



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

March 25, 2016

LARRY WHITTIER
4402 PAHSIMEROI RD
MAY ID 83253

RE: APPLICATIONS TO LEASE AND RENT WATER FROM THE WATER SUPPLY BANK

Dear Mr. Whittier:

On December 18, 2015, the Department of Water Resources (Department) received your applications to lease right 73-186 into the Bank and to rent that same right from the Bank. We processed both applications. On February 9, 2016 we sent the lease contracts and rental agreement with a request for payment for the rental. We sent a reminder letter on February 25, 2016. We did not receive a response to either letter. On March 10, 2016 I spoke with you on the phone. You said that you did not intend to pursue the lease and rental with the Bank.

This letter is notice that the attached applications to lease water into the Bank and rent water from the Bank are being returned.

You can reapply to lease or rent water rights in the future by submitting new application form(s) along with applicable fees. Water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have questions regarding this matter, please contact me at 287-4881.

Sincerely,

Sandra Thiel
Sr. Water Resource Agent

Enclosure(s): Lease and Rental Applications

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 18 2015

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Larry D Whittier
(Select one owner – see item 1A on the application)Water Right No. 73-186
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☒ No ☐

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☒ ☐ Signatures and contact information for *all owners* of the water right to be leased or sold on this application.
- 1B ☒ ☐ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☒ ☐ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>df</u>	Date Received: <u>12-18-15</u>	Receipt # <u>0101321</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Larry D Whittier</u> <u>Whittier Ranch</u> <u>4402 Pahsimero Rd</u> <u>Mary ID 83253</u>	

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Larry D Whittier
Mailing Address 4402 Pahrump Blvd May Id 83253
Street City State Zip Code
Email Address _____ Phone Number 208 876-4424

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☐
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☐ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.
If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled 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 idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map Attachment 3.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).

- B. Please provide a description of the current water diversion and delivery system.

Flood Irr.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. NA

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. 3.2 cfs

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2016 to 2020 (maximum lease period 5 calendar years).
(Year) (Year)

- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Larry D Whittier
Signature of Designated Applicant

Larry D Whittier
Printed Name

12-14-15
Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>13-186</u>	<u>irrigation</u>	<u>2.44</u>	<u>371 AF</u>	<u>106</u>
Total Amounts:		<u>2.44</u>	<u>371</u>	<u>106</u>

2. Source of water Big Creek tributary to Pahsimeroi

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
13N	24E	20		NE	NW		Custer

Y3N24E178W5W

7835

4124E28NW

13N-00205B-VF1

13N24E20S1A1TW

MS70231N

Like Our Diamond Days

[illegible]

13124E10MENG

13N24E19SENE

13N24E18N25E

13N24E49N34NE

renewable resources

CU074E19AMASSF

2

081634C100CFM91

13N04B40N/BB/0

WASHINGTON, D.C.

EAST

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 18 2015

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: Larry Whittier

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)

73-186

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Larry Whittier

Mailing Address 4402 Pahsimeroi Road, May, ID 83253

Street

City

State

Zip Code

Email Address _____ Phone Number 208 876-4474

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

Representative _____ Professional Title _____

Organization _____ Relationship to Applicant _____

Mailing Address _____

Email Address _____ Phone Number _____

2. MAP

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

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

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

I have submitted a lease application for 106 acres, which leaves me 32 acres to continue to irrigate.

Proportionately 32 acres is 0.75 cfs. I need to rent .25 cfs of water to convey the necessary full 1.0 cfs of water to the POU.

- B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.25 CFS	38.5 AF	1.0 CFS	143.5 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?	
04/01/2016	05/01/2016	☐ 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):

Water is diverted at a head gate on Big Creek and conveyed via a main ditch, Big Creek -5. The water is then diverted into a lateral ditch via a head gate and is flood irrigated.

