

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 552

RECEIVED
NOV 16 2021
DEPT OF WATER RESOURCES

This is to certify that:

D CASE LLC
198 W 500 N
BLACKFOOT, ID 83221-5736

D COOPER LLC
578 N 100 W
BLACKFOOT, ID 83221-5714

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)
31-7128	7/30/1974	GROUND WATER	0.20	64.10	0.00	∞	∞
31-7489	11/6/1987	GROUND WATER	0.80	541.00	0.00	∞	∞
Combined Limit Totals			1.00	605.1	0.00		
35-14308	5/1/1973	GROUND WATER	0.35	86.3	21.6	0.016	4.00
29-13892	10/28/1953	GROUND WATER	0.68	148.0	37.0	0.018	4.00
Combined Rental Totals			2.03	839.4	58.6	0.035	14.33

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2021. 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 2021, whichever occurs last.

Annual Rental Fee:

2021: \$16,788.00

The full fee for the rental of the above-described right(s) is \$16,788.00 for 2021. The rental fee includes an administrative fee of \$1,678.80 for 2021.

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)
IRRIGATION	1.53	360.1	90.0	0.017	4.00
Combined Total	1.53	360.1	90.0	0.017	4.00

* The authorized water usage reflects a reduction from the water right elements rented, to account for a per-acre diversion rate of 0.017 cfs/ac, equivalent to the per-acre diversion rate of water right 35-2765.

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 552

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:


Signature of Renter

6-24-21
Date

Doug Case
Printed Name

Owner
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, Acting Administrator
Idaho Water Resource Board

Date 11/17/21

Rental approved by IDWR 

Date 11/17/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 552

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSW Sec. 1, Twp 01S, Rge 34E, BINGHAM County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
1.53 CFS

VOLUME
360.1 AF

SEASON OF USE

Water Right No.	From	To
31-7128	4/1	10/31
31-7489	4/1	10/31
35-14308	4/1	10/31
29-13892	4/1	10/31

RENTERS PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	34E	2			1.0 L2	1.0 L1									16	35	36		89
01S	34E	11		1.0															1.0

Total Acres: 90.0

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. Rental does not authorize the construction of a well.
10. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 552

11. This use of water for irrigation purposes under the rights listed on this rental, when combined with all other rights, shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
12. A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK

RECEIVED

MAR 30 2021

DEPT OF WATER RESOURCES

Applicant Name: D Cooper LLC and D Case 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.

MINIMUM REQUIREMENT CHECKLIST

Check All Items as Either Attached (Yes) or Not Applicable (N/A)

Yes

- ☒ Completed *Application to Rent Water from the Board's Water Supply Bank*
- ☒ Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 2 | ☒ | ☐ | 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 | ☐ | ☒ | Detailed information on a proposed use of rental water |
| 3F | ☒ | ☐ | Authorization from the owner/operator of the rental point(s) of diversion |
| 3H | ☐ | ☒ | Water modeling to account for the impacts of the rental request |
| 3J | ☒ | ☐ | Documents justifying a rate of flow greater than 0.02 cfs/acre |
| 3K | ☒ | ☐ | Authorization from the owner/operator of the property at the proposed rental place(s) of use |
| 4B | ☐ | ☒ | Explanation of how the rental water will sufficiently accomplish your rental purposes |
| 4C | ☒ | ☐ | 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 D Cooper LLC and D Case LLC

Mailing Address 578 N 100 W Blackfoot ID 83221
Street City State Zip Code

Email Address djcase@gmail.com Phone Number 208-604-2292

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 Richard Brown Professional Title Consultant

Organization Alpha Harvest Relationship to Applicant Consultant

Mailing Address 2002 Jennie Lee Drive

Email Address richard.brown@alphafarmland.com Phone Number 208-206-5045

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 applicant desires to rent water for the irrigation of crops

Note: Application lists specific rights for 85 acres but applicant would like to rent any other available rights for a total of 184 a

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)
CFS	AF	CFS	AF	<u>184</u> ~~85~~ 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?	
<u>4/15/2019</u>	<u>5/10/2019</u>	☒ 1	☐ 2	☐ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

