

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 440

RECEIVED

JUL 29 2020

DEPARTMENT OF
WATER RESOURCES

This is to certify that:

DALE VAN ES
8222 DESERT DR
MARSING, ID 83639-8264

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)
2-10205	12/16/1963	SNAKE RIVER	5.50	1,300	324.9	0.017	4.0
2-7353	6/22/1981	SNAKE RIVER	0.05	10.3	2.6	0.02	4.0
Combined Limit Totals			5.50	1,310	327.5	0.017	4.0

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2020. 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 2020, whichever occurs last.

Annual Rental Fee:

2020 - 2022: \$26,200.00 annually
2023 - 2024: \$30,130.00 annually

SUPPORT DATA

IN FILE # 2-7353

The full fee for the rental of the above-described right(s) is \$26,200.00 per year for years 2020 - 2022 and \$30,136.90 per year for years 2023 - 2024. The rental fee includes an administrative fee of \$2,600.00 per year for years 2020 - 2022 and \$3,013.00 per year for years 2023 - 2024.


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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 440

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 _____ Date 7-23-20

Dale Van Es
Printed Name _____ Title Owner

*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 08/03/20

Rental approved by IDWR 
Date 08/03/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 440

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L7(SENW) Sec. 30, Twp 02S, Rge 01E, OWYHEE County

BENEFICIAL USE
 IRRIGATION

DIVERSION RATE
 5.50 CFS

VOLUME
 1,310 AF

SEASON OF USE

From To
 4/1 10/31

RENTERS PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	01W	14											40	40			40		120
02S	01W	15				40					40			40	40	40	40	40	280
02S	01W	21																40	40
02S	01W	22	40	40	40	40	40			40	40	40	40	40	40	40	40	40	560
02S	01W	23		40	40		40	40	40	40	40	40	40	40		40	40		480
02S	01W	26		40	40		40	40	40	40	40	40	40	40		40	40		480
02S	01W	27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
02S	01W	34	40	40			40												120

Total PPU Acres: 2,720

Limited To: 327.5 acres

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.

STATE OF IDAHO
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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. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
10. This rental agreement when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
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, this water right is within State Water District No. 02, Snake River from Milner Dam to Murphy Gage.
12. Prior to diversion of water under this rental agreement, the renter shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
13. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 9/12/2012.
14. Place of use is within the area served by Bell Rapids Mutual Irrigation Company.
15. This agreement is limited to the irrigation of 327.5 acres within the authorized place of use in a single irrigation season.
16. The use of water under the rental, when combined with water rights 2-10017 and 2-2251, authorizes a maximum diversion rate of 32.5 cfs and 10,553 af, for the irrigation of a maximum of 2,345 acres, annually

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
APR 22 2020
DEPARTMENT OF
WATER RESOURCES

Applicant Name: Dale Van Es

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 | <input checked="" type="checkbox"/> | A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request |
| 3A | <input type="checkbox"/> | <input checked="" type="checkbox"/> Detailed information on a proposed use of rental water |
| 3F | <input checked="" type="checkbox"/> | <input type="checkbox"/> Authorization from the owner/operator of the rental point(s) of diversion |
| 3H | <input checked="" type="checkbox"/> | <input type="checkbox"/> Water modeling to account for the impacts of the rental request |
| 3J | <input checked="" type="checkbox"/> | <input type="checkbox"/> Documents justifying a rate of flow greater than 0.02 cfs/acre |
| 3K | <input checked="" type="checkbox"/> | <input type="checkbox"/> Authorization from the owner/operator of the property at the proposed rental place(s) of use |
| 4B | <input type="checkbox"/> | <input checked="" type="checkbox"/> Explanation of how the rental water will sufficiently accomplish your rental purposes |
| 4C | <input checked="" type="checkbox"/> | <input type="checkbox"/> Explanation of consumptive use amounts for water rights experiencing a change in nature of use |

Department Use Only – Proposed Water Right(s)

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Dale Van Es

Mailing Address 8222 Desert Dr. Marsing ID 83639
Street City State Zip Code
 Email Address dalevanes@aol.com Phone Number 208-896-5990

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 Lori Graves Professional Title Water Rights Specialist
 Organization SPF Water Engineering Relationship to Applicant Consultant
 Mailing Address 300 E. Mallard Dr., Ste. 350, Boise, ID 83706
 Email Address lgraves@spfwater.com Phone Number 208-383-4140

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**:

Currently, Snake River water rights 2-2251 and 2-10017, when combined, allow full volume, but are limited to a total diversion rate of 27.02 cfs for irrigation of 2,345 acres, which equates to 0.0115 cfs/acre. Applicant wishes to rent Snake River to allow diversion of additional flow.

