

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 184

This is to certify that:

ALGIS PABARCIUS
C/O TRAVIS THOMPSON
BARKER RSHOLT & SIMPSON
163 2ND AVE W PO BOX 63
TWIN FALLS, ID 83303-0063

RECEIVED

AUG 16 2017

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)
37-458A	6/1/1883	CLEAR CREEK	0.065	Not Stated	3.30	0.020	3.50
37-11550	8/1/1979	GROUND WATER	0.065	9.90	3.30	0.020	3.00
Combined Limit Totals			0.065	11.60	3.30	0.020	3.50
Combined Rental Totals			0.065	11.60	3.30	0.020	3.50

Term of Rental: This rental shall take effect when all parties have signed it and shall continue in effect until December 31, 2017

Annual Rental Fee: \$197.20

The full fee for the rental of the above-described right(s) is \$197.20, 90% (\$177.48) of which will be issued to the lessor with 10% (\$19.72) being retained by the Department of Water Resources to cover administrative costs.

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	0.065	11.60	3.30	0.020	3.50
Combined Total	0.065	11.60	3.30	0.020	3.50

*Water rights 37-458A and 37-11550 are combined on Water Supply Bank Lease Contract 652, hence both water rights are being rented, however this rental only authorizes diversions of Clear Creek surface water via the Comstock Ditch.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 37-458A

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:

[Signature] for *Algis R. Saruni* *8/15/17*
Signature of Renter Date

Travis C. Thompson *Attorney*
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 *[Signature]* *8/18/2017*
BRIAN PATTON, Acting Administrator Date
Idaho Water Resource Board

Rental approved by IDWR *[Signature]* *8-18-2017*
Date

WATER SUPPLY BANK RENTAL AGREEMENT No. 184

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

CLEAR CREEK SWNE Sec. 7, Twp 03N, Rge 18E, BLAINE County

Beneficial Use
IRRIGATION

Diversion Rate
0.065 CFS

Volume
11.60 AF

BENEFICIAL USE & SEASON OF USE

Water Right No.
37-458A

From
4/15

To
10/31

Diversion Rate
0.065 CFS

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	7		1.2	2.2														3.3

Total Acres: 3.3

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 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 construction of a well.
9. This rental does not authorize the diversion of ground water.
10. 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 at the field headgate for irrigation of the lands above.
11. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.

Idaho Water Resource Board
Water Supply Bank Rental Agreement

Effective until December 31, 2017

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



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



0 0.1 0.2 Miles

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

RECEIVED

MAY 26 2017

DEPARTMENT OF
WATER RESOURCESApplicant Name: Algis Pabarcus

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)

37-458A

37-11550

844

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Algis Pabarcus c/o Travis Thompson, Barker Rosholt & Simpson LLP

Mailing Address 163 Second Ave. West P.O. Box 63 Twin Falls, ID 83303-0063

Street City State Zip Code

Email Address tlt@idahowaters.com Phone Number (208) 733-0700

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. N 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**:

Proposed rental is for irrigation use on applicant's property, see previously approved 2016 WSB lease and rental applications.

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)
0.07 CFS	11.4 AF	0.07 CFS	11.4 AF	3.25 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?	
6/1/17	8/1/17	☒ 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):

Clear Creek water will be allowed to flow down Comstock Ditch and onto applicant's property. Applicant will then divert and distribute water via buried pressurized irrigation system under temporary permit.

- 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 pond fed from ditch	Clear Creek	None.

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 3.25 (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:

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)
37-458A	Irrigation	0.07	11.4	3.25		0.07	11.4	3.25
37-11550	Irrigation	0.07	9.8	3.25		0.07	9.8	3.25
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	0.07	11.4	3.25
						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 2016 rental approval.

- 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:
See water right permit 37-22924 that is currently being processed by IDWR.

- 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.
E2014-681.

- D. Additional Information
Applicant seeks to rent all leased portions of 37-458A and 37-11550. 37-11550 will be left un-diverted as was approved in the 2016 rental for these two rights to the applicant.

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

Travis L. Thompson (Cathlamet)
Printed Name of Applicant

5/22/17
Date


Signature of Representative

Travis L. Thompson
Printed Name of Representative

5/22/17
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.

