

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

RECEIVED

AUG 20 2015

**DEPARTMENT OF
WATER RESOURCES**

This is to certify that: **IDAHO WATER RESOURCE BOARD**
322 E FRONT STREET
BOISE ID 83720-0098

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	Rented Rate	Rented Volume	Divertible Rate	Divertible Volume
75-2137	01/11/1960	BIG HAT CREEK	0.70 cfs	85.4 af	0.50 cfs	61.0 af
75-4199	05/01/1930	BIG HAT CREEK	0.42 cfs	38.5 af	0.30 cfs	27.5 af
75-4200	05/01/1930	HAT CREEK	1.28 cfs	86.5 af	0.91 cfs	61.8 af
Total Annual Combined Rental Totals			2.40 cfs	210.4 af	1.71 cfs	150.3 af

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, 2017.

Rental Fee: \$378.93 annually

The fee for rental of the above-described water is \$3,789.30. Because the lessor has donated their water rights to the renter, only the administrative fee for ten percent of the total rental will be charged to cover administrative costs: \$378.93. An annual payment shall be received by the Department each year for the duration of the rental period. The agreement will be void if payment is not received in a given year. 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.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 75-2137

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:

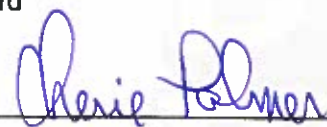
 BRIAN PATTON
FOR THE Idaho Water
Resource Board 20 AUG 15
Signature of Renter Printed Name and Title* Date

Signature of Renter Printed Name and Title* 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.

 Date 20 Aug 15
By _____
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Rental approved by IDWR  Date 8/21/2015

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

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

HAT CREEK LOT 2 SE¼NE¼NW¼ Sec. 20 Twp 17N Rge 21E LEMHI County

BENEFICIAL USE

STREAM FLOW MAINTENANCE

SEASON OF USE

04/01 TO 10/31

RENTER'S PLACE OF USE: STREAM FLOW MAINTENANCE

Stream flow in the reach above the quantification point designated for water right no. 75-14189.

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 place of use, and upon expiration of this agreement, the points of diversion and place of use of 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 diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
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 63.7 acres.
11. The water right(s) referenced above is accepted into the bank and rented in accordance with a private agreement formulated between the lessor and the renter.
12. Stream flow use is intended to supply flow to the existing Hat Creek minimum stream flow. It will also restore the natural flow in Big Hat Creek to improve Endangered Species Act listed bull trout habitat.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

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

MAY 04 2015

DEPARTMENT OF
WATER RESOURCESApplicant Name: Idaho Water Resource BoardIs 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)

75-2137

75-4199

75-4200

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Idaho Water Resource Board

Mailing Address 322 E Front St. PO Box 83720 Boise, ID 83720-0098

Email Address _____ Phone Number 208.287.4800

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 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**:
The rental of this water is intended to supply flow to the existing Hat Creek Minimum Stream Flow Water Right No. 75-14189. It will also restore the natural flow in Big Hat Creek, improving ESA-listed bull trout habitat.

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)
2.4 CFS	222.95 AF	2.4 CFS	159.25 AF	63.7 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?
04/15/2015	06/01/2015	3	☒ 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
Hat Creek	17N	21E	20	SE	NE	NW	Lemhi	75-14189 (no diversion)

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:

This rental is on a system without active administration. Water will be delivered through from the original PODs on Big Hat Creek and Hat Creek.

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: Instream Flow

- 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	
17N	21E	20					I												
The entry in this grid must match the map from item 2 on the application.																			NA
																			Total Acres (for irrigation)

- 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):
No distribution, instream use only.

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:

Water Right No. 75-14189 with a priority date of March 15, 2005. The rental of the senior rights is intended to supply flows to meet the Hat Creek MSF and to improve fish habitat upstream.

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)								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)
75-2137	Irrigation	Big Hat Creek	0.7	112	32	2015	2017	0.7	112	
75-4199	Irrigation	Big Hat Creek	0.42	38.5	11	2015	2017	0.42	38.5	
75-4200	Irrigation	Hat Creek	1.28	86.45	24.7	2015	2017	1.28	86.45	
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	2.4	222.9
									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**:

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:

The rental proposes renting the full standard headgate requirement of 3.5 AF/acre at the original PODs and delivering the standard consumptive use volume of 2.5 AF/Acre to the Hat Creek MSF.

