

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 456**

This is to certify that:

EAST VALLEY CATTLE LLC  
471 N 300 W  
JEROME, ID 83338-5078

RECEIVED

JUN 04 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)
43-13448	3/2/1950	GROUND WATER	0.03	7.6	1.9	0.02	4.0
<b>Rental Totals</b>			<b>0.03</b>	<b>7.6</b>	<b>1.9</b>	<b>0.02</b>	<b>4.0</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: \$15.20

The full fee for the rental of the above-described right(s) is \$15.20 for 2020. The rental fee includes an administrative fee of \$15.20 for 2020. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 43-13448.

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	0.03	7.6	1.9	0.02	4.0
<b>Rental Total</b>	<b>0.03</b>	<b>7.6</b>	<b>1.9</b>	<b>0.02</b>	<b>4.0</b>

Detailed water right conditions are attached.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 456**

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:

      June 4, 2020  
Signature of Renter      Date  
Michael C. Creamer  
Attorney in Fact under POA  
Printed Name      East Valley Cattle, LLC      June 4, 2020  
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       Date 06/19/20  
BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

Rental approved by IDWR       Date 06/19/20

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 456**

**WATER USE DETAILS**

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

GROUND WATER                      NESE              Sec. 9, Twp 11S, Rge 27E,                      CASSIA County

**BENEFICIAL USE**  
IRRIGATION

**DIVERSION RATE**  
0.03 CFS

**VOLUME**  
7.6 AF

**SEASON OF USE**

**Water Right No.**                      **From**                      **To**  
43-13448                                  3/15                                  11/15

**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	27E	10					1.2			0.7									1.9

Total Acres: 1.9

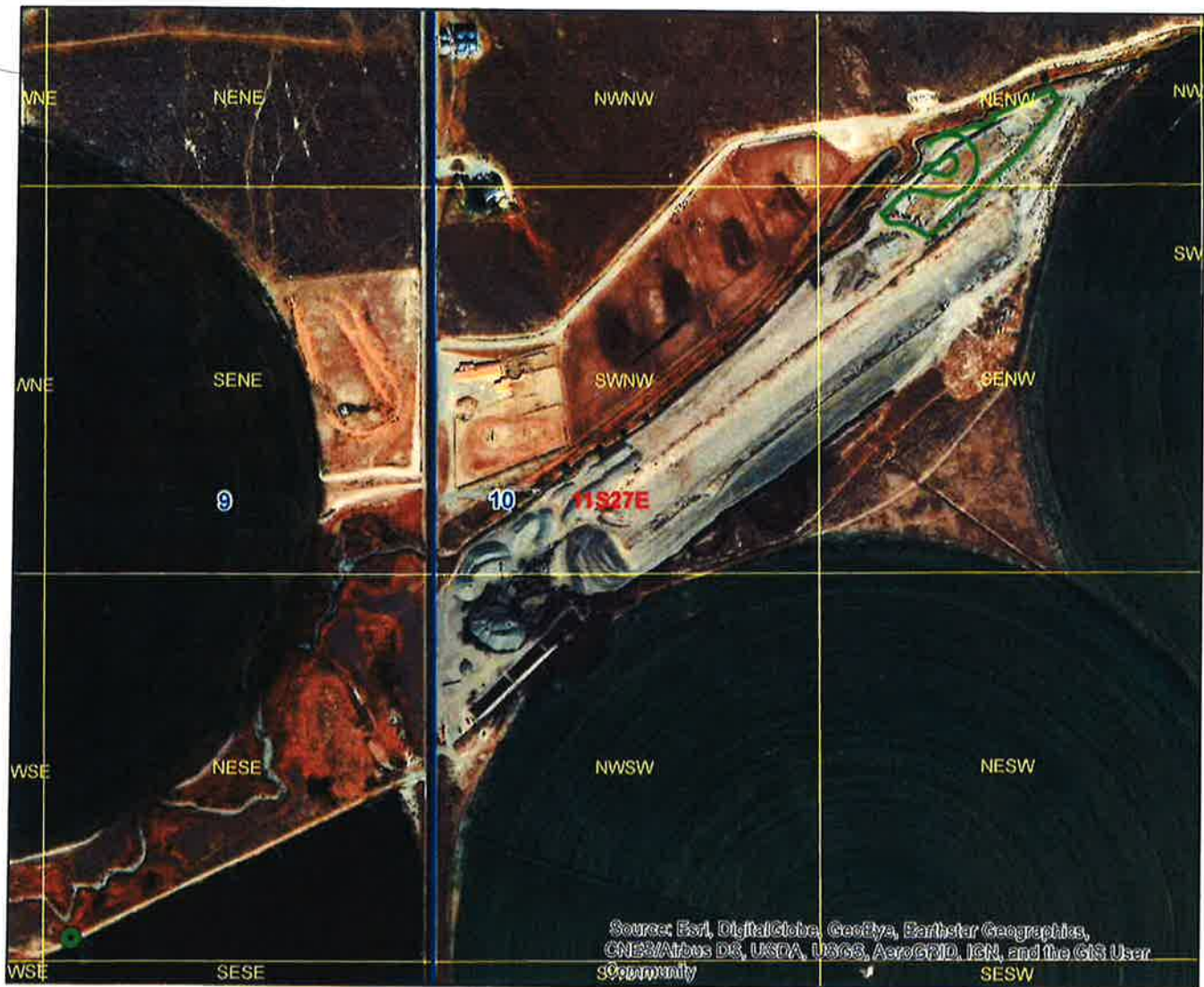
**RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE**

