



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 17, 2017

BINGHAM GROUND WATER DISTRICT
PO BOX 1268
BLACKFOOT ID 83221

RE: WATER SUPPLY BANK RENTAL APPLICATION FOR WATER RIGHT NOS. 1-147 and 1-259 DENIED

Dear Renter:

On October 27, 2016, the Department sent a request for additional information from both you and the lessor of water rights 1-147 and 1-259 (People's Canal and Irrigation Company) to conclude processing of the rental request. A final extension was given as January 4, 2017 to submit the requested information.

The requested information was not received by the extension provided, therefore the rental application is denied and being returned to you. Any diversion or use of water associated with this rental application is not authorized and, if occurring, will be subject to any necessary enforcement action.

If you wish to rent water in the future, please reapply using new forms from the Department's website at www.idwr.idaho.gov.

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

Sincerely,

Water Supply Bank

c: Peter Cooper – SPF Water Engineering
Scott King – SPF Water Engineering
Paul Schneider – People's Canal and Irrigation Company

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 01 2016

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: Bingham Ground Water District

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)

1-147

1-259

**STATE OF IDAHO
WATER RESOURCE BOARD**

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Bingham Ground Water District

Mailing Address PO Box 1268 Blackfoot ID 83221
Street City State Zip Code
 Email Address _____ Phone Number 208-680-3527

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 Peter Cooper Professional Title Engineer
 Organization SPF Water Engineering Relationship to Applicant Consultant
 Mailing Address 300 E. Mallard Dr., Ste. 350, Boise, ID 83706
 Email Address pcooper@spfwater.com Phone Number 208-383-4140

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**:

Ground water recharge

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)
3.27 CFS	AF	3.27 CFS	AF	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?	
ASAP		☒ 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):

Aberdeen Springfield canal system and Hilton Spill recharge site (see attached map).

- 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
T1S R36E S34 SENE Lt 14	Snake River	1-23B and 1-297

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: Ground water recharge from: 4/1 (mm/dd) to: 10/31 (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)
1-147	Irrigation	2.18		109		2.18		109
1-259	Irrigation	1.09		109		1.09		109
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	3.27		109
						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**:

The intent of this application and the corresponding applications to lease water to the water supply bank is to mitigate for ground water irrigated acres within Bingham Ground Water District by recharging Snake River water to offset all or a portion of the District's ground water mitigation obligation.

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:

- 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

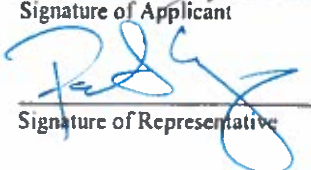
DECLARATION

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.

