STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 271

RECEIVED
AUG 15 2018
DEPARTMENT OF WATER RESOURCES

This is to certify that:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

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)
22-380C	6/1/1896	SPRING CREEK, tributary to Teton River	0.110	20.3	5.8	0.019	3.5
Rental Totals			**0.110**	**20.3**	**5.8**	**0.019**	**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, 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: $559.21 annually

The full fee for the rental of the above-described right(s) is $559.21, calculated on an owner fee of $508.37 per year for years 2018 – 2022, and an administrative fee of $50.84 per year for years 2018 - 2022.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)
MINIMUM STREAM FLOW	0.110	20.3
Rental Total	0.110	20.3

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 271

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 _____ Date 8/31/2018

CYNTHIA BRIDGES CLARK
Printed Name

WATER PROJECTS 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 _____ Date 8/31/2018
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Rental approved by IDWR _____ Date 8-31-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 271

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

TETON RIVER	NWNE	Sec. 20, Twp 07N, Rge 44E,	TETON County
TETON RIVER	SESW	Sec. 23, Twp 06N, Rge 44E,	TETON County

BENEFICIAL USE	DIVERSION RATE	VOLUME
MINIMUM STREAM FLOW	0.11 CFS	20.3 AF

SEASON OF USE

Water Right No.	From	To
22-380C	4/15	10/31

RENTERS PLACE OF USE: MINIMUM STREAM FLOW
Place of Use is instream between the first Point of Diversion and the second Point of Diversion, within the Idaho Water Resource Board's Minimum Stream Flow Right No. 22-7369.

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

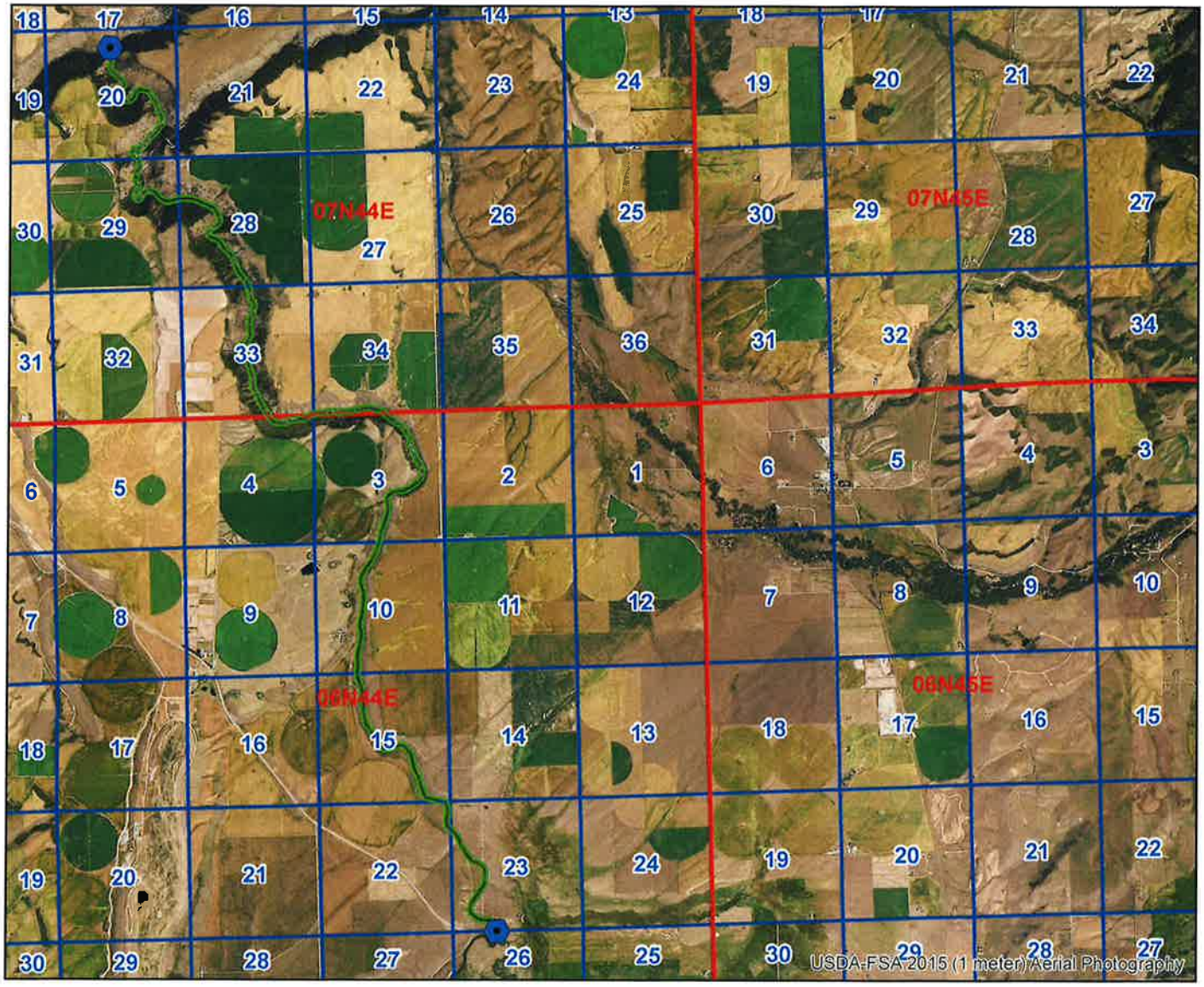
1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption 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 under this agreement will be regulated by a Watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
10. The quantities delivered to the new points of diversion are limited to the flow rates available to water rights 22-13536 and 22-11579 at the original point of diversion (Tetonia Canal) minus any channel losses that occur between the original point of diversion and the new points of diversion.

