

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 454**

This is to certify that:

GEORGE KELLEY  
PO BOX 25  
ALBION, ID 83311

RECEIVED  
JUN 09 2020  
DEPARTMENT OF  
WATER RESOURCES

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)
36-16458	9/23/1965	GROUND WATER	0.08	20.8	5.3	0.015	3.9
36-16460	2/15/1974	GROUND WATER	0.31	78.9	19.7	0.016	4.0
<b>Combined Limit Totals</b>			<b>0.25</b>	<b>99.7</b>	<b>25.0</b>	<b>0.010</b>	<b>4.0</b>
45-11969	6/1/1939	GROUND WATER	0.86	258	64.6	0.013	4.0
1-10443	3/15/1961	SNAKE RIVER	0.59	119	29.7	0.020	4.0
<b>Combined Limit Totals</b>			<b>1.29</b>	<b>258</b>	<b>64.6</b>	<b>0.013</b>	<b>4.0</b>
36-4179	8/9/1959	GROUND WATER	0.81	524		∞	∞
<b>Combined Rental Totals</b>			<b>2.35</b>	<b>882</b>	<b>89.6</b>	<b>0.012</b>	<b>5.5</b>

**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: \$17,628.00

**SUPPORT DATA**

**IN FILE #** 1-10443

The full fee for the rental of the above-described right(s) is \$17,628.00 for 2020. The rental fee includes an administrative fee of \$1,762.80 for 2020.

**Total Water Use Authorized Under Rental Agreement**

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	1.92	221	220.5	0.009	1.0
<b>Combined Total</b>	<b>1.92</b>	<b>221</b>	<b>220.5</b>	<b>0.009</b>	<b>1.0</b>

*\* The authorized water usage reflects a reduction from the water right elements rented, to account for a per-acre diversion volume of 1.0 afa/ac, for the irrigation of up 220.5 acres.*

Detailed water right conditions are attached.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 454**

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:

George Kelly  
Signature of Renter

6.9.2020  
Date

George Kelley  
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  
BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

Date 7-1-20

Rental approved by IDWR Cody R.

Date 7-1-20

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 454**

**WATER USE DETAILS**

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      NENE              Sec. 35, Twp 11S, Rge 24E,                      CASSIA County

**BENEFICIAL USE**  
IRRIGATION

**DIVERSION RATE**  
1.92 CFS

**VOLUME**  
220.5 AF

**SEASON OF USE**

**From              To**  
5/20              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	
11S	24E	25											26	23					49
11S	24E	36					31	30	29	30	18	30	3.5						171.5

Total Acres: 220.5

**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 right 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.
10. Rights 36-16458 and 36-16460 when combined for the purposes of this rental agreement shall not exceed a total diversion rate of 0.25 cfs.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 454**