BINGHAM GROUND WATER DIST


Signature of Applicant

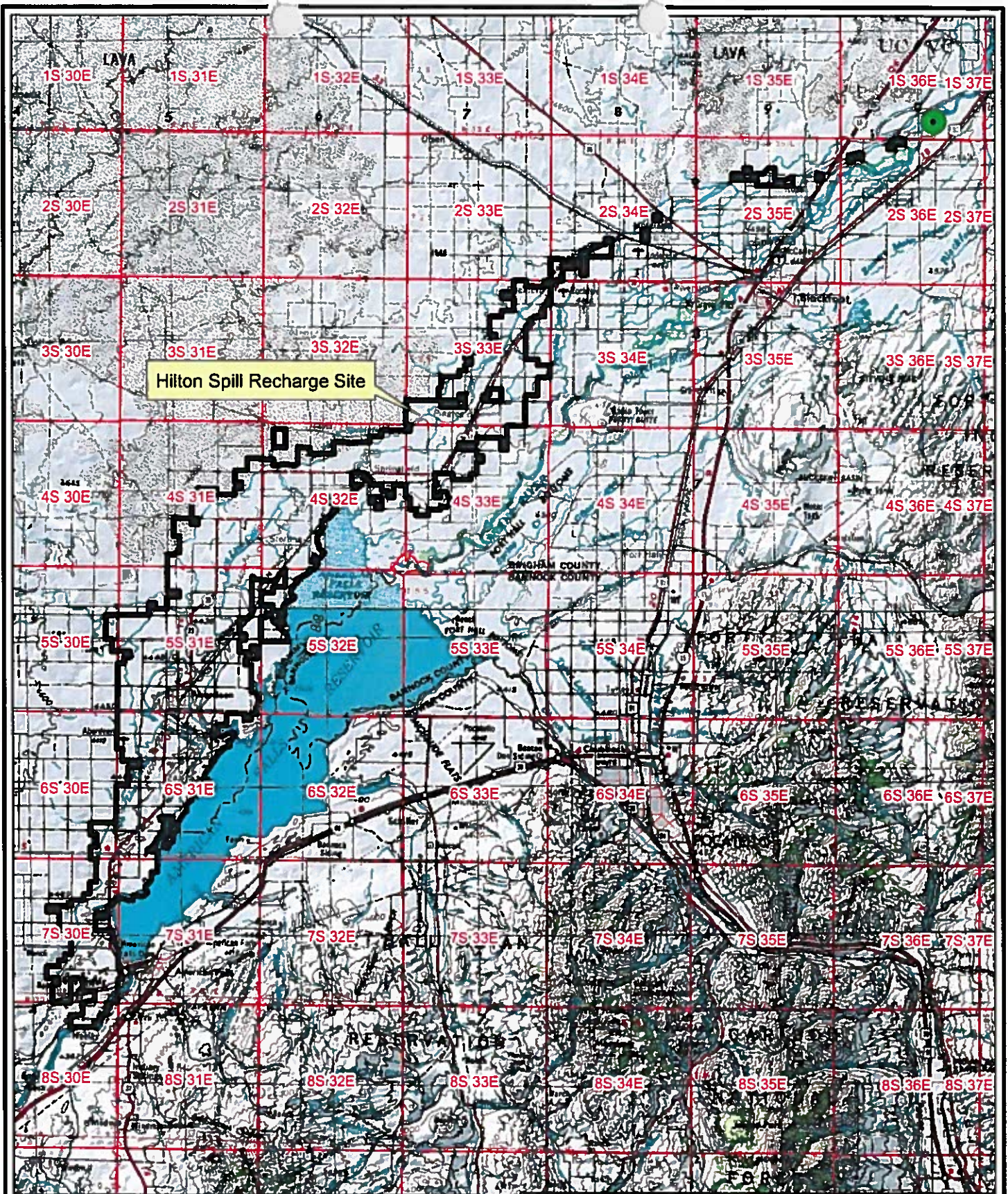
CRAIG B. EVANS, BOARD CHAIRMAN
Printed Name of Applicant Date 3-31-2016


Signature of Representative

Peter Cooper - SPF
Printed Name of Representative Date 3-31-16

Mail to:

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



Company Service Area

-  ABERDEEN SPRINGFIELD CANAL CO
-  Aberdeen Springfield Canal Co. POD

Proposed Recharge Place of Use



0 5 Miles





Aberdeen-Springfield Canal Company

144 South Main
PO BOX 857
Aberdeen, ID 83210
www.ascanal.org

Tel (208) 397-4192 Fax (208) 397-4510

March 31, 2016

Re: Water rights 1-147 and 1-259

To Whom It May Concern:

For the 2016 irrigation season Aberdeen-Springfield Canal Company agrees to deliver the portions of the People's Canal & Irrigation Company's water rights 1-147 and 1-259 that have been placed into the Idaho Water Resource Board's Water Supply Bank to Aberdeen-Springfield Canal Company's Hilton Spill area. The delivery of the recharge water will occur within the Aberdeen-Springfield Canal Company system when in priority as determined by the Watermaster of Water District 1.

Steven T. Howser,
General Manager

Field, Christine

From: Thiel, Sandra
Sent: Friday, January 13, 2017 10:41 AM
To: Field, Christine
Subject: rental return for Bingham Ground Water District

Hello, Clay said you were the person to talk to about returning a rental application. I left the Bingham Ground Water District's application in your in basket. If you are the person doing the letter would you please mention that they can submit another application in the future? Also, I don't know how you usually handle the cc for those but there is a list of people that need to receive a copy of the letter via email.

We can send a hard copy to Bingham GWD and cc the following:

Peter Cooper at SPF

Scott King at SPF

Paul Schneider of Peoples Canal and Irrigation (this was a lease/rental package and Peoples is the lessor)

If you have any questions, or you are unable to get to this before you leave please let me know.

Sandra Beer Thiel

Idaho Department of Water Resources

322 East Front Street

Boise, Idaho 83720-0098

(208)287-4881

sandra.thiel@idwr.idaho.gov

Buyer, Remington

From: Buyer, Remington
Sent: Thursday, December 01, 2016 3:53 PM
To: 'Scott King'
Cc: Craig Evans; Paul Schneider
Subject: RE: PCIC Lease/BGWD Rental

Scott, Craig, Paul,

The Department accepts that additional time is necessary in order for PCIC and BGWD to obtain the requested information. The Water Supply Bank will provide a final extension, until January 4, 2017, by which time all information requested from PCIC and BGWD needs to be received by the Department. This will be our final extension. If all necessary information is not received by January 4th, 2017 BGWD's rental request will be returned and a new rental request can be submitted after all necessary information is obtained.

