

# WHITE PETERSON

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To: Mayor and City Councilmembers  
City of Ketchum  
Delivered electronically

Re: Water Supply Bank Lease Resolution – Legal Analysis and Recommendations

### Background:

The City of Ketchum owns Water Right No. 37-289, a water right on Trail Creek with a priority date of 05/01/1883 and a diversion rate of 7 CFS that is authorized for irrigation purposes. The water right has had limited use at its designated place of use because the City is using treated wastewater at the site for irrigation purposes. Water Right No. 37-289 has previously been leased to the Water Supply Bank during the period that it has not been used by the City. The most recent lease expired on December 31, 2021.

### Legal Considerations:

Under I.C. § 42-222, a water right that is not used for a period of five years may be forfeited. Idaho Code § 42-223(5) provides an exception to forfeiture for water rights that are leased to the Water Supply Bank. Leasing the water right therefore keeps the water right active and available to the City for future needs. The right would be leased at the current rental rate charged by the Water Supply Bank and the City would receive rental income from the lease. The proposed resolution authorizes Giovanni Tognoni in his capacity as Water Division Supervisor to execute a new application to lease Water Right No. 37-289 to the Water Supply Bank for a period of five years, which is the maximum lease term authorized under IDAPA 37.02.03.030(05).

### General Recommendations:

It is recommended that the Council approve the resolution to authorize filing of the Water Supply Bank lease application.