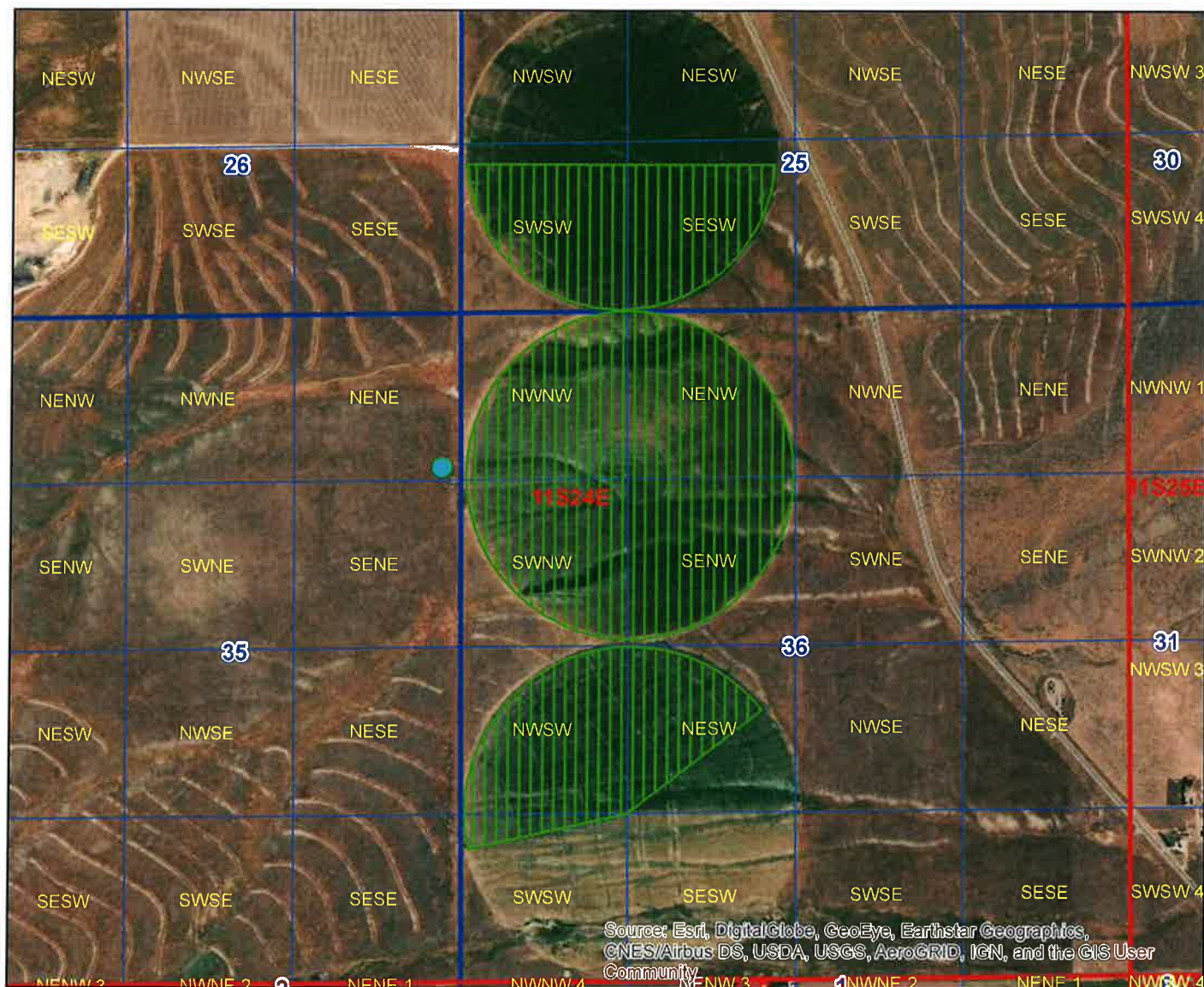
11. Rights 45-11969 and 1-10443 when combined for the purposes of this rental agreement shall not exceed a total diversion rate of 1.29 cfs, a total annual maximum diversion volume of 258 af at the field headgate, and the irrigation of 64.6 acres.
12. Use of water under this rental, when combined with water rights 45-4084 and 45-4236, as well as rental agreement 215, is limited to a maximum diversion rate of 1.34 cfs and a maximum diversion volume of 519 af, for the irrigation of 348 acres.
13. 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 45F and 01.
14. 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.
15. This rental does not authorize the construction of a well.

# Idaho Water Resource Board

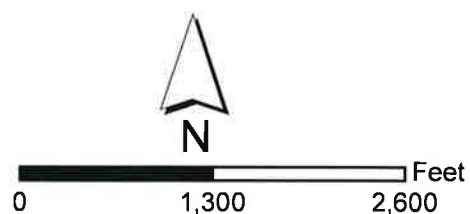
## Attachment to Water Supply Bank Rental Agreement No. 454

Effective until December 31, 2020

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





STATE OF IDAHO  
WATER RESOURCE BOARD

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

RECEIVED

MAY 20 2020

DEPARTMENT OF  
WATER RESOURCES

**Applicant Name:** George Kelley

**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](http://idwr.idaho.gov/water_supply_bank).

**MINIMUM REQUIREMENT CHECKLIST**

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

		Yes	
		<input checked="" type="checkbox"/>	Completed <i>Application to Rent Water from the Board's Water Supply Bank</i>
		<input checked="" type="checkbox"/>	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 George Kelley

Mailing Address P.O. Box 25, Albion, Idaho 83311

Street

City

State

Zip Code

Email Address \_\_\_\_\_

Phone Number 208-673-5364

- 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 Jonas A. Reagan

Professional Title Attorney

Organization Barker Rosholt & Simpson

Relationship to Applicant Attorney

Mailing Address P.O. Box 63, Twin Falls, Idaho 83303-0063

Email Address jreagan@idahowaters.com

Phone Number 208-733-0700

**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**:

Water will be used to allow for complete irrigation under existing pivots. Water will be commingled with Applicant's existing water rights to complete pivots.

- 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)
0.01 CFS	AF	CFS	AF	243.5 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?	
5/20/2020	5/29/2020	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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):

Water is pumped from the well and piped to a sprinkler system.

- E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
11S 24 E 35, NE NE	Groundwater	45-4084 & 45-4236

*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 243.5 (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:

See E. above. Existing water rights do not cover entire pivot system. Additional water is needed to cover all acres.



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)
<b>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</b>					<b>TOTAL</b>			
						<b>CFS</b>	<b>AF</b>	<b>AC</b>

*\*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**:

Applicant will irrigate what he can with the water provided.

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

Yes ☐ No ☒

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

STATE OF IDAHO  
WATER RESOURCE BOARD

**Application to Rent Water (Continued)**

**5. ADDITIONAL INFORMATION**

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☐ No ☒

If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

Applicant has been unable to find any water for purchase. Applicant has Rental Agreement 215 and 168, the latter of which was recently completely curtailed, which is the reason for this rental application.

