

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 198

This is to certify that:

3ENG LLC AND BARRY SOUTH
4946 NORTH 2900 EAST
IDAHO FALLS, ID 83401

RECEIVED

JAN 17 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)
25-14303	8/10/1966	GROUND WATER	0.02	3.1	0.9	0.02	3.5
25-14310	8/10/1966	GROUND WATER	0.02	3.1	0.9	0.02	3.5
25-14314	8/10/1966	GROUND WATER	0.02	3.5	1.0	0.02	3.5
Combined Rental Totals			0.06	9.7	2.8	0.02	3.5

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

Annual Rental Fee: \$194.00

The full fee for the rental of the above-described rights is \$194.00 for 2018. The rental fee includes an administrative fee (10%) of \$19.40 and owner share (90%) of \$174.60.

Detailed water right conditions are attached.

SUPPORT DATA
IN FILE # 25-14303

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT 198

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:

Barry Smith
Signature of Renter

January 12, 2018
Date

Barry Smith
Printed Name

Title

Douglas H. Weber
Signature of Renter

1-12-2018
Date

Douglas Weber
Printed Name

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 1/18/2018

Rental approved by IDWR Ch. Weber

Date 1-18-2018

WATER SUPPLY BANK RENTAL AGREEMENT No. 198

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESW Sec. 34, Twp 03N, Rge 38E, BONNEVILLE
County

Beneficial Use
IRRIGATION

Diversion Rate
0.06 CFS

Volume
9.7 AF

SEASON OF USE

Water Right No.	From	To
25-14303	4/1	10/31
25-14310	4/1	10/31
25-14314	4/1	10/31

RENTERS PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	38E	34												2.8					2.8

Total Acres: 2.8

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 rental agreement does not authorize the construction of a well.
9. This rental does not grant any right-of-way or easement across the land of another.

WATER SUPPLY BANK RENTAL AGREEMENT No. 198

10. This rental 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 place of use.
11. Use of water under this agreement may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 110.



Idaho Water Resource Board
Water Supply Bank Rental Agreement No. 198

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.



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



0 150 300 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

OCT 13 2017

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: 3ENG, LLC and Barry South

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)

25-14310

25-14303

25-14314

~~25-14309~~~~25-14278~~

892

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant 3ENG, LLC and Barry South

Mailing Address 4946 North 2900 East Idaho Falls Idaho 83401
Street City State Zip Code
Email Address _____ Phone Number 208-529-0833

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 T.J. Budge Professional Title Attorney
Organization Racine Olson Relationship to Applicant Attorney
Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391
Email Address tjb@racinelaw.net Phone Number 208-232-6101

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:
Irrigation of green space surrounding commercial business.

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)
0.08 CFS	13.2 AF	0.08 CFS	13.2 AF	3.8 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?	
04/01/2018	06/01/2018	☒	☐	☐	☐	☐	☒ Process application as soon as possible	☐ Return application to applicant
		1	2	3	4	5		

* 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):

Groundwater well located within the place of use supplies in-ground sprinkler 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
Pump	Groundwater	25-14219

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 3.8 (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:
None

**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)
25-14310	Irrigation	0.02	3.1	0.9		0.02	3.1	0.9
25-14309	Irrigation	0.02	3.5	1.0		0.02	3.5	1.0
25-14303	Irrigation	0.02	3.1	0.9		0.02	3.1	0.9
25-14278	Irrigation	0.02	3.5	1.0		0.02	3.5	10
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	0.08	13.2	3.8
						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**:

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? Yes ☒ No ☐
If yes, describe:

Applicant is seeking to purchase a groundwater irrigation right to permanently supply irrigation to this property.

Applicant will submit a transfer application once Applicant purchases such right.

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

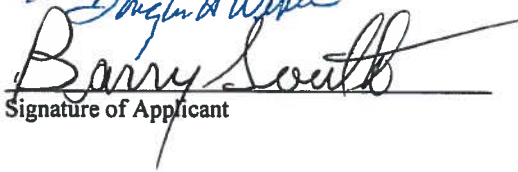
If yes, describe the date and location of the NOV.