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)
11.5 CFS	n/a AF	*see sidebar CFS	n/a AF	575 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?	
ASAP	*see sidebar	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> Process application as soon as possible	<input type="checkbox"/> 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):
Existing pump station and irrigation system authorized under water rights 2-2251 and 2-10017.

- 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
T2S, R1E, S30, SENW (pump station location)	Snake River	2-2251 and 2-10017

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 575 (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:
2-2251 and 2-10017

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)
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**:

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.
See attached letter from IDWR dated February 10, 2020.

- D. Additional Information
Until rental water is secured, applicant will not exceed his currently authorized diversion rate of 27.02 cfs.

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



Printed Name of Applicant

3-31-20
Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

RECEIVED

APR 03 2020

DEPARTMENT OF
WATER RESOURCES

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.

See attached letter from IDWR dated February 10, 2020.

- D. Additional Information

Until rental water is secured, applicant will not exceed his currently authorized diversion rate of 27.02 cfs.

DECLARATION

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Signature of Applicant

Dale Van Es

Printed Name of Applicant

3-31-20

Date

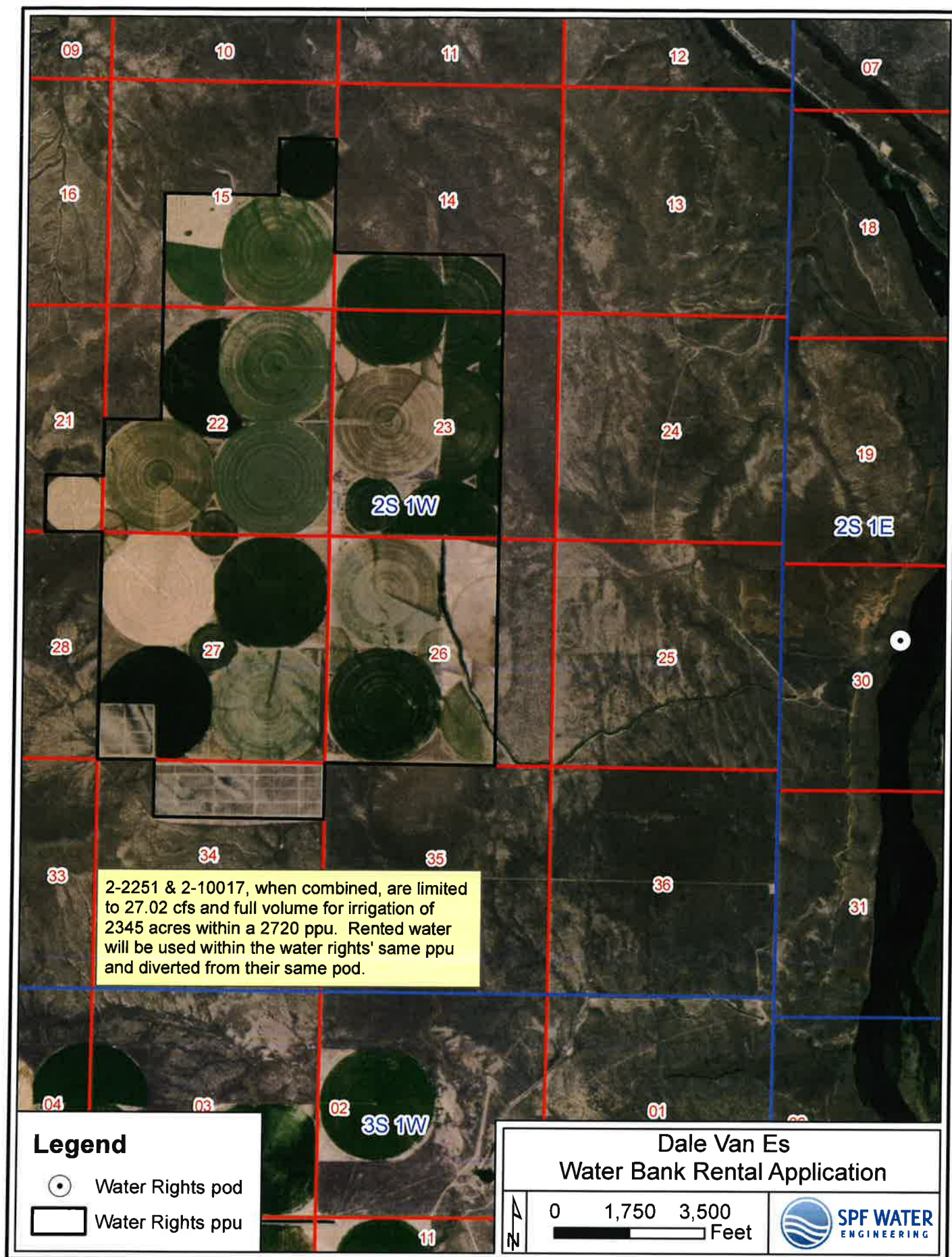
Signature of Representative

Printed Name of Representative

Date

Mail to:

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





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

February 10, 2020

DALE AND JACKIE VAN ES
8222 DESERT DR
MARSING ID 83639

CERTIFIED MAIL

RE: Order to Cease and Desist Excess Diversion and Notice to Install Controlling Works
Case No. E2020-1580

Dear Water User(s):

Idaho Department of Water Resources (IDWR) records show that you own water rights 02-2251 and 02-10017 authorizing the diversion of 27.02 cubic feet per second (cfs) of water from the Snake River within Water District 02 (WD02).

On January 18, 2019, the watermaster sent you notice that the authorized diversion rate was exceeded in 2018, and requested you coordinate a plan to reduce any excess diversion for 2019. The watermaster has informed IDWR that you did not respond to the notice and your authorized diversion rate was exceeded by 11.5 cfs in 2019 (hydrograph enclosed).

The watermaster is authorized to require installation of lockable controlling works when deemed necessary for administration and control of diversions.

Pursuant to Idaho Code § 42-701(1), IDWR requires the following action:

- Within 10 days demonstrate to the watermaster how the diversion is equipped with sufficient controlling works so the diversion rate does not exceed 27.02 cfs;
- OR
- Prior to March 15, 2020, install lockable controlling works, acceptable to IDWR and the watermaster, at or near the point of diversion for water rights 02-2251 and 02-10017.

Failure to comply with the requirements of this notice may be cause for the Department to instruct the watermaster to shut-off and lock the diversion or to initiate a formal enforcement action under the provisions of Idaho Code § 42-1701B, which may include substantial civil penalties.

The Department looks forward to your cooperation to resolve this matter. Please contact me directly at (208) 287-4944 or the watermaster at (208) 287-4924 if you have questions or wish to discuss this matter further.

Respectfully,

Cherie Palmer, Water Compliance Bureau

Enclosures – January 18, 2019 Letter

cc: Rob Whitney-watermaster & Nick Miller IDWR Western Regional Manager



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

August 4, 2020

DALE VAN ES
8222 DESERT DR
MARSING, ID 83639-8264

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-7353, 2-10205 AGREEMENT 440**

Dear Renter:

Please find enclosed a receipt in the amount of \$26,200.00 and a copy of a fully executed Water Supply Bank Rental Agreement of 1,310.0 acre-feet of water for irrigation of 327.5 acres. 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 \$23,600.00 of the rental fee will be paid to the lessor(s) and 10% or \$2,600.00 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,


Water Supply Bank

Enclosures: Receipt No. C109074
Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Western Regional Office
State Water District No. 02
Lori Graves – SPF Water Engineering
Cherri Palmer – IDWR Enforcement

Hummer, Phill

From: Buyer, Remington
Sent: Thursday, July 30, 2020 12:14 PM
To: Hummer, Phill; Ferguson, Justin
Subject: RE: rental 440

Based on the partial decrees for these WRs, and a field headgate standard of 4 afa/ac, these water rights provide for a combined diversion volume of 98,826 af. Assuming Reclamation's rental of 60 KAF is based on consumptive use (and assuming this C/U vol is based on 3 afa/ac) I subtracted 80 KAF from the 90,826 af, leaving a rentable balance of 18,826 af from these water rights. I made notes in the WSB software system and uploaded a memo to the documents section for contract 483.

From: Hummer, Phill
Sent: Thursday, July 30, 2020 10:51 AM
To: Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Cc: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: rental 440

Looks like the rental is set for them to use rights 2-10205 and 2-7353. However, there is a memo in the file for 2-7353 dated August 13, 2012 from Monica Van Bussum that says the rights are part of a 30 year lease/rental agreement between the Bureau of Reclamation and the IWRB as part of the provisions of the Nez Perce agreement. The memo says that there is no water available to rent under these rights. Has anything changed with the agreement or do we need to do something else with this rental application? It has already been mailed and returned but unless there is something I am missing I don't think we can approve a rental of these rights.

-Phill

2-7353 3.3 CFS
780 AF
COMBO 414.95 CFS



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 14, 2020

DALE VAN ES
8222 DESERT DR
MARSING, ID 83639-8264

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-7353, 2-10205 AGREEMENT 440

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 \$26,198.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 1,310.0 acre-feet.

