



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

April 29, 2015

ROBERT C. ROOT
PO BOX 2562
KETCHUM ID 83340

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources is denying your application to rent water from the Water Supply Bank ("bank").

This letter is notice that the attached application for rental of water is **denied** for the following reasons:

- the proposed rental would separate overlapping rights (37-2644D and 37-153C) with combined limits and could create an enlargement of use of existing rights.
- an appropriate water supply could not be found to fill your request

Any use associated with your proposed rental request is considered unauthorized and, if occurring, will be subject to any necessary enforcement action.

If you wish to rent water in the future with a new proposal, please reapply using new forms from the Department's website at www.idwr.idaho.gov. If you have any questions regarding this matter, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Water Resource Agent

Enclosure: Rental Application(s)

c: Allen Merritt – IDWR Southern Regional Office
Zach Latham – Brockway Engineering
Tim Luke – IDWR Water Compliance Bureau
Kevin Lakey – Water-master, Water District 37

MEMORANDUM

To: Water Right(s) 37-2644D

From: Clay Webster

Date: April 28, 2015

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

PURPOSE/NARRATIVE: The Department received an application to rent 0.02 cfs, 3.5 af to allow irrigating 1 acre at Twp 03N Rge 18E Sec 3 from Brockway Engineering on behalf of Applicant Richard C. Root for 4 years. The Interim Ground Water Rental Policy for the Wood River Valley currently only allows for a one-year term.

This proposal is requesting to separate two overlapping water rights 37-153C and 37-8499D which have combined use limits on the acreage and volume per the lease agreement.

This applicant received an NOV in 2014. The property has a domestic right 37-10703. This right would authorize the irrigation of ½ acre. However this right is in the name of Ruth Carmona.

AUTHORITY TO FILE: This application was signed by Robert C. Root, current property owner of the proposed Place of Use and Point of Diversion, according to tax lot data.

WATER RIGHT VALIDITY: The applicant for this rental has requested WR# 37-2644D to fulfill this request. This water right is stacked with a Greenhorn Creek right 37-153C. The watermaster was sent to the leased location to assess the POD for WR 37-153C. The consultant insists that water right 37-2644D is not a supplemental water right. However, research through the water right file shows that the groundwater right was transferred to the property, "To irrigate ground that is presently short of water." Both rights were decreed in 2010. This resets the clock for forfeiture. This does not help me to determine a supplemental nature of this water right.

INJURY TO OTHER WATER RIGHTS: Both the rental and the leased POD Fall within the Ketchum Zone of the Interim Ground Water Rental Policy for the Wood River Valley. This ensures that the impacts on the Big Wood River will be similar through the rental.