NOV No. E2016-954 dated September 27, 2016

- 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

Doug Weber, Barry South

Printed Name of Applicant

10-5-2017

Date

Signature of Representative

T.J. Budge

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

January 19, 2018

3NG LLC AND BARRY SOUTH
4946 NORTH 2900 EAST
IDAHO FALLS ID 83401

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 25-14303, 25-14310, and 25-14314**

Dear Renter:

Please find enclosed a receipt in the amount of **\$194.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 9.7 acre-feet of water for irrigation of 2.8 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 \$174.60 of the rental fee will be paid to the lessor(s) and 10% or \$19.40 will be retained by the Department to offset administrative costs.

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

Sincerely,


John E. Edd
for Water Supply Bank

Enclosures: Receipt No. C104545
Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office/Water District # 120
T J Budge – Racine Olson



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

January 9, 2018

3ENG LLC AND BARRY SOUTH
496 NORTH 2900 EAST
IDAHO FALLS ID 83401

**RE: REQUEST FOR RETURN OF SIGNED RENTAL AGREEMENT AND PAYMENT FOR
WATER RIGHTS 25-14303, 25-14310, and 25-14314**

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

Dear Applicant:

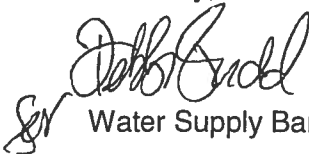
The Department of Water Resources ("Department") mailed a **Water Supply Bank Rental Agreement ("Agreement")** for your review and signature on December 19, 2017. The signed agreement and rental fee has not been returned to the Department.

Please sign the rental agreement and return it with the rental payment in the amount of \$194.00 within ten (10) days of this letter to complete processing. Diversion and use of the water rights is not authorized under the proposed agreement until it has been signed by both the renter and the Department. Any use associated with your proposed rental request before it has been executed is considered unauthorized and, if occurring, will be subject to any necessary enforcement action.

If the signed rental agreement and fee is not received by the department within the 10-day period, the rental application will be returned and the proposed rental rights made available for other rental applicants. You can reapply to rent water from the Bank again in the future by submitting a new rental application form that will be processed in turn with other pending applications.

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,


Water Supply Bank

c: T J Budge – Racine Olson



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

December 19, 2017

3ENG LLC AND BARRY SOUTH
496 NORTH 2900 EAST
IDAHO FALLS ID 83401

RE: **APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK**
WATER RIGHT NOS. 25-14303, 25-14310, and 25-14314

*****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 \$194.00 was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 9.7 acre-feet.

Please send a check for \$194.00 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 \$174.60 of the rental fee will be paid to the lessor(s) and 10% or \$19.40 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
T J Budge – Racine Olson

MEMORANDUM

TO: Rental Agreement 198
FROM: CW Clay Webster
DATE: December 15, 2017
RE: Memorandum for Rental Agreement 198 25-14303, 25-14310 and 25-14314

During the review of the application for rental, the reviewer had concerns about the rental of these rights while the property was being irrigated with the City of Ammon Municipal Water Rights.

Though the comments were listed on the memo under injury to other water rights, the concerns actually addressed enlargement issues.

A review of rights 25-14303, 25-14310 and 25-14314 showed that the rights were split from a larger irrigation right (25-2151) when the property was being developed as a subdivision. Neither 25-2151 nor the splits of this right were diverted and put to beneficial use on this property once the development commenced. The new owners applied and received an extension of time to avoid forfeiture in 2010. The extension of time applications stated that the water rights had not been used since 2005. In lieu of resuming use in 2015, they placed the water rights into the WSB.

The review of the lease of these rights concluded that these rights have not been used in conjunction with the City of Ammon water rights. Therefore, the rental of these rights does not constitute an unstacking of water rights and may proceed.

