

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 14 2018

WATER SUPPLY BANK RENTAL AGREEMENT No. 266

DEPARTMENT OF  
WATER RESOURCES

This is to certify that:

FALLS IRRIGATION DIST  
310 VALDEZ ST  
AMERICAN FALLS, ID 83211

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<br>Right No.            | Priority<br>Date | Source       | Diversion<br>Rate<br>(CFS) | Diversion<br>Volume<br>(AF) | Acres<br>(AC) |
|-------------------------------|------------------|--------------|----------------------------|-----------------------------|---------------|
| 29-2281                       | 6/26/1952        | GROUND WATER | 2.02                       | 480.0                       | 120.0         |
| 29-13624                      | 2/28/1977        | GROUND WATER | 1.62                       | 637.0                       | 182.0         |
| <b>Combined Rental Totals</b> |                  |              | <b>3.64</b>                | <b>728.0</b>                | <b>182.0</b>  |

**Term of Rental:** This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2022. 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 2018, whichever occurs last.

**Annual Rental Fee:**

2018 - 2022: \$1,601.60 annually

The full fee for the rental of the above-described right(s) is \$1,601.60 per year for years 2018 – 2022. The full fee is equivalent to 10% of a potential gross annual rental amount of \$16,016.00, or \$22/AF. Because of a private agreement between the renter and the lessor, only admin fees are being collected for this rental.

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.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 29-2281

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 266**

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:

Steve W. Isaac  
Signature of Renter

9-11-18  
Date

Steve W. Isaac  
Printed Name

President  
Title

\*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By Brian Patton  
BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

Date 9/14/2018

Rental approved by IDWR Chy Webb

Date 9-14-2018

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 266**

**WATER USE DETAILS**

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

GROUND WATER  
GROUND WATER

NWSW  
SENW

Sec. 8, Twp 07S, Rge 32E, POWER County  
Sec. 8, Twp 07S, Rge 32E, POWER County

**BENEFICIAL USE**  
IRRIGATION

**DIVERSION RATE**

3.64 CFS

**VOLUME**

728.00 AF

**SEASON OF USE**

| Water Right No. | From | To    |
|-----------------|------|-------|
| 29-2281         | 4/1  | 10/31 |
| 29-13624        | 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 |        |
| 07S | 32E | 7   | 35.0 | 36.0 | 39.0 | 15.0 |    |    |    | 36.0 | 5.0 | 14.0 |    |    |    | 2.0 |    |    | 182.0  |

Total Acres: 182.0

**RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE**

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. Use of water rights 29-2281 and 29-13624, when combined, is limited to the irrigation of a combined total of 182 acres in a single season.
10. Use of water rights 29-2281 and 29-13624, when combined, is limited to a total combined annual diversion volume of 728 AF.

STATE OF IDAHO  
WATER RESOURCE BOARD

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

RECEIVED

JUN 18 2018

DEPARTMENT OF  
WATER RESOURCESApplicant Name: Falls Irrigation District

Is this application being submitted with a lease application as a lease/rental package?

Yes ☒ No ☐

If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at [http://idwr.idaho.gov/water\\_supply\\_bank](http://idwr.idaho.gov/water_supply_bank).

**MINIMUM REQUIREMENT CHECKLIST**

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

Yes

- ☒ Completed *Application to Rent Water from the Board's Water Supply Bank*
- ☒ Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank

Attachment N/A Yes

- |    |                                     |                                                                                                                                                              |
|----|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2  | <input checked="" type="checkbox"/> | A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request |
| 3A | <input type="checkbox"/>            | <input checked="" type="checkbox"/> Detailed information on a proposed use of rental water                                                                   |
| 3F | <input type="checkbox"/>            | <input checked="" type="checkbox"/> Authorization from the owner/operator of the rental point(s) of diversion                                                |
| 3H | <input type="checkbox"/>            | <input checked="" type="checkbox"/> Water modeling to account for the impacts of the rental request                                                          |
| 3J | <input checked="" type="checkbox"/> | <input type="checkbox"/> Documents justifying a rate of flow greater than 0.02 cfs/acre                                                                      |
| 3K | <input checked="" type="checkbox"/> | <input type="checkbox"/> Authorization from the owner/operator of the property at the proposed rental place(s) of use                                        |
| 4B | <input type="checkbox"/>            | <input checked="" type="checkbox"/> Explanation of how the rental water will sufficiently accomplish your rental purposes                                    |
| 4C | <input type="checkbox"/>            | <input checked="" type="checkbox"/> Explanation of consumptive use amounts for water rights experiencing a change in nature of use                           |

