

RECEIVED

JUL 17 2014

DEPARTMENT OF
WATER RESOURCES

This is to certify that: **GEORGE KELLEY**
PO BOX 25
ALBION ID 83311

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right	Priority Date	Source	Tributary	Rented Rate	Annual Rented Volume	Acre Limit	Total Rented Acres
45-2578	04/29/1959	Ground Water	NA	0.09 cfs	26.2 af	NA	12.7 ac
45-2597	01/13/1960	Ground Water	NA	0.36 cfs	13.3 af	NA	34.4 ac
Total Annual Combined Limit				NA	NA	NA	36.0 ac
45-14060	12/03/1971	Ground Water	NA	0.57 cfs	231.6 af	NA	57.9 ac
Overall Annual Combined Limit				NA	238.8 af	NA	59.7 ac

Annual Combined Rental Totals

1.02 cfs 238.8 af NA 59.7 ac

Term of Rental: April 1, 2014 to December 31, 2014

Rental Fees: \$4,059.60

The fee for rental of the above-described water is \$4,059.60. Ten percent (\$405.96) will go to the Department for administrative costs, and the remainder will be paid to the lessor(s).

No rental fees will be refunded once the fee is collected and the start date for a Rental Agreement has passed.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 45-2578

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:

George Kelley
Signature of Renter

George Kelley
Printed Name and Title*

7-8-14
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.

By Brian Patton
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date July 18, 2014

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

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NE¼NE¼ Sec. 35 Twp 11S Rge 24E CASSIA County

BENEFIAL USE

IRRIGATION

SEASON OF USE

04/01 TO 10/31

RENTER'S PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	36					28.9	26.9	3.9										59.7

Total Acres: 59.7

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 renter shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
11. The following water rights are also diverted from the point of diversion described above: 45-4084 and 45-4236.
12. This rental agreement does not authorize the construction of a well.

13. The renter must diligently pursue a permanent water right to provide for the uses authorized under this rental agreement.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
15. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

RECEIVED

JUL 17 2014

DEPARTMENT OF
WATER RESOURCES

This is to certify that: **GEORGE KELLEY**
PO BOX 25
ALBION ID 83311

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right	Priority Date	Source	Tributary	Rented Rate	Annual Rented Volume	Acre Limit	Total Rented Acres
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45-7733	8/27/1979	Ground Water	NA	0.33 cfs	128.0 af	NA	32.0 ac
45-2746	5/9/1966	Ground Water	NA	1.23 cfs	489.1 af	NA	131.3 ac
45-11969	6/1/1939	Ground Water	NA	0.12 cfs	38.4 af	NA	9.6 ac
45-13998	2/26/1970	Ground Water	NA	0.93 cfs	119.8 af	NA	30.0 ac

45-2578	04/29/1959	Ground Water	NA	0.01 cfs	1.7 af	NA	0.8 ac
45-2597	01/13/1960	Ground Water	NA	0.03 cfs	0.8 af	NA	2.1 ac

Total Annual Combined Limit

45-14060	12/03/1971	Ground Water	NA	0.04 cfs	14.4 af	NA	3.6 ac
Overall Annual Combined Limit				NA	14.8 af	NA	3.7 ac

Annual Combined Rental Totals

2.69 cfs 790.1 af 206.6 ac

Term of Rental: April 1, 2014 to December 31, 2014

Rental Fee: \$13,431.70

The fee for rental of the above-described water is \$13,431.70 per year. Ten percent (\$1,343.17) will go to the Department for administrative costs, and the remainder will be paid to the lessor(s).

No rental fees will be refunded once the fee is collected and the start date for a Rental Agreement has passed.

Detailed water right conditions are attached.

SUPPORT DATA

IN FILE # 45-2578

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:

George Kelley
Signature of Renter

George Kelley
Printed Name and Title*

7-8-14
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.

By Brian Patton
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date July 18, 2014

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

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NE¼NE¼ Sec. 35 Twp 11S Rge 24E CASSIA County

BENEFIAL USE

IRRIGATION

SEASON OF USE

04/01 TO 10/31

RENTER'S PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	25									21.5	23.2	31.4	27.1					103.2
11S	24E	36									26.1	25.0	26.8	25.5					103.4

Total Acres: 206.6

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 renter shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
11. The following water rights are also diverted from the point of diversion described above: 45-4084 and 45-4236.
12. This rental agreement does not authorize the construction of a well.

13. The renter must diligently pursue a permanent water right to provide for the uses authorized under this rental agreement.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
15. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.



STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANKRECEIVED
JUL 02 2014
Department of Water Resources

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) George KelleyMailing Address P.O. Box 25, Albion, Idaho 83311Phone (208) 673-5364

Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) 6.0 Maximum Volume (ac-ft) _____ Nature of Use Irrigation Period of Use 04/01 to 10/31

_____ to _____

_____ to _____

Total: 6.0

2. Source of water Ground Water

tributary to _____

3. Point(s) of Diversion:

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County
11S	24E	35		NE	NE		Cassia County

4. Lands to be irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	25									21.5	23.2	31.4	27.1					103.2
11S	24E	36					28.9	26.9	3.9		26.3	25	26.8	25.5					163.3

If the use is for irrigation, show total number of acres proposed through rental.

Total Acres 266.5

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion?

Yes ☒ No ☐

If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. _____

2. Do you own the land at the proposed place of use?

Yes ☒ No ☐

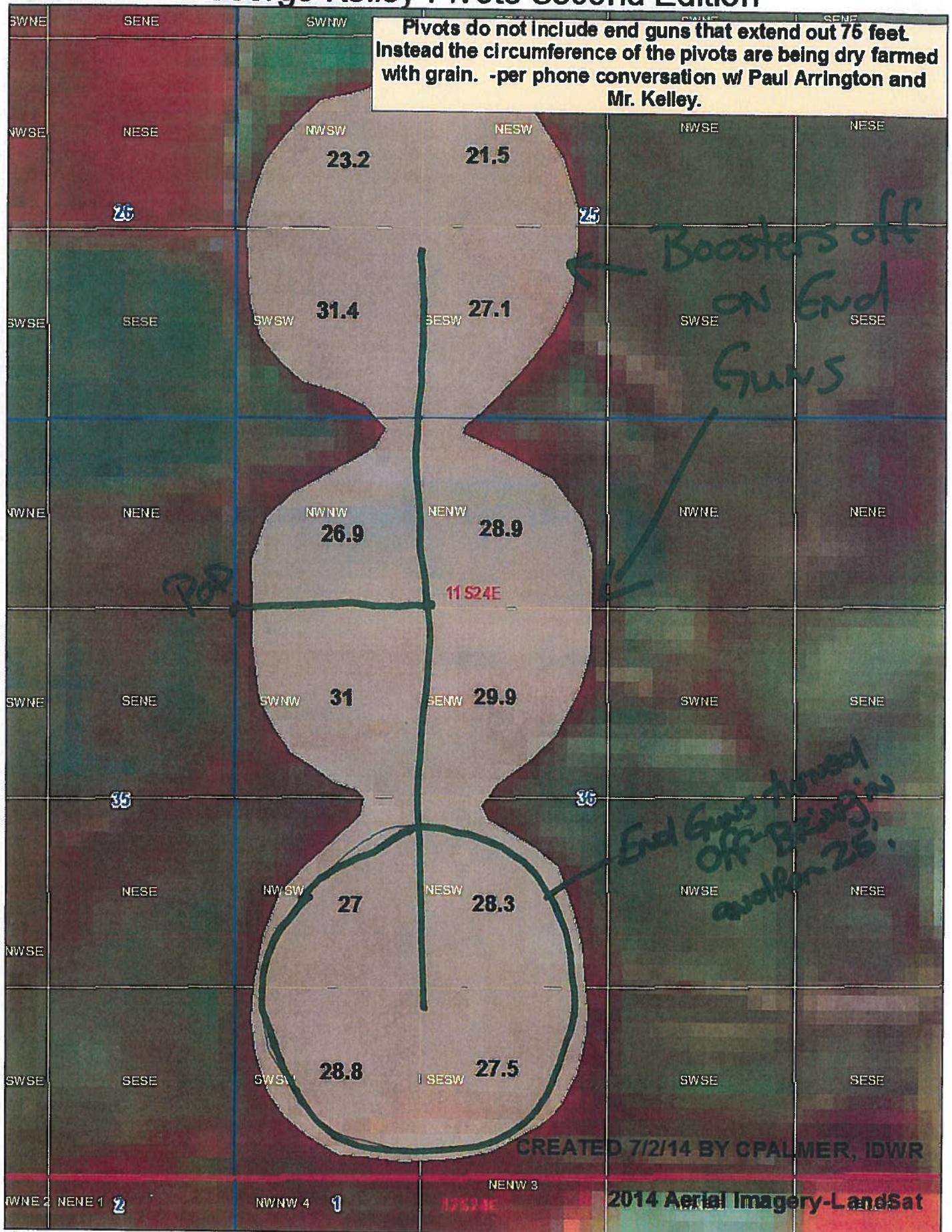
If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

George Kelley Pivots Second Edition

Pivots do not include end guns that extend out 75 feet. Instead the circumference of the pivots are being dry farmed with grain. -per phone conversation w/ Paul Arrington and Mr. Kelley.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUN 18 2014

Department of Water Resources

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) George Kelley
 Mailing Address P.O. Box 25, Albion, Idaho 83311
 Phone (208) 673-5364 Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) 6.0 Maximum Volume (ac-ft) _____ Nature of Use Irrigation Period of Use 04/01 to 10/31
 _____ to _____
 _____ to _____
 Total: 6.0

2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County
11S	24E	35		NE	NE		Cassia County

4. Lands to be irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	25									25	26	27.5	27.5					106.0
11S	24E	36					1.5	.5	30	30	31.5	30	30	31.5					185.0

If the use is for irrigation, show total number of acres proposed through rental.

