

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 374

RECEIVED
MAY 11 2020
DEPARTMENT OF
WATER RESOURCES

This is to certify that:

OWYHEE FARMING CO LLC
FRANK TIEGS PO BOX 3350
PASCO, WA 99302

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)
2-7237A	12/23/1976	SNAKE RIVER	5.90	1,475.0	295.0	0.02	5.0
2-7064	4/23/1970	SNAKE RIVER	6.36	1,590.0	318.0	0.02	5.0
2-10181	4/9/1970	SNAKE RIVER	3.20	640.0	160.0	0.02	4.0
2-10189	2/25/1963	SNAKE RIVER	2.83	473.6	141.5	0.02	3.3
2-4013	3/15/1954	SNAKE RIVER	0.46	92.4	23.1	0.02	4.0
Combined Rental Totals			18.75	4,271.0	937.6	0.02	4.6

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until October 30, 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: \$85,420.00

The full fee for the rental of the above-described right(s) is \$85,420.00 for 2020. The rental fee includes an administrative fee of \$8,542.00 for 2020.

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	18.29	3,658.0	914.5	0.02	4.0
Combined Total	18.29	3,658.0	914.5	0.02	4.0

** The authorized water usage reflects a reduction from the water right elements rented, to account for enlargement concerns*

Detailed water right conditions are attached.

SUPPORT DATA
IN FILE # 2-4013

MAY 11 2020

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 374

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:

Joe Siega
Signature of Renter

5-6-2020
Date

Frank Tiegs
Printed Name

Managing Member
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 5/21/2020

Rental approved by IDWR Angela M. Gunn

Date 5/21/2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 374

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER SESE Sec. 4, Twp 06S, Rge 08E, OWYHEE County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
18.29 CFS

VOLUME
3,658.0 AF

SEASON OF USE

From To
4/1 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	
06S	08E	5													32	16	33	31	112.0
06S	08E	8	10		23	14				5.4	13		4	36	7	40	29		181.4
06S	08E	9					14	37	40	21	29	21	22	26					210.0
06S	08E	10						8											8.0
06S	08E	16		0.6			25	40	38	23	24	39	1.7						191.3
06S	08E	17	13	32	2	11	39	6	10	36	29	29			4.8				211.8

Total Acres: 914.5

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

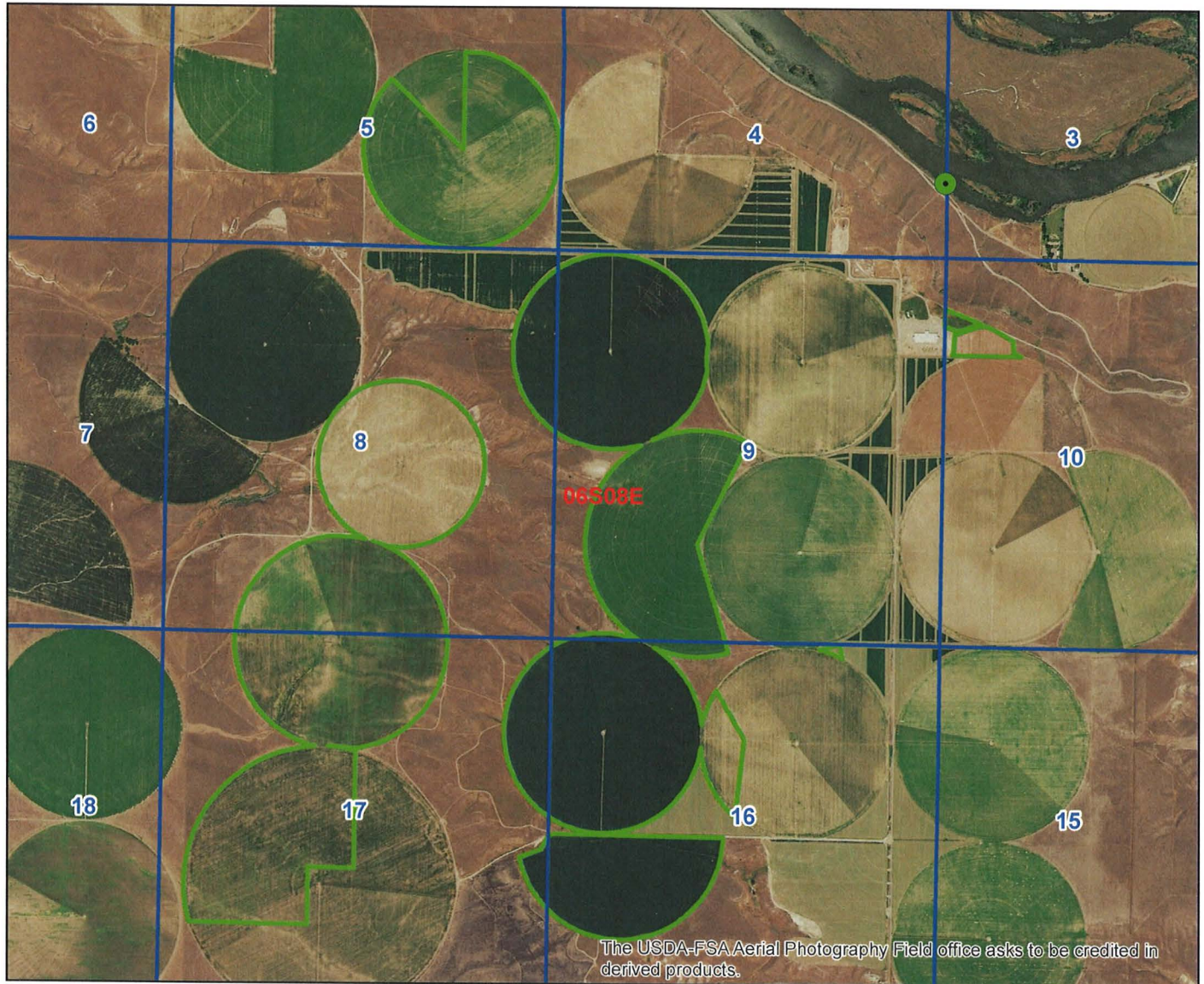
WATER SUPPLY BANK RENTAL AGREEMENT No. 374