Webster, Clay

From: Condon, Mary
Sent: Thursday, November 30, 2017 10:32 AM
To: Webster, Clay
Cc: Buyer, Remington
Subject: FW: 2018 Rental - 3ENG, LLC and Barry South

FYI--

From: Cefalo, James
Sent: Thursday, November 30, 2017 9:27 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: RE: 2018 Rental - 3ENG, LLC and Barry South

Mary,

I do not have any comments or concerns with the proposed WSB Rental.

James

From: Condon, Mary
Sent: Thursday, November 30, 2017 8:28 AM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Cc: Webster, Clay <Clay.Webster@idwr.idaho.gov>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: 2018 Rental - 3ENG, LLC and Barry South

James,

Please review the proposed rental with attachments, and let me know within 14 days if you have any comments or concerns.

Best,

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

MEMORANDUM FOR RENTAL AGREEMENT 198

To: Rental # Water Rights 25-14303, 25-14310 and 25-14314
From: Mary Condon
Date: 11/28/2017
Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: The department received this application to rent 0.08 cfs and 13.2 af of water to irrigate 3.8 acres in the Twp 03N Rge 38E Section 34 in the SESW corner from Racine Olson Attorneys for the applicant 3ENG LLC and Barry South. This application is a follow-up action for NOV E2016-954, and mirrors the previous approved rental application for 2017 season.

The application again listed water rights 25-14278, 25-14303, 25-14309 and 25-14310. However, water right 25-14309 was released from the bank 12/31/2016, and water right 25-14278 will be released from the bank on 12/31/2017. Water right 25-14314 is still available for rental through 2018, and was used as a suitable replacement for 25-14309 in the 2017 rental. There are no other rights available at this time to substitute for the 25-14278. There was also no ground water modeling or map of the POU at the time of application submittal.

The department sent a letter of deficiency and available water rights to the representative, T.J. Budge, for 25-14303, 25-14310 and 25-14314, with a reduction to 0.06 cfs and 9.7 afa for irrigation of 2.8 acres. His reply on 11/22/2017 accepted these water rights with the reduced acres for irrigation. He also provided the requested map for place of use, and the ground water modeling for these new water rights.

The water rights requested only provide 3.5 af per acre. Since the use is for irrigating lawn, this should be adequate for this rental.

AUTHORITY TO FILE: According to the current taxlot data, the property to which the west side of the proposed POU and the POD is appurtenant is owned by 3ENG LLC and the east side of the proposed POU is appurtenant to property owned by Barry and Elinor South. This application was signed by Barry South and by Doug Weber. Doug Weber is listed as a member of 3ENG LLC on the annual report with the Secretary of State. No concerns about authority to file.

WATER RIGHT VALIDITY: All of these water rights were decreed in 2005. The water right owners applied and received an extension of time to avoid forfeiture in 2010. In lieu of resuming use in 2010, they placed the water rights into the WSB. These rights have not been used in conjunction with the City of Ammon water rights. Forfeiture is not an issue at this time.

INJURY TO OTHER WATER RIGHTS: The rental falls within the ESPA GWMA. The rental and the lease PODs are located in the designated ground water management area for the ESPA and the applicants have provided modeling. I have checked the modeling and found that no mitigation is required for this move at this time.

The place of use where irrigation is authorized under water rights 25-14303, 25-14310 and 25-14314 appears to be irrigated with municipal water provided by the City of Ammon. The potential for injury to occur via this rental exists if the following scenario occurs:

- real consumptive use of ESPA ground water occurs via irrigation of the leased place of use, water supplied under the City of Ammon's municipal water rights portfolio, AND
- real consumptive use of ESPA ground water occurs via irrigation authorized under the rental of the above listed leased water rights, AND

- overall consumptive use of ESPA ground water increases due to simultaneous irrigation actions outlined in the above two situations, AND
- the increased consumptive use of ESPA ground water within the designated ESPA ground water management area causes a real impact to the ESPA water source and/or prior appropriators who divert water from the ESPA are adversely impacted by the increased consumptive use of ground water from the ESPA.