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental?

If yes, describe:

Yes ☐ No ☒

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV?

Yes ☐ No ☒

If yes, describe the date and location of the NOV.

- D. Additional Information

**DECLARATION**

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

Signature of Applicant

for George Kelley

5/19/2020

Printed Name of Applicant

Date

Signature of Representative

Jonas A. Reagan

5/19/2020

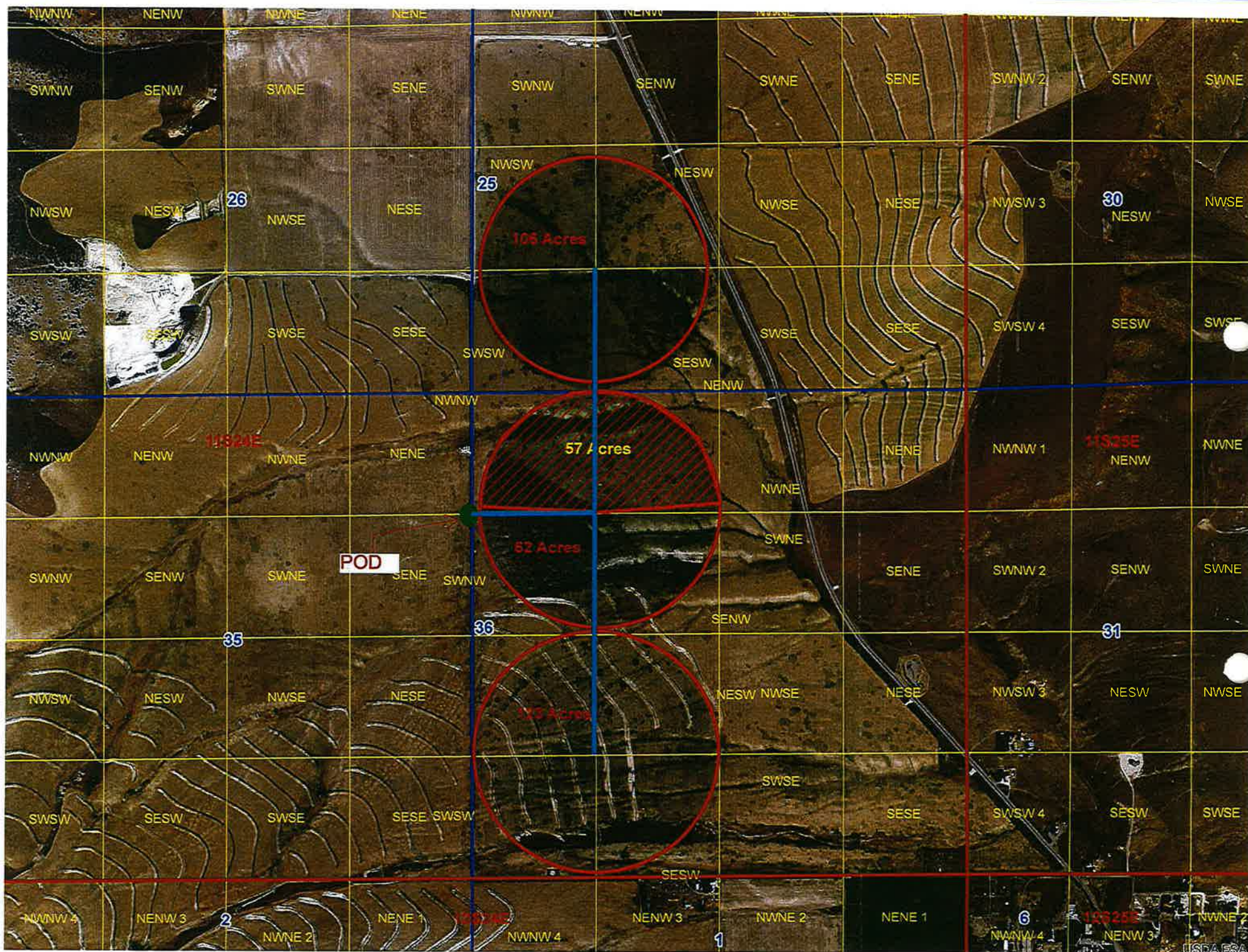
Printed Name of Representative

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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

July 9, 2020

GEORGE KELLEY  
PO BOX 25  
ALBION, ID 83311

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NOS. 36-16458, 36-16460, 45-11969, 1-10443, 36-4179, AGREEMENT 454  
& WATER RIGHT NOS. 45-13998, 45-14000, AMENDED AGREEMENT 215**

Dear Renter:

Please find enclosed a receipt in the amount of \$2,000.00 and a copy of a fully executed Water Supply Bank Rental Agreements 454 and 215. Upon receipt of this fully executed agreements, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

A rental fee of \$17,628.00 was calculated for Rental Agreement 454 based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 882 acre-feet. However, because you submitted a payment earlier this year for cancelled/curtailed agreement 168, only \$2,000.00 is needed at this time.

