



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

October 23, 2014

BRYCE & MARY FIELDING
720 N. 1100 E,
SHELLEY ID 83274

RE: Application to lease water right 27-7003 to the Water Supply Bank

Mr. Fielding,

The Water Supply Bank (Bank) received your proposal to lease a portion of water right 27-7003 into the Water Supply Bank in 2014. Due to concerns about the validity of this groundwater right, the Bank is electing to not lease this water right into the Water Supply Bank.

To evaluate a proposed lease of water to the Water Supply Bank, the Idaho Water Resource Board must consider whether information indicates a water right has been forfeited or abandoned (IDAPA 30.02.03, Water Supply Bank Rule 25.06.C). The validity of water right 27-7003 is a concern because groundwater has not been diverted under this right within the past five years. Though irrigation has occurred upon the lands to which water right 27-7003 is appurtenant, the use of water did not originate from groundwater. The Bank does not find that irrigation from a surface water source is sufficient evidence to overcome the forfeiture concerns associated with the non-use of ground water under water right 27-7003. As such, your lease proposal is being denied.

Please feel free to contact me if you have any questions about this decision, I can be reached at 208-287-4918, or at remington.buyer@idwr.idaho.gov.

Regards,

Remington Buyer
Water Supply Bank Coordinator

Cc: IDWR Eastern Region
Rob Harris, Holden Kidwell Hahn & Crapo PLLC

MEMORANDUM

To: Water Right No(s). 27-7003
From: Remington Buyer
Date: October 22, 2014
Re: Review of Application to Lease Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: Bryce and Mary Fielding desire to lease a portion of their groundwater right 27-7003 into the Water Supply Bank. The lease proposal has been proposed in conjunction with a rental request for water under this right, submitted on behalf of Tanner Lane LLC. Due to validity, injury, enlargement and public interest concerns for this water right, the Bank is electing to not lease this water right into the Water Supply Bank.

AUTHORITY TO FILE: The Fieldings are the recognized owners of this water right and possess authority to submit this application.

WATER RIGHT VALIDITY: Water right 27-7003 is a ground water right that has not been used since it was adjudicated in 2006. More than five years has elapsed since water was last diverted and beneficially used under this the right, leading to concerns about abandonment or forfeiture.

Mr. Fielding has achieved the beneficial purpose of use (irrigation) authorized within the place of use for water right 27-7003, however he has done so using surface water diverted from the Idaho Canal. The Bank does not find that Mr. Fielding's use of water from a surface water source is a sufficient defense against the forfeiture of this ground water right.

INJURY TO OTHER WATER RIGHTS: No injury is apparent through the lease of this right however injury through rental is a potential concern. The groundwater in question is tributary to the Eastern Snake Plain Aquifer and the non-diversion of water under this right has benefited groundwater pumpers on the ESPA. If additional pumping of groundwater is authorized via a rental of water under this right, it could cause further injury to groundwater users on the ESPA.

ENLARGEMENT OF USE: The use of water under a water right must be suspended in order for it to be accepted into the Bank. A review of landsat imagery and a conversation with Mr. Fielding confirms that water was beneficially used at the place of use proposed for lease. Because the beneficial use was achieved at the place of use, any non-forfeited use of water at the place of use would be ineligible for lease into the Bank because its use has already been achieved and leasing it into the Bank (and renting it out) would result in an enlargement.

LOCAL PUBLIC INTEREST: Due to curtailment orders associated with groundwater pumping in the area of common groundwater on the Eastern Snake Plain Aquifer, there is a local public interest concern regarding the potential rental of groundwater under this right.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: James Cefalo from IDWR's Eastern Region Office is familiar with water right 27-7003 and understands that the Bank is denying the lease.

Receipt No. CO99351
 Fee Amount \$ 250.00
 Date/by 9-2-14 *[Signature]*
 (For Department Use Only)

STATE OF IDAHO
 WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
 TO THE WATER SUPPLY BANK

RECEIVED

SEP 02 2014

DEPARTMENT OF
 WATER RESOURCES

Name of Seller/Lessor Bryce J. Fielding Mary W. Fielding Phone 208-357-3075
 Mailing address 720 N. 1100 E., Shelley, ID 83274 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, check here ☐, list the water right number, and skip to Part B.

1. Water Right Number 27-7003 Amount (cfs/ac-ft) 2.41 cfs/466.3 AF Nature of Use Irrigation Period of Use 03/01 to 11/30
 _____ to _____
 _____ to _____

Total Amount: 2.41 cfs/466.3 AF

2. Source of water Ground water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County
1S	37E	25		SW	SW	SW	Bingham

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1S	37E	25											19.4	9.8					29.2
1S	37E	36		16.9	8.9		33.3	23.8		12.9									95.8

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 125

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. 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 to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Well and pump into mainline

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

Water rights from the Idaho Irrigation District.

3. Will the present place of use continue to receive water from any source?

Yes ☒ No ☐If yes, describe. Idaho Irrigation District water. 27-7003 is used in combination with the IID water.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes
- ☐
- No
- ☒

If yes, describe.**D. REQUIRED ITEMS**

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

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

If lease, for a period from 04/01/2014 to 10/31/2014 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. 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.