Though the injury potential outlined above is possible, it is also possible that overall consumptive use of ESPA ground water might not increase through rental of the above listed water rights. The question of whether an overall increase in consumptive use of ground water via a rental would cause injury is not being answered at this time; the purpose of above text is merely to acknowledge that the potential for injury exists and has been considered. Moreover, any party feeling certain that injury would occur via this rental can petition the Director of IDWR for reconsideration of the rental, subject to Idaho Code 42-1766.

ENLARGEMENT OF USE: This rental falls within the service area of the Progressive Irrigation District. The applicants have no shares appurtenant to this POU. I have no other enlargement concerns.

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: Administration of the water source for the rental is subject to Water District # 120.

Condon, Mary

From: TJ Budge <tjb@racinelaw.net>
Sent: Wednesday, November 22, 2017 10:17 AM
To: Condon, Mary
Cc: Buyer, Remington
Subject: RE: 3ENG Rental 2018
Attachments: 20171023 WSB ltr to Budge.pdf; POU and POD map.pdf

Mary,

3ENG would like to go ahead with the rental of 2.8 acres under water rights 25-14303, 25-14310 and 25-14314 as proposed in your attached letter. I've attached the place of use map of the 2.8 acres (the same POU as the 2017 rental, excluding the area blocked out in black) along with the modelling files.

Let me know if you have any questions.

Thanks,

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
P: (208) 232-6101 | F: (208) 232-6109 | racinelaw.net

Assistant: Tessa Sparrow | (208) 232-6101 | tps@racinelaw.net

CONFIDENTIALITY NOTICE - This email and its attachments may contain information that is confidential, privileged, or otherwise protected from disclosure. If you believe this email may have been sent to you in error, please notify me immediately at tjb@racinelaw.net or 208-232-6101.

From: Condon, Mary [<mailto:Mary.Condon@idwr.idaho.gov>]
Sent: Monday, October 23, 2017 1:14 PM
To: TJ Budge <tjb@racinelaw.net>
Cc: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: 3ENG Rental 2018

Good afternoon,

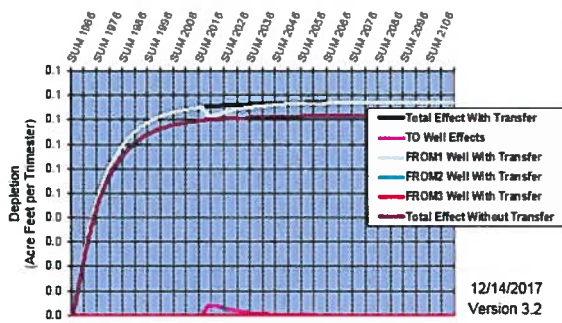
Please see the attached letter requesting additional information before we can continue processing the above rental application.

Best,

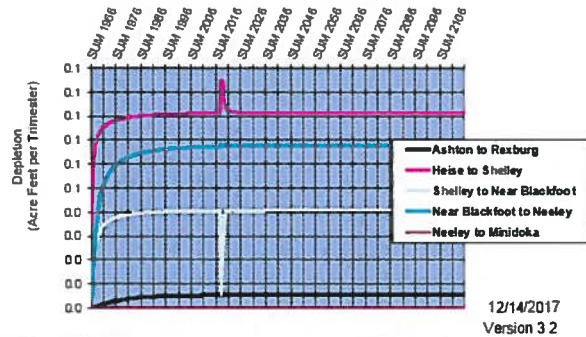
Mary Condon
Water Supply Bank Specialist
IDWR Water Supply Bank
322 E. Front Street
Boise, ID 83720
Main: (208) 287-4936