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. This rental does not authorize the construction of a well.
10. 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.
11. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
12. 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.143.

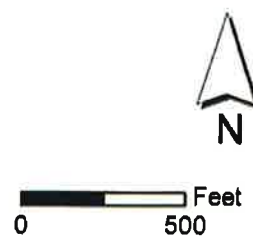
**Idaho Water Resource Board**  
**Attachment to Water Supply Bank Rental Agreement No. 456**

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

MAR 12 2020

DEPARTMENT OF  
WATER RESOURCESApplicant Name: East Valley Cattle, LLC

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

- ☒ 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)

43-13448

1670

STATE OF IDAHO  
WATER RESOURCE BOARD

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant East Valley Cattle LLC

Mailing Address 471 North 300 West Jerome Idaho 83338

Street

City

State

Zip Code

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

Phone Number (208) 324-2350

- 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 Greg Sullivan

Professional Title Engineer

Organization Brockway Engineering

Relationship to Applicant Consultant

Mailing Address 2016 North Washington St Ste 4 Twin Falls, Idaho 83301

Email Address greg.sullivan@brockwayeng.com

Phone Number 208-736-8543

**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**:

Provide temporary irrigation water to Raft River restoration project.

- 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)
0.03 CFS	7.6 AF	0.03 CFS	7.6 AF	1.9 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?	
4/1/2020	6/31/2020	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<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):

Existing well. A temporary mainline will be installed to deliver water to the irrigation area from the well. A flow meter will be installed on this temporary mainline.

- 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 27E Sec 9 NESE	Ground Water	43-13449 et al.

*If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.*

- F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☒  
If yes, include documented consent as **Attachment 3F**.

- G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☒  
*Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.*

- H. Has water modeling been provided with your rental request? Yes ☐ N/A ☒  
If yes, label modeling Attachment 3 H.  
*Rental applications that require modeling will be returned if modeling is not provided.*

- I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

- ☐ Irrigation \_\_\_\_\_ (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)
- ☐ Stockwater from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)
- ☒ Industrial from: 4/01 (mm/dd) to: 11/15 (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:

43-2317C et al. and 43-13449 et al.

Water is required for a temporary irrigation for Raft River restoration project.

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)
43-13448	Irrigation	0.40	92.4	23.1		0.03	7.6	1.9
<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>	0.03	7.6	1.9
						<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**:

N/A

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

Yes ☒ No ☒

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

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

**5. ADDITIONAL INFORMATION**

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☒ No ☐  
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

---

---

---

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒  
If yes, describe:

---

---

---

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒  
If yes, describe the date and location of the NOV.

