

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 347

This is to certify that:

IDAHO WATER RESOURCE BOARD
322 E FRONT ST
BOISE, ID 83720

RECEIVED

OCT 04 2019

**DEPARTMENT OF
WATER RESOURCES**

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
73-11992	2/18/1926	PAHSIMEROI RIVER	1.680	147.00	42.00	0.040	3.50
73-11988	2/18/1926	SPRINGS	0.140	24.50	7.00	0.020	3.50
73-10005	11/7/1889	PAHSIMEROI RIVER	1.140	198.80	56.80	0.020	3.50
73-11981	2/19/1926	SPRING	0.660	278.30	86.40	0.008	3.22
73-11982	2/18/1926	PAHSIMEROI RIVER	0.280	120.60	86.40	0.003	1.40
73-11987	2/18/1926	SPRING	0.100	42.40	76.00	0.001	0.55
73-11993	4/2/1950	GROUND WATER	0.440	173.40	49.50	0.009	3.50
Annual Combined Limits			2.540	302.40	86.40	0.030	3.50
73-90	4/18/1888	PAHSIMEROI RIVER	0.290	46.60	13.30	0.022	3.50
73-11978	2/18/1926	PAHSIMEROI RIVER	0.070	31.00	13.30	0.005	2.33
73-11983	4/1/1926	UNNAMED STREAM	0.230	46.60	13.30	0.017	3.50
Annual Combined Limits			0.360	46.60	13.30	0.014	3.50
Combined Rental Totals			4.720	520.50	147.70	0.026	3.50

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2023. 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 - 2022: \$1,041.00 annually
2023: \$1,197.15 annually

The full fee for the rental of the above-described right(s) is \$1,041.00 per year for years 2019 - 2022 and \$1,197.15 for 2023. The rental fee includes an administrative fee of \$1,041.00 per year for years 2019 - 2022 and \$1,197.15 for 2023. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 73-11992, 73-11988, 73-10005, 73-11981, 73-11982, 73-11987, 73-11993, 73-90, 73-11978, 73-11983.

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 347

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)
FISH HABITAT	1.52	371.8
Combined Total	1.52	371.8

**** The authorized diversion rate reflects a continuous diversion of the 371.8 af annual diversion volume, over a period of 123 days, from May 15th through September 15th.***

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 347

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

SEPTEMBER 19, 2019

Date

CYNTHIA BRIDGE CLARK

Printed Name

WATER PROTECTS SECTION MANAGER

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 10/4/2019

Rental approved by IDWR 

Date 10-4-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 347

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

PAHSIMEROI RIVER	NWSE	Sec. 35, Twp 15N, Rge 21E,	CUSTER County
PAHSIMEROI RIVER	NWSW	Sec. 35, Twp 15N, Rge 21E,	CUSTER County

BENEFICIAL USE

FISH HABITAT

DIVERSION RATE

1.52 CFS

VOLUME

371.8 AF

SEASON OF USE

From	To
5/15	9/15

RENTERS PLACE OF USE: FISH HABITAT

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	21E	21			X	X									X				X
15N	21E	22							X		X	X		X					X
15N	21E	26											X						X
15N	21E	27		X	X		X			X	X				X	X	X	X	X
15N	21E	34	X			X									X				X
15N	21E	35						X	X	X	X	X	X			X			X