Please send a check for \$26,198.00 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 \$23,578.20 of the rental fee will be paid to the lessor(s) and 10% or \$2,619.80 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-Vehell
Water Supply Bank

Enclosure

c: IDWR Front Desk
Lori Graves – SPF Water Engineering

Memorandum

To: Water Supply Bank Rental Application 1706
From: Justin Ferguson
Date: June 15, 2020
Re: Water Supply Bank Rental Application for Dale Van Es

Purpose/Narrative: An application to rent water from the Water Supply Bank was received on April 22, 2020 from Dale Van Es, in response to a February 10, 2020 Cease and Desist Order issued to Mr. Van Es by IDWR. Mr. Van Es has been diverting water from the Snake River in excess of the maximum diversion rate authorized under his water rights (2-10017 and 2-2251). Effectively, Mr. Van Es' water rights authorize a maximum diversion of 27.02 cfs (for irrigation purposes) from the Snake River, however, in recent years, he has diverted as much as 38.5 cfs at times.

Accordingly, this rental seeks an authorization to divert as much as 38.5 cfs, for water user purposes at Mr. Van Es' property. It is notable that no additional volume or irrigation acreage is being sought through this rental; Mr. Van Es' water rights authorize annual diversion volumes of 10,553 af for the irrigation of 2,345 acres (4.5 afa/ac), however a review of Water Management Information System (WMIS) data and satellite imagery indicates Mr. Van Es has diverted approximately 8,602 af annually during the past five years, for the irrigation of approximately 2,160 acres (3.9 afa/ac).

The rental being contemplated for Mr. Van Es will authorize an increased diversion rate only, and no increase in the maximum irrigation volume or acres will be considered. Because the applicant has requested a five year rental, water rights 2-10205 & 2-7353 which are leased to the Bank through 2024, are being used. Further, after working with the applicant's representative and the watermaster, the total diversion rate is being reduced from the 11.5 requested to 5.5 with the understanding Mr. Van Es will disconnect one of his pumps.

Authority to File: The point of diversion and place of use are on land owned by the applicant. No concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: The water rights to be rented are valid. Mr. Van Es' water rights have been used in recent years and there are no concerns with respect to their validity.

Injury Evaluation: The rental point of diversion is immediately upstream of Swan Falls Dam where the State of Idaho holds minimum streamflow (MSF) water rights 2-201, 2-223 and 2-224, which protect instream 3,900 cfs of water between April 1 and October 31, which is when this rental will be active. To ensure no injury comes to the state's MSF, this rental will include a condition stating that water can only be diverted when the state's MSF of 3,900 cfs is being met.

Enlargement of Use: Because this rental will not result in an increased diversion volume or irrigable acreage beyond that which is already permissible under the applicant's water rights, and because the water rights proposed for rental already authorize irrigation use, no enlargement to the applicant's water rights will occur, and no enlargement in the water rights being rented will occur, through this rental.

Local Public Interest: Staff are not aware of any local public interests contrary to this rental.

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

see lease contract 483 WSP database documents lease analysis memo for availability info

Department/Watermaster Comments: Water District 2 and IDWR Western Region comments were requested

Water Supply Bank Evaluation: Pending comments from the IDWR regional office and watermaster, Bank staff recommend the approval of this rental.

Parker, Cody

From: Lori Graves <LGraves@spfwater.com>
Sent: Tuesday, June 30, 2020 10:52 AM
To: Whitney, Rob; Ferguson, Justin
Cc: Palmer, Cherie
Subject: RE: Dale Van Es Case No. E2020-1580

Thanks Rob. Dale is going to disconnect one pump and send me a photo, which I will forward to you.

With this email, Justin is going to reduce and finalize the Dales rental contract for 5.5 cfs (rather than 11.5 cfs) and get it out the door.

From: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Sent: Tuesday, June 30, 2020 10:00 AM
To: Lori Graves <LGraves@spfwater.com>
Cc: Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>
Subject: RE: Dale Van Es Case No. E2020-1580

As long as Van Es stays within the authorized rate (water right plus any rented water), I'm satisfied. It's up to Van Es to secure what he needs to operate the farm and stay within the applicable limits. The proposal to discontinue use of one pump is fine, but I would like to see some modification to that pump such as disconnecting power or allowing the watermaster to lock off the diversion at a valve or disconnect. Make sure Van Es understands there is one more "T" to cross.