9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
10. The period of use for the irrigation described in this approval may be extended to 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 after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 12/6/2011
11. This agreement does not grant any right-of-way or easement across the land of another.
12. 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 lands above.
13. Use of water under this agreement will 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.

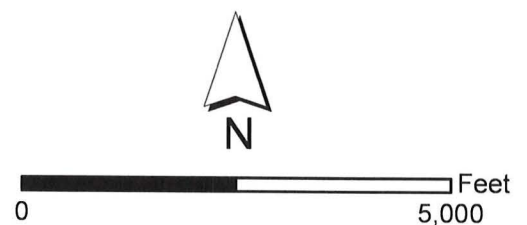
Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 374

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



STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK

RECEIVED

NOV 01 2019

DEPARTMENT OF
WATER RESOURCESApplicant Name: Owyhee Farming Company, 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.

MINIMUM REQUIREMENT CHECKLIST

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

Yes

Completed *Application to Rent Water from the Board's Water Supply Bank*

Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

2



A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request

3A



Detailed information on a proposed use of rental water

3F



Authorization from the owner/operator of the rental point(s) of diversion

3H



Water modeling to account for the impacts of the rental request

3J



Documents justifying a rate of flow greater than 0.02 cfs/acre

3K



Authorization from the owner/operator of the property at the proposed rental place(s) of use

4B



Explanation of how the rental water will sufficiently accomplish your rental purposes

4C



Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

2-7237A

2-7064

2-10181

2-10189

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Owhyee Farming Company, LLC

Mailing Address P.O. Box 3350 Pasco, WA 99302

Street

City

State

Zip Code

Email Address _____

Phone Number 509-545-4545

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 N 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**:

The rental water will be used for irrigation purposes.

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)
18.29 CFS	4179 AF	18.29 CFS	4179 AF	914.5 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?	
4/01/2020	6/01/2020	☒ 1	☐ 2	☐ 3	☐ 4	☐ 5	☒ Process application as soon as possible	☐ Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):

Existing diversion structures, mainlines and delivery systems

- 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
06S08E Sec 4 SESE	Snake River	

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 914.5 (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:

2-2260, 2-7019B, 2-1019D, 2-7022B, 2-7023B, 2-7102B, 2-10422, 2-10510. Snake River

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)
2-7237A	Irrigation	5.9	1475	295		5.9	1475	295
2-10181	Irrigation	3.2	640	160		3.2	640	160
2-7064	Irrigation	6.36	1590	318		6.36	1590	318
2-10189	Irrigation	2.83	473.6	141.5		2.83	473.6	141.5
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	18.29	4179	914.5
						CFS	AF	AC

**Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

N/A

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

Yes ☐ No ☒

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

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:

Permanent water rights have not been secured for this farm.

