

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 258**

**RECEIVED**

JUL 10 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)
75-4200	5/1/1930	HAT CREEK	1.28	86.45	24.7	0.052	3.5
75-4199	5/1/1930	BIG HAT CREEK	0.29	26.95	7.7	0.038	3.5
75-2137	1/11/1960	BIG HAT CREEK	0.63	77.35	22.1	0.029	3.5
<b>Combined Rental Totals</b>			<b>2.20</b>	<b>190.75</b>	<b>54.5</b>	<b>0.040</b>	<b>3.5</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: \$381.50 annually

The full fee for the rental of the above-described right(s) is \$3,815.00 per year for years 2018 - 2022. The rental fee includes an administrative fee of \$381.50 per year for years 2018 - 2022. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 75-4200, 75-4199, and 75-2137.

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	0.32	136.15
<b>Combined Total</b>	<b>0.32</b>	<b>136.15</b>

*\* The authorized water usage reflects a reduction from the water right elements rented, to account for combined limits and the change in the nature of use.*

Detailed water right conditions are attached.

SUPPORT DATE

IN FILE # 75-2137

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 258**

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

6/8/2018  
\_\_\_\_\_  
Date

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   
\_\_\_\_\_  
BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

Date 7/11/2018  
\_\_\_\_\_

Rental approved by IDWR   
\_\_\_\_\_

Date 7-11-2018  
\_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 258**

**WATER USE DETAILS**

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

BIG HAT CREEK                      NESE              Sec. 8, Twp 17N, Rge 20E,                      LEMHI County

**BENEFICIAL USE**

MINIMUM STREAM FLOW

**DIVERSION RATE**

2.20 CFS

**VOLUME**

190.75 AF

**SEASON OF USE**

**Water Right No.**

**From**

**To**

75-2137	4/1	10/31
75-4199	4/1	10/31
75-4199	4/1	10/31
75-4200	4/1	10/31
75-4200	4/1	10/31

**RENTERS PLACE OF USE: MINIMUM STREAM FLOW**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	20E	8													X				X
17N	20E	9			X	X					X	X				X			X
17N	20E	10							X		X	X		X			X		X
17N	20E	14							X		X	X		X			X		X
17N	20E	15	X	X		X													X
17N	20E	23		X	X										X	X			X
17N	20E	24										X	X	X	X		X	X	X
17N	20E	25					X												X
17N	21E	19				X					X	X	X	X	X	X	X	X	X
17N	21E	20		X L2	X L2				X	X L2									X
					X L3					X L3									
										X L3									

**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.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 258**

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.

# Idaho Water Resource Board

## Attachment to Water Supply Bank Rental Agreement No 258

Effective until December 31, 2022

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



- Authorized Rental Point of Diversion
- Authorized Rental Place of Use
- Townships
- PLS Sections
- Quarter Quarters



USDA-FSA 2015 (1 meter) Aerial Photography

STATE OF IDAHO  
WATER RESOURCE BOARD

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

RECEIVED

MAR 30 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](http://idwr.idaho.gov/water_supply_bank).

MINIMUM REQUIREMENT CHECKLIST		
Check All Items as Either Attached (Yes) or Not Applicable (N/A)		
	Yes	
	<input checked="" type="checkbox"/>	Completed <i>Application to Rent Water from the Board's Water Supply Bank</i>
	<input checked="" type="checkbox"/>	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 checked="" type="checkbox"/>	<input type="checkbox"/> Authorization from the owner/operator of the rental point(s) of diversion
3H	<input checked="" type="checkbox"/>	<input 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)	
75-2137	75-4200
75-4199	

1068

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant Idaho Water Resource Board  
 Mailing Address 322 East Front Street, PO Box 83720 Boise, ID 83720-4800  
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 Brian Patton Professional Title Water Planning & Projects Bureau Chief  
 Organization Idaho Dept Water Resources Relationship to Applicant \_\_\_\_\_  
 Mailing Address 322 E. Front St, PO Box 83720 Boise, ID 83720-4800  
 Email Address \_\_\_\_\_ Phone Number (208) 287-4800

**2. MAP**

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to irrigate. Attach the map to this application and label it **Attachment 2**.

