

JUL 02 2018

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 259

This is to certify that:

FERGUSON BERMAN TRUST OF 1994

PO BOX 4103

HAILEY, ID 83333

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)
37-21849	3/24/1883	BIG WOOD RIVER	0.023	8.05	2.30	0.010	3.50
37-21866	7/10/1884	BIG WOOD RIVER	0.001	8.05	2.30	0.001	3.50
37-21883	9/18/1885	BIG WOOD RIVER	0.013	8.05	2.30	0.006	3.50
37-21900	6/12/1886	BIG WOOD RIVER	0.001	8.05	2.30	0.001	3.50
37-21917	6/15/1891	BIG WOOD RIVER	0.013	8.05	2.30	0.017	3.50
37-21842	9/25/1954	GROUND WATER	0.046	8.05	2.30	0.020	3.50
Combined Limit Totals			0.078	8.05	2.30	0.034	3.50
37-21858	3/24/1883	BIG WOOD RIVER	0.064	17.50	5.00	0.013	3.50
37-21875	7/10/1884	BIG WOOD RIVER	0.004	17.50	5.00	0.001	3.50
37-21892	9/18/1885	BIG WOOD RIVER	0.040	17.50	5.00	0.008	3.50
37-21909	6/12/1886	BIG WOOD RIVER	0.004	17.50	5.00	0.001	3.50
37-21926	6/15/1891	BIG WOOD RIVER	0.104	17.50	5.00	0.021	3.50
37-2557R	9/25/1954	GROUND WATER	0.080	14.00	4.00	0.020	3.50
Combined Limit Totals			0.216	17.50	5.00	0.043	3.50
Combined Rental Totals			0.313	25.55	7.30	0.043	3.50

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2018. 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: \$441.00

The full fee for the rental of the above-described right(s) is \$441.00 for 2018. The rental fee includes an administrative fee of \$44.10 for 2018.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	0.13	22.0	6.3	0.02	3.5
Combined Total	0.13	22.0	6.3	0.02	3.5

* The authorized water usage reflects a reduction from the water right elements rented, to account for the rental only of ground water rights, at a maximum per-acre diversion rate and volume of 0.02 cfs and 3.5 afa.

SUPPORT DATA

Detailed water right conditions are attached.

IN FILE # 37-2557R

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 259

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:

Christine Ferguson

Signature of Renter

6-27-18

Date

Christine Ferguson

Printed Name

Christine Ferguson, Trustee

The Ferguson Berman Trust of 1994

*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

7/3/2018

Rental approved by IDWR

Cheryl Wata

Date

7-3-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 259

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec. 12, Twp 01N, Rge 18E, BLAINE County

BENEFICIAL USE
IRRIGATION

DIVERSION RATE
0.13 CFS

VOLUME
22.0 AF

SEASON OF USE

Water Right No.	From	To
37-2557R	4/15	10/31
37-21842	4/15	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	
01N	18E	12													6.3				6.3

Total Acres: 6.3

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. Renter shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this rental and shall only divert groundwater under this rental when water from the appurtenant surface water rights cannot be delivered to the right holder.
10. Supplemental ground water rights authorized to be diverted under this rental shall not be used if the surface water right(s) appurtenant to the rental place of use is sold, transferred, leased or used on any other place of use.

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WATER SUPPLY BANK RENTAL AGREEMENT No. 259

11. Use of water rights under this rental agreement, when combined with all other rights, shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
12. Rental does not authorize construction of a well.
13. Use of water under this agreement will be regulated by a water master 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. 37.
14. Diversions of surface water under water right 37-685C, when combined with ground water authorized to be diverted under this rental, shall not exceed a total diversion rate of 3.0 cfs and a total annual maximum diversion volume of 178.0 af at the field headgate, for the irrigation of 61 acres.
15. Place of use is located within Lot 2 of Silver Creek Farms Subdivision.

Idaho Water Resource Board
Water Supply Bank Rental Agreement

Effective until December 31, 2018

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



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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 13 2018

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: Ferguson Berman Trust of 1994 c/o Christine FergusonIs this application being submitted with a lease application as a lease/rental package?
If yes, specify companion water rights in Section 4Yes ☐ No ☒

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)

1024

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Ferguson Berman Trust of 1994 c/o Christine Ferguson

Mailing Address P.O. Box 4103 Hailey, ID 83333

Street

City

State

Zip Code

Email Address christineferguson@me.com

Phone Number 208-720-4509

- 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 Zach Latham

Professional Title Hydrologist

Organization Brockway Engineering PLLC

Relationship to Applicant Consultant

Mailing Address 2016 Washington St. North Suite #4 Twin Falls, ID 83301

Email Address zach.latham@brockwayeng.com

Phone Number 208-736-8543

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**:

Applicant seeks to rent 6.3 acres of a ground water right for irrigation when surface water rights appurtenant to the property are curtailed on priority.