* 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):

Water will be diverted using an existing groundwater well into mainline and then to irrigation pivots

- 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
well	groundwater	35-2765

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 184 (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (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 ☐

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 (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
31-7128								
31-7489								
Plus any other water rights that become available						Plus any other water rights that become available		
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					TOTAL		605.1	85
						CFS	AF	AC

*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**:

C. Does your rental request propose to change the nature of use for any water right(s) being rented?

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**:

STATE OF IDAHO
WATER RESOURCE BOARD

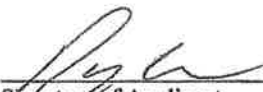
Application to Rent Water (Continued)

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:
Applicant rented water during the 2020 irrigation season under rental agreement 427. Applicant is searching for
a permanent water right to purchase, but has not been able to put together a suitable transaction.
- 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:
- 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

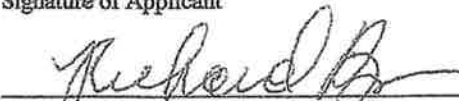
DECLARATION

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

Doug Case
Printed Name of Applicant

12/18/2020
Date

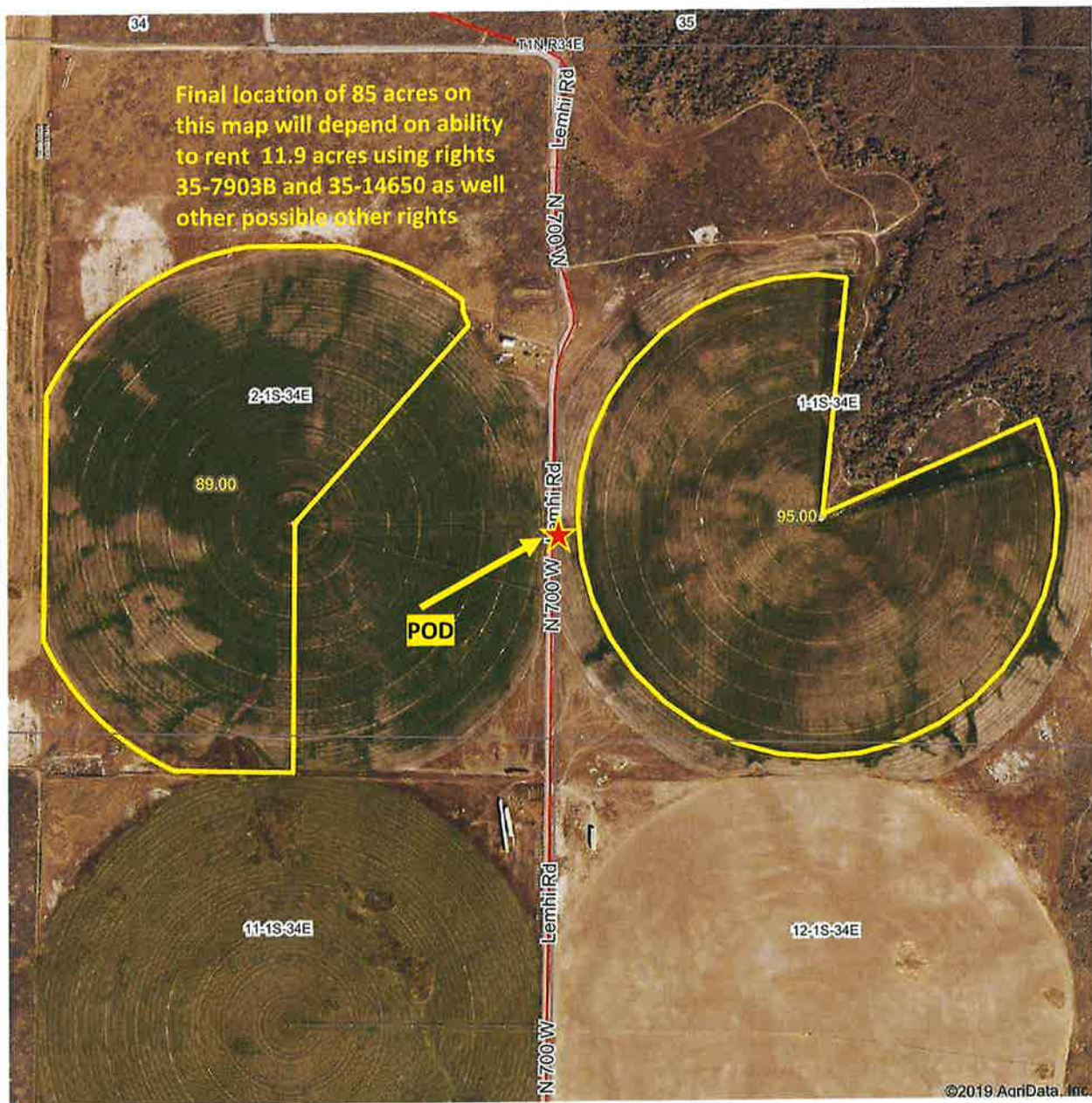

Signature of Representative

Richard Brown
Printed Name of Representative

12/18/2020
Date

Mail to:

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





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

November 18, 2021

D CASE LLC
198 W 500 N
BLACKFOOT, ID 83221-5736

D COOPER LLC
578 N 100 W
BLACKFOOT, ID 83221-5714

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 31-7128, 31-7489, 35-14308, 29-13892 AGREEMENT 552**

Dear Renter:

Please find enclosed a receipt in the amount of **\$16,788.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 839.4 acre-feet of water for irrigation of 90 acres during 2021. 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 \$15,109.20 of the rental fee will be paid to the lessor(s) and 10% or \$1,678.80 will be retained by the Department to offset administrative costs.

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Receipt No. C111319
Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Eastern Regional 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 Gary Spackman

November 9, 2021

D CASE LLC
198 W 500 N
BLACKFOOT, ID 83221-5736

D COOPER LLC
578 N 100 W
BLACKFOOT, ID 83221-5714

**RE: FINAL REQUEST FOR RENTAL PAYMENT WATER SUPPLY BANK RENTAL
AGREEMENT 552 FOR WATER RIGHT(S) 31-7128, 31-7489, 35-14308 & 29-13992**

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

Dear Applicant:

The Department of Water Resources ("Department") mailed a **Water Supply Bank Rental Agreement ("Agreement")** for your review and signature on June 11, 2021. The signed agreement was received via email on August 5, 2021 with the note the payment was being processed. A follow up email was sent September 22, 2021 requesting the payment. As of the date of this letter, the payment has not been received.

Please submit payment in the amount of \$16,788.00 within ten (10) days of this letter to complete processing. Diversion and use of the water right(s) is not authorized under the proposed agreement until it has been signed by both the renter and the Department. Any use associated with your proposed rental request before it has been executed is considered unauthorized and, if occurring, will be subject to any necessary enforcement action.

If the signed rental agreement and fee is not received by the department within the 10-day period, the rental application will be returned, and the proposed rental right(s) made available for other rental applicants. You can reapply to rent water from the Bank again in the future by submitting a new rental application form that will be processed in turn with other pending applications.

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Veibell, Amanda

From: Veibell, Amanda
Sent: Wednesday, September 22, 2021 10:21 AM
To: Doug Case
Cc: Bank
Subject: RE: Water Rental Application

Good morning Mr. Case.

At this time, the Department has yet to receive the payment for Water Supply Bank rental 552. Do you happen to have a status of the payment?

Thank you.

Amanda Johnson-Veibell



From: Veibell, Amanda
Sent: Thursday, August 5, 2021 3:07 PM
To: Doug Case <doug@dc-farms.net>
Subject: RE: Water Rental Application

Thank you for the signed rental agreement. Once the payment is received, the Department will move forward and execute the rental agreement.

Thank you.

Amanda Johnson-Veibell

208-287-4945

From: Doug Case [<mailto:doug@dc-farms.net>]
Sent: Thursday, August 5, 2021 1:01 PM
To: Veibell, Amanda <Amanda.Veibell@idwr.idaho.gov>
Subject: Water Rental Application

Attached is the water application for DC Farms. Payment is being processed.