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

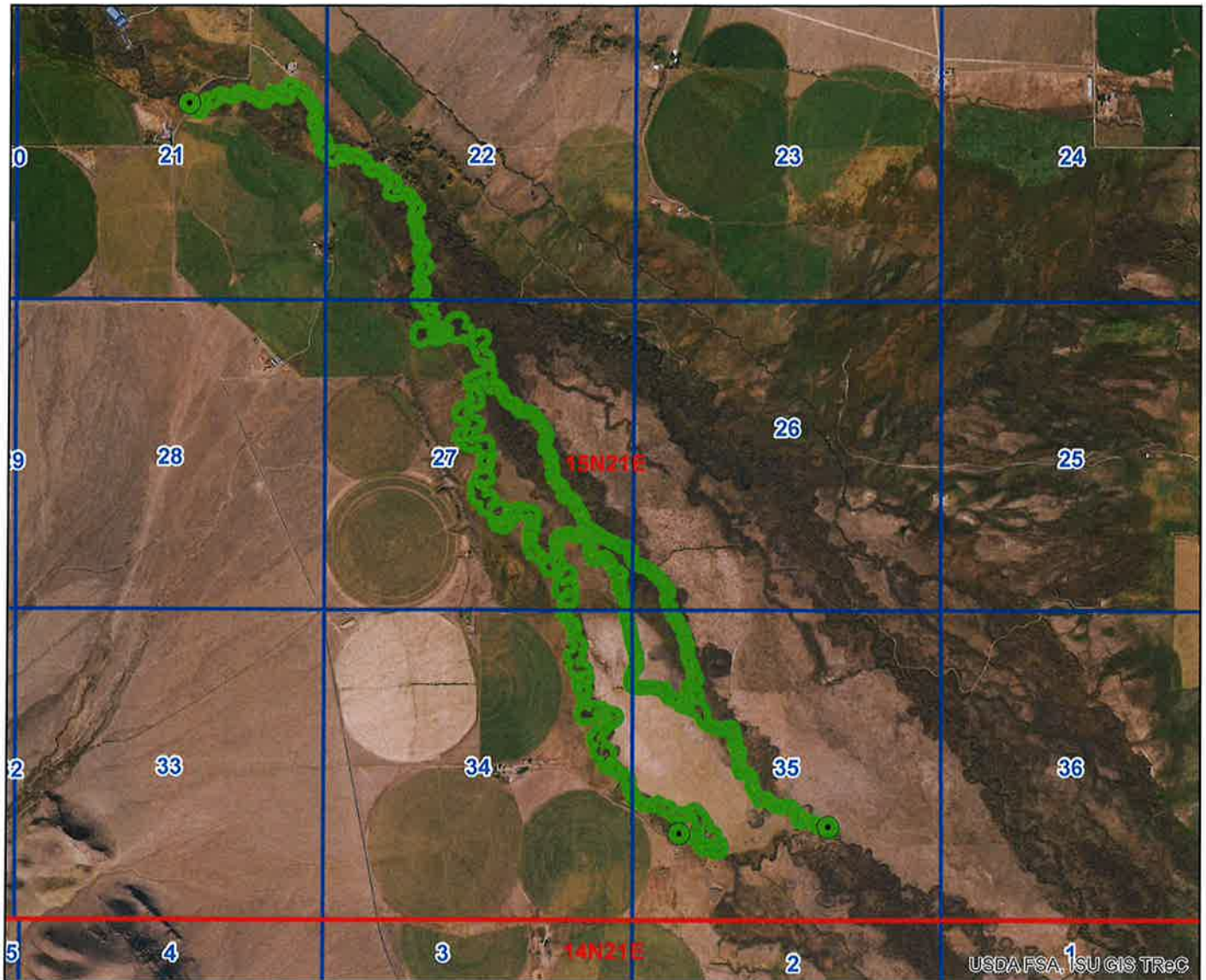
WATER SUPPLY BANK RENTAL AGREEMENT No. 347

9. Use of water under this rental 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 Nos. 73 and 170.
10. The water rented under this agreement is appurtenant to irrigation of 148.7 acres.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 347

Effective until December 31, 2023

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



0  Feet
8,000

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

FEB 25 2019

DEPARTMENT OF
WATER RESOURCES

Applicant Name: Idaho Water Resource Board

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)

73-11992	73-10005 ✓	73-11982 ✓	73-11993	73-11978 ✓
73-11988	73-11981 ✓	73-11987	73-90 ✓	73-11983 ✓

1376

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Idaho Water Resource Board

Mailing Address 322 E Front Street, PO Box 83720 Boise, ID 83720-0098

Street

City

State

Zip Code

Email Address _____

Phone Number (208) 287-4800

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 _____

Professional Title _____

Organization _____

Relationship to Applicant _____

Mailing Address _____

Email Address _____

Phone Number _____

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 of this water is intended to supply flow to the existing Pahsimeroi Minimum Stream Flow Water Right

No. 73-7045. The rental to the MSF is intended to increase natural flow in the flow-limited reaches of the

Pahsimeroi River to improve habitat for ESA-listed Chinook salmon and steelhead.

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)
CFS	514.5 AF	CFS	AF	147 AC

* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
4/1/2019	5/15/2019	☒ 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):

No distribution of water. Instream use only.