Idaho Water Resource Board

Attachment to Water Supply Bank Rental Agreement No. 271

Effective until December 31, 2022

This map depicts the MINIMUM STREAM FLOW rental place of use pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



Water Supply Bank Rental POD

Rental_POU

Township/Range

Sections

N

0 1 2 Miles

Form 42-1761-2 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
JUL 11 2018
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)

22-00380C

1128

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Idaho Water Resource Board

Mailing Address 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 Amy Cassel - Program Manager Professional Title Water Transaction Program

Organization IDWR Relationship to Applicant employee

Mailing Address 102 S. Warpath, Salmon, ID 83467

Email Address amy.cassel@idwr.idaho.gov Phone Number 208-742-0656

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 water right is to be rented for instream flow in the Teton River (22-7369), any water delivered to the minimum stream flow reach is beneficial for fish and wildlife in both the tributary where the water right was historically diverted and in the Teton River through the minimum stream flow reach.

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

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.11 CFS	AF	CFS	AF	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?	
4/15/2018	10/31/2022	☑ 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):

The water is rented for instream flow use - it is to remain in Spring Creek and then Teton River for delivery to the Teton River minimum streamflow water right.

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
POB for 22-7369	Teton River	22-7369

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: Instreamflow from: 04/15 (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**.

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:

22-7369 is the minimum streamflow water right held by the IWRB. This rental will support the goals of the Board's Water Transaction Program by helping to sustain flow for Yellowstone cutthroat trout.

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)
22-00380C	Irrigation	0.11		5.8		0.11		
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	0.11		
						CFS	AF	AC

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

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

N/A

C. Does your rental request propose to change the nature of use for any water right(s) being rented? Yes ☑ No ☐

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

Rather than being diverted and used for irrigation, the water right will remain in Spring Creek thereby supporting flow in Spring Creek and the Teton River.

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:

This lease/rental package was previously authorized by the IWSB for a five year term, extending from 2013-2017. The water rights are not currently for sale, so the IWSB is, again, an appropriate tool for the IWRB to rent this particular water right to acheive the goals of the Board's Water Transaction Program.

B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☑

If yes, describe:

C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☑

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

D. Additional Information

The water right is to be rented for the beneficial use of instream flow in the Teton River (22-7369), through the Idaho Water Transactions Program. Applicant has entered into an agreement with the right holder to rent the water right for $3,019.85 (over 5 year term), and to pay the 10% rental fee ($301.96).

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 BRIAN PATTON FOR THE IDAHO WATER RESOURCE BOARD	Date 6/22/2018
Signature of Representative	Printed Name of Representative	Date

Mail to:

