



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 6, 2017

AMERICAN FALLS ABERDEEN
GROUND WATER DIST
C/O NIC BEHREND
PO BOX 70
AMERICAN FALLS ID 83211

RE: Expiration of Water Supply Bank Rental Agreement for water rights: 35-2491, 35-7005, 35-7648

Renter,

This letter is to inform you that your rental agreement(s) to rent the above listed water rights from the Water Supply Bank (Bank) expired at the end of 2016.

Once the rental agreement concludes, any diversion or use of water under the rental agreement will no longer be authorized and, if occurring, may be subject to an enforcement action.

If you wish to rent water in the future, please download a rental application from: <http://idwr.idaho.gov>. You may submit rental applications on November 1 of the year prior to the intended use of rental water. **YOU ARE ENCOURAGED TO FILE AN APPLICATION AT LEAST 3 MONTHS PRIOR TO THE DATE YOU DESIRE TO USE RENTAL WATER.**

If you have any questions about this matter, please contact me at (208) 287-4918.

Sincerely,

A handwritten signature in black ink, appearing to read 'RB' followed by a stylized flourish.

Remington Buyer
Water Supply Bank Coordinator

Enclosures:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

RECEIVED

APR 12 2015

DEPARTMENT OF
WATER RESOURCES

This is to certify that: AMERICAN FALLS – ABERDEEN GROUND WATER DISTRICT
C/O NIC BEHREND
PO BOX 70
AMERICAN FALLS, ID 83211
(208) 226-5914

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	Priority Date	Source	Tributary	Annual Rented Volume	Total Rented Acres
35-2491	1/24/1957	Ground Water	NA	Not Stated	NA
35-7005	12/14/1967	Ground Water	NA	Not Stated	NA
35-7648	11/24/1976	Ground Water	NA	Not Stated	NA
Total Annual Combined Limit				824.0 af	NA

Annual Combined Rental Totals

824.0 af NA

Term of Rental: This rental is in effect from the day the Idaho Water Resource Board signs the rental agreement and shall be in effect until December 31, 2016

Rental Fee: \$14,008.00

The fee for rental of the above-described water is \$14,008.00 per year. Ten percent (\$1,400.80) will be retained by the Department to offset administrative costs, and the remainder will be paid to the lessor(s). No rental fees will be refunded once the fee is collected and the start date for a Rental Agreement has passed.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 35-2491

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 of Renter

Nic Behrend - Chairman

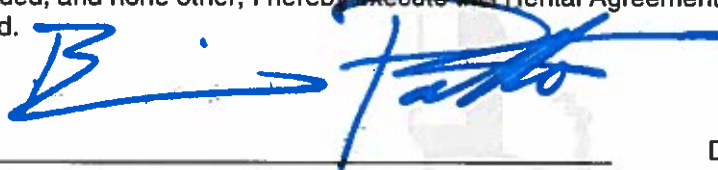
Printed Name and Title*

4-5-16

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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



By
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date 4/12/2016

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

BENEFICIAL USE

MITIGATION BY NON-USE

SEASON OF USE

04/01 TO 10/31 35-2491
05/01 TO 10/31 35-7005
04/01 TO 11/01 35-7648

IDLED PLACE OF USE: MITIGATION BY NON-USE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	32E	20															35.0	39.0	74.0
02S	32E	28							37.0										37.0
02S	32E	29	33.0	34.0	28.0														95.0

Total Acres: 206.0

CONDITIONS APPLICABLE TO ALL RENTED WATER RIGHTS

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 does not constitute a dedication of the water to renter's beneficial use, and upon expiration of this agreement the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
5. 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.
6. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
7. 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.
8. 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.
9. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
10. The water rented under this agreement is appurtenant to irrigation of 206 acres.

11. No mitigation credit shall be implied or authorized solely through execution of this rental agreement. Mitigation credit towards a delivery call can only be authorized upon approval of a mitigation plan pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources.