**Department Use Only – Proposed Water Right(s)**

29-13624

29-2281

1112

STATE OF IDAHO  
WATER RESOURCE BOARD

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant Falls Irrigation District

|                 |                      |                       |              |                     |
|-----------------|----------------------|-----------------------|--------------|---------------------|
| Mailing Address | <u>310 Valdez St</u> | <u>American Falls</u> | ID           | <u>83211</u>        |
|                 | Street               | City                  | State        | Zip Code            |
| Email Address   |                      |                       | Phone Number | <u>208-226-5227</u> |

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  | <u>Shawn Tishendorf</u>          | Professional Title        | <u>Manager</u>                         |                     |
| Organization    | <u>Falls Irrigation District</u> | Relationship to Applicant | <u>Manager, Falls Irrigation Dist.</u> |                     |
| Mailing Address | <u>310 Valdez St</u>             | <u>American Falls</u>     | ID                                     | <u>83211</u>        |
| Email Address   |                                  |                           | Phone Number                           | <u>208-681-8655</u> |

**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**:

Rental water will be used for supplemental water when canal levels are low.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

| Desired Rate<br>(Cubic Feet/Second) | Desired Volume<br>(Acre-Foot) | Minimum Rate*<br>(Cubic Feet/Second) | Minimum Volume*<br>(Acre-Foot) | Desired Acres<br>(if applicable) |
|-------------------------------------|-------------------------------|--------------------------------------|--------------------------------|----------------------------------|
| 3.28 CFS                            | 656 AF                        | 3.28 CFS                             | 656 AF                         | 164 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<br>(month/day/year) | Latest Possible Start Date<br>(month/day/year) | *Mark Desired Rental Duration<br>(Calendar Years) |                            |                            |                            |                                       | **Applicant's preference if rental application cannot be processed prior to the latest possible start? |                                                          |
|----------------------------------------|------------------------------------------------|---------------------------------------------------|----------------------------|----------------------------|----------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 04/01                                  | 04/15                                          | <input type="checkbox"/> 1                        | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 | <input type="checkbox"/> 4 | <input checked="" 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):

200 hp motor with pump, VFD panel, 10" buried mainline to canal.

- 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 |
|-------------------|--------------|-------------------------------------------|
| Pump, WMIS 600727 | Groundwater  | 29-2281 and 29-13624                      |
|                   |              |                                           |
|                   |              |                                           |
|                   |              |                                           |

*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 164 (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: Supplemental Water from: 04/01 (mm/dd) to: 11/01 (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:

**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<br>(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) |
| 29-13624                                                                                                                                                                                 | IRRIGATION    | 1.62                 | 637         | 182        |                                                                                                                                | 3.28                             | 656         | 164        |
| 29-2281                                                                                                                                                                                  | IRRIGATION    | 2.02                 | 480         | 182        |                                                                                                                                |                                  |             |            |
|                                                                                                                                                                                          |               |                      | 728         | 182        |                                                                                                                                |                                  |             |            |
|                                                                                                                                                                                          |               |                      |             |            |                                                                                                                                |                                  |             |            |
|                                                                                                                                                                                          |               |                      |             |            |                                                                                                                                |                                  |             |            |
|                                                                                                                                                                                          |               |                      |             |            |                                                                                                                                |                                  |             |            |
|                                                                                                                                                                                          |               |                      |             |            |                                                                                                                                |                                  |             |            |
|                                                                                                                                                                                          |               |                      |             |            |                                                                                                                                |                                  |             |            |
| <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>                                                                                                                   | 3.28                             | 656         | 164        |
|                                                                                                                                                                                          |               |                      |             |            |                                                                                                                                | <b>CFS</b>                       | <b>AF</b>   | <b>AC</b>  |

