

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 21 2021

DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 474

This is to certify that:

JOHN R GABBERT
1015 36TH AVE E
SEATTLE, WA 98112-4323

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)
37-458A	6/1/1883	CLEAR CREEK	0.02	4.2	1.2	0.02	3.5
37-11550	8/1/1979	GROUND WATER	0.02	3.5	1.2	0.02	3.0
Combined limit Totals			0.02	4.2	1.2	0.02	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, 2023. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2021, whichever occurs last.

Annual Rental Fee:

2021 - 2022: \$156.00 annually
2023: \$158.34 annually

SUPPORT DATA

IN FILE # 37-458A

The full fee for the rental of the above-described right(s) is \$156.00 per year for years 2021 – 2022 and \$158.34 for 2023. The rental fee includes an administrative fee of \$15.60 per year for years 2021 - 2022 and \$17.94 per 2023.

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

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	0.02	3.5	1.0	0.02	3.5
Combined Total	0.02	3.5	1.0	0.02	3.5

* The authorized water usage reflects a reduction from the water right elements rented, to remain consistent with the proportionate leased amounts.

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 474

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:

John R. Gabbert
Signature of Renter

1-18-2021
Date

JOHN R. GABBERT
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
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date 01/21/21

Rental approved by IDWR TH

Date 01/21/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 474

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENE Sec. 12, Twp 04N, Rge 17E, BLAINE County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
0.02 CFS

VOLUME
3.5 AF

SEASON OF USE

Water Right No.	From	To
37-458A	4/15	10/31
37-11550	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	17E	12				1.0													1.0

Total Acres: 1.0

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 agreement does not authorize the construction of a well.
10. Right Nos. 37-458A and 37-11550 are limited to the irrigation of a combined total of .02 cfs and 1 acre in a single irrigation season.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 474

11. 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.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 474

Effective until December 31, 2023

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



● Authorized Rental Point of Diversion

□ Authorized Rental Place of Use

□ Township/Range

□ Sections

□ QQ



0 500 Feet

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKRECEIVED
OCT 29 2020
DEPARTMENT OF
WATER RESOURCES

Applicant Name: John R. Gabbert

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 John R. Gabbert

Mailing Address 1015 36th Avenue East Seattle WA 98112
Street City State Zip Code

Email Address john@pitchbook.com Phone Number 415.672.4237

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 David R. Tuthill, Jr. Professional Title Professional Engineer

Organization Idaho Water Engineering, LLC Relationship to Applicant Consultant

Mailing Address 2918 N El Rancho Pl, Boise, ID 83704

Email Address dave@idahowaterengineering.com Phone Number 208-870-0345

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**:

Irrigation for one acre of landscaping.

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)
0.02 CFS	3.5 AF	0.02 CFS	3.5 AF	1 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?	
4/15/2021	5/1/2021	☐ 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):

Household well in subdivision lot.

- 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
Household well	Groundwater	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 1 (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:

Domestic exemption

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)
37-20901	Irrigation	0.22	87.15	24.9		.02	3.5	1
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	.02	3.5	1
						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**:

NA

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:

This rental is to provide water on a temporary basis while a more permanent solution is sought.

- 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.

10-26-2020

Signature of Applicant

John Gabbert

Printed Name of Applicant

Date

Signature of Representative

David R. Tuthill, Jr.

