

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 365

RECEIVED

FEB 13 2020

DEPARTMENT OF  
WATER RESOURCES

This is to certify that:

RICHARD AND JILL SMITH  
PO BOX 8  
REXBURG, ID 83440

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)
22-2175A	2/23/1960	GROUND WATER	1.12	304.5	87.0	0.01	3.5
22-2175B	2/23/1960	GROUND WATER	0.03	9.0	2.6	0.01	3.5
Combined Rental Totals			1.15	313.5	89.60	0.01	3.5

**Term of Rental:** This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 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 2019, whichever occurs last.

**Annual Rental Fee:**

2019 - 2020: \$627.00 per year

The full fee for the rental of the above-described right(s) is \$1,254.00, which is \$627.00 per year for 2019 and 2020. The rental fee includes an administrative fee of \$627.00 for years 2019 and 2020. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 22-2175A and 22-2175B.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 22-2175A

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 365**

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

  
Signature of Renter

2/9/20  
Date

  
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, Acting Administrator  
Idaho Water Resource Board

Date 4/27/2020

Rental approved by IDWR 

Date 4/27/2020

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 365**

**WATER USE DETAILS**

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

GROUND WATER	SESW	Sec. 28, Twp 06N, Rge 40E,	MADISON County
GROUND WATER	NESW	Sec. 33, Twp 06N, Rge 40E,	MADISON County
GROUND WATER	NESW	Sec. 33, Twp 06N, Rge 40E,	MADISON County
GROUND WATER	NESE	Sec. 31, Twp 06N, Rge 40E,	MADISON County

**BENEFICIAL USE**

IRRIGATION

**DIVERSION RATE**

1.15 CFS

**VOLUME**

313.50 AF

**SEASON OF USE**

Water Right No.	From	To
22-2175B	4/1	10/31
22-2175A	4/1	10/31

**RENTERS PLACE OF USE: IRRIGATION**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	28									40	40	40	40	25	40	35	31	291
06N	40E	29																8.9	8.9
06N	40E	32		24	39						31			38	40	40		39	251
06N	40E	33	23	40	37	37	40	40	37	40	33	39	39	37	40	40	38	39	599

Total Acres: 1,149.9

**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.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

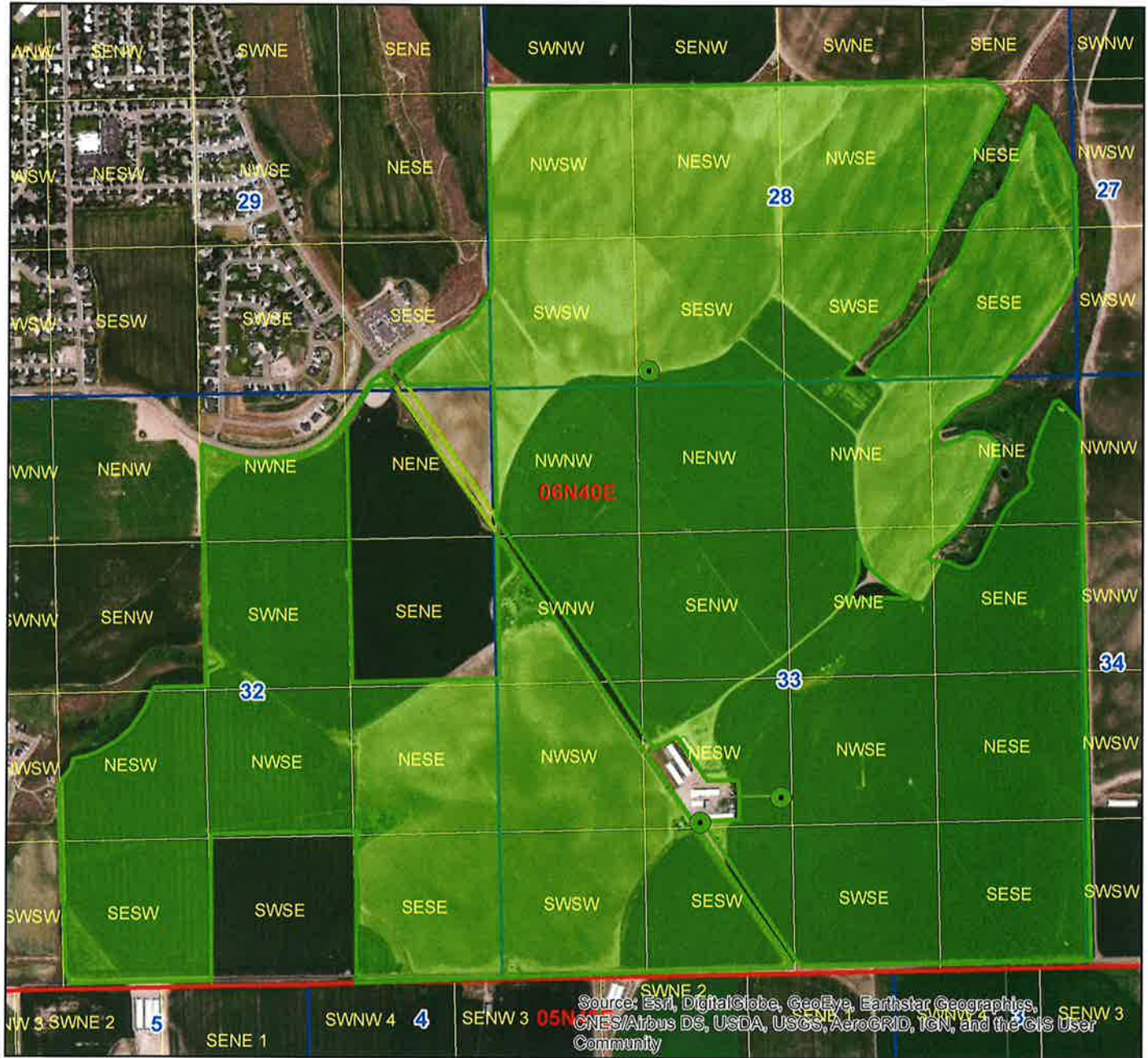
**WATER SUPPLY BANK RENTAL AGREEMENT No. 365**

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. Use of water under this rental 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. 100.
10. The rights being rented, when combined with all other rights, shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
11. Prior to the diversion and use of water under Rental Agreement 365, renter shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
12. Rented water rights 22-2175A and 22-2175B, when combined with the unleased irrigation extent of water rights 22-2175B, 22-2184, 22-2230, 22-7075, 22-7507, 22-11147 and 22-11149 not under lease to the Bank through lease contracts 987, 1016 and 1017, shall not exceed a total diversion rate of 12.39 cfs, a total annual maximum diversion volume of 4,024.7 af at the field headgate, for the irrigation of 1,149.9 acres.
13. Rented water rights 22-2175A and 22-2175B, when combined with the unleased irrigation extent of water rights 22-2175B, 22-7502, 22-2184, 22-2230, 22-7075, 22-7507, 22-11147 and 22-11149, shall not exceed a total diversion rate of 12.39 cfs, and a diversion volume of 4,483.5 af at the field headgate, for the irrigation of 1,281 acres.

