

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 235

This is to certify that:

ELEANOR C DEVENS REVOCABLE
TRUST
68 BEACON ST
BOSTON, MA 02108

RECEIVED

MAY 14 2018

DEPARTMENT OF
WATER RESOURCES

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

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-22822	9/1/1885	GREENHORN CREEK	0.137	8.40	2.40	0.057	3.50
37-2644E	11/16/1989	GROUND WATER	0.030	5.30	1.50	0.020	3.50
Combined Limit Totals			0.137	8.40	2.40	0.057	3.50
Combined Rental Totals			0.137	8.40	2.40	0.057	3.50

Term of Rental: This rental shall take effect when all parties have signed it and shall continue in effect until December 31, 2019

Annual Rental Fee:

2018 - 2019: \$168.00

The full fee for the rental of the above-described right(s) is \$168.00 per year for years 2018-2019. The rental fee includes an administrative fee of \$16.80 per year for years 2018 - 2019.

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)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	0.030	5.30	1.50	0.020	3.50
Combined Total	0.030	5.30	1.50	0.020	3.50

*** The authorized water usage reflects a reduction from the water right elements rented, because this rental agreement is specific only to ground water and not surface water.**

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 37-2644E

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT

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:

Glenor C. Downs

Signature of Renter

May 6, 2018

Date

Glenor C. Downs

Printed Name

Trustee

Title

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

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

By

Brian Patton

BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date

5/15/2018

Rental approved by IDWR

Chy Webb

Date

5-15-2018

WATER SUPPLY BANK RENTAL AGREEMENT No. 235

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec. 3, Twp 03N, Rge 18E, BLAINE County

Beneficial Use
IRRIGATION

Diversion Rate
0.04 CFS

Volume
5.3 AF

SEASON OF USE

Water Right No. **From** **To**
37-2644E 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	
03N	18E	3			2.0														2.0

Total Acres: 2.0

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
3. Use of water under this agreement 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.
4. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
5. 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.
6. 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.
7. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
8. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.
10. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
11. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No 235

Effective until December 31, 2019

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



0  250 Feet

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK

RECEIVED

JAN 05 2018

DEPARTMENT OF
WATER RESOURCESApplicant Name: ELEANOR DEVENS REVOCABLE TRUST

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)

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant ELEANOR DEVENS TRUST

Mailing Address 68 Beacon Street Boston MA 02108
Street City State Zip Code

Email Address eleanordevens@aol.com Phone Number 617-263-0482
(eleanordevens@aol.com) 208-578-2464

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☐ No ☒

If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative _____ Professional Title _____

Organization _____ Relationship to Applicant _____

Mailing Address _____

Email Address _____ Phone Number _____

2. MAP

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

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

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

I propose to irrigate 2 acres of the 2.84 acre property with
rented ground water from a well on the property.

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)
<u>.04CFS</u>	<u>7 AF</u>	<u>.04CFS</u>	<u>7 AF</u>	<u>2 AC</u>

* 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?	
<u>4/15/18</u>	<u>6/1/18</u>	☐ 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):

well on property connected to pressurized 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
<u>Well</u>	<u>ground water</u>	

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 2 (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.

- 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:

The property has a water right (37-22757) which is not easily divertible to the property and doesn't fully cover the acreage being requested to be covered by the rental ground water.

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**:

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

Yes ☐ No ☒

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

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

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? If yes, describe: Yes ☐ No ☒

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒
If yes, describe the date and location of the NOV.

- D. Additional Information

Subject to approval of this application it is my intention to continue to rent water for this acreage after the initial rental duration.

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.

Eleanor C. Devens

Signature of Applicant

ELEANOR C. DEVENS

Printed Name of Applicant

1/3/18

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.





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

May 16, 2018

ELEANOR C DEVEN REVOCABLE TRUST
68 BEACON ST
BOSTON MA 02108

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-2644E and 37-22822**

Dear Renter:

Please find enclosed a receipt in the amount of **\$224.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 8.4 acre-feet of water for irrigation of 2.0 acres during 2018. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

A payment in the amount of \$224.00 was received on April 12, 2018. Of this payment, \$168.00 will be applied to the 2018 season rental and the remainder will be applied to the 2019 season.