---

---

---

- D. Additional Information  
None

---

---

---

**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

William J. Millenkamp  
Printed Name of Applicant

3-6-2020  
Date

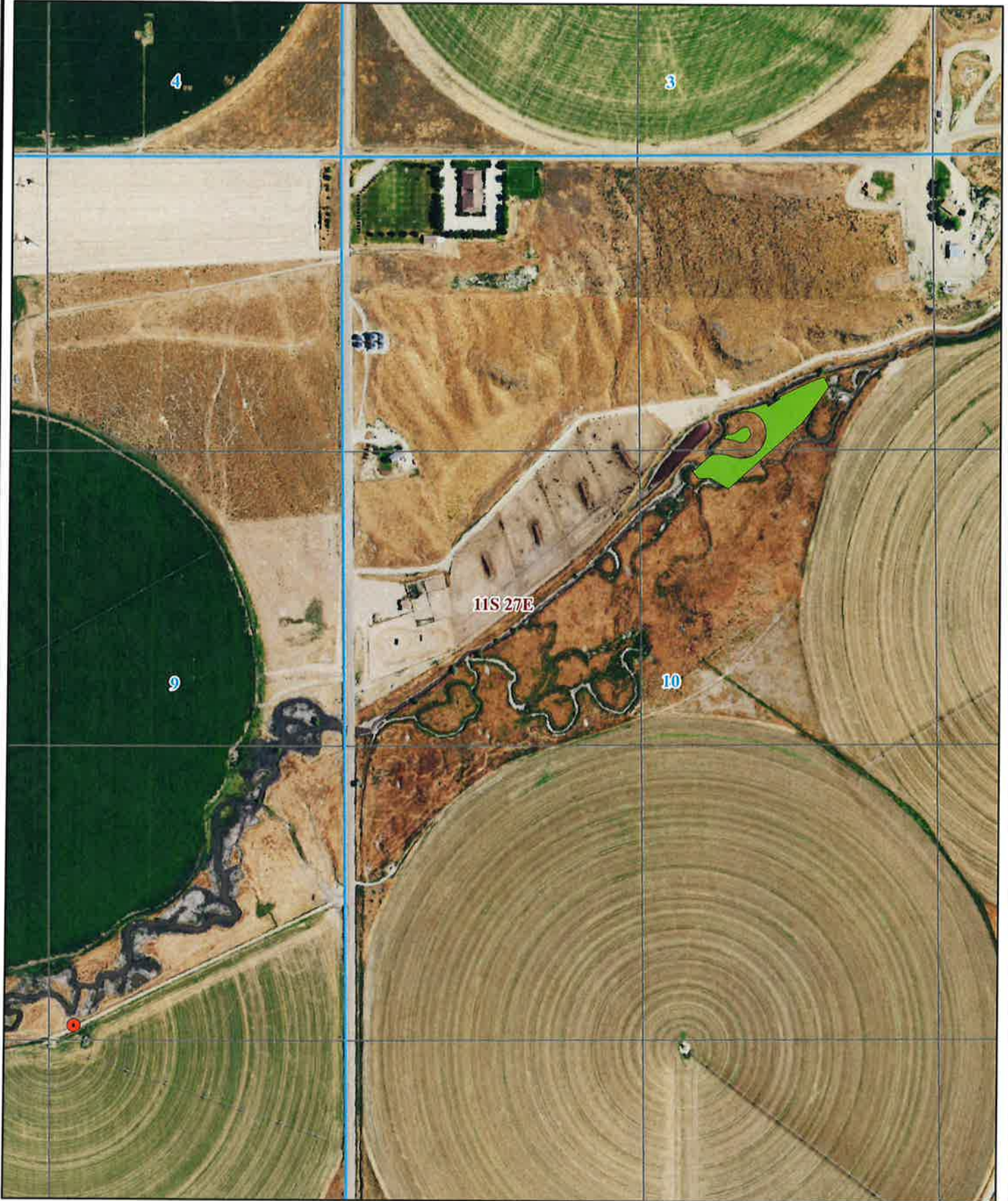
\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Printed Name of Representative

\_\_\_\_\_  
Date

**Mail to:**

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



0 500 1,000 Feet

**EAST VALLEY CATTLE LLC**

RAFT RIVER RESTORATION  
NAIP 2017 AERIAL

BROCKWAY ENGINEERING, PLLC  
GWS - Date: 3/3/2020

Legend  
● Points\_of\_Diversion  
■ 1\_Year\_Rental





## 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 24, 2020

EAST VALLEY CATTLE LLC  
471 N 300 W  
JEROME ID 83338-5078

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 43-13448, AGREEMENT 447, 455, 456 & 457**

Dear Renter:

Please find enclosed a receipt in the amount of **\$184.80** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental 423 of 77.9 acre-feet of water for irrigation of 19.5 acres and rental 424 of 35.6 acre-feet of water for irrigation of 8.9 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.