- 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

Frank Tiegs
Printed Name of Applicant

10/28/19
Date

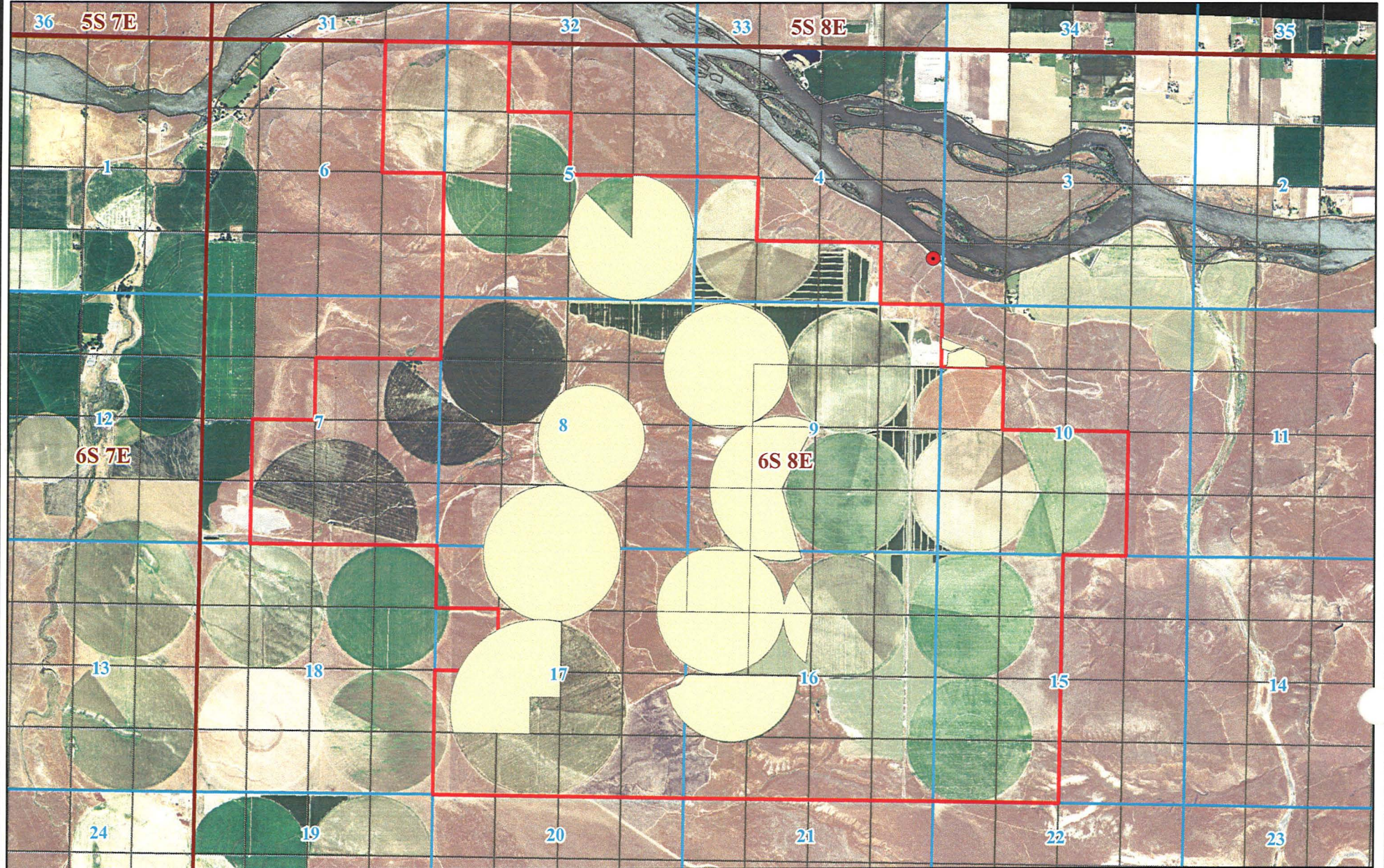
Signature of Representative

Printed Name of Representative

Date

Mail to:

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



0 0.25 0.5 1 Miles

HOODCO FARM

Owhyee Farming Rentals
NAIP 2017 AERIAL

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 10/25/2019

Legend

- POD
- 2020_Crown_Rental
- Hoodco Farm PPU





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

May 22, 2020

OWYHEE FARMING CO LLC
FRANK TIEGS
PO BOX 3350
PASCO, WA 99302

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-7237A, 2-7064, 2-10181, 2-10189, 2-4013, AGREEMENT 374**