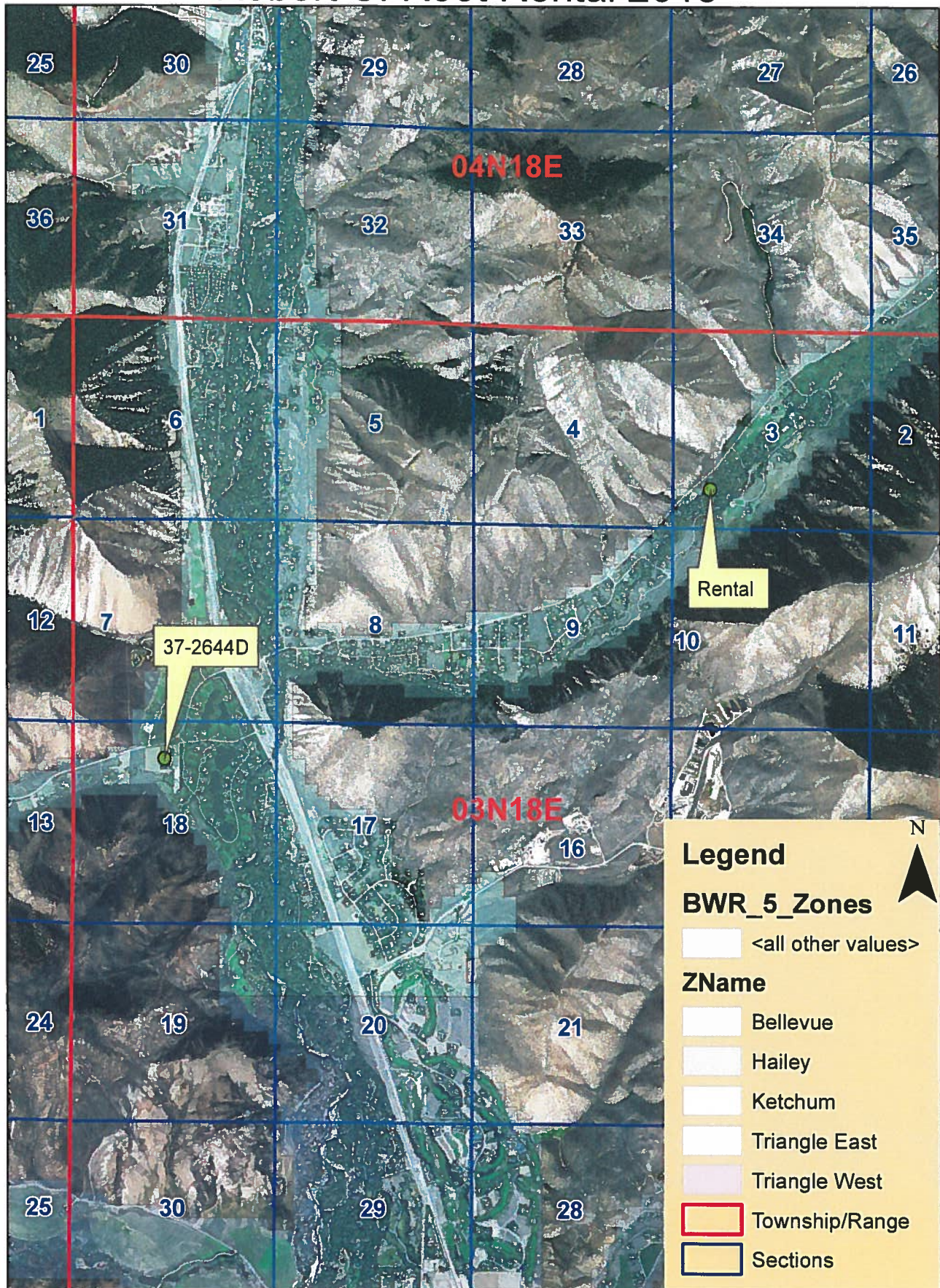
ENLARGEMENT OF USE: This water right does not have a supplemental condition on the right. However, the ground water right was transferred onto the property to irrigate land that was short of water with 37-153C. The lot size is approximately 4 acres. The transfer to bring this GW right to this property was completed in 1989. Upon completion of that transfer there was a limit placed on all of the rights associated that limited the irrigation to the acres associated with the surface water portions of those rights. This implies that the ground water rights would be considered of a supplemental nature. To rent the groundwater right without the associated surface water right could cause an enlargement. I researched the use of this right to determine the historical use of the irrigation. Satellite imagery was inconclusive. With the question of enlargement of the historical use of this right. This rental cannot be approved.

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.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The rented right is subject to Water District # 37. The watermaster was contacted via e-mail, by the consultant, and provided comment to the Department on April 6, 2015. He concluded that there is no delivery system in place for right 37-153C at this time. Upon reviewing Satellite imagery for these rights, the property was irrigated in 2009. This irrigation was for the entire POU for the ground water and surface water rights. Inconclusive imagery suggested that the entire POU for the ground water and surface water rights may have been irrigated as recently as July and August of 2010. Since the ground water right is only good for 1 acre of irrigation and the ground water right combined with the surface water right can irrigate 2.7 acres, it is my conclusion that these rights were used together to accomplish this historical irrigation.