- 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)
0.13 CFS	22.0 AF	0.13 CFS	22.0 AF	6.3 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?	
4/15/18	7/1/18	☒	☐	☐	☐	☐	☒ 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):

Existing well supplies water to existing irrigation system.

- 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
Existing Well	Ground Water	37-8614, 37-8615, 37-8616

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 6.3 (number of acres) Duration: Subject to IDWR standard seasons of use
☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
☐ Other: _____ from: _____ (mm/dd) to: _____ (mm/dd)

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

N/A.

- 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:

Applicant seeks to continue late season irrigation after 37-685C is cut on priority by the Watermaster.

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)
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	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**:

N/A.

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:

See 2015, 2016 and 2017 rental approvals for this place of use.

- 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.

N/A.

- D. Additional Information

Applicant seeks to rent any available ground water right (stacked or un-stacked) for the irrigation of 6.3 acres on applicant's property for the duration listed on page 2.

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

Christine Ferguson

Printed Name of Applicant

12/22/17

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
WATER RESOURCE BOARD

Water Modeling Requirement Information Sheet

Information on water modeling requirements for rental requests within special administrative areas

Important information on requesting rental water within special administrative areas: Refer to the information below to determine whether the modeling of potential impacts from your rental request is necessary. Use Section 4 of the rental application to identify selected water rights. **If you submit an application to rent water from within a special administrative area and water modeling is required, your rental request will be returned if water modeling is not provided.**

Water modeling may be required when an application to rent water involves one of two scenarios:

Scenario 1: The rental request proposes to divert water from a regulated water source and/or within a special administrative area AND the distance between the rental point(s) of diversion (POD) and the POD(s) for the leased water right(s) is greater than the administratively established, acceptable distance.

Regulated water sources may areas include:

- A. Ground water resources within the modeled area of the Eastern Snake Plain Aquifer (ESPA) and tributary aquifers;
- B. Ground water within Ground Water Management Areas (GWMAs) or Critical Ground Water Areas (CGWAs);
- C. Water resources within other specified administrative areas, as established by the Idaho Water Resource Board (IWRB) or the Idaho Department of Water Resources.

The distance between any rental POD(s) and the POD(s) for a leased water right to be rented is important. On the ESPA, distance is measured in terms of model cells that cover an area of one square mile. Ground water modeling is not required if lease POD(s) and rental POD(s) are located within the same model cell or within adjacent model cells. If the lease and rental PODs are separated by more than one model cell groundwater modeling must be completed using the IDWR ESPA Transfer Tool and modeling results must be submitted with the rental application. ESPA modeling tools can be accessed and freely downloaded from IDWR's website by visiting: www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.

Ground water modeling may be required within GWMAs, CGWAs or other regulated administrative areas. Applicants who desire to rent water within an established GWMA, CGWA or other regulated administrative area should consult IDWR's website before submitting their application to review the current status of administrative orders related to regulated administrative areas. Consult www.idwr.idaho.gov/WaterInformation/GroundWaterManagement/designated_areas.htm for information on GWMAs or CGWAs, visit <https://idwr.maps.arcgis.com/home/> to use mapping tools to find other regulated areas.

Applicants interested in renting water within a GWMA, CGWA or other regulated administrative areas should request water rights that have been leased into the Bank from within the same administrative area. Generally, the Bank will not permit a rental of water within a regulated administrative area if the leased water rights are not located within that same administrative area.

Scenario 2: A rental request proposes to divert water from a different but hydraulically connected water source.

Modeling situations may include:

- A. Rental requests that propose to divert surface water rights via ground water POD(s) (wells); and
- B. Rental requests that propose to divert ground water from one aquifer when the right being rented authorizes the diversion of ground water from a hydraulically connected, tributary aquifer.

Rental requests that propose to divert surface water rights from ground water points of diversion may be considered if ground water modeling establishes that the surface and ground water resources are directly and immediately hydraulically connected. An acceptable hydraulic connection occurs when at least 50 percent of the total depletions from a well are detectable from the original water source within a 24 hour period. The existing (leased) POD and proposed (rental) POD must be proximate such that diversion and use of water from the proposed POD would have substantially the same effect on the hydraulically-connected source as diversion and use of water from the original POD.

Requests to rent ground water across tributary aquifer sources may be considered if ground water modeling is provided to demonstrate that two aquifers are hydraulically connected and the anticipated impacts of diverting ground water from one source through the other is modeled accordingly.

For more information about rental application requirements, contact IDWR at (208) 287-4800.