Total Acres 291.0

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☒ No ☐
 If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. _____
2. Do you own the land at the proposed place of use? Yes ☒ No ☐
 If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAY 29 2014

Department of Water Resources

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) George KelleyMailing Address P.O. Box 25, Albion, Idaho 83311Phone (208) 673-5364

Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) 6.0 Maximum Volume (ac-ft) _____ Nature of Use Irrigation Period of Use 04/01 to 10/31

_____ to _____

_____ to _____

Total: 6.0

2. Source of water Ground Water

tributary to _____

3. Point(s) of Diversion:

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County
11S	24E	35		NE	NE		Cassia County

4. Lands to be irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	25									25	26	27.5	27.5					106.0
11S	24E	36					1.5	.5	30	30	31.5	30	30	31.5					185.0

If the use is for irrigation, show total number of acres proposed through rental.

Total Acres 291.0

B. OWNERSHIP

Acre limit within Place of Use 225.9 acres

1. Do you own the land at the proposed point of diversion?

Yes ☒ No ☐

If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. _____

2. Do you own the land at the proposed place of use?

Yes ☒ No ☐

If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANKRECEIVED
MAR 18 2014
DEPARTMENT OF
WATER RESOURCES

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) George Kelley
Mailing Address P.O. Box 25, Albion, Idaho 83311
Phone (208) 673-5364 Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) 1.14 Maximum Volume (ac-ft) _____ Nature of Use Irrigation Period of Use 04/01 to 10/31

Total: 1.14

2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County
11S	24E	35		NE	NE		Cassia County

4. Lands to be irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	36					30	27											57

If the use is for irrigation, show total number of acres proposed through rental.

Total Acres 57

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☒ No ☐
If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. _____
2. Do you own the land at the proposed place of use? Yes ☒ No ☐
If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

D. GENERAL INFORMATION

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

Pump to pipe to sprinkler system.

2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.
45-4084 and 45-4236

3. Will the proposed place of use receive water from any other source?

Yes ☐ No ☒

If yes, describe. _____

4. If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of water required. Attach additional sheets if needed. N/A

5. Are there any other applications pending before the Department, such as an application for permit or transfer, for the same use(s) proposed by this rental?

Yes ☐ No ☒

If yes, describe. _____

6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation?

Yes ☐ No ☒

If yes, describe. _____

E. RENTAL TERM

Do you wish to rent water from the Board's bank for more than one (1) year?

Yes ☒ No ☐

If yes, please specify the number of years desired through proposed rental. 5

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.

If this application is approved, the applicant agrees to the following:

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. Renter shall comply with all applicable state and federal laws while using water under this agreement.
3. Renter shall hold the Board, the Director, and the state of Idaho harmless from all liability on account of negligent acts of the renter.
4. 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.
5. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
6. Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director.

George J. Kelley
Signature of Applicant

Printed Name and Title*

3-17-14
Date

Signature of Applicant

Printed Name and Title*

Date

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

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





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

December 22, 2014

PKD Properties LC
1404 E 500 N
JACKSON ID 83350

**RE: RENTAL OF WATER RIGHT(S) LEASED TO THE WATER SUPPLY BANK.
WATER RIGHT NO. 45-2578, 45-2597 and 45-14060**

Dear Lessor:

The Department of Water Resources is enclosing a state warrant in the amount of **\$4,100.4** as payment to you for the rental of the above referenced water right(s) from the Water Supply Bank managed by the Idaho Water Resource Board. Payment for the rental of your water rights is represented by a single rental agreement as follows:

Receipt No.	Amount	Volume	Renter	Rate/AF
C099181	\$4,059.60	238.8 AF	George Kelley	\$17.00
C099181	\$ 251.6	14.8 AF	George Kelley	\$17.00
C099080	<u>\$ 244.8</u> \$4,556.00	14.4 AF	Corp. of the Presiding Bishop of the Church of Jesus Christ Of Latter-Day Saints	\$17.00

In accordance with Water Supply Bank rule 35.01, *IDAPA 37.02.03* return for the rental is ninety percent (90%) of the gross amount received at the rate per acre described above.

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

Sincerely,

for 
Sandra Thiel
Sr. Water Resource Agent

Warrant Number: 127031844



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

November 19, 2014

COPY

George Kelley
PO BOX 25
ALBION, ID 83311

RE: EXPIRATION OF RENTAL AGREEMENT FOR WATER RIGHT NO(S). 45-2578, 45-2597, 45-14060, 45-11969, 45-7733, 45-2746, and 45-13998 FROM THE WATER SUPPLY BANK

Dear Renter:

This letter is to inform you that your Rental Agreement for rental of water from the Water Supply Bank has expired. You applied for the rental of water on 7 /21/2014 and the subsequent Rental Agreement authorized diversion of water under Water Right No(s). 45-2578, 45-2597, 45-14060, 45-11969, 45-7733, 45-2746, and 45-13998 through the 2014 season only.

The Rental Agreement is expired, or will be expired by the end of the season of use, and the water use in connection with the rental will no longer be in effect.

Any diversion or use of water associated with this rental agreement is not authorized and, if occurring, will be subject to any necessary enforcement action.

If you wish to rent water in the future, 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) 287-4944.

Sincerely,

Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

c: Barker Rosholt & Simpson
Paul Arrington



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

July 18, 2014

GEORGE KELLEY
PO BOX 25
ALBION ID 83311

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 45-2578, 45-2597, 45-2746, 45-7733, 45-11969, 45-13998
AND 45-14060**

Dear Renter:

Please find enclosed a receipt in the amount of **\$17,491.30** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the two rentals the first rental of 790.1 acre-feet of water for irrigation of 206.6 acres during 2014, and the second rental of 238.8 acre-feet of water for irrigation of 59.7 acres during 2014. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, 90% or \$15,742.17 of the rental fee will be paid to the lessor(s) and 10% or \$1,749.13 will be retained by the Department to offset administrative costs.

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

Sincerely,

Remington Buyer
Water Supply Bank Coordinator

Enclosure(s): Receipt No. C099181
Rental Agreement (copy)

c: Sascha Marston – Fiscal
Allen Merritt – IDWR Southern Regional Manager
Brian Higgs – State Water District No. 140
Paul L Arrington – Barker Rosholt & Simpson
Tim Luke – Water Compliance Bureau Chief

*Albert P. Barker
John A. Rosholt
John K. Simpson
Travis L. Thompson
Shelley M. Davis
Paul L. Arrington
Scott A. Magnuson*



195 River Vista Place, Suite 204
Twin Falls, Idaho 83301-3029
(208) 733-0700 telephone
(208) 735-2444 facsimile

1010 W. Jefferson St., Suite 102
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

July 15, 2014

Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED
JUL 17 2014
DEPARTMENT OF
WATER RESOURCES

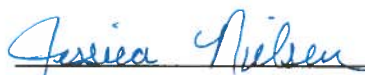
Re: *George Kelley Water Supply Bank Rental Agreement*

Dear Ms. Palmer

Enclosed, please find the original signed Water Supply Bank Rental Agreements for George Kelley. Also, enclosed, please find check number 4853 in the amount of \$17,491.30 for the rental fee.

Should you have any questions, please contact our office at (208) 733-0700.

Thank you,



Jessica Nielsen
Assistant for Paul L. Arrington

Enclosures

PLA/jn

Palmer, Cherie

From: Palmer, Cherie
Sent: Monday, July 07, 2014 1:08 PM
To: 'Paul Arrington'
Subject: George Kelley Rental Agreements
Attachments: Rental Form-Full Fees Rental thru 2015.pdf

Paul,

Please find a rental agreement for your client, George Kelley, attached to this email. I will send the second rental agreement in a separate email.

Please have your client sign the enclosed rental agreement and mail the original to us along with the indicated rental fee. Please note that we mailed you hard copies of these rental agreements this morning. However, it has come to my attention that some of the water rights in the agreements are within South West Irrigation District and must withdraw from the bank at the end of this season. Consequently, your client's rental agreements must expire at the end of this year. The rental agreements we sent you extended past 2014 so the attached rental agreements reflect the correct terms. You may disregard the two rental agreements you receive in the mail.

Please let me know if you have any questions regarding this matter.

Sincerely,

*Cherie Palmer, Sr. Water Resource Agent
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700*

Palmer, Cherie

From: Palmer, Cherie
Sent: Monday, July 07, 2014 1:08 PM
To: 'Paul Arrington'
Subject: George Kelley Rental Agreement (2 of 2 emails)
Attachments: Rental Form-Full Fees Rental thru 2018.pdf

Paul,

Here is the second rental agreement.

Cherie

MEMO

TO: 45-2578, 45-2597, 45-14060, and 45-7733

FROM: Cherie Palmer

DATE: July 7, 2014

RE: WSB Rental

Today Paul Duncan of PKD farms called me to tell me that he is going to pull his water rights out of the bank at the end of this season due to the involvement with SWID.

I called Brain Higgs, watermaster, to confirm this information. The watermaster told me that any water right that is within the boundary for SWID is or will be part of a mitigation plan.

The above referenced water rights are proposed to fulfill a rental for George Kelley. Originally the lease terms were to expire in 2015 and 2018. Because these water rights will be forced to withdraw from the bank at the end of 2014, I sent a new rental contract to Mr. Kelley and his attorney. The two rental agreements will both expire in 2014.

Palmer, Cherie

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Monday, July 07, 2014 12:38 PM
To: Palmer, Cherie
Subject: PDK water bank

Hi Cherie,

PDK is a full member of SWID. The SWID rules state that members who have acres with a valid water right that are not being irrigated are placed in the SWID/SWC agreement of mitigation or the SWID mitigation plans. PDK recently became a member of SWID with their purchase of the B&B Dairy in Golden Valley. Until recently PDK was unaware of the SWID rules and renewed their lease of acres to the water bank in 2014. I talked with Paul Duncan of PDK concerning this issue and he will be discontinuing his contract with the water bank beginning in the 2015 season.