**3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER**

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:

The rental of this water is intended to supply flow to the existing Hat Creek Minimum Stream Flow Water Right No. 75-14189. It will also restore the natural flow in Big Hat Creek, improving ESA-listed bull trout habitat.

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

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
2.4 CFS	222.95 AF	2.4 CFS	AF	63.7 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	6/01/2018	<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):  
Water will remain instream.

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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
75-2137	Big Hat Creek	75-4200
75-4199	Big Hat Creek	N/A
75-4200	Hat Creek	75-2137

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

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

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

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

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

- Irrigation \_\_\_\_\_ (number of acres) Duration: Subject to IDWR standard seasons of use
- Commercial from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)
- Stockwater from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)
- Industrial from: \_\_\_\_\_ (mm/dd) to: \_\_\_\_\_ (mm/dd)
- Other: Instream Flow from: 04/01 (mm/dd) to: 10/31 (mm/dd)

J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A  Yes  No   
If yes, justify the rate of flow and attach any supporting documents as **Attachment 3J**. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

N/A

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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:  
Water is for instream use only.

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**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

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)
75-2137	Irrigation	0.76	93.5	26.7	0.76	93.5		
75-4199	Irrigation	0.47	43.1	12.3	0.47	43.1		
75-4200	Irrigation	1.28	86.5	24.7	1.28	86.5		
<b>Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank</b>					<b>TOTAL</b>	2.51	223.1	
						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

Yes  No

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

The rental proposes renting the full standard head gate requirement of 3.5 AF/acre at the original POD's and delivering the standard consumptive use volume of 2.5 AF/acre to the Hat Creek MSF.

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:

The Idaho Water Resource Board has been renting water rights 75-2137, 75-4199, and 75-4200 since 2015. The Water Transaction Program is currently seeking a long term solution.

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:

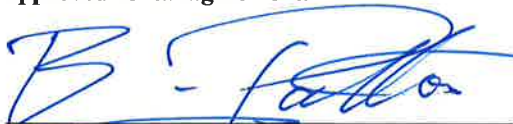
C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes  No

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

D. Additional Information

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

BRIAN PATTON  
for the  
IWRB  
Printed Name of Applicant

3/30/16  
Date

Signature of Representative

Printed Name of Representative

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

July 12, 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 NOS. 75-2137, 75-4199, and 75-4200**

Dear Renter:

Please find enclosed a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 190.75 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.

Pursuant to the Water Supply Bank Rules, a rental fee of \$3,815.00 per year is for years 2018 - 2022. The rental fee includes an administrative fee of \$381.50 per year for years 2018 - 2022. Note that the renter is obligated to pay only the administrative fees associated with the water rights: 75-2137, 75-4199, and 75-4200. 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,

*for* Water Supply Bank

Enclosure: Rental Agreement (copy)

c: Sascha Marston – Fiscal  
James Cefalo – IDWR Eastern Regional Office  
Amy Cassel – IDWR Salmon



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

June 7, 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 NOS. 75-2137, 75-4199, and 75-4200**

**\*\*\*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.

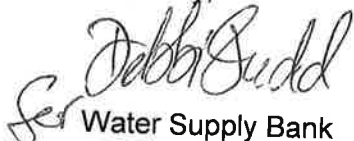
A rental fee of \$3,815.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 190.75 acre-feet.

**Please send a check for \$3,815.00** 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 \$3,433.50 of the rental fee will be paid to the lessor(s) and 10% or \$381.50 will be retained by the Department to offset administrative costs.