10	YEAR	1966	TRANSFER NAME:		CALCULATE EFFECTS							
11	SEASON	SUMMER	3ENG									
12												
13	ENTER CELL LOCATIONS:											
14		TO' CELL	'FROM1' CELL	'FROM2' CELL	'FROM3' CELL							
15	ROW	72	77									
16	COLUMN	165	165									
17												
18	TRIMESTER	TO WELL	FROM1 WELL		FROM2 WELL		FROM3 WELL					
19	OF	Projected Use	With Transfer	Without Transfer	With Transfer	Without Transfer	With Transfer	Without Transfer				
20	ACTIVITY	AF/TRIMESTER	AF/TRIMESTER	AF/TRIMESTER	AF/TRIMESTER	AF/TRIMESTER	AF/TRIMESTER	AF/TRIMESTER				
21	SUM 1966	0	3	3	0	0	0	0				
22	WIN 1966	0	3	3	0	0	0	0				
23	SPR 1967	0	3	3	0	0	0	0				
24	SUM 1967	0	3	3	0	0	0	0				
25	WIN 1967	0	3	3	0	0	0	0				
26	SPR 1968	0	3	3	0	0	0	0				
173	SPR 2017	0	3	3	0	0	0	0				
174	SUM 2017	0	3	3	0	0	0	0				
175	WIN 2017	0	3	3	0	0	0	0				
176	SPR 2018	3	0	3	0	0	0	0				
177	SUM 2018	3	0	3	0	0	0	0				
178	WIN 2018	0	3	3	0	0	0	0				
179	SPR 2019	0	3	3	0	0	0	0				
180	SUM 2019	0	3	3	0	0	0	0				
181	WIN 2019	0	3	3	0	0	0	0				

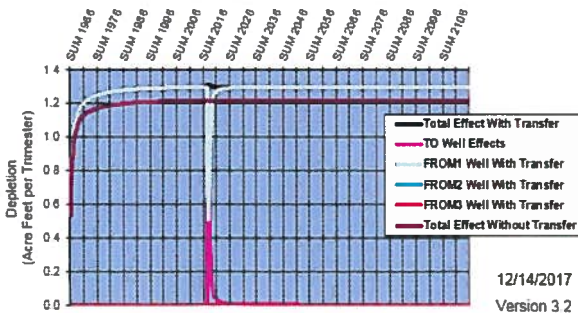
Hydrologic Response--Ashton to Rexburg
Customer Name: 3ENG Transfer No: Rental



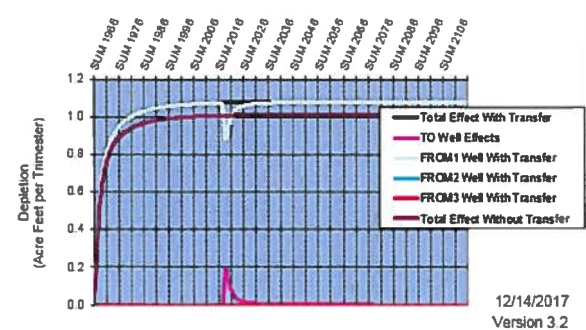
Net Transfer Effect Above Milner
(Total Effect With Transfer - Total Effect Without Transfer)



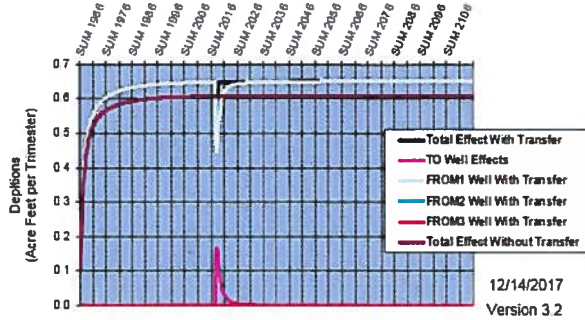
Hydrologic Response--Heise to Shelley
Customer Name: 3ENG Transfer No: Rental



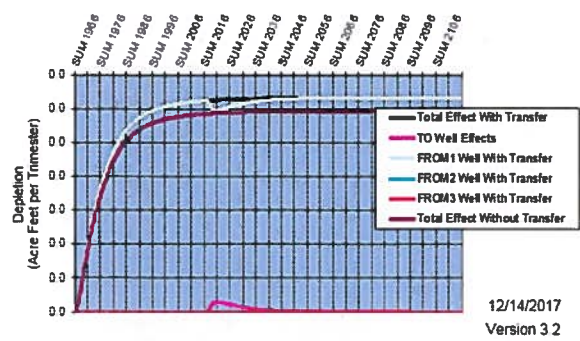
Hydrologic Response--Near Blackfoot to Neeley
Customer Name: 3ENG Transfer No: Rental



