

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 553

RECEIVED

JUN 14 2021

DEPARTMENT OF
WATER RESOURCES

This is to certify that:

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS, ID 83276-0816

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)
13-7068	12/14/1973	GROUND WATER	0.11	33.4	14.8	0.007	2.26
Combined Rental Totals			0.11	33.4	14.8	0.007	2.26

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2022. 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: \$668.00 annually

The full fee for the rental of the above-described right(s) is \$668.00 per year for years 2021 - 2022. The rental fee includes an administrative fee of \$66.80 per year for years 2021 - 2022.

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)
INDUSTRIAL	0.110	20.00
Combined Total	0.110	20.00

** The authorized water usage reflects a reduction from the water right elements rented, to account for a change in nature of use and a consumptive use diversion volume of 20.0 af for industrial purposes.*

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 553

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:

Chris Leath 6/10/21
Signature of Renter Date

Chris Leatherman P4 Production LLC
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 6/16/21
BRIAN PATTON, Acting Administrator Date
Idaho Water Resource Board

Rental approved by IDWR HP 6/16/21
Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 553

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSE Sec. 29, Twp 08S, Rge 42E, CARIBOU County

BENEFICIAL USE
INDUSTRIAL

DIVERSION RATE
0.11 CFS

VOLUME
20.00 AF

SEASON OF USE

Water Right No. **From** **To**
13-7068 5/1 10/1

RENTERS PLACE OF USE: INDUSTRIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	42E	29	X		X	X					X			X	X	X	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 either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.
10. This rental does not authorize the construction of a well.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 21 2021

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: P4 Production, L.L.C.

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)

13-7068

11-7866

11-7391

2059

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant P4 Production, L.L.C., c/o Chris Leatherman

Mailing Address PO Box 816 Soda Springs Idaho 83276

Street City State Zip Code

Email Address chris.leatherman@bayer.com Phone Number (208) 547-1435

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 T.J. Budge Professional Title Attorney

Organization Racine Olson Relationship to Applicant Attorney

Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391

Email Address tj@racineolson.com Phone Number 208-232-6101

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**:

Industrial water use for dust suppression during construction of a new rail loop and unloading facility adjacent to the Bayer phosphate plant in Soda Springs.

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	20 AF	N/A CFS	N/A 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?	
5/10/2021	7/01/2021	☐ 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):
Groundwater will be pumped from a new well being drilled at the rail loop site.

- 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	groundwater	Exempt domestic use for office facility

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: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☒ Industrial from: 03/01 (mm/dd) to: 11/30 (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.

N/A

- 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:

New well being drilled to supply water to an office facility at the rail loop. The well will additionally supply water for dust suppression during construction. This rental is for dust suppression only.

**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)
13-7068	Irrigation	1.14	345.9	153		0.11	20	NA
11-7391	Irrigation	0.63	110.2	31.5				
11-7866	Irrigation	0.17	29.7	8.5				
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			
						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**:

If irrigation rights are rented, ET Idaho Pdef data for the Soda Springs station using Grass Pasture – low management (Pdef 449 mm) requires that 13.6 acres be dried up to provide 20 AF of consumptive use.

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
N/A

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



Signature of Representative

Printed Name of Applicant

TJ Budge, Attorney for P4

Printed Name of Representative

Date

04/20/2021

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.

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 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.

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

P4 Production, L.L.C., hereby appoints Randall C. Budge of the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, its true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow him to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on its behalf. Unless previously withdrawn, this Special Power of Attorney for Water Rights will expire on November 30, 2018.

DATED this 12 day of November 2013.

P4 PRODUCTION, L.L.C.

By: [Signature]

Name: Sheldon Alver

Title: Vice President Operations

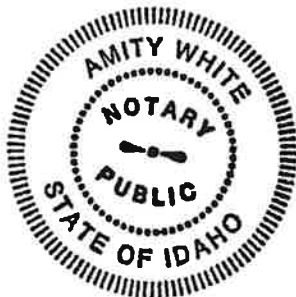
STATE OF IDAHO)

:ss

County of Caribou)

On this 12th day of November 2013, before me, the undersigned, a Notary Public In and for said State, personally appeared Sheldon Alver, known or identified to me to be the Vice President Operations of P4 Production, L.L.C., who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

