

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT NO. 126

This is to certify that:

BEHREND BEHREND KNITTEL
PO BOX 815
ABERDEEN, ID 83210

RECEIVED

MAR 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)
35-2553A	1/8/1959	GROUND WATER	0.74	152.4	38.1
35-2713	5/10/1962	GROUND WATER	0.74	174.4	43.6
35-14260	10/1/1953	GROUND WATER	0.39	88.0	22.0
35-14262	1/8/1959	GROUND WATER	0.07	14.0	3.5
35-14258	1/18/1974	GROUND WATER	0.41	159.6	39.9
Combined Limit Totals			0.86	173.6	43.4
35-7169	3/9/1971	GROUND WATER	0.73	152.4	38.1
35-7373	1/18/1974	GROUND WATER	0.22	44.2	11.1
35-10422	7/31/1987	GROUND WATER	0.06	15.6	3.9
Combined Limit Totals			0.78	412.4	53.1
Combined Rental Totals			3.12	712.8	178.2

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

Annual Rental Fee:

2017: \$12,117.60
2018: \$14,256.00
2019: \$14,256.00

The full fee for the rental of the above-described right(s) is \$12,117.60 for 2017 and \$14,256.00 per year for years 2018 - 2019. The rental fee includes an administrative fee of \$1,211.76 for 2017 and \$1,425.60 per year for years 2018 - 2019.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 35-2553A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT NO. 126

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] 3-13-17
Signature of Renter Date

Nic Behrend Partner
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] 3/17/2017
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board Date

Rental approved by IDWR [Signature] 3-17-2017
Date

WATER SUPPLY BANK RENTAL AGREEMENT NO. 126

WATER USE DETAILS

RECEIVED
MAR 16 2017

DEPARTMENT OF
WATER RESOURCES

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSE Sec. 6, Twp 05S, Rge 31E,

BINGHAM County

Beneficial Use
IRRIGATION

Diversion Rate
3.12 CFS

Volume
712.8 AF

BENEFICIAL USE & SEASON OF USE

Water Right No.	From	To	Diversion Rate
35-2553 A	4/1	11/1	0.74 CFS
35-2713	4/1	11/1	0.74 CFS
35-7169	4/1	10/31	0.73 CFS
35-7373	4/1	11/1	0.22 CFS
35-10422	4/1	10/31	0.06 CFS
35-14258	4/1	11/1	0.41 CFS
35-14260	4/1	10/31	0.39 CFS
35-14262	4/1	11/1	0.07 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	
05S	31E	6									30.0	30.0	30.0	30.0					120.0
05S	31E	7					28.2	30.0											58.2

Total Acres: 178.2

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. This rental for mitigation by non-use may be ineffective if the mitigating water right is not in priority.
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 right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
10. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
11. Use of water under this right 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. 120.
12. Prior to the diversion and use of water the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