For Agreement 447, a rental fee of **\$904.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 45.2 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$90.40.**

For Agreement 455, a rental fee of **\$672.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 33.6 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$67.20.**

For Agreement 456, a rental fee of **\$152.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 7.6 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$15.20.**

For Agreement 457, a rental fee of **\$120.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 6.0 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$12.00.**

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

Sincerely,

  
Water Supply Bank

Enclosures: Receipt No. C108848  
Rental Agreement (copy)



**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

c: Sascha Marston – Fiscal  
Corey Skinner – Southern Regional Office  
Nathan Erickson – State Water District No. 143  
Greg Sullivan – Brockway Engineering



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

June 4, 2020

EAST VALLEY CATTLE LLC  
471 N 300 W  
JEROME ID 83338-5078

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 43-13448, AGREEMENT 447, 455, 456 & 457

\*\*\*TIME SENSITIVE RESPONSE REQUIRED\*\*\*

Dear Applicant:

The Department of Water Resources acknowledges receipt of your applications to rent water from the Water Supply Bank. **I have enclosed four Water Supply Bank Rental Agreements for your review and signature.** Upon signature and return of the original agreements, together with the rental fees described below, the Department will also sign the original agreements and return an executed copies to you. Execution of the agreements and compliance with the conditions of approval authorize diversion and use of water as provided in the agreements.

For Agreement 447, a rental fee of **\$904.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 45.2 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$90.40.**

For Agreement 455, a rental fee of **\$672.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 33.6 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$67.20.**

For Agreement 456, a rental fee of **\$152.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 7.6 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$15.20.**

For Agreement 457, a rental fee of **\$120.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 6.0 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$12.00.**

An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

**Please send a check for \$184.80** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,



 Water Supply Bank

Enclosure(s)

c: IDWR Front Desk

Greg Sullivan- Brockway Engineering PLLC

## Hersley, Jean

---

**From:** Hersley, Jean  
**Sent:** Wednesday, June 3, 2020 2:47 PM  
**To:** Greg Sullivan  
**Cc:** Hummer, Phill  
**Subject:** WSB Lease Contract for 43-13448 and Rentals for East Valley Cattle  
**Attachments:** East Valley Lease 43-134\_20200603143416.pdf; East Valley Rental Agree\_20200603143541.pdf; East Valley Rental Agree\_20200603143559.pdf; East Valley Rental Agree\_20200603143615.pdf; East Valley Rental Agree\_20200603143633.pdf; East Valley Rental cover\_20200603143507.pdf

Greg,

It is my understanding that you wanted the lease contract and rental agreements for East Valley Cattle emailed to you and **NOT** mailed to your client. Attached you will find 2 copies of the lease contract and 1 copy each of the rental agreements. I have also included a cover letter for the rentals which spells out the fees. Please let me or Phill Hummer know if you have any questions.

*Jean Hersley  
Technical Records Specialist II  
Idaho Dept Water Resources  
(208) 287-4942*

## **MEMORANDUM FOR RENTAL APPLICATIONS 1668, 1669, 1670 & 1671**

**To:** Water Right 43-13448

**From:** Dave Betts

**Date:** June 2, 2020

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

---

**PURPOSE/NARRATIVE:** On March 12, 2020, Brockway Engineering (representative) submitted an application to lease and four applications to rent water from water right 43-13448 on behalf of East Valley Cattle (applicants). I review all four rental applications in this memo. The application to lease has been reviewed in a separate memo.

Rental application 1670 requests water for only 1 year. The other three applications (1668, 1669, & 1671) request water for 3 years. Because the applicants own the water right that is being leased, the applicants propose to pay only the administrative fees which are equal to 10% of the standard rental rate.