CONDITION APPLICABLE TO RIGHT 35-7005

12. The period of use for the mitigation described in this approval may be extended to a beginning date of 04/01 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 05/01 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than originating approval/SRBA partial decree date.



STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKRECEIVED
APR 20 2015
DEPARTMENT OF
WATER RESOURCESApplicant Name: American Falls - Aberdeen Ground Water DistrictIs this application being submitted with a lease application as a lease/rental package? Yes ☐ No ☒

An *Application to Rent Water from the Board's Water Supply Bank* must be completed in accordance with the minimum requirement checklist below to be acceptable for processing by the Idaho Department of Water Resources (IDWR). 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.**

Applications to rent water should be submitted well in advance of the desired start date for the use of water. Rental applications may be submitted as early as November 1 of the year prior to the intended use of rental water. Rental applications submitted more than one year in advance of the proposed start date for water use will not be accepted and will be returned to applicants. Rental applications will not be processed if they are received after the end of the rental season of use.

One rental application per beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources. For multiple beneficial uses of water, individual rental requests should be submitted for each unique beneficial use of water.

For additional instructions on completing a rental application, visit the Department's website at www.idwr.idaho.gov.

Checked All Items as Either Attached (Yes) or Not Applicable (N/A)

YES

☐ Completed *Application to Rent Water from the Board's 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 |
| 3E | ☒ | ☐ Authorization from the owner/operator of the rental point(s) of diversion |
| 3G | ☒ | ☐ Water modeling to account for the impacts of the rental request |
| 3J | ☒ | ☐ Documents justifying a need to rent water for irrigation at 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)

35-2491

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant American Falls - Aberdeen Ground Water District

Mailing Address PO Box 70 American Falls, ID 83211

Email Address pamelaw@digis.net

Phone Number 208-226-5914

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 Nic Behrenc

Professional Title Chairman of the Board

Organization Am. Falls - Aberdeen Ground Water Distirct

Relationship to Applicant Chairman

Mailing Address PO Box 70

Email Address pamelaw@digis.net

Phone Number 208-226-5914

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 place of use is outlined with an obvious, bolded line. For irrigation purposes, note that the place of use outlined on your map cannot exceed the number of acres you are proposing to rent. Attach the map to this application and label it Attachment 2.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe the purpose of your rental request. Include any anticipated rates of water application, water use practices or number of stock (if any). If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of rental water required. Attach additional sheets if required and label it Attachment 3A:

Purpose of use is for mitigation purposes on behalf of District members. We want to rent everything available once

Tim Deeg's application is filled.

B. Enter the desired and/or minimum necessary 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)	Acres (if applicable) (Acre)
CFS	AF	CFS	AF	all available AC

Sometimes water rights available for rent 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. Enter the proposed start date and latest possible start date for using rental water. Also provide the number of years you would like to rent water:

Proposed Start Date (month/day/year)	Latest Possible Start (month/day/year)	* Proposed Rental Duration (Max 5 Years)	** For multi-year rentals, indicate whether you desire to rent water for remaining years if a rental request cannot be approved for the first year?
April /01/2015	10/31/2015	5	☒ Yes, approve rental for all remaining future years. ☐ No, return rental request if first year is unapprovable.

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Subject to the availability of rentable water. A multi-year rental that cannot begin during the first year requested may be approved for some or all remaining years, depending on availability. Rental requests will be returned if no water is available to rent in the first and/or subsequent years of the rental request.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- D. Refer to the map you created in item 2 and specify the location of the point(s) of diversion (POD) from which rental water is proposed to be diverted:

Water Source	TWP	RGE	SEC	¼	¼	¼	County	Other water rights for the same purpose diverted from this POD
Ground Water	02S	32E	20	SE	SW	SE	Bingham	
Ground Water	02S	32E	28	NW	NW	SW	Bingham	

The entry in this grid must match the map from item 2 on the application.