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

Attachment 2

State of Idaho

Department of Water Resources

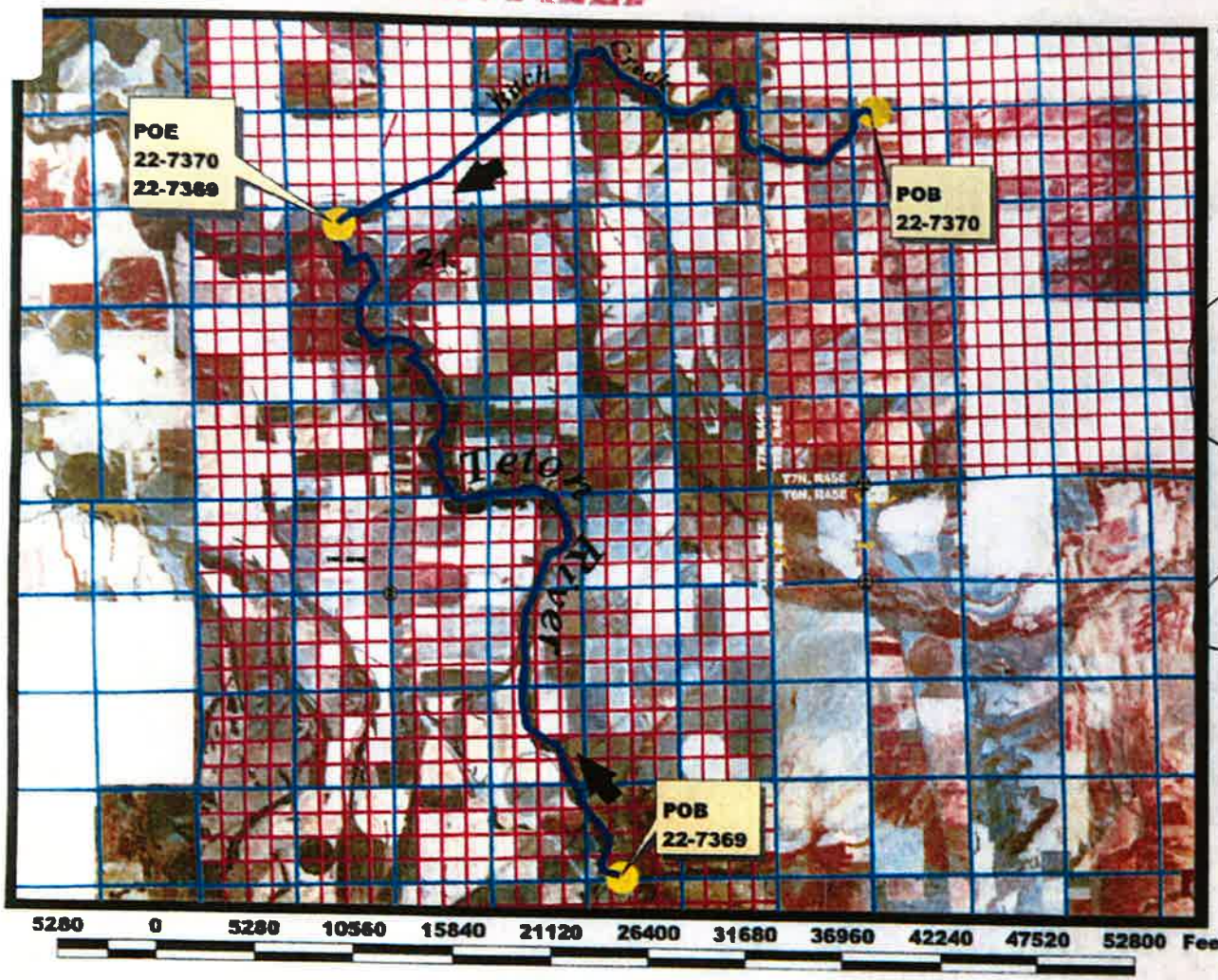
Eastern Region

PROFILED

SCANNED

FEB 1 0 ...

Connecton Version 3/28/05 ABR



Water Right(s):
22-7369, 22-7370

Point(s) of Diversion:
22-7369
T6N, R44E Sec. 23 SESW (POB)
T7N, R44E Sec. 20 NWNE (POE)
22-7370
T7N, R44E Sec. 20 NWNE (POE)
T7N, R45E Sec. 17 NWNW (POB)

Place of Use: Stream course from POB to POE.

LEGEND

- Point of Diversion
- SESE Place of Use
- Section
- Quarter-Quarter

GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: A. Ruberry
Date: June 2004

Water Right Lease Agreement

This lease agreement ("Lease Agreement") is made and entered into by and between the Idaho Water Resource Board, ("Board") and Richard LaVere Beard, ("Lessor")

RECITALS

A. WHEREAS, the Board has entered into contract with National Fish and Wildlife Foundation, under the authority of the Department of Energy, Bonneville Power Administration ("BPA"), which recognizes that the Board intends to develop and operate the Water Transaction Program ("Program") to lease water from willing Idaho water right owners to address water shortages including flow augmentation for Yellowstone cutthroat trout in the Teton River Watershed, one of the most important remaining populations of Yellowstone cutthroat trout in the State of Idaho (Management Plan for Conservation of Yellowstone cutthroat Trout in Idaho, Idaho Department of Fish and Game, 2007). Under the Program, water right owners will forego irrigation of land and place their water rights into the Idaho Water Supply Bank ("Bank") operated by the Idaho Department of Water Resources ("Department") on behalf of the Board.

B. WHEREAS, the Board solicited offers from the public to sell or lease water to facilitate the flow of additional water in the Teton River Watershed. In response, the Lessor submitted a proposal for participation in the Program. The proposal shows that the Lessor has a right to use water for irrigation, stockwater, or other consumptive purposes. Placing a portion of the Lessor's water in the Bank during the 2018 irrigation season and subsequent years will result in additional water in Spring Creek and the Teton River for the benefit of Yellowstone cutthroat trout.

AGREEMENT

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, the parties agree as follows:

I. **Description of Lease**

A. Lessor agrees to lease to the Board water right no. 22-00380C appurtenant to the 5.8 acres further described in the map incorporated herein, which is attached and labeled as Attachment A. Lessor agrees not to divert water under the right and to idle the land identified in Attachment A between April 15 and October 31 for the duration of the Lease Agreement.

B. The Lessor acknowledges and agrees that the water acquired under this Lease Agreement will be placed in the Bank for a term of five (5) years, and that the Lessor is offering the water right described herein to the Bank by signing this Lease Agreement. The Lessor agrees to provide any additional information that the Department may require to process or facilitate acceptance of the water right into the Bank. Failure to comply with Department requests for information or other requirements is cause for termination of this Lease Agreement.

C. Lessor warrants that it is the owner of the water right and land identified herein and possesses the right, title, and interest in the water and land or has obtained any necessary consent or approval to enter into this Lease Agreement. Lessor further warrants that it has not entered into any other type of agreement that would prohibit the Lessor from placing the water into the Bank.

II. Additional Conditions

A. If it is determined after the execution of this Lease Agreement that certain acres are not eligible under the Program because of a mistake, error, or misrepresentation in the Lessor's application, compensation will be reduced accordingly.

B. The Lessor's idled land will be monitored in accordance with Program requirements. The monitoring may include field visits, the collection and analysis of satellite data, and related flow measurements collected at the Board's discretion. The Lessor agrees to allow the collection of data and provide access for field visits.

C. The Lessor shall immediately notify the Board if there are any changes in ownership, or any encumbrances or liens placed upon, any of the real property or water right covered by this contract during the term of this Lease Agreement.

D. Lessor shall submit verification that Lessor complied with the terms of this Lease Agreement to the Board on or about October 31st of each year.

