

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 580

RECEIVED
OCT 05 2021
DEPARTMENT OF
WATER RESOURCES

This is to certify that:

MARC G FULLER
PO BOX 4049
KETCHUM, ID 83340-4001

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)
37-22019	3/29/1961	GROUND WATER	0.04	7.0	2.0	0.019	3.5
Combined Rental Totals			0.04	7.0	2.0	0.019	3.5

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2025. 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 - 2022: \$140.00 annually
2023 - 2025: \$161.00 annually

The full fee for the rental of the above-described right(s) is \$140.00 per year for years 2021 - 2022 and \$161.00 per year for years 2023 - 2025. The rental fee includes an administrative fee of \$14.00 per year for years 2021 - 2022 and \$16.10 per year for years 2023 - 2025.

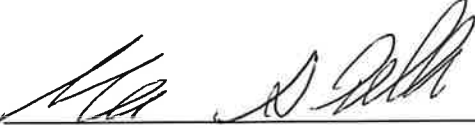
An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify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

Detailed water right conditions are attached.

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DEPARTMENT OF WATER RESOURCES

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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

10/11/21

Date

Marc G Folwer

Printed Name

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 10/13/21

Rental approved by IDWR 

Date 10/13/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 580

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWSW Sec. 32, Twp 04N, Rge 18E, ADA County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
0.04 CFS

VOLUME
7.0 AF

SEASON OF USE

Water Right No. **From** **To**
37-22019 4/15 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	
04N	18E	32										2.0							2.0

Total Acres: 2.0

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. This 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, the water right is within State Water District No. 37.
11. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

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WATER SUPPLY BANK RENTAL AGREEMENT No. 580

12. This rental shall be subordinate to Big Wood River minimum streamflow water rights 37-7919 & 37-8307 and diversions are only authorized when flows exceed 189 cfs as measured at the USGS Stream Gage 13139510 in Hailey, ID.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Idaho Water Resource Board

Attachment to Water Supply Bank Rental Agreement No. 580

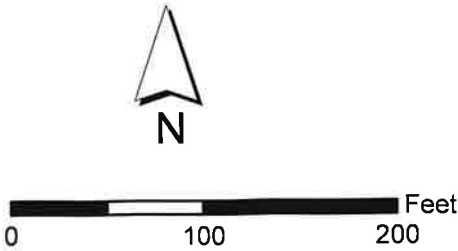
Effective until December 31, 2025

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



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

-  Authorized Rental Point of Diversion
-  Authorized Rental Place of Use
-  Township/Range
-  Sections
-  QQ



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUL 09 2021

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: Marc Fuller

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)

37-22019

2113

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Marc Fuller

Mailing Address	<u>PO Box 4049</u>	<u>Ketchum</u>	ID	<u>83340</u>
	Street	City	State	Zip Code
Email Address	<u>marcgfuller@gmail.com</u>		Phone Number	<u>650-773-1826</u>

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 James P. Speck Professional Title attorney

Organization Speck & Aanestad, A Professional Corp Relationship to Applicant attorney

Mailing Address PO Box 987, Ketchum, ID 83340

Email Address jim@speckandaanestad.com Phone Number 208-726-4421

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**:

Residential landscape irrigation

- 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)
0.04 CFS	7.0 AF	0.04 CFS	7.0 AF	2.0 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?	
7/15/2021	8/1/2015	☐ 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):

Well, pump, underground sprinkler irrigation system

- 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	ground water	domestic exemption

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 2.0 (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: 4/15 (mm/dd) to: 10/31 (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:

None

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)
37-22019	irrigation	8.78	1593.5	455.3		0.04	7.0	2.0
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	0.04	7.0	2.0
						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**:

N/A

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:

- 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

Marc Fuller

Printed Name of Applicant

7/6/21

Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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



MARC FULLER
APPLICATION TO RENT WATER RIGHT
ATTACHMENT 2





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

October 15, 2021

MARC G FULLER
PO BOX 4049
KETCHUM, ID 83340-4001

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 37-22019 AGREEMENTS 580**

Dear Renter:

Please find enclosed a receipt in the amount of **\$140.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 7.0 acre-feet of water for irrigation of 2.0 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 \$126.00 of the rental fee will be paid to the lessor(s) and 10% or \$14.00 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. C111082
Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Eastern Regional Office
James Speck

