

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 594**

RECEIVED  
DEC 28 2021  
DEPARTMENT OF  
WATER RESOURCES

This is to certify that:

PERFORMIX NUTRITION SYSTEMS  
LLC  
2201 N 20TH ST  
NAMPA, ID 83687

CHRIS BROMLEY  
380 S 4TH ST STE 103  
BOISE, ID 83702

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

**Summary of Water Rights or Portions Rented from the Bank**

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
36-7026	6/5/1968	GROUND WATER	0.11	26.2	6.5	0.017	4.03
<b>Combined Rental Totals</b>			<b>0.11</b>	<b>26.2</b>	<b>6.5</b>	<b>0.017</b>	<b>4.03</b>

**Term of Rental:** This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2023. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2022, whichever occurs last.

**Annual Rental Fee:**

2022: \$524.00 annually  
2023: \$602.60 annually

The full fee for the rental of the above-described right(s) is \$524.00 per year for years 2022 - 2022 and \$602.60 for 2023. The rental fee includes an administrative fee of \$52.40 per year for years 2022 - 2022 and \$60.26 for 2023.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

**Total Water Use Authorized Under Rental Agreement**

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
COMMERCIAL	0.11	19.6	6.5	0.017	3.02
<b>Combined Total</b>	<b>0.11</b>	<b>19.6</b>	<b>6.5</b>	<b>0.017</b>	<b>3.02</b>

*\* The authorized water usage reflects a reduction from the water right elements rented, to account for the beneficial use volume and nature of use change.*

Detailed water right conditions are attached.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 594**

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Mitch Anderson  
Signature of Renter

12-28-21  
Date

Mitch Anderson  
Printed Name

President  
Title

\*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By Brian Patton  
BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

Date 12/21/21

Rental approved by IDWR Plummer

Date 12/29/21

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 594**

**WATER USE DETAILS**

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      NESE              Sec. 25, Twp 09S, Rge 23E,                      MINIDOKA County

**BENEFICIAL USE**  
COMMERCIAL

**DIVERSION RATE**  
0.11 CFS

**VOLUME**  
19.6 AF

**SEASON OF USE**

**Water Right No.**                      **From**                      **To**  
36-7026                                      1/1                                      12/31

**RENTERS PLACE OF USE: COMMERCIAL**

Twp	Rng	Sec	NE				NW				SW				SE				Totals		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
09S	23E	25															X	X			X

**RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE**

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from 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.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. The right holder shall maintain a measuring device of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
10. This rental agreement does not authorize the construction of a well.

# Idaho Water Resource Board

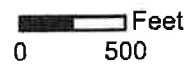
## Attachment to Water Supply Bank Rental Agreement No. 594

Effective until December 31, 2023

This map depicts the **rental place of use** pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



- Water Supply Bank Rental POD
- Water Supply Bank Rental POU
- Township/Range
- Sections
- QQ



STATE OF IDAHO  
WATER RESOURCE BOARD

APPLICATION TO RENT WATER  
FROM THE BOARD'S WATER SUPPLY BANK

Applicant Name: PerforMix Nutrition Systems, LLC

Is this application being submitted with a lease application as a lease/rental package? Yes  No   
If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at [http://idwr.idaho.gov/water\\_supply\\_bank](http://idwr.idaho.gov/water_supply_bank).

MINIMUM REQUIREMENT CHECKLIST		
Check All Items as Either Attached (Yes) or Not Applicable (N/A)		
	Yes	
	<input checked="" type="checkbox"/>	Completed <i>Application to Rent Water from the Board's Water Supply Bank</i>
	<input checked="" type="checkbox"/>	Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank
Attachment	N/A	Yes
2	<input checked="" type="checkbox"/>	A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request
3A	<input type="checkbox"/>	<input checked="" type="checkbox"/> Detailed information on a proposed use of rental water
3F	<input type="checkbox"/>	<input checked="" type="checkbox"/> Authorization from the owner/operator of the rental point(s) of diversion
3H	<input type="checkbox"/>	<input checked="" type="checkbox"/> Water modeling to account for the impacts of the rental request
3J	<input checked="" type="checkbox"/>	<input type="checkbox"/> Documents justifying a rate of flow greater than 0.02 cfs/acre
3K	<input type="checkbox"/>	<input checked="" type="checkbox"/> Authorization from the owner/operator of the property at the proposed rental place(s) of use
4B	<input type="checkbox"/>	<input checked="" type="checkbox"/> Explanation of how the rental water will sufficiently accomplish your rental purposes
4C	<input type="checkbox"/>	<input checked="" type="checkbox"/> Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant PerforMix Nutrition Systems, LLC (Kirk Bowman, Director of Operations)