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

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

N/A

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

Yes ☐ No ☒

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

STATE OF IDAHO  
WATER RESOURCE BOARD

**Application to Rent Water (Continued)**

**5. ADDITIONAL INFORMATION**

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

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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

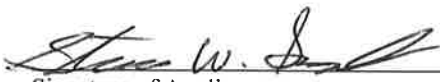
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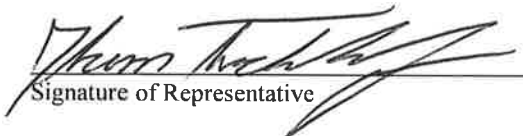
**DECLARATION**

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

Steve Isaak  
Printed Name of Applicant

6-4-18  
Date

  
Signature of Representative

Shawn Tischendorf  
Printed Name of Representative

6-4-18  
Date

**Mail to:**

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



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 17, 2018

FALLS IRRIGATION DIST  
310 VALDEZ ST  
AMERICAN FALLS ID 83211

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NOS. 29-2281 and 29-13624**

Dear Renter:

Please find enclosed a receipt in the amount of **\$1,601.60** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 728.0 acre-feet of water for irrigation of 182.0 acres during 2018. 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.

The full fee for the rental of the above-described rights is \$1,601.60 per year for years 2018-2022. The full fee is equivalent to 10% of a potential gross annual rental amount of \$16,016.00, or \$22/AF. Because of a private agreement between the renter and the lessor, only admin fees are being collected for this rental.

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

Sincerely,

  
for Water Supply Bank

Enclosures: Receipt No. C105650  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
James Cefalo – IDWR Eastern Regional Office/Water District # 120



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

September 11, 2018

FALLS IRRIGATION DIST  
310 VALDEZ ST  
AMERICAN FALLS ID 83211

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NOS. 29-2281 and 29-13624**

**\*\*\*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 \$1,601.60 was calculated, equivalent to 10% of the gross rental amount, calculated as \$22.00 per acre-foot times a diversion volume of 728.0 acre-feet.

**Please send a check for \$1,601.60** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 7 days** so that we can complete processing.

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

Sincerely,

Water Supply Bank

Enclosure

c: IDWR Front Desk

## **Buyer, Remington**

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**From:** Buyer, Remington  
**Sent:** Tuesday, September 11, 2018 9:54 AM  
**To:** 'Falls Irrigation District'  
**Subject:** RE: Falls Irrigation Private lease agreement  
**Attachments:** Falls Irrigation Rental Agreement v2.pdf; Rental Agreement Cover Letter- 10% fees Falls Irrigation 266.pdf

Shawn,

Thanks for providing us with the lease and easement agreement, establishing that payment for the rental of the Clinger's water rights by FID is being directly transacted from FID to the Clingers. In light of this document, IDWR does not need to collect the gross rental amount for the rental of Mr. Clinger's water rights by FID, and instead, we will only levy the 10% administrative fee for this rental.

The attached amended rental agreement and cover letter are going out to FID by mail today. You can also print off the documents on your end (single sided please) and return then signed, with payment, by mail, to expedite the process.

Feel free to contact me if you have any questions,

Remington Buyer  
Water Supply Bank Coordinator  
Idaho Department of Water Resources  
322 East Front Street, Boise, ID, 83720  
T: (208) 287-4918 | F: (208) 287-6700

-----Original Message-----

**From:** Falls Irrigation District [mailto:fallsirr@cableone.net]  
**Sent:** Tuesday, September 11, 2018 8:46 AM  
**To:** Buyer, Remington <Remington.Buyer@idwr.idaho.gov>  
**Subject:** Falls Irrigation Private lease agreement

Remington,

Hope this is what you needed thanks.

Thanks,  
Shawn Tischendorf  
Falls Irrigation District  
(208)226-5227

## **LEASE and EASEMENT AGREEMENT**

This LEASE and EASEMENT AGREEMENT is made this 12 day of July, 2018, by and between Jerome and Tina Clinger, (collectively "Owners") and the Falls Irrigation District ("FID").