- E. Do you own and/or possess the authority to divert water from the above POD(s)? Yes ☐ No ☒
If no, provide documentation from the owner/operator confirming your authorization to use the POD(s) and label it Attachment 3E.
- F. Do any POD(s) identified in Question 3D 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.
- G. Has water modeling been provided with your rental request? Yes ☐ No ☒
If yes, include as Attachment 3G. Otherwise please explain why modeling was not provided:

Rental applications that require modeling will be returned if modeling is not provided.

- H. Specify the proposed beneficial use: ☐ Irrigation ☐ Commercial ☐ Industrial ☐ Municipal
☐ Groundwater Recharge ☐ Mining ☐ Stockwater ☒ Other: Mitigation

- I. Refer to the map you created in item 2 and specify below the places you propose to use water. If for irrigation, specify the number of acres to be irrigated per ¼ ¼ tract. Otherwise indicate usage by marking the ¼ ¼ tracts with the first letter of your proposed use identified above:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02S	32E	20												35				39	74
		28							40				37						77
		29	33				34				28				40				135
The entry in this grid must match the map from item 2 on the application.																			Total Acres (for irrigation)
																			286

- J. For irrigation uses, do you propose a water diversion rate greater than 0.02 cfs/acre? N/A ☒ Yes ☐ No ☐
If yes, explain the justification for this rate of flow and attach any supporting documents as Attachment 3J:

- 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. Describe your water distribution system and how water will be delivered from the POD(s) to the proposed POU(s):
Water will be used for mitigation and not diverted.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

M. List all other water rights and sources of water at the rental place of use for the same purpose and explain why additional water is required. Include privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company, or any other water deliver entity:

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights?

Yes ☒ No ☐

If yes, specify below the water rights you are requesting to rent. Otherwise continue to Section 5 of this application form.

Please note: Diversion rates and volumes to be rented from a leased water right must be proportionate to the per acre diversion rates and per acre volume limits of the water right leased to the Bank. Applicants should query a water right's rental availability by reviewing active lease and rental documents, searchable via IDWR's website, to ensure all elements of a water right remain available in sufficient quantity to satisfy a rental request.

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany the 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 with combined limits, applicants should request to rent against the combined limit diversion rate, volume or acre limits.

Elements of Water Rights Leased to the Bank (Contract Details)								Leased totals minus water actively engaged in rental agreement equals rental availability	Rental Request		
Water Right Number	Nature of Use	Water Source	Rate (CFS)	Volume (AF)	Acres (AC)	Start (year)	End (year)		Rate (CFS)	Vol. (AF)	Acres (AC)
35-2491	Mitigation	Ground Water	2.52	1144	286	4/1	10/31		*	*	*
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre that have been leased to the Water Supply Bank								TOTAL	CFS	AF	AC

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

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

* The District would like to rent all remaining water once Mr. Deeg's application has been taken care of.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- C. Does your rental request propose to change the nature of use for any water right(s) being requested? 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, as well as the new consumptive use amount for your proposed beneficial use. Attach a separate page if space is insufficient and label it **Attachment 4C**:

Water intended for use as mitigation for the District but water will not be diverted.

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 ☒

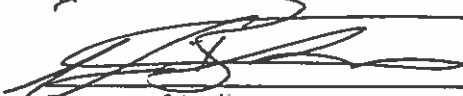
If yes, describe: _____

- 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.

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.