- 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
Head gate	Pahsimeroi River	73-78, 73-12231
Pump	Pahsimeroi River	
Head gate	Springs- Little Mud Creek	
Pump	Springs- Pahsimeroi	

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

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

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

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

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

- ☐ Irrigation _____ (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
- ☒ Other: **Instream flow** from: **04/01** (mm/dd) to: **10/31** (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**.
POU is instream

- 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:

Water rights associated with Rental Agreement #60 are currently rented to contribute to the MSF WR No73-7045.

The rental of additional rights is intended to supply additional flows to improve fish habitat for ESA-listed fish.

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)
73-11992	Irrigation	1.68	147	42		1.68	147	42
73-11988	Irrigation	0.14	24.5	7		0.14	24.5	7
73-10005	Irrigation	1.71	301	86		1.71	301	86
73-11981	Irrigation	0.65	301	86		0.65	301	86
73-11982	Irrigation	0.28	301	86		0.28	301	86
73-11987	Irrigation	0.1	266	76		0.1	266	76
73-11993	Irrigation	0.75	301	86		*See 5.D		
73-90	Irrigation	0.28	42	12		0.28	42	12
73-11978	Irrigation	0.07	42	12		0.07	42	12
73-11983	Irrigation	0.22	42	12		0.22	42	12
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	5.88	512.75	147
						CFS	AF	AC

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

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

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

Yes ☒ No ☐

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

The rental proposes to rent the full standard head gate requirement of 3.5 AF/Acre at the original PODs and deliver the standard consumptive use volume of 2.5 AF/Acre to the Pahsimeroi MSF 73-7045.

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:

Water rights associated with Rental Agreement #60 are currently rented to contribute to the MSF WR No.

73-7045 on the Pahsimeroi River.

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

If yes, describe:

Yes ☐ No ☒

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

Yes ☐ No ☒

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

- D. Additional Information

WR 73-11993 is a groundwater right that is stacked with 73-10005, 73-11981, 73-11982, and 73-11987. Although that right is leased into the bank as part of the other stacked rights appurtenant to the same POU, it will not be rented for instream flow.

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

CYNTHIA BRIDGE CLARK
IDWR WATER PROJECTS SECTION
Printed Name of Applicant MANAGER