### **RECITALS**

WHEREAS, Owners own certain water right Nos. 29-13624 and 29-2281, the relevant portions of which are depicted on the attached **Exhibit A**; and

WHEREAS, Owners wish to lease water right Nos. 29-13624 and 29-2281 to FID in perpetuity or so long as FID is able to deliver and needs additional water supply; and

WHEREAS, FID desires to supplement existing water supplies by leasing water right nos. 29-13624 and 29-2281 and piping said water supply and other leased water into FID ditches; and

WHEREAS, Owners are willing to provide FID the requested lease and easement pursuant to the terms of this Agreement.

### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### **1. Lease.**

- a. Owners hereby grant FID a lease of water right Nos. 29-13624 and 29-2281, and the well, on a year to year basis as described herein.
- b. FID shall pay Owners \$10,000 per year ("Minimum Payment"), said amount being credited against the total annual payment owed Owners for the lease and easement. FID shall lease water pumped at a rate of \$22/ac-ft beginning in 2018 ("Water Payment"). The Minimum Payment shall be credited against the Water Payment and shall be paid no later than May 1<sup>st</sup> of each year. Any Water Payment balance owed exceeding Minimum Payment shall be paid to Owners by December 1<sup>st</sup> of each year.
- c. This lease shall extend year to year, to the extent the water is not needed by Owners for irrigation or mitigation purposes for the benefit of Owners' property, and FID continues to need the water, with the Owners and FID providing notification by April 1 of each year of any proposed changes to the terms of this Agreement. Any proposed changes must be agreed to by April 1 and memorialized in writing.

2. **Easement.**

- a. Owners hereby grant to the FID an easement on, over, under and through a portion of the Property owned by Owners, as described and depicted in the attached **Exhibit A** which is incorporated here by reference, to construct, operate, maintain and replace as necessary a buried pipeline to ensure the delivery of water right Nos. 29-13624 and 29-2281 to FID. FID shall have the right to access the easement through the Owners' property for operation and maintenance of the pipeline, well and appurtenances, including replacement if necessary. All operation and maintenance expenses shall be borne by FID. FID will provide insurance on the well and operation of the well similar to the level of insurance carried by FID on its own equipment. Further, FID will indemnify Owners during the term of the lease for any claims arising out of FID's operations related to the well and pipeline identified herein.

3. **Term.**

- a. The rights granted in this Agreement shall be possessed and enjoyed by FID and its users, so long as the pipeline or pipelines, wells and appurtenances constructed pursuant to this Agreement shall be maintained and operated by FID, its successors, assigns and licensees for the conveyance of water and conditioned by FID's continued need and ability to supplement project water deliveries within the District with private leased water.
- b. FID will lease water pumped pursuant to water right Nos. 29-13624 and 29-2281 at a rate of \$22/ac-ft.

4. **Easement Running with the Land.** The easement hereby granted in this Agreement shall be deemed an easement running with the land and shall be binding upon the Owners, their successors and assigns.

5. **Entire Agreement.** This is the entire agreement of the Parties with respect to matters covered hereby and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, and signed by the Parties.

6. **Counterparts.** This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

7. **Idaho Law.** This agreement shall be governed by the laws of the State of Idaho.

8. **Representations.** The Parties have the full legal right, power and authority to enter into and perform this Agreement.

9. **Attorneys' Fees.** In any suit, action or appeal therefrom, to enforce this Agreement or any term or provision hereof, or to interpret this Agreement, the prevailing Party shall be entitled to recover all its costs reasonably incurred therein (and on appeal), including reasonable attorneys' fees.

IN WITNESS WHEREOF the Parties have executed this Lease and Easement Agreement, effective on the date recited above.

**Falls Irrigation District**

By: *Steve W. Isaak*  
\_\_\_\_\_, President

Attest: *Terrell Sorenson*  
\_\_\_\_\_, Secretary

STATE OF IDAHO           )  
                                          ) ss  
County of Power         )

On this 12 day of July, 2018, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Steve Isaak and Terrell Sorenson known or identified to me to be the President and Secretary of the Falls Irrigation District, the District that executed the instrument or the persons who executed the instrument on behalf of said District, and represented to me that such District executed the same.