Mailing Address 2201 N. 20th St. Nampa ID 83687  
Street City State Zip Code

Email Address kbowman@performixnutrition.com Phone Number 208-465-1724

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes  No   
 If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative Chris M. Bromley Professional Title Attorney  
 Organization McHugh Bromley, PLLC Relationship to Applicant Attorney  
 Mailing Address 380 S. 4th St., Ste. 103, Boise, ID 83702  
 Email Address cbromley@mchugbromley.com Phone Number 208-287-0991

**2. MAP**

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental 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 irrigate. Attach the map to this application and label it **Attachment 2**.

**3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER**

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:

The requested volume of 17 acre-feet and diversion rate of 0.11 cfs is the amount of water rented previously by PerforMix and is the amount of water necessary for commercial production based on use at the facility.  
Commercial use is for liquid feed supplements for livestock. The well pumps 50 gpm.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.11 CFS	17 AF	.011 CFS	17 AF	N/A AC

\* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
		<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> Process application as soon as possible	<input type="checkbox"/> Return application to applicant
1/1/2022	1/1/2022	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

\* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

\*\* Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):  
Well and pump located on Performix property for use within the facility.
- 

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
Pump	Ground Water	None

*If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.*

- F. Has documented consent from all relevant water delivery entities been obtained? Yes  N/A   
If yes, include documented consent as Attachment 3F.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes  No   
*Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.*

- H. Has water modeling been provided with your rental request? Yes  N/A   
If yes, label modeling Attachment 3 H.  
*Rental applications that require modeling will be returned if modeling is not provided.*

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- Irrigation \_\_\_\_\_ (number of acres) Duration: Subject to IDWR standard seasons of use  
 Commercial from: 1/1 (mm/dd) to: 12/31 (mm/dd)  
 Stockwater from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)  
 Industrial from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)  
 Other: \_\_\_\_\_ from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A  Yes  No   
If yes, justify the rate of flow and attach any supporting documents as Attachment 3J. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.
- 

- K. Do you own the land at the proposed rental place of use (POU)? Yes  No   
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it Attachment 3K.

- L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:
-

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

**4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS**

A. Are you requesting to rent specific water rights? Yes  No

Yes  No

If yes, specify below the elements of the water rights you are requesting to rent. If no, continue to Question 4B.

**Important Information:** Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via [IDWR's website](#).

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request.** For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number <small>(leave blank if sub-total of combined limits)</small>	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
<b>Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank</b>					<b>TOTAL</b>	<b>CFS</b>	<b>AF</b>	<b>AC</b>

*\*Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:  
 The use of water is for commercial purposes and will not provide an unusual duty of water.

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C. Does your rental request propose to change the nature of use for any water right(s) being rented? Yes  No

Yes  No

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

PerforMix is receptive to renting any water for commercial use, so it is possible that an irrigation water right may need to be rented for this commercial purpose.

STATE OF IDAHO  
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes  No   
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:  
The previous rental request was for 17 acre-feet through water right no. 36-4179. PerforMix is submitting this application to rent any water available in the bank as PerforMix understands the lease for 36-4179 may not be renewed.
- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes  No   
If yes, describe:  
PerforMix has a contract to purchase a water right for a permanent water supply with an application for transfer to be filed with IDWR as to water right no. 35-2122 and 35-7417. This rental is needed until the transfer is approved.
- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes  No   
If yes, describe the date and location of the NOV.
- D. Additional Information


DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

  
Signature of Applicant

Kirk Bowman, PerforMix Nutrition Systems  
Printed Name of Applicant

9-7-2021  
Date

  
Signature of Representative

Chris M. Bromley, Attorney at Law  
Printed Name of Representative

9/7/2021  
Date

Mail to:

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

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Water Modeling Requirement Information Sheet**

**Information on water modeling requirements for rental requests within special administrative areas**

**Important information on requesting rental water within special administrative areas:** Refer to the information below to determine whether the modeling of potential impacts from your rental request is necessary. Use Section 4 of the rental application to identify selected water rights. If you submit an application to rent water from within a special administrative area and water modeling is required, your rental request will be returned if water modeling is not provided.