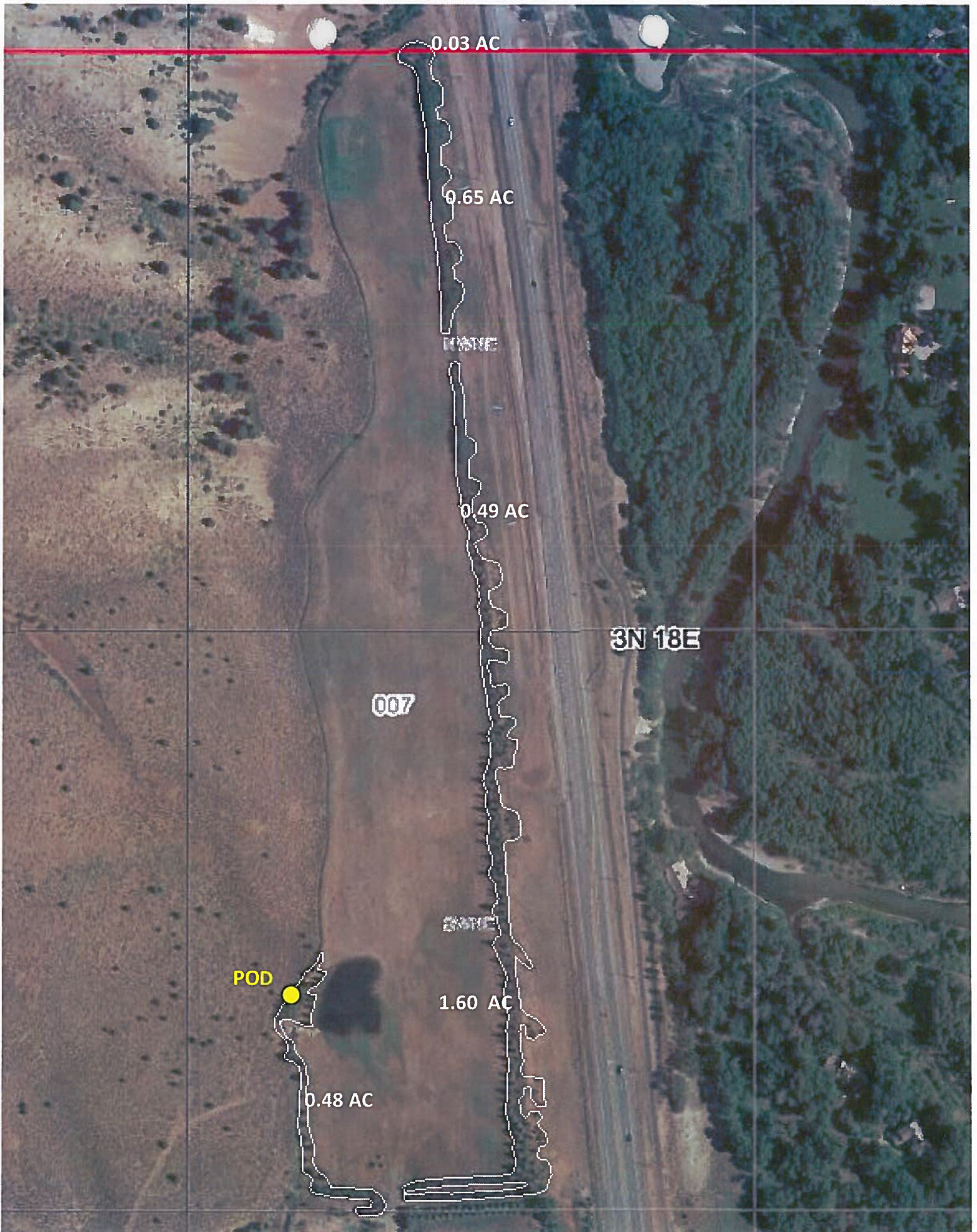
Modeling situations may include:

- 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

August 21, 2017

ALGIS PABARCIUS
C/O TRAVIS THOMPSON
BARKER RSHOLT & SIMPSON
PO BOX 63
TWIN FALLS ID 83303-0063

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-458A and 37-11550**

Dear Renter:

Please find enclosed a receipt in the amount of **\$197.20** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 11.60 acre-feet of water for irrigation of 3.3 acres during 2017. 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 \$177.48 of the rental fee will be paid to the lessor(s) and 10% or \$19.72 will be retained by the Department to offset administrative costs.