0 100 200 400 Feet

FERGUSON BERMAN TRUST OF 1994
WATER SUPPLY BANK RENTAL 2018-22

BROCKWAY ENGINEERING, PLLC.
ICB - Date: 12/21/2017

2015 NAIP AERIAL

N

Point of Diversion

Parcel



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

July 3, 2018

FERGUSON BERMAN TRUST OF 1994
PO BOX 4103
HAILEY ID 83333

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-2557R, 37-21842, 37-21849, 37-21858, 37-21866, 37-21875,
37-21883, 37-21892, 37-21900, 37-21909, 37-21917, and 37-21926**

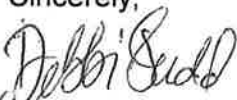
Dear Renter:

Please find enclosed a receipt in the amount of **\$441.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 22.05 acre-feet of water for irrigation of 6.3 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.

Pursuant to the Water Supply Bank Rules, 90% or \$396.90 of the rental fee will be paid to the lessor(s) and 10% or \$44.10 will be retained by the Department to offset administrative costs.

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

Sincerely,


S. Water Supply Bank

Enclosures: Receipt No. C105320
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Corey Skinner – IDWR Southern Regional Office
Kevin Lakey – State Water District No. 37
Zach Latham – Brockway Engineering



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

CARY SPACKMAN
Director

June 18, 2018

FERGUSON BERMAN TRUST OF 1994
PO BOX 4103
HAILEY ID 83333

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-2557R, 37-21842, 37-21849, 37-21858, 37-21866, 37-21875,
37-21883, 37-21892, 21900, 37-21909, 37-21917, and 37-21926

*****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.

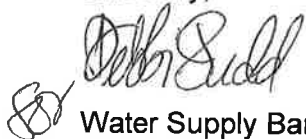
A rental fee of \$441.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 25.55 acre-feet.

Please send a check for \$441.00 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 \$369.90 of the rental fee will be paid to the lessor(s) and 10% or \$44.10 will be retained by the Department to offset administrative costs.

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

Sincerely,



Water Supply Bank

Enclosure

c: IDWR Front Desk
Zach Latham – Brockway Engineering

Memorandum

To: Water Rights 37-2557R, 37-21842

From: Remington Buyer

Date: June 04, 2018

Re: Water Supply Bank Rental Application 1024

Purpose/Narrative: This rental application was received on February 13, 2018 from the Ferguson Berman Trust of 1994, care of Christine Ferguson, through a representative consulting firm, Brockway Engineering, and it requests a rental authorization to irrigate 6.3 acres of a 6.9 acre parcel owned by the applicant south of the town of Bellevue. The parcel, Lot 2 of the Silver Creek Farms Subdivision, is authorized to be irrigated with Big Wood River surface water, delivered via water right 37-685C, however there is no ground water irrigation authorization for the property. The purpose of this rental is to secure an authorization to irrigate the property with ground water when surface water is no longer available to be delivered to the property.

Two supplemental irrigation ground water rights are located less than 0.5 miles east of the rental property and may suffice to satisfy the water use purposes of this rental. The two supplemental ground water rights (37-2557R and 37-21842) share a common priority date (September 25, 1954) and supplement lands authorized to receive Big Wood River surface water via water rights delivered via the Wood River Valley Irrigation District #45/Bellevue Canal infrastructure system.

Because the rental location is already primarily serviced with irrigation water from the Big Wood River, a rental to supplement surface water irrigation practices through ground water diversions is effectively equivalent to the decreed supplemental use of ground water for irrigation purposes authorized under the two water rights proposed for this rental.

A map submitted with the Water Supply Bank application indicates that the point of diversion (POD) for this rental is on the applicant's property (Lot 2), however they have also specified in the application paperwork that the POD is the same POD for ground water rights 37-8614, 37-8615 and 37-8616, which are all held in the name of Silver Creek Farms Homeowners Association (which is the same entity that holds water right 37-685C for irrigation of the rental property), however documentation for water rights 37-8614, 8615 and 8616 specify that the well is located on Lot 3 of the Silver Creek Subdivision. The spatial location for the well for all three rights is a centroid for the NESE QQ of Township 01N, Range 18E, Section 12, which is on Lot 2, not Lot 3.

A review of water right documentation indicates that it was originally intended that three different ground water PODs would be associated with Lots 1, 2 and 3 of the Silver Creek Subdivision. Although three wells were drilled (one per lot), during licensing, a single pump (in the well on Lot 3) was installed to provide ground water to the ponds associated with Lots 1, 2 and 3. As such, ground water rights 37-8614, 8615 and 8616 were all licensed as being from the same POD.