A rental fee of \$3,616.00 was calculated for Amended Rental Agreement 215 based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 180.8 acre-feet. However, because you submitted a payment earlier this year for cancelled/curtailed agreement 168, no payment is necessary for this rental at this

Pursuant to the Water Supply Bank Rules for Agreement 454, 90% or \$1,800.00 of the rental fee will be paid to the lessor(s) and 10% or \$200.00 will be retained by the Department to offset administrative costs.

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

Sincerely,

  
Amanda Schenck-Verhille  
Water Supply Bank

Enclosures: Receipt No. S037975  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
IDWR Southern Regional Office  
State Water District No. 130 & 140  
Jonas A. Reagan – Barker Rosholt & Simpson



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](http://idwr.idaho.gov) • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

June 6, 2020

GEORGE KELLEY  
PO BOX 25  
ALBION, ID 83311

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NOS. 36-16458, 36-16460, 45-11969, 1-10443, 36-4179, AGREEMENT 454  
& WATER RIGHT NOS. 45-13998, 45-14000, AMENDED AGREEMENT 215**

**\*\*\*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 \$17,628.00 was calculated for Rental Agreement 454 based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 882 acre-feet. However, because you submitted a payment earlier this year for cancelled/curtailed agreement 168, only \$2,000.00 is needed at this time.


A rental fee of \$3,616.00 was calculated for Amended Rental Agreement 215 based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 180.8 acre-feet. However, because you submitted a payment earlier this year for cancelled/curtailed agreement 168, no payment is necessary for this rental at this time.

**Please send a check for \$2,000.00** 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 for Agreement 454, 90% or \$1,800.00 of the rental fee will be paid to the lessor(s) and 10% or \$200.00 will be retained by the Department to offset administrative costs.

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

Sincerely,

  
for Water Supply Bank

Enclosure

c: IDWR Front Desk  
Jonas A. Reagan – Barker Rosholt & Simpson

## Buyer, Remington

---

**From:** Buyer, Remington  
**Sent:** Friday, May 22, 2020 3:48 PM  
**To:** 'adam@waterwellconsultants.com'; Erickson, Nathan  
**Subject:** George Kelley WSB Rental Application 1736  
**Attachments:** Draft Rental Agreement.docx; Rental Map George Kelley.pdf; Rental Review Memo\_.docx

Adam, Nathan,

In light of the curtailment of water right 45-2746, George Kelley has requested to cancel rental agreement 168, and replace it with a new rental. Attached are my review memo, map and draft approval document for Mr. Kelley for 2020.

Based on the existence of water rights 45-4084 and 45-4236, and a possible irrigation of up to 70.5 acres under rental agreement 215, this rental is for an approval to irrigate an additional 220.5 acres. Because WMIS data from last year indicated Mr. Kelley irrigated as many as 348 acres with 314 af of water, an equivalent per-acre diversion volume of 0.9 afa/ac was used to establish a maximum diversion volume of 199 af under this rental. I also added a condition to this rental to affirm that overall irrigation use by Mr. Kelley under this rental, along with water rights 4084/4236 and rental agreement 215, is limited to no more than 4.09 cfs and 607.8 af for the irrigation of 348 acres.

On behalf of WD140 and IDWR Southern Region, I'd appreciate any comments, questions, or recommended edits you might have with respect to this draft rental approval.

Thanks,

Remington



**From:** Buyer, Remington  
**Sent:** Thursday, June 4, 2020 1:59 PM  
**To:** 'Jonas Reagan' <jreagan@idahowaters.com>  
**Subject:** RE: Kelley Application

Jonas,

Thanks for confirming. We will update the agreements in an effort to provide them 1 afa/ac. We will email you as soon as the documents are ready for signature.

Remington.

**From:** Jonas Reagan [<mailto:jreagan@idahowaters.com>]  
**Sent:** Thursday, June 4, 2020 1:57 PM  
**To:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>  
**Subject:** RE: Kelley Application

Hey Remington,

I just heard back, and the Kelley's would like 334 af if possible. If that would cause a delay in the processing of the application, then they will work with the 314 af. Ultimately they would prefer 1 afa/ac if they could get it. Please advise on the availability and timing.

Best,

*Jonas Reagan  
Barker Rosholt & Simpson LLP  
163 2<sup>nd</sup> Avenue West  
P.O. Box 63  
Twin Falls, Idaho 83303-0063  
Office: (208) 733-0700  
Fax: (208) 735-2444*

**From:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>  
**Sent:** Thursday, June 4, 2020 1:01 PM  
**To:** Jonas Reagan <[jreagan@idahowaters.com](mailto:jreagan@idahowaters.com)>  
**Subject:** RE: Kelley Application

Jonas,

We are almost ready to send out the new rental agreement for signature by the Kelleys. Our Water Rights Section recommended that we reissue an amended version of rental agreement 215 for the Kelleys to sign, to acknowledge that it will now authorize irrigation of 70.5 acres, not 45.2 acres, as is presently stated on the face of the agreement.