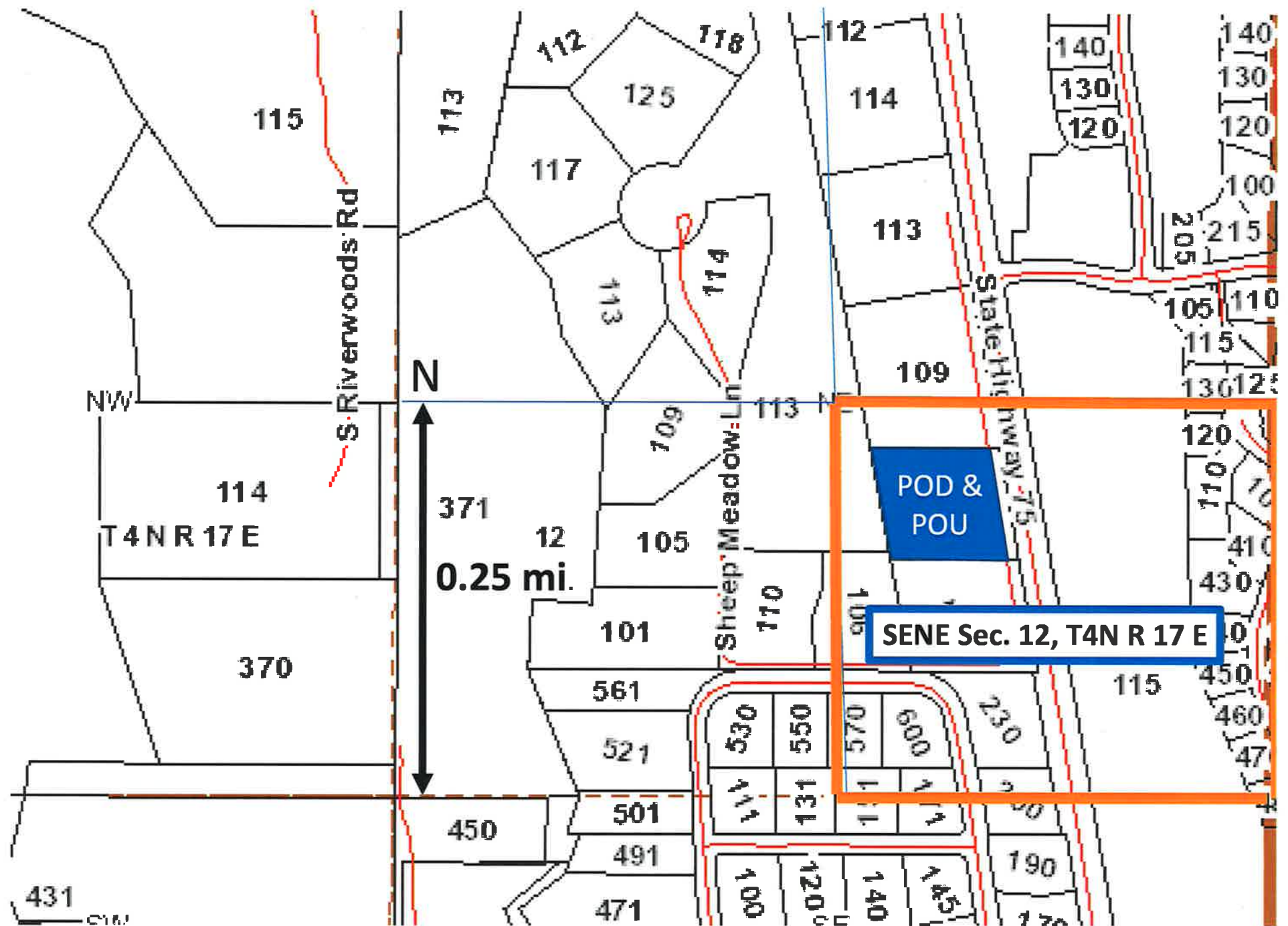
Printed Name of Representative

Date

10/28/2020

Mail to:

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



Attachment to Application to Rent Water from the Board's Water Supply Bank

Item 3A. Detailed information on a proposed use of rental water.

The applicant desires to use this water on a simple one acre irrigation system associated with a household, with the water to be supplied by the well associated with the household.

Item 4B. Explanation of how the rental water will sufficiently accomplish your rental purposes.

Impacts to the water supply in the Wood River Basin will be mitigated by the rented water, on an acre for acre basis.

RECEIVED
DEC 01 2020
DEPARTMENT OF
WATER RESOURCES

RESIGNATION OF TRUSTEE OF
BOULDER VIEW REVOCABLE TRUST

Recitals

1. The Boulder View Revocable Trust was established on August 30, 2017, between John Root Gabbert and Susan L. T. Gabbert as the Trustors and Kurt A. Ludke as the Trustee (the "Trust").

2. Kurt A. Ludke resigned as Trustee on June 22, 2018 and John Root Gabbert and Susan L. T. Gabbert were appointed as Co-Trustees of the Trust.