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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Bryce J. Fielding
 Signature of Applicant

Bryce J. Fielding
 Printed Name and Title*

8-18-2014
 Date

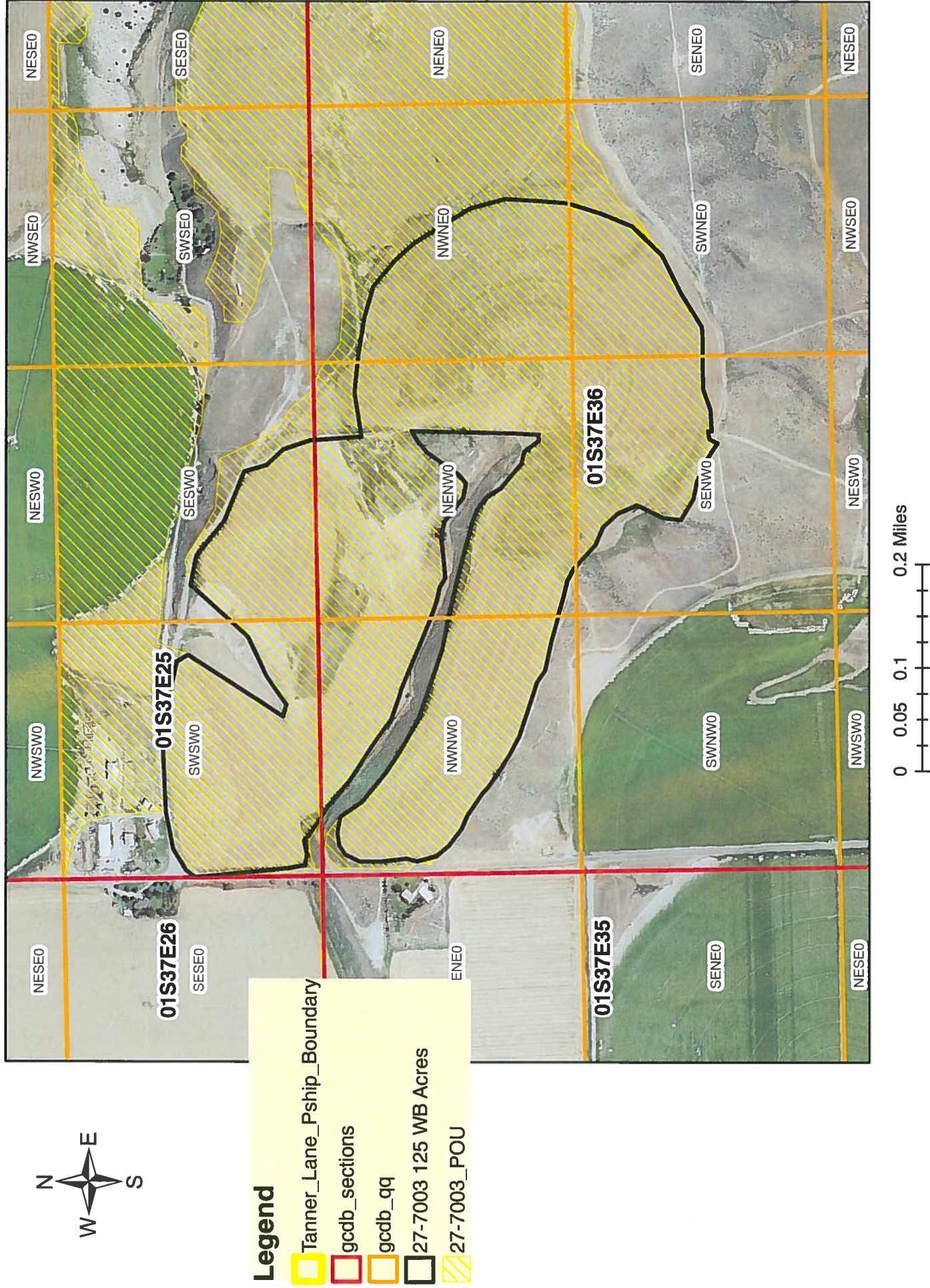
Mary W. Fielding
 Signature of Applicant

Mary W. Fielding
 Printed Name and Title*

8-18-2014
 Date

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

TANNER LANE RANCH LLLP WATER BANK APPLICATION Fielding Water Rights



September 14, 2014

To Whom It May Concern:

This notice is concerning Water Right # 27-7003. This Water Right was not used in the year
Of 2014 for irrigation.

Sincerely,

A handwritten signature in cursive script that reads "Bryce J. Fielding". The signature is written in dark ink and is positioned above the printed name.

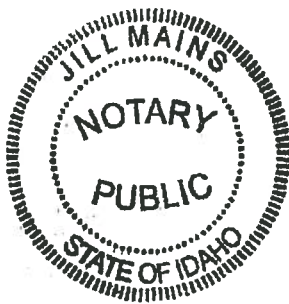
Bryce "J" Fielding

STATE OF IDAHO

County of Bingham) S.

On this 16th day of September 20 14 before me the undersigned Notary Public in and for said state, personally appeared Bryce Fielding IS known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Jill Maing
Notary public for Shelley ID

Residing at Shelley ID

My commission expires 7-27-19
Water right waiver

Statement concerns nonuse of water right