III. Payments

A. The Lessor agrees to lease and the Board agrees to compensate the Lessor for the rental of water described herein through payment from the Idaho State Water Supply Bank at a price of two thousand five hundred forty-one dollars and eighty-five cents ($2,541.85) over the contract term, consisting of five annual payments made to the Lessor in the amount of five hundred eight dollars and thirty-seven cents ($508.37). In addition, the Board will pay directly to the Bank a ten percent rental administration fee of two hundred fifty-four dollars and nineteen cents ($254.19) and, in accordance with Water Supply Bank Rules, IDAPA 37.02.03, the lease application fee of two hundred fifty dollars ($250.00).

B. Payment as shown in section III.A, above, is based upon a dollar amount per acre of land idled, regardless of the diversion rate or maximum diversion volume allowed under the water right, the historical diversion rate, or consumptive use under the water right, or the diversion rate or diversion volume approved for lease by the Department.

C. Pursuant to the Water Supply Bank Rules, IDAPA 37.02.03, after the water rights are rented from the Bank, payment is to be made by the Water Supply Bank to the Lessor. Payment is generally made on or about November 15th of each year, after the irrigation season and subject to final verification of Program compliance. However, the Board is not responsible for the Bank and cannot guarantee timely payment.

IV. Term, Termination of Agreement and Remedies

A. This Lease Agreement shall become effective on the date of the last signature hereto and shall extend through October 31, 2022.

B. At the Board's discretion, this Lease Agreement may be terminated upon:

(1) Failure of the Lessor to abide by the terms and conditions of the Lease Agreement;

(2) Refusal of the Lessor to provide representatives of the Board access to the land to monitor compliance with the Lease Agreement;

(3) Application of water by the Lessor to the lands during the period of this Lease Agreement, except in emergency situations where the application of water is required for public safety reasons;

(4) Discovery of fraudulent information submitted in the Lessor's Application.

C. If this Lease Agreement is terminated for any reason listed under section IV.B, or by the Lessor for any other reason, prior to its ending date, the Lessor shall reimburse the Board for a pro-rated portion of the amount stated in Section III.A of the Lease Agreement, as determined by the Board.

V. Miscellaneous

A. The Lessor is responsible for all taxes, assessments, soil conservation measures such as weed and erosion control and other obligations related to any of the lands described under this Lease Agreement.

B. The Lessor will indemnify and hold harmless the Board and the Department from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death, or property damage of any nature caused by the Lessor or any person, firm, or corporation acting on the Lessor's behalf related to or arising out of this Lease Agreement.

C. Lessor acknowledges and agrees that this Lease Agreement will be recorded in the records of the Department.

D. The terms of this Lease Agreement shall constitute a distinct transaction separate and apart from any potential efforts the Board may pursue in the future to purchase the water rights from the Lessor.

VI. Duplicate Originals

A. This Lease Agreement is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this Lease Agreement on the date following their respective signatures.

Richard LaVere Beard
Printed Name

Richard LaVere Beard
Signature

06-14-18
Date

Brian Patton, Bureau Chief
IDWR Planning Bureau

Signature

6/22/18
Date

STATE OF ID)
) ss.
COUNTY OF Teton)

On this 14th day of June, 20 18, before me, a Notary Public in and for the said State, personally appeared Richard Lavere Beard, known to me.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last written above.

STACY BODIS
Notary Public
State of Idaho

NOTARY PUBLIC for
Residing at 260 N 3rd E Driggs ID 83422
My Commission expires 12/22/2023, comm# 2017-1152

STATE OF IDAHO)
) ss.
COUNTY OF Ada)

On this 22 day of June, 20 18, before me, a Notary Public in and for the said State, personally appeared **BRIAN PATTON**, known to me as a Representative of the Idaho Water Resource Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last written above.

NICOLE REGENT
NOTARY
PUBLIC
STATE OF IDAHO

NOTARY PUBLIC for Idaho
Residing at Meridian, Idaho
My Commission expires 1/23/2023

