DATE: 5/8/23
RE: Refund

Joyce Livestock Co paid \$250.00 for an application to lease water rights into the water supply bank on 8/22/22. The application was returned incomplete on 5/8/23 which reduced the required processing fee. A full refund should be issued.

Please issue a \$250.00 refund as follows:

TO

JOYCE LIVESTOCK CO
C/O PAUL NETTLEON
14568 JOYCE RANCH RD
MURPHY ID 83650

RECEIPT

No. C113768

Hummer, Phill

From: Hummer, Phill
Sent: Monday, January 30, 2023 11:19 AM
To: Albert Barker
Cc: bke90@hotmail.com; Storms, Scott
Subject: Owyhee Noble Metals WSB Rental App 2426

Al,

We have a lease and rental package that proposes to idle Sinker Creek rights 57-173 and 57-174 to provide mitigation for ground water use proposed under a pending application for permit. The lease and rental package does not include sufficient detail demonstrating the non use of Sinker Creek water would off set impacts to the Snake River due to ground water pumping in both quantity and timing. Typically this information is part of a mitigation plan and without that information we can not determine if the rental of water for non use would provide an actual beneficial use nor would provide the proposed mitigation.

Additionally, when consumptive use is on-going such as under the authorization of a water right, we often do not accept rentals of rights as a viable plan because the use under the water right would occur for more than the 5 year period of the water supply bank approval.

My understanding is that the pending application for permit can not be approved without an approved mitigation plan and IDWR has not received one yet. Does your client intend to pursue the water right application and provide a mitigation plan? We can continue to hold the water supply lease application and rental application for now but we will not hold the applications without action indefinitely. Please let me know what is happening with the water right application and the development of a mitigation plan.

-Phill



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

Governor Brad Little

Director Gary Spackman

August 24, 2022

JOYCE LIVESTOCK CO
C/O PAUL NETTLETON
14568 JOYCE RANCH RD
MURPHY ID 83650

**RE: APPLICATION(S) TO LEASE WATER RIGHT NO(S). 57-173 & 57-174 TO THE
WATER SUPPLY BANK**

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to lease the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow. If the application(s) is not processed prior to the end of the proposed lease period, it will be returned to the applicant. The Department regrets any inconvenience caused by the delay.

If the right(s) is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted if additional information is required.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have any questions, please contact me at (208) 287-4822.

Sincerely,

A handwritten signature in black ink, appearing to read "Mackenzie Kienholz".

Mackenzie Kienholz
Water Supply Bank Specialist

Enclosure: Receipt #C113767 & #C113768



Barker Rosholt
& Simpson LLP

RECEIVED
AUG 22 2022
DEPARTMENT OF
WATER RESOURCES

Boise

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(1937-2019)

Albert P. Barker

EMAIL: apb@idahowaters.com
PHONE: 208.336.0700
WEB: idahowaters.com

August 22, 2022

Mary Condon
Water Supply Bank Coordinator
322 East Front Street, Suite 600
Boise, ID 83702

Re: Lease and Rental 57-173 & 57-174

Dear Mary,

Attached are two applications to lease water rights 57-173 and 57-174 into the water bank and to lease those same rights out as mitigation for a new water right application in the same drainage.

The leases and rentals are subject to a private lease agreement, so IDWR will not be making lease payments to the lessor. Those payments will be made directly to the lessor from the renter.

The acres dried up are show on Attachment #3.

Please let me know if you have any questions.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Albert P. Barker

Encl. a/s
APB/aje

2424
2425

2426