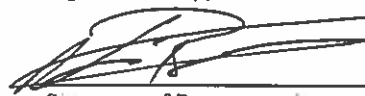
Signature of Applicant

Am. Falls - Aberdeen Ground Water District

Printed Name of Applicant

4/15/2015

Date



Signature of Representative

Nic Behrend - Chairman

Printed Name of Representative

4/15/2015

Date

Mail to:

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

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/15/2015

WATER RIGHT NO. 35-2491

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ENGLESON FAMILY TRUST C/O SHANNON ENGLES PO BOX 1304 POCATELLO, ID 83204 208-232-8800
Original Owner	S & E PARTNERSHIP PO BOX 1304 POCATELLO, ID 83204 (208)232-8800

Priority Date: 01/24/1957

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	2.52 CFS	
Total Diversion			2.52 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SESWSE	Sec. 20	Township 02S	Range 32E	BINGHAM County
GROUND WATER	NWNWSW	Sec. 28	Township 02S	Range 32E	BINGHAM County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BINGHAM County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
02S	32E	20		SWSE	35		SESE	39						
		28		SWNW	37									
				NWSW	40									
		29		NENE	33		NWNE	34		SWNE	28		SENE	40

Total Acres: 286

Conditions of Approval:

1. RIGHT NO. 35-07005 AND 35-07648 ARE ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.
2. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1144 AF. COMBINED RIGHT NOS.: 35-07005, 35-07648, AND 35-02491.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 286 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 35-07005 AND 35-07648, AND 35-02491.
4. 067 The right holder shall measure and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
5. X63 All water rights within Basin 35 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
6. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
7. E52 USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.03 CFS. COMBINED RIGHT NOS.: 35-02491, 35-07005, 35-07648.

Dates:

Licensed Date:

Decreed Date: 01/31/2002

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:
Water District Number: 120
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 286
Combined Volume Limit: 1144
Combined Rate Limit: 5.03
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