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

Sincerely,

Water Supply Bank

Enclosures: Receipt No. C104951
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Corey Skinner – IDWR Southern Regional Office
Kevin Lakey – State Water District No. 37
Cherie Palmer - IDWR Compliance Bureau



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

April 23, 2018

ELEANOR C DEVENS REVOCABLE TRUST
68 BEACON ST
BOSTON MA 02108

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-2644E and 37-22822**

*****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 \$168.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 8.4 acre-feet. An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please return the signed rental agreement, within 14 days so I can complete processing. A payment in the amount of \$224.00 was received on April 12, 2018. Of this payment, \$168.00 will be applied to the 2018 season rental and the remainder will be applied to the 2019 season.

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

Sincerely,

Water Supply Bank

Enclosures



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

April 5, 2018

ELEANOR C DEVENS REVOCABLE TRUST
68 BEACON ST
BOSTON MA 02108

RE: **APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK**
WATER RIGHT NOS. 37-2644E and 37-22822

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

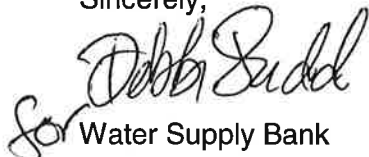
The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement the Department will also sign the original agreement 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 \$224.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 11.2 acre-feet. An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

A lease application fee of \$250.00 was received by the Department on December 1, 2017, which may be applied to either this rental or to a re-opened lease application. Pursuant to the Water Supply Bank Rules, 90% or \$201.60 of the rental fee will be paid to the lessor(s) and 10% or \$22.40 will be retained by the Department to offset administrative costs. **Please return the signed Rental Agreement within 14 days** and an indication of how you would like the funds applied so I can complete processing.

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

Sincerely,


for Water Supply Bank

Enclosures

c: IDWR Front Desk

Buyer, Remington

From: Buyer, Remington
Sent: Tuesday, April 03, 2018 12:46 PM
To: 'eleanordevens@aol.com'
Subject: Water Right 37-22757

Mrs. Devens,

The Idaho Department of Water Resources recently processed a withdrawal of your Water Supply Bank lease application for water right 37-22757 (application 910), and the lease application filing fee of \$250 (IDWR receipt ID C104359) for lease application 910 has been identified as available to be applied to a now pending Water Supply Bank rental application for you (application 972). The following summarizes the current state of your applications presently pending before the Department, and options available to you regarding water right 37-22757 and your irrigation rental request.

On December 1, 2017, the Idaho Department of Water Resources received from you an application to lease water right 37-22757 into the Water Supply Bank for years 2018 through 2022. Water right 37-22757 authorizes irrigation of 0.79 acres of Lot 9, within the Hyndman Peak Subdivision, using surface water diverted from the East Fork of the Wood River. Water right 37-22757 had previously been leased to the Water Supply Bank from 2013 through 2017.

While a water right is leased to the Water Supply Bank, the forfeiture provisions of Idaho Code 42-222(2) are tolled. Water right 37-22757 was protected from forfeiture for the period of 2013-2017 while it was in the Water Supply Bank. As a condition of the Water Supply Bank lease contract, the diversion and use of water authorized under 37-22757 was not to be exercised during the lease.

Our review of lease application 910 for water right 37-22757 revealed that the place of use (Lot 9 of the Hyndman Peak Subdivision) was actively irrigated during the term of the 2013-2017 lease contract. Subsequently, the Department inquired as to how the property was irrigated during the term of the 2013-2017 lease contract and it was revealed that the lease contract was not violated, as irrigation of the place of use for 37-22757 was accomplished not through diversion of East Fork Wood River surface water, but instead, through a diversion of ground water.

Lot 9, Hyndman Peak Subdivision does not feature a permit-exempt ground water domestic water right and diversions of ground water for irrigation of the property is unlawful. As such, you were advised that you should submit a rental request to obtain an authorization to irrigate Lot 9 of the Hyndman Peak subdivision with ground water. Rental application 972 was subsequently received by IDWR on January 05, 2018. This rental application has been approved and Water Supply Bank Rental Agreement 235, authorizing irrigation of the property with ground water during 2018 and 2019, will soon be going out to you for signature.

Once the rental agreement is signed and executed, you will be authorized to irrigate Lot 9, Hyndman Peak Subdivision with ground water, or with surface water from the East Fork of the Wood River. The annual rental fee for Rental Agreement 235 is \$224.00 for 2018 and 2019.