**Idaho Water Resource Board**  
**Attachment to Water Supply Bank Rental Agreement No. 365**

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



0  Feet  
5,000



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

JUL 22 2019

DEPARTMENT OF  
WATER RESOURCESAPPLICATION TO RENT WATER  
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: Richard Smith

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 ☒ 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)

22-2184	22-7075	22-11149	22-2175B
22-2230	22-11147	22-2175A	

1447

STATE OF IDAHO  
WATER RESOURCE BOARD

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant Richard Smith

Mailing Address PO Box 8 Rexburg ID 83440  
Street City State Zip Code  
 Email Address rfsmith727@gmail.com Phone Number 208-390-7000

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 Kristin Moore Professional Title Sen. Water Rights Analyst  
 Organization Rocky Mountain Environmental Assoc. Relationship to Applicant consultant  
 Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402  
 Email Address kristin.rmea@gmail.com Phone Number 208-524-2353

**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**:

Current system has been modified and should be able to operate under existing water rights. However, for a measure of security in case the modified system requires more water than anticipated, it is proposed to rent portions of the described water rights, owned by applicant, to be used in combination on the irrigated ground.

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)
2.24 CFS	525 AF	0.63 CFS	136 AF	150 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?	
6/15/2019	7/1/2019	<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 wells that deliver water to an existing pivot sprinkler system. The lands upon which the rental water will be applied are within the existing system and will be used on lands that are already receiving irrigation water.

- 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
NESE S31 T6N R40E	Ground water	22-2175A, 22-2175B, 22-7502
SESW S28 T6N R40E	Ground water	22-2184, 22-2230, 22-7075, 22-11147, 22-11149
NESW S33 T6N R40E	Ground water	22-2184, 22-2230, 22-7075, 22-11147, 22-11149
NESW S33 T6N R40E	Ground water	22-2184, 22-2230, 22-7075, 22-11147, 22-11149

*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 150 (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:

22-2184, 22-2230, 22-7075, 22-11147, 22-11149, 22-2175B. The rights to be rented come from other lands under the same irrigation system. The diversion rate will provide security to the upgraded system in case the extra water is required.



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)
22-2184	Irrigation							
22-2230	Irrigation							
22-7075	Irrigation							
22-11147	Irrigation							
22-11149	Irrigation							
		0.72	276.5	79		0.22	84	24
22-2175A	Irrigation	1.39	304.5	87		1.39	304.5	87
22-2175B	Irrigation	0.63	136.5	39		0.63	136.5	39
<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>	2.24	525	150
						<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**:

Some of the rights proposed to be rented have a low rate/acre. However, the water rights at the proposed place of use also have a similar rate per acre. All of these rights will be combined with existing rights.

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:

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- 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:

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- 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.

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- D. Additional Information

No new irrigation will occur under this rental. All water will be applied to lands already covered by a water right and will be used in combination with existing rights.