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

Sincerely,


Jor Water Supply Bank

Enclosures: Receipt No. C103988
Rental Agreement (copy)

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

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
SCOTT A. MAGNUSON



163 2nd Avenue West
Post Office Box 63
Twin Falls, Idaho 83303-0063
(208) 733-0700 telephone
(208) 735-2444 facsimile

1010 W. Jefferson St., Suite 102
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

August 15, 2017

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

RECEIVED
AUG 16 2017
DEPARTMENT OF
WATER RESOURCES

Re: *Application to rent Water from the Water Supply Bank
Water Right Nos. 37-458A and 37-11550*

To Whom It May Concern:

Enclosed, please find the executed original Water Supply Bank Rental Agreement regarding Water Rights 37-458A and 37-11550. Also enclosed, please find check number 1483 in the amount of \$197.20 for the associated fee.

Should you have any questions, please contact our office at (208) 733-0700.

Thank you,

Jessica Nielsen
Assistant for Travis L. Thompson

Enclosures
TLT/jn



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 10, 2017

ALGIS PARARCIUS
C/O TRAVIS THOMPSON
BARKER RSHOLT & SIMPSON
PO BOX 63
TWIN FALLS ID 83303-0063

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 37-458A and 37-11550**

*****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 \$197.20 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 11.60 acre-feet.

Please send a check for \$197.20 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 \$177.48 of the rental fee will be paid to the lessor(s) and 10% or \$19.72 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 D. Duda
Water Supply Bank

Enclosures

c: IDWR Front Desk
Zach Latham – Brockway Engineering

Memorandum

To: Water Rights 37-458A, 37-11550 and Permit 37-22924

From: Remington Buyer

Date: August 9, 2017

Re: Water Supply Bank Rental Application 844

Purpose/Narrative: On May 26, 2017, Algis Pabarcus through his attorney Travis Thompson (of Barker, Rosholt & Simpson LLO) and through hydrologist Zach Latham (of Brockway Engineering) filed an application to rent 0.07 cfs and 11.4 acre feet of water from Clear Creek, via the Comstock Ditch, to irrigate 3.25 acres of his property in the SW and NW quarter-quarters of the NE quarter of Section 07 of Township 03N, Range 18E, in the Wood River Valley.

The purpose of this rental is to provide supplemental irrigation water to the property owned by Mr. Pabarcus which is to be covered under water permit 37-22924. Water permit 37-22924 has not yet been formally authorized, hence this rental covers Mr. Pabarcus use of water while he awaits approval of the permit.

Authority to File: Mr. Pabarcus' attorney Travis Thompson has submitted the application. No concerns about authority to file.

Water Right Validity/Forfeiture Evaluation: Mr. Pabarcus' rental request is for water rights 37-458A and 37-11550, both of which are being leased to the Bank. No concerns about water right validity.

Injury Evaluation/Rentability: Water is to be diverted from the Comstock Ditch, which carries Clear Creek water en route to the Big Wood River. No concerns about injury. Rental is permissible, conditioned upon the right of appropriators on the Comstock Ditch to petition for modification or cancelation of the rental if it is demonstrated to be causing them injury.

Enlargement of Use/Rentability: Water rights 37-458A authorizes diversion from Clear Creek, while water right 37-11550 authorizes diversion of ground water from the Wood River Valley aquifer, and together the rights authorize irrigation of a common place of use. To avoid enlargement, only the Comstock Ditch water right will be rented and the diversion rate (0.02 cfs/acre) will be maintained.

Local Public Interest: Mr. Pabarcus' application for permit (37-22924) was protested by both the Idaho Water Resource Board and Idaho Fish and Game, however a stipulated agreement on file between the protesting parties and Mr. Pabarcus indicates that his application may now be considered for permit. As such, there is nothing to indicate that this rental is specifically contrary to any local public interest concerns.

Beneficial Use/Conservation of Water Resources: Irrigation is a recognized beneficial use of water and the diversion rate and diversion system suggest that the applicant's use of water for irrigation is not inconsistent with water conservation standards in Idaho.