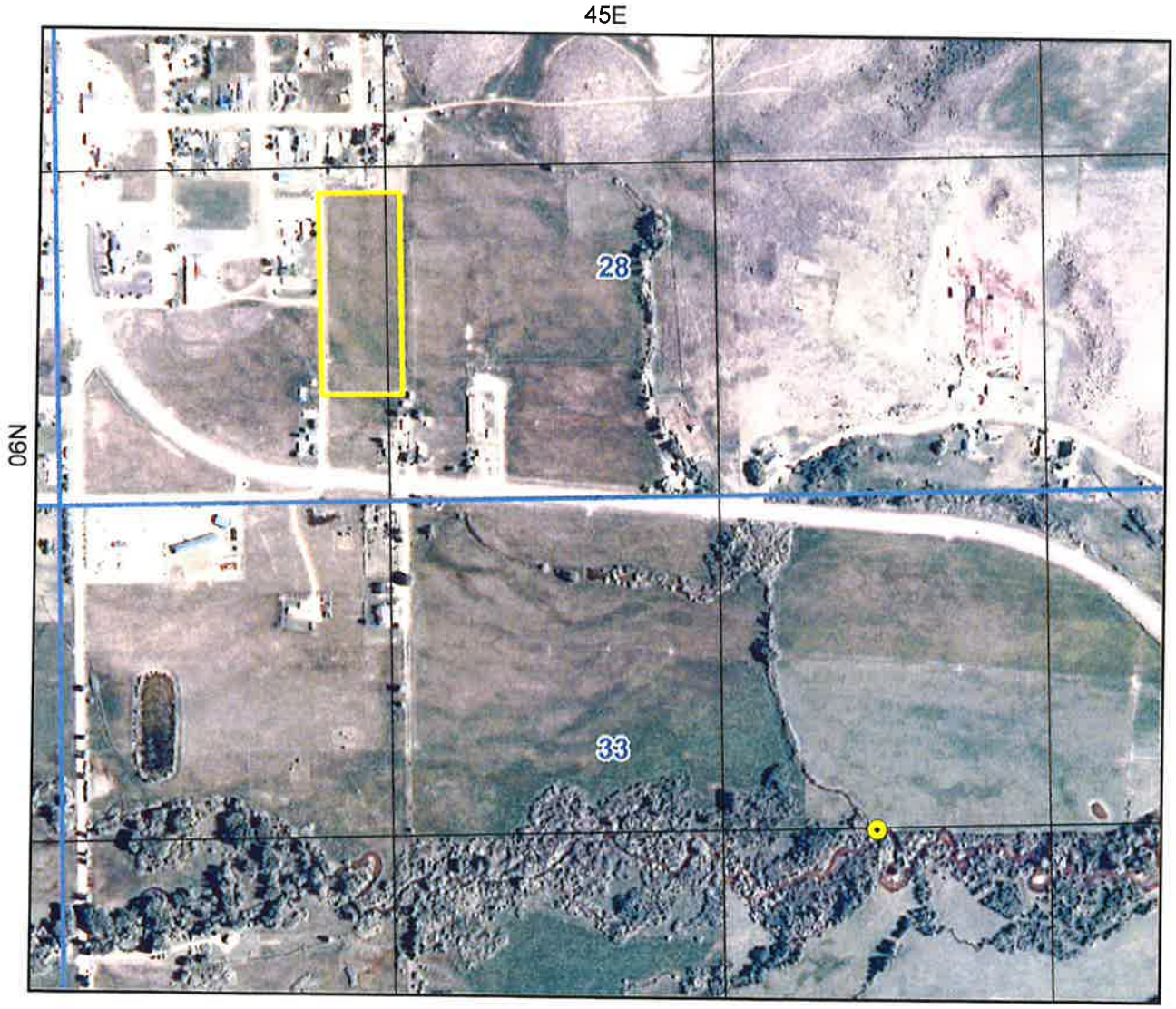
Attachment A

State of Idaho
Department of Water Resources

Water Right
22-380C

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Point of Diversion
Place Of Use Boundary
Townships
PLS Sections
Quarter Quarters

0 0.075 0.15 0.3 Miles

N

Map produced on June 14, 2018

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 31, 2018

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 22-380C

Dear Renter:

Please find enclosed a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 20.3 acre-feet of water for minimum stream flow use during 2018-2022. 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 right is $559.21, calculated on an owner fee of $508.37 per year for years 2018-2022, and an administrative fee of $50.84 per year for years 2018-2022. Note that the renter is obligated to pay only the administrative fee associated with the water right 22-380C. 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.

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

Sincerely,

Water Supply Bank

Enclosure: Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office
Lyle Swank – State Water District No. 01
Amy Cassel – IDWR
Sarah Lien – Friends of the Teton River

State of Idaho
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C.L. "BUTCH" OTTER
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GARY SPACKMAN
Director

August 14, 2018

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 22-380C

*****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.

The full fee for the rental of the above-described right is $559.21, calculated on an owner fee of $508.37 per year for years 2018 – 2022, and an administrative fee of $50.84 per year for years 2018 - 2022.

Please send a check for $559.21 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement**, **within 14 days** so I can complete processing.

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

Sincerely,

Water Supply Bank

Enclosure

c: IDWR Front Desk
Sascha Marston - IDWR

Condon, Mary

From: Condon, Mary
Sent: Thursday, August 09, 2018 10:08 AM
To: Olenichak, Tony
Cc: Webster, Clay; Buyer, Remington
Subject: RE: Rental Reviews for IWRB - Basin 22

Tony,

Thank you for your explanation of this proposed condition. I think it is reasonable to add and makes sense to prevent injury.

Mary

From: Olenichak, Tony
Sent: Thursday, August 09, 2018 9:14 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>; Swank, Lyle <Lyle.Swank@idwr.idaho.gov>
Subject: RE: Rental Reviews for IWRB - Basin 22

Mary,

To clarify the quantity of water to be delivered at the proposed new points of diversion, it may be helpful to add the following condition to the Rental Review Memo and/or the Rental Agreement to prevent injury to other water rights:

The quantities delivered to the new points of diversion are limited to the flow rates available to water rights 22-13536 and 22-11579 at the original point of diversion (Tetonia Canal) minus any channel losses that occur between the original point of diversion and the new points of diversion.

For example, let's say there is zero cfs available to the two water rights at the Tetonia Canal but there are downstream gains in Spring Creek/Teton River that are available to fill the priorities of the two water rights further downstream at the new points of diversion. In this situation zero natural flow would be delivered to the two new points of diversion under these rights. Otherwise, there is a potential for injuring water rights downstream from the original point of diversion if water is allowed to be delivered to 22-13536 and 22-11579 that wouldn't have been delivered at the original point of diversion.

Additionally, if the full amounts were available to the two water rights at the Tetonia Canal but there were downstream losses in Spring Creek/Teton River between the Tetonia Canal and the new points of diversion, the amount of water delivered to the new points of diversion can't exceed the amounts available at the Tetonia Canal minus the conveyance losses to the new points of diversion to avoid injury to other existing rights.