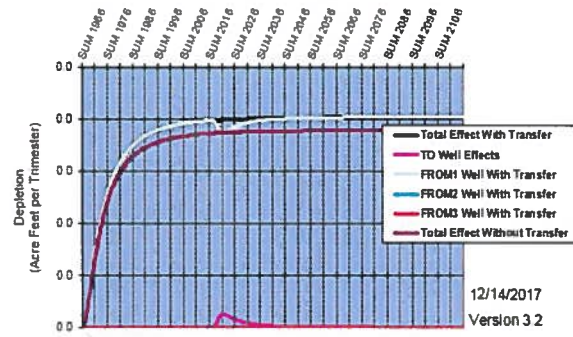
Hydrologic Response--Shelley to Near Blackfoot
Customer Name: 3ENG Transfer No: Rental



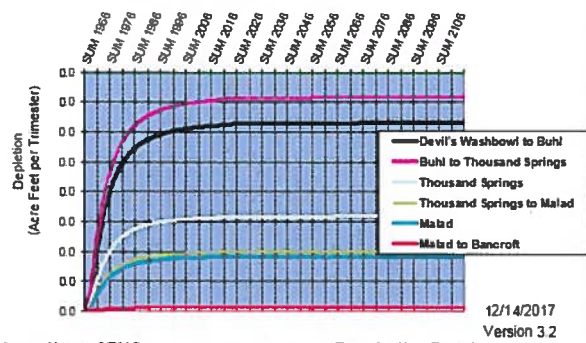
Hydrologic Response--Nesley to Minidoka
Customer Name: 3ENG Transfer No: Rental



Hydrologic Response--Devil's Washbowl to Buhl
Customer Name: 3ENG Transfer No: Rental



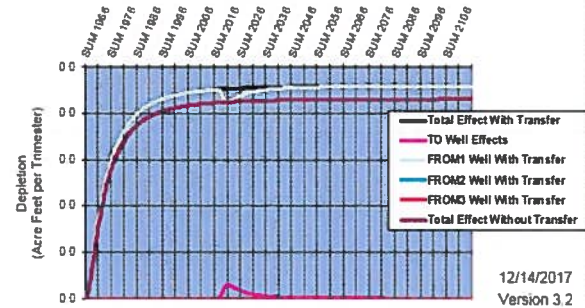
Net Transfer Effect Below Milner
(Total Effect With Transfer - Total Effect Without Transfer)



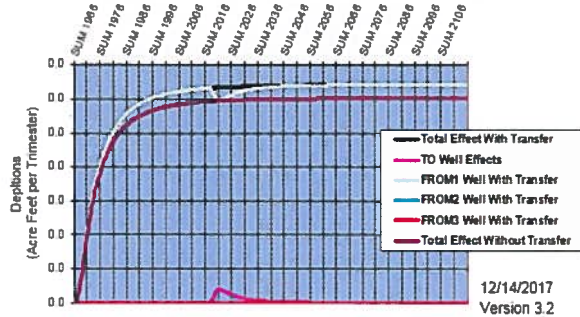
Customer Name: 3ENG

Transfer No: Rental

Hydrologic Response--Buhl to Thousand Springs
Customer Name: 3ENG Transfer No: Rental

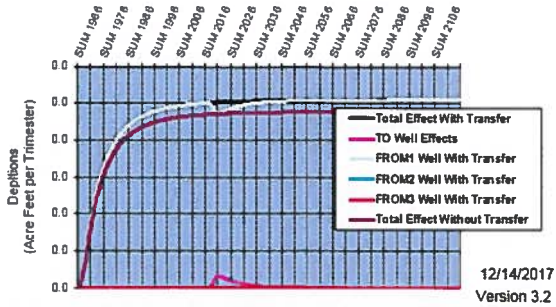


Hydrologic Response--Thousand Springs to Malad
Customer Name: 3ENG Transfer No: Rental