Regards,

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street, Boise, ID, 83720
T: (208) 287-4918 | F: (208) 287-6700

From: Scott King [<mailto:SKing@spfwater.com>]
Sent: Thursday, December 01, 2016 3:27 PM
To: Buyer, Remington
Cc: Craig Evans; Paul Schneider
Subject: RE: PCIC Lease/BGWD Rental

Remington,

Per our call just a few minutes ago, on behalf of Bingham Ground Water District we are requesting an extension to obtain the information required for Bingham GWD's rental application. I understand the Peoples' extension is until January 4, 2017. We request the same extension.

Thank you,
Scott King

From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]
Sent: Thursday, October 27, 2016 12:58 PM
To: Scott King <SKing@spfwater.com>
Subject: PCIC Lease/BGWD Rental

Scott,

The attached letters are going out in the mail today. The Water Supply Bank is ready to accept portions of the PCIC water rights into the Bank through 2017 and contracts are going out for their signature. However, the rental as proposed cannot be processed until additional information is provided by PCIC and BGWD. We are providing PCIC/BGWD until December 1, 2016 to provide us with the necessary information. The BGWD rental will be returned if we don't receive the necessary information by December 1, 2016.

Please give me a call if you have any questions,

Remington Buyer

Water Supply Bank Coordinator

Idaho Department of Water Resources

322 East Front Street, Boise, ID, 83720

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



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 4, 2016

PAUL ARRINGTON
BARKER, ROSHOLT & SIMPSON LLP
163 SECOND AVENUE WEST
PO BOX 63
TWIN FALLS ID 83303

RE: WATER SUPPLY BANK RENTAL REQUEST FOR WATER RIGHTS 1-147 & 1-259

Mr. Arrington,

Thank you for your public comments regarding the Water Supply Bank rental request by Bingham Ground Water District ("BGWD") for People's Canal and Irrigation Company ("PCIC") water rights 1-147 and 1-259. PCIC has proposed to lease into the Water Supply Bank portions of their natural flow irrigation water rights that authorize irrigation of 99.4 acres within the boundaries of their canal company service area. BGWD has requested to rent these water rights from the Bank, so that a corresponding amount of water might be utilized to conduct ground water recharge at a location adjacent to the Aberdeen Springfield Canal.

Presently, portions of water rights 1-147 and 1-259 that correspond to the irrigation of 99.4 acres within the boundaries of the PCIC service area have been approved for lease to the Water Supply Bank. However, the leased portions may only be rented from the Bank for the beneficial use of irrigation within the boundaries of the PCIC service area. We are holding BGWD's rental request until December 1, 2016, to provide time for both BGWD and PCIC to submit to our office additional information that must be reviewed prior to disposing of their rental request. I believe that Departmental review of the information requested of PCIC and BGWD should suffice to address the concerns you expressed in your letter on behalf of your clients, the Surface Water Coalition ("SWC"). Per your letter, the Department understands the following are of concern to the SWC:

- the acres proposed to be idled by PCIC "have not been irrigated for some time" and "there is no information in the applications showing that the alleged number of acres will actually be dried up as compared to the historic delivery and use of water by Peoples and its water users."
- "the applications fail to explain how recharge will occur, when it will occur, how it will be monitored, how it will be measured and how it will be reported. The applications further fail to explain how the applicants will differentiate the proposed recharge activities from the incidental recharge already occurring in the identified recharge locations necessary to effectuate delivery of Aberdeen Springfield Canal Company ("ASCC") irrigation water to its shareholders."
- the applications submitted by PCIC and BGWD "fail to account for historical water use practices and the impacts on other water rights resulting from a change in those practices." You state, "if the water has been diverted and returns to the river, it has been part of the Coalition's water supply. If the water has not been diverted...then that water has been part of the Coalition's historic water supply as well."

You also state that, on behalf of your clients, you reserve "the right to request a hearing on any action taken by the Department on these companion applications pursuant to I.C. 42-1701A(3)."

Your first concern, that the 99.4 acres proposed to be idled by PCIC have not been recently irrigated and that their lease application fails to confirm a reduction of 99.4 acres will occur within their service area, seems to be a concern about the potential for enlargement in the use of the PCIC water rights through their lease to the Bank. Five full years have not elapsed since the PCIC water rights were decreed through the Snake River Basin Adjudication ("SRBA") in 2011, so the Department does not consider any portion of the PCIC water rights to be subject to forfeiture. As such, PCIC is authorized to irrigate up to 15,222 acres within the boundaries of their service area. Provided that PCIC

irrigates 99.4 fewer acres within their service area during the term of their water right lease contract, no enlargement in the use of PCIC water rights should occur. Moreover, if PCIC's water rights are rented from the Bank for irrigation use within the boundaries of the PCIC service area, no enlargement of these water rights should occur.