Tony

From: Condon, Mary
Sent: Wednesday, August 08, 2018 11:24 AM

To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Swank, Lyle <Lyle.Swank@idwr.idaho.gov>
Cc: Olenichak, Tony <Tony.Olenichak@idwr.idaho.gov>
Subject: Rental Reviews for IWRB - Basin 22
Importance: High

Good morning, gentlemen,

Please see the attached rental review memo, move map and combined limits spreadsheet, and reply back as soon as possible with comments or concerns. This is part of the lease rental packages, in which Friends of the Teton River will need to have the contracts and agreements to submit applications for funding NLT August 15, 2018.

Also, if you would prefer I add a condition for the total combined rental limits with their water right 22-7369 for rate, or any other conditions which would be appropriate/necessary, please let me know. I have attached one of the four draft agreements, but I can send the other 3 agreements if need be.

Best,
Mary

Mary Condon
Water Supply Bank Specialist
Planning & Projects Bureau
Idaho Department of Water Resources
Main: (208) 287-4936
Fax: (208) 287-6700

MEMORANDUM FOR AGREEMENT #'s 268, 269, 270 & 271

To: Water Right(s) 22-11579, 22-13536, 22-11993, 22-380 B, 22-380 C

From: **Mary Condon**

Date: **August 3, 2018 (August 8, 2018)**

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

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PURPOSE/NARRATIVE: Rental applications 1125, 1126, 1127, & 1128 to rent received on July 11, 2018 from the Idaho Water Resource Board to increase water for minimum stream flow, as held by current water right 22-7369 for Teton River, for another five year period. The IWRB is working in partnership with Friends of the Teton River, and both are also working with the owners of the water rights requested for each rental application. This is a companion package, of which the corresponding leases contracts are 818, 819, 820 & 821.

According to information provided with the lease/rental applications, low flow conditions in Spring Creek occasionally prevent juvenile Yellowstone cutthroat trout from out-migrating to the Teton River in the fall, and fish-rearing habitat is compromised by elevated stream temperatures. To address fish habitat and fish propagation concerns, it is proposed that the water rights rented out to satisfy the IWRB minimum stream flow water right 22-7369.

AUTHORITY TO FILE: Rental applications were filed by Amy Cassel, the Salmon office Program Manager, and signed by Brian Patton for IWRB. On March 23, 2018, the proposal for a renewal of the lease rental was presented to the Board, and the members unanimously approved the applications and funding for this project. No concerns with authority to file.

WATER RIGHT VALIDITY: All five of the above listed water rights were decreed by the SRBA court on November 24, 2008 and then leased to the Water Supply Bank from 2013 through 2017. Five years did not elapse between the time of decree and the time of original lease to the Bank, and the water rights are now again proposed for rental. The POU's for all five water rights are idled from the surface water leases, as seen in 2015 and 2017 ArcMap Imagery. No concerns about water right validity or forfeiture.

INJURY TO OTHER WATER RIGHTS: Leased water rights will not be diverted into the Tetonia Canal, however the canal company has not requested any hold back in the lease of the entire rights and no injury to other canal users is expected. The City of Tetonia has municipal ground water rights which are not leased to the bank, and they do not have any other surface water rights for irrigation. It has not been made aware during past lease rental that the continued flow down Spring Creek and into the Teton River caused any injury.

ENLARGEMENT OF USE: Rented water rights will remain in Spring Creek, tributary to Teton River to help minimum streamflow for water right 22-7369, instead of diversion from Spring Creek into Tetonia Canal for delivery of irrigation water. Because it will stay instream, there is no concern of enlargement nor the need for reduced available volume normally associated with a change in use.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest. Repeat of previous 5 year lease rental, with no known public concern in contrast to the purpose.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho. Data reviewed on the USGS site for cfs discharge since January 1, 2010 to August 2018 for USGS 13052200 TETON RIVER AB SOUTH LEIGH CREEK NR DRIGGS ID. During that period, there were seven days in January and February of 2016 where the average daily discharge was less than the MSF. These rentals provide an additional 4.35 cfs to the minimum stream flow held by the IWRB of 106 cfs. During the last rental period of five years, the MSF was able to be met during the rented water rights Season of Use of April 15th to October 31st. Between 2002 and 2010, prior to the rental, there were significantly more days in which the MSF was not able to be met.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District # 01, and Basin 22 in Eastern Region.

An email requesting comment sent on August 8, 2018 to Region Manager and Watermaster for WD01; Condition "The quantities delivered to the new points of diversion are limited to the flow rates available to water rights 22-13536 and 22-11579 at the original point of diversion (Tetonia Canal) minus any channel losses that occur between the original point of diversion and the new points of diversion" was added per request by Assistant Watermaster for WD01.