Thank you.

Brian



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

July 3, 2014

BARKER ROSHOLT & SIMPSON LLP
CO PAUL ARRINGTON
195 RIVER VISTA PLACE STE 204
TWIN FALLS ID 83301

RE: Kelley Application to Rent Water from the Water Supply Bank Rental

Dear Mr. Arrington,

The Department of Water Resources (Department) has concluded our review of your client's Water Supply Bank (Bank) rental application. While there is insufficient water available in the Bank to satisfy Mr. Kelley's need for 291 acres, Mr. Kelley's request for water is being partially met through two rental agreements, one providing irrigation water for 202.9 acres through 2015 and another providing water sufficient to irrigate 63.4 acres through 2018.

The two proposed rental agreements are enclosed for review and signature by your client. Upon signature and return of the original agreements, together with the rental fee described below, the Department will sign the original agreements and return executed copies to you. Execution of the agreement and compliance with the conditions of approval authorizes diversion and use of water as provided in the agreement.

A rental fee of \$17,491.30 has been calculated for both agreements in years 2014 and 2015. Please return to our office within 14 days a check for \$17,491.30, made payable to the Idaho Department of Water Resources, together with the signed rental agreements, so that his office can complete processing on this rental application.

Please note the Water Supply Bank endeavors to process all rental applications in a timely manner. To best serve the needs of all applicants, the Water Supply Bank prioritizes the processing of rental applications on November first in the year preceding a rental. Should your client desire to submit to the Bank a future rental application, this office encourages that all applications be submitted in November of the year preceding the rental.

Please contact me at (208) 287-4918 if you have any questions pertaining to this matter,

Sincerely,

Remington Buyer
Water Supply Bank Coordinator

Enclosure(s): Water Supply Bank Rental Agreements

C: IDWR Front Desk

Palmer, Cherie

Subject: FW: Rental Agreement for George Kelley

From: Buyer, Remington

Sent: Monday, July 07, 2014 8:52 AM

To: 'Brian Higgs'; Luke, Tim; Palmer, Cherie; Merritt, Allen; Whitney, Rob

Cc: Edl, Michele; Keen, Shelley; Jaxon Higgs

Subject: RE: Rental Agreement for George Kelley

Brian,

The following are volumes that PKD and Ward have leased to the Bank, along with the full volumetric elements of their respective water rights:

Right	Owner	Full Vol	Leased to Bank	% Leased	Remaining
45-2578	PKD	978 AF	29.6 AF	3%	948.4 AF
45-2597	PKD	494 AF	14.9 AF	3%	479.1 AF
45-14060	PKD	8612 AF	260 AF	3%	8352 AF
45-7733	Ward	128 AF	128 AF	100%	0 AF

I presume that any pipeline conversion work for PKD can still proceed with the above amounts leased to the Bank-- please advise if this is incorrect. Provided there are no issues, the Bank will proceed with renting their water rights to the Kelleys through to 2018.

Remington
287-4918

Palmer, Cherie

Subject: FW: Rental Agreement for George Kelley

From: Brian Higgs [<mailto:brian@waterwellconsultants.com>]
Sent: Thursday, July 03, 2014 4:54 PM
To: Buyer, Remington; Luke, Tim; Palmer, Cherie; Merritt, Allen; Whitney, Rob
Cc: Edl, Michele; Keen, Shelley; Jaxon Higgs
Subject: Re: Rental Agreement for George Kelley

Everyone better hold just a little here. PDK is in the process of installing a 600" pipeline from Murtaugh Lake to their farm. In order to receive water from SWID PDK will have no water in the bank that is rented out. Else, where is the savings in the groundwater? Paul Duncan will be contacting you on Monday. Brian

From: Buyer, Remington
Sent: Thursday, July 03, 2014 4:31 PM
To: 'Brian Higgs' ; Luke, Tim ; Palmer, Cherie ; Merritt, Allen ; Whitney, Rob
Cc: Edl, Michele ; Keen, Shelley ; Jaxon Higgs
Subject: RE: Rental Agreement for George Kelley

All,

Thanks for the all the work that has gone into processing the rental application for the Kelleys. We're almost wrapped up and the rental agreement will be mailed out to the Kelley's consultant on Monday. I want to particularly thank Michele and Cherie for their commendable effort in completing processing this application.

Brian, Tim, Pam and I double checked all the rights proposed for rental to confirm they are not involved in any mitigation or conversion work. These rights all appear to be clear of any mitigation/conversion activity. Any SWID mitigation plan will need to exclude the Ward right as it has been fully reduced through its lease into the Bank in 2011. The PKD rights have been partially reduced due to portions of their rights being accepted for lease into the Bank earlier this year, only the non-leased portions will be available to participate in the mitigation plan.

Have a great 4th everyone,

Remington
287-4918

Palmer, Cherie

From: Luke, Tim
Sent: Thursday, July 03, 2014 8:20 AM
To: Palmer, Cherie; BRIAN@WATERWELLCONSULTANTS.COM; Merritt, Allen; Whitney, Rob
Cc: Buyer, Remington; Edl, Michele; Keen, Shelley
Subject: RE: Rental Agreement for George Kelley

I agree with the approach outlined by Cherie and the NOV suggested by Allen. I told Arrington yesterday that we would likely send an NOV for any acres Kelly may have irrigated for which he could not secure a WSB rental. I think the NOV is particularly warranted if a lot of the delays have been on Kelly since I understood he was complaining to the Governor's office this spring about IDWR delays. I would like to know when Kelly first filed his rental apps. Brian Higgs also believes that Kelly was aware a year ago that he needed new or additional rentals to cover his operation this year so he should have filed the rental app well in advance of the 2014 irrigation season.

Brian, can you please monitor the pivot end gun situation and report back to us over the next week or few days – have the end guns been shut off? Were they off prior to yesterday to your knowledge?

Rob, let's visit next week to prepare the NOV.

Tim

From: Palmer, Cherie
Sent: Wednesday, July 02, 2014 6:26 PM
To: BRIAN@WATERWELLCONSULTANTS.COM; Luke, Tim; Merritt, Allen; Whitney, Rob
Cc: Buyer, Remington; Edl, Michele; Keen, Shelley
Subject: Rental Agreement for George Kelley

Gentlemen,

I have been on the phone this afternoon with the Kelleys and their attorney, Paul Arrington. I plan on moving forward with this rental agreement which should bring the Kelleys back into compliance. Please read my memo I have attached for more information about the resolution...but ultimately, they claim they are partially dry farming some of their place of use and will cease the irrigation on some acres that could not be covered through the bank.

Please let me know if you have any concerns in proceeding as outlined in my memo. I have also attached the map that the Kelleys modified pursuant to my memo.

*Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700*

Palmer, Cherie

From: Luke, Tim
Sent: Thursday, July 03, 2014 8:52 AM
To: Jaxon Higgs
Cc: Palmer, Cherie; Merritt, Allen; Whitney, Rob; Knowles, Corbin
Subject: RE: Kelly Potential Violation

Jaxson,

Thanks for the well written e-mail and documentation. We plan to send an NOV to Kelly for at least any acres he irrigated that cannot be covered by a WSB rental. I also plan to add lack of compliance with the measuring device order assuming that we did not authorize any meter variance.

Your email says you measured 886 gpm on July 1 – I assume that would have been just one pivot but you noted two pivots running on July 2. Am I right in assuming that we do not have a PCC for the two pivots?

Corbin, can you check to see that we did not provide some variance to Kelly on this well.

Thanks, Tim

From: Jaxon Higgs [<mailto:jaxon@waterwellconsultants.com>]
Sent: Thursday, July 03, 2014 8:36 AM
To: Luke, Tim
Cc: 'Brian Higgs'
Subject: Kelly Potential Violation

Hi Tim,

Yesterday July 2, 2014 I was in Albion to check on the George Kelly farm to make sure he wasn't irrigating the acreage that was previously under the water bank. One of our field guys made a measurement on the well at 12S 24E 01 NWNENW the day prior. I immediately noticed upon arrival that the North and Middle pivots were running. All three fields are planted in grain. There is no question that the North and Middle fields have received substantial water this spring. Although I didn't see the South field being irrigated, the stage and yield of the crop compared to the other two pivots and compared to a similar dry irrigated field North of the Kelly farm suggest it has been irrigated similarly to the middle pivot.

After contacting you on July 2, Bill Kelly contacted me and stated that when our tech had been there the previous day he had a substantial leak in his system. He asked if we could come again sometime soon to measure it. He was concerned that our measurement was above his permitted water right and acted as though he was somewhat unaware of his water right rate, volume, and acreage. The July 1 measurement was 886 gpm. When the tech arrived on the 2nd, he noted that the flow was still at the previous day's rate. Bill went to the pivot to valve it down. A complete PCC measurement was made and the reduced flow rate was 522. This diversion does not have a flowmeter.

Bill showed our tech the location of the supposed leak in his system. The tech noted that there was no evidence of a substantial leak but that there was evidence of a leak of possibly a few gallons per minute. He also noted that Bill stated he had water available to rent in the bank for next year but that he was not going to rent it for this year because the grain is already in.

Attached are a few pictures of the crops and pivots. Kelly South shows crop only facing East. Kelly North is very low quality but you can slightly see water coming from the endgun which had recently turned off. All the towers on the

North pivot were running. This picture was taken from the highway facing SW. Kelly Middle shows the middle pivot facing East.

Let me know if there is anything else we can or need to do to help.

Thanks,

Jaxon Higgs
WWC Inc.