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

Sincerely,

  
For Water Supply Bank

Enclosure

c: IDWR Front Desk

**MEMORANDUM**

**To:** Right(s) 75-2137, 75-4199, and 75-4200

**From:** Michele Edl

**Date:** May 3, 2018

**Re:** Review & Analysis of IWRB Lease Application #1069 and Rental Application #1068 package to the State Water Supply Bank

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**PURPOSE/NARRATIVE:** On March 30, Idaho Water Resource Board (IWRB) submitted a lease and rental package for Water Rights 75-2137, 75-4199, and 75-4200 on behalf of Erik F. Storlie. The applications requested a five-year duration for both the lease and the rental. The water will be rented but not used. Instead, it will support the minimum stream flow (MSF) established for Hat Creek under WR# 75-14189. The destination reach for the water from Hat Creek is 17N 21E section 20, at the confluence with the Salmon River.

**AUTHORITY TO FILE:** The IWRB is the only entity with the authority to establish a minimum instream flow in Idaho. The IWRB is the owner of record for SRBA decreed Water Right 75-14189, the minimum streamflow right for Hat Creek. In conjunction with the Columbia Basin Water Transaction Program, the Board also has the authority to make long-term funding commitments. A commitment to fund the lease fee and the rental fees for the next five years was made in the IWRB's March 23, 2018 meeting. Brian Patton signed the application on behalf of the IWRB.

**WATER RIGHT VALIDITY:** The requested rights are for irrigation and irrigation with stockwater uses and have been leased to the bank for several years. According to aerial photography, the water rights have been idled at the former place-of-use in sections 10 and 15 of Township 17N Range 20E. Forfeiture is not an issue at this time. The water rights are available for this rental but the requested rates and volumes are more than can be authorized for rent.

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

**ENLARGEMENT OF USE:** This lease-rental package required two adjustments to avoid enlargement of the water rights.

Three of four water rights owned by Storlie and Kaiser and irrigating the place of use were offered into the WSB in the lease. WR# 75-14494 was not leased to the WSB and it overlaps 4.6 acres of two of the leased rights. It overlaps WR# 75-2137 and WR# 75-4199. The amounts rentable from those rights were proportionally reduced to account for the overlap. To see that reduction, compare the two summary tables appearing under 1. **Water Rights:** of Lease Contract 793.

The rental required second reduction in the elements due to a change in nature of use from irrigation and irrigation and stockwater uses to a minimum stream flow use. Instead of being diverted from the stream, the rented water will remain in the stream. So to prevent enlargement of the rights, the standard for consumptive use volume was

used in calculations rather than the standard headgate volume. And because the leased diversion rates represent the maximum instantaneous rates rather than the rate that would be delivered to the creek continuously, the rented rates were also adjusted. The rate continuously available to the stream is based on a reverse calculation from the consumptive use volume. Renting these three rights will provide 0.32 cfs continuously. The calculation is  $136.15 \text{ af} / (214 \text{ days} \times 1.983)$ .

**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:** Comment was solicited from the WD#75 watermaster and from Eastern Region. Neither were opposed to this rental.

WR# 75-14494 has a combined use condition which ties it to WR# 75-4199. The condition states, "Right No's 75-4199 and 75-14494 are limited to the irrigation of a combined total of 51.2 acres in a single season." Because Right 75-4199 is limited to 12.3 acres and Right 75-14494 is decreed on 4.6 acres, limiting use of the two rights to 51.2 acres doesn't make sense. I have carried the condition forward, but it does not enter into any of my calculations.