Thanks,

Doug Case
DC Farms
Blackfoot, ID
208-604-2292



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 11, 2021

D CASE LLC

198 W 500 N

BLACKFOOT, ID 83221-5736

D COOPER LLC

578 N 100 W

BLACKFOOT, ID 83221-5714

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 31-7128, 31-7489, 35-14308 & 29-13892 AGREEMENT 552

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 \$16,788.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 839.40 acre-feet.

Please send a check for \$16,788.00 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

Pursuant to the Water Supply Bank Rules, 90% or \$15,109.20 of the rental fee will be paid to the lessor(s) and 10% or \$1,678.80 will be retained by the Department to offset administrative costs.

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

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure

c: IDWR Front Desk

Memorandum

To: Water Supply Bank Applications 2043 and 2058
From: Remington Buyer
Date: June 2, 2021
Re: Request to Rent Water Rights from the Water Supply Bank

Purpose/Narrative: Rental application 2043 was received on March 30th 2021 from Richard Brown, who submitted it on behalf of D Case LLC and D Cooper LLC. The applicants own land in Bingham County that is partially irrigated with Eastern Snake River Plain Aquifer (ESPA) ground water right 35-2765. Water right 35-2765 authorizes a diversion rate of 0.95 cfs and a diversion volume of 224 af, for the irrigation of 56 acres, equivalent to a duty of water of 0.017 cfs/ac and 4.0 afa/ac. The applicants are irrigating an additional 184 acres. In 2020, the applicant irrigated these additional 184 acres through rental agreement 424.

Application 2043 requested a rental of water rights 31-7128 and 31-7489 (lease contract 1011). Based on the ESPA Transfer Tool (ETRAN), it appears 605.1 af of ESPA ground water can be left un-diverted at the lease location for water rights 31-7128 & 7489, sufficient to authorize a 255 af consumptive use diversion volume (or 340 af overall) without requiring mitigation. Although 340 af would allow for the irrigation of 84 acres at a duty of water equivalent to the 4.0 afa/ac per-acre diversion volume authorized under 35-2765, water rights 31-7128 & 7489 are combined limited to 1.0 cfs, which would provide a low diversion rate of 0.012 cfs/ac. Proportionate to the 0.017 cfs/ac diversion rate of 35-2765, water rights 31-7128 & 7489 can authorize an additional 58.8 acres of irrigation at the rental place of use without inducing enlargement.

Following the submission of rental application 2043, IDWR provided the applicant with a list of additional ESPA ground water rights available for rental in 2021. The applicant then submitted a second application (number 2058) on April 21, 2021, requesting a rental of water right 29-13892, equivalent to a diversion rate of 0.95 cfs and a diversion volume of 208 af, for the irrigation of 52 acres. In fact, only 0.68 cfs and 148 af, for the irrigation of 37 acres, can be rented from water right 29-13892 in 2021. Further, the ESPA modeling provided with rental application 2058 was erroneous and did not pass without mitigation. IDWR evaluation of the ETRAN modeling for 148 af of water right 29-13892 (or 111 af of annual consumptive use volume, or 37 af/trimester of consumptive use volume), revealed that 25 af/trimester of consumptive use volume (equivalent to 75 af annual consumptive use volume, or 100 af of overall annual diversion volumes) could be rented to the applicant without requiring mitigation.

Because rental applications 2043 and 2058 are for the same lands, they are being evaluated as a single application. A single rental agreement will be drafted, based on the amounts requested through both rental applications 2043 and 2058. Together, water rights 31-7128 & 7489, along with water right 29-13892, provide for an overall diversion rate of 1.425 cfs and a diversion volume of 440 af for the irrigation of 110 acres at the rental location (equivalent to a per-acre duty of water of 0.013 cfs/ac and 4.0 afa/ac). However, to avoid enlargement of water right 35-2765, these water rights can be calibrated to a per-acre diversion rate of 0.017 cfs/ac, which provides for the irrigation of 83.8 acres during 2021.