**One final follow up with you:** we've drafted both the new, and the amended rental agreement, to reflect a volume limit of 314 af, which is what the Kelleys diverted last year. The application you

submitted to us did not request a specific diversion volume for their new 2020 rental, so we've assumed the Kelleys will divert 314 af this year, similar to what they did last year. This will equate to a per-acre diversion volume of 0.9 afa/ac. In 2018, it appears they diverted 280 af, and their four year average diversion volume is 360.8 af. Please let us know immediately if the Kelleys are likely to require a diversion volume larger than 314 af or 0.9 afa/ac for their irrigation purposes in 2020.

Thanks,

Remington

**From:** Buyer, Remington  
**Sent:** Wednesday, June 3, 2020 5:33 PM  
**To:** 'Jonas Reagan' <[jreagan@idahowaters.com](mailto:jreagan@idahowaters.com)>  
**Subject:** RE: Kelley Application

Jonas,

I spoke with Cody Parker from our Water Rights Section today who is finalizing review of the rental. I believe he will have the review completed tomorrow and we should be able to provide the Kelley's with a draft rental agreement by Friday.

Please know, because the rental application did not request any diversion volume and a diversion rate of only 0.01 cfs, we have based our diversion rate and rental volume for the 2020 rental based on the per-acre diversion rate and volumes actually realized by the Kelleys in 2019 (0.009 cfs/ac and 0.9 afa/ac).

Remington

**From:** Jonas Reagan [<mailto:jreagan@idahowaters.com>]  
**Sent:** Wednesday, June 3, 2020 4:56 PM  
**To:** Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)>  
**Subject:** Kelley Application

Hey Remington,

Please provide an update on the processing and drafting of the new rental agreement for the Kelley.

Best,

*Jonas Reagan  
Barker Rosholt & Simpson LLP  
163 2<sup>nd</sup> Avenue West  
P.O. Box 63  
Twin Falls, Idaho 83303-0063  
Office: (208) 733-0700  
Fax: (208) 735-2444*

## Memorandum

**To:** Water Supply Bank Rental Application 1736  
**From:** Remington Buyer  
**Date:** May 21, 2020  
**Re:** Water Supply Bank Request for an Irrigation Rental Authorization for George Kelley

**Purpose/Narrative:** On May 19<sup>th</sup>, 2020, IDWR received from George Kelley, a request to cancel rental agreement 168 and an application for a new rental agreement for 2020, to replace rental agreement 168. The applications were submitted on Mr. Kelley's behalf by Jonas Reagan, the applicant's legal representative.

Mr. Kelley irrigates three center-pivot fields, approximately 346~348 acres in size, located on property owned by him, at a location approximately one mile northwest of Albion. A sum total of 243.5 acres were requested to be irrigated by the applicant, through rental application 1736. However, the map provided by the applicant indicates irrigation of as many as 348.0 acres might be intended on the applicant's property. The difference between the IDWR's 346.0 acre irrigation observation and the applicant's 348.0 acre irrigation request are outlined in the table below, and this rental will be specific to 348 acres requested by the applicant, as follows:

Field	IDWR Observations	Applicant's Request	Difference
North Field	111.0	106.0	-5.0
Center Field	119.0	119.0	0.0
Southern Field	116.0	123.0	+7.0
Totals	346.0	348.0	2.0

Mr. Kelley is authorized to irrigate 57.0 acres with ground water diverted under water rights 45-4084 and 45-4236. These two water rights are located within a 1,350.6 acre permissible place of use (PPU). A review of 2019 satellite imagery indicates as many as 346~348 acres may have been irrigated during 2019 (though not all acres were irrigated simultaneously). On average, it appears approximately 209 acres were irrigated monthly, and as few as 141 acres, and as many as 260 acres may have been irrigated during different months of the year. Water Management Information System (WMIS) data for 2019 indicates approximately 313.8 af was diverted, which equates to approximately 0.9 afa/ac for the entire farm. See Appendix A of this memo for imagery and diversion volume data associated with observed irrigation during 2019.

In addition to his two water rights, Mr. Kelley was authorized to irrigate additional acres under approved rental agreements 168 and 215.

Rental agreement 215 authorizes irrigation of up to 45.2 acres at a per-acre diversion volume of 4.0 afa/ac. The basis for the irrigation authorization under agreement 215 is a rental of water rights 45-13998 and 45-14000. These two rights authorize a diversions and use of ground water for commercial and stockwater (dairy) purposes, though they originate from parent irrigation water rights 45-7047A and 45-7221A. Transfer 72692 converted parts of the irrigation consumptive use for portions of water rights 45-7047A and 7221A, to stock and commercial water uses for 45-13998 and 14000. Prior to Transfer 72692, the portions of water rights 13998 and 14000 converted to stock/commercial use authorized the irrigation of 70.5 acres. As such, although rental agreement 215 was established to authorize irrigation of 45.2 acres, irrigation use under agreement 215 could be increased up to 70.5 acres, without causing enlargement in the rented water rights.