**Water modeling may be required when an application to rent water involves one of two scenarios:**

**Scenario 1:** The rental request proposes to divert water from a regulated water source and/or within a special administrative area AND the distance between the rental point(s) of diversion (POD) and the POD(s) for the leased water right(s) is greater than the administratively established, acceptable distance.

**Regulated water sources may areas include:**

- A. Ground water resources within the modeled area of the Eastern Snake Plain Aquifer (ESPA) and tributary aquifers;
- B. Ground water within Ground Water Management Areas (GWMAs) or Critical Ground Water Areas (CGWAs);
- C. Water resources within other specified administrative areas, as established by the Idaho Water Resource Board (IWRB) or the Idaho Department of Water Resources.

The distance between any rental POD(s) and the POD(s) for a leased water right to be rented is important. On the ESPA, distance is measured in terms of model cells that cover an area of one square mile. Ground water modeling is not required if lease POD(s) and rental POD(s) are located within the same model cell or within adjacent model cells. If the lease and rental PODs are separated by more than one model cell groundwater modeling must be completed using the IDWR ESPA Transfer Tool and modeling results must be submitted with the rental application. ESPA modeling tools can be accessed and freely downloaded from IDWR's website by visiting: [www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm](http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm).

Ground water modeling may be required within GWMAs, CGWAs or other regulated administrative areas. Applicants who desire to rent water within an established GWMA, CGWA or other regulated administrative area should consult IDWR's website before submitting their application to review the current status of administrative orders related to regulated administrative areas. Consult [www.idwr.idaho.gov/WaterInformation/GroundWaterManagement/designated\\_areas.htm](http://www.idwr.idaho.gov/WaterInformation/GroundWaterManagement/designated_areas.htm) for information on GWMAs or CGWAs, visit <https://idwr.maps.arcgis.com/home/> to use mapping tools to find other regulated areas.

Applicants interested in renting water within a GWMA, CGWA or other regulated administrative areas should request water rights that have been leased into the Bank from within the same administrative area. Generally, the Bank will not permit a rental of water within a regulated administrative area if the leased water rights are not located within that same administrative area.

**Scenario 2:** A rental request proposes to divert water from a different but hydraulically connected water source.

**Modeling situations may include:**

- A. Rental requests that propose to divert surface water rights via ground water POD(s) (wells); and
- B. Rental requests that propose to divert ground water from one aquifer when the right being rented authorizes the diversion of ground water from a hydraulically connected, tributary aquifer.

Rental requests that propose to divert surface water rights from ground water points of diversion may be considered if ground water modeling establishes that the surface and ground water resources are directly and immediately hydraulically connected. An acceptable hydraulic connection occurs when at least 50 percent of the total depletions from a well are detectable from the original water source within a 24 hour period. The existing (leased) POD and proposed (rental) POD must be proximate such that diversion and use of water from the proposed POD would have substantially the same effect on the hydraulically-connected source as diversion and use of water from the original POD.

Requests to rent ground water across tributary aquifer sources may be considered if ground water modeling is provided to demonstrate that two aquifers are hydraulically connected and the anticipated impacts of diverting ground water from one source through the other is modeled accordingly.

For more information about rental application requirements, contact IDWR at (208) 287-4800.



Governor Brad Little

Director Gary Spackman

December 30, 2021

PERFORMIX NUTRITION SYSTEMS  
2201 N 20<sup>TH</sup> ST  
NAMPA, ID 83687

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 36-7026 AGREEMENT 594**

Dear Renter:

Please find enclosed a receipt in the amount of **\$524.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 26.2 acre-feet of water for commercial use during 2022. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, 90% or \$471.60 of the rental fee will be paid to the lessor(s) and 10% or \$52.40 will be retained by the Department to offset administrative costs.