In 2019, the applicants leased and rented water from the same water right, no. 43-13448. In a letter that was submitted with the current applications, the representative requested the withdrawal of Lease Contract 977, Rental Agreement 330, and Rental Agreement 333. Rental applications 1668 and 1669 are proposed replacements of Rental Agreements 330 & 333. The lease application submitted on March 12 replaces Lease Contract 977. Additional correspondence between the representative and the Department prior to March 12 also describe the proposed withdrawals and replacement applications.

The original proposals for the four rentals asked for a combined 3.2 AF more water than is proposed for lease. On May 18, 2020, the representative submitted reductions to the quantities of water requested for Rental Applications 1668 (cement mixing) and 1669 (gravel washing). With the reductions to the two rental applications, the leased water from 43-13448 is now sufficient to supply for the combined use of the four rental applications.

### Rental application 1668 (cement mixing)

The applicants propose a three year rental of water for a temporary cement mixing facility. The cement mixing facility is not expected to be operated continuously throughout the proposed rental period. Rental Application 1668 is intended to replace the remainder of Rental Agreement 330, which is set to expire at the end of 2020. The proposed end date for Application 1668 is December 31, 2022.

Compared to the previous rental agreement, the proposed application requests an increase in the diversion rate from 0.10 cfs to 0.14 cfs, and an increase in the annual diversion volume from 12.9 acre feet to 21.5 acre feet. The total rental volume for this application would be for 33.6 acre feet, with a diverting volume of 21.5 acre feet based on estimates of the consumptive use of acres to be idled that were submitted with the application.

The applicants have already paid the fees for the rental of the 23.6 acre feet of water for 2020. If this application to rent is approved, the applicants would need to pay the remaining fees for the additional 10.0 acre feet for 2020, in addition to the fees for 2021 and 2022.

Rental application 1669 (gravel washing)

The applicants propose a three year rental of water for a gravel washing facility. In the letter submitted with the application it states that the water use for the gravel washing facility will be used on an "as needed" basis, and will not be used continuously. Rental application 1669 is intended to replace the remainder of Rental Agreement 333, which is set to expire at the end of 2020. The proposed end date for application 1669 is December 31, 2022.

Compared to the previous rental agreement, the proposed application requests an increase in the diversion rate from 0.14 cfs to 0.20 cfs, and an increase in the annual diversion volume from 18.0 acre feet to 28.9 acre feet. The total rental volume for this application would be for 45.2 acre feet, with a diverting volume of 28.9 acre feet based on estimates of the consumptive use of acres to be idled that were submitted with the application.

The proposed use for application 1669 (gravel washing) includes the use of a temporary storage pond. Using the Department's Pond Loss Calculation workbook (MS Excel) I was unable to calculate the same estimates for pond losses as were reported in the application. The workbook calculates the volume to be mitigated for the pond as:

$$\begin{aligned} &\text{Pond Capacity} + \text{Estimated Seepage Loss} + \text{Estimated Evaporation Loss} \\ &= 2.2 \text{ AF} + 2.6 \text{ AF} + 1.2 \text{ AF} \\ &= 6 \text{ AF} \end{aligned}$$

My estimates of the seepage losses and evaporative losses were greater than the estimates presented in the attachment to the application, "East Valley Cattle LLC, Mitigation Calculations". If the diverting volume is monitored and kept within the requested total annual volume, the difference between the estimates of the pond's losses not matter with respect to enlargement of use.

The proposed storage pond exceeds the 24-hour fill rule, therefore an Industrial Storage use is required. The storage component will be based on the reviewer's estimates of storage needs using the Department's Pond Loss Calculation workbook (MS Excel): Irrigation Storage = 6 AF. The Industrial and the Industrial Storage uses will be limited to a combined diversion volume of 28.9 AF.

The applicants have already paid the fees for the rental of the 32.8 acre feet of water for 2020. If this application to rent is approved, the applicants would need to pay the remaining fees for the additional 12.4 acre feet for 2020, in addition to the fees for 2021 and 2022.

Rental application 1670 (irrigation)

The applicants propose the irrigation of 1.9 acres in support of a Raft River restoration project for the 2020 irrigation season. The applicants are requesting a diversion rate of 0.03 cfs and a diversion volume of 7.6 af.