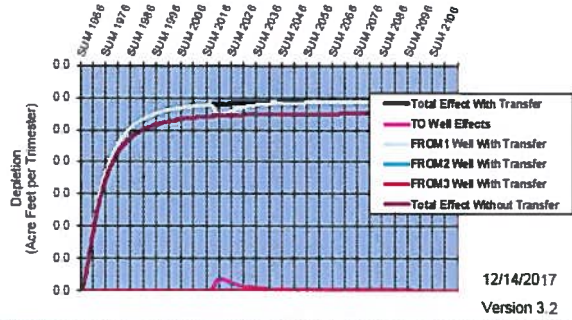
Hydrologic Response--Thousand Springs

Customer Name: 3ENG Transfer No: Rental



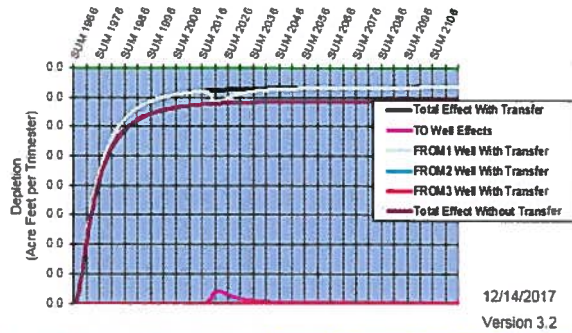
Hydrologic Response--Malad

Customer Name: 3ENG Transfer No: Rental

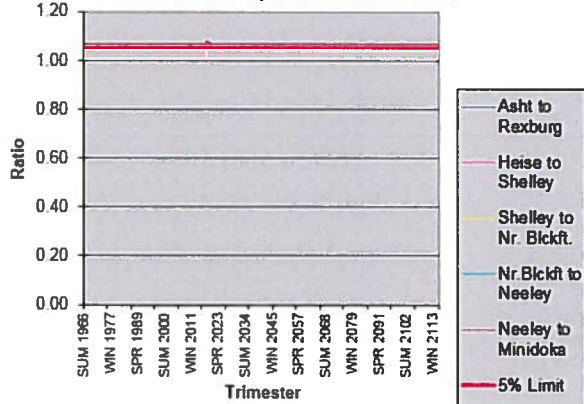


Hydrologic Response--Malad to Bancroft

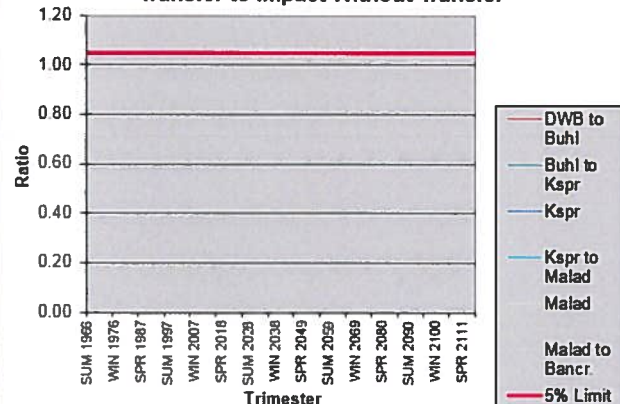
Customer Name: 3ENG Transfer No: Rental



Change Above Milner as Ratio of Impact With Transfer to Impact Without Transfer



Change Below Milner as Ratio of Impact With Transfer to Impact Without Transfer



Mitigation Analysis Period

Trimester

One-Way Analysis of Independent Transfers

New Water Right (GModelo):

WR No	Div Rate (CFS)	Con. Vol. (AFA)	No. of Irr. Acres	Priority Date	POD Location	Dedicated Vol. AFA/ AFT	Model Node
Transfer 1: Proposed Steady State Impacts following Transfer							
777	777	275.6	68.9	1/1/1960	8528E-3	275.6	SP682075
777	777	275.6	68.9	1/1/1960	8528E-3	275.6	SP683066
Transfer 1: Worst Case Transient State Impacts following Transfer							
777	777	275.6	68.9	1/1/1960	8528E-3	275.6	SP682075
777	777	275.6	68.9	1/1/1960	8528E-3	275.6	SP683066