3. John Root Gabbert and Susan L. T. Gabbert resigned as Co-Trustee of the Trust on OCTOBER 1ST, 2019. Julia N. Northcott was appointed as successor Trustee.

4. Julia N. Northcott is the current Trustee of the Trust and wishes to resign as Trustee of the Trust.

Resignation

Julia N. Northcott hereby resigns as Trustee of the Trust, effective as of the date written below.

Dated: _____

2/10/20



Julia N. Northcott

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

This document was acknowledged before me on FEB 10, 2020 by
Julia N. Northcott.

(Stamp)




[Signature of Notary Public]

Notary Public
My commission expires: 6/29/2020

**APPOINTMENT AND ACCEPTANCE OF TRUSTEE OF
BOULDER VIEW REVOCABLE TRUST**

Recitals

1. The Boulder View Revocable Trust was established on August 30, 2017, between John Robert Gabbert and Susan L. T. Gabbert as the Trustors and Kurt A. Ludke as the Trustee (the "Trust").

2. Kurt A. Ludke resigned as the Trustee of the Trust. John Root Gabbert and Susan L. T. Gabbert were appointed as Co-Trustees of the Trust. John Root Gabbert and Susan L. T. Gabbert subsequently resigned and appointed Julia N. Northcott as Trustee.

3. Julia N. Northcott wishes to resign as Trustee.

4. Article 5.4.2 of the Trust appoints the successor Trustee as follows:

5.4.2 Appointment of Successor Trustees. If Kurt A. Ludke at any time fails or ceases to act as Trustee, John Root Gabbert and Susan L. T. Gabbert shall act as Trustee. If either John Root Gabbert or Susan L. T. Gabbert at any time fails or ceases to act as a Trustee, the one remaining shall act alone. The Trustors, or the surviving Trustor, may amend the Successor Trustee provisions under this Article 5.4.2 at any time by giving written notice to that effect to the Trustee.

5. John Root Gabbert and Susan L. T. Gabbert wish to exercise their powers as Trustors and appoint John Root Gabbert and Susan L. T. Gabbert to serve as Co-Trustees of the Trust effective upon the resignation of Julia N. Northcott.

6. John Root Gabbert and Susan L. T. Gabbert wish to accept the appointment to serve as Co-Trustees of the Trust.

Appointment and Acceptance

John Root Gabbert and Susan L. T. Gabbert hereby appoint John Root Gabbert and Susan L. T. Gabbert as Co-Trustees of the Trust. John Root Gabbert and Susan L. T. Gabbert hereby accept the appointment to serve as the Co-Trustees of the Trust effective upon the date of resignation of Julia N. Northcott as Trustee of the Trust. This instrument may be executed in counterparts, each to be deemed an original for all purposes and all together to constitute one and the same instrument.

Dated: 2-10-2020


John Root Gabbert

Dated: 2.10.2020


Susan L. T. Gabbert

Dated: 2.10.2020


Julia N. Northcott

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

This document was acknowledged before me on FEB 10, 2020 by
John Root Gabbert.

(Stamp)



Barbara Byham
[Signature of Notary Public]

Notary Public
My commission expires: 6/29/2020

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

This document was acknowledged before me on FEB 10, 2020 by
Susan L. T. Gabbert.

(Stamp)



Barbara Byham
[Signature of Notary Public]

Notary Public
My commission expires: 6/29/2020



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

January 27, 2021

JOHN R GABBERT
1015 36TH AVE E
SEATTLE WA 98112-4323

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 37-458A & 37-11550 AGREEMENT 474**

Dear Renter:

Please find enclosed a receipt in the amount of **\$156.00** and a copy of a fully executed Water Supply Bank Rental Agreement of 4.2 acre-feet of water for irrigation of 1 acre. 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 \$140.40 of the rental fee will be paid to the lessor(s) and 10% or \$15.60 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. C109822
Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Southern Regional Office
State Water District No. 37
David R. Tuthill



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

January 7, 2021

JOHN R GABBERT
1015 36TH AVE E
SEATTLE WA 98112-4323

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 37-458A & 37-11550 AGREEMENT 474

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 \$156.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 4.2 acre-feet.