Combined Limits of Rental Agreements for IWRB - Basin 22

		cfs	volume	acres	cfs/ac	af/ac
IWRB	22-7369	106	na	na		
Rental Combined Limits		4.35	499.8	142.8	0.030	3.5
		110.35				

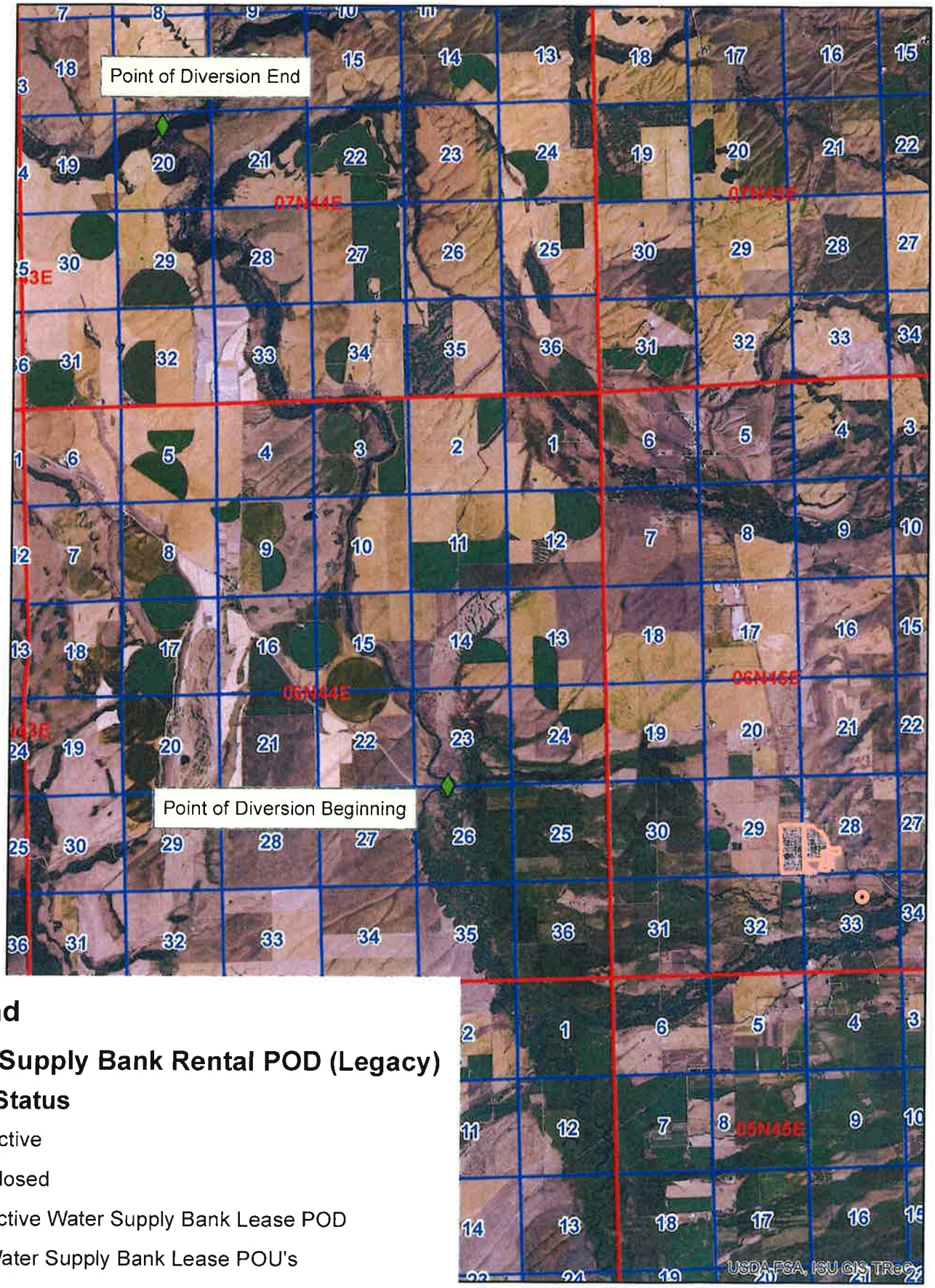
							Calculated Annual Rental fee			
							Total	Owner	Admin	
Tetonia	22-11579	1.5	262.5	75	0.020	3.5				
	22-13536	2.5	437.5	125	0.020	3.5	$20/AF	90%	10%	Admin only
combined Limits		4	437.5	125	0.032	3.5	$ 8,750.00	$ 7,875.00	$ 875.00	$ 875.00

							Calculated Annual Rental fee			5 years		
							Total	Owner	Admin	$ 3,725.13	total	
Ella Beard	22-11993	0.17	29.8	8.5	0.020	3.5	$87.65/ac	90%	10%	$ 3,352.61	90%	
combined Limits		0.17	29.8	8.5	0.020	3.5	$ 745.03	$ 670.52	$ 74.50	$ 372.513	10%	$ 372.51
			467.3									

							Calculated annual Rental fee			5 years		
							Total	Owner	Admin	$ 2,541.85	total	
Richard Be:	22-380C	0.11	20.3	5.8	0.019	3.5	$87.65/ac	90%	10%	$ 2,287.67	90%	
combined Limits		0.11	20.3	5.8	0.019	3.5	$ 508.37	$ 457.53	$ 50.84	$ 254.185	10%	

							Calculated Rental fee			5 years		
							Total	Owner	Admin	$ 1,230.00	total	
Mitch Sma:	22-380B	0.07	12.3	3.5	0.020	3.5	$20/AF	90%	10%	$ 1,107.00	90%	
combined Limits		0.07	12.3	3.5	0.020	3.5	$ 246.00	$ 221.40	$ 24.60	$ 123.000	10%	

Mo e Map 2018-2022 Ba in 22
IWRB Minimum Stream Flow Rentals



Legend

Water Supply Bank Rental POD (Legacy)