Department/Watermaster Comments: This rental is within Water District 37 and comments were requested from Watermaster Kevin Lakey, as well as from IDWR Southern Region staff.

Water Supply Bank Evaluation: Subject to a positive recommendation from Water District and IDWR regional staff. This rental agreement is approvable by the Water Supply Bank.

Buyer, Remington

From: Buyer, Remington
Sent: Monday, July 31, 2017 9:21 AM
To: Skinner, Corey; Kevin Lakey
Subject: RE: Water Supply Bank Rental For Algis Pabarcus

Kevin,

I trust that Corey has/will clear up the priority administration question. My questions were just specific to the rental for 2017, which provides Mr. Pabarcus with another year of water use authorization while the permit is finalized.

Remington
287-4918

From: Skinner, Corey
Sent: Friday, July 28, 2017 1:08 PM
To: Kevin Lakey <watermanager@cableone.net>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: RE: Water Supply Bank Rental For Algis Pabarcus

Kevin,

I will try and give you a call so we can visit about this.

Corey

From: Kevin Lakey [<mailto:watermanager@cableone.net>]
Sent: Friday, July 28, 2017 11:20 AM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: RE: Water Supply Bank Rental For Algis Pabarcus

Remington and Corey:

The application for permit for 37-22924 listed three older surface rights that were going to be used as mitigation for 37-22924. Since they were surface rights, does that mean 37-22924 will be regulated based upon Big Wood priorities or is it to be regulated as a standalone surface right? I'm not sure if this is related to the Supply Bank questions that Remington is asking, but I'm just asking to find how this right is to be regulated.

Kevin Lakey
Water District 37

From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]
Sent: Thursday, July 27, 2017 4:13 PM
To: Skinner, Corey; 'Kevin Lakey'
Subject: Water Supply Bank Rental For Algis Pabarcus

Corey, Kevin,

Attached are draft Water Supply Bank lease/rental documents, review memos and maps for a rental request for Mr. Algis Pabarcus. Mr. Pabarcus has applied for a permit to irrigate his property under permit 37-22924, however this is not yet formally approved. The Idaho Water Resource Board and Idaho Fish and Game protested the permit, however it

appears that the two state agencies have resolved their concerns through a stipulated agreement on file for 37-22924. Mr. Pabarcus is renting water in 2017 to irrigate his property while he awaits formal approval of permit 37-22924.

The Water Supply Bank is prepared to authorize a rental for 2017, contingent upon their being no adverse information or recommendations against this action by Water District 37, or IDWR Southern Region. Please advise if you have any concerns about this proposed transaction for 2017.

Thank you,

Remington
287-4918

RECEIVED

MAR 30 2017

DEPT OF WATER RESOURCES
SOUTHERN REGION

Travis L. Thompson, ISB #6168
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
163 Second Ave. West
P.O. Box 63
Twin Falls, Idaho 83303-0063
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

Received 3/27/2017
Via E-mail

Attorneys for Applicant Algis Pabarcus

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR PERMIT NO. 37-22924	)	STIPULATION TO RESOLVE
(in the name of Algis Pabarcus)	)	PROTEST
	)	
	)	
	)	
	)	
	)	
	)	
	)	

The Applicant Algis Pabarcus ("Pabarcus"), by and through counsel of record, and the Protestant Idaho Water Resource Board ("Board") and Intervenor Idaho Department of Fish & Game ("IDFG"), by and through counsel of record, hereby stipulate to resolve the outstanding protest in the above-referenced matter.

RECITALS

- A. Pabarcus filed application for permit no. 37-22924 with the Idaho Department of Water Resources on February 20, 2015. The application was later amended on March 30, 2015.
- B. The Board protested the application for permit on May 4, 2015. IDFG petitioned to intervene on June 15, 2015. The petition was later granted by order issued on June 29, 2015.

- C. The parties participated in pre-hearing conferences, commenced discovery, and exchanged various expert reports. A hearing was eventually scheduled for April 25 & 26, 2017.
- D. In lieu of continuing litigation over the permit and participating in an administrative hearing, the Parties hereby agree to resolve the Board's protest and IDFG's intervention as follows.