Please send a check for \$156.00 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 \$140.40 of the rental fee will be paid to the lessor(s) and 10% or \$15.60 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
David R. Tuthill

MEMORANDUM FOR AGREEMENT # 474

To: Water Right(s)

From: ADalgleish

Date: 12/28/2020

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received this rental application on October 29, 2020 from John R. Gabbert requesting to rent 1.0 acre, .02 cfs and 3.5 AF from leased groundwater right 37-20901 for a 5 year term. The application requests to irrigate 1.0 acre of landscaping around a home in the Wood River Valley near Sun Valley, ID.

Upon initial review, the application was deficient because leased right 37-2090 requested by this rental expires from the Bank at the end of 2020. An email was sent to the applicant and their representative, Dave Tuthill Jr. of Idaho Water Engineering LLC, on November 16, 2020 informing them of the issue.

Leased water right 37-11550 was identified as a suitable substitute for this rental. This right is leased to the Bank with surface water right 37-458A from Clear Creek until the end of 2023.

Although the rental requested a 5 year term, because the leased rights expire in 2023, this rental will only be approved for 3 years, from 2021 through 2023.

AUTHORITY TO FILE: The application was signed by Mr. Gabbert as well as representative David Tuthill Jr. Review of parcel data at the proposed rental place of use (POU) and point of diversion (POD) does not list Mr. Gabbert as the current owner. Rather the owner is listed as Kurt Ludke A Trustee of the Boulder View Revocable Trust. In the deficiency email sent on November 16, 2020, I also requested some type of documentation showing that the applicant has the authority to apply rented water at the proposed POU. Mr. Gabbert provided the requested authorization by email on December 1, 2020. Ownership of the POU will also authorize use of the POD since the well is located at the specified POU. Department records indicate the proposed well used under this rental is associated with old permit number 371994S0119000 and Permit ID 715709. According to the well drillers report, this well was drilled in 1994 for the same property (105 Boulder View Lane Ketchum, ID) identified in the rental application.

In my email request for additional information on November 16, 2020, I also explained to Mr. Gabbert and Mr. Tuthill that the parcel at 105 Boulder View Lane was approximately 3 acres and I needed clarification as to what 1 acre would be irrigated on the parcel. Mr. Tuthill responded on November 22, 2020 with an email attachment representing irrigation around a home. 2019 aerial imagery does not show a home at the rental POU. I created an electronic shapefile in ArcMap to try and match the irrigated area outlined in the attachment. There are no concerns with the authority to file.

WATER RIGHT VALIDITY: Newly identified water right 37-11550 was decreed in the SRBA on September 24, 2010. This right was first partially leased to the Bank in 2016 for 1 year. Subsequent 1 year leases occurred in 2017 and 2018. The right was then leased to the Bank for a 5 year term from 2019- 2023. All leases of right 37-11550 have occurred with comingled surface water right 37-458A. Right 37-458A was also decreed in the SRBA on September 24, 2010. Review of aerial imagery of the leased POU suggests that the rights have not been used. No concerns with the validity.

INJURY TO OTHER WATER RIGHTS: Leased water right 37-11550 has 5 groundwater points of diversion (POD's) which are all located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 31, Twp. 04N, Rge. 18E. Associated right 37-458A has a single point of diversion in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ in the same Section, Township and Range as right 37-11550. The leased POD's are 2 miles north of Gimlet, ID. The proposed rental POD and POU are located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 12, Twp. 04N, Rge. 17E. The distance between these lease and rental POD locations is approximately 4.2 miles as the crow flies and 4.6 miles driving. The POD's for both the lease and POD for the rental are along Highway 75. All POD's are within the Big Wood River Groundwater Management Area (GWMA). Because both the lease and rental use groundwater, and said groundwater is all diverted from the main of the Wood River Valley, potential injury to existing rights should be mitigated. Furthermore, moving water from the leased POD up the Big Wood River drainage, should not provide much effect on the measurable impacts of the Big Wood River diversions as measured at the Hailey Gage.