However, because BGWD's rental request for the leased portions of PCIC's water rights proposes to change their nature of use from irrigation to ground water recharge, an evaluation of PCIC's historic irrigation practices is required to avoid enlargement by ensuring an appropriate amount of water is authorized to be rented for recharge use. As such, the Department has requested that PCIC confirm the specific 15,222 acres within their 21,610.97 acre service area that are currently available to be irrigated with PCIC irrigation water rights. PCIC must further confirm that the 99.4 acres proposed to be idled are within the boundaries of the 15,222 acres. PCIC must also confirm the maximum daily diversion rates for water rights 1-147 and 1-259 during a suitable period of time (or at least the past five years), which should include the beginning and end dates for water diversion under these water rights and the total daily and annual volumes of water diverted under these water rights.

Once PCIC identifies for the Department the 15,222 irrigable acres within their service area, the Department will evaluate cropping practices during the past five years on these 15,222 acres to establish an overall maximum consumptive use value within the PCIC service area. A proportionate amount ($99.4/15,222 = 0.65\%$) of this total consumptive use value could be the maximum diversion volume authorized to be used by BGWD for recharge purposes.

With respect to your second concern that BGWD's rental request fails to account for how and when recharge will occur, as well as how it will be monitored, measured and reported, please know that the Department has requested that BGWD confirm how and when recharge will occur at the recharge site separate from normal operations of the site by ASCC. The Department has also requested that BGWD explain how they intend to actively measure, monitor and record recharge. BGWD has also been asked to use the ESPA transfer tool to model anticipated impacts to reaches of the Snake River that might result from ground water recharge.

Your third concern, that water diverted or not diverted by PCIC may affect SWC diversions seems to imply that any use or non-use of the PCIC water rights might cause injury to SWC members. The non-diversion of a proportionate amount of flow corresponding to the lease of 99.4 acres of PCIC water rights into the Bank should not cause injury on its own accord. However, the Department intends to evaluate historic diversion and cropping practices by PCIC and its shareholders to establish an appropriate diversion rate and volume that can be rented from the Water Supply Bank for the purpose of ground water recharge.

Finally, the Department understands that you reserve the right to contest the Department's decision on any possible rental by BGWD of these water rights. I will ensure you are notified on the eventual decision regarding the rental of these water rights so that you may appropriately represent the interests of your clients.

Again, thank you for your comments submitted with respect to this lease-rental transaction. I look forward to our future correspondence. If you have any further questions about this matter, you can reach me at 208-287-4918, or by email at remington.buyer@idwr.idaho.gov.



Remington Buyer
Water Supply Bank Coordinator

C: Scott King – SPF Engineering



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 27, 2016

**BINGHAM GROUND WATER DISTRICT
C/O CRAIG EVANS – CHAIRMAN
PO BOX 1268
BLACKFOOT, ID 83221**

RE: WATER SUPPLY BANK RENTAL REQUEST FOR WATER RIGHTS 1-147 & 1-259

Mr. Evans,

The Water Supply Bank has received from Bingham Ground Water District ("BGWD") a request to rent portions of irrigation water rights 1-147 and 1-259 from the Water Supply Bank. The rental request, submitted by BGWD's representative SPF Engineering, is seeking to rent these water rights from the Water Supply Bank for the purpose of ground water recharge of the Eastern Snake Plane Aquifer ("ESPA") at a location known as the Hilton Spill site. Per a 1999 IDWR report, the Department understands that the Hilton Spill site, which is owned and operated by Aberdeen Springfield Canal Company ("ASCC"), may consist of approximately 120 acres, to which water can be delivered at a rate of approximately 100 to 150 cfs, and the depth to groundwater is estimated to be 50 feet.