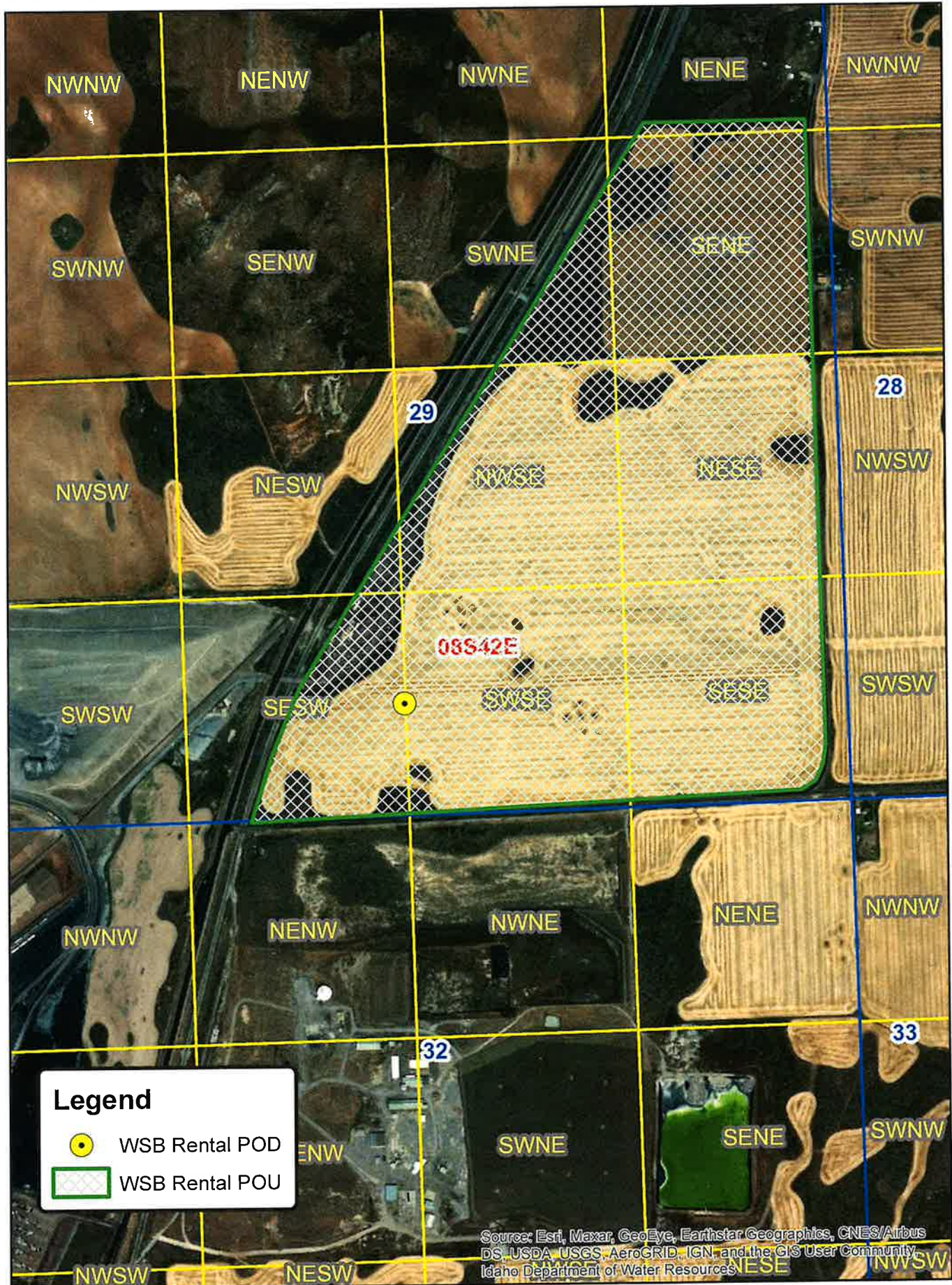
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



[Signature]
NOTARY PUBLIC FOR IDAHO

Commission expires: 7/14/14

P4 Production LLC Water Supply Bank Rental (Rail Loop)





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

July 15, 2021

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS ID 83276-0816

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 13-7068, AGREEMENT 553**

Dear Renter:

Please find enclosed a receipt in the amount of **\$668.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 33.4 acre-feet of water for irrigation of 14.8 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 \$601.20 of the rental fee will be paid to the lessor(s) and 10% or \$66.80 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,

Jean Hersley

For
Water Supply Bank

Enclosures: Receipt No. C110510
Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Eastern Regional Office
Racine Olson



RECEIVED

JUN 14 2021

DEPARTMENT OF
WATER RESOURCES

June 11, 2021

Remington Buyer
Idaho Water Supply Bank
322 East Front Street
Boise, ID 83702-7374

Sent Via Overnight Mail

Re: P4 Production, L.L.C. Rental Application

Dear Remington:

Enclosed please find the signed Water Supply Bank Rental Agreement No. 553, together with a check in the amount of \$668.00 for the rental fee.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads 'Tessa Sparrow'.

TESSA SPARROW
Legal Assistant to
T.J BUDGE

c: Chris Leatherman



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 9, 2021

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS, ID 83276-0816

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 13-7068 AGREEMENT 553

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 \$668.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 33.4 acre-feet.

Please send a check for \$668.00 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 \$601.20 of the rental fee will be paid to the lessor(s) and 10% or \$66.80 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

Buyer, Remington

From: Cefalo, James
Sent: Thursday, May 27, 2021 10:09 AM
To: Buyer, Remington
Subject: RE: Water Supply Bank Rental Agreement 543

Remington,

I don't have any comments or concerns with the proposed WSB Rental.

James

From: Buyer, Remington
Sent: Wednesday, May 26, 2021 5:23 PM
To: watermasterdist11@gmail.com; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Water Supply Bank Rental Agreement 543

Josh, James,

P4 Productions has requested a rental of ground water within the Bear River Ground Water Management Area, to authorize a diversion of 20 af for industrial uses, associated with the expansion of their facility near Soda Springs. I have reviewed the rental request and recommended the rental of water right 13-7068 as the basis for their rental. My review memo, map and draft approval are attached.

Could you please advise if you have any questions, comments, or concerns about this rental?

Thank you,

Remington

Buyer, Remington

From: Water Master <watermasterdist11@gmail.com>
Sent: Wednesday, May 26, 2021 7:01 PM
To: Buyer, Remington
Subject: Re: Water Supply Bank Rental Agreement 543

I do not see any reason to protest this.

Josh

On Wed, May 26, 2021 at 5:23 PM Buyer, Remington <Remington.Buyer@idwr.idaho.gov> wrote:

Josh, James,

P4 Productions has requested a rental of ground water within the Bear River Ground Water Management Area, to authorize a diversion of 20 af for industrial uses, associated with the expansion of their facility near Soda Springs. I have reviewed the rental request and recommended the rental of water right 13-7068 as the basis for their rental. My review memo, map and draft approval are attached.

Could you please advise if you have any questions, comments, or concerns about this rental?

Thank you,

Remington

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Thank you,

Josh Hanks

Bear River Watermaster
Idaho Water District 11
(435) 754-9483 Mobile
watermasterdist11@gmail.com
<http://bearriverbasin.org>
<https://idwr.idaho.gov>

Memorandum

To: Water Supply Bank Application 2059
From: Remington Buyer
Date: May 26, 2021
Re: Request to Rent Water Rights 13-7068

Purpose/Narrative: An application was received on April 21, 2021 from TJ Budge of Racine Olson law firm, who on behalf of P4 Production LLC submitted a two year request to rent water rights 11-1391, 11-7866 & 13-7068 for dust suppression during the construction of a new rail loop and unloading facility at a Phosphate mining operation near Soda Springs. A diversion rate of 0.11 cfs and 20.0 af was requested.

It is unclear why the applicant has requested a rental of these three different water rights, as it appears that a rental of water right 13-7068 alone will suffice to provide the requested diversion rate and volume. Specifically, it appears that a rental of 14.8 acres of water right 13-7068 would provide for the requested diversion rate of 0.11 cfs, and a diversion volume and consumptive use volume of 33.4 af and 22.3 af, respectively. On May 4th, 2021, Mr. Budge was contacted for confirmation as to whether he would like a rental of all three water rights, or, whether a water right 13-7068 will work for his clients. A response received on May 5th, 2021 confirmed that water right 13-7068 would be sufficient and that water right alone will be considered for rental.