STIPULATION

1. Mitigation for Water Rights 37-7919 and 37-8307

To mitigate for any injury caused to the Board's water rights 37-7919 and 37-8307, the Applicant agrees to implement the attached mitigation plan for water right 37-22929 (see Exhibit A) which is incorporated herein by reference. In general, the Applicant agrees to cease diverting water rights 37-20417, 37-20421, and 37-20425 and change their purpose of use from "irrigation" to "mitigation." In addition, the Applicant agrees to mitigate for the calculated depletion to the Big Wood River between the day the river falls to 189 cfs until October 31st on an annual basis as described in Exhibit A. The Applicant further agrees to install a data logger on the return pipe to record the volume released on an annual basis, as well as install a staff gauge on the pond.

The mitigation plan set forth in Exhibit A only mitigates for injury to the Board's minimum stream flow water rights 37-7919 and 37-8307. No representation is made as to whether the mitigation plan set forth in Exhibit A mitigates for any injury to other existing water rights.

2. Conditions to be Included in the Approval of Water Right Permit No. 37-22924.

To effectuate this stipulation, including the mitigation plan described in Exhibit A, the Parties agree that IDWR shall include the following conditions, or conditions substantially in the same form, in the final order issuing the approval for water right permit no. 37-22924:

1. The right holder shall cease diverting and using water as authorized by the following water rights for the following purposes and amounts specified below. Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or portions thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation by Non-use	Mitigation Rate cfs	Mitigation Volume	Mitigation Acres
37-22934	Mitigation	0.35		16.0
37-22935	Mitigation	0.31		16.0
37-22936	Mitigation	0.24		16.0

The land that will no longer be irrigated under these rights is located within the E1/2 of Section 32, Township 3 North, Range 18 East, Blaine County, Idaho. If a specified mitigating right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to shortage of water or a priority call, then the amount of water authorized for diversion under this permit approval shall be reduced by the same proportion as the reduction to the mitigating right.

2. When mitigating right 37-22934 is not in priority, water diversion under this right shall cease.
3. This right shall not be diverted when the flow in the Big Wood River, as measured at the Hailey Gage [gage #13139510] is 189 cfs or less.
4. The right holder shall provide a report to the District 37 Watermaster by November 30th of each year demonstrating that mitigation was performed under the Mitigation Plan to Resolve Protests to Permit 37-22924 ("Mitigation Plan"). The report must contain, at a minimum, the following information: 1) The volume of water and constant diversion rate the right holder calculated it was required to deliver to the Big Wood River under the Mitigation Plan, 2) The datalogger record showing the daily volume/diversion rate of water delivered from the pond to the Big Wood River, including a total of same 3) The staff gage reading showing the level of the pond before delivery of water to the Big Wood River began, and 4) The staff gage reading showing the level of the pond after delivery of water to the Big Wood River ended. The District 37 Watermaster will confirm that the numbers reported in 2, 3, and 4 above, confirm the mitigation volume/diversion rate in 1 was performed.
5. Failure of the right holder to comply with Condition 4 is cause for the District 37 Watermaster to curtail this right the following year.
6. Failure of the right holder to comply with Condition 4 for two consecutive years will be cause of the Director to cancel the permit.

3. Resolution of Protest.

This stipulation is intended to resolve the protest filed by the Board and any interest of intervenor IDFG. Resolution of the protest is conditioned upon approval by IDWR of the conditions set forth in Paragraph 2 in substantially the same form as set forth herein. If the conditions are not included on the approved water right permit, then this stipulation shall be null and void.

4. Reservation of Rights.

The Parties agree and acknowledge this stipulation only resolves the Board's protest and IDFG's interest in this matter, and that the Board and IDFG reserve all rights to pursue protests to other applications for permit and/or transfer in the future. The Parties reserve the right to challenge any decision from IDWR that does not include the conditions set forth in Paragraph 2. The Parties further recognize that IDWR may include additional conditions in any approval. The Parties reserve the right to challenge any additional conditions in any approval, or any denial of the application for permit.