If you have any questions, please contact this office at [bank@idwr.idaho.gov](mailto:bank@idwr.idaho.gov) or (208) 287-4800.

Sincerely,

*Amanda Johnson-Veibell*

for  
Water Supply Bank

Enclosures: Receipt No. C111618  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
IDWR Southern Regional Office  
Chris Bromley



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](mailto:idwrinfo@idwr.idaho.gov) • Website: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

December 27, 2021

PERFORMIX NUTRITION SYSTEMS LLC  
2201 N 20<sup>TH</sup> ST  
NAMPA, ID 83687

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 36-7026 AGREEMENT 594**

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

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of \$524.00 per year was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 26.2 acre-feet.

**Please send a check for \$524.00 for 2022** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing. An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Pursuant to the Water Supply Bank Rules, 90% or \$471.60 of the rental fee will be paid to the lessor(s) and 10% or \$52.40 will be retained by the Department to offset administrative costs for **2022**.

If you have any questions, please contact this office at [bank@idwr.idaho.gov](mailto:bank@idwr.idaho.gov) or (208) 287-4800.

Sincerely,

*Amanda Johnson-Veibell*

for  
Water Supply Bank

Enclosure

c: IDWR Front Desk  
Chris Bromley

**MEMORANDUM FOR AGREEMENT #**

To: Rental Application 2137, Water Right No. 36-7026  
 From: Phill Hummer (Water Rights Supervisor)  
 Date: 12/23/21  
 Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

**PURPOSE/NARRATIVE:**

Application to rent water for commercial use in PerforMix Nutrition Systems LLC facility was received via email on September 7, 2021. The application was deficient because completed ESPA modeling was not included, neither was a map showing the proposed point of diversion or place of use. Appropriate modeling was received via email on September 9, 2021. The application was received prior to the start of the review period for 2022 rental applications so it placed on hold until November. The application was received via email so a paper file was not created. On December 22, 2021 the applicants representative Chris Bromley emailed Remington Buyer asking about the status of the application. At that time the status of the application was updated to "ready for review" and WSB processes staff were made aware of the pending rental application. Although a map was never filed and the application should be considered incomplete, Perfomix has rented water in the past for use at the same facility. Due to the delay in processing previous years maps can be used to demonstrate the location of the POD and POU.

**AUTHORITY TO FILE:**

The application was filed by Chris Bromley acting on behalf of PerforMix Nutrition Systems LLC. Kirk Bowman signed the application on behalf of PerforMix and listed their title as Director of Operations. Kirk Bowman is not listed on as a registered agent on the annual reports for PerforMix available of the secretary of state website. However, past rental applications were signed by Kirk Bowman and executed without issues, it is assumed Kirk Bowman has the authority to act on behalf of PerforMix.

**WATER RIGHT VALIDITY:**

The partial decree for Water right 36-7026 was issued in 1998, 45 acres were leased into the WSB in 2004 indefinitely. The contract was amended in 2008 for 24.1 acres, until 2013. 24.1 acres has been continually leased since that time. Current lease contract 908 expires at the end of 2023. There are no issues with the validity of the portion of right 36-7026 being rented.

**INJURY TO OTHER WATER RIGHTS:**

PerforMix proposes to move a portion of irrigation water right 36-7026 for commercial use at their facility. The proposed change is within the ESPA ground water management area and requires evolution using the ESPA model to estimate the potential impacts of the proposed change to certain river reaches. Using a trimester volume of 6 af (applicant requested 17 af) the model shows that greater than 2 af will not occur and that mitigation is not required:

Steady State Analysis	Mitigation Check 1 - >10% of Historical:	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
	Mitigation Check 2: > 2 AF/T:	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	Mitigation Check 3 - >10% of Total:	1.4%	4.2%	12.5%	39.5%	2.1%	12.3%	14.0%	6.2%	3.9%	3.6%	0.2%
	Mitigation Required?:	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
	Mitigation Vol. Req'd (ac-ft):	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Transient State Analysis	Mitigation Check 1 - >10% of Historical:	0.0%	0.0%	0.3%	0.4%	0.9%	7.2%	4.6%	4.4%	4.3%	3.8%	3.4%
	Mitigation Check 2: > 2.01 AF/T:	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	Mitigation Required?:	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
	Mitigation Vol. Req'd (ac-ft):	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Figure 1. Image of the results from the ESPA model tool showing mitigation for the proposed rental is not required.