Rental application 1671 (irrigation)

The applicants propose the irrigation of 1.5 acres in support of a Raft River restoration project for the 2020, 2021, and 2022 irrigation seasons. The applicants are requesting a diversion rate of 0.03 cfs and a diversion volume of 6.0 af per year.

**AUTHORITY TO FILE:** The application was signed by William J (Bill) Millenkamp who is the registered agent for East Valley Cattle LLC. The proposed points of diversion and places of use appear to be on tax parcels that belong to the applicant. There are no concerns with authority to file at this time.

**WATER RIGHT VALIDITY:** Satellite imagery indicates that the place of use of the leased water right (43-13448) has been irrigated within the last 5 years. There are no concerns with the validity of the leased right.

**INJURY TO OTHER WATER RIGHTS:** Injury to other water rights is not a concern with the proposed rentals.

**ENLARGEMENT OF USE:** The application to lease a 23.1 acre portion of water right 43-13448 was submitted at the same time as the four applications to rent the leased water. The applicants proposed turning off the end guns of two pivots to idle sufficient acres. This review assumes that the acres identified for the lease will be idled.

The sum of the requested rentals do not exceed the quantities of the leased water right (diversion rate, diversion volume, and acres to be idled). For the leased water right, and the proposed rentals, the applicants state that the points of diversion will be monitored. Three of the four rental applications have proposed the use of the same point of diversion (Rental Applications 1669, 1670 & 1671).

In applications 1670 and 1671 the applicants incorrectly listed the proposed point of diversion (POD) as belonging to water right 43-13449 (see items 3.E and 3.L). Water right 43-13449 does not have a POD in Section 9 of Township 11S, Range 27E. Application 1669, and the maps submitted with applications 1669, 1670 & 1671 clearly identify the proposed POD as a POD that corresponds with water right 43-2317C. When making the decision on what POD may be authorized, this review will consider the POD as described by the legal descriptions, and the maps submitted with the applications.

Rental Applications 1668 and 1669 propose a change in the nature of use from irrigation to fully consumptive industrial uses. Attachments to these applications included the estimated consumptive use of the acres to be idled. Using METRIC data from 2016, the applicants estimated a consumptive use of the water to be leased as 2.56 acre feet per acre. The calculated consumptive use was used to provide the total rental volumes and rental diversion volumes for Rental Applications 1668 and 1669.

I used IDWR's ET viewer (<https://maps.idwr.idaho.gov/agol/EvapoTranspiration/>) to calculate estimates of the consumptive use of the acres to be idled. I used a similar polygon as in the attachments for applications 1668 and 1669, and the available data from the past 5 irrigation seasons to calculate the Consumptive Irrigation Requirement (CIR) for the acres to be idled.

<b>Irrigation Season</b>	<b>Consumptive Irrigation Requirement (CIR)</b>
--------------------------	---

2015	2.23
2016	2.6
2017	2.32
2018	2.8

My estimate from 2016 was slightly higher than the estimated consumptive that was submitted with the application. Based on my estimates, the applicants' estimate of 2.56 acre feet / acre appears to be a reasonable estimate of consumptive use to prevent enlargement of use.

For Rental Applications 1668 and 1669, the changes to the nature of use and to the season of use are not a concern with respect to enlargement of use. Administrative Memo – Transfers #24 "Transfer Processing Policies & Procedures" 5d states that enlargement is not a concern for groundwater rights if the annual diversion volume is not increased. The applicants based their requests on the annual diversion volume of the leased water right, with reductions to the requested diversion volume based on the analysis of the consumptive use of the idled acres which is described above.

Rental Applications 1668 and 1669 are intended to replace existing rental agreements. If Rental Applications 1668 and/or 1669 are approved, those who are monitoring the points of

diversion will need to take into account the increases to diversion rates and diversion volumes of the new agreements for the remainder of this year through the end of 2022.

The proposed uses of applications 1670 and 1671 are for irrigation, and are the same nature of use as the leased water right. The requested rental diversion rates and diversion volumes are the same as the leased water right, when rounded to the standards set by Administrative Memo: Application Processing # 6 – "Significant Figures for Numeric Values".

**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 all four of the proposed rentals are subject to Water District 143. On May 26, 2020, a request was sent to the watermaster and the Region to submit any comments or concerns they may have with respect to these rentals. No comments were received from the watermaster or from Regional staff.