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: The Idaho Water Resource Board has been renting water rights 75-2137 and 75-4199 since 2004. A permanent transfer is not available for the change of use from irrigation to instream flow at this time.

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

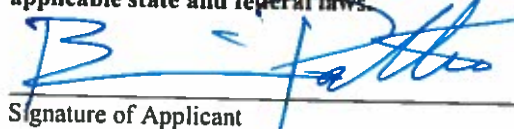
If yes, describe:

- 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

BRIAN HATTON, FOR
THE IDAHO WATER
RESOURCE
BOARD

Printed Name of Applicant

4/10/2015
Date

Signature of Representative

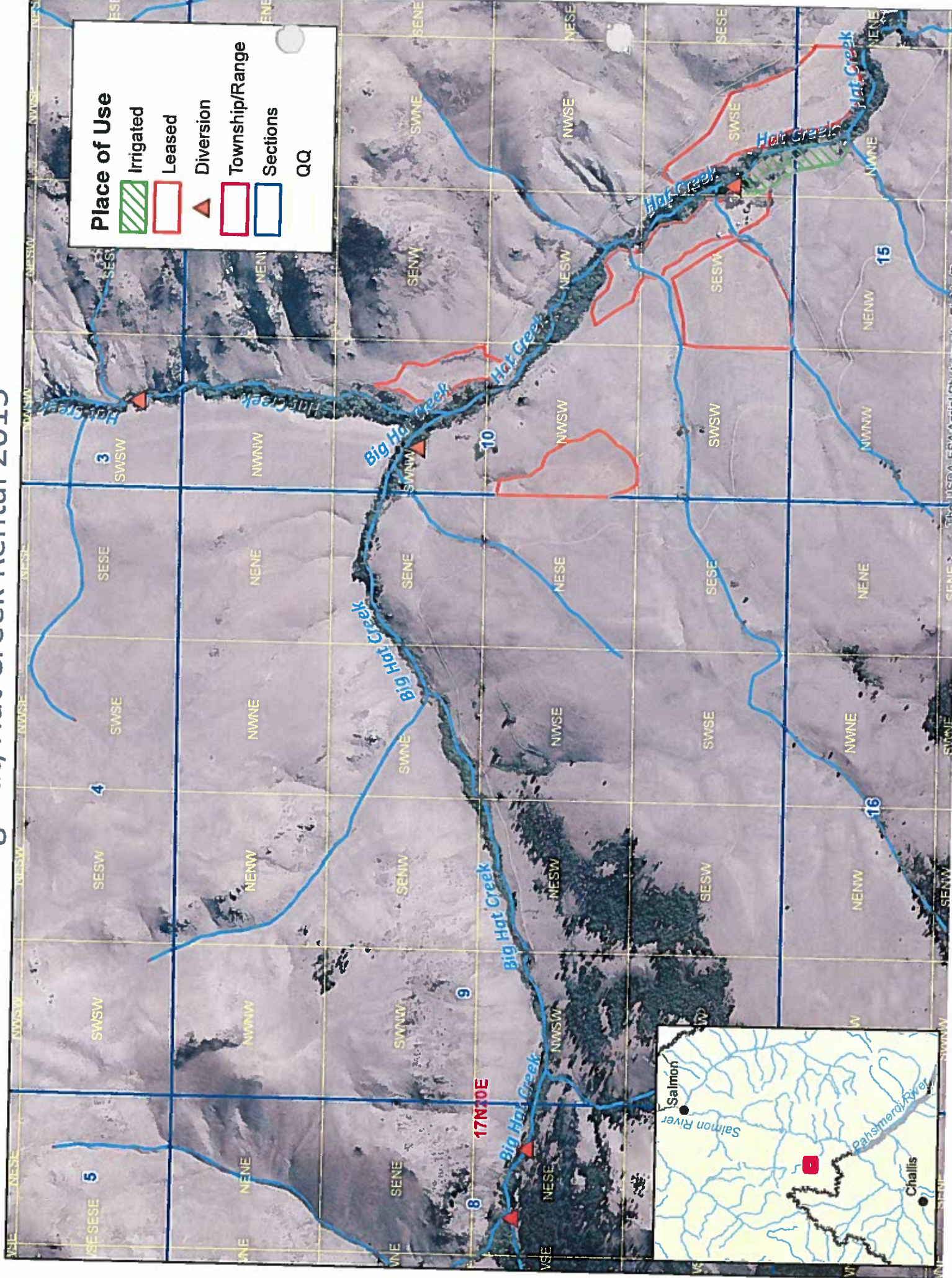
Printed Name of Representative

Date

Mail to:

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

Big Hat/Hat Creek Rental 2015



A RESOLUTION TO MAKE A FUNDING COMMITMENT

Attachment No. 4, Meeting No. 315
Idaho Water Resource Board

MEMORANDUM

To: Water Rights: 75-2137, 75-4199, 75-4200

From: Remington Buyer

Date: October 29, 2015

Re: Review of IWRB Lease and Rental of Water Rights

This memo summarizes the lease and rental by the Idaho Water Resource Board of water rights 75-2137, 75-4199 and 75-4200. A typo occurred in generating the lease contract as well as the rental agreement. This memo addresses and explains the errors.

The entirety of all three of the above water rights were proposed for lease to the Bank for the years 2015 through 2017. Water rights 75-2137 and 75-4199 overlap water right 75-14494. Water right 75-14494 authorizes 4.6 acres of irrigation. It was not necessary to lease 75-14494 to the Water Supply Bank when leasing water rights 75-2137 and 75-4199 because 75-2137 and 75-4199 together only authorize a total of 39 acres within a permissible place of use of 68.3 acres. Accounting for the 4.6 acres that may be irrigated under 75-14494, a permissible place of use of 63.7 acres remains for water rights 75-2137 and 75-4199. With the addition of water right 75-4200, which authorizes 24.7 acres, the total maximum irrigable acres under all three water rights proposed for lease to the Bank is 63.7 acres, which fully leaves water right 75-14494 self-sufficient. Hence, no injury or enlargement will occur through the full leasing of all three water rights to the Bank.

Unfortunately, there were two errors in leasing these three water rights to the Bank. The first lease contract, signed and executed in May 2015, left 0.05 cfs of flow (and corresponding volume) off of water right 75-4199. A second lease contract, signed and executed in August 2015, further reduced the flow and volume leased under contract to the Bank by reducing water right 75-2137 from 0.76 cfs to 0.7 cfs. Ultimately, because the applicant requested and the Department evaluated and accepted that the total number of acres leasable to the Bank should be 63.7 acres, the following are in fact the correct water right elements under lease to the Bank for the years 2015-2017:

Water Right	Diversion Rate	Diversion Volume	Acres (Limited)	Acres (Total)
75-2137	0.76 cfs	93.5 AF	26.7 AC	68.3 AC
75-4199	0.47 cfs	43.1 AF	12.3 AC	43.6 AC
75-4200	1.28 cfs	86.5 AF	24.7 AC	24.7 AC
	2.51 cfs	223.1 AF	63.7 AC	

The rental fee typically would have been calculated based on the 223.1 acre foot volume above, however the IWRB authorized by resolution a payment amount based on diversion volumes calculated to the hundredth place, resulting in a diversion volume of 222.95 AF (93.45 AF + 43.05 AF + 86.45 AF). This resulted in an annual payment calculation of \$379.02 (see IWRB March 20th IWRB resolution that accompanied the rental application). Regardless, the amount authorized for dedication to the minimum streamflow water right 75-14189 is further reduced to the following elements, which is 72% of the above (leased) totals (and reflects the consumptive use amounts of the leased rights):

Water Right	Diversion Rate	Diversion Volume	10% Admin Fee
75-2137	0.54 cfs	66.8 AF	\$158.87
75-4199	0.34 cfs	30.8 AF	\$73.19
75-4200	0.91 cfs	61.8 AF	\$146.97
	1.79 cfs	159.3 AF	\$379.02

In summary, in light of the lease contract and rental agreement discrepancies listed above, the actual water right elements leased to and authorized for rental from the Bank are the amounts in the tables listed above. The annual rental fee for the rental of these water rights will be based on the IWRB authorized payment of \$379.02 annually.