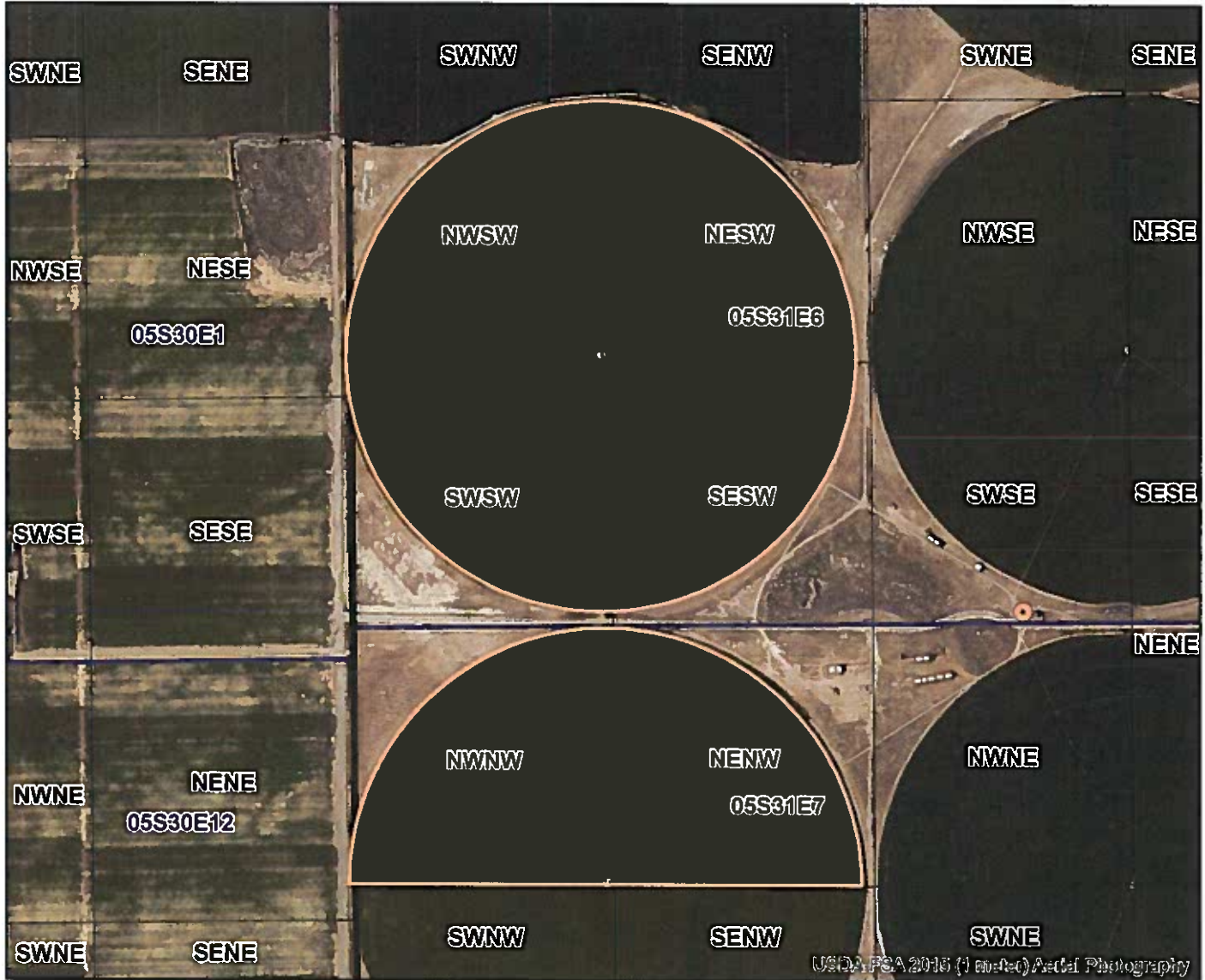








Idaho Water Resource Board

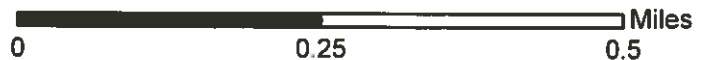
Water Supply Bank Rental Agreement

Effective until December 31, 2019

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



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



STATE OF IDAHO
WATER RESOURCE BOARD

Print Form

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

RECEIVED
JAN 11 2017

Applicant Name: Behrend Behrend and Knittel Farms

DEPARTMENT OF
WATER RESOURCES
Yes No

Is this application being submitted with a lease application as a lease/rental package?
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	
	<input checked="" type="checkbox"/>	Completed <i>Application to Rent Water from the Board's Water Supply Bank</i>
	<input checked="" type="checkbox"/>	Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank
Attachment	N/A	Yes
2	<input checked="" type="checkbox"/>	A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request
3A	<input type="checkbox"/>	<input checked="" type="checkbox"/> Detailed information on a proposed use of rental water
3F	<input checked="" type="checkbox"/>	<input type="checkbox"/> Authorization from the owner/operator of the rental point(s) of diversion
3H	<input checked="" type="checkbox"/>	<input type="checkbox"/> Water modeling to account for the impacts of the rental request
3J	<input checked="" type="checkbox"/>	<input type="checkbox"/> Documents justifying a rate of flow greater than 0.02 cfs/acre
3K	<input checked="" type="checkbox"/>	<input type="checkbox"/> Authorization from the owner/operator of the property at the proposed rental place(s) of use
4B	<input checked="" type="checkbox"/>	<input type="checkbox"/> Explanation of how the rental water will sufficiently accomplish your rental purposes
4C	<input checked="" type="checkbox"/>	<input type="checkbox"/> Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Behrend Behrend and Knittel Farms
 Mailing Address PO Box 815 Aberdeen ID 83210
Street City State Zip Code
 Email Address nbehrend@gmail.com Phone Number 208-221-0342

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes No
 If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative _____ Professional Title _____
 Organization _____ Relationship to Applicant _____
 Mailing Address _____
 Email Address _____ Phone Number _____

2. MAP

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

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

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

These rights will be used for mitigation for the SWC - TQWT
negotiated agreement and will not be pumped.

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)
3.12 CFS	712.8 AF	CFS	AF	178.2 AC