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DECLARATION

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



Signature of Applicant



Printed Name of Applicant

7/15/19  
Date

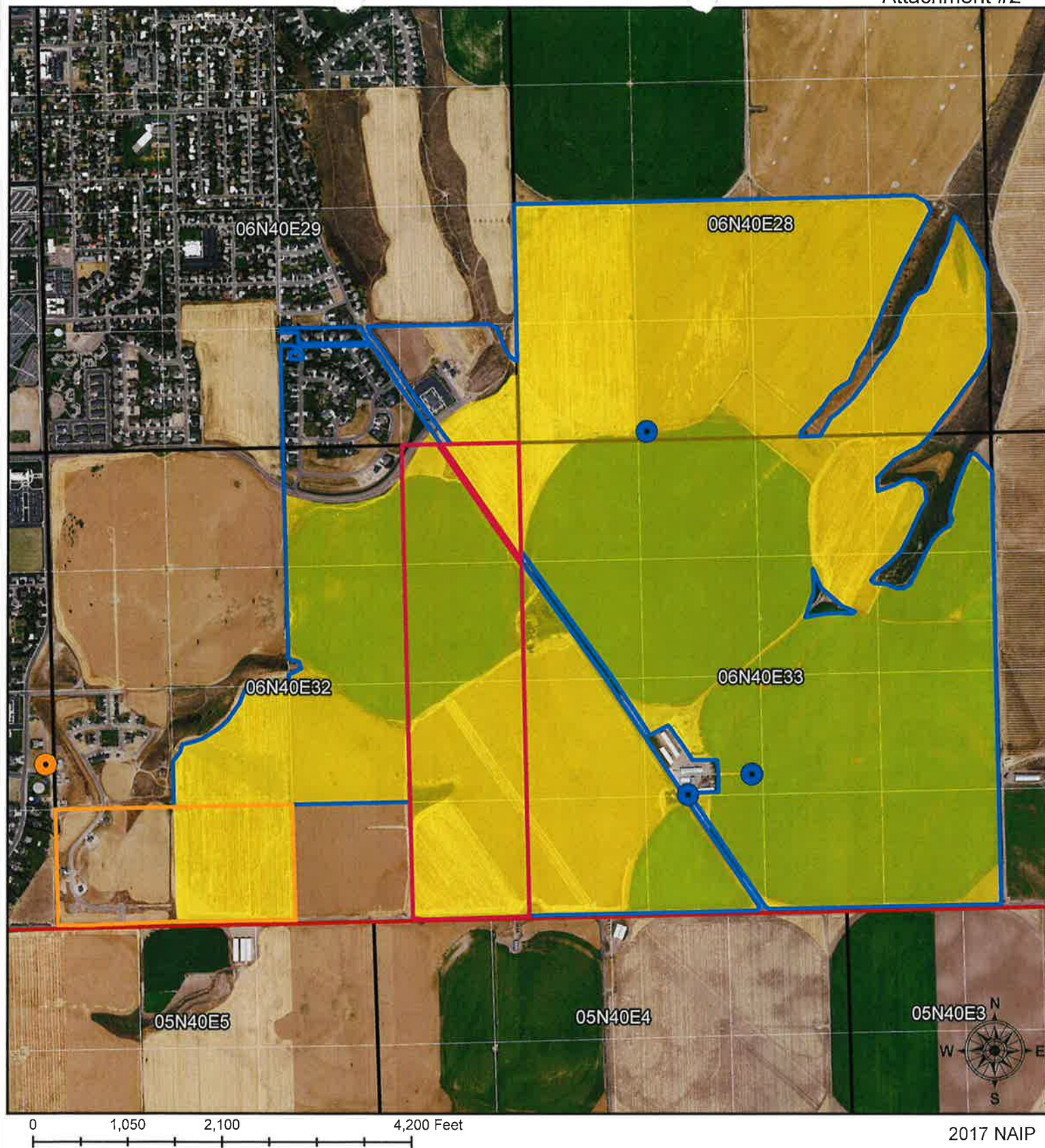
Signature of Representative

Printed Name of Representative

Date

Mail to:

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



### Legend

- WRPOD 22-2175B
- WR POD 22-2184 et al
- WRPOU 22-7507
- WRPOU 22-2175B
- WRPOU 22-2184 et al
- Proposed WSB Rental POU
- Twp & Rng
- Section
- QQ

### Proposed Water Right Location

Richard Smith

RMEA #15-0014

by: KM

Date: 5/28/2019

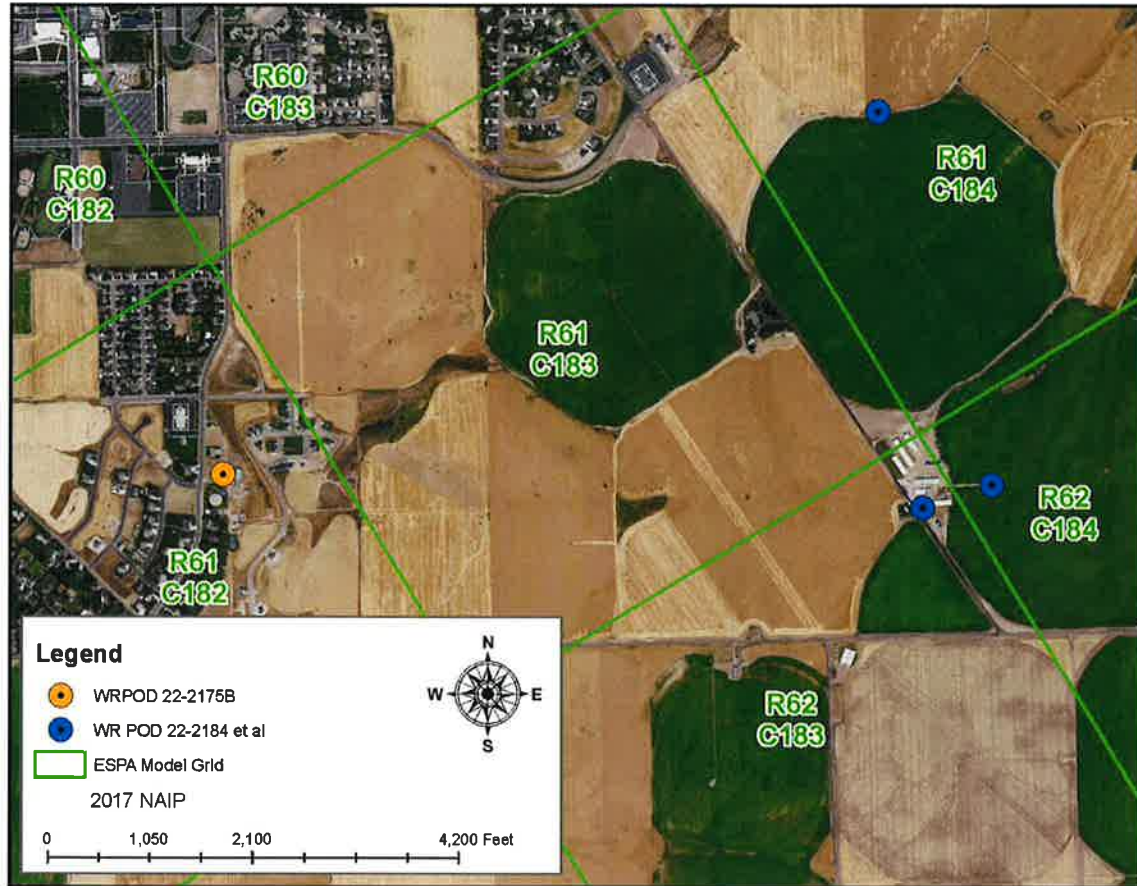




## Eastern Snake Plain Aquifer Modeling Analysis

The applicant proposes to rent his own water right to be used on other portions of the same places of use described under the water rights. Since well locations will stay within the existing system, and wells, and/or well centroids, are all within adjacent cells, as shown in Figure 1, no modeling is required.

Figure 1. ESPA Model Grid





**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

April 28, 2020

RICHARD AND JILL SMITH  
PO BOX 8  
REXBURG, ID 83440

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NOS. 22-2175A, 22-2175B, AGREEMENT 365  
22-2184, 22-2230, 22-2075, 22-11147, 22-11149 AGREEMENT 366  
22-2184, 22-2230, 22-2075, 22-11147, 22-11149, 22-2175B AGREEMENT 367**

Dear Renter:

Please find enclosed a receipt in the amount of **\$2,303.20** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 575.8 acre-feet of water for irrigation. 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.

These contracts have been adjusted to correct typographical anomalies

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you are the owner of the right(s).

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

Sincerely,

*Jan Husley*  
for Water Supply Bank

Enclosures: Receipt No. C108315  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
James Cefalo – IDWR Eastern Regional Office  
Blake Jordan – State Water District No. 100



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

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

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

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

February 6, 2020

RICHARD SMITH  
PO BOX 8  
REXBURG, ID 83440

**RE: REQUEST FOR RETURN OF SIGNED RENTAL AGREEMENTS AND PAYMENT FOR  
WATER RIGHT(S):  
22-2184, 22-11147, 22-2230, 22-7075, 22-11149 CONTRACT 987  
22-2175A CONTRACT 1016  
22-2175B CONTRACT 1017**

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

Dear Applicant:


The Department of Water Resources ("Department") mailed a **Water Supply Bank Rental Agreement ("Agreement")** for your review and signature on January 23<sup>rd</sup>, 2020. The signed agreement and rental fee has not been returned to the Department.