Date

3/4/2019

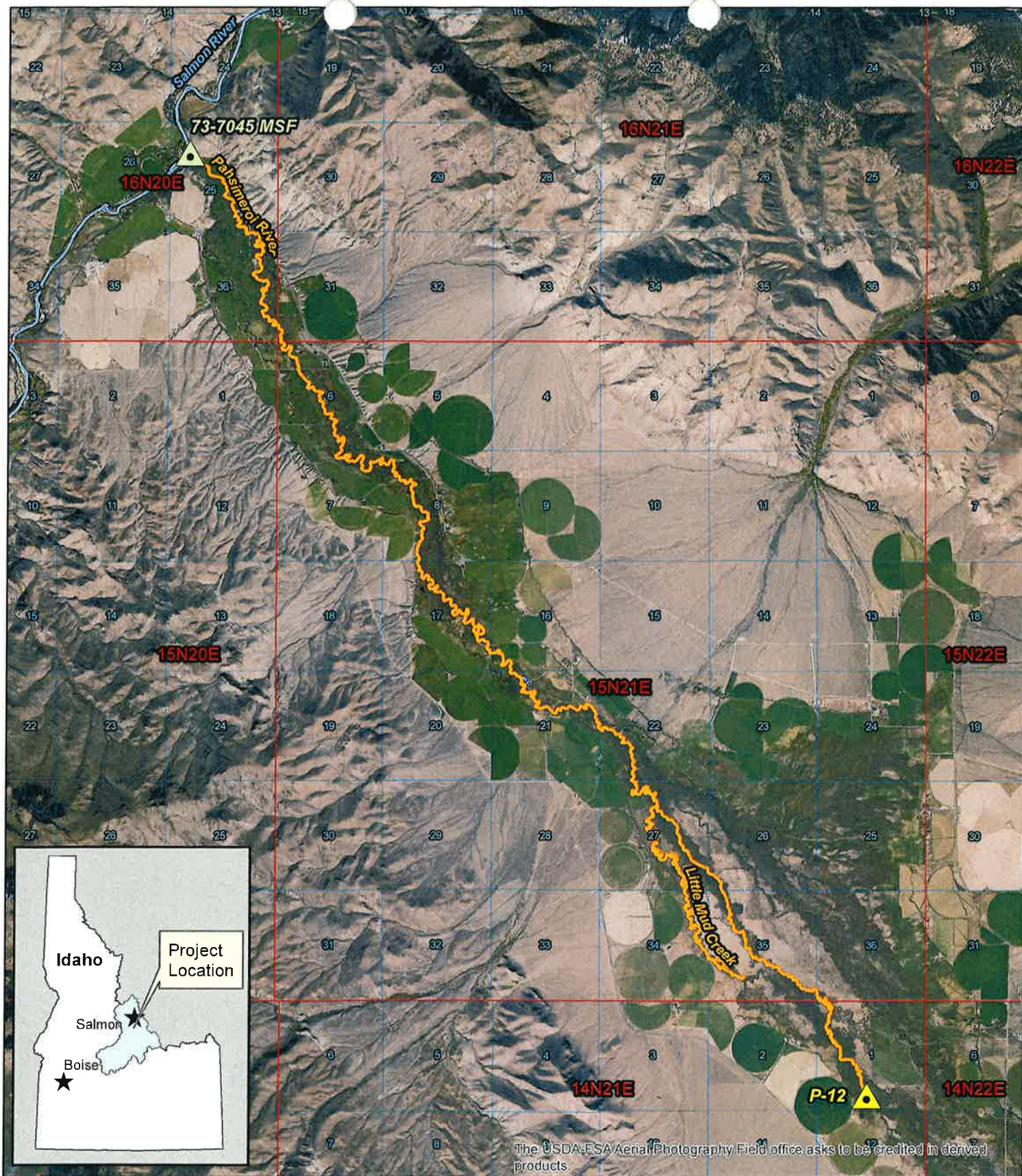
Signature of Representative

Printed Name of Representative

Date

Mail to:

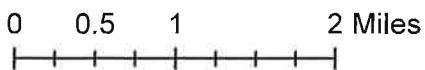
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.



Rental Application **Attachment 2**



-  73-7045 Pahsimeroi_River_MSF
-  P-12_POD
-  Rental Application POU

Map Date: 2.13.2019

Imagery: NAIP 2017



BEFORE THE IDAHO WATER RESOURCE BOARD

**IN THE MATTER OF THE 2019-2023 LITTLE
MUD CREEK AND PAHSIMEROI RIVER
WATER TRANSACTION**

**RESOLUTION TO MAKE A FUNDING
COMMITMENT**

1 WHEREAS, Chinook salmon and steelhead habitat in the Pahsimeroi River Basin is limited
2 by low flow in the main-stem and disconnected tributaries; and
3

4 WHEREAS, Little Mud Creek and the Pahsimeroi River have been identified as high priority
5 streams for flow restoration efforts, to provide high quality habitat for anadromous Chinook
6 salmon and steelhead, and the 2004 Snake River Water Rights Agreement (also known as the Nez
7 Perce Agreement) commits the state to providing incentives for improving fish habitat which
8 includes improving or protecting flow conditions to augment streams flows; and
9

10 WHEREAS, it is in the interest of the State of Idaho to maintain the reconnection of Little
11 Mud Creek to the Pahsimeroi River to encourage recovery of ESA-listed Chinook salmon and
12 steelhead; and
13

14 WHEREAS, the Board will compensate BAR G FARM or its successors, \$36.97 per acre per
15 irrigation season for said rental for annual payment of \$5,434.59 for 147 acres and a 5-year total
16 of \$27,172.95; and
17

18 WHEREAS, the lease application fees (\$1,500) and rental fees (\$5,299.35) for said
19 agreement will not exceed \$6,799.35; and
20

21 WHEREAS, a proposal for \$33,972.30 has been submitted to the Columbia basin Water
22 Transactions Program for approval; and
23

24 WHEREAS, funding is available through the Idaho Fish Accord Water Transactions Fund
25 for said lease and rental agreements; and
26

27 WHEREAS, staff anticipates the funds being placed in the Idaho Water Resource Board
28 (IWRB) Revolving Development Account for annual payment to the water rights owners; and
29

30 WHEREAS, the Little Mud Creek and Pahsimeroi transaction is in the public interest and
31 is in compliance with the State Water Plan; and
32
33

34 NOW, THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into
35 lease and rental agreements for water rights 73-10005, 73-11982, 73-90, 73-11978, 73-11992,

36 73-11988, 73-11987, and 73-11981 for delivery to minimum stream flow 73-7045, for an amount
37 not to exceed \$33,972.30; and
38

39 NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition
40 that the Board receives the requested funding from the Bonneville Power Administration through
41 the Idaho MOA/Fish Accord Water Transaction Program or the Columbia Basin Water Transaction
42 Fund in an amount up to \$33,972.30.
43

DATED this 28th day of November, 2018.



ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST


VINCE ALBERDI, Secretary



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

October 7, 2019

IDAHO WATER RESOURCE BOARD
322 E FRONT ST
BOISE ID 83720

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 73-90, 73-10005, 73-11978, 73-11981, 73-11982, 73-11983, 73-11987,
73-11988, 73-11992, and 73-11993, AGREEMENT 347**

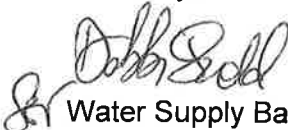
Dear Renter:

Please find enclosed a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 520.5 acre-feet of water for fish habitat during 2019. 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, the full fee for the rental of the above-described rights is \$1,041.00 per year for years 2019-2022 and \$1,197.15 for 2023. The rental fee includes an administrative fee of \$1,041.00 per year for years 2019-2022 and \$1,197.00 for 2023. This annual fee will be transferred to the Department's Water Supply Bank Administrative fee account as soon as the fees are available per arrangements through other programs and Water Supply Bank staff will be notified. Note that the renter is obligated to pay only the administrative fees associated with the water rights: 73-90, 73-10005, 73-11978, 73-11981, 73-11982, 73-11983, 73-11987, 73-11988, 73-11992, and 73-11993.

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

Sincerely,


Water Supply Bank

Enclosures: Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office
Ted O'Neal – Water District No. 73
Cindy Yenter – Water District No. 170
Amy Cassel – IDWR



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

September 16, 2019

IDAHO WATER RESOURCE BOARD
322 E FRONT ST
BOISE ID 83720

RE: **APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 73-90, 73-10005, 73-11978, 73-11981, 73-11982, 73-11983, 73-11987,
73-11988, 73-11992, AND 73-11993, AGREEMENT 347**

*****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 **\$10,410.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 520.5 acre-feet. Since you have a private agreement with the lessor, **you are only obligated to pay the 10% administrative fee or \$1,041.00.** An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please send a check for \$1,041.00 made payable to the Idaho Department of Water Resources, together with the signed rental agreement, within 14 days so I can complete processing.

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

Sincerely,


For Water Supply Bank

Enclosure

c: IDWR Front Desk
Amy Cassel - IDWR

MEMORANDUM

To: Right(s) 73-11992, 73-11988, 73-10005, 73-11981, 73-11982, 73-11987, 73-11993, 73-90, 73-11978, 73-11983

From: Remington Buyer, Michele Edl, and Justin Ferguson

Date: August 26, 2019

Re: Review & Analysis of Water Supply Bank Rental Application 1376

PURPOSE/NARRATIVE: On February 25, 2019, The Idaho Water Resource Board submitted a lease-rental package to lease and rent portions of 10 surface water irrigation rights owned by Bar G Farms Enterprises. The rights are: 73-90, 73-10005, 73-11978, 73-11981, 73-11982, 73-11983, 73-11987, 73-11988, 73-11992 and 73-11993.

The application proposes to rent the irrigation use of Bar G Farm's water rights, for fish habitat purposes. Minimum streamflow water right 73-7045 has been established along the Pahsimeroi River to protect ESA-listed fish and fish habitat from Idaho Power Company's fish hatchery (in Section 21 of T15N, R21E) down to confluence of the Pahsimeroi and the Salmon River. The MSF reach is divided into two segments, with the upper segment being for 45.0 cfs from the fish hatchery, down to the point where Big Springs injects into the Pahsimeroi River.

The applicant was contacted on 07/08/2019 to determine the specific place of use where water would be used for fish habitat purposes through this rental. The applicant responded that the place of use should be "above where the MSF begins and in the Pahsimeroi and Little Mud Creek...[and] the MSF is the quantification point for the rental. Because the place of use was identified as being outside the authorized MSF place of use (downstream of the fish hatchery), fish habitat may also be considered as the beneficial use under this rental.