5. Reliance Upon Statements / Integration and Merger.

The Parties hereto specifically acknowledge that they were represented by counsel in this matter and agree that, other than as set forth herein, they have executed this stipulation without relying upon any statements or representations written or oral, as to any statement of law or fact made by any other party or attorney. The Parties have read and understand this stipulation, and warrant and represent that this stipulation is executed voluntarily and without duress or undue influence on the part of or on behalf of any party. This agreement represents the sole entire and integrated stipulation by and between the parties hereto, and supersedes any and all prior understandings or agreement whether written or oral except as specifically provided herein.

6. Successor and Assigns.

This stipulation shall be binding upon and shall inure to the benefit of each Party's heirs, successors and assigns, and shall be specifically enforceable.

7. Waiver and Modification.

No provision of this stipulation may be waived, modified, or amended except by written agreement executed by all of the Parties hereto.

8. Enforcement and Interpretation.

This stipulation is a valid and binding obligation of the Parties, and their successors or assigns. It shall be admissible and enforceable according to its terms, and venue in any subsequent action shall rest within the State of Idaho. This stipulation is subject to interpretation in accordance with the laws of the State of Idaho.

9. Counterparts.

This stipulation may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each instrument and combined into one instrument.

DATED this 27th day of March, 2017.

BARKER ROSHOLT & SIMPSON LLP

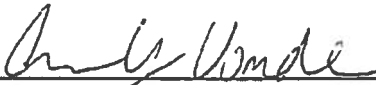


Travis L. Thompson

Attorneys for Applicant Algis Pabarcius

DATED this 27th day of March, 2017.

**STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE**



Ann Vonde

*Attorneys for Idaho Water Resource Board
& Idaho Department of Fish & Game*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of March, 2017, I served a true and correct copy of the foregoing document by the method indicated:

By Email & U.S. Mail, postage prepaid to:

Cindy Yenter, Hearing Officer
IDWR – Southern Region
650 Addison Ave. West, Ste 500
Twin Falls, Idaho 83301-5858
cindy.yenter@idwr.idaho.gov

Travis L. Thompson
Barker Rosholt & Simpson LLP
P.O. Box 63
Twin Falls, Idaho 83303-0063

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By Email Only:

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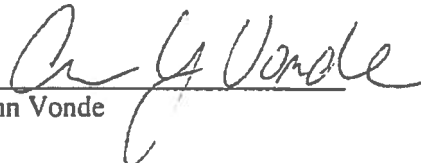

Ann Vonde

Exhibit A

Mitigation Plan to Resolve Protests to Permit 37-22924

Permit 37-22924 allows diversion from a groundwater well for two purposes: 1) the irrigation of 15.5 acres and 2) maintenances of an irrigation and aesthetic pond ("the pond"). These uses would occur on property located west of Highway 75 in the NW1/4 NE1/4 and SW1/4 NE1/4, Section 7, T. 3 N., R. 18 E, Blain County, Idaho. The well will be located in SW1/4 NE1/4 of Section 7.

The IWRB holds minimum streamflow water rights 37-7919 (priority date 6/19/1981) and 37-8307(priority 10/16/1987) ("IWRB's MSF water rights"). These rights total 189 cfs. To resolve protest/intervention by the Idaho Water Resource Board ("IWRB") and the Idaho Department of Fish and Game ("IDFG") Applicant agrees to implement a mitigation plan with, at a minimum, the following components:

1. Retirement of surface rights in the Big Wood River

The following irrigation water rights from the Big Wood River will be retired and their purpose of use will be changed to "mitigation."

Right No.	Priority	Acres	CFS
37-22934 (split from 37-20417)	6/1/1886	16.0	0.35
37-22935 (split from 37-20421)	5/4/1889	16.0	0.31
37-22936 (split from 37-20425)	5/21/1890	16.0	0.24
Totals:		16.0	0.90

2. Administration in Relation to the MSF Water Rights

Permit 37-22924 will be administered, so that diversion under Permit 37-22924 shall cease when the flow at the Hailey gauge is 189 cfs or less or when mitigation right 37-22934 is no longer in priority, whichever is earlier.

3. Delivery of Water to the Big Wood River

To mitigate for injury to the IWRB's MSF water rights occurring when the 3 day backward moving average of the flow at the Hailey gauge is 189 cfs or less, the Applicant will deliver water to the Big Wood River. This water will be derived from the pond.

