



C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

June 12, 2014

CHRIS AND JACKIE FLANIGAN  
HC 64 BOX 8028  
KETCHUM ID 83340

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 37-2168B**

Dear Renter:

Please find enclosed a receipt in the amount of **\$204.00** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 12 acre-feet of water for irrigation of 3.4 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 \$183.60 of the rental fee will be paid to the lessor(s) and 10% or \$20.40 will be retained by the Department to offset administrative costs.

If you have any questions, please contact me at (208) 287-4944.

Sincerely,

*Christine Field*

*for*  
Cherie Palmer  
Senior Water Resource Agent  
WSB Process Point of Contact

Enclosure(s): Receipt No.C098935  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
IDWR Southern Regional Office  
Jim Speck – Speck & Aanestad

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

This is to certify that: **Chris and Jackie Flanigan**  
**HC 64 Box 8028**  
**Ketchum, ID, 83340**  
**(208) 725-5980**  
**chrisflanigan@mac.com**

RECEIVED  
JUN 10 2014  
DEPARTMENT OF  
WATER RESOURCES

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
37-2168B	1/22/1910	Oregon Creek	Big Wood River	0.08 cfs	12 af	NA	3.4 ac

**Annual Combined Rental Totals**      **0.08 cfs**      **12 af**      **NA**      **3.4 ac**

**Rental Fee:**      **Years** 2014-2017      \$204 annually  
                           **Year** 2018      \$240  
                           **Total Cost**      \$1056

The fee for rental of the above-described water is \$1056, \$204 for years 2014-2017 and \$240 in 2018. Ten percent will go to the Department for administrative costs, and the remainder will be paid to the lessor(s). An annual payment shall be received by the Department prior to February 15 each year for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. To terminate the agreement prior to the end of the rental period, written notice must be received by the Department at least 30 days prior to the rental fee due date. 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.

## **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

Chris Flanagan  
Printed Name and Title\*

6/7/14

Joe Flanagan  
Signature of Renter

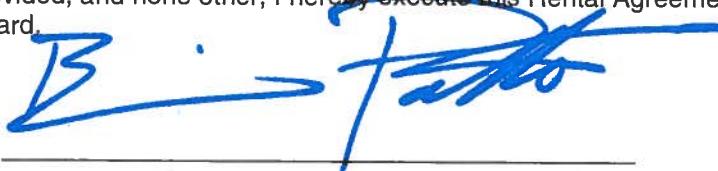
Jackie Flanigan

6/7/14

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

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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, Acting Administrator  
Idaho Water Resource Board

Date June 10, 2014



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

**WATER USE DETAILS**

**LOCATION OF POINT(S) OF DIVERSION**

OREGON CREEK      NE $\frac{1}{4}$ SE $\frac{1}{4}$       Sec. 9      Twp 05N      Rge 17E      BLAINE County

**BENEFICIAL USE**

IRRIGATION

**SEASON OF USE**

05/01 TO 10/01 FOR WATER RIGHTS DIVERTED FROM OREGON CREEK

**RENTER'S 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	
05N	17E	10			2.4												1		3.4

Total Acres: 3.4

**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 or 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. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afu per acre at the field headgate for irrigation of the lands above.
11. 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. 37.
12. This rental place of use is located within the northern portion of Homestead Entry Survey No. 123, also known as Lot 1, Block 1, North Fork Subdivision.



#### D. GENERAL INFORMATION

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

Infiltrator collection and pipeline transmission, pond, pump from pond through underground 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.

37-2168A, 37-2168B & 37-2168C are diverted through the same POD.

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.

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. five (5)

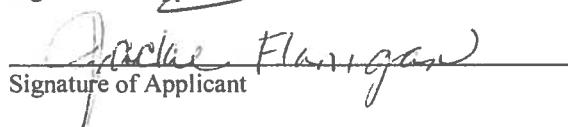
I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

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.