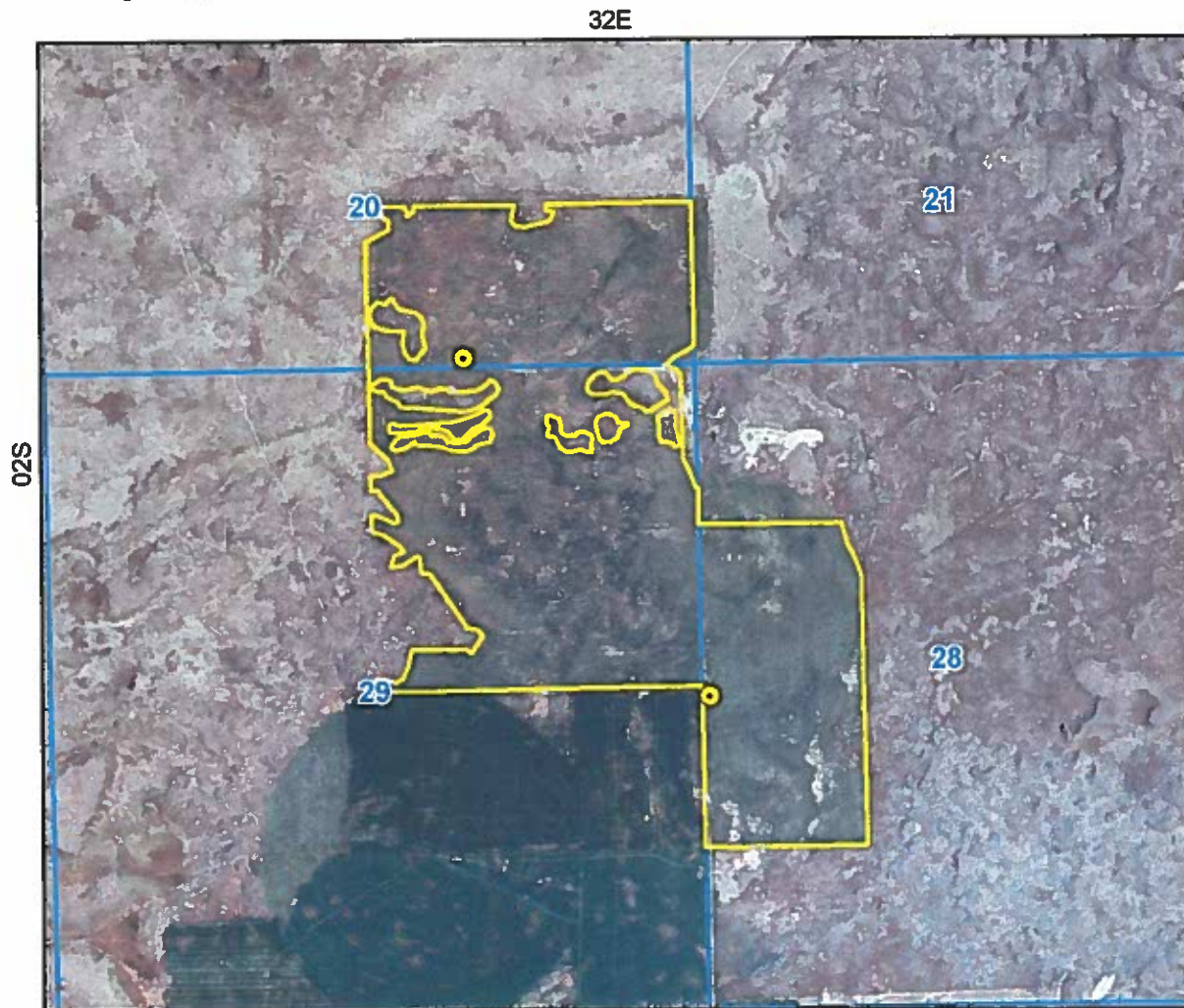
Close

State of Idaho
Department of Water Resources

Water Right
35-2491

IRRIGATION

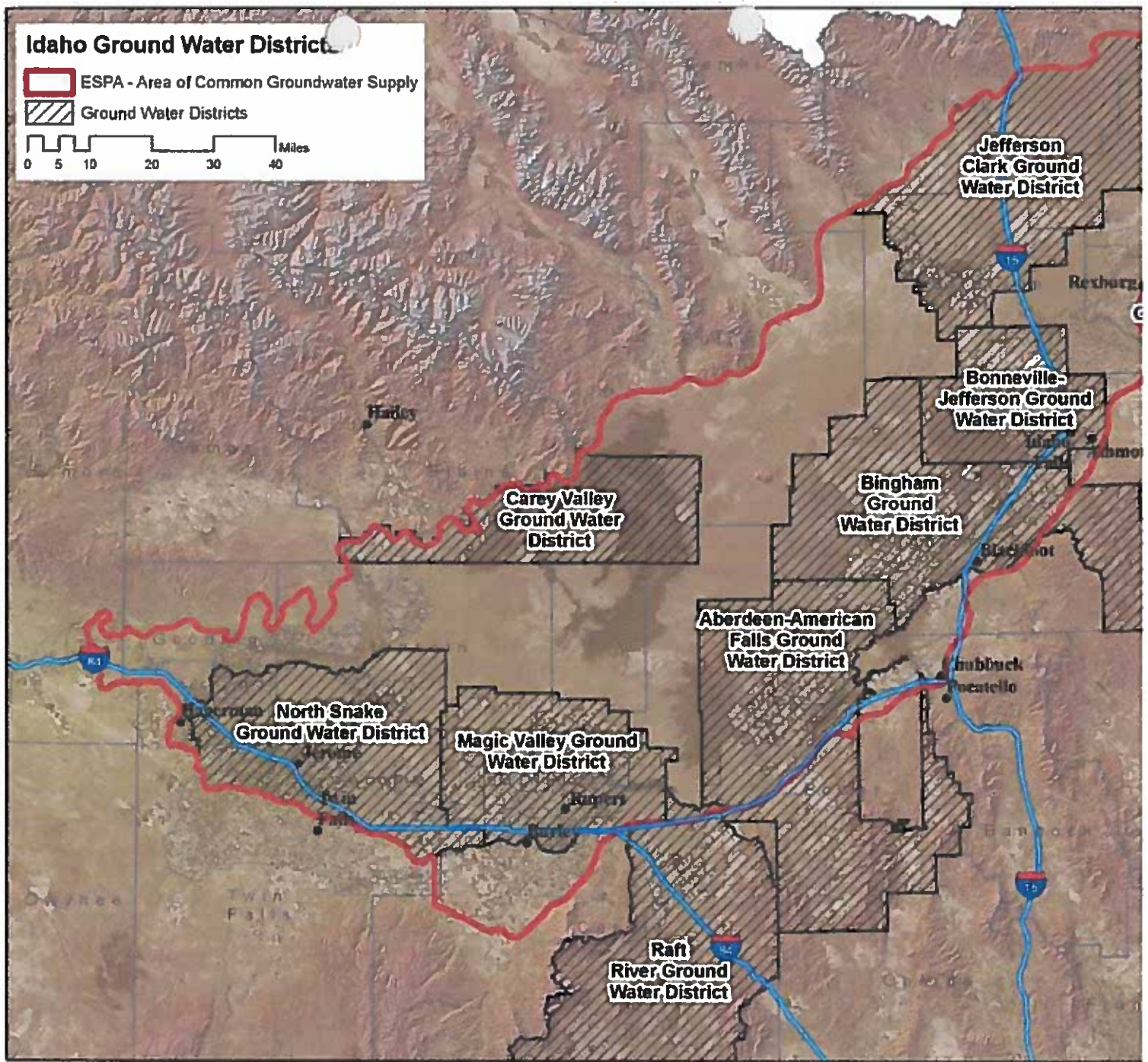
The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.175 0.35 0.7 Miles