**Please sign the rental agreement and return it with the rental payment in the amount of \$2,303.20 within ten (10) days** of this letter to complete processing. Diversion and use of the water right(s) is not authorized under the proposed agreement until it has been signed by both the renter and the Department. Any use associated with your proposed rental request before it has been executed is considered unauthorized and, if occurring, will be subject to any necessary enforcement action.

If the signed rental agreement and fee is not received by the department within the 10-day period, the rental application will be returned, and the proposed rental right(s) made available for other rental applicants. You can reapply to rent water from the Bank again in the future by submitting a new rental application form that will be processed in turn with other pending applications.

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

Sincerely,

  
Water Supply Bank

c: Kristin Moore – Rocky Mountain Environmental Association



## MEMORANDUM

**To:** Water Right(s) 22-2184, 22-2230, 22-7075, 22-11147, 22-11149, 22-2175A, 22-2175B  
**From:** Justin Ferguson and Remington Buyer  
**Date:** October 10, 2019; January 2, 2020  
**Re:** Review & Analysis of Water Supply Bank Rental Application 1447

**Purpose/Narrative:** This application to rent water rights from the Water Supply Bank was received July 22, 2019 from Richard F Smith. The applicant is requesting to rent portions of water rights 22-2175A and 2175B, to authorize exceedingly fast diversions of water from wells associated with water rights 22-2175A, 22-2175B, 22-7502, 22-2184, 22-2230, 22-7075, 22-11147 and 22-11149 and 22-7507. Effectively, the renter has combined the four wells associated with these nine water rights into a common irrigation system and when the ground water pumps begin to divert water, they do so at a very high rate (12.39 cfs), after which the pumps cycle down, to the rates that are less than the amounts authorized under the unleased extent of the water rights (i.e. rates less than 11.23 cfs).

The difference between the max instantaneous diversion rate and the common diversion rate is 1.153 cfs (12.39 cfs minus 11.237 cfs). Per information provided by the applicant, the four wells associated with this rental feature ground water diversion rate authorizations, limitations and needs, as follows:

Ground Water Wells	Water Rights @ the Wells	Max Div. Rate Authorized Under Water Rights	Max Div. Rate, Following Partial WSB Leases	Actual Max Div. Rate (When Pumping Begins)	Difference (Rental Requirement)
Water Tower Well	22-2175A, 22-2175B & 22-7502	2.640 cfs	1.017 cfs	1.560 cfs (700 gpm)	0.543 cfs
North Well	22-2184, 2230,	10.850 cfs	10.220 cfs	10.830 cfs (4,860 gpm)	0.610 cfs
Shop Well	7075, 7507, 11147 and 11149				
Small Shop Well					
		13.490 cfs	11.237 cfs	12.390 cfs	1.153 cfs

Originally, this rental water use was requested only for 2019 only and Rental Agreement 365 was approved by IDWR in October 2019. However, the rental agreement was not provided to the applicant in time for them to sign and execute it prior to the end of 2019. As such, the Department reached out to the applicant on December 27<sup>th</sup>, 2019, to determine whether they were interested in having the rental approval continue beyond 2019, into 2020, to which the applicant replied in the affirmative.

**Authority to File:** The ground water wells and most of the lands to be irrigated are owned by the applicant. The exception is 78 acres of land, irrigable under water right 22-7507 which are owned by Kauer Properties. Water right 22-7507 authorizes a total of 157 acres (with the remaining balance of 79 acres being lands owned by the applicant). In phone conversations with the applicant, he stated an informal agreement between him and Kauer Properties is in place, by which he irrigates land owned by them. **No concerns about authority to file.** However, because IDWR was unable to confirm that lands owned by Kauer Properties are authorized to be irrigated by the applicant, this rental will only authorize irrigation of the 79 acres under 22-7507 which are owned by the applicant.

**Water Right Validity:** The requested water rights are valid and available for rental. The requested rights are the applicant's rights that have been leased into the bank per Contract Nos. 987, 1016 and 1017.

**Injury to Other Water Rights:** The water rights being rented are Eastern Snake River Plain Aquifer (ESPA) ESPA ground water rights which overlie residential properties that appear to be served by municipal water from the City of Rexburg. The ESPA is a ground water management area, and it is recognized that new uses of ESPA ground water must be mitigated, to avoid causing injury to prior appropriated water rights that depend on sustainable management of the ground water resource.

Through this rental, an overall increased use of ESPA ground water might occur, as municipal water will be used to irrigate the residential properties at the lease location of the water rights being rented, while simultaneously, the water rights being rented will be used to enable increased diversions of ESPA ground water for irrigation of the renter's property. However, the practical purpose of this rental is to authorize faster-than-presently-permissible diversions of water, and it is not foreseen that an expansion in irrigable acres occur under the water rights being rented. **Insofar as this rental does not cause injury to the ESPA, it seems permissible.**

**Enlargement of Use:** Provided that the maximum instantaneous rate, as well as the overall and consumptive uses of water diverted through this rental will remain less than the maximum diversion rate, and overall and consumptive uses of water associated with the leased extent of the water rights being rented, then no enlargement should occur through this rental. Enlargement will also be avoided by ensuring that only the acres authorized to be irrigated under the applicant's water rights, are approved to be irrigated by this rental.

The purpose of this rental is to allow for an increased, maximum, instantaneous diversion of water for the irrigation of lands: 1) authorized to be irrigated under water rights 22-2175B, 2184, 2230, 7075, 11147, 11149 and 7507; 2) minus the acres leased to the Bank through contracts 987, 1016 and 1017; 3) minus the portion of water right 22-7507 not owned by the renter; and 4) minus water right 22-7502, which authorizes the irrigation of lands not proposed for inclusion in this rental. Although the unleased extent of water rights 22-2175B, 7502, 2184, 2230, 7075, 11149, 11149 and 7507 allow for the irrigation of approximately 1,281 acres, per the above four parameters, this rental will be appurtenant to approximately 1,149.9 acres.