Dear Renter:

Please find enclosed two receipts in the amount of **\$85,420.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental 374 of 4,271.0 acre-feet of water for irrigation of 937.6 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 for rental 423, 90% or \$76,878.00 of the rental fee will be paid to the lessor(s) and 10% or \$8,542.00 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,


for Water Supply Bank

Enclosures: Receipt No. C108741
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Nick Miller – IDWR Western Regional Office
Rob Whitney – State Water District No. 2
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

April 20, 2020

OWYHEE FARMING CO LLC
C/O FRANK TIEGS
PO BOX 3350
PASCO, WA 99302

Dear Renter,

While finalizing your rental, Agreement No. 374, it was determined that some of the calculations were incorrect. As such, the incorrect fee was calculated on the agreement sent to you for your signature. Corrections were made and are reflected on the enclosed agreement for your rental for 2020. Please sign and return the enclosed agreement with a payment in the amount of \$1,848.00 to our office so that we may finish processing your agreement.

Please note that diversions are not authorized until a copy of the fully executed Water Supply Bank Rental Agreement is received.

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

Regards,

A handwritten signature in black ink, appearing to read 'JF', is written over a horizontal line.

Justin Ferguson
Water Supply Bank Specialist

CC: Greg Sullivan – Brockway Engineering PLLC



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

March 4, 2020

OWYHEE FARMING CO LLC
FRANK TIEGS
PO BOX 3350
PASCO, WA 99302

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 2-7237A, 2-7064, 2-10181, 2-10189, 2-4013, AGREEMENT 374**

*****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 \$83,572.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 4,315.1 acre-feet.

Please send a check for \$83,572.00 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 \$75,214.80 of the rental fee will be paid to the lessor(s) and 10% or \$8,357.20 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,

A handwritten signature in cursive script that reads "Amanda Veibell". The signature is written in dark ink and is positioned above the typed name "Amanda Veibell".

Amanda Veibell
Water Supply Bank

Enclosure

c: IDWR Front Desk
Greg Sullivan – Brockway Engineering

Memorandum

To: Water Rights 2-4013, 2-7237A, 2-7064, 2-10181, & 2-10189
From: Justin Ferguson
Date: February 26, 2020
Re: Water Supply Bank Rental Application 1474

Purpose/Narrative: An application (number 1474) to rent water from the Water Supply Bank was received from Owyhee Farming Co LLC on November 1, 2019. The applicant has requested to renew a previous agreement (287) which expires at the end of 2019, and they have requested the same rights and similar rental rates and volumes. The proposed rental place of use is on land owned by Midnight Sun, Inc. VIII and the proposed rental point of diversion is on land belonging to the Bureau of Land Management (BLM).

Midnight Sun's Snake River water rights 2-2260, 2-10422, 2-10510, 2-7022B, 2-7019B, 2-7102B, 2-7019D and 2-7023B authorize irrigation of 911 acres of their land, east of the area proposed to be irrigated under application 1474. Additionally, Midnight Sun rents water rights from Water Supply Bank (agreement 85), to irrigate 486.6 acres of land immediately adjacent to the lands to be irrigated under application 1474. Midnight Sun also possesses a right of way (ROW) agreement with the BLM, to divert Snake River water from the point of diversion (POD) proposed under rental application 1474. Previously, a lease and security agreement allowed Owyhee Farming Co LLC to irrigate lands owned by Midnight Sun.

While specific water rights were requested, Owyhee Farming is requesting to irrigate 914.5 acres and an additional 23.1 acres of 4.0 afa/ac Snake River irrigation water rights were needed to authorize the requested amounts on the rental application. Water right 2-4013 was added to supplement the requested rights and add the additional acreage.

Authority to File: Rental application 1474 has been prepared by Greg Sullivan of Brockway Engineering and Frank Tiegs has signed the applications on behalf of Owyhee Farming Company LLC. Mr. Tiegs is listed with Idaho's Secretary of State as a member of Owyhee Farming—no concerns about Mr. Tiegs' authority to file the rental applications for Owyhee Farming Company. Insofar as Owyhee Farming has an active lease agreement in place with Midnight Sun, there appear to be no concerns about Owyhee Farming's authority to access Snake River water under Midnight Sun's ROW with BLM, for the irrigation of lands owned by Midnight Sun.