- 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
Head gate	Big Creek	73-30, 73-160B, 73-160A, 73-12002, 73-12004
		73-12003, 73-12005, 73-2111A

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 11 (number of acres) Duration: Subject to IDWR standard seasons of use
- ☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)
- ☐ Other: _____ from: _____ (mm/dd) to: _____ (mm/dd)

- J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☐ Yes ☐ No ☒
If yes, justify the rate of flow and attach any supporting documents as Attachment 3J. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☒ No ☐
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it Attachment 3K.

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

**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)
73-186	Irrigation	2.44	371	106		0.25	143.5	11
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL	0.25	143.5	11
						CFS	AF	AC

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

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

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

Yes ☐ No ☒

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

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

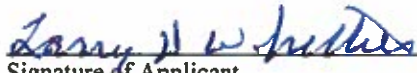
- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☐ No ☒
If yes, describe:

- 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.


Signature of Applicant

Larry Whittier
Printed Name of Applicant

12/14/2015
Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

[illegible]

1978年

MEMORANDUM

To: Water Right 73-186

From: Sandra Thiel

Date: February 4, 2016

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

Mr. Whittier did not respond to the lease/rental documents. I called him on March 10 to find out the status and he said that because of the cost he had decided to not pursue the lease/rental. I requested something in writing but have not received anything as of the date of this comment. -sbt 3/24/2016

PURPOSE/NARRATIVE: On December 18, 2015 the Department received a lease/rental package from Larry Whittier. Mr. Whittier plans to lease a part of his right into the Bank through 2020. According to the application he will lease 2.44 cfs, 371 af and 106 acres of right 73-186.

According to the rental application the lease of the 106 acres leaves him with 32 acres that he will continue to irrigate. This also leaves him with 0.76 cfs. On the application he states that he needs to rent 0.25 cfs to convey the full rate of water to the place of use along with the corresponding 38.5 af and 11 acres. The rental is also for 5 years.

Our water right database shows that the point of diversion for this right is BGC-5. Rights 73-12002, 73-12003, 73-12004, 73-12005, 73-30, 73-2111A, 73-160A, and 73-160B share the BGC-5 diversion dam and consequently the point of diversion for right 73-186. From the initial diversion, the water flows into a lateral ditch via a headgate and is used to flood irrigate.

There is an existing notice of violation E2015-919 for the Big Creek 5 diversion. On December 10, 2015 the Department sent the NOV to water right holders who divert at that location. They are required to repair an existing weir and install a staff gage. The NOV states that they are not to divert water until the approved control and measurement devices are installed and verified by the Department. The rental will include a condition stating that the renter must contact the Department that the NOV was resolved before diverting.

AUTHORITY TO FILE: According to the tax lot data for Custer County Judi and Larry Whittier own both the lease and rental place of use. The point of diversion land belongs to Five E Group LLP. The rental will use the same point of diversion as the lease.

WATER RIGHT VALIDITY:

Right 73-186 was decreed in the SRBA in 2010. Forfeiture is not an issue at this time

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho. As mentioned above, Mr. Whittier plans to rent water above the standard inch per acre to convey the water to the place of use.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: James Cefalo of our Eastern region replied that he didn't have any concerns about this lease/rental. However, he went on to say that he thought there must be a more simple solution to accomplish what the water user intends to do. I sent a letter to Ted O'Neal, water master in basin 73 on January 13, 2016. I didn't receive a reply. On February 1, 2016 I called to make sure that he had received my letter. He didn't have concerns about the lease/rental.

Thiel, Sandra

From: Cefalo, James
Sent: Tuesday, January 19, 2016 3:43 PM
To: Thiel, Sandra
Subject: RE: Lease/Rental Application 73-186

Sandra,

I don't understand why a water user would lease a water right into the WSB and then rent a portion back out of the bank for use on the existing water right place of use. It seems needlessly complicated and unnecessary to me. I don't have any concerns about the proposed lease/rental. However, there must be a better (simpler) solution to accomplish what the water user would like to do.

James

From: Thiel, Sandra
Sent: Thursday, January 14, 2016 2:18 PM
To: Cefalo, James
Subject: Lease/Rental Application 73-186

Hello, The attached documents describe a lease rental package submitted by Larry Whittier for water from Big Creek in Basin 73. Please let me know if you have any concerns.