Palmer, Cherie

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Thursday, July 03, 2014 9:49 AM
To: Luke, Tim; Palmer, Cherie; Merritt, Allen; Whitney, Rob
Cc: Buyer, Remington; Edl, Michele; Keen, Shelley; Jaxon Higgs
Subject: Re: Rental Agreement for George Kelley

Hi Tim.

We will keep an eye on the irrigation of the Kelly ground and the use of the end guns.

FYI, this Kelley issue came up in March 2013 when he was renting the BWI water. SWID agreed to allow the use of the BWI water for the 2013 year only. Kelley was told in March 2013, in no uncertain terms that the BWI water would not be available for the 2014 season.

There is another thing you need to be aware of. SWID requires all their members to remove all their rights from the water bank to ensure they are placed in the SWC agreement mitigation plan. PKD is a member of SWID and Ward dairy will be annexed into SWID in the near future (due to the Rangen call). The PDK water and the Ward water will be pulled from the bank in the near future. Duncans were notified last spring when we were dealing with this same Kelly issue that their water needs to be removed from the bank because they receive water from the West Cassia Pipeline. They will be contacted again, but their water should not be used for any rentals.

Thank you.

Brian

From: Luke, Tim
Sent: Thursday, July 03, 2014 8:19 AM
To: Palmer, Cherie ; BRIAN@WATERWELLCONSULTANTS.COM ; Merritt, Allen ; Whitney, Rob
Cc: Buyer, Remington ; Edl, Michele ; Keen, Shelley
Subject: RE: Rental Agreement for George Kelley

I agree with the approach outlined by Cherie and the NOV suggested by Allen. I told Arrington yesterday that we would likely send an NOV for any acres Kelly may have irrigated for which he could not secure a WSB rental. I think the NOV is particularly warranted if a lot of the delays have been on Kelly since I understood he was complaining to the Governor's office this spring about IDWR delays. I would like to know when Kelly first filed his rental apps. Brian Higgs also believes that Kelly was aware a year ago that he needed new or additional rentals to cover his operation this year so he should have filed the rental app well in advance of the 2014 irrigation season.

Brian, can you please monitor the pivot end gun situation and report back to us over the next week or few days -- have the end guns been shut off? Were they off prior to yesterday to your knowledge?

Rob, let's visit next week to prepare the NOV.

Tim

From: Palmer, Cherie
Sent: Wednesday, July 02, 2014 6:26 PM

To: BRIAN@WATERWELLCONSULTANTS.COM; Luke, Tim; Merritt, Allen; Whitney, Rob
Cc: Buyer, Remington; Edl, Michele; Keen, Shelley
Subject: Rental Agreement for George Kelley

Gentlemen,

I have been on the phone this afternoon with the Kelleys and their attorney, Paul Arrington. I plan on moving forward with this rental agreement which should bring the Kelleys back into compliance. Please read my memo I have attached for more information about the resolution...but ultimately, they claim they are partially dry farming some of their place of use and will cease the irrigation on some acres that could not be covered through the bank.

Please let me know if you have any concerns in proceeding as outlined in my memo. I have also attached the map that the Kelleys modified pursuant to my memo.

*Cherie Palmer, Water Rights Supervisor
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700*

Edl, Michele

From: Palmer, Cherie
Sent: Wednesday, July 02, 2014 3:14 PM
To: Paul Arrington
Cc: Edl, Michele; Luke, Tim; Whitney, Rob
Subject: 2014 George Kelley Irrigation
Attachments: 2014 Pivots with acres.jpg

Paul,

This email is in response to our telephone conversation this afternoon, that included Tim Luke. I pulled 2014 imagery and I outlined the acres that appear to be irrigated this season. As you can see I get nearly 350 irrigated acres. George Kelley already has 57 acres covered by a water right, this leaves 293 acres uncovered. Because the bank does not have 293 acres available for rental, please submit a map for your rental application that indicates which 266.3 acres (the amount available) your client would like to be covered. Note that we can cover 63.4 acres through 2018 and 202.9 acres through 2015.

The Department would like to resolve this rental by tomorrow at the latest. Other water users are in line to use some of these Basin 45 rights and we cannot keep these tied up if Mr. Kelley doesn't want to proceed.

Please contact immediately with questions at (208) 287-4944.

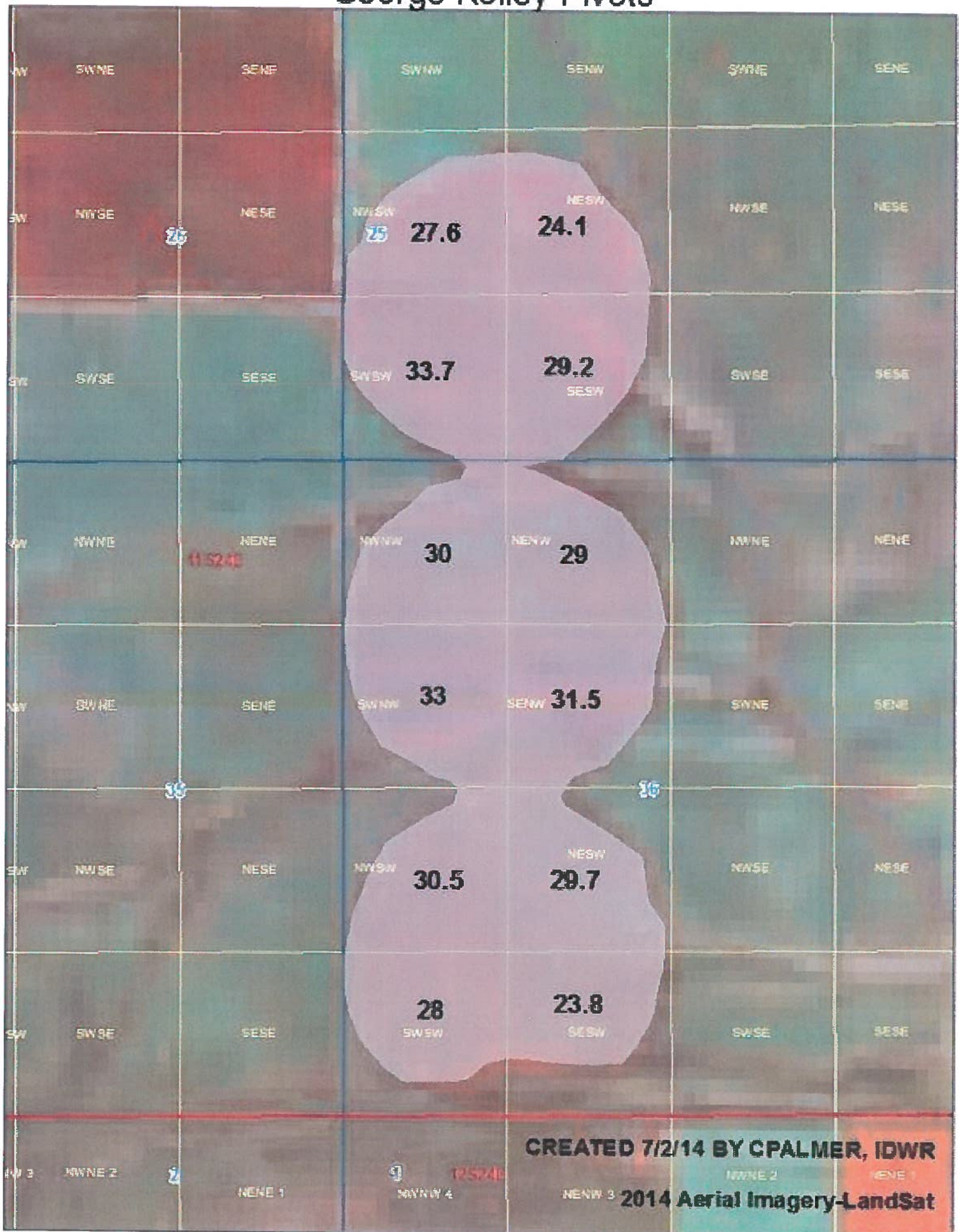
Cherie Palmer, Sr. Water Resource Agent Idaho Dept of Water Resources Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700

Your message is ready to be sent with the following file or link attachments:

2014 Pivots with acres.jpg

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

George Kelley Pivots



MEMO

TO: Water Supply Bank Rental Files for George Kelley, Tim Luke, Rob Whitney, and Brian Higgs-watermaster

FROM: Cherie Palmer

DATE: July 2, 2014

RE: WSB Rental and Irrigated Acres

Late in March this year, Mr. Kelley submitted a rental application that ultimately requested enough water to irrigate 291 acres in the 2014-2018.

For over a month the Department has been working with the Kelleys' attorney in order to reach a final acceptable rental. There have been many delays, emails, and phone calls in order to reach an understanding. All of those exchanges have been documented by Michele Edl, the agent assigned to this rental. The delays have been centered on which acres the Kelleys wished to secure water for through their rental agreement.

As we were nearing a draft rental agreement, Mr. Arrington told us earlier this week that the Kelleys wanted to forgo their rental application for 2014. Mr. Arrington understood that they were not irrigating and it was too late in the season to start. This morning I was preparing a letter to Mr. Arrington and his clients that described their options; either follow through with the rental agreement in order to reserve those water rights for next year or withdraw their rental application.

At the same time, the watermaster for water district 140 contacted the Department. The watermaster witnessed two pivots being irrigated today at the Kelley place of use. He also stated that that the third pivot has a crop and appears to have been irrigated. I confirmed that those are the same acres that the Kelleys have been pursuing a rental application for.

Tim Luke and I contacted Mr. Arrington after our conversation with the watermaster and confronted him with that information. He told us to move forward with the rental application in order to get the Kelleys into compliance. I told Mr. Arrington that I would work with him on getting a map together for the Kelleys. I also told Mr. Arrington that this issue needed to be resolved today because other people were in line to rent the same water.