As such, though the total unleased extent of water rights 22-2175B, 7502, 2184, 2230, 7075, 11147, 11149 and 7507 provide for a maximum diversion rate of 11.237 cfs and a diversion volume of 4,483.5 afa (for the irrigation of 1,281 acres), this rental will be limited to a maximum diversion rate of 12.39 cfs (11.237 cfs + 1.153 cfs) and a maximum diversion volume of 4,024.65 af annually for the irrigation of 1,149.9 acres (to provide a duty of water of 3.5 afa/acre). The additional 1.153 cfs can be diverted from water rights 22-2175A & 2175B, as follows:

WR #	Lease/Rental Balance	Rate	Volume	Acres	Rate/AC	Vol/AC
22-2175A	Leased Extent	1.120 cfs	304.5 af	87 acres	0.013 cfs/ac	3.5 afa/ac
22-2175A	Amount Rented	1.120 cfs	304.5 af	87 acres	0.013 cfs/ac	3.5 afa/ac
22-2175B	Leased Extent	0.500 cfs	136.5 af	39 acres	0.013 cfs/ac	3.5 afa/ac
22-2175B	Amount Rented	0.033 cfs	9.0 af	2.6 acres	0.013 cfs/ac	3.5 afa/ac
	<i>Rental Authorization</i>	1.153 cfs	313.5 af	89.6 acres	0.013 cfs/ac	3.5 afa/ac

**Note:** although the diversion rate will be increased by 1.153 cfs (to a maximum of 12.39 cfs), no additional acres are projected to be irrigated, and diversion volumes are not projected to increase beyond 1,149.9 acres identified for this lease. A condition will be added to the rental to acknowledge this enlargement limitation.

**Local Public Interest:** Staff are not aware of any information to suggest this rental is not in line with local public interests.

**Beneficial Use/Conservation of Water Resources:** Irrigation is a beneficial use, and the rental appears consistent with the conservation of water resources in Idaho.

**Department Staff or Watermaster Comments:** Water District 100 and IDWR Eastern Regional Office comments will be requested.

## Buyer, Remington

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**From:** Buyer, Remington  
**Sent:** Tuesday, January 21, 2020 4:27 PM  
**To:** 'Richard Smith'  
**Subject:** RE: Water Supply Bank Leases and Rentals  
**Attachments:** Lease Contracts.pdf; Rental Agreements 365, 366 and 367.pdf

Mr. Smith,

I am pleased to inform you that processing of your Water Supply Bank lease and rental requests has been completed. The lease contracts and rental agreements attached to this email will soon be mailed to you from our Boise office.

Once you receive the documents by mail, please sign them and return to them to our office with the rental payment of \$2,303.20. Once we receive from you the rental payment and the signed documents, we will execute the transactions and your lease contracts and rental agreements will be active through 2020.

**Please know** there is one final outstanding piece of information that our office is seeking clarification on. Our review indicates that 79.0 acres of land authorized to be irrigated under your water rights 22-2181, 22-2230, 22-7075, 22-7507, 22-11147 and 22-11149 is owned by Kauer Properties LLC. I presume you have an agreement in place with Erma Kauer, by which she authorizes you to irrigate lands owned by her? By way of a reply to this email, or by inclusion with the signed lease contracts and rental agreements that you will soon submit to our office, **please provide us with a document to confirm you are authorized to irrigate lands owned by Kauer Properties LLC.**

Please feel free to follow up with me if you have any final questions about the above matters. Else, we'll soon look forward to receiving the finalized documents from you.

Regards,

Remington

**From:** Richard Smith [mailto:rfsmith727@gmail.com]  
**Sent:** Friday, December 27, 2019 4:42 PM  
**To:** Buyer, Remington <Remington.Buyer@idwr.idaho.gov>  
**Subject:** Re: Water Supply Bank Leases and Rentals

Hi Remington,

Yes, I would like the lease back to run for 2019 and 2020.

Thanks for your help.

Richard Smith

Sent from my iPhone

On Dec 27, 2019, at 2:06 PM, Buyer, Remington <[Remington.Buyer@idwr.idaho.gov](mailto:Remington.Buyer@idwr.idaho.gov)> wrote:

Mr. Smith,

Merry Christmas and Happy New Year to you. IDWR has concluded our review of your Water Supply Bank lease and rental proposals, however we have been delayed in finalizing the documents and submitting them to you for your review and signature. I anticipate we can send out the documents for your review and signature by the end of next week.

The proposals to lease portions of your water rights to the Water Supply Bank run for 2019 and 2020, however you've only requested to rent back to yourself portions of these water rights in 2019. Would you like have rental agreements in place for 2020 as well? If so, we will ensure the rental agreements run through the end of 2020.

Regards,

Remington

## Buyer, Remington

---

**From:** Jordan, Blake  
**Sent:** Friday, October 11, 2019 9:05 AM  
**To:** Buyer, Remington; Cefalo, James  
**Subject:** RE: Richard Smith Rental Requests

No concerns

Thanks,  
Blake

**From:** Buyer, Remington  
**Sent:** Thursday, October 10, 2019 4:37 PM  
**To:** Jordan, Blake <Blake.Jordan@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Subject:** Richard Smith Rental Requests

Blake, James,

Attached to this email are draft agreements, maps, and review memos for rental requests by Richard Smith, who is proposing to rent his owner water rights to resolve two NOVs, and to allow for faster-than-permissible diversion rates from wells he uses for irrigation purposes.

The places of use for the rights Mr. Smith has requested to rent overlap with City of Rexburg municipal water rights, and it is anticipated that irrigation of the lease place of use will occur simultaneous with irrigation under these rentals. I have tried to articulate the complexity of the situation in my review memos.

Please advise if you have any questions, comments or concerns about these rental requests.

Thank you,

Remington

## **Buyer, Remington**

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**From:** Cefalo, James  
**Sent:** Thursday, October 10, 2019 4:40 PM  
**To:** Buyer, Remington; Jordan, Blake  
**Subject:** RE: Richard Smith Rental Requests

Remington,

I don't have any concerns with the proposed WSB Rentals. I'm glad Mr. Smith has been able to address some of his potential enforcement issues.

James

**From:** Buyer, Remington  
**Sent:** Thursday, October 10, 2019 4:37 PM  
**To:** Jordan, Blake <Blake.Jordan@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Subject:** Richard Smith Rental Requests

Blake, James,

Attached to this email are draft agreements, maps, and review memos for rental requests by Richard Smith, who is proposing to rent his owner water rights to resolve two NOV's, and to allow for faster-than-permissible diversion rates from wells he uses for irrigation purposes.