*Deborah Rowbury*  
Notary Public for Idaho  
Residing at: December American Falls, ID  
Comm. Exp.: December 9, 2023



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

August 27, 2018

FALLS IRRIGATION DIST  
310 VALDEZ ST  
AMERICAN FALLS ID 83211

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NOS. 29-2281 and 29-13624**

**\*\*\*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 \$14,560.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 728.0 acre-feet.

**Please send a check for \$14,560.00** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

Pursuant to the Water Supply Bank Rules, 90% or \$13,104.00 of the rental fee will be paid to the lessor(s) and 10% or \$1,456.00 will be retained by the Department to offset administrative costs.

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

Sincerely,

  
SOD Water Supply Bank

Enclosure

c: IDWR Front Desk

## Water Supply Bank Lease #813 and Rental #266

**TO:** Water Rights 29-2281 and 29-13624  
**FROM:** Sandra Thiel  
**DATE:** July 17, 2018  
**RE:** Review & Analysis of Applications to Lease and Rent Water from the State Water Supply Bank

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**PURPOSE/NARRATIVE:** On June 18, 2018, Jerome Clinger submitted leases application for rights 29-2281 and 29-13624. According to the application Mr. Clinger intends to put both rights into the Bank for five years. Between 2016 and 2017 the irrigation place of use was covered in solar panels. Ultimately, Mr. Clinger plans to file a transfer for the rights once he has determined where to irrigate.

The application included a letter from Jerome Clinger dated June 12, 2018. The letter gives consent to Falls Irrigation District to divert water from his wells for delivery through their canal system. On July 2, 2018, I spoke to Mr. Clinger. Falls Irrigation identified the place of use as on their rental application as falling partially on Mr. Clinger's land. Another approximately 80 acres belongs to Grant Neibaur and Sons. The irrigation district will deliver the water through the canals with no noticeable difference. Since Neibaur receives irrigation district water their consent is not required for the rental place of use.

Both Mr. Clinger and Falls Irrigation District submitted rentals for the two water rights. Mr. Clinger requested 18 acres. There was some confusion about potentially using this water for mitigation. However, there is no recognized mitigation plan and ultimately Falls Irrigation will rent all 182 acres. I discussed the use of water with Mr. Clinger on July 12. He explained that during a normal year water users at the end of the irrigation district's delivery system do not always receive their shares. The rental will be used for supplemental water when the canal levels are low.

**AUTHORITY TO FILE:** According to the February 2018 Power County parcel data, Jerome Clinger owns the property at the lease place of use. Falls Irrigation District manager Shawn Tishendorf signed the rental application.

**WATER RIGHT VALIDITY:** Both The Snake River Basin Adjudication court decreed both 29-2281 and 29-13624 in 2004. There is clear evidence of irrigation in 2015 (see imagery below). Forfeiture is not an issue.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent.

**ENLARGEMENT OF USE:** The change should not be an enlargement.

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

**BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:** The rental appears consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** These rights are subject to Water District #120. James Cefalo responded with no concerns about the lease or rental.

2015 Landsat



## Thiel, Sandra

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**From:** Cefalo, James  
**Sent:** Monday, July 16, 2018 2:40 PM  
**To:** Thiel, Sandra  
**Subject:** RE: Jerome Clinger water supply bank lease and Falls Irrigation District rental

Sandra,

I don't have any concerns with the proposed WSB lease and rental.

James

**From:** Thiel, Sandra  
**Sent:** Monday, July 16, 2018 11:53 AM  
**To:** Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Subject:** Jerome Clinger water supply bank lease and Falls Irrigation District rental

Hello, The attached documents provide information about a lease and rental. Please let me know if you have any questions or concerns.