Tim pressed Mr. Arrington as to why they wanted to bail out of their rental application when they were irrigating and were out of compliance. Apparently the Kelleys thought they could rotate their 57 acre place of use within their permissible place of use throughout the season.

Late this afternoon Mr. Arrington and the Kelleys reached a resolution on what their rental agreement should look like in regards to acres while I spoke to them on the phone.

Initially, I calculated a place of use of 350 acres based on 2014 LandSat imagery. This was before I learned how the Kelleys were irrigating. Currently, the three pivots include end gun boosters that cause the water to reach out to 100 feet. But, the perimeter of the pivots are being dry farmed with grain and the end gun boosters are turned off leaving only a 25 foot reach of the end guns.

Using our mapping software, I brought the original place of use that I calculated in by 75 feet pursuant to their boosters being off. Ultimately, we concluded that they were irrigating 332 acres. The Kelleys were in agreement with that number.

The Kelley's already have a water right for 57 acres so they needed 275 acres to be covered or dried up.

The Kelley's decided that they would turn the end gun off completely on the southern most pivot in order to bring the number of irrigated acres in accordance with the water supply bank availability. So 8.7 acres, which have been irrigated since the beginning of the irrigation season, will be dried up.

RECAP:

Amount being irrigated in 2014	332.0 acres
Kelley water rights provide	57.0 acres
<u>Water Supply Bank rental will provide</u>	<u>266.3 acres</u>
	8.7 acres remaining that will be dried up as of today

Note that all the water rights are not available through 2018 so two rental agreements will be created in order to accommodate the Kelleys as best as possible.

Edl, Michele

From: Paul Arrington [pla@idahowaters.com]
Sent: Wednesday, July 02, 2014 2:39 PM
To: Edl, Michele
Subject: RE: place of use shape

Thanks. Bill is coming in this afternoon and we will get the map hammered out.

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Wednesday, July 02, 2014 2:32 PM
To: Paul Arrington
Subject: place of use shape

Paul Arrington,

In the interest of expediting the creation of a map, I have attached a screen-shot of the rental place-of-use shape (against 2013 aerial photography), that we have for Mr. Kelley. It may provide you a place to start for the map we need. If you and your client can indicate on this map or any map you have of the area, what the 2014 irrigation shape looks like, IDWR can take it from there.

Michele Edl



Timeline for George Kelley's 2014 Application to Rent Water from the Water Supply Bank.

December 20, 2013 IDWR sends George Kelley/Bill Kelley notification that their existing rental agreement has expired.

March 18, 2014 Application to Rent Water signed by Mr. George Kelley is received.

May 14, 2014 Paul Arrington provides an amended first page to the application. This amendment appears to have been requested by Cherie Palmer.

May 29, 2014 Initial application review undertaken by Remington Buyer.

June 2, 2014 With Remington's ok, I assumed the application review.

June 10, 2014 Paul Arrington sent an email to Cherie Palmer requesting a status update. The email was forwarded to me (Michele Edl). I responded that I had found some water but not the entire rate and volume requested.

The available volume for some of the rights included in my tally was tentative. I presumed that a proposed rental agreement for those rights would be accepted. See TLD Properties/PKD Properties lease and the LDS Oakley Stake Center rental.

June 16, 2014 a.m. I met with Pam Skaggs and Cherie Palmer to finalize the rights available for Mr. Kelley's rental application.

June 16, 2014 p.m. I emailed Mr. Arrington that I had found a group of rights which would meet Mr. Kelley's request.

I emailed the watermaster and Southern Region requesting comment.

I emailed Remington Buyer a status update.

I handed over the files and my documents to Cherie Palmer so that she could create the rental agreement.

June 17, 2014 Cherie Palmer had drafted a rental agreement. She emailed me a request to collect a map showing the POU within the PPU.

I phoned Paul Arrington and left a message asking for an updated map.

June 18, 2014 Mr. Arrington returned my call. I explained that we needed a different map than the one he had included with the application and I explained why. While we were on the phone, Mr. Arrington retrieved his electronic copy of the 1st amendment to the application. He recognized that he had made an error; that the acre limit statement should not have been there. Mr. Arrington provides a 2nd amended first page to the application as an attachment to an email.

June 19, 2014 I phoned Mr. Arrington to let him know that the WSB did not have enough water available to satisfy Mr. Kelley's amended request.

I also sent an email to Mr. Arrington requesting a definition of the place of use for the reduced acreage.

June 24, 2014 As follow-up, I emailed Mr. Arrington the rental fee calculation spreadsheet and requested a response from Mr. Kelley.

June 27, 2014 I phoned Mr. Arrington's office and requested a response.

Edl, Michele

From: Edl, Michele
Sent: Tuesday, June 24, 2014 10:19 AM
To: 'Paul Arrington'
Subject: FW: Kelley application to WSB
Attachments: Kelley Rental Fee Calculations (MEdl).xlsx

I apologize.

It looks like I didn't attach the spreadsheet. Please forgive me and connect with me at your earliest convenience to discuss Mr. Kelley's choices.

Thank you.

Michele Edl

From: Edl, Michele
Sent: Thursday, June 19, 2014 12:07 PM
To: 'Paul Arrington'
Subject: RE: Kelley application to WSB

Mr. Arrington,

From our phone conversation of this morning, you know that I have not found enough Basin 45 water in the Water Supply Bank to fill Mr. Kelley's request.

I just spoke with Cherie Palmer. She will be drafting the rental agreement(s) for Mr. Kelley. But before she can do that she needs to know exactly what acres Mr. Kelley will not be irrigating. And that information needs to be provided both as a **map** and in a **public land survey grid** address block like we have in the application form.

I have attached a spreadsheet which summarizes the amounts for the rights assigned to fill Mr. Kelley's request. It should help your client to know exactly how much water the Water Supply Bank can provide, how much the fees will be and how much he needs to locate and indicate to us as acres that will not irrigated within his 291.0 acre place-of-use.

The three rights highlighted in green have complex combined use limits but are available until Dec 31, 2018. It is those rights that we are considering putting together in a separate agreement. The other rights are available only through 2015.

We can't complete the rental agreement processing without a definition of the acreage, so please urge your client to provide it as soon as possible.

Sincerely,

Michele Edl

From: Paul Arrington [<mailto:pla@idahowaters.com>]
Sent: Wednesday, June 18, 2014 3:44 PM
To: Edl, Michele
Subject: RE: Kelley application to WSB

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Monday, June 16, 2014 2:11 PM
To: Paul Arrington
Subject: FW: Kelley application to WSB

Mr. Arrington,

I believe that the State Water Supply Bank can offer Mr. Kelley a group of six rights which will meet his acreage request. They do not meet his requested rate, which is higher than standard and may have been calculated in error.

I have completed my review memo and will be soliciting comment from Southern region today. I also hope to have a draft rental agreement completed by the end of today.

Respectfully,
Michele Edl

From: Edl, Michele
Sent: Tuesday, June 10, 2014 5:21 PM
To: 'pla@idahowaters.com'
Subject: Kelley application to WSB

Mr. Arrington,

Your request for an update was very timely. I was intending to call you and give a status report this afternoon because I have found some water for Mr. Kelley's use that is not restricted by the Rangen call.

I've not yet found the entire rate and volume that he requested to rent but I have not exhausted my search effort. I promise to keep you informed.

Respectfully,
Michele Edl

MEMORANDUM

To: Right(s): 45-2578, 45-2597, 45-14060, 45-2746, 45-11969, and 45-7733

From: Michele Edl

Date: June 19, 2014

Re: Review & Analysis of George Kelley's Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On March 7, 2014, Paul Arrington of Barker Rosholt & Simpson LLP submitted an application to rent water from the State Water Supply Bank on behalf of George Kelley. The application proposes to rent water for five years to irrigate fields located in portions of sec 25 and 36 Twp 11S, Rge 24E.

The rented water will be used on ground to be irrigated by three pivots. Only 57 acres under those pivots is currently covered by a water right.

The proposed points-of-diversion are ^{one} ~~two~~ existing wells utilized by the applicant's current system. They divert water for water rights 45-4084 and 45-4236.

AUTHORITY TO FILE: According to available Cassia County taxlot information, George Bill Kelley owns the proposed place-of-use. Mr. George Kelley signed the application.

WATER RIGHT VALIDITY: Water rights 45-2578, 45-2597, 45-14060, 45-2746, 45-7733, 45-11969, and 45-13998, and are leased to the State Water Supply Bank. As a group they are available to be rented through December 31, 2015.

A review of aerial photography shows that the water rights, or sufficient portions of these water rights appear to have been idled at the authorized places-of-use.

INJURY TO OTHER WATER RIGHTS: No injury is apparent. Although the rights recommended for this rental are within the ESPA, the proposed place-of-use is outside the ESPA. (Refer to the attached map). This application move water withdrawals which had the ESPA as their source, to a POD which does not withdraw from the ESPA. Therefore this application would provide an accrual to the ESPA.

ENLARGEMENT OF USE: No enlargement is evident through the rental. Leased rights 45-7733 and 45-13998 were for commercial and/or stockwater uses, therefore no acre counts were assigned when the rights were leased to the Water Supply Bank. The applicant requests water for irrigation use which required consideration of a change in the nature-of-use. I assumed that the commercial portions were fully consumptive and converted leased acre-ft to irrigation acres based on the headgate requirement 4 af/acre.

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: Southern region will be consulted.