The places of use for the rights Mr. Smith has requested to rent overlap with City of Rexburg municipal water rights, and it is anticipated that irrigation of the lease place of use will occur simultaneous with irrigation under these rentals. I have tried to articulate the complexity of the situation in my review memos.

Please advise if you have any questions, comments or concerns about these rental requests.

Thank you,

Remington



**From:** Kristin Moore [mailto:kristin.rmea@gmail.com]  
**Sent:** Thursday, October 3, 2019 10:49 AM  
**To:** Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; 'Richard Smith' <rfsmith727@gmail.com>  
**Subject:** RE: Richard Smith Lease Application

Remington,

Richard should be sending you the authorization information from MBP.

I have put together a spreadsheet of leased amounts, taking into consideration combined use limitations, and rental quantities per rental agreement 1447, 1448, and 1449. This assumes that 69 acres of 22-2184 et al will be leased to the Bank. Richard and I discussed his diversion rate demands at all of his wells to make sure that we are accurate in our representation. These values are listed in the spreadsheet as well and used to calculate total rental requirements.

The water tower well, or the well associated with 22-2175A, 2175B and 7502 only diverted at a rate of 700 gpm (or 1.56 cfs) this year, not 1000 gpm as was originally anticipated. Upon approval of the lease applications, only 1.017 cfs remains in the well, as you indicated. An additional 0.54 cfs will be required to meet the demands at this well. The other wells are pumped at a rate of 2300 gpm, 2500 gpm, and around 60 gpm for the small well, totaling 4860 gpm, or 10.83 cfs. There is not sufficient water right remaining at these wells upon approval of the lease applications and an additional 0.57 cfs is also required. For rental 1447, a total rate of 1.11 cfs is needed.

The rental application originally proposed a rental of 22-2184 et al, 22-2175A, and 22-2175B to accomplish the required diversion rate. However, it does not appear as if the entirety of the proposed rental is required for 2019 irrigation. It does not matter which water right is selected to be rented of the proposed rights, but the attached spreadsheet uses both 22-2184 et al and 22-2175A. The spreadsheet assumes that 69 acres of 22-2184 et al will be leased to the Bank. If the final numbers result in less than 69 acres, it is proposed that any additional rate needed for Rental 1447 be taken from 22-2175A.

Please let me know if this satisfies your concern regarding quantities.

---

**Kristin Moore**  
Senior Water Rights Analyst  
482 Constitution Way, Ste 303, Idaho Falls, ID 83402  
E-Mail: [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)  
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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## 2019 WSB Review

### Lease Quantities

WR #	CFS	GPM	AFA	Acres	CFS/AC	Remaining Ac	Remaining cfs (Remaining Ac x cfs/ac)	WSB Acres	WSB cfs (WSB Acres x cfs/ac)
<b>Water Tower Well</b>									
22-2175A	1.39	624	304.5	87	0.016	0	0	87	1.39
22-2175B	1.25	561	273	78	0.016	39	0.63	39	0.63
22-7502	0.8	359	140	40	0.020	40	0.80	0	0.00
Combined	2.64	1185	577.5	205	0.013	79	1.017	126	1.62
<b>North Well and Both Shop Wells</b>									
22-2184	3.55	1593	1085	310	0.011	1045.0	8.92	69.0	0.59
22-2230	1.68	754	518	148	0.011				
22-7075	4.94	2217	1953	558	0.009				
22-11147	0.54	242	168	48	0.011				
22-11149	0.57	256	175	50	0.011	157.0	3.14	0.0	0.00
22-7507	3.14	1409	549.5	157	0.020				
Combined	10.85	4869	4449	1271	0.009	1202	10.26	69.0	0.59
Total Leased to the Bank								195.0	2.21

These values were adjusted from the original lease applications based upon review of combined use limitations of rights diverted from the same wells.

### Rental Quantities

Rental #	Water Tower Well	North Well	Shop Well	Small Shop Well	Total (gpm)	Total (cfs)	Rem. Amounts After Lease (cfs)	Required Rental Rate (cfs)
1447	700	2300	2500	60	5560	12.4	11.28	1.11

These pumping values are based upon diversion rates used in 2019, as provided by Richard Smith.

### Amounts for Rental

	WSB Lease		Rental 1447		Rental 1448		Rental 1449		Total Rented		Total Not Rented	
Water Rights	acres	cfs	acres	cfs	acres	cfs	acres	cfs	ac	cfs	ac	cfs
22-2184 et al	69	0.59	14	0.12	34	0.29	21	0.18	69	0.59	0	0
22-2175A	87	1.39	62	0.99	0	0	0	0	62	0.99	25	0.40
22-2175B	39	0.63	0	0	0	0	0	0	0	0	39	0.63
	195	2.60	76	1.11	34	0.29	21	0.18	131	1.58	64	1.02

**From:** Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]  
**Sent:** Tuesday, October 01, 2019 5:09 PM  
**To:** Kristin Moore <[kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)>; 'Richard Smith' <[rfsmith727@gmail.com](mailto:rfsmith727@gmail.com)>  
**Subject:** RE: Richard Smith Lease Application

Kristin,

I reviewed the quitclaim, deeds and maps today and agree all information is in order for the Bank to finalize processing of the lease of portions of water rights overlying the Harvest Heights subdivision (lease application 1387).

The only remaining matters that require clarification are:

- The specific diversion rate required for rental application 1447, and
- Confirmation that a lease agreement, or an alternative approval, exists to enable Mr. Smith to irrigate lands belonging to MBP Industries LC Crut Mohler 1973 Trust (MBP; rental application 1448).

If the maximum diversion rate required for 2019 from the well associated with water rights 22-2175A, 2175B and 7502 is 2.23 cfs, a maximum rental of 1.223 cfs would be required. If a higher diversion rate is required, we can increase the rental diversion rate. The other wells associated with Mr. Smith's property can already authorize a diversion rate of 2.23 cfs with the water rights already associated with the points of diversion, so no rental would be necessary from these PODs. Please confirm the desired diversion rate for rental application 1447.

Please forward to us evidence Mr. Smith is authorized to irrigate lands belonging to MBP.

Regards,

Remington

**From:** Kristin Moore [mailto:kristin.rmea@gmail.com]  
**Sent:** Monday, September 30, 2019 2:20 PM  
**To:** Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; 'Richard Smith' <rsmith727@gmail.com>  
**Subject:** RE: Richard Smith Lease Application

Remington,

Richard read my last email and I need to clarify that the the well CAN produce 1000 gpm, but he didn't divert that much this summer. He's out of town right now, but you can expect to see the letter in a couple of days.