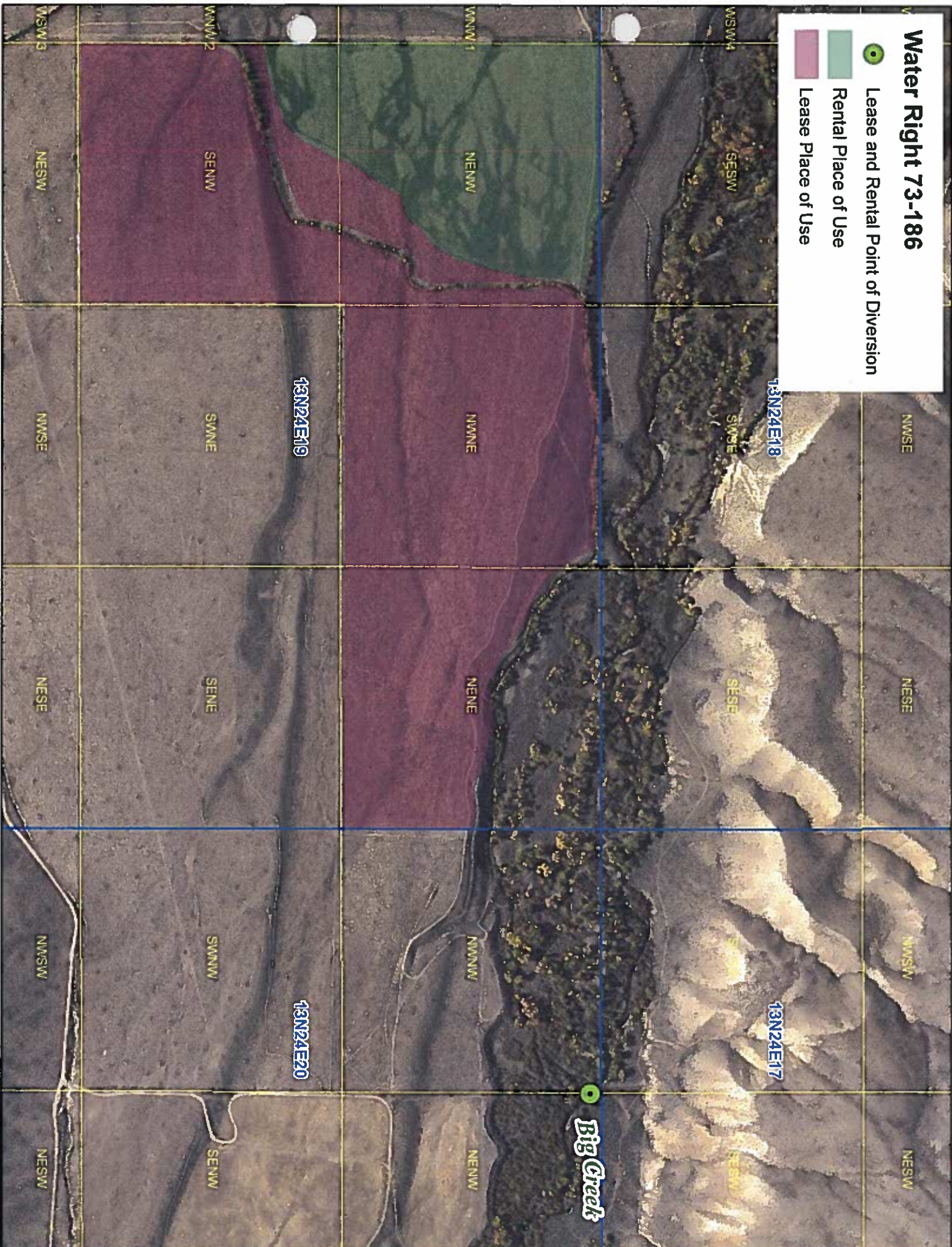
Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

Water Right 73-186

Lease and Rental Point of Diversion

Rental Place of Use

Lease Place of Use





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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 13, 2016

TED O NEAL
WATER DISTRICT NO 73
81 FUREY LN
MAY ID 83253

RE: Water Supply Bank Lease / Rental Applications for Water Rights: 73-186 in the name of Larry Whittier.