The Department requires additional information from both you and the lessor of water rights 1-147 and 1-259 (People's Canal and Irrigation Company) to conclude processing of the rental request. Specifically, the Department requires that you submit the following for our review:

- a written description of the Hilton Spill recharge site, confirming the size and characteristics of the site, the depth to ground water from the surface, the quickness with which the site can accept recharge water (intake rates), how long water recharged at the location will remain at the site (retention rates) and any modeling that has been conducted to document the efficiency of ground water recharge at the recharge location;
- a description of how recharge water will be actively measured and recorded, including the type of structure that will be used to measure recharge, and its specific location;
- a written description as to when BGWD-specific recharge will occur, separate from normal use of the Hilton Spill site under normal operation of the ASCC system. Please explain how you and/or ASCC intend to differentiate between incidental recharge occurring naturally at the Hilton Spill versus rental-specific recharge that is intended to be undertaken by/or for BGWD at this site;
- an ESPA transfer tool ground water model run to document the anticipated impacts to reaches of the Snake River that will result from your intended recharge activity;
- confirmation that your intended Water Supply Bank rental for recharge complies with the ground water quality monitoring plan for the recharge location; and
- an explanation as to how injury, hazard and/or nuisance to adjacent properties will be avoided and managed at the recharge location.

Additionally, the irrigable acres appurtenant to the portions of water rights 1-147 and 1-259 that have been leased to the Water Supply Bank are overlapped by ground water irrigation water rights 35-4054, 35-13070, 35-28988, 35-7548. Please confirm the status of ground water rights 35-4054, 35-13070, 35-28988 and 35-7548, including whether the acres that overlap with water rights 1-147 and 1-259 are being idled, and whether these acres are being dedicated to any mitigation activities being undertaken by your Ground Water District.

The above information is [redacted] ested to assist the Department in its review [redacted] ur rental application. The Department will hold your rental request for thirty (30) days so that the above information may be provided. If the above information is not receive by December 1, 2016, your rental request will be returned.

If you have any questions about this matter, you can reach me at 208-287-4918, or by email at remington.buyer@idwr.idaho.gov.

A handwritten signature in black ink, appearing to be 'RM', followed by a long horizontal line extending to the right.

Remington Buyer
Water Supply Bank Coordinator

C: Scott King – SPF Engineering

RECEIVED

Albert P. Barker
John A. Rosholt
John K. Simpson
Travis L. Thompson
Shelley M. Davis
Paul L. Arrington*
Scott A. Magnuson

JUL 26 2016
DEPARTMENT OF
WATER RESOURCES

* Licensed in Idaho & Washington



Paul L. Arrington
pla@idahowaters.com

163 Second Avenue West
P.O. Box 63
Twin Falls, Idaho 83303
(208) 733-0700 telephone
(208) 735-2444 facsimile

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

July 25, 2016

SENT VIA EMAIL (BANK@IDWR.IDAHO.GOV)

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

RE: *Groundwater Recharge Companion Applications
Peoples Canal Company/Bingham Ground Water District*

Dear Remington:

In response to the Department's request for public comments on the above-referenced water bank applications, I am writing on behalf of our clients A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company. This letter is also joined by Kent Fletcher on behalf of his clients American Falls Reservoir District #2 and Minidoka Irrigation District. Our clients are collectively referred to as the "Surface Water Coalition" or "Coalition."

As surface water users in Water District 1, and as signatories to a recent Settlement Agreement with several ground water districts, the Coalition is concerned about groundwater levels and surface water supplies in the Upper Snake River Basin. To that the end the Coalition has an interest in the proposed water bank transaction contemplated by the companion applications filed by Peoples Canal Company and Bingham Ground Water District ("Bingham GWD") on April 1, 2016.

The companion applications seek to lease portions of irrigation surface water rights owned by Peoples Canal & Irrigation Company to the state water bank. Bingham Ground Water District would then apparently rent those rights for "groundwater recharge" uses in the "Aberdeen Springfield canal system and Hilton Spill recharge site." The Coalition opposes the companion applications as currently submitted for various reasons. As discussed below, there are several errors and omissions that require IDWR to reject the companion applications.

First, Peoples has identified acres that will allegedly be dried up as a part of the companion applications. However, a review of the aerial photos provided with the applications, as well as historical photos of the same area, reveal that large portions of the "dried up" acres have not been

irrigated for some time. Most notably, the “Dance acres to lease” aerial photo appears to show that the eastern portion of the property has not been irrigated at all. Similarly, the “Thorn Springs Ranch acres to lease” aerial photo shows a large area on the eastern portion that has not been irrigated. Historical photos of this same area appear to show that much of the center portion of the property has also not been irrigated. There is no information in the applications showing that the alleged number of acres will actually be dried up as compared to the historic delivery and use of water by Peoples and its water users.