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**From:** Kristin Moore [mailto:kristin.rmea@gmail.com]  
**Sent:** Monday, September 30, 2019 12:45 PM  
**To:** 'Buyer, Remington' <Remington.Buyer@idwr.idaho.gov>; 'Richard Smith' <rsmith727@gmail.com>  
**Subject:** RE: Richard Smith Lease Application

Remington,

We have been waiting on a few deeds to confirm water right ownership, which has delayed me sending you this information. Attached is a map and a copy of the relevant deeds to show water right ownership by either Harvest Heights LLC or Richard Smith.

A Quitclaim Deed from Harvest Heights LLC to Richard and Jill Smith conveys water right ownership for 21.90 acres in the north half of the subdivision in 2004, prior to any lots being sold. This area is outlined in red on the map.

Of the remaining lots not included in the Quitclaim Deed, there are 14 parcels that the water rights were not reserved on, totaling 10.2 acres. These are shown in black on the map. Everything else remaining, including developed and undeveloped lots and roadways, were reserved or are still owned by Harvest Heights or Richard Smith. Everything in blue was reserved by deed. All orange is still owned by Richard.

Please let me know if this does not satisfy your requirements for ownership.

Regarding the rental 1447, I'm not sure I understand how only 1.017 cfs still applies to the well for 22-2175A, 22-2175B, and 7502. We are renting 2.24 cfs under this rental proposal, which can be applied to that well, or spread out to the other three wells in the proposal. It doesn't appear to me that we are short of water if this is approved. In addition, Mr. Smith indicated this morning that the well was not producing the 1000 gpm that he anticipated. I feel that the rental proposal will provide adequate diversion rate to meet the operation requirements without the additional rental of 22-2175A.

Thank you,

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**Kristin Moore**  
Senior Water Rights Analyst  
482 Constitution Way, Ste 303, Idaho Falls, ID 83402  
E-Mail: [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)  
VOICE: 208-524-2353 ||| FAX: 208-524-1795



**From:** Buyer, Remington  
**Sent:** Friday, September 27, 2019 1:55 PM  
**To:** 'Richard Smith' <rsmith727@gmail.com>  
**Cc:** Kristin Moore <kristin.rmea@gmail.com>  
**Subject:** RE: Richard Smith Lease Application

Mr. Smith,

Thank you for your email.

Based on the information you have provided, we can move forward with finalizing a lease of water right 22-2175A. We also have the necessary information to move forward with processing a lease of 22-2175B. However, additional information is still required to fully lease into the Bank the 79.0 acres proposed under water rights 22-2184, 2230, 7075, 11147 and 11149 (application 1387).

Per Madison County Assessor Office records, it appears approximately 45.0 of the 79.0 acres in the Harvest Heights subdivision remain owned by you. Your September 18, 2019 correspondence indicated that Kristin Moore of Rocky Mountain Environmental would provide our office with copies of deeds to confirm the location of additional lands where you retained ownership of the appurtenant water rights as title to the underlying lands were transferred to new owners. To date, we have not yet received those records. **Please ensure our office receives the relevant information prior to the deadline, next Friday, October 4, 2019.** If we do not receive information confirming the extent of your ownership of the water rights on lands no longer owned by you, we will proceed in processing a lease of the water rights, proportionate to 45.0 acres.

Per your September 18, 2019 letter, we understand that your desire for rental application 1447 is that each of the four points of diversion associated with your irrigation of lands in sections 28, 32, 33 should be covered with water rights sufficient to authorize an instantaneous diversion rate of 1,000 gallons per minute, or 2.23 cubic feet per second. Even if 79.0 acres of water rights unleased extent of water rights 22-2184, 2230, 7075, 11147 and 11149 are leased into the Bank, the remaining, unleased balance of these water rights (9.45 cfs) would be sufficient to cover your diversion rate needs. However, only 1.017 cfs will remain authorized to be diverted from the well associated with water rights 22-2175A, 2175B and 7502, which would necessitate a rental of an additional 1.223 cfs at this well. This can be accomplished via a rental of 1.223 cfs from the 1.390 cfs that is being leased into the Bank under 22-2175A. **Please confirm by way of a response to this email that the rental of 1.223 cfs from the leased extent of 22-2175A will be sufficient to satisfy your diversion rate needs under rental application 1447?** If that is sufficient, we will proceed in finalizing our review of rental application 1447, and we will only rent to you the required portion of 22-2175A (and not additional leased portions from your other water rights).

In your September 18, 2019 email correspondence, you indicated that you were attaching copies of a letter from the owner of the lands that you lease from MBP Industries LC Crut Mohler 1973 Trust (MBP). However, no attachments were received with your email. **Please resend the attachments.** We cannot proceed in finalizing rental application 1448 without confirmation that you are authorized to irrigate the lands owned by MBP.

By way of your September 18, 2019 email, it is acknowledged that DS & S leases your land in the NENE quarter-quarter of Section 29, Township 06N, Range 40E, and that they divert water from a well located on their own property to accomplish irrigation of your land. We can thus move forward with rental application 1449, once we finalize processing of lease application 1447. **Please ensure we timely receive the necessary information required for lease application 1447, so that we can finalize rental application 1449.**

Regards,

Remington

## **RICHARD SMITH FARMS**

950 S. Millhollow Rd  
PO Box 8  
Rexburg Idaho 83440  
Telephone (208) 356-4912  
Email – rfsmith727@gmail.com

September 18, 2019

Dear Remington,

This letter is in response to your request for additional information for Water Supply Bank Lease Applications 1385 and 1387 and Rental Applications 1447, 1448, and 1449 dated September 5, 2019.

During the Snake River Basin Adjudication, I filed a claim for water right 22-2175A. I was beneficially using this water right and accompanied the examiner during the adjudication field examination. The SRBA Court decreed the water right to me, confirming ownership of the water right.

Ownership of the water rights 22-2184, 2230, 7075, 11147, and 11149 was retained by me or Harvest Heights LLC (of which I am the owner) when selling the lots in the Harvest Heights subdivision, with the exception of a few lots. Kristin Moore at Rocky Mountain Environmental Associates, Inc has a copy of the deeds and will send those to you.