Robert C. Root Rental 2015



RECEIVED
MAR 27 2015
DEPARTMENT OF
WATER RESOURCES**DENIED****APPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANK**Applicant Name: Robert C. Root

Is 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)

37-2644D

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Robert C. Root

Mailing Address PO Box 2562 Ketchum, ID 83340

Email Address _____ Phone Number 312-259-0300

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 Zach Latham Professional Title Hydrologist

Organization Brockway Engineering PLLC Relationship to Applicant Consultant

Mailing Address 2016 Washington St. N Suite #4 Twin Falls, ID 83301

Email Address zach.latham@brockwayeng.com Phone Number 208-736-8543

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**:
Irrigation use.

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)
0.02 CFS	3.5 AF	0.02 CFS	3.5 AF	1.0 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?	
4/15/15	4/15/15	(4) X	☒ 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	3N	18E	3	NE	SW	SW	BLAINE	Existing Domestic Well

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: _____

- 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		
3N	18E	3											1.0						1.0	
The entry in this grid must match the map from item 2 on the application.																			Total Acres (for irrigation)	1.0

- 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**:
N/A.

- 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 diverted through existing domestic well and applied to property via buried pressurized irrigation system.

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:
Domestic water right 37-10703.

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)
37-2644D	Irrigation	Ground Water	0.02	3.5	1.0	2014	2018		0.02	3.5	1.0
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	0.02	3.5	1.0
									CFS	AF	AC

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

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

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

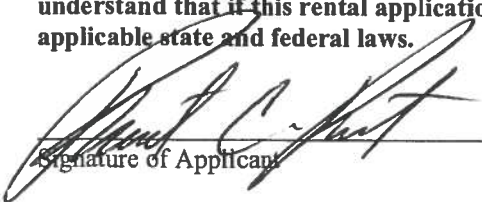
- C. Does your rental request propose to change the nature of use for any water right(s) being requested? Yes ☐ No ☒
If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented, as well as the new consumptive use amount for your proposed beneficial use. Attach a separate page if space is insufficient and label it **Attachment 4C**:
N/A.

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:
N/A.
- 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: N/A.
- 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.
NOV E2014-701. Applicant seeks to rent 1.0 acres listed above to mitigate for over irrigation as outlined in NOV E2014-701.

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

Robert C. Root
Printed Name of Applicant

03-20-15
Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

A horizontal number line labeled "Feet" at the right end. It has tick marks at 0, 60, 120, and 240.

RICHARD C. ROOT
WATER SUPPLY BANK RENTAL - 37-2644D
NAIP 2013 AERIAL

BROCKWAY ENGINEERING, PLLC.
ALR - Date: 3/25/2015

Legend

WSB Rental Area

 Rental POU 1.0 Ac.  twsnhp

 Domestic 0.5 Ac. Sections

Root Parcel

Domestic Well
township
Sections
ladesc

10 9
Palmer, Cherie

From: Zach Latham [zach.latham@brockwayeng.com]
Sent: Wednesday, April 22, 2015 3:37 PM
To: 'Kevin Lakey'
Cc: Palmer, Cherie
Subject: RE: Request for Comment: WSB Rental of 37-2644D

Cherie-

Will this information from the D37 Watermaster allow you to move forward with processing of the rental of 37-2644D?
Thank you.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c. 208-308-0739
f. 208-736-8506

zach.latham@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Kevin Lakey [mailto:watermanager@cableone.net]
Sent: Thursday, April 16, 2015 10:47 AM
To: 'Zach Latham'
Cc: cherie.palmer@idwr.idaho.gov
Subject: RE: Request for Comment: WSB Rental of 37-2644D

Zach and Cherie,

I was finally able to make an on-site inspection for a POD for water right 37-153C. At this time, there is no delivery system for that water right out of Greenhorn Creek.