The following procedure will be used to implement the delivery of water to the Big Wood River to mitigate for injury to the IWRB's MSF water rights:

1. The indicator streamflow is when the flow at the Hailey gauge (U. S. Geological Survey for gauge number 13139510) is 189 cfs.

2. Pumping under 37-22924 cannot begin in the spring until the indicator streamflow exceeds 189 cfs.
3. Pumping will cease on the earlier of:
 - a. The day the Watermaster of Water District 37 curtails water rights with a priority date of June 1, 1886, or
 - b. The day the indicator streamflow is 189 cfs or less.
4. The Applicant will calculate the well depletion to the Big Wood River occurring after the day the indicator streamflow is 189 cfs or less using the Allen & Robison (2014) P_{def} value for pasture, high-management assuming irrigated area equal to 16.0 acres (15.5 acres irrigation plus 0.5 acres pond evaporation). If fewer acres will be irrigated during a particular season, the Applicant will document this fact and will submit the documentation to the Watermaster of District 37. The P_{def} will be reduced proportionally to the number of acres not irrigated.
5. Using the AWAS model the Applicant will calculate the depletion to the Big Wood River occurring after the day the indicator streamflow is 189 cfs or less. The specific parameters the Applicant will use in the AWAS model are as follows:
 - a. Boundary condition: Alluvial aquifer
 - b. W to Bdry: 800 feet
 - c. X to Well: 400 feet
 - d. Transmissivity 33,199 gpd/ft
 - e. Storativity 0.2
 - f. Daily time step, with the daily P_{def} values computed by linearly interpolating between the Allen & Robison (2014) monthly values. The daily values to be used are shown on the attached exhibit.
6. The total volume of water the Applicant must deliver to the Big Wood River will be equal to the AWAS-calculated value from the day the indicator streamflow is 189 cfs or less through October 31 of the same year.
7. Beginning within 7 days of the indicator streamflow is 189 cfs or less, the Applicant will deliver water to the Big Wood River at a substantially constant rate such that the volume calculated in Step 6 is accumulated in the Big Wood River by October 31.
8. Water delivered pursuant to Step 7 will be derived from the pond. The Applicant will deliver water pursuant to Step 7 via a pipe from the pond to the Big Wood River to be installed and maintained by the Applicant. The Applicant is responsible for obtaining any rights of way or other necessary authorizations associated with the pipe. The Applicant will deliver water pursuant to Step 7 at or upstream from the point of diversion for Permit 37-22924.

9. If water from the pond referenced in Step 7 is delivered, any required refill of the pond will occur at the beginning of the following irrigation season. To provide water for the refill, irrigated acres will be reduced by 1.0 acre for every 1.0 acre-foot required to refill the pond (based on a Pdef of 12.5 inches through the median cutoff date of August 2), with acreage rounded up to the nearest 0.1 acre. Alternatively, if an equivalent acreage under Clear Creek water rights is available at the beginning of the irrigation season, either by lease or purchase, the Clear Creek water may be used to refill the pond, through an approved lease or purchase, and the irrigated acreage shall not have to be reduced.

10. Measurement and reporting:

- a. The Applicant will install and maintain a precision valve and a 1-inch magnetic flow meter approved by IDWR to regulate water delivered via pipe from the pond to the Big Wood River.
- b. The magnetic flow meter installed by the Applicant will have a datalogging function to record total volume on a daily increment.
- c. The Applicant will install and maintain a staff gauge on the pond to measure the amount of refill water described in Step 9.
- d. By November 30th of each year, the Applicant will submit a report to the District 37 Watermaster that contains, at a minimum, the following information:
 - (1) the day pumping ceased under Permit 37-22924,
 - (2) the day the indicator flow was 189 cfs or less,
 - (3) the volume of water calculated using AWAS that was required to be returned to the Big Wood River,
 - (4) the day delivery of water to the Big Wood River began,
 - (5) the datalogger record showing the daily volume of water delivered from the pond,
 - (6) a staff gauge reading of the pond before and after the return activity,
 - (7) a statement regarding the number of acres that will be retired the following year to offset refill of the pond, and
 - (8) a report on any water delivered to the pond from Clear Creek (either through an approved lease or purchase).