Impact by Reach (AFT/Trimester)

	Ashton to Rexburg	Heise to Shelley	Shelley to Nr. Bickft	Nr. Bickft to Neeley	Neeley to Minidoka	Dev. Wbl. To Buhl	Buhl to Kspr	Kspr	Kspr to Malad	Malad	Malad to Bancroft
0.03	1.22	0.61	1.02	0.01	0.02	0.02	0.01	0.01	0.01	0.01	0.00
0.09	1.30	0.65	1.08	0.01	0.02	0.02	0.01	0.01	0.01	0.01	0.00
0.03	1.22	0.61	1.02	0.01	0.02	0.02	0.01	0.01	0.01	0.01	0.00
0.09	1.31	0.65	1.08	0.01	0.02	0.02	0.01	0.01	0.01	0.01	0.00

Steady State Analysis

Mitigation Check 1 - >10% of Historical	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%
Mitigation Check 2 - >2 AFT/	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Mitigation Check 3 - >10% of Total	2.7%	48.7%	20.4%	33.9%	0.2%	0.6%	0.3%	0.2%	0.2%	0.2%	0.0%
Mitigation Required?	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Mitigation Vol. Req'd (ac-ft)	0.0	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Transient State Analysis

Mitigation Check 1 - >10% of Historical	6.7%	7.6%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%	6.7%
Mitigation Check 2 - >2 AFT/	0.0	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Mitigation Required?	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Mitigation Vol. Req'd (ac-ft)	0.0	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Read Me



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

OCTOBER 23, 2017

3ENG LLC AND BARRY SOUTH
4946 NORTH 2900 EAST
IDAHO FALLS, ID 83401

RE: APPLICATION 892 TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Department acknowledges receipt of your 2018 Water Supply Bank rental request (Application No. 892), however additional information is required before processing of your application can continue. Specifically, we require the following to continue review of your rental request:

- Confirmation of the ground water rights to be rented,
- Ground water modeling information for the water rights intended to fulfill your rental, and
- A map confirming the specific location where rental water is intended to be utilized.

Your application sought to rent water rights 25-14278, 25-14303, 25-14309, and 25-14310 from the Water Supply Bank. Currently, 25-14309 is not leased to the bank and water right 25-14278 is scheduled to be released from the Bank at the end of 2017. Thus, only water rights 25-14303 and 25-14310 are presently available to partially satisfy your rental request for 2018. Water right 25-14314 is also available to be rented in 2018, however, cumulatively, water rights 25-14303, 25-14310 and 25-14314 provide for a maximum of 0.06 cfs and 9.7 afa for irrigation of 2.8 acres, which is not fully sufficient to satisfy your rental request for 3.8 acres of irrigation.

If you would like to rent only the 2.8 acres of irrigation water provided through water rights 25-14303, 25-14310 and 25-14314, please provide ESPA ground water modeling for these three water rights. Note: water modeling was not included in your application for rental, but is required. Also, and please provide a map confirming the specific 2.8 acres that are intended to be irrigated in 2018 through this rental during 2018.

Please provide the above three items within the next thirty (30) days so that we may continue our review of your 2018 rental request. If the above items are not received prior to Friday, November 24th, the Department will return to you rental application 892. If you have any questions regarding this matter, please contact me at (208) 287-4936.

Sincerely,

Mary Condon
Water Supply Bank Specialist

cc: TJ Budge – Racine Olson Attorneys

OCT 23 2017
SCANNED

COPY



RACINE OLSON
ATTORNEYS

RECEIVED

OCT 13 2017

DEPARTMENT OF
WATER RESOURCES

October 10, 2017

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

Re: Application to Rent Water

To Whom It May Concern,

Please find enclosed an Application to Rent Water filed on behalf of 3ENG, LLC and Barry South. They currently have rented these water rights from the Bank through December 31, 2017. We would like to extend that rental through the end of 2018.

Should you have any questions, please give me a call.

Sincerely,

T. J. BUDGE

c: Jon Palmer