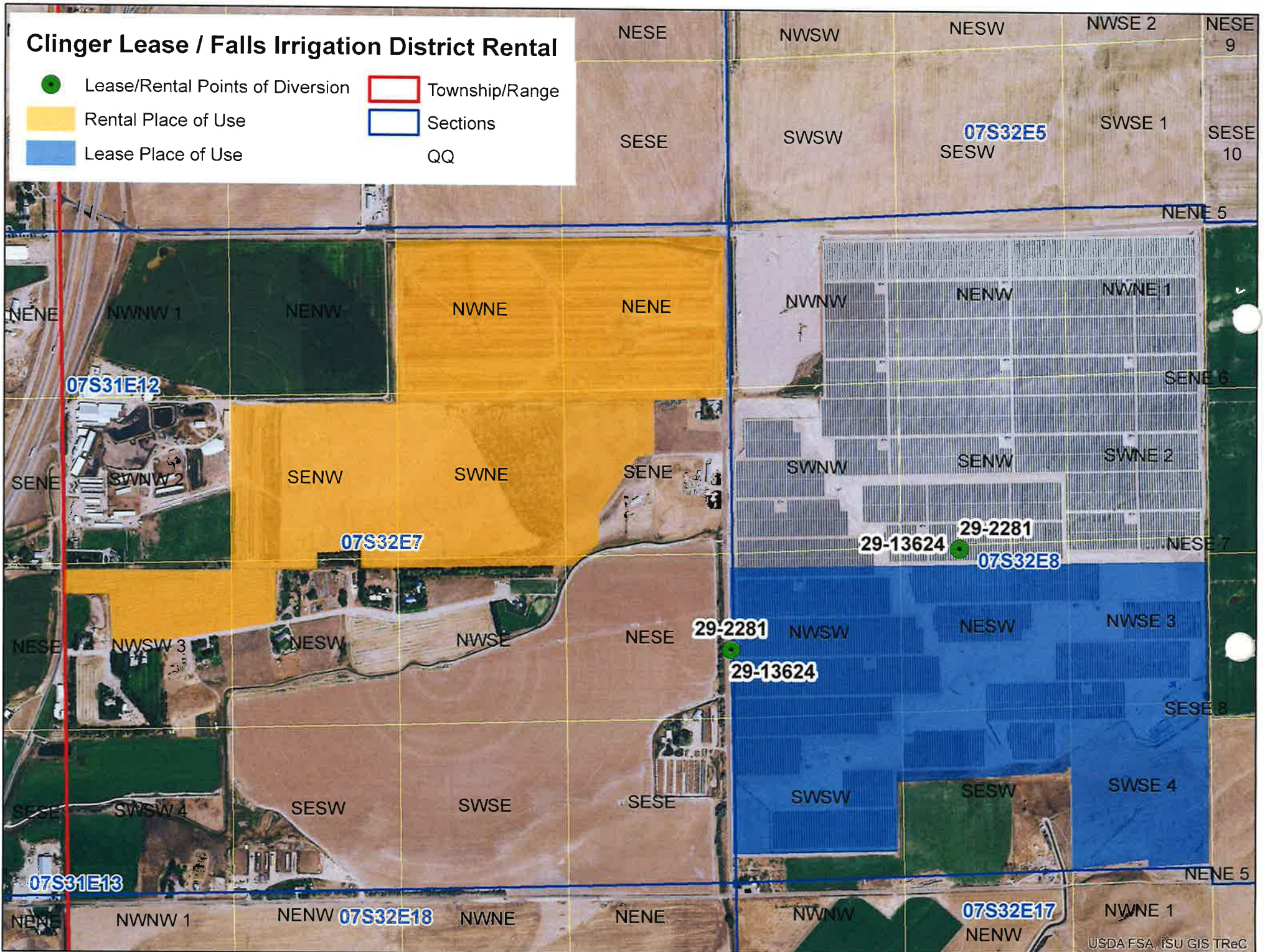
Hope you are having a good summer.