Thanks, RW

From: Lori Graves [<mailto:LGraves@spfwater.com>]
Sent: Tuesday, June 30, 2020 9:36 AM
To: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Subject: RE: Dale Van Es Case No. E2020-1580

Do we need to chat about it or can I just tell Justin to reduce our rental request?

From: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Sent: Friday, June 26, 2020 9:32 AM
To: Lori Graves <LGraves@spfwater.com>
Subject: RE: Dale Van Es Case No. E2020-1580

Okay. The proposal looks reasonable to me.

From: Lori Graves [<mailto:LGraves@spfwater.com>]
Sent: Friday, June 26, 2020 9:31 AM
To: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Cc: 'dalevanes@aol.com' <dalevanes@aol.com>
Subject: RE: Dale Van Es Case No. E2020-1580

You bet Rob. Just give me a call... 208-850-4601

From: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Sent: Friday, June 26, 2020 9:22 AM
To: Lori Graves <LGraves@spfwater.com>
Subject: RE: Dale Van Es Case No. E2020-1580

Maybe we can discuss late today. I have a teleconference at 9:30, so maybe after that?

From: Lori Graves [<mailto:LGraves@spfwater.com>]
Sent: Thursday, June 25, 2020 11:56 AM
To: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>
Cc: Scott King <SKing@spfwater.com>; 'dalevanes@aol.com' <dalevanes@aol.com>; Ferguson, Justin <Justin.Ferguson@idwr.idaho.gov>
Subject: RE: Dale Van Es Case No. E2020-1580

Rob,

The good news is the Water Bank found enough water to fulfill Dale's rental request for 11.5 cfs. The not so good news is that it will cost Dale \$53,361 per year and even more when rates are set to go up in 2023. When Dale was exceeding his authorized diversion rate of 27.02 cfs by 11.5 cfs, he was running all 6 pumps. Each pump is 700 hp and capable of diverting ~6.5 cfs. Based on each pump's capacity, Dale can only run 4 pumps to stay within his authorized flow rate.

Because of the significant cost of rental water, Dale would like to compromise and rent only 5.5 cfs rather than 11.5 cfs. This will give him enough to operate 5 pumps, which will suffice for his irrigation needs.

Please let me know if this is acceptable. Thanks Rob.

From: Lori Graves
Sent: Monday, March 30, 2020 10:11 AM
To: 'Whitney, Rob' <Rob.Whitney@idwr.idaho.gov>
Cc: Scott King <SKing@spfwater.com>; 'dalevanes@aol.com' <dalevanes@aol.com>
Subject: Dale Van Es Case No. E2020-1580

Good Morning Rob,

The following email provides a summary of the actions Dale Van Es is implementing in accordance to the Department's *Order to Cease and Desist Excess Diversion and Notice to Install Controlling Works* dated February 10, 2020.

Excess Diversion:

- The system currently consists of six 700 hp pumps. To insure compliance with the 27.02 cfs diversion limit, Dale plans to shut down/disconnect two of the six pumps if no modifications are made to the pump system prior to the start of the 2020 irrigation season. Although simple, this solution may not be the most efficient. To insure the best pump efficiency at the 27.02 cfs diversion limit, Dale is exploring installation of variable speed drives. Kent Van, with Vans Electric, has been notified as well as Layne of Idaho. Once the disconnects and/or modifications have been made, the Department will be provided notice.
- File an application to rent water from the Idaho Water Supply Bank in hopes of securing Snake River water for irrigation use to allow diversion of additional flow.

Installation of Lockable Controlling Works:

- Each of the six pumps is currently equipped with an on/off switch and breaker to allow watermaster control.

Dale appreciates the Department's cooperation in resolving this matter and not initiating formal enforcement actions and/or civil penalties. Please let me know if the above actions are acceptable.

Lori Graves | Water Rights Specialist

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2139

e. lgraves@spfwater.com | w. www.spfwater.com





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APR 22 2020

DEPARTMENT OF
WATER RESOURCES

April 21, 2020

Justin Ferguson
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

Subject: Dale Van Es Water Supply Bank Rental Application

Dear Justin,

Enclosed on behalf of Dale Van Es is a rental application requesting rental of Snake River water to allow diversion of additional flow for irrigation. Currently, Snake River water rights 2-2251 and 2-10017, when combined, allow full volume, but are limited to a total diversion rate of 27.02 cfs for irrigation of 2,345 acres, which equates to 0.0115 cfs/acre. This rental request is in response to the Department letter attached to the application. Applicant has been working with Rob Whitney regarding compliance to the letter.

Please let me know if there are any questions. Thanks Justin.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Dale Van Es
Rob Whitney, IDWR State Office

Enclosures

SPF file numbers: 508.0020