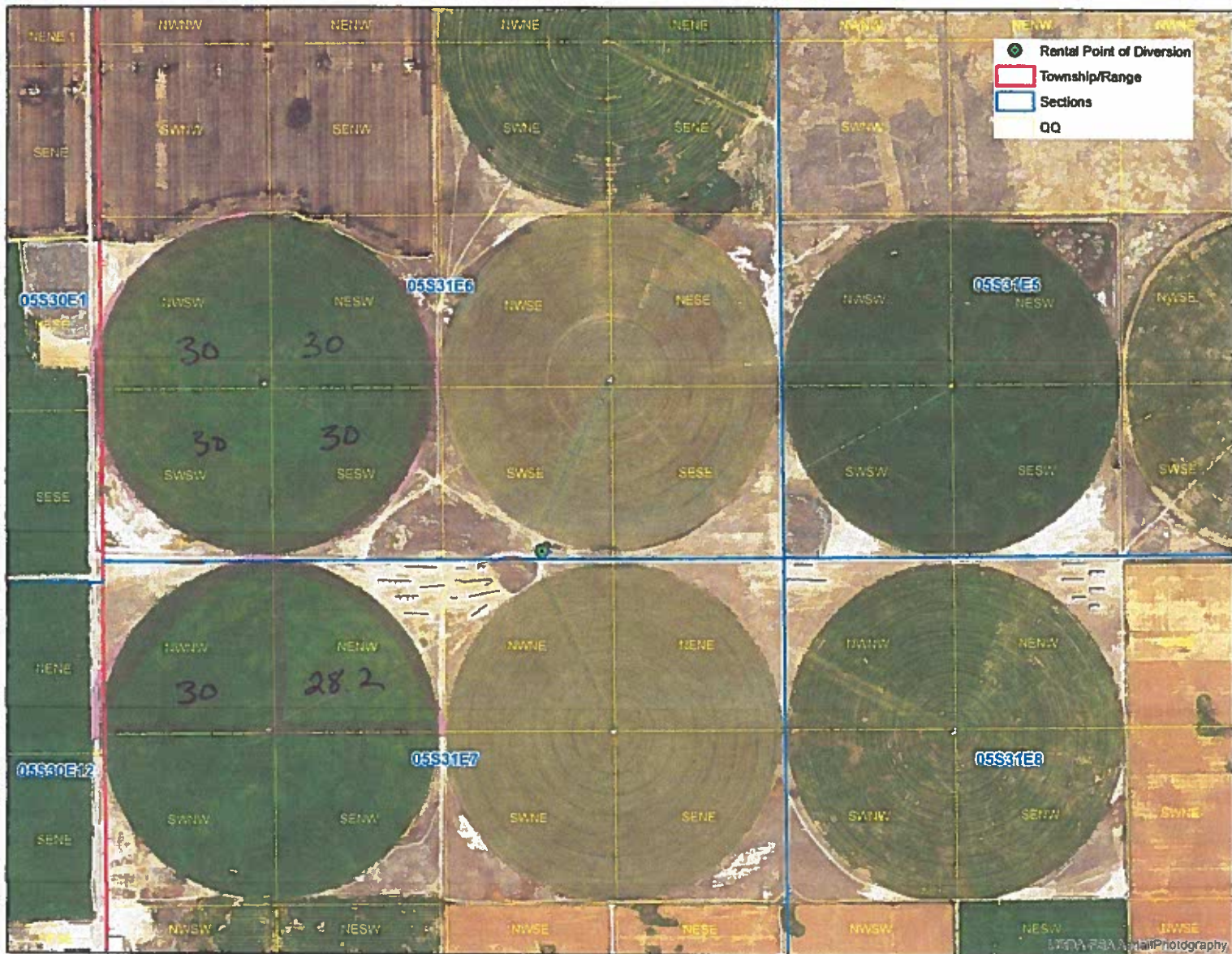
* Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
4/1/17	4/30/17	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 5	<input checked="" type="checkbox"/> Process application as soon as possible	<input type="checkbox"/> Return application to applicant

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.
 ** Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.

Attachment 2



5531 Sec 6		<u>Acres</u>
NWSW	30	30
NESW	30	30
SWSW	30	30
SESW	30	30

05531E Sec 7		<u>Acres</u>
NWNW	30	30
NE NW	28.2	28.2

**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):

Wells providing water to pivots through mainlines

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
WMIS 600251 pump	Ground Water	35-2553A, 2713, 14260, 14262
600252 pump	Ground Water	14258, 7169, 7373, 10422
600253 pump	Ground Water	

All Tied Together

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

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

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

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

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

- Irrigation _____ (number of acres) Duration: Subject to IDWR standard seasons of use
- Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- Industrial from: _____ (mm/dd) to: _____ (mm/dd)
- Other: Mitigation from: 4/1/17 (mm/dd) to: 12/1/17 (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:

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)
35-2553 A	Irrigation	.74	152.4	38.1		.74	152.4	38.1
35-2713	Irrigation	.74	174.4	43.6		.74	174.4	43.6
35-14260	Irrigation	.39	88	43.4		.39	88	43.4
35-14262	Irrigation	.07	14	43.4		.07	14	43.4
35-14258	Irrigation	.40	159.6	43.4		.40	159.6	43.4
35-7169	Irrigation	.73	152.6	38.2		.73	152.6	38.2
35-7373	Irrigation	.22	44.2	11.1		.22	44.2	11.1
35-10422	Irrigation	.06	15.6	3.9		.06	15.6	3.9
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	3.12	712.8	178.2
						CFS	AF	AC

**Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

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

Yes No

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

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

rented same water last year. The owner of the rights
requests we use this farmet to pick up the water they put
into the bank to use for mitigation.

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

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

- D. Additional Information

These rights submitted by Simplot should have been earmarked
to be rented by Behrend Behrend and Knittel farms.

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]
Signature of Applicant

Nic Behrend
Printed Name of Applicant

1-8-17
Date

Signature of Representative

Printed Name of Representative

Date

Print Form

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098