Kevin Lakey
Water District 37

From: Zach Latham [mailto:zach.latham@brockwayeng.com]
Sent: Monday, April 13, 2015 2:24 PM
To: 'Kevin Lakey'
Cc: cherie.palmer@idwr.idaho.gov
Subject: RE: Request for Comment: WSB Rental of 37-2644D

Cherie-

I believe Kevin is making a site visit to the POD this coming Wednesday. We should expect word from him later this week as to the state of the POD on Greenhorn Creek. Thanks.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543

c.208-308-0739

f. 208-736-8506

zach.latham@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Kevin Lakey [<mailto:watermanager@cableone.net>]

Sent: Monday, April 06, 2015 9:58 AM

To: 'Zach Latham'

Cc: cherie.palmer@idwr.idaho.gov

Subject: RE: Request for Comment: WSB Rental of 37-2644D

Zach and Cherie,

37-153C is deliverable up to around April 15th to May 1st. After that, Greenhorn Creek is usually dry and does not reach the main Big Wood channel. Because of this, the ground water rights act as primary sources of irrigation and I don't believe there would be a "double dipping" or expansion of use. That being said, I have a question for Cherie. In the **Conditions of Approval** #1(T05) for 37-2644D, it say the following:

The use of water on the lands to which the above referenced water rights were appurtenant is hereby abandoned and failure to put the water to beneficial use within five (5) years of the date of the approval of this transfer on the new land identified under item B.5 shall constitute loss or forfeiture of the water rights.

Could you clarify that for me please. Thanks.

Kevin Lakey

WD 37

From: Zach Latham [<mailto:zach.latham@brockwayeng.com>]

Sent: Monday, April 06, 2015 8:32 AM

To: watermanager@cableone.net

Cc: cherie.palmer@idwr.idaho.gov

Subject: Request for Comment: WSB Rental of 37-2644D

Kevin-

Per our conversation last week, I am requesting comment on the rental of ground water right 37-2644D on behalf of Robert C. Root. Brockway Engineering filed a water supply bank rental application which proposes to rent and divert all (1.0 acre) of 37-2644D from Mr. Root's domestic well in East Fork (see the attached map). Mr. Root is involved with notice of violation E2014-701 and the WSB rental application submitted by our office seeks to provide enough acreage to offset the area identified in the NOV.

It is my understanding through talking to you that water rights diverted from Greenhorn Creek are not administered alongside the Big Wood River as Greenhorn Creek is an unreliable source and seldom flows down the valley far enough to satisfy flow rates associated with valid irrigation water rights near the mouth of the canyon. Therefore, due to the unreliability of the surface water right (37-153C), the ground water rights in the mouth of the canyon act as primary sources for irrigation.

Please comment on the primary nature of the ground water rights that are associated with Greenhorn Creek surface water, and specifically, 37-2644D owned by the Jones Trust. It is our hope that the rental of 37-2644D can be approved for Mr. Root as all components of each water right allow the right to be rented by Mr. Root per IDWR's Water Supply Bank Interim Ground Water Rental Policy for the Wood River Valley.

Thanks for your time Kevin and I hope to hear from you in the near future.

Zach Latham

Hydrologist
Brockway Engineering, P.L.L.C.
2016 Washington Street North, Suite 4
Twin Falls, ID 83301
t. 208-736-8543
c.208-308-0739
f. 208-736-8506
zach.latham@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

MAR 27 2015

**DEPARTMENT OF
WATER RESOURCES**

March 25th 2015

Cherie Palmer
Idaho Water Supply Bank
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Rental; 37-2644D on behalf of Richard C. Root.

Dear Cherie,

On behalf of Richard C. Root, Brockway Engineering is submitting a four year water supply bank rental application for rental of all of previously leased irrigation ground water right 37-2644D for use on Mr. Root's property. The proposed POD associated with this rental application is an existing domestic well on the Root property.

Currently, Mr. Root has been involved with IDWR notice of violation E2014-701 in which the property was found to be over irrigating by 0.9 acres. Approval of this rental application will allow 1.0 acres of irrigation and will bring the authorized irrigated area up to 1.5 acres on the property including a domestic exemption. Please copy our office on all correspondence regarding this water supply bank rental application. Thank you for your assistance and if you have questions or comments, please don't hesitate to call.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Regards,

Zach Latham, M.S., Hydrologist

Enclosures:

- (1) Water Supply Bank Rental Application
- (1) Water Supply Bank Rental Map

Cc: Mr. Richard C. Root