Rental agreement 168 was based solely on a rental of water right 45-2746, which became subject to curtailment due on May 13, 2020 (IDWR CM-DC-2011-004 "Rangen" Curtailment Order for Water Rights 36-2551 and 36-7694). In light of the curtailment of water use under rental agreement 168, Mr. Kelley has opted to cancel rental agreement 168, and to replace it with a new rental agreement, which is the subject of this review memo.

Subtracting 57.0 acres (under water rights 45-4084 and 4236) and 45.2 acres (under rental agreement 215) from 346 acres observed irrigated during 2019 leaves a remaining balance of 243.8 acres that would need to be covered by a rental. This 243.8 acre sum is almost exactly what the applicant requested on rental application 1736 and it is assumed that this is how the applicant calculated their 2020 irrigation acre needs.

A review of Water Management Information System (WMIS) data indicates the Kelleys have diverted between 280 and 458 af in recent years. On June 4, 2020, the Kelleys confirmed they desired a diversion volume of 334 af for this year.

Water right backfile information indicates that the ground water pump in the well proposed for this rental is limited to a maximum diversion rate of 1.34 cfs. Based on the minimum, average and maximum number of acres observed as irrigated monthly during 2019, it is assumed that the per-acre diversion rates for irrigation in 2020 might be as high as 0.01 cfs/ac (1.34 cfs / 141 ac) or as low as 0.005 cfs/ac (1.34 cfs / 260 ac), with an average monthly diversion rate of 0.006 cfs/ac (1.34 cfs / 209 ac). As such, irrigation by Mr. Kelley of 348 acres, at a maximum diversion rate of 1.34 cfs and a maximum diversion volume of 334 af, would require a rental authorization of 0.20 cfs, 106.0 af and 291 acres, to augment water rights 45-4084 and 4236 as follows:

Water Rights	Use	Div. Rate	Vol.	Acres	Rate/AC	Vol/AC
45-4084	Irrigation	0.540	108	27	0.020	4.0
45-4236	Irrigation	0.600	120	30	0.020	4.0
	Irrigation	1.140	228	57	0.020	4.0
2020 irrigation presumed:		1.340	334.0	348.0	0.006	1.0
2020 rental required:		0.200	106.0	291.0	0.001	0.4

Based on a maximum diversion rate of 1.34 cfs, and a maximum per-acre diversion rate and volume of 0.01 cfs/ac and 1.0 afa/ac, it is reasonable for rental agreement 215 to authorize up to 70.5 acres of irrigation, as the diversion rate and volume rented on agreement 215 still exceeds the low irrigation uses of Mr. Kelley (and an amended rental agreement 215 will be issued to the Kelleys with this rental approval). Accordingly, a new rental agreement for irrigation of additional 220.5 acres can be authorized through a rental of water rights 36-4179, 36-16458/16460, 45-13998/14000 and 45-11969, as follows:

Rentals Proposed for 2020						
WSB ID	Water Right	Div. Rate	Volume	Acres	Rate/Acre	Vol/Acre
rental 168:	45-2746	0.000	0.0	0.0	0.000	0.0
rental 215:	45-13998/14000	1.040	180.8	70.5	0.015	2.6
contract 567:	36-4179	0.810	523.5	130.9	0.006	4.0
contract 183:	45-11969	0.860	258.3	64.6	0.013	4.0
contract 853:	36-16458/16460	0.245	99.6	25.0	0.010	4.0
		2.955	1062.2	291.0	0.010	3.7

**Authority to File:** The point of diversion and place of use for this rental are located on lands owned by the applicant. No concerns about authority to file.

**Water Right Validity/Forfeiture Evaluation:** The water rights proposed to be rented are valid.

**Injury Evaluation:** Mr. Kelley's rental proposes a diversion of ground water from an aquifer that is tributary to the Snake River and Eastern Snake River Plain Aquifer (ESPA). As such, it is possible to rent ESPA water rights to him. The ESPA transfer tool was used to model the impact of transferring the above listed water right volumes to Mr. Kelley's rental location. Because a significant volume of water is rented, but actual

diversion volumes under the rental are assumed to remain low, at 86 af, no injury to the Snake River is envisioned through this rental.

**Enlargement of Use:** Because ground water right 45-11969 is combined with 1-10443, a portion of 1-10443 will also be rented on this agreement, however it will provide no additional rate, volume, or irrigable acres. Water right 36-4179 is a fully consumptive industrial water right, and the full rate and volume can be applied to this rental for irrigation purposes.