I am including this just so you have an idea of where our District is located.

Pam



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 14, 2016

AMERICAN FALLS ABERDEEN GROUND WATER DISTRICT
C/O NIC BEHREND
PO BOX 70
AMERICAN FALLS ID 83211

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 35-2491, 35-7005, & 35-7648**

Dear Renter:

Please find enclosed a receipt in the amount of **\$14,008.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 824.0 acre-feet of water for mitigation by non-use during 2016. 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 \$12,607.20 of the rental fee will be paid to the lessor(s) and 10% or \$1,400.80 will be retained by the Department to offset administrative costs.

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosures: Receipt No. C101831
Rental Agreement (copy)

c: Sascha Marston – Fiscal
James Cefalo – IDWR Eastern Regional Office/Water District # 120



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

March 29, 2016

GARY SPACKMAN
Director

RECEIVED

APR 12 2016

DEPARTMENT OF
WATER RESOURCES

AMERICAN FALLS ABERDEEN GROUND WATER DISTRICT
C/O NIC BEHREND
PO BOX 70
AMERICAN FALLS ID 83211

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NOS. 35-2491, 35-7005, AND 35-7648

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 \$14,008.00 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 824.0 acre-feet.

Please send a check for \$14,008.00 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing. Pursuant to the Water Supply Bank Rules, 90% or \$12,607.20 of the rental fee will be paid to the lessor(s) and 10% or \$1,400.80 will be retained by the Department to offset administrative costs.

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure

c: IDWR Front Desk



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 3, 2015

ABERDEEN – AMERICAN FALLS GROUND WATER DISTRICT
C/O NIC BEHREND
PO BOX 70
AMERICAN FALLS, ID 83211

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Mr. Behrend:

This letter pertains to the 2015 mitigation rental request submitted to the Water Supply Bank (Bank) by the Aberdeen – American Falls Ground Water District (District). The Idaho Department of Water Resources (Department) was unable to authorize the District's 2015 request to rent ground water rights for the beneficial use of "mitigation by non-use" because the negotiated settlement reached between the Surface Water Coalition and the Ground Water Districts was not submitted to the Department for approval as a mitigation plan or as a ground water management plan.