Signature of Applicant



Signature of Applicant

Chris Flanigan

Printed Name and Title\*

Jackie Flanigan

Printed Name and Title\*

4/21/14

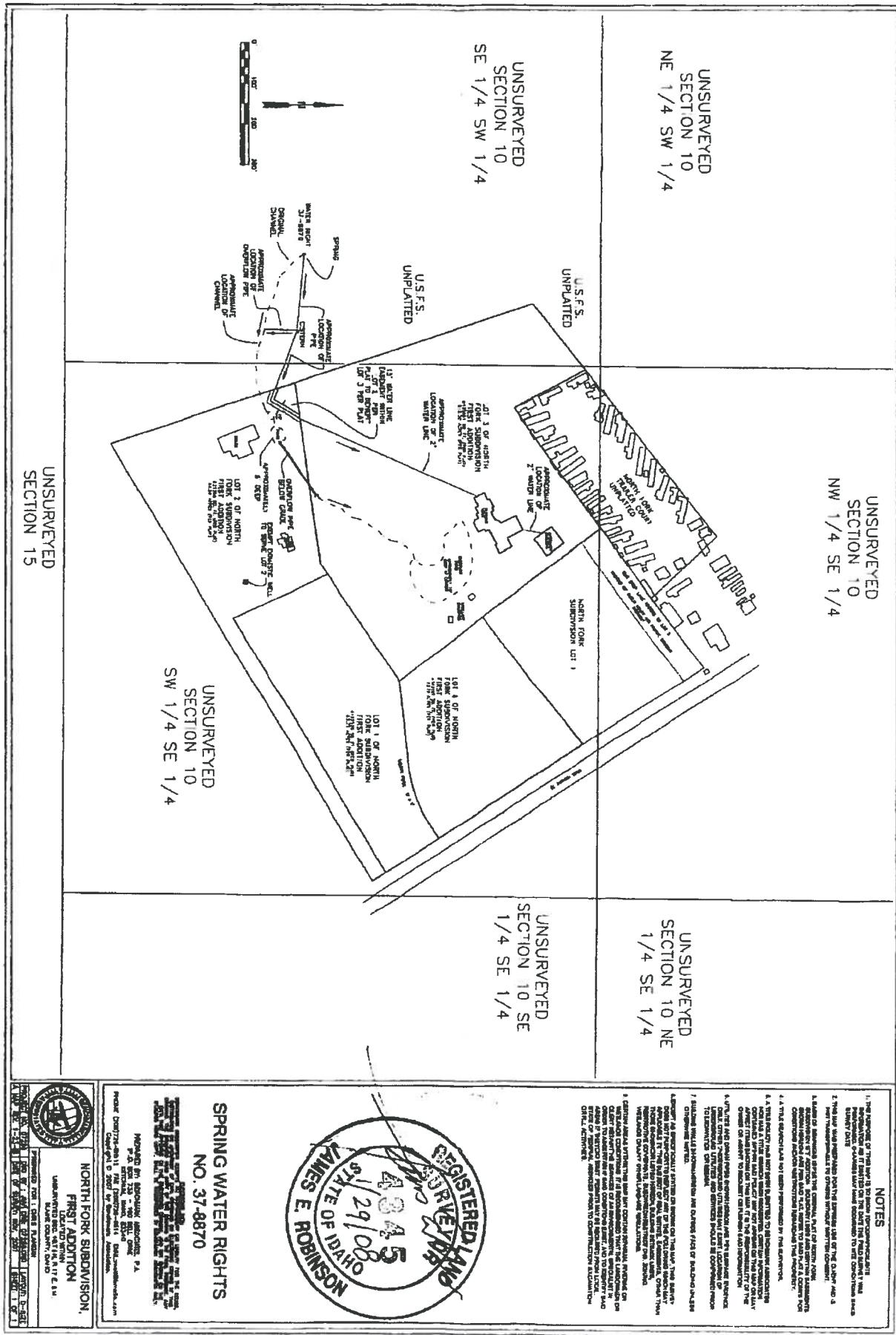
Date

4/21/14

Date

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

G:\BMA\N\North Fork Subdivision 1st Add\Lot 3\STAKING\Water Rights\07256-waterrights\4-centered.dwg 1/29/2008 11:05:21 AM



## EXHIBIT 2

# APPLICATION TO RENT WATER FROM WATER SUPPLY BANK

APPLICANTS - CHRIS & JACKIE FLANIGAN

SOURCE - OREGON CREEK

USE - IRRIGATION

PLACE OF USE - LOT 1, NORTH FORK SUBDIVISION



USDA FOREST SERVICE  
BILL FOR COLLECTION

1. BILL DATE: 12/04/2013

PAGE