Second, the applications fail to explain how recharge will occur, when it will occur, how it will be monitored, how it will be measured, and how it will be reported. The applications further fail to explain how the applicants will differentiate the proposed recharge activities from the incidental recharge already occurring in the identified recharge locations necessary to effectuate delivery of Aberdeen Springfield Canal Company (“ASCC”) irrigation water to its shareholders. The applications identify the “Aberdeen Springfield canal system and Hilton Spill recharge site” as the recharge locations. However, these systems already provide significant incidental recharge to the aquifer system as a component of ASCC’s irrigation deliveries. It is our understanding that the ASCC system already loses large quantities of water seeping through its canal system as part of its irrigation deliveries. Further, the Hilton Spill recharge site is already used by ASCC for operational system spill and water regulation. None of this incidental recharge can or should be credited to Bingham GWD to mitigate for junior groundwater pumping. *See* I.C. § 42-234(5) (“incidental recharge may not be used as the basis for a claim of a separate or expanded water right”).

Finally, any lease or rental in the Water Bank must include an analysis of injury to other water rights. *C.f.* I.C. § 42-222. As currently presented, however, the applications fail to account for historical water use practices and the impacts on other water rights resulting from a change in those practices. The water rights being leased to the bank have apparently historically been used for irrigation purposes. Importantly, not all irrigation water is consumed by the crop. Rather, conveyance loss, field seepage and/or return flow to the river all impact the amount of water used. Water lost to conveyance loss, field seepage or return flows is then available for use by downstream water users. By discontinuing irrigation diversions, the historical conveyance loss, field seepage and/or return flows will change and likely no longer be available for use downstream – thereby reducing the quantity of water and likely injuring downstream water users. The Coalition relies upon water in the downstream reaches (Near Blackfoot to Milner). If the water has been diverted and returns to the river, it has been part of the Coalition’s water supply. If the water has not been diverted, as indicated by the lack of irrigation, then that water has been part of the Coalition’s historic water supply as well.

The applications fail to account for these impacts – and instead appear to request the ability to recharge that water without proper analysis, including the historic beneficial use of the water rights made by Peoples. The Coalition objects to any leases that are not properly evaluated pursuant to the criteria set forth in I.C. § 42-222.

The applications need to be updated with the necessary information to show that existing water rights won’t be injured and that there is a system for the monitoring and reporting of any recharge activities. Absent such information, the applications should not be accepted. The Coalition reserves the right to provide further comment upon submission of acceptable applications. Further,

the Coalition reserves the right to request a hearing on any action taken by the Department on these companion applications pursuant to I.C. § 42-1701A(3).

While the Coalition fully supports groundwater recharge and proper management of the ESPA, it opposes efforts to change natural flow irrigation rights, either temporarily or permanently, that result in injury or enlargement of the water rights. Indeed, the Coalition opposed similar efforts in the SRBA whereby certain water right holders claimed "groundwater recharge" as a purpose of use under their senior natural flow irrigation rights.

The Coalition requests that IDWR provide notice of any action taken with respect to the companion applications. Please contact me at 733-0700 or Kent Fletcher at 678-3250 if you have any questions or need additional information.

Thank you for considering these comments.

Sincerely yours,



Paul L. Arrington

PLA/jf

cc: Gary Spackman, Director (email)
Brian Patton, IWRB (email)
Jerry Rigby, c/o Peoples (email)
Randy Budge, c/o Bingham GWD (email)
Kent Fletcher (email)
John Lind, BID (email)
Alan Hansten, NSCC (email)
Brian Olmstead, TFCC (email)
Dan Temple, A&B (email)
Lynn Harmon, AFRD#2 (email)
Walt Mullins, Milner (email)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 17, 2016

**BINGHAM GROUND WATER DISTRICT
C/O CRAIG EVANS – CHAIRMAN
PO BOX 1268
BLACKFOOT, ID 83221**

RE: WATER SUPPLY BANK RENTAL REQUEST FOR WATER RIGHTS 1-147 & 1-259

Mr. Evans,

The Water Supply Bank has received from Bingham Ground Water District ("BGWD") a request to rent from the Water Supply Bank portions of irrigation water rights 1-147 and 1-259 during 2016. The rental request, submitted by BGWD's representative SPF Engineering, is seeking to rent these water rights from the Water Supply Bank for the purpose of ground water recharge of the Eastern Snake Plane Aquifer ("ESPA") at a location known as the Hilton Spill site. Per a 1999 IDWR report, the Department understands that the Hilton Spill site, which is owned and operated by Aberdeen Springfield Canal Company ("ASCC"), may consist of approximately 120 acres, to which water can be delivered at a rate of approximately 100 to 150 cfs, and the depth to groundwater is estimated to be 50 feet.