A review of AqualInfo data from the region was conducted to determine whether stream flows under of 45.0 cfs were being measured in the upper reach of MSF water right 73-7045. The table below shows the flows measured from 2005-2018:

Discharge By Month By Year For Patterson And Pahsimeroi												
	January	February	March	April	May	June	July	August	September	October	November	December
2005	0.0	0.0	0.0	0.0	0.0	2.6	3.7	1.0	3.8	36.1	62.6	83.4
2006	79.3	85.2	84.2	66.1	24.1	25.6	4.8	7.3	22.5	48.4	67.2	75.0
2007	66.7	87.2	88.3	64.3	19.9	14.0	5.2	13.2	19.7	51.1	84.7	87.5
2008	30.0	37.7	43.5	21.7	8.4	22.5	19.3	14.4	19.6	27.2	25.3	48.3
2009	49.9	52.5	54.2	42.5	24.7	123.2	52.2	21.9	22.8	50.5	68.3	55.1
2010	57.4	0.0	61.9	48.2	27.7	64.5	60.6	20.9	27.9	59.6	66.6	60.8
2011	56.2	64.1	69.6	64.0	40.5	113.2	140.9	42.9	33.3	64.4	79.4	70.0
2012	73.6	74.4	75.6	37.7	37.5	42.0	26.4	26.7	32.2	64.4	80.1	70.0
2013	46.9	71.4	75.5	51.3	14.9	15.7	17.1	14.9	22.7	51.4	58.8	49.7
2014	56.1	72.2	57.0	51.4	25.7	25.5	15.9	17.4	27.2	53.1	54.9	59.2
2015	52.4	86.0	54.8	42.3	13.7	18.8	17.0	17.4	25.1	48.3	60.3	56.6
2016	59.4	57.4	56.2	37.9	32.5	37.8	18.4	13.5	20.3	27.3	38.8	13.6
2017	43.9	60.5	62.5	54.8	53.1	123.7	44.1	29.9	46.6	1.0	0.0	0.0
2018	83.7	66.4	65.0	54.7	56.2	82.8	37.0	30.4	37.6	63.0	52.7	11.5

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly Average	54.0	58.2	60.6	45.5	27.1	50.8	33.1	19.4	25.8	46.1	57.1	52.9
MSF Met	Yes	Yes	Yes	Yes	No	Yes	No	No	No	Yes	Yes	Yes

Based on the above data, it appears that the MSF water right 73-7045 is not being met in all months of the year, and is particularly deficient during late summer and this rental could be considered a minimum streamflow rental within the reaches of MSF water right 73-7045. However, because the applicant stated that this rental was to secure flows for fish above the MSF reach, this rental has been drafted as a "fish habitat" rental.

AUTHORITY TO FILE: Application has been submitted by Cynthia Bridge-Clark, Planning & Projects Bureau Section Manager. No concerns about authority to file.

WATER RIGHT VALIDITY: Rights 73-90, 73-11978, 73-11983, 73-10005, 73-11981, 73-11982, 73-11987 (4 SW rights) and 73-11993 (GW right) are valid and are leased to the Bank. A review of recent aerial photography indicates that the water rights or portions of rights have been idled at the places-of-use in Township 15N, Range 21E, sections 34 & 35.

INJURY TO OTHER WATER RIGHTS: Through this rental, the IWRB seeks to securely deliver the leased portions of Bar G Farms' irrigation water rights in and down the Pahsimeroi River, to the point where minimum streamflow water right 73-7045 begins. To avoid injury to prior appropriators, this rental will be limited to the secure instream delivery of only the consumptive use volume of the leased portions of Bar G Farms' irrigation water rights. No injury is anticipated by this rental.

ENLARGEMENT OF USE: Because the rental proposes a change in nature of use, it is necessary to consider the consumptive use extent of both the leased portions of the Bar G irrigation water rights, and the consumptive use of fish habitat purposes proposed through this rental. Enlargement will be avoided if the consumptive use of water under the rental does not exceed the consumptive use of water attributable to the leased portions of the Bar G Farms' irrigation water rights.

The consumptive use extent of the leased portions of the Bar G Farms' irrigation water rights was calculated by multiplying the leased number of acres, by the regional consumptive use value (2.5 afa/ac), which amounted to 371.8 af. The use of water instream for fish is not expected to have any real consumptive use, thus no enlargement in the consumptive use of water under this rental is anticipated. Further, provided the maximum diversion volume of the rental does not exceed the diversion volume of the leased water rights (520.5 af), enlargement should not occur through this rental.