A total of 1.915 cfs, 881.4 af and 220.5 acres are being rented from water rights 36-4179, 45-11969/1-10443 and 36-16458/36-16460. Rental agreement 215 and the applicant's water rights (45-4084/4236) already authorize a diversion of 2.18 cfs and 408.8 af for the irrigation of up to 127.5 acres. In keeping with a maximum per-acre diversion rate of 0.01 cfs/ac and a maximum per acre diversion volume of 0.9 afa/ac, to avoid enlargement in water use, this rental will be limited to a diversion rate of 1.915 cfs and 199 af for the irrigation of 220.5 acres.

**Local Public Interest:** Staff have no information to suggest this rental is contrary to local public interests.

**Beneficial Use/Conservation of Water Resources:** Irrigation is a beneficial use. The low duty of water associated with this rental is conducive to a conservation of ground water resources.

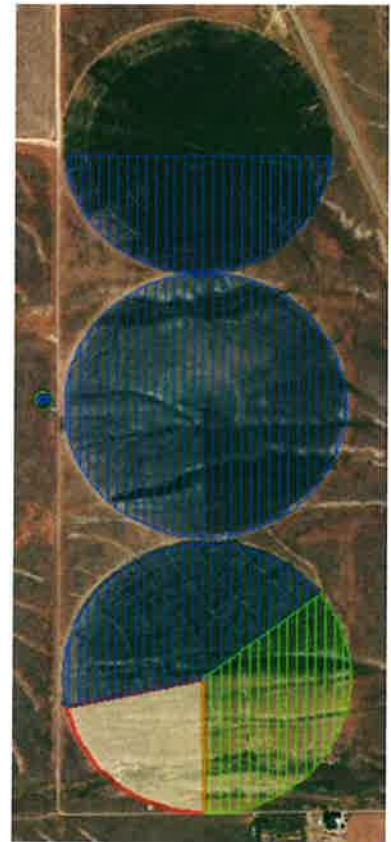
Because the low duty of water proposed to be used for irrigation in association with this rental allows for increased irrigation under rented water rights 45-13998 and 45-14000 without inducing enlargement, an additional 25.3 acres can be irrigated under rental agreement 215 on the southern field, leaving a balance of 52.5 acres of the southern field that will be authorized for irrigation specifically under this rental. The 119.0 acre central field will be authorized for irrigation under this rental, along with 49.0 acres of the northern field. The remaining 57.0 acres that will be irrigated on the northern field will be authorized under the applicant's water rights.

The 220.5 acres being irrigated specifically under this rental are delineated in blue in the image to the right while the 45.2 and 25.3 irrigable acres authorized under rental agreement 215 are delineated in green and yellow, respectively.

**Department/Watermaster Comments:** Watermaster and IDWR southern regional office comments were requested on May 22, 2020

**Water Supply Bank Evaluation:** A rental fee of \$17,628.00 was calculated for this agreement, based on a rental of 881.4 af of water. In recognition that a rental payment of \$15,628 was already receipted from the applicant for a 2020 irrigation under rental agreement 168 (Receipt ID C108290), the balance of payment owed for this rental is calculated to be: \$2,000.

Bank staff recommend the approval of this application for a single year.





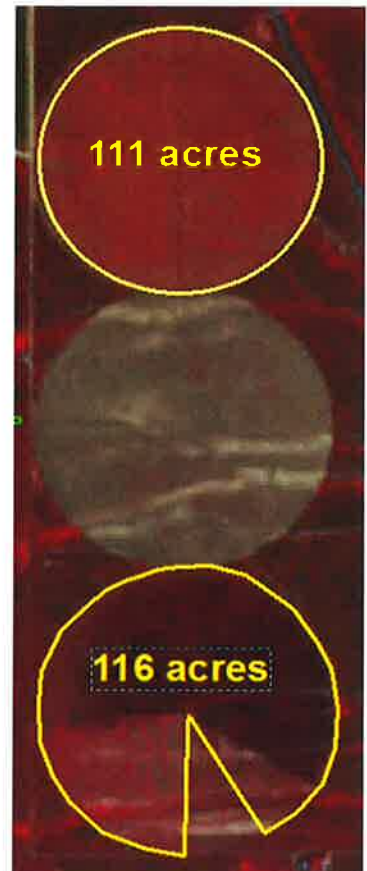
## Appendix A – Irrigation During 2019



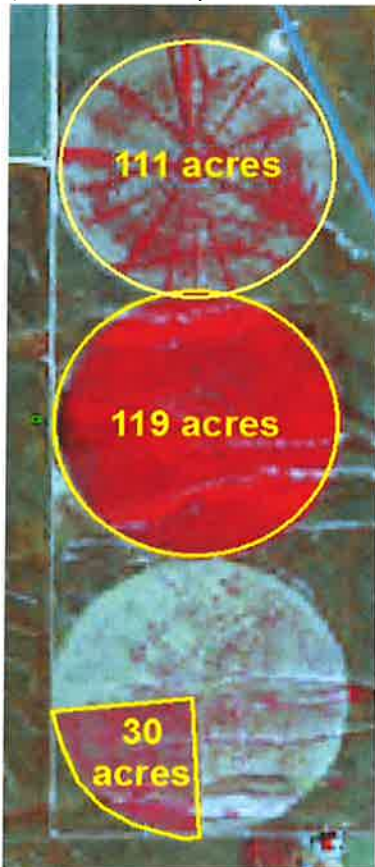
2017 Satellite Image  
(Date Unknown)