The Department is advertising your rental request to obtain public comments, to help inform our decision as to whether the requested recharge use is in the local public interest. The Department also requires additional information from you to conclude processing of the rental request. Specifically, the following is required:

- A written description of the Hilton Spill recharge site, confirming the size and characteristics of the site, the depth to ground water from the surface, the quickness with which the site can accept recharge water (intake rates), how long water recharged at the location will remain at the site (retention rates) and any modeling that has been conducted to document the efficiency of ground water recharge at the recharge location;
- an ESPA transfer tool ground water model run to document the anticipated impacts to reaches of the Snake River that will result from your intended recharge activity;
- a description of how recharge water will be actively measured and recorded, including the type of structure that will be used to measure recharge, and its specific location;
- confirmation that your intended Water Supply Bank rental for recharge complies with the ground water quality monitoring plan for the recharge location; and
- an explanation as to how injury, hazard and/or nuisance to adjacent properties will be avoided and managed at the recharge location.

Additionally, the irrigable acres appurtenant to the portions of water rights 1-147 and 1-259 that have been leased to the Water Supply Bank are overlapped by ground water irrigation water rights 35-4054, 35-13070, 35-2898B, 35-7548. Please confirm the status of ground water rights 35-4054, 35-13070, 35-2898B and 35-7548, including whether the acres that overlap with water rights 1-147 and 1-259 are being idled, and whether these acres are being dedicated to any mitigation activities being undertaken by the ground water district.

The above information is requested to assist the Department in its review of your rental application. Please submit the above information within the next thirty (30) days so that your rental request may be timely concluded.

If you have any questions about this matter, you can reach me at 208-287-4918, or by email at remington.buyer@idwr.idaho.gov.

A handwritten signature in black ink, appearing to be 'Remington Buyer', with a long horizontal line extending to the right.

Remington Buyer
Water Supply Bank Coordinator

C: Peter Cooper – SPF Engineering

Hold for processing for 2017

MEMORANDUM

To: Right(s) 1-147 and 1-259

From: Remington Buyer

Date: June 1, 2016

Re: Review of ground water recharge rental from the Water Supply Bank

PURPOSE/NARRATIVE: On April 1, 2016, Bingham Ground Water District ("BGWD") submitted an application to rent portions of water rights 1-147 and 1-259 from the Water Supply Bank, to conduct ground water recharge on the ESPA at a location known as the Hilton Spill site. The intent of the recharge rental is to offset mitigation obligations of the GWD, which are part of a negotiated settlement between the GWD and the Surface Water Coalition (SWC).

AUTHORITY TO FILE: The rental request has been filed by Craig Evans, Board Chairman of BWD. BGW is being represented on this application by SPF Engineering. Peter Cooper of SPF Engineering has also signed the application. No concerns about the applicants' authority to file.

The rental proposes to rent water rights 1-147 and 1-259 from the Bank, by diverting them from the Snake River into the Aberdeen Springfield Canal Company ("ASCC") canal, through which they will be delivered and re-diverted at the "Hilton Spill" recharge place of use. The Hilton Spill site is located on property owned by ASCC. ASCC has provided a letter with the rental application, consenting to BGWD's use of the ASCC canal and Hilton Spill site to conduct recharge. No concerns about BGWD's authority to rent water at the POD/POU.

WATER RIGHT VALIDITY: Water rights 1-147 and 1-259 are both being leased to the Bank. No concerns about validity. Review of Landsat imagery from April and May 2016 shows no irrigation of the idled places of use—the water rights are valid to be rented.

INJURY TO OTHER WATER RIGHTS: No information has been provided about the Hilton Spill recharge location. Documentation will be requested from BGWD/ASCC/SPF regarding the recharge potential of the Hilton Spill site. Review of the documentation should confirm there will be no injury to prior appropriators or water resources through recharge at this location.

ENLARGEMENT OF USE: This rental proposes a change in nature-of-use for water rights 1-147 and 1-259, from irrigation use to ground water recharge use. When a change in nature-of-use occurs, the Bank evaluates the consumptive use of both the leased rights and the intended rental purpose, to ensure no injury or enlargement occurs through increased consumptive use. To ensure no enlargement occurs, IDWR will evaluate the historic irrigation practices on the acres proposed to be idled, for years 2011 through 2015, to evaluate the irrigation diversion volumes recorded on these acres. A consumptive use reduction will not be applied in this instance, because recharge will not have a greater consumptive use than irrigation, however the actual



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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

May 4, 2016

Peoples Canal & Irrigation Co.
Paul Schneider - President
1050 W. Hwy 39
Blackfoot, ID 83221

RE: Water Supply Bank lease-rental proposal

Dear Mr. Schneider,

On April 1, 2016, the Idaho Water Resource Board's Water Supply Bank (WSB) received a paired lease-rental application package. The applications were submitted by Peter Cooper (engineer, SPF Water Engineering) on behalf of Peoples Canal & Irrigation Co and Bingham Ground Water District. Peoples Canal & Irrigation Co is requesting to lease portions of three of its rights for irrigation use into the WSB and Bingham Ground Water District is requesting to rent those same portions from the WSB for the purpose of ground water recharge. I have been assigned to review and if possible, to process those two applications.