The applicant desires diversion and use of ground water for commercial uses from January to December, the historic consumptive use under the irrigation right would have occurred over a much shorter period of time. Changing the timing of appropriation and consumption of water under a right could potentially injure users of the source. However, the ground water within the ESPA is considered hydraulically connected and idled ground water is not lost from the aquifer in the same way surface water might flow out of the system. A change in timing from the irrigation season to a year round season of use should not impact other ground water users. Ground water aquifers are not subject to drastic seasonal natural fluctuations and the quantity of water available is adequate to support all the users prior to the irrigation season plus the addition of use under this rental. The amount idled in the irrigation season will serve to recharge the aquifer and offset the amounts appropriated under the rental during times when it wouldn't normally be diverted under the historic use of the irrigation use.

**ENLARGEMENT OF USE:**

Applicant proposes a change in nature of use from irrigation to commercial use. Only the consumptive use portion is available to change. 6.5 acres of water will be rented which is equivalent to 19.62 af. The applicant requests the use of 17.0 af so the consumptive use volume of the 6.5 acres needed to get a diversion rate of 0.11 cfs is enough to satisfy the proposed use. By considering only the consumptive use volume, an enlargement of the rental right should not occur.

**LOCAL PUBLIC INTEREST:**

Renting water for use maximized the beneficial use of water within the State of Idaho, renting water for use is within the public interest.

**BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:**

The applicant has requested sufficient water for the proposed beneficial use, the rental appears consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:**

The proposed place of use is within Water District 130. Requests for comments were sent to the watermaster Nathan Erickson and Corey Skinner (Regional Manager Southern Region) on 12/27/21.

## Buyer, Remington

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**From:** Buyer, Remington  
**Sent:** Tuesday, September 7, 2021 11:59 AM  
**To:** 'Chris Bromley'  
**Subject:** RE: WSB Application  
**Attachments:** ESPA Ground Water Availability for Calendar Year 2022 - As of September 7, 2021.xlsx

Hi Chris,

I've initiated this 2022 rental application for PermforMix and assigned it rental application ID number 2137.

The application is deficient because it is missing ESPA ground water modeling. Attached is a list of ESPA ground water rights that are presently leased to the Bank through next year, which could be requested to be rented by PerforMix. You may use the attached to complete the ESPA ground water modeling required for rental application 2137.

Once we get the ESPA modeling from you, we will place the rental in the queue to be reviewed with all other 2022 rental applications, beginning on November 1, 2021. You can email the data to [Bank@idwr.idaho.gov](mailto:Bank@idwr.idaho.gov).

At this time, I have placed rental application 2137 on hold, to allow you time to complete and provide the modeling. Please provide it by October 7<sup>th</sup>, 2021; if we don't receive the ESPA modeling by this date, we'll return the rental application to you.

Also, there is no fee associated with submitting a rental application. If we are able to process a rental application for PerforMix, we'll request the rental agreement payment from your clients once our review is complete.

Thank you,

Remington.

**From:** Chris Bromley [mailto:[cbromley@mchughbromley.com](mailto:cbromley@mchughbromley.com)]  
**Sent:** Tuesday, September 7, 2021 8:27 AM  
**To:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>  
**Subject:** WSB Application

Morning Remington,

I'm attaching a completed draft of a WSB application for rental of 17 acre-feet of water for use in Rupert by a company called Performix. We've had a few rentals over the years. Performix is in the process of filing a transfer with IDWR to move a permanent supply of water to the facility. Would you mind looking over the application and letting me know if we've missed anything? When I heard from Mary, she said to have applications in three months prior to needing the water. I'd like to make sure I have all my ducks in a row so Performix doesn't run into any problems. Lastly, what's the fee I should send in with the application?

Hope you had a Happy Labor Day!

Thanks,

Chris M. Bromley  
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