Further, it was initially unclear which well was intended to be the point of diversion for this rental. A map was provided with the application which identified an existing monitoring well as the potential POD. However, the application stated that a permit-exempt domestic well will be the POD for this rental. In his May 5th response to IDWR, Mr. Budge confirmed a permit-exempt domestic well would be the POD for this rental.

Authority to File: The application was prepared and signed by Mr. TJ Budge as the attorney for P4 Productions. Provided in the application package was a 2014 special power of attorney form signed by Mr. Sheldon Alver as Vice President of Operations for P4 Production LLC, authorizing Mr. Budge to handle water rights related matters through 2018. In his May 5th, 2021 email to IDWR, Mr. Budge provided an updated power of attorney form P4 Production LLC, authorizing Mr. Budget to transact on behalf of the applicant. No concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: Water right 13-7068 is valid and currently leased to the Bank. No concerns about water right validity.

Injury Evaluation: This rental authorizes a diversion of ground water from within the Bear River Ground Water Management Area (BRGWMA), in basin 11, at a location approximately 4 miles above Alexander Reservoir, a Bear River on-stream reservoir. Diversions of ground water at the rental location will reduce the flow of ground water into the Bear River and/or Alexander Reservoir.

Water right 13-7068 authorizes diversions of ground water from an aquifer that flows into the Bear River, approximately 8 miles downstream of Alexander Reservoir. Although the lease location of water right 13-7068 is not within the designated BRGWMA per se, a review of the Management Plan for the BRGWMA indicates that the area was originally intended to be included in the BRGWMA. However the area was already adjudicated when the BRGWMA was established and the ground water in this area was at that time

being managed as part of the formerly active Bancroft-Lund GWMA.¹ The Bancroft-Lund GWMA was rescinded by the Director of IDWR on August 31, 2004 and it is no longer active. The ground water in this area can therefore be considered as tributary to, or effectively part of the area of common ground water, for the BRGWMA. Because the ground water at the lease location is tributary to the Bear River, as is the ground water at the rental location, a nexus of commonality exists between the lease and rental location and no injury to the Bear River is apparent under the rental.

Enlargement of Use: A diversion volume of 33.4 af under water right 13-7068 equates to an approximately 22.3 af of consumptive use volume. Because this rental proposes a change in use of water right 13-7068, from a decreed irrigation use, to an authorized industrial use, no enlargement is evident if 33.4 af of water right 13-7068 is rented, to authorize a rental diversion volume of 20.0 af.

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: Rental comments were requested from IDWR's Eastern Region Office, and Water District 11 Watermaster Josh Hanks, on May 26, 2021.

Water Supply Bank Evaluation: Bank staff recommend the approval of this application for P4 Productions for the purpose of dust suppression for two years.

¹ Section I.6. Bancroft-Lund Ground Water Management Area (page 12), accessible at:
<https://idwr.idaho.gov/files/groundwater-mgmt/bear-river-management-plan-20030224.pdf>.



RECEIVED
APR 21 2021
DEPARTMENT OF
WATER RESOURCES

April 20, 2021

Remington Buyer
Idaho Water Supply Bank
P.O. Box 83720
Boise, ID 83720-0098

Re: P4 Production, L.L.C. Rental Application

Dear Remington:

Enclosed herewith are two copies of a Water Supply Bank Rental Application submitted on behalf of P4 Production, L.L.C., an affiliate of Bayer Corporation. This application is submitted to provide water for dust suppression for a construction project at the Bayer plant in Soda Springs. Bayer is constructing a new rail loop and unloading facility immediately east of the plant. An office will be constructed at the rail loop which will be supplied water from an exempt domestic well. Bayer will use this well to divert groundwater for dust suppression purposes during the construction phase. The enclosed rental application is for this purpose.

There appear to be several water rights available to rent in the Bear River Basin which I have identified in Part 4A of the application. Only a portion of the available water is needed to satisfy their rental.

Please let me know if you have any question. I look forward to having this application approved as soon as possible.

Sincerely,

A handwritten signature in blue ink, appearing to read 'T.J. Budge', with a stylized flourish at the end.

T.J BUDGE

c: Chris Leatherman

2059