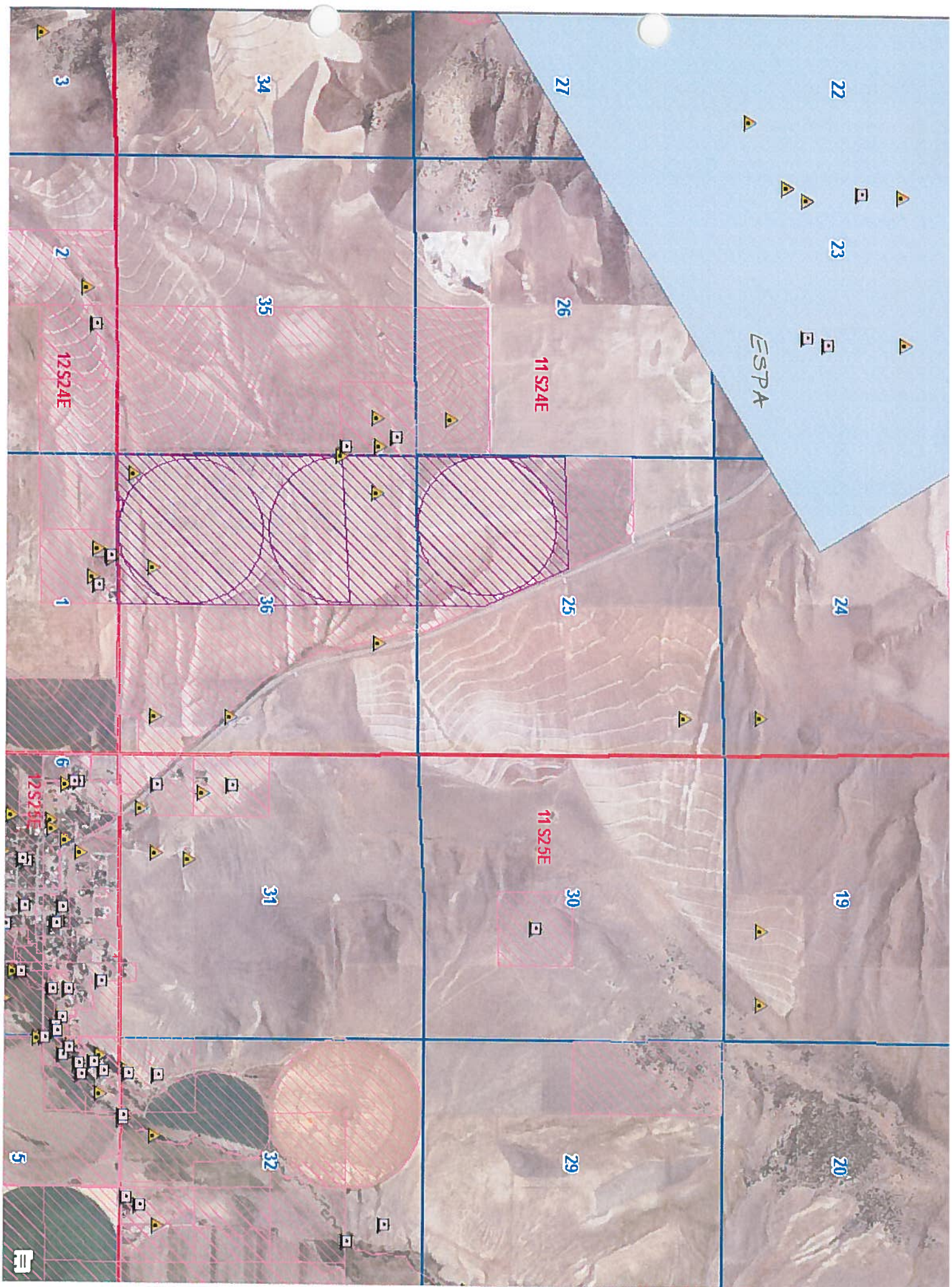
The original application requested water for irrigation of 57 acres. Those acres were already covered by the applicant's water rights so an amendment to the application was requested and received via email on May 29, 2014.

The 1st amended application requested water for irrigation limited to 225.9 acres within a 291.0 acre PPU. The acre limit was an error and was found when I requested a map of the specific place-of-use shape.

The 2nd amended application was received on June 18, 2014 eliminating the acre limited POU. Those amendments have complicated the processing of this request.

I limited my search for water rights to fill this request to those originating in Basin 45. There is insufficient water available in Basin 45 to fill Mr. Kelley's rental request for water to irrigate 291 acres. A package of seven rights covering 266.25 acres is the best offer that the WSB can make at this time.

The place-of-use and points-of-diversion shape files already exist as an archive rental.



Water Right No.	Rented Vol (AF)	Lessor Fee (90%)	Administrative Fee (10%)	Total Fee @ \$17 (2013-2017)	Rental Amounts	
					Rate (cfs)	Acres
45-7733	128.0	1958.4	217.6	2176.00	0.33	32.00
45-2746	489.1	7483.23	831.47	8314.70	1.23	131.30
45-11969	38.4	587.52	65.28	652.80	0.12	9.60
45-2578	27.9	426.87	47.43	474.30	0.10	13.50
45-2597	14.1	215.73	23.97	239.70	0.39	36.50
45-14060	253.6	3880.08	431.12	4311.20	1.10	63.40
45-13998	119.8	1832.94	203.66	2036.60	0.93	29.95
Total	1028.90	15742.17	1749.13	17491.30	3.71	266.25
Requested amounts						
Unfilled amounts					6.0	291.0
					2.29	24.75

Edl, Michele

From: Edl, Michele
Sent: Thursday, June 19, 2014 12:07 PM
To: 'Paul Arrington'
Subject: RE: Kelley application to WSB

Mr. Arrington,

From our phone conversation of this morning, you know that I have not found enough Basin 45 water in the Water Supply Bank to fill Mr. Kelley's request.

I just spoke with Cherie Palmer. She will be drafting the rental agreement(s) for Mr. Kelley. But before she can do that she needs to know exactly what acres Mr. Kelley will not be irrigating. And that information needs to be provided both as a **map** and in a **public land survey grid** address block like we have in the application form.

I have attached a spreadsheet which summarizes the amounts for the rights assigned to fill Mr. Kelley's request. It should help your client to know exactly how much water the Water Supply Bank can provide, how much the fees will be and how much he needs to locate and indicate to us as acres that will not irrigated within his 291.0 acre place-of-use.

The three rights highlighted in green have complex combined use limits but are available until Dec 31, 2018. It is those rights that we are considering putting together in a separate agreement. The other rights are available only through 2015.

We can't complete the rental agreement processing without a definition of the acreage, so please urge your client to provide it as soon as possible.

Sincerely,
Michele Edl

From: Paul Arrington [<mailto:pla@idahowaters.com>]
Sent: Wednesday, June 18, 2014 3:44 PM
To: Edl, Michele
Subject: RE: Kelley application to WSB

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Edl, Michele [<mailto:Michele.Edl@idwr.idaho.gov>]
Sent: Monday, June 16, 2014 2:11 PM
To: Paul Arrington
Subject: FW: Kelley application to WSB

Mr. Arrington,

I believe that the State Water Supply Bank can offer Mr. Kelley a group of six rights which will meet his acreage request. They do not meet his requested rate, which is higher than standard and may have been calculated in error.

I have completed my review memo and will be soliciting comment from Southern Division today. I also hope to have a draft rental agreement completed by the end of today.

Respectfully,
Michele Edl

From: Edl, Michele
Sent: Tuesday, June 10, 2014 5:21 PM
To: 'pla@idahowaters.com'
Subject: Kelley application to WSB

Mr. Arrington,
Your request for an update was very timely. I was intending to call you and give a status report this afternoon because I have found some water for Mr. Kelley's use that is not restricted by the Rangen call.
I've not yet found the entire rate and volume that he requested to rent but I have not exhausted my search effort. I promise to keep you informed.

Respectfully,
Michele Edl

Edl, Michele

From: Palmer, Cherie
Sent: Thursday, June 19, 2014 9:10 AM
To: Edl, Michele
Cc: Skaggs, Pam
Subject: RE: George Kelley encore

Sure, just let me know where and what time.

From: Edl, Michele
Sent: Wednesday, June 18, 2014 5:52 PM
To: Skaggs, Pam; Palmer, Cherie
Subject: George Kelley encore

Cherie and Pam,

Because of the Mr. Arrington oops in the George Kelley Rental Application I needed to find more water for Mr. Kelley. I am adding in the Picket Ranch & Sheep Co right, 45-13998 that we pulled out of the mix a couple days ago. Now even if I add it back in, we won't be able to meet the full request.

I'm not remembering the volume, acres and rate that we agreed was available through just the commercial use Picket Ranch. I must have tossed those notes.

And for some reason, Cherie and I can't land on the same numbers for the PKD Properties rights.

Could we all get together again for a few minutes in the morning and hammer out the last, best numbers for Mr. Kelley?

Thanks

Michele

Edl, Michele

From: Paul Arrington [pla@idahowaters.com]
Sent: Wednesday, June 18, 2014 3:44 PM
To: Edl, Michele
Subject: RE: Kelley application to WSB
Attachments: Amended 2014 Water Bank 1st Page.pdf

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Edl, Michele [mailto:Michele.Edl@idwr.idaho.gov]
Sent: Monday, June 16, 2014 2:11 PM
To: Paul Arrington
Subject: FW: Kelley application to WSB

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Respectfully,
Michele Edl

From: Edl, Michele
Sent: Tuesday, June 10, 2014 5:21 PM
To: 'pla@idahowaters.com'
Subject: Kelley application to WSB

Mr. Arrington,
Your request for an update was very timely. I was intending to call you and give a status report this afternoon because I have found some water for Mr. Kelley's use that is not restricted by the Rangen call. I've not yet found the entire rate and volume that he requested to rent but I have not exhausted my search effort. I promise to keep you informed.