The Department may authorize a mitigation by non-use rental to a water user once a mitigation obligation by the water user is approved by the Department. Though the Department understands that the District intends for the negotiated settlement to be submitted to the Department for approval as a mitigation or ground water management plan, the Department has not yet formally received the plan. The Department must receive the negotiated settlement and approve it is a mitigation or ground water management plan prior to authorizing a mitigation by non-use rental from the Bank.

Your rental request for water rights 35-2491, 35-7005 and 35-7648 remains accepted and can be processed, pending formal receipt by the Department of the negotiated settlement. However, to ensure that the Water Supply Bank is able to make use of water rights 35-2491, 35-7005 and 35-7648 during calendar year 2016, the Bank will not hold the above water rights for the exclusive rental by the District past December 31, 2015. If the Department formally receives the negotiated settlement for consideration as a mitigation or ground water management plan prior to December 31, 2015, the Bank will proceed in processing the District's rental request for all available water under the above water rights. However, if the negotiated settlement is not received by the Department prior to December 31, 2015, the Bank will consider additional requests from other water users to rent water rights 35-2491, 35-7005 and 35-7648.

If you have any questions regarding this matter, please contact me at (208) 287-4918.

Sincerely,

Remington Buyer
Water Supply Bank Coordinator

Buyer, Remington

From: Buyer, Remington
Sent: Monday, August 17, 2015 11:09 AM
To: 'pamelaw@digis.net'
Subject: Water Supply Bank Rental Request

Hi Pam,

Following up on the pending rental request from AAF GWD regarding water rights 35-2491, 35-7005 and 35-7648. Does the GW district still desire to rent this water for mitigation by non-use during calendar year 2015, or shall this request be deferred until 2016? If the District is seeking this water for 2015, I can proceed in drafting a rental agreement for both 2015 and 2016 and make it contingent upon the Department receiving the eventual negotiated agreement/mitigation plan, else I can place the request in the processing queue for 2016, which we will begin reviewing on November 1, 2015, by which time the negotiated agreement/mitigation plan has hopefully been received by the Department. Please advise.

Thanks,

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

Buyer, Remington

From: Buyer, Remington
Sent: Wednesday, July 08, 2015 2:21 PM
To: Patton, Brian
Subject: Consumptive Use Reductions

Brian,

Regarding the WSC Settlement Agreement, do each of the GW districts already know the size of their share of the 240 KAF consumptive use reduction? In anticipation of future rental requests for GW, it would be helpful for us to know the size of each GW district's mitigation obligation, so that we don't over rent them water rights.

Remington
287-4918

Buyer, Remington

From: Buyer, Remington
Sent: Wednesday, July 08, 2015 2:18 PM
To: Palmer, Cherie; Keen, Shelley; Baxter, Garrick
Subject: AFA GW District Rental

All,

The settlement agreement we have is conditional upon all signatories submitting to the Director a formal, signed version of the document no later than August 1, 2015. As such, let's wait until the Director receives the settlement agreement before further processing this rental request.

Remington

MEMORANDUM

To: Water Rights 35-2491, 35-7005 and 35-7648

From: Remington Buyer

Date: June 23, 2015

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE:

On April 20, 2015 the Department received from American Falls – Aberdeen Ground Water District a request to rent water rights 35-2491, 35-7005 and 35-7648 for the purpose of mitigation. The rental request was submitted by Nic Behrend, Chairman of the AFA GWD.

AUTHORITY TO FILE: Nic Behrend is listed as the Director/Chairman of District 4 within the GWD. No concerns about his authority to file this rental.

WATER RIGHT VALIDITY: These water rights are in the Bank and available for rental.

INJURY TO OTHER WATER RIGHTS: These rights will not be diverted. There will be no injury to other water rights.

ENLARGEMENT OF USE: No enlargement will occur through the rental of these water rights to mitigation.