ENLARGEMENT OF USE: Groundwater right 37-11550 is leased into the Bank with surface water (Clear Creek) right 37-458A under Contract No. 984. Right 37-11550 leased in 0.07 cfs, 3.3 acres and 9.9 AF (which provides 3.0 AF/acre) and 37-458A was leased in for 0.07 cfs, 11.6 AF and 3.3 acres (which provides 3.5 AF/acre). These rights were leased in to the Bank for a combined total of 0.07 cfs, 11.6 AF and 3.3 acres (equating to .02 cfs/acre and 3.5 af/acre). The amounts leased to the Bank under right 37-11550 will not supply the 3.5 AF as requested by the rental. In order to avoid enlargement in water use, this rental will need to rent proportional amount of right 37-458A and additional acres and rate from 37-11550 to achieve the 3.5 AF. The rental will be based off of the proportionate amounts leased in under right 37-458A.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental POD is subject to Water District # 37. On 12/8/2020, comments were requested from Southern Region and WD 37 Watermaster Kevin Lakey. Comments were also requested from the Idaho Water Resource Board (IWRB). No response was received from the IWRB, so it was presumed they had no concerns. Southern Region indicated that they had no concerns as long as the IWRB also had no concerns. If no response was received within 14 days, it was presumed that there were no concerns.

Dalgleish, Alex

From: Clark, Cynthia Bridge
Sent: Tuesday, December 8, 2020 2:45 PM
To: Dalgleish, Alex
Cc: Golden, Kala
Subject: RE: Gabbert Basin 37 Rental

Categories: Water Supply Bank

Thank you for the opportunity to comment Alex. I've forwarded this to Kala Golden to review.

Cynthia

Cynthia Bridge Clark, P.E.
Water Projects Section Manager
Idaho Department of Water Resources
Phone 208.287.4817
cynthia.clark@idwr.idaho.gov

From: Dalgleish, Alex
Sent: Tuesday, December 8, 2020 1:58 PM
To: Clark, Cynthia Bridge <Cynthia.Clark@idwr.idaho.gov>
Subject: Gabbert Basin 37 Rental

Cynthia,

I am seeking comment on the proposed rental of right 37-11550 from the Bank from 2021 through 2023. Please see the attachments and respond with any comments or concerns within 14 days, by 12/22/2020.

If no response is received, the Department will assume you do not have any concerns or comments to this rental.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

Dalglish, Alex

From: Skinner, Corey
Sent: Tuesday, December 8, 2020 1:56 PM
To: Dalglish, Alex
Subject: RE: Gabbert Basin 37 Rental

Categories: Water Supply Bank

Is the board OK moving this up the valley? I was wondering if they had concerns regarding their MIF right(s). You might want to check with Cynthia. If she's good, then I'm good.

From: Dalglish, Alex
Sent: Tuesday, December 8, 2020 1:28 PM
To: watermanager@cableone.net; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Gabbert Basin 37 Rental

Gentlemen,

I am seeking comment on the proposed rental of right 37-11550 from the Bank from 2021 through 2023. Please see the attachments and respond with any comments or concerns within 14 days, by 12/22/2020.

If no response is received, the Department will assume you do not have any concerns or comments to this rental.

Thank you,

Alex Dalglish
Water Resource Agent
Phone (208) 287-4913
alex.dalglish@idwr.idaho.gov

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Tuesday, December 8, 2020 1:28 PM
To: 'watermanager@cableone.net'; Skinner, Corey
Subject: Gabbert Basin 37 Rental
Attachments: Move Map.pdf; 2020 gabbert Rental Review Memo.docx

Gentlemen,

I am seeking comment on the proposed rental of right 37-11550 from the Bank from 2021 through 2023. Please see the attachments and respond with any comments or concerns within 14 days, by 12/22/2020.

If no response is received, the Department will assume you do not have any concerns or comments to this rental.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov

Dalglish, Alex

From: Dave Tuthill <dave@idahowaterengineering.com>
Sent: Friday, December 4, 2020 3:50 PM
To: Dalglish, Alex
Cc: John Gabbert; Chase Gouley
Subject: Re: Water Supply Bank Rental Request

This sounds good. Alex.

I will send you a shapefile of the one acre place of use.

Thanks, Dave

On Fri, Dec 4, 2020, 3:04 PM Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov> wrote:

Mr. Tuthill,

Yesterday afternoon, Remington helped identify groundwater right 37-11550 as a good fit for the rental. This right is leased into the Bank until the end of 2023. So the rental proposal from Mr. Gabbert could only be authorized for 3 years, not the 5 as originally proposed. If this is unacceptable, please let me know.