Respectfully,
Michele Edl

Edl, Michele

From: Palmer, Cherie
Sent: Tuesday, June 17, 2014 9:38 AM
To: Edl, Michele
Subject: George Kelley
Attachments: Rental Form-Full Fees KELLEY.docx

Hi Michele,

I drafted up the rental agreement for George Kelley. One question came up regarding the place of use. On his application he says he would like to rent 225.9 acres within a 291 acre permissible place of use. We aren't going to entertain a permissible place of use for a rental unless he tells us what 225.9 acres he would like to irrigate each year. If it's going to be different for each year, we need a map that represents which 225.9 acres he will be irrigating for 2014, 2015 and 2016.

Can you get that information please? Once we get that last piece we can be done with this one. 😊

cp

DRAFT

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:

Water Right	Priority Date	Source	Tributary	Rented Rate	Annual Rented Volume	Acre Limit	Total Rented Acres
45-2578	04/29/1959	Ground Water	NA	0.10 cfs	27.9 af	NA	13.5 ac
45-2597	01/13/1960	Ground Water	NA	0.39 cfs	14.1 af	NA	36.5 ac
Total Annual Combined Limit				NA	NA	NA	38.2 ac
45-14060	12/03/1971	Ground Water	NA	0.61 cfs	246.0 af	NA	61.5 ac
Overall Annual Combined Limit				NA	253.6 af	NA	63.4 ac
45-7733	8/27/1979	Ground Water	NA	0.33 cfs	128.0 af	NA	32.0 ac
45-2746	5/9/1966	Ground Water	NA	1.23 cfs	489.1 af	NA	131.3 ac
45-11969	6/1/1939	Ground Water	NA	0.12 cfs	38.4 af	NA	9.6 ac

Term of Rental: April 1, 2014 to December 31, 2016
Rental Fee: \$15,454.70 annually

The fee for rental of the above-described water is \$_____ will go to the Department for administrative costs, and the remainder shall be received by the Department prior to February _____ period. The agreement will be void if payment is not received by the Department prior to the end of the rental period, which shall terminate the agreement at least 30 days prior to the rental fee due date.

No rental fees will be refunded once the fee is collected. *Pass* *passed.*

Detailed water right conditions are attached.

Supermodel

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

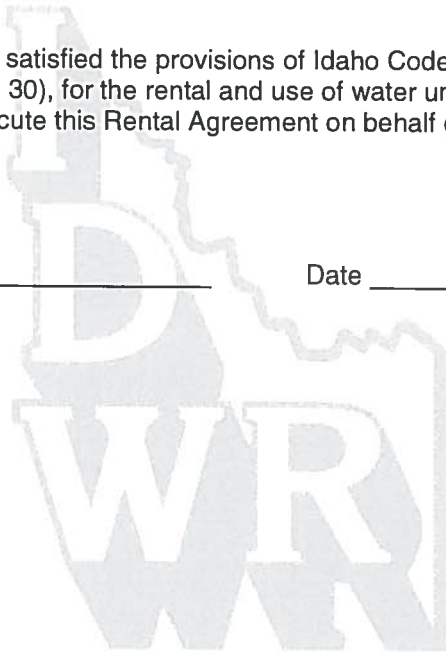
Signature of Renter Printed Name and Title* Date

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.

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



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

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NE¼NE¼ Sec. 35 Twp 11S Rge 24E CASSIA County

BENEFIAL USE

IRRIGATION

SEASON OF USE

04/01 TO 10/31

RENTER'S PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	24E	25									25.0	26.0	27.5	27.5					106.0
11S	24E	36					1.5	0.5	30	30	31.5	30	30	31.5					185.0

Total Acres: 225.9

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 renter shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
11. The following water rights are also diverted from the point of diversion described above: 45-4084 and 45-4236.
12. This rental agreement does not authorize the construction of a well.

13. The renter must diligently pursue a permanent water right to provide for the uses authorized under this rental agreement.
14. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
15. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.



Edl, Michele

From: Edl, Michele
Sent: Monday, June 16, 2014 4:09 PM
To: Merritt, Allen
Cc: Cooper, Jeff
Subject: George Kelley WSB rental application
Attachments: Kelly Rental Review Memo (MEdl).docx; Kelley lease and rental POU comparison.jpg

Allen,

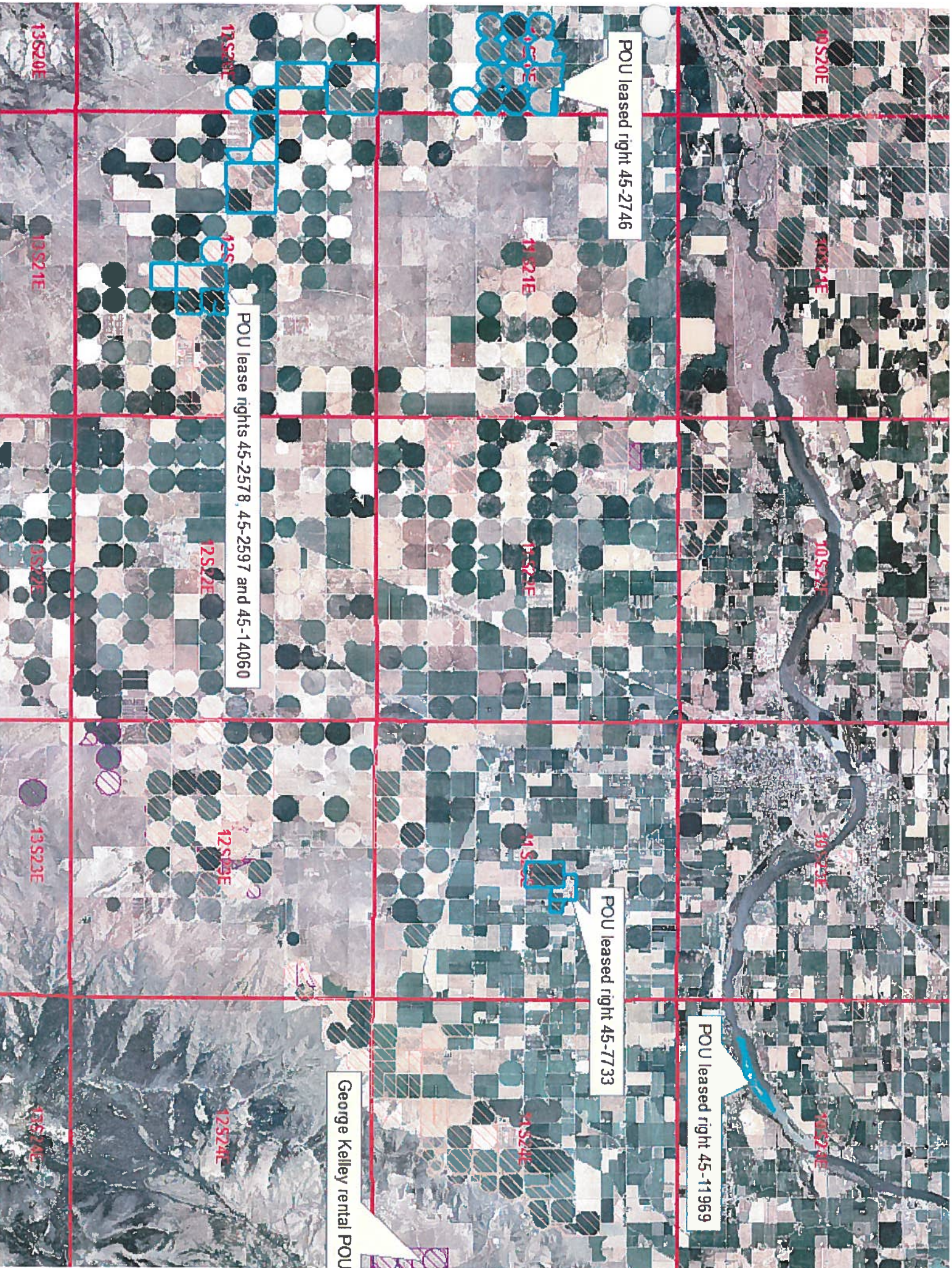
I have completed my review of the WSB rental application submitted by Paul Arrington on behalf of George Kelley. I have attached a copy of my review memo.

I worked with Pam and Cherie this morning to fine tune the number of rights that we will be using to fill this rental request.

I have also attached a map that I put together to shows the relative location of the leased and rental places of use. Please let me know if you have any feed back or concerns about this application.

Jeff,
Three of the rights we used are remainders of the PKD/TLD Properties leased rights which are first promised for irrigation around the Oakley Stake Center of the LDS church. The PKD/TLD Properties leased portions are now fully promised. I remember that you wanted the volume that PKD/TLD could still divert but I'd like to at least hear back from the LDS church that their rental agreement is ok before I commit to a volume.

Thank you.
Michele



POU leased right 45-2746

POU leased right 45-2578, 45-2597 and 45-14060

POU leased right 45-7733

POU leased right 45-11969

George Kelley rental POU

MEMORANDUM

To: Right(s): 45-2578, 45-2597, 45-14060, 45-2746, 45-11969, and 45-7733

From: Michele Edl

Date: June 16, 2014

Re: Review & Analysis of George Kelley's Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On March 7, 2014, Paul Arrington of Barker Rosholt & Simpson LLP submitted an application to rent water from the State Water Supply Bank on behalf of George Kelley. The application proposes to rent water for five years to irrigate fields located in portions of sec 25 and 36 Twp 11S, Rge 24E.

The rented water will be used on ground to be irrigated by three pivots. Only 57 acres under those pivots is currently covered by a water right.

The proposed points-of-diversion are two existing wells utilized by the applicant's current system. They divert water for water rights 45-4084 and 45-4236.

AUTHORITY TO FILE: According to available Cassia County taxlot information, George Bill Kelley owns the proposed place-of-use. Mr. Kelley signed the application.