In addition to the above referenced water rights, the following additional water rights are available for rental to the applicant during 2021: 35-14308 (contract 1312) and 35-14650 (contract 1192). These water rights are ESPA irrigation water rights that can provide an additional 22.3 acres of irrigation by the applicant (at a duty of water of 0.017 cfs/ac and 4.0 afa/ac) during 2021, for an overall irrigation authorization of 106 acres in 2021. The applicant's representative was contacted on May 26th, to inquire as to whether they desired a rental of 90 acres (sufficient to authorize the full irrigation of a single center-pivot) or 106.1 acres. They responded on June 2nd to affirm they desired a rental of only 90 acres.

Authority to File: The applications were signed by Doug Case. Doug Case is the manager of "D. Case LLC" and D. Case LLC owns the land where water will be diverted and used for irrigation under the rental. No concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: The water rights being used for this rental are valid and leased to the Bank. No concerns about the validity of the rights being rented, or of the validity of right 35-2765.

Injury Evaluation: ESPA Transfer Tool (ETRAN) modeling of the water rights being requested on this rental indicate that no injury will occur if the following amounts are rented by the applicant, provided that amounts diverted under these rights are reduced, to avoid injury to the ESPA and Snake River, as follows:

Amounts Rented						Amounts Authorized to be Diverted				
Water Right(s)	Rate (cfs)	Vol (af)	Acres	Rate/ AC	Vol/ AC	Rate (cfs)	Vol (af)	Acres	Rate/ AC	Vol/ AC
31-7128	0.200	64.1				0.200	47.1	11.8	0.017	4.00
31-7489	0.800	541				0.800	188.2	47.1	0.017	4.00
combined	1.000	605.1				1.000	235.3	58.8	0.017	4.00
29-13892	0.680	148	37	0.018	4.00	0.425	100.0	25	0.017	4.00
35-14308	0.349	86.3	21.6	0.016	4.00	0.105	24.8	6.2	0.017	4.00
Totals	2.029	839.4	58.6	0.035	14.33	1.530	360.1	90.0	0.017	4.00

Enlargement of Use: Water rights 31-7128 & 7489 are fully consumptive industrial water rights. No enlargement will occur to rent the entire volume leased into the Bank under these rights. The remaining two water rights on this rental agreement are ESPA irrigation water rights. To avoid enlargement of these water rights along with water right 35-2746, the amounts rentable under the three water rights will be reduced, to match the per-acre diversion rate authorized under 35-2746.

Local Public Interest: Staff are unaware of any local public interests that are averse to the rental.

Beneficial Use/Conservation of Water Resources: The rental appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Water District 120 and IDWR Eastern Regional comments were requested on May 25, 2021. No concerns from regional/water district staff.

Water Supply Bank Evaluation: Bank staff recommend the approval of this rental application.

Buyer, Remington

From: Buyer, Remington
Sent: Wednesday, June 2, 2021 4:15 PM
To: 'Richard Brown'
Subject: RE: Status of Case Cooper water rental applications?
Attachments: ETRAN Modeling of WR 29-13892.xlsm

Richard,

Thanks for getting back to me, our office will proceed with a rental agreement for 90 acres.

As requested, attached is the ESPA modeling for water right 29-13892 that passed without mitigation. A non-diversion of 37 af consumptive use volume per trimester under water right 29-13892 was sufficient to allow for a diversion volume of 25 af consumptive use volume at the rental location. A diversion of more than 25 af c/u vol/trimester induced injury to the ESPA and the Snake River, requiring mitigation.

WSB statutes and rules do not allow for an enlargement of water rights being rented. Further, it is IDWR's policy to calibrate water rights being rented to match the per-acre diversion rate associated with water rights being supplemented through a rental. Because water right 35-2765 is being supplemented through this rental, and because it authorizes irrigation of 56 acres at 0.017 cfs/ac, the per-acre diversion rate authorized under the rental is also set to 0.017 cfs/ac.

Please let me know if you have any further questions,

Remington

From: Richard Brown [mailto:richard.brown@alphafarmland.com]
Sent: Wednesday, June 2, 2021 7:23 AM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: Re: Status of Case Cooper water rental applications?

Remington,

For now just do the 90 acre contract to get that moving.