Additionally, right 37-11550 is leased in with combined surface water right 37-458A. Right 37-458A has a duty of water of 3.5 acre-feet, so the rental will be based on the proportionate volume of this right. Furthermore, slightly more acres and rate will need to be rented to achieve the requested volume/acre amount of 3.5 acre-feet.

Regarding the rental place of use, could you possibly send me an electronic shapefile representing the area? That would likely be most helpful and efficient.

Thanks,

Alex Dalglish

Water Resource Agent

Phone (208) 287-4913

alex.dalgleish@idwr.idaho.gov

From: Dave Tuthill [mailto:dave@idahowaterengineering.com]
Sent: Friday, December 4, 2020 9:59 AM
To: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Cc: John Gabbert <john@pitchbook.com>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Chase Gouley <chase@byla.us>
Subject: Re: Water Supply Bank Rental Request

Good morning, Alex, and thank you for continuing to process this application.

The home does not appear in earlier aerial photos because it is now under construction.

Regarding the fact that leased water right 37-20901 identified in the rental application expires from the Water Supply Bank (Bank) at the end of 2020, to the extent this lease is not renewed we appreciate you working with other Bank staff to identify a different leased water right suitable for this rental.

Thanks,

Dave

David R. Tuthill, Jr., Ph.D., P.E.
Idaho Water Engineering, LLC
2918 N. El Rancho Pl., Boise, ID 83704

Office: (208) 378-1513
Cell: (208) 870-0345
Fax: (888) 538-7703
email: dave@idahowaterengineering.com
website: www.idahowaterengineering.com

On Thu, Dec 3, 2020 at 2:18 PM Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov> wrote:

Mr. Gabbert and Mr. Tuthill,

Thank you for both responding my request for additional information. The BVRT trustee document that Mr. Gabbert provided will be sufficient to authorize irrigation at 105 Boulder View Lane in Ketchum.

However, **I still need clarification as to where the 1 acre of irrigation will occur.** In response to my prior email, Mr. Tuthill sent a PDF document showing the approximate extent of water to be irrigated at 105 Boulder View Lane. Yet, this map does not appear to be consistent with the property, as it shows irrigation around a home, guest house and pool.

According to 2019 aerial imagery, **there does not appear to be a home or domestic structures on the property at 105 Boulder View Lane.** Because I can only view imagery as recent as 2019, is it possible that a home was built on the property within the last year? I've researched the property on the Blaine County Assessor's website and attached a screen-shot of the property showing no home there.

The Department does have a well report which provides a matching address to 105 Boulder View Lane. According to the report, the well was drilled in 1994, which would lead me to believe that a home was being built at that time. Unfortunately, imagery dating from 1998 also does not show a home at 105 Boulder View Ln. I have attached the well drillers report for reference.

Additionally, as I mentioned before, leased water right 37-20901 identified in the rental application expires from the Water Supply Bank (Bank) at the end of 2020. I have no information to indicate that right 37-20901 will be leased back into the Bank after 2020. I am currently working the other Bank staff to identify a different leased water right suitable for this rental.

Talk to you soon,

Alex Dalglish

Water Resource Agent

Phone (208) 287-4913

alex.dalglish@idwr.idaho.gov

From: John Gabbert [mailto:john@pitchbook.com]
Sent: Tuesday, December 1, 2020 1:31 PM
To: Dave Tuthill <dave@idahowaterengineering.com>; Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>
Cc: Chase Gouley <chase@byla.us>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: RE: Water Supply Bank Rental Request

Hi all,

Per your question about the trustee on BVRT, please find the attached confirming that I am a trustee.

Please let me know if you need anything else from me.

Thanks,

John

From: Dave Tuthill <dave@idahowaterengineering.com>
Sent: Sunday, November 22, 2020 12:57 PM
To: Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov>
Cc: John Gabbert <john@pitchbook.com>; Chase Gouley <chase@byla.us>; remington.buyer@idwr.idaho.gov
<remington.buyer@idwr.idaho.gov>
Subject: Re: Water Supply Bank Rental Request

[EXTERNAL EMAIL]

Good afternoon, Alex, and thanks for making contact regarding your questions.