Water Right No.	Rented Vol (AF)	Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$20 (2018-22)	Rental Amounts		
<b>IWRB Lease Contract 793- Rental Agreement 258</b>							
75-2137	77.35	\$1,392.30	\$154.70	\$1,547.00	Rate	Acres	Priority
75-4199	26.95	\$485.10	\$53.90	\$539.00		N/A	1960
75-4200	86.45	\$1,556.10	\$172.90	\$1,729.00		N/A	1930
Total	190.8	\$3,433.50	\$381.50	\$3,815.00	0.32	0.00	
calculated by Michele Edl							
75-2137	rate	volume	acre	af/ac	dfs/ac	CU Vol af/ac	comment
amended decree	0.76	93.45	26.7	26.7	3.5	0.028	
rentable	0.629	77.35	22.1	22.1	3.5	0.028	subtract 4.6 ac overlap of 75-14494
rented by IWRB	0.629	55.2	22.1	22.1	2.498	0.028	adjusted volume from HG to CU (3.5 to 2.5)
75-4199							
amended decree	0.47	43.05	12.3	12.3	3.5	0.038	
rentable	0.294	26.95	7.7	7.7	3.5	0.038	subtract 4.6 ac overlap of 75-14494
rented by IWRB	0.294	19.2	7.7	7.7	2.494	0.038	adjusted volume from HG to CU (3.5 to 2.5)
75-4200							
amended decree	1.28	86.45	24.7	24.7	3.5	0.052	limited to 43.6 ac with 75-14494; a nonsense limit
leased and rentable	1.28	86.45	24.7	24.7	3.5	0.052	no overlap with 75-14494
rented by IWRB	1.28	61.75	24.7	24.7	2.5	0.052	adjusted volume from HG to CU (3.5 to 2.5)
sum decreed values	2.51	222.95	63.7	63.7	3.5	0.039	limited to 68.3 ac w/75-2137, 75-4199, 75-4200, & 75-14494
sum rentable values	2.203	190.75	54.5	54.5	3.5	0.040	rate is instantaneous max, not continuous
rented by IWRB for MSF		136.15					subtract 9.2 ac (4.6x2) overlap of 75-14494
continuous rate	0.32083						based on total CU vol/(# days x factor)=136.15/(214*1.983)
not leased 75-14494	0.1		4.6	4.6	0	0.022	
	1.983						
	214						
<b>I believe that as a group the 3 rights were to be additive, not limited and that the 51.2-ac limit seen on 75-14494 is not correct.</b>							
	75-2137	75-4200	75-4199	75-14494			
	sec 10 SWNW	5.4	5.4				
	NESW	3.6	3.6				
	NWSW	10.5	0.6	9.9			
	SESW	25.0	11.0	25.0			
	SWE	14.1		3.1	2.6		
subtotal	58.6	17.0	41.6	2.6		overlap	
sec 15 NWNE	9.7	7.7	2.0	2.6		overlap	
total on amended decrees	68.3	24.7	43.6	4.6		overlap	

## Edl, Michele

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**From:** Cassel, Amy  
**Sent:** Tuesday, April 24, 2018 10:06 AM  
**To:** Edl, Michele; Yenter, Cindy; Cefalo, James  
**Subject:** RE: IWRB rental for MSF in Hat Cr

Hi Michele,

The Board is only covering the lease and rental fees – there is no payment to the water user. And this will be a 5 year lease/rental. The Board's resolution was executed on March 23, 2018.

Thanks,  
Amy

**From:** Edl, Michele  
**Sent:** Monday, April 23, 2018 5:50 PM  
**To:** Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Cc:** Cassel, Amy <Amy.Cassel@idwr.idaho.gov>  
**Subject:** IWRB rental for MSF in Hat Cr

James, Cindy,

I have completed my review of a lease and rental package proposed by the IWRB. The Board has utilized three rights (75-2137, 75-4199 and 75-4200) for the same purpose Hat Creek's MSF for the last 5 years. This is in essence a 5-year renewal.

I have attached a copy of my review memo for the rental and the map showing the POUs and proposed POD. The yellow highlight in the memo is because I am unsure of the funding arrangements that the IWRB has made.

Please let me know if you have any questions or concerns about this rental.

Michele Edl  
208-287-4946

## Edl, Michele

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**From:** Cefalo, James  
**Sent:** Tuesday, April 24, 2018 9:07 AM  
**To:** Edl, Michele  
**Subject:** RE: IWRB rental for MSF in Hat Cr

Michele,

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

James

**From:** Edl, Michele  
**Sent:** Monday, April 23, 2018 5:50 PM  
**To:** Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>  
**Cc:** Cassel, Amy <Amy.Cassel@idwr.idaho.gov>  
**Subject:** IWRB rental for MSF in Hat Cr

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Michele Edl  
208-287-4946