Note: ground water right 73-11993 is tied by combined use limits with four surface water rights that are requested under this rental. To avoid enlargement, ground water right 73-11993 is being included on this rental, even though ground water will not be diverted via this rental.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The application was submitted for instream flow uses, which has been interpreted to mean water for ESA-listed fish on the Pahsimeroi River, above the beginning of minimum streamflow water right 73-7405.

The applicant was contacted to confirm their intent for the rental season of use. They did not require protection throughout the irrigation season, instead only for a period of 123 days, from May 15 to September 15. The instantaneous flow rate for the rental was calculated by taking the total consumptive use of water being rented (371.8 af) and dividing it by the desired rental duration (123 days), and then further dividing it by 1.9835, which results in 1.523 cfs.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The surface water rights are subject to Water Districts 73 and 170. Watermaster comments were requested on August 27, 2019

Ferguson, Justin

From: Ferguson, Justin
Sent: Monday, August 26, 2019 12:15 PM
To: Yenter, Cindy; 'tedoneal1954@gmail.com'
Subject: Rental Application 1376 - IWRB
Attachments: Updated Rental Map.pdf; Draft Rental Agreement IWRB 73-90 et al.docx; IWRB 2019-23 Rental Review Memo Bar G.docx

Good afternoon,

Attached is a copy of the rental agreement, map, and my review memo. Please let me know if you have any concerns or comments

Thank you!

Ferguson, Justin

From: Ferguson, Justin
Sent: Monday, August 26, 2019 12:19 PM
To: Cefalo, James
Subject: Rental Application 1376 - IWRB
Attachments: Updated Rental Map.pdf; Draft Rental Agreement IWRB 73-90 et al.docx; IWRB 2019-23 Rental Review Memo Bar G.docx

Good afternoon,

Attached is a copy of the rental agreement, map, and my review memo. Please let me know if you have any concerns or comments, we have requested comments from the watermasters as well.

Thank you!

Ferguson, Justin

From: Cassel, Amy
Sent: Monday, July 8, 2019 9:22 AM
To: Ferguson, Justin
Cc: Fullenkamp, Tanna
Subject: RE: IWRB Rental Application No. 1376

Hi Justin,

See my answers below in red.

Thanks,
Amy

From: Ferguson, Justin
Sent: Wednesday, July 03, 2019 4:59 PM
To: Cassel, Amy <Amy.Cassel@idwr.idaho.gov>
Subject: IWRB Rental Application No. 1376

Amy,

You submitted rental application 1376 for "instream flow" on the Pahsimeroi River and rental agreement 347 has been drafted for an instream flow use, as a rental to the IWRB's minimum streamflow water right 73-7045. Insofar as minimum stream flows are not being meting within the authorized places of use for 73-7045, a rental to the minimum stream flow water right can be approved.

However, in conversations with Clay Webster today, he directed that I contact you to determine the exact place and purpose of use for rental agreement 347. Specifically, the following questions are being posed:

- Where is the place of use for this rental?
 - o Is the place of use intended to be the place of use for MSF water right 73-7045, or is it intended to be in the Pahsimeroi River, above where the MSF water right reach begins?

The place of use for this rental is intended to be above where the MSF begins and in the Pahsimeroi and Little Mud Creek (downstream of the points of diversion on the Pahsimeroi and the Little Mud). The MSF is the quantification point for the rental.

- If this rental is intended to be above the MSF place of use, what is your intended beneficial use for this water?
 - o You stated that this rental will improve fish habitat for ESA-listed salmon. How exactly will the rental of water directly benefit fish habitat within the desired place of use?

The rental of this water will provide additional flow in the place of use for fish listed under the ESA. This additional flow will improve fish passage for migrating spring Chinook (Spring Chinook migrate upstream from early June through late September; out-migrating smolts ride the spring flush during the peak of the hydrograph, typically late May to early June). Additionally, the increased flow will improve water temperature, which is a limiting factor for ESA-listed fish in the Pahsimeroi River and Little Mud Creek.

Please provide us with answers to the above questions so that we can determine how best to move forward in processing rental application 1376. Please feel free to contact me if you have any questions,