As stated above, the purpose of this email is to provide you with options moving forward with respect to lease application 910 and rental application 972. Specifically, the Department is inviting you to make a determination whether you would like to:

- 1) Maintain lease application 910 as withdrawn and apply the \$250 lease application filing fee to rental agreement 235, fully for year 2018, and partially to cover year 2019; or
- 2) Request that lease application 910 be re-opened, with the \$250 filing fee be applied toward the lease review, which would require a new payment of \$224 be provided for Rental Agreement 235.

The basis for our office providing you with the above options is that, although defenses to forfeiture provided for under Idaho Code 42-223 may be applicable to water right 37-22757 during the term of the Rental Agreement 235, our office

cannot guarantee the efficacy of any such defense. Stated differently, because the source of water and the area authorized to be irrigated under Rental Agreement 235 is different than the source of water and extent of irrigable area authorized under water right 37-22757, your use of water under Rental Agreement 235 might not constitute a full defense against forfeiture through the non-diversion and non-use of East Fork Wood River water for irrigation of Lot 9, Hyndman Peak Subdivision.

As such, we are asking that you review the above information thoroughly and consider whether you would like our office to re-open lease application 910, so that water right 37-22757 may be considered for lease to the Bank for years 2018 through 2022 (and thereby fully protected from forfeiture up until 2022), or, alternatively, whether you would like us to maintain lease application 910 as withdrawn, so that the lease application filing fee can be applied toward authorized water use under Rental Agreement 235 during calendar years 2018 and 2019.

Please feel free to contact me if you have any questions about the above.

Regards,

Remington Buyer

Water Supply Bank Coordinator

Idaho Department of Water Resources

322 East Front Street, Boise, ID, 83720

T: (208) 287-4918 | F: (208) 287-6700

Memorandum

To: Water Right(s): 37-22757, 37-2644E & 37-22822

From: Remington Buyer

Date: March 13, 2018

Re: Water Supply Bank Rental Application 972, Agreement 235

Purpose/Narrative: On January 5th, 2018 the Department received a request to rent ground water for five years (2018 through 2022), to authorize irrigation of 2.0 acres of a 2.9 acre residential property owned by the Eleanor Devens Trust, which is located adjacent the East Fork of the Wood River. Water right 37-22757 is appurtenant to property and authorizes irrigation of 0.8 acres with East Fork Wood River surface water.

This rental has been submitted following a December 2017 proposal by the applicant to lease water right 37-22757 to the Bank. Lease review revealed that the place of use for water right 37-22757 would not be idled during the term of the lease, as the applicant intended to irrigate with ground water. According to information provided by the applicant, surface water right 37-22757 does not fully authorize irrigation of the entire property and water from the East Fork of the Wood River is not easily divertible, hence, the applicant intends to not divert water under 37-22757, and instead, desires an authorization to irrigate the property from ground water.

IDWR informed the applicant that a water right rental would be required to authorize irrigation of the property with ground water. The applicant subsequently requested to withdraw their lease application, and to replace it with this rental request. The lease proposal has been withdrawn and the lease application filing fee of \$250 (Receipt ID C104359) has been retained by IDWR to be applied to this rental. No specific ground water right was requested to satisfy this rental. The nearest, proximate ground water right with flow, volume and acre elements sufficient to satisfy this rental appears to be 37-2644E.

Authority to File: Application has been submitted by Eleanor C. Devens. No concern about authority to file.

Water Right Validity/Forfeiture Evaluation: Water right 37-22757 is appurtenant to the rental place of use. The validity of water right 37-22757 is not being considered as part of this review.

Injury Evaluation: No injury is immediately apparent under this rental. The point of diversion and place of use for the ground water right to be rented (37-2644E) is approximately four miles west of the rental location, where Greenhorn Gulch merges with the main stem of the Big Wood River valley. Effectively, this rental proposes moving a ground water point of diversion from the main stem of the Wood River Valley, four miles up the East Fork of the Wood River Valley. It is anticipated that this rental will increase Wood River Valley aquifer ground water depletions above the City of Hailey, but it will also decrease depletions south of Hailey. It is not anticipated that water right 37-22757 will be injured through this rental.