Regarding the Rental Application 1447, it is my intention to keep all of the proposed PODs and the described POU as the rental locations. All of my wells at this farm are connected into a common system. While it is likely that the majority of the rented water will be diverted from the westernmost well, some may be diverted from the other wells also. All water rented will be applied to the system to increase the diversion rate. No additional acres will be irrigated that are not already covered under the existing water rights at the POU.

Application 1448 proposes to rent water for  $\frac{1}{4}$  of a pivot. The pivot already receives water from an existing point of diversion, which also serves the  $\frac{1}{4}$  pivot that is proposed to receive water through the rental application. I lease the  $\frac{1}{4}$  pivot from the property owner and have finally located them to obtain an authorization letter just last week. Please see the attached letter from the owners.

Application 1449 pertains to property owned by me but leased by DS & S. The lessee diverts water from his own well, which is identified in the rental application, to irrigate the half pivot on my property.

Thank You.

Richard Smith





## 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

September 5, 2019

Richard F Smith  
PO BOX 8  
REXBURG ID 83440

**RESPONSE DEADLINE:**  
**October 4, 2019**

**RE: Action Required on Water Supply Bank Lease Applications 1385 and 1387, as well as Rental Applications 1447, 1448 and 1449**

Dear Applicant,

The Department of Water Resources (Department) has reviewed the above listed Water Supply Bank applications and review of the following information is required to continue application processing:

1. Confirmation as to how you have maintained ownership of water right 22-2175A;
2. Confirmation that you remain the owner of the portions of water rights 22-2184, 2230, 7075, 11147 and 11149, which are proposed for lease through application 1387;
3. Confirmation of the specific diversion rate, volume and location of the point of diversions (PODs) and places of use (POUs) attributable to irrigation through rental application 1447;
4. Confirmation that you are authorized to access the point of diversion (POD) associated with water rights 22-13746, 13797 and 13958, which is situated on land that appears to be owned by Founders Square LLC, associated with rental application 1448;
5. Confirmation that you are authorized to irrigate lands that appear to be owned by MBP Industries LC Crut Mohler 1973 Trust, associated with rental application 1448; and
6. Confirmation that you are authorized to access the point of diversion (POD) associated with water rights 22-7509, 7510, 7538, 7054A and 7054B, which is situated on land that appears to be owned by John H Smith and Sons Inc, associated with rental application 1449.

The following summarizes why our review of the above information is being requested.

IDWR records indicate you acquired an interest in water right 22-2175A through receipt of a warranty deed from Grant and Camille Ricks in 1994. In 1995, water right 22-2175A was claimed by Gordon and Claudia Crofts in the Snake River Basin Adjudication (SRBA), following which an amended claim was filed by you, in 2005. Water right 22-2175A was eventually decreed to you in 2008. A review of water right 22-2175A records suggests the basis for your ownership of this right emanates from the court decree, not through acquisition of the land to which water right 22-2175A is appurtenant. It thus appears you might be the owner of water right 22-2175A, irrespective of the current ownership of the lands underlying water right 22-2175A. **Please confirm whether the above is correct or incorrect and provide information to clarify the current basis for your ownership of water right 22-2175A.**

Water rights 22-2184, 2230, 7075, 11147 and 11149 authorize irrigation of 1,114.0 acres, of which 79.0 acres are proposed for lease through application 1387. The lease acres are appurtenant to 87 parcels within the Harvest Heights subdivision, 28 of which appear to be owned either by you, or by you through Harvest Heights LLC. However, it is unclear whether you retained ownership of portions of the five water rights appurtenant to the other 59 parcels no longer owned by you in the subdivision. **Please provide us with documentary evidence to affirm that you still maintain ownership of the portions of water rights 22-2184, 2230, 7075, 11147 and 11149 appurtenant to the 59 parcels that are no longer owned by you.**

In conversations earlier this year, you informed our office that you would be submitting a rental for 2019 to enable faster-than-authorized instantaneous diversions of ground water from the well associated with water rights 22-2175A, 2175B and 7502, to access the unencumbered (unleased) extent of water rights 22-2175B and 7502. Specifically, you indicated that you might require an instantaneous diversion rate of up to 1,000 gallons per minute, equivalent to 2.23 cubic feet per second (cfs). We received from you rental application 1447, which requested a diversion rate of 2.24 cfs. However, in addition to the singular well associated with water rights 22-2175A, 2175B and 7502, rental application 1447 also requested an authorization to divert water from all wells associated with water rights 22-2184, 2230, 7075, 11147 and 11149, for the irrigation of 1,110 acres, associated with the places of use for all of the above water rights. Rental application 1447 thus appears to request the creation of a permissible place of use, to combine the PODs and POUs for water rights 22-2175A, 2175B, 2184, 2230, 7075, 11147 and 11149. **Please confirm the specific diversion rates and diversion volume required for rental application 1447, along with the location of the specific PODs and POU acres that will be accessed for any irrigation contemplated under rental application 11147 during 2019.**

Applications 1448 and 1449 propose a rental of portions of water rights 22-2184, 2230, 7075, 11147 and 11149, to authorize the irrigation of lands that were recently served by IDWR with a Notices of Violation (NOVs; E 2019-1364 and E2019-1364).

Application 1448 proposes a rental and diversion of the above five water rights, via PODs associated with water rights 22-13746, 13797 and 13958 (located on lands that appear to be owned by Founders Square LLC), for the irrigation of lands that appear to be owned by MBP Industries LC Crut Mohler 1973 Trust (MBP). The nature of your relationship with Founders Square LLC and MBP is unclear. **Please provide us with evidence that you are authorized to access the wells on lands owned by Founders Square, for the irrigation of lands owned by MBP.**

Application 1449 proposes a rental and diversion of portions of the above five water rights, via the POD associated with water rights 22-7509, 7510, 7538, 7054A and 7054B, which is located on land that appears to be owned by John H Smith and Sons Inc. The nature of your relationship with the land owner is unclear. **Please provide us with evidence that you are authorized to access the well on lands owned by John H Smith and Sons Inc.**

The information requested in this letter must be reviewed by our office to continue processing of your lease and rental applications. Please provide us with answers to the above questions within 30 days (deadline of October 4, 2019), so that we may finalize processing of your applications. If we do not receive from you the requested information following the established deadline, your applications may be returned to you.

If you have any questions, please contact me at (208) 287-4918.

Regards,



Remington Buyer  
Water Supply Bank Coordinator

CC: Kristin Moore, Rocky Mountain Environmental Associates