LOCAL PUBLIC INTEREST: The area in which these water rights are located is within the area of common ground water of the ESPA, an area of ground water concern. The non-diversion of these water rights and subsequent dedication of the associated volume to mitigation activities is in the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: This rental proposes to actively rent ground water rights for the beneficial use of mitigation by non use. Mitigation by non use is a recognized beneficial use of water that is commonly proposed to offset the impacts of a water right transfer. Per Idaho Code 42-1764, a rental from the Bank may be a substitute for a transfer so there are no concerns with temporarily approving something that the Department would permanently authorize. Moreover, the rental applicant has confirmed that the mitigation by non use rental activity authorized by this rental will be conducted as part of a Conjunctive Management Rule 43 Mitigation Plan to be submitted for approval of the Director of IDWR. This rental appears consistent with the conservation of water resources in Idaho and a rental for mitigation by non use can be authorized, conditional upon the Ground Water Districts submitting a CM Rule 43 mitigation plan.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: IDWR Eastern staff member James Cefalo is Watermaster for Water District 120, within which these rights are located. Mr. Cefalo had no concerns with AFA GWD's rental of these water rights.

RECEIVED

JUN 15 2015

DEPARTMENT OF
WATER RESOURCES

American Falls Aberdeen Area
Ground Water District
505 N. Oregon Trail
P.O. Box 70
American Falls, ID 83211
(208)226-5914
(208)226-1253 fax

American Falls Aberdeen Area Ground Water District

June 10, 2015

State of Idaho
Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Dear Remington:

This letter is to explain the use we plan for the water bank water, should our application be granted. We plan to use the water as part of our District's mitigation plan to dry up acres as part of the CM Rule 43 mitigation plan. If you need further clarification, please let me know.

Thank you for your help.

Sincerely,

Pamela J Warner
District Secretary
American Falls – Aberdeen Ground Water District



State of Idaho

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 4, 2015

AMERICAN FALLS – ABERDEEN GROUND WATER DISTRICT
C/O NIC BEHREND
PO BOX 70
AMERICAN FALLS, ID 83211

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Mr. Behrend:

The Idaho Department of Water Resources (Department) has received your request to rent water from the Water Supply Bank. Additional information is required to complete processing of your application. Specifically, the Department requires information relating to your mitigation needs. Mitigation by non use may be considered a beneficial use of water when it occurs as part of a Conjunctive Management Rule 43 mitigation plan or an approved water right permit or transfer that requires mitigation to offset impacts. The Board can only approve a rental for mitigation by non use if the application is filed in conjunction with a water right permit, transfer or CM Rule 43 mitigation plan.

The Department is aware of the ongoing negotiations between the District and the Surface Water Coalition and the Department anticipates that any final agreement reached by the parties will be submitted to the Department for approval as a CM Rule 43 mitigation plan. Is this mitigation rental being submitted in conjunction with the ongoing negotiated agreement or is it being submitted pursuant to an existing approved mitigation plan such as *IGWA's Mitigation Plan for Conversions, Dry-Ups and Recharge* (CM-MP-2009-006)? Please confirm in writing your intent for this rental request within 30 days so that the Department can conclude review of your rental request.

Please note, a Bank rental that authorizes a water user to undertake mitigation activities is separate and not equivalent to any recognition by the Department for credit that may be given for mitigation activities. A Water Supply Bank rental will not provide recognition of credit for mitigation activities.

If you have any questions regarding this matter, please contact me at (208) 287-4918.

Sincerely,

Remington Buyer
Water Supply Bank Coordinator



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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

May 4, 2015

AMERICAN FALLS – ABERDEEN GROUND WATER DISTRICT
PO BOX 70
AMERICAN FALLS ID 83211-0070

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 mitigation to irrigate 286 acres. 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.

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 2015 unless you have proposed a start date late in the year. If your application was for 2015 only and the latest possible start date on your application has passed, the application will 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 2016.

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/WaterManagement/WaterRights/WaterSupply/ws_default.htm.

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

For— Clay Webster
Water Resource Agent
WSB Process Point of Contact