Water Right Validity/Forfeiture Evaluation: The water rights proposed to be rented are valid and leased to the Bank.

Injury Evaluation: The water rights proposed to be rented authorize diversions from the Snake River at locations approximately 27 miles upstream, and 33 miles downstream of the proposed rental POD. While injury is not immediately apparent as the rental diverts from the Snake River directly, there is the possibility of impacts to the minimum stream flows measured at both the Murphy and Weiser gauges. Conditions will be added such that the rental is only permissible at such times both gauges are satisfied. Further, per Water Supply Bank Rule 30.1 (IDAPA 37.02.03.30.1), the IWRB may petition the Director of IDWR to modify the rental upon a showing of injury to its minimum streamflow water rights. Water Supply Bank Rules also state that, should the rental cause injury to a specific right holder, they may petition the Department to reconsider or cancel the rental. Given the Water Supply Bank Rules and conditions that will be added to the agreement there are no concerns of injury at this time.

Enlargement of Use: Midnight Sun's Snake River water rights authorize irrigation of 911 acres with a 4.5 acre feet annually, per acre (afa/ac) duty of water and a 0.02 cfs/ac diversion rate, and their rental (agreement 85) authorizes irrigation of an additional 486.6 acres, with a duty of water of 4.0 afa/ac and 0.02 cfs/ac. The regional headgate standard in the area where the rental is proposed is 4.0 afa/ac. Owyhee Farming has rented water rights on Midnight Sun's property (agreements 287 and 301) where the rental duty of water was limited to 4.0 afa/ac.

To avoid enlargement, it is proposed that the water rights to be rented should be limited to 4.0 afa/ac, as follows:

Requested Rental Water Rights						Water Right Rental Authorizations					
WR	rate	vol	acres	rate/ac	vol/ac	WR	rate	vol	acres	rate/ac	vol/ac
2-7237A	5.90	1475	295	0.020	5.0	2-7237A	5.90	1180	295	0.020	4.0
2-10181	3.20	640	160	0.020	4.0	2-10181	3.20	640	160	0.020	4.0
2-7064	6.36	1590	318	0.020	5.0	2-7064	6.36	1272	318	0.020	4.0
2-10189	2.83	473.6	141.5	0.020	3.3	2-4013	0.46	92	23	0.020	4.0
combined	18.29	4178.6	914.5	0.020	4.6	2-10189	2.83	473.6	141.5	0.020	3.3
						Combined Rental Totals	18.75	4178.6	937.5	0.020	4.5
						Combined Total Authorized	18.29	3658	914.5	0.020	4.0

Because Owyhee Farming is requesting to irrigate 914.5 acres, an additional 23.1 acres of 4.0 afa/ac Snake River irrigation water rights will be rented to Owyhee Farming, to authorize the maximum irrigation extent requested under this rental.

Local Public Interest: Staff are unaware of any local public interests that are averse to the rental.

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

Department/Watermaster Comments: Watermaster and IDWR Western Region comments were requested February 26, 2020

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the application be approved.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

December 19, 2019

OWYHEE FARMING COMPANY, LLC
PO BOX 3350
PASCO, WA 99302

RESPONSE DEADLINE:
January 19, 2020

RE: Action Required on WSB Rental Application 1474

Dear Applicant,

The Department of Water Resources (Department) has conducted a preliminary review of your application to rent water from the Water Supply Bank and determined that your application is incomplete. The following items are required to continue processing your application:

- Land use agreement between Owyhee Farming Company, LLC and Midnight Sun Inc. VIII authorizing Owyhee Farming Company to use rented water on the owned by Midnight Sun Inv. VIII, per the stated purposes of rental application 1474

Review of the previously submitted land use agreement indicates that it expires in 2019. There does not appear to be a carryover allowing Owyhee Farming use in the interim while a new agreement is drafted. To continue processing of your application, our office requires documentation allowing Owyhee Farming the use of the acreage owned by Midnight Sun Inc. VIII. Please provide us with the above requested information within 30 days (deadline of January 19, 2020), so that we can finalize processing of your application. If we do not hear from you prior to the established deadline, your application will be returned to you.

If you have any questions, please contact me at (208) 287-4936.

Regards,

A handwritten signature in black ink, appearing to read 'Justin Ferguson', is written over a light blue circular background.

Justin Ferguson

cc Greg Sullivan – Brockway Engineering