Peoples Canal & Irrigation Co's water rights enjoy certain protection from forfeiture under Idaho Code § 42-223, so a scrutiny of the water rights for forfeiture will not be necessary in the overall review of the lease proposal. Nevertheless, the WSB needs additional information about Peoples Canal & Irrigation Co's historic water diversion practices. The additional information will ensure that the impact of the proposed rental of water for ground water recharge is fully understood and that it is consistent with the purpose of the WSB, as stated in Rule 1 of the Water supply Bank Rules (IDAPA 37.02.03). Therefore, please provide the following information to support the lease proposal:

- Identify the acres within Peoples permissible place-of-use that will be idled for the duration of the lease contract, as well as the specific acres that Peoples Canal & Irrigation Co will continue to irrigate throughout the lease. Please submit this information in the form of a map or a GIS shapefile.
- Provide information from the last five years which illustrates Peoples Canal & Irrigation Co's
 - Maximum diversion rate of water for each of the water rights proposed to be leased to the WSB;
 - Beginning and ending dates of water diversion for each of the water rights proposed to be leased to the WSB; and
 - Total volume of water diverted for each of the water rights proposed to be leased to the WSB

Finally, because the proposed rental would change the nature-of-use for Peoples Canal & Irrigation Co's water rights from irrigation to groundwater recharge, the WSB requires information sufficient for determining the historic consumptive use for the acreage intended to be idled. Therefore,

- Please provide documentation of the crops that were grown on the acreage proposed to be idled, through a reasonable historical period and report the annual precipitation deficit for those crops.

This request for additional information is intended to add detail to the proposal so that it can be fully understood and so that the review criteria can be thoroughly evaluated.

In addition, because the proposed rental is unprecedented in many ways, IDWR will seek public comment on the proposal. A larger, but similar lease-rental proposal was submitted by Fremont Madison Irrigation District for consideration in 2016 season. IDWR is currently advertising Fremont Madison Irrigation

District's rental proposal on its website (refer to <https://idwr.idaho.gov/water-supply-bank>) and in regional newspapers to invite public comments that may help IDWR evaluate the proposal.

Please provide the information listed above with the next thirty (30) days so that the WSB can conclude its processing for the 2016 season. If the requested information is not received within thirty (30) days, the rental application may be approved but for a smaller amount or it may be returned without being processed.

If you have any questions, you may contact me Michele Edl at 208-287-4946 or Remington Buyer, Water Supply Bank Coordinator at (208)287-4918.

Respectfully,



Michele D Edl
Senior Water Resources Agent

ec: Peter Cooper SPF Water Engineering

c: CRAIG B EVANS, BOARD CHAIRMAN
BINGHAM GROUND WATER DISTRICT
PO BOX 1268
BLACKFOOT ID 83221



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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 6, 2016

BINGHAM GROUND WATER DIST
PO BOX 1268
BLACKFOOT ID 83221

RE: APPLICATION(S) TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of your application(s) to rent water from the Idaho Water Resource Board's Water Supply Bank (Bank) for ground water recharge. Filing a Bank rental application does not automatically result in approval. Before a rental application can be approved, the rental request must be reviewed, a rental agreement must be prepared, the agreement must be approved by the applicant and the Department, and the rental fee must be paid. To maximize the number of rental applications processed while managing competing priorities, the Department begins accepting rental applications on November 1 for use in the next calendar year, and it processes as many applications as it can before the start of the irrigation season in March or April. Once the irrigation season begins, Department staff members are reassigned to address field work and other duties. Consequently, few rental applications are processed after May 1.

Because your application was received near the beginning of the irrigation season, which is now well underway, it is unlikely the Department will be able to process your application in time for approval in 2016 unless you have proposed a start date late in the year. If your application was for 2016 only and the latest possible start date on your application has passed, the application may be returned to you. If your application requests a rental for more than one year, the rental application may be retained by the Department and evaluated for 2017.

In future years, we encourage you to file your rental applications as soon as possible after November 1 to improve the chances that they will be processed.

Additional information about the Bank may be found on the Department's website at <http://idwr.idaho.gov/water-supply-bank/>.

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

Sincerely,

Water Supply Bank

C: Peter Cooper – SPF Water Engineering