WATER RIGHT VALIDITY: Water rights 45-2578, 45-2597, 45-14060, 45-2746, 45-11969, and 45-7733 are leased to the State Water Supply Bank. As a condition of lease, they may be rented through December 31, 2016.

A review of aerial photography shows that the water rights appear to have been idled at the applicant's place-of-use.

INJURY TO OTHER WATER RIGHTS: No injury to other water rights is anticipated. Although the rights recommended for this rental are outside the ESPA. (Refer to the attached map.)

ENLARGEMENT OF USE: No enlargement is anticipated. Leased right 45-7733 is for commercial and/or stock use assigned when the right was leased to the Water Supply Bank for irrigation use which required consideration of a lease. The commercial/stock use was fully consumptive and based on the headgate requirement 4 af/acre.

LOCAL PUBLIC INTEREST: Review staff has no information that 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: Southern region will be consulted. Based on a map of the area, I determined that the POU for this lease is outside the ESPA boundary.

I limited my search for water rights to fill this request to those originating in Basin 45. The rate requested by the application appears to be in error and is not satisfied by this group of rented rights. However, this group of rights appears to satisfy the acreage requested.

The place-of-use and points-of-diversion shape files already exist as an archive rental.

Buyer, Remington

From: Paul Arrington [pla@idahowaters.com]
Sent: Thursday, May 29, 2014 11:59 AM
To: Buyer, Remington
Subject: RE: Kelley Rental
Attachments: Amended Kelley App

I sent the attached to Cherie on May 14. Is this sufficient or did you need more?

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]
Sent: Thursday, May 29, 2014 11:57 AM
To: Paul Arrington
Subject: Kelley Rental

Hi Paul,

Following up the 2014 rental application for George Kelley, has Mr. Kelley submitted an updated application to rent water to supplement the 57 acres he authorized to divert under 45-4084 and 45-4236?

Thanks,

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 East Front Street, Boise, ID, 83720
T: (208) 287-4918 | F: (208) 287-6700

Edl, Michele

From: Palmer, Cherie
Sent: Monday, June 02, 2014 9:46 AM
To: Edl, Michele
Subject: FW: Amended Kelley App
Attachments: Amended 2014 Water Bank 1st Page.pdf

Michele,

Here is the amended Kelley application. Sorry about that.

cp

From: Paul Arrington [<mailto:pla@idahowaters.com>]
Sent: Wednesday, May 14, 2014 1:53 PM
To: Palmer, Cherie
Cc: Paul Arrington
Subject: Amended Kelley App

Cherie:

Here is an amended 1st page for the Kelley App. Thanks for the heads up. Let me know if you need anything else.

Thanks, Paul

Edl, Michele

From: Palmer, Cherie
Sent: Tuesday, July 01, 2014 5:26 PM
To: Edl, Michele
Subject: FW: Kelley complaint memo (2) - swk suggestions.docx
Attachments: Kelley complaint memo (2) - swk suggestions.docx

One more thing...

Here is the complaint letter we prepared for the Governor. That was drafted on 5/13. That was the same day that we called Paul Arrington on the phone and told him of the application deficiencies.

Cherie

From: Keen, Shelley
Sent: Tuesday, May 13, 2014 1:15 PM
To: Spackman, Gary
Cc: Whitney, Rob; Buyer, Remington; Palmer, Cherie
Subject: Kelley complaint memo (2) - swk suggestions.docx

Gary,

I added one more item recommended by Cherie.

Shelley

MEMORANDUM

To: Governor Otter
Cc: Stephen Goodson, David Hensley
From: Gary Spackman

Re: Irrigation by George and Bill Kelley

George and Bill Kelley ("Kelleys") inquired about IDWR's processing of water rights for irrigation lands in the Albion area.

Kelleys irrigate approximately 350 acres located approximately 2 miles northwest of Albion. The land is irrigated by three pivots. The pivot systems were installed in approximately 2010 or 2011.

Kelleys hold water right nos. 45-4084 and 45-4236 authorizing diversion of 1.14 cfs for the irrigation of 57 acres at this location. Since 2007, Kelleys have attempted to rent water rights from the Water Supply Bank to supplement their irrigation needs for lands under the three center pivots. IDWR approved water rights rentals for Kelleys in 2007, 2011, 2012, and 2013. In 2008 and 2009 Kelleys sought to rent water from the Water Supply Bank, but their applications were not processed.

In 2001, IDWR issued Kelleys a notice of violation for irrigation of lands without a water right at this location. Kelleys executed a consent order stating the following:

- 1) No further diversion of water from the irrigation well in the NENE S35, T11S, R24E, B.M. will be made until a valid water right is approved for use of the well by the Department.
- 2) A transfer shall be filed with the Department within 60 days to seek approval for use of the well in NENE S35, T11S, R24E, B.M.
- 3) A well log shall be prepared and submitted to the Department by George Kelley or other responsible parties to document the construction of the well in the NENE S35, T11S, R24E within 60 days.
- 4) A steel plate shall be welded on the casing to seal the top of the well located in NENW S1, T12S, R24E. The steel plate may be removed when the well is modified for use as a domestic source.
- 5) No wells on the George Kelley property or property under control of George Kelley shall be drilled or modified unless said well construction complies with Section 42-235 of the IDAHO CODE
- 6) Payment of an agreed civil penalty by George Kelley in the amount of \$400.00 payable to the Idaho Department of Water Resources within 7 days of the execution of this agreement by George Kelley for the violation identified in said Notice of Violation dated September 18, 2001.
- 7) Payment of \$17,600 civil penalty is suspended by the Idaho Department of Water Resources. This penalty or any portion may be re-imposed if the transfer to be filed pursuant to Term No. 2 is ultimately denied including all appeals and diversion of water continues from the well without a water right by George Kelley or for failure to fully comply with this agreement.

In 2005, water right nos. 45-4084 and 45-4236 were decreed in the Snake River Basin Adjudication. The decreed water rights authorized irrigation of a specific 57 acres. In 2010 IDWR approve a water right transfer authorizing the Kelleys to irrigate 57 acres within a larger land base of 1350.6 acres.

On March 18, 2014, Kelleys filed a new application to rent water rights from the Water Supply Bank for the 2014 irrigation season to irrigate lands under their pivots. Kelleys' application is one of 122 rental applications received since January 1, 2014, and one of 172 seeking rentals for the 2014 irrigation season. Currently, Kelleys' application is 28th in the chronological queue.

After an initial review of the 2014 rental application, IDWR staff discovered the application incorrectly requested rental of water for irrigation of 57 acres, not the approximately 290 acres that currently don't have a water right. Kelleys' attorney promised he would submit an amended application immediately.

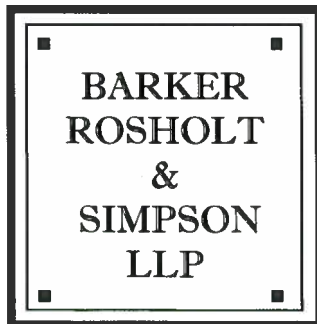
IDWR is assigning additional staff to timely address applications to rent water from the Water Supply Bank. Nonetheless, every year Kelleys seek to rent a water supply to irrigate approximately 290 acres that are not identified as a place of use by any water right. Rental water is not always available every year. Given the history, Kelleys should have known that they needed to secure a supply of water prior to planting a crop.

Albert P. Barker
John A. Rosholt
John K. Simpson
Travis L. Thompson
Shelley M. Davis
Paul L. Arrington
Scott A. Magnuson
Sarah W. Higer

RECEIVED

MAR 18 2014

DEPARTMENT OF
WATER RESOURCES



Paul L. Arrington
pla@idahowaters.com

195 River Vista Place, Suite 204
Twin Falls, Idaho 83301
(208) 733-0700 telephone
(208) 735-2444 facsimile

1010 West Jefferson, Suite 102
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

March 17, 2014

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

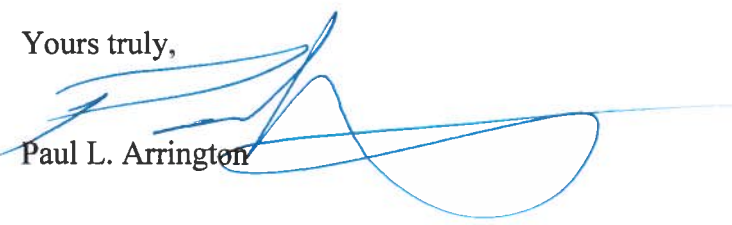
RE: *Kelley Water Bank Rental Application*

Dear Cherie:

Thank you for letting me know about the new water rights recently added to the Basin 45 water bank. I have attached an application to rent some water from the Bank in Basin 45. Please let me know if you need anything else.

If you have any further questions, please give me a call and we can discuss.

Yours truly,


Paul L. Arrington

PLA/jn

cc: Client

Encs.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 20, 2013

George Kelley / Bill Kelley
PO Box 25
Albion ID 83311

**RE: EXPIRATION OF WATER SUPPLY BANK RENTAL AGREEMENT FOR
WATER RIGHTS: 45-2509, 45-13522,**

Dear Renter:

This letter is to inform you that the agreement for rental of water from the Idaho Water Supply Bank has expired. The rental agreement authorized diversion of water related to the above referenced water rights.

The rental agreement is expired and no longer in effect. Water Supply Bank records will be closed. Any further diversion of water in association with this rental agreement is unauthorized and will be subject to necessary enforcement actions.

If you wish to rent water in the future, please reapply by submitting an *Application to Rent Water from the Water Supply Bank* form (enclosed). If you have any questions regarding this matter, you can contact me at (208) 287-4918.

Sincerely,

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

Remington Buyer
Water Supply Bank Coordinator

Enc: *Request to Extend Lease Term Application*