Though still send over the actual modeling results for 29-13892, as the memo states that the modeling submitted with the application was erroneous.

Also, the memo says that 29-13892 only had 37 acres available in 2021 (versus what we thought was 52 acres, a number that come from some IDWR source). 35-14308 went from 55.8 acres to 16 acres in your table - that is far more than the flow rate issue would change things. Please elaborate. You've stumped a water rights consultant we have working in the background.

The flow rate issue - where is this listed as IDWR policy for rental modeling when volume is critical measure? Frustrating that the modeling you had originally provided differs from the final modeling.

Richard Brown

On Wednesday, May 26, 2021, 08:48:33 AM MDT, Buyer, Remington <remington.buyer@idwr.idaho.gov> wrote:

Morning Richard,

My memo reviewing the two rental applications is attached, so you can better understand how IDWR determined the amount rentable to your clients in 2021.

There are no more consumptive use ESPA water rights remaining available for rental to your clients in 2021, at this time. One of the water rights allocated to the rental for your clients (35-14650) was actually fully rented to another water user up until last week, but that water user cancelled their rental agreement last Friday, so I was able to add it to rental application 2043.

Remington

From: Richard Brown [<mailto:richard.brown@alphafarmland.com>]
Sent: Tuesday, May 25, 2021 5:22 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: Re: Status of Case Cooper water rental applications?

Remington,

Thanks for the update. I will have an answer for you as soon as I can on the additional 16.1 acres.

Since Case/Cooper had various other folks doing some work modeling/other work in the background, can you provide a breakdown by water right of where the 90 acres plus 16.1 acres are coming from, and how the final numbers were trimmed from the hoped for amounts? I have in my notes:

Application 2043: 31-7128 and 31-7489 were originally modeled showing 85 acres. 35-14308 was 55.7 acres

Application 2058 originally was for 52 acres.

Also, do you know if any other water rights in this vicinity have since come up for rental? I will also check the spreadsheet.

Regards,

Richard Brown

208-206-5045

On Tuesday, May 25, 2021, 03:26:24 PM MDT, Buyer, Remington <remington.buyer@idwr.idaho.gov> wrote:

Richard,

I had today to complete a review of Water Supply Bank rental applications 2043 and 2058 for D Case LLC in 2021.

Based on the water rights requested to be rented, and some additional water rights that are presently leased to the Bank, IDWR can authorize the irrigation of an additional 90 acres on the center-pivot that is already partially covered with water right 35-2765. The attached map depicts the place of use that can be covered with a rental in 2021.

Additionally, there it appears a further 16.1 acres might also be irrigable under a rental, on the adjacent pivot, immediately east.

Please know, because water right 35-2765 provides a duty of water of 0.017 cfs/ac and 4.0 afa/ac, our rental of water rights to D Case LLC must be calibrated to match the per-acre diversion rate and volume, to avoid enlargement of any water rights associated with the rental. Accordingly, the sum diversion rate and volumes

from the water rights proposed to be rented exceed the amounts authorized to be diverted at the rental location. However, as stated above, we can authorize to you an irrigation rental of at least 90 acres.

If you would like to proceed with a rental for just the 90 acres, please advise, and I will draft a rental agreement for these lands. If you wanted to partially cover the pivot immediately east, up to 16.1 acres, please advise which acres should be associated with a rental on the second pivot.

Thank you,

Remington

From: Richard Brown [<mailto:richard.brown@alphafarmland.com>]
Sent: Wednesday, May 19, 2021 3:03 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Doug Case <doug@dc-farms.net>
Subject: Re: Status of Case Cooper water rental applications?

Remington,

Do you have an update yet? I just looked at the spreadsheet and I see that various rental applications that were received after application 2043 are listed as either under review or processed. 2043 is still listed as ready for review.

Richard Brown

On Tuesday, May 11, 2021, 04:05:52 PM MDT, Buyer, Remington <remington.buyer@idwr.idaho.gov> wrote:

Hello Richard,

I have assigned those applications to myself today. I am hoping to begin a review of rental application 2043 later this week.