Authority to File: The property where rental water will be used is owned by the Ferguson Berman Trust of 1994, which is also the entity that has submitted the application (c/o Christine Ferguson). No concerns about authority to file. However, the well from which rental ground water will be diverted may be located on an adjacent parcel, which is not owned by the applicant. No confirmation regarding access to the adjacent parcel is provided. A condition will be place on the agreement to note that approval of a rental does not constitute an authorization to trespass on another property to access the intended rental well.

Water Right Validity/Forfeiture Evaluation: The water rights proposed to be rented were all decreed and timely leased into the Bank. They are valid and available for rental. However, water right 37-2557R is conditioned such that diversions of supplemental ground water under the right are not permissible if water right 37-2557R is separated from the primary surface water irrigation rights which are supplemented by 37-2557R. As such, to ensure 37-2557R remains viable for rental as a supplemental ground water irrigation right, it should be rented with its primary surface water rights, even if they are not deliverable or divertible. Moreover, because 37-2557R and 37-21842 shared a common ancestry, it is recommendable to rent the associated primary surface water rights with these supplemental ground water irrigation rights.

Water rights 36-8614, 8615 and 8616 are associated with this rental as also authorize ground water diversions via the same well specified to be used for this rental. The three water rights authorize diversion of ground water for fire protection and aesthetic storage water in ponds on Lots 1, 2 and 3. The ponds exist and there are no concerns that this rental will impact the validity of water rights 37-8614, 8615 and/or 37-8616.

Injury Evaluation: There is less than 0.5 miles distance between the authorized points of diversion of the leased water rights, and the point of diversion for the rental location. As such, it is not anticipated that diversions of ground water under this rental should differ significantly from diversions authorized at the leased locations and no injury appears evident. This rental may be approved, conditioned upon the right of water users to petition the Director to modify and/or cancel the rental, upon a showing of injury.

Water rights 37-8614, 37-8615 and 37-8616, when fully and simultaneously exercised, authorize a diversion rate of 0.15 cfs, which is the licensed diversion capacity of the well. This rental will be for 0.13 cfs. It is possible that ground water for irrigation will first be diverted to the ponds from which a pressurized irrigation system will be operated. Regardless, provided that rental water diversions do not inhibit domestic and aesthetic/fire protection pond diversions under water rights 37-8614, 37-8615 and 37-8616, injury should not occur under this rental.

Enlargement of Use: Ground water rights 37-2557R and 37-21842 supplement Big Wood River surface water irrigation rights. This rental proposes to supplement a Big Wood River irrigation water usage via ground water diversions, and as such, enlargement should not occur through the rental of water rights 37-2557R and 37-21842 for supplemental irrigation purposes. However, as noted above, to avoid enlargement, it is proposed that the primary surface water rights be rented with these supplemental ground water rights.

Local Public Interest: No information indicates this rental is contrary to local public interests.

Beneficial Use/Conservation of Water Resources: The rates of diversion appear consistent with irrigation water use and conservation practices.

Department/Watermaster Comments: Watermaster and regional comments will be requested.

Water Supply Bank Evaluation: Subject to no objections from IDWR regional office staff, or the Water District 37 Watermaster, it is recommended this rental be approved.

Buyer, Remington

From: Buyer, Remington
Sent: Monday, June 04, 2018 9:49 AM
To: Skinner, Corey; 'watermanager@cableone.net'
Subject: Ferguson Berman Trust Rental
Attachments: Rental Agreement.docx; Rental Review Memo.docx; RentalMap.pdf

Kevin, Corey,

Attached is a review memo and draft rental agreement for a ground water irrigation rental in the Bellevue Triangle. This is a continuation of rental water use at this location that has been approved in past years. Please advise if you have questions, comments or concerns.

Remington



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

FEB 13 2018

DEPARTMENT OF
WATER RESOURCES

January 8th, 2018

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

Re: Water Supply Bank Rental; Ferguson Berman Trust of 1994.

Dear Remington,

On behalf of the Ferguson Berman Trust of 1994 (Trust), Brockway Engineering is submitting a water supply bank rental application which proposes rent any available ground water right for the irrigation of 6.3 acres from the irrigation well on the Trust's property through the end of 2018. Currently, Big Wood River water right 37-685C is authorized to irrigate the Trust's property in its entirety. The Trust seeks to provide late season irrigation water from a rented water right when priority date cuts on the Big Wood River preclude 37-685C from being used. The Trust seeks to divert water rented from the WSB from an existing well on the property.

Please copy our office on all correspondence regarding this water supply bank rental application. Thank you for your assistance and if you have questions or comments, please don't hesitate to call.

Sincerely,

Zach Latham, M.S., Hydrologist

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

Enclosures: (1) Water Supply Bank Rental Application.
(1) Water Supply Bank Rental Map.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Cc: Ferguson Berman Trust of 1994 c/o Christine Ferguson