Enlargement of Use: Water right 37-22757 authorizes irrigation of 0.8 acres of the rental place of use with surface water from the East Fork of the Wood River. To avoid enlargement in water use, a condition can be placed on this rental, to restrict irrigation of the 2.0 acre rental place of use from all water sources, to no more than 0.02 cfs/ac and 3.5 afa.

A permit-exempt, ground water right for domestic purposes has been established on the property through the drilling of a well and the diversion of ground water therefrom. This domestic right allows for up to 0.5

acres of irrigation from ground water. Because a maximum of 2.0 acres are intended to be irrigated at the rental place of use, this rental should be authorize an additional 1.5 acres of irrigation.

Water rights 37-2644E authorizes irrigation of 3.5 acres from ground water, in conjunction with 5.6 acres of overall irrigation that can be accomplished from surface water diversions under water right 37-22822.

Analysis of the water right backfile and lease review memo for contract 282 indicates there should be no issue in satisfying rental application 972 through rental of 1.5 of the 3.5 acres authorized under ground water right 37-2644E, provided a proportionate amount of surface water right 37-22822 is also included with the rental, which would be as follows:

Water Right	Priority Date	Diversion Rate	Diversion Volume	Irrigable Acres	Rate/AC	Vol/AC
37-2644E	11/16/1989	0.030	5.3	1.5	0.020	3.5
37-22822	09/01/1885	0.137	8.4	2.4	0.057	3.5
Combined Rental Limits		0.137	8.4	2.4	0.020	3.5
Rental Authorization		0.030	5.3	1.5	0.020	3.5

The combined limited rates for both the surface and ground water right are not additive. This is because there is a condition on these two water rights, as well as their sibling water rights 37-22826, 37-2644C, 37-2644D, 37-153C and 37-8551, which limits them to irrigation of a combined maximum 13.5 acres, coupled with water diversion rates and volume duties of 0.02 cfs/ac and 3.5 afa/ac, when combined.

Local Public Interest: Staff are not aware of any local public interests that that are contrary to this rental.

Beneficial Use/Conservation of Water Resources: This use of water authorized under this rental appears consistent with water conservation practices.

Department/Watermaster Comments: Comments will be requested from Water District 37 Watermaster Kevin Lakey, as well as IDWR Southern Region staff.

Water Supply Bank Evaluation: Subject to Watermaster and IDWR staff comments, it is recommended that this rental be approved.

Webster, Clay

From: Buyer, Remington
Sent: Thursday, March 15, 2018 12:22 PM
To: Kevin Lakey; Skinner, Corey
Cc: Webster, Clay
Subject: RE: WSB Rental Application 972
Attachments: Rental Review Memo.docx

An oversight on my part: an application to lease water right 37-22757 (appurtenant to the rental location) to the Bank was processed but, because the applicant revealed their intentions to irrigate the place of use authorized under 37-22757 (albeit from a different source), they were directed to submit a rental application. They subsequently requested to withdraw their lease and substituted it with this rental request.

Perhaps some additional follow up on this is necessary? Please advise if you would like to discuss this rental further.

Thanks,

Remington

From: Buyer, Remington
Sent: Wednesday, March 14, 2018 1:36 PM
To: 'Kevin Lakey' <watermanager@cableone.net>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Webster, Clay <Clay.Webster@idwr.idaho.gov>
Subject: WSB Rental Application 972

Kevin, Corey,

A property owner up the East Fork of the Wood River has requested to rent ground water to authorize irrigation of 2.0 acres on their 2.9 acre property (see the attached map). Enclosed with this email is the rental application, my rental review memo and a draft rental agreement. Please advise if you have questions, comments or concerns about this rental request.

Thank you,

Remington

Buyer, Remington

From: Buyer, Remington
Sent: Wednesday, March 14, 2018 1:36 PM
To: 'Kevin Lakey'; Skinner, Corey
Cc: Webster, Clay
Subject: WSB Rental Application 972
Attachments: Eleanor Devens Revocable Trust Rental.pdf; Rental.pdf; Draft Rental Agreement.docx; Rental Review Memo.docx

Kevin, Corey,

A property owner up the East Fork of the Wood River has requested to rent ground water to authorize irrigation of 2.0 acres on their 2.9 acre property (see the attached map). Enclosed with this email is the rental application, my rental review memo and a draft rental agreement. Please advise if you have questions, comments or concerns about this rental request.

Thank you,

Remington