Dear Watermaster:

The Department of Water Resources is soliciting your comments or concerns on the proposed lease and rental submitted by Larry Whittier. A copy of the review memo and a map are enclosed.

Please review the information, then complete the enclosed recommendation form and return it to this office within 7 days of the date of this letter. You may return the form via postal mail or you may fax it to me at (208) 287-6700, Attn: Sandy or email to sandra.thiel@idwr.idaho.gov.

If you have any questions, please contact this office at (208) 287-4881.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Thiel".

Sandra Thiel

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 25, 2016

LARRY WHITTIER
4402 PAHSIMEROI RD
MAY ID 83253

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS
AND RENTAL AGREEMENT AND PAYMENT FOR WATER RIGHT 73-186**

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

Dear Applicant:

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts and a Water Supply Bank Rental Agreement for your review and signature** on February 9, 2016. The signed contracts, rental agreement, and rental fee have not been returned to the Department.

Please sign both original Lease Contracts and the Rental Agreement and return them to the Department with the rental payment in the amount of \$190.40 within ten (10) days of this letter to complete processing. The Lease Contract and Rental Agreement are not considered final until both you and the Department have signed.

If the signed lease contracts and rental agreement are not received by the Department within the 10-day period, the applications will be returned and the application fee will not be refunded. You can reapply to lease and rent the water right in the future by submitting new application forms along with applicable fees.

Diversion and use of the water rights is not authorized under the proposed rental agreement until it has been signed by both the renter and the Department. Any use associated with your proposed rental request before it has been executed is considered unauthorized and, if occurring, will be subject to any necessary enforcement action.

If you have questions regarding this matter, please contact me at 287-4881.

Sincerely,

 Sandra Thiel
Sr. Water Resource Agent



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

February 9, 2016

LARRY WHITTIER
4402 PAHSIMEROI RD
MAY ID 83253

**RE: APPLICATION TO LEASE AND RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 73-186**

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

Dear Applicant:

The Department of Water Resources acknowledges receipt of your applications to lease water to and rent water from the Water Supply Bank. I have enclosed two original Water Supply Bank Lease Contracts and a Water Supply Bank Rental Agreement for your review and signature. Please sign and return ALL Lease Contracts, Rental agreement, and Lessor Designation Form within 14 days. Upon signature and return of the original contracts and agreement and Lessor Designation Form, together with the rental fee described below, the Department will also sign the original contracts and agreement and return executed copies 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 **\$1,904.00** was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 112.0 acre-feet. Since you are both the lessor and the renter of the right, you are only obligated to pay the 10% administrative fee or **\$190.40**. Please send a check for **\$190.40** made payable to the Idaho Department of Water Resources, so I can complete processing.

The Department shall receive an annual payment prior to January 1 in all subsequent years for the duration of the rental period. The rental agreement will be void if payment is not received prior to the due date in a given year. If the rental is voided and you do not terminate the lease contract, the water right will still be subject to rental by other parties.

If you would like to terminate the lease and rental agreement prior to the end of the lease/rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date. You may use the Request to Release a Water Right From the Bank located at <http://idwr.idaho.gov/files/water-supply-bank/WSB-Request-to-Release-a-WR-from-the-Bank.pdf>.

If all signed leased contracts, signed rental agreement, lessor designation form, and the rental fee payment is not received within 14 days, your lease/rental package may be in danger of being returned without being executed in such case, the lease application fee will not be refunded.

If you have any questions, please contact me at (208) 287-4881.

Sincerely,



Sandra Thiel
Sr. Water Resource Agent

Enclosures:

Proposed Lease Contracts
Proposed Rental Agreement
Lessor Designation Form
Receipt # C101321

c: IDWR Front Desk