MEMORANDUM FOR AGREEMENT # 580

To: Water Supply Bank Rental Application 2113
From: Remington Buyer
Date: August 26, 2021
Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On July 9th, 2021, an application was received from Marc Fuller, through Jim Speck of Speck & Aanestad, requesting a five year rental of a portion of water right 37-22019, equivalent to 0.04 cfs and 7.0 af for the irrigation of 2.0 acres, to authorize the irrigation of 2.0 acres of the renter's 7.2 acre residential property located in Blaine County. A domestic well located on the property authorizes a diversion of ground water and the irrigation of up to 0.5 acres.

It appears approximately 2.5 acres of the property are under active irrigation. Minus the domestic exemption, the remaining irrigation can be authorized by this rental. Due to the change in timing, magnitude and location of impacts to the Idaho Water Resource Board's (IWRB's) 189 cfs minimum streamflow on the Big Wood River, established under water rights water rights 37-7919 & 37-8307, this rental will be approved subordinate to the MSF water rights.

AUTHORITY TO FILE: The property where rental water will be used for irrigation purposes is owned by mitigate for diversions under the temporary water use authorization is owned by "Marc G. Fuller, Trustee". No concerns about authority to file.

WATER RIGHT VALIDITY: Water rights 37-22109 is valid and available for rental from the Bank.

INJURY TO OTHER WATER RIGHTS: Water right 37-22019 authorizes diversions of Wood River Valley Aquifer ground water at a location south of Hailey. The rental location is approximately seven miles north of Hailey. The pumping of ground water under this rental will result in an increased depletion of surface water from the Big Wood River, which will impact the Idaho Water Resource Board's (IWRB's) 189 cfs minimum streamflow on the Big Wood River.

The IWRB has established that ground water rentals in the Wood River Valley that result in an increased depletion of Big Wood River water should be considered as an unacceptable impact to its minimum streamflow water rights. To avoid injury to the IWRB's minimum streamflow water rights, a condition will be added to this rental, to limit ground water diversions to only those times when more than 189 cfs is flowing in the Big Wood River, as measured at the Hailey Gage.

ENLARGEMENT OF USE: Water right 37-22019 is an irrigation water right that features a duty of water of 0.019 cfs/ac and 3.5 afa/ac. To avoid enlargement, this will be the duty of water authorized under the rental.

LOCAL PUBLIC INTEREST: This rental appears to be consistent with local public interests.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Review comments were requested from IDWR's Southern Region and Water District 37 on August 26, 2021.

WATER SUPPLY BANK RECOMMENDATION: Staff recommend this rental be approved.

Buyer, Remington

From: Buyer, Remington
Sent: Thursday, August 26, 2021 11:41 AM
To: 'watermanager@cableone.net'; Skinner, Corey
Subject: WSB Rental Application 2113
Attachments: Rental Agreement 580.docx; Rental Map Agreement 580.pdf; Rental Review Memo Application 2113.docx

Corey, Kevin,

Jim Speck recently submitted a WSB rental application on behalf of Marc Fuller, who owns a residential property near Gimlet. Mr. Fuller is requesting a rental authorization for the irrigation from ground water of two acres of his property. My review memo, map and draft approval for his water use is attached. Please advise if you have any questions, comments or concerns about this rental.

Thank you,

Remington

RECEIVED

JUL 09 2021

DEPARTMENT OF
WATER RESOURCES

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
jim@speckandaanestad.com

DOUGLAS J. AANESTAD
(retired)

120 EAST AVENUE NORTH
P. O. BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208)726-4421
FACSIMILE
(208)726-0752

July 6, 2021

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

**Re: *Marc Fuller - Application to Rent Water from the Board's
Water Supply Bank - No. 37-22019***

Dear Remington:

Enclosed you will find the *original* and a copy of the above-referenced ***Application to Rent Water From the Board's Water Supply Bank.***

Please date-stamp the copy and return it to me in the postage prepaid, self-addressed envelope I have included for that purpose. Please contact me should you have any questions, comments or concerns.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____

James P. Speck

Enclosures

cc: Marc Fuller (w/enclosure) via Email