I have interleaved my responses below.

I look forward to our next iteration of communication.

Thanks,

Dave

David R. Tuthill, Jr., Ph.D., P.E.
Idaho Water Engineering, LLC
2918 N. El Rancho Pl., Boise, ID 83704

Office: (208) 378-1513
Cell: (208) 870-0345
Fax: (888) 538-7703
email: dave@idahowaterengineering.com
website: www.idahowaterengineering.com

On Mon, Nov 16, 2020 at 4:03 PM Dalglish, Alex <Alex.Dalglish@idwr.idaho.gov> wrote:

Mr. Tuthill,

I began reviewing the rental application from John R. Gabbert this afternoon and I came across a few issues.

The application requests to rent leased water right 37-20901 for 5 years from 2021 to 2025. However, right 37-20901 expires from the Water Supply Bank (Bank) at the end of this year on December 31, 2020. It is unclear if right 37-20901 will be leased back to the Bank once the current lease expires. A new water right must be identified to be rented.

Yes, we are aware of this. Prior to filing the application I called your office and spoke with Justin Ferguson of your staff. I understood Justin to say that you would make the best possible match for the rental we requested. Justin suggested that we use 37-20901 as it is a good match for now as it is likely to be re-leased to the Water Supply Bank in the coming year. If my understanding is incorrect please advise.

Also, the ownership of the rental place of use (POU) cannot be verified. Current Blaine County parcel records lists Kurt Ludke, a trustee of the Boulder View Revocable Trust, as the owner of Lot 17B, Block 1 in the Beaver Springs Subdivision. Item 3K on the application states that the applicant, John R. Gabbert owns the proposed rental POU. Although Mr. Gabbert's address on the application matches that of the Revocable Trust in Washington State, please provide some sort of documentation showing that Mr. Gabbert does indeed own the rental POU or has the authority to apply for water to the property.

I request that Mr. Gabbert, as a recipient of this email, provide this evidence.

At this time, I am unable to process the rental request from Mr. Gabbert. I have attached the rental application to this email for reference and convenience. Once the above items are addressed, I can continue working on the application.

Remington Buyer of your office requested a more precise location for the acre for which the rental is requested. I am attaching a more precise map, and will add him as a recipient of this email.

Thank you for the review, and I look forward to your response.

Regards,

Dave

Please reach out to me if you have questions or concerns.

Best,

Alex Dalglish

Water Resource Agent

Phone (208) 287-4913

alex.dalglish@idwr.idaho.gov

Dagleish, Alex

From: John Gabbert <john@pitchbook.com>
Sent: Tuesday, December 1, 2020 1:31 PM
To: Dave Tuthill; Dagleish, Alex
Cc: Chase Gouley; Buyer, Remington
Subject: RE: Water Supply Bank Rental Request
Attachments: 2020-02-10 Boulder View Trustee Resignation & Appointment - signed.pdf

Hi all,

Per your question about the trustee on BVRT, please find the attached confirming that I am a trustee.

Please let me know if you need anything else from me.

Thanks,
John

From: Dave Tuthill <dave@idahowaterengineering.com>
Sent: Sunday, November 22, 2020 12:57 PM
To: Dagleish, Alex <Alex.Dagleish@idwr.idaho.gov>
Cc: John Gabbert <john@pitchbook.com>; Chase Gouley <chase@byla.us>; remington.buyer@idwr.id.gov <remington.buyer@idwr.idaho.gov>
Subject: Re: Water Supply Bank Rental Request

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I have interleaved my responses below.

I look forward to our next iteration of communication.

Thanks,

Dave

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Yes, we are aware of this. Prior to filing the application I called your office and spoke with Justin Ferguson of your staff. I understood Justin to say that you would make the best possible match for the rental we requested. Justin suggested that we use 37-20901 as it is a good match for now as it is likely to be re-leased to the Water Supply Bank in the coming year. If my understanding is incorrect please advise.

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Thank you for the review, and I look forward to your response.

Regards,

Dave

Please reach out to me if you have questions or concerns.

Best,

Alex Dagleish

Water Resource Agent

Phone (208) 287-4913

alex.dagleish@idwr.idaho.gov