Regards,

Remington

From: Richard Brown [<mailto:richard.brown@alphafarmland.com>]
Sent: Friday, May 7, 2021 4:50 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: clay.webster@idwr.idaho.gov; Doug Case <doug@dc-farms.net>
Subject: Status of Case Cooper water rental applications?

Remington,

I have been following the water supply bank processing spreadsheet closely. Application 2043 has been listed as "ready for review" for a while, but doesn't show who has been assigned the application. Application 2058 has been listed as "received" for a while, and has been assigned to Clay Webster.

Can you please provide an update on these applications, and when a contract is likely to be available.

Regards,

Richard Brown

208-206-5045

Buyer, Remington

From: Cefalo, James
Sent: Wednesday, May 26, 2021 2:16 PM
To: Buyer, Remington
Subject: RE: WSB Rental Application 2043 & 2058

Remington,

I don't have any concerns with the WSB rentals.

James

From: Buyer, Remington
Sent: Tuesday, May 25, 2021 3:17 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Cc: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: WSB Rental Application 2043 & 2058

James, Blake,

Richard Brown recently submitted to IDWR two rental applications on behalf of his clients D Cooper LLC and D Case LLC. The two LLCs own land in Bingham County that they would like to irrigate with approval from the Water Supply Bank. Water right 35-2765 authorizes irrigation of 56 acres of their property, however, they desire to irrigate up to 184 acres.

Based on the supply of ESPA ground water rights presently leased to the bank for 2021, it may be possible to authorize to them a rental of 106.1 acres. My review memo, map and draft approval are attached. The map attached depicts where approximately 90 acres might occur on the center-pivot associated with water right 35-2765. In addition to these 90 acres, an additional 16.1 acres might be irrigable on an adjacent center-pivot. I will need to follow up with Richard Brown to confirm if and where his clients might desire to irrigate any additional acreage.

Additionally, one of the water rights proposed to be rented (35-14650) is combined with water right 1-10687, however it appears the place of use for water right 35-14650 can be fully irrigated with ground water and I don't see any supplemental water use conditions on the right. Do you have concerns or objections to the rental of 35-14650 (along with a proportionate amount of 1-10687), to authorize irrigation of up to 9.2 acres by D Case and D Cooper LLC? If so, please advise. Also, please weigh in with any other questions, comments or concerns you might have regarding this rental.

Thank you,

Remington

Buyer, Remington

From: Jordan, Blake
Sent: Tuesday, May 25, 2021 3:45 PM
To: Buyer, Remington
Cc: Cefalo, James
Subject: RE: WSB Rental Application 2043 & 2058

Hi Remington,
I have no concerns with rental agreement.

Blake

From: Buyer, Remington
Sent: Tuesday, May 25, 2021 3:17 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Jordan, Blake <Blake.Jordan@idwr.idaho.gov>
Cc: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: WSB Rental Application 2043 & 2058

James, Blake,

Richard Brown recently submitted to IDWR two rental applications on behalf of his clients D Cooper LLC and D Case LLC. The two LLCs own land in Bingham County that they would like to irrigate with approval from the Water Supply Bank. Water right 35-2765 authorizes irrigation of 56 acres of their property, however, they desire to irrigate up to 184 acres.

Based on the supply of ESPA ground water rights presently leased to the bank for 2021, it may be possible to authorize to them a rental of 106.1 acres. My review memo, map and draft approval are attached. The map attached depicts where approximately 90 acres might occur on the center-pivot associated with water right 35-2765. In addition to these 90 acres, an additional 16.1 acres might be irrigable on an adjacent center-pivot. I will need to follow up with Richard Brown to confirm if and where his clients might desire to irrigate any additional acreage.

Additionally, one of the water rights proposed to be rented (35-14650) is combined with water right 1-10687, however it appears the place of use for water right 35-14650 can be fully irrigated with ground water and I don't see any supplemental water use conditions on the right. Do you have concerns or objections to the rental of 35-14650 (along with a proportionate amount of 1-10687), to authorize irrigation of up to 9.2 acres by D Case and D Cooper LLC? If so, please advise. Also, please weigh in with any other questions, comments or concerns you might have regarding this rental.

Thank you,

Remington