RentalStatus

- Active
- Closed
- Active Water Supply Bank Lease POD
- Water Supply Bank Lease POU's
- Township/Range
- Sections

MEMORANDUM

To: **Remington Buyer, Idaho Water Supply Bank**

From: **Sarah Lien, Friends of the Teton River** SL

Date: **June 14, 2018**

Re: **Spring Creek Water Lease/Rentals - Teton Basin Water Transactions Programs**

Spring Creek is a tributary to the upper Teton River, near Tetonia, Idaho. The tributary offers excellent fish and wildlife habitat and historically supported a robust Yellowstone cutthroat trout population. There are several active diversions on Spring Creek that annually create low flow conditions. Low flow conditions occasionally prevent juvenile Yellowstone cutthroat trout (age class 0-1) from out-migrating to the Teton River in the fall, reduce valuable rearing habitat, and increase stream temperatures. Restoring flows in Spring Creek will have a positive impact on the fishery as a whole and help encourage the recovery of Yellowstone cutthroat trout populations in the upper Teton River.

Friends of the Teton River and the Idaho Water Resource Board (IWRB) have been working with four water right owners who divert water at the Tetonia Canal point of diversion off of Spring Creek. These four water right owners include the following: The City of Tetonia (water right nos. 22-11579 and 22-13536), Mitchell Smaellie (water right no. 22-00380B), Richard LaVere Beard (water right no. 22-00380C), and Ella Beard (water right no. 22-11993). Each is committed to leasing their water rights into the Idaho Water Supply Bank, to be rented by the IWRB for delivery to the Teton River minimum stream flow (water right no. 22-7369), through Idaho's Water Transaction Program. The IWRB voted unanimously on March 23, 2018 to approve each of these transactions and, at that time, passed funding resolutions authorizing the expenditure of funds by the IWRB to fund the lease and rental of these water rights through the Idaho Water Supply Bank.

Two of the water right owners – the City of Tetonia and Mitchell Smaellie – have *donated* their rights to the Idaho Water Transaction Program, to be put into the Water Supply Bank for a term of five years. The value of the water rights, and therefore the Board's 10% Administrative Rental Fee, has been calculated utilizing the protected portion of the water rights (at 3.5 AF/acre) and the current base rental rate in the Water Supply Bank (of $20/AF). Based upon these assumptions, it is anticipated that the rental and lease fees will be as follows:

City of Tetonia

- Water Right Nos.: 22-11579 and 22-13536 (125 irrigated acres)
    - Duration of Lease: 5 years
    - Anticipated Water Supply Bank Fees:
        - **Lease Application Fee: $500** ($250/water right)
        - **10% Administrative Rental Fee: $4,375** (125 irrigated acres * 3.5 AF/acre * $2.00/AF (10% of regular rental rate of $20.00/AF) = $875.00 * 5 years = $4,375)

Mitchell Smaellie

- Water Right # 22-00380B (3.5 irrigated acres)
    - Duration of Lease: 5 years
  - Anticipated Water Supply Bank Fees:
    - **Lease Application Fee: $250**
    - **10% Administrative Rental Fee: $122.50** (3.5 irrigated acres * 3.5 AF/acre * $2.00/AF (10% of the regular rental rate of $20.00/AF) = $24.50 * 5 years = $122.5

The other two water right owners – Richard LaVere Beard and Ella Beard – shall be compensated through the Idaho water Transaction Program for leasing their water rights into the Water Supply Bank for a term of five years. Bob Loucks conducted an agricultural valuation of the water rights, valuing them at $87.65/acre. The valuation is based upon the historical use of the water rights, which included generating one cutting of hay and then pasturing the aftermath. It is anticipated that the Boards 10% Administrative Rental Fee will be calculated based upon the landowner payment of $87.65 per acre per year, as follows:

Richard LaVere Beard

- Water Right # 22-00380C (5.8 irrigated acres)
    - Duration of Lease: 5 years
    - Total Rental Price of the Water Right: $2,541.85 (5.8 acres * $87.65/acre) = $508.37 * 5 years = $2,541.85)
  - Anticipated Water Supply Bank Fees:
    - **Lease Application Fee: $250**
    - **10% Administrative Rental Fee: $254.19** (Total rental price of the water right calculated at $2,541.85 * 10% = $254.19)

Ella Beard

- Water Right #22-11993 (8.5 irrigated acres)
    - Duration of Lease: 5 years
    - Total Rental Price of the Water Right: $3,725.13 ((8.5 acres * $87.65/acre) = $745.03 * 5 years = $3,725.15))
  - Anticipated Water Supply Bank Fees:
    - **Lease Application Fee: $250**
    - **10% Administrative Rental Fee: $372.52** (Total rental price of the water right calculated at $3,725.15 * 10% = $372.52)

These water right lease/rental packages were previously approved by the Idaho Water Supply Bank, with terms extending from 2013 – 2017. At that time, the water rights and the proposed lease/rental applications were reviewed by Lyle Swank and Tony Olenichak of Water District 1 (WD1). No concerns were raised with the ability to deliver the water through the reach of concern (located on Spring Creek) to the new point of diversion (located on the Teton River). Nor was any injury to other water users, junior or senior, identified. These assessments proved accurate throughout the term extending from 2013 - 2017. E-mail correspondence from Mr. Swank and Mr. Olenichak regarding this matter has been attached to this briefing memorandum.

In the event that you have any questions please do not hesitate to contact me by email at sarah@tetonwater.org or by phone at (208) 354-3871.