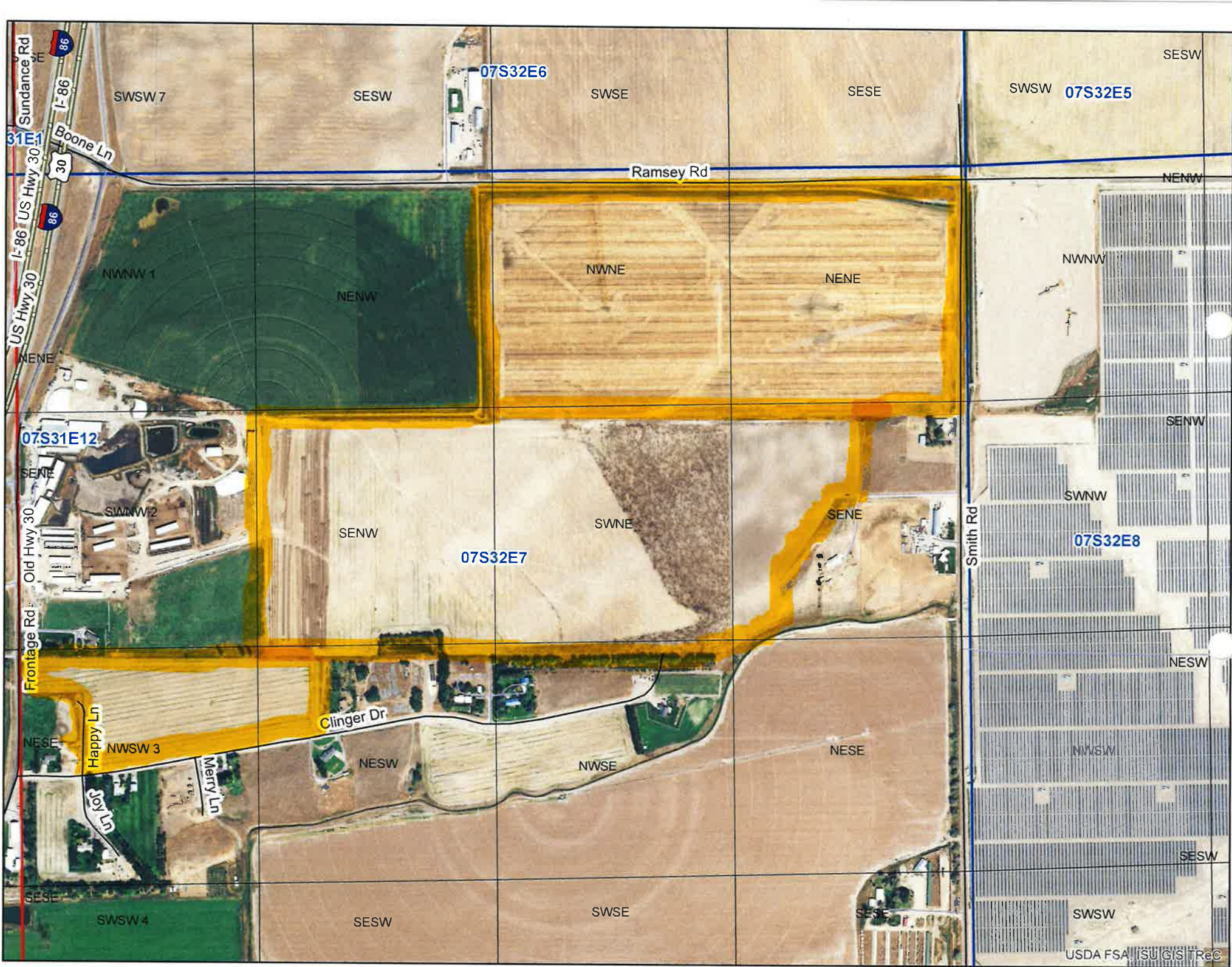
**Sandra Beer Thiel**

Idaho Department of Water Resources  
322 East Front Street  
Boise, Idaho 83720-0098  
(208)287-4881  
[sandra.thiel@idwr.idaho.gov](mailto:sandra.thiel@idwr.idaho.gov)

## Clinger Lease / Falls Irrigation District Rental

-  Lease/Rental Points of Diversion      Township/Range  
 Rental Place of Use      Sections  
 Lease Place of Use     QQ





**Thiel, Sandra**

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**From:** Falls Irrigation District <fallsirr@cableone.net>  
**Sent:** Monday, June 25, 2018 11:08 AM  
**To:** Thiel, Sandra  
**Subject:** Falls Irrigation District map on grounds to be used  
**Attachments:** Map clinger IDWR.pdf

Sandra,

Thank you for the imaging I highlighted the areas of use. Let me know if there's any question's.

**Thanks,  
Shawn Tischendorf  
Falls Irrigation District  
(208)226-5227**