June 5th, 2019



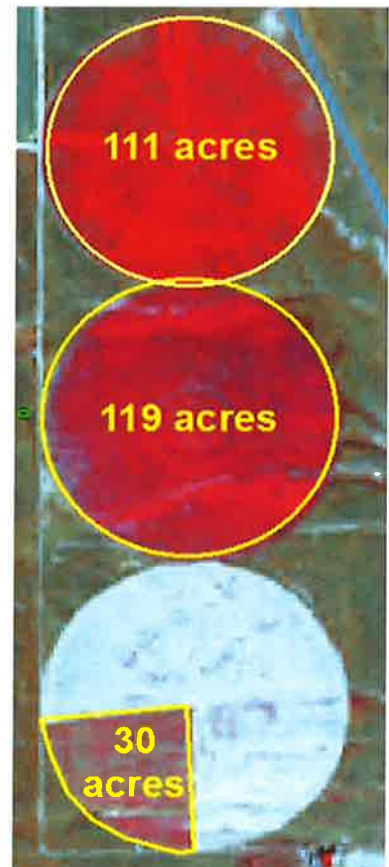
June 28<sup>th</sup>, 2019



August 12<sup>th</sup>, 2020

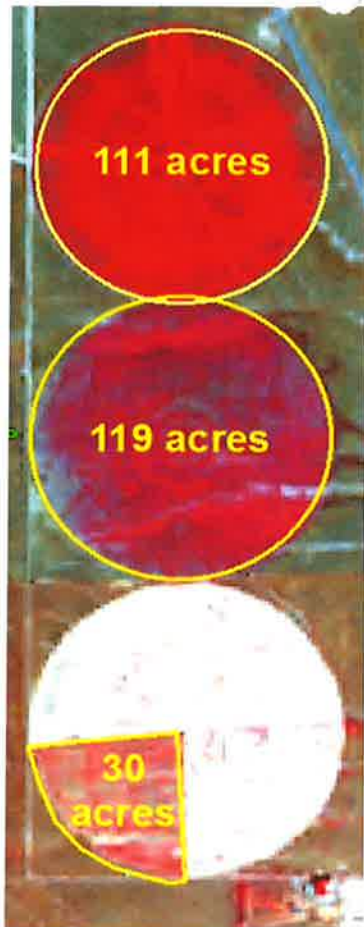


August 17<sup>th</sup> – 24<sup>th</sup>, 2020



August 27<sup>th</sup>, 2020





September 1<sup>st</sup>, 2020



September 26<sup>th</sup>, 2020



September 26<sup>th</sup>, 2020 – Sum of all irrigated acres

Water Use	Volume	Acres	Acres Irrigated Monthly					
			June	July	August	September	Average	Median
<b>North field</b>		111.0	111	111	111	111		
<b>Center Field</b>		119.0			119			
<b>Southern Field</b>		116.0	97	116	30	30		
sub total		346.0	208	227	260	141	209	218
WMIS Data:	313.8							
AFA/AC:		0.9					1.5	1.4

#### Recent WMIS Water Use

Year	Volume
2019	313.80 AF
2018	280.30 AF
2017	391.00 AF
2016	458.00 AF
Average	360.78 AF



**Barker Rosholt  
& Simpson LLP**

**Jonas A. Reagan**

**EMAIL:** jreagan@idahowaters.com

**PHONE:** 208.733.0700

**WEB:** idahowaters.com

**Twin Falls**

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RECEIVED  
MAY 20 2020  
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Albert P. Barker  
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DEPARTMENT OF  
WATER RESOURCES  
Travis L. Thompson  
Scott A. Magnuson  
Jonas A. Reagan

May 19, 2020

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

Re: George Kelley Application to Rent Water from the Board's Water Supply Bank

To Whom It May Concern,

Enclosed, please find the original signed Application to Rent Water from the Board's Water Supply Bank. The attached map demonstrates the proposed place of use for the rental as outside the lined-area, but within the red outline.

Let this letter simultaneously serve as an official request to cancel Water Supply Bank Rental Agreement 168, and in lieu of reimbursement for monies paid pursuant thereto, apply the amount already provided for Rental Agreement 168 for the 2020 irrigation season toward the new rental that will be approved this year as requested herein.

Should you have any questions, please call me at (208) 733-0700.

Thank you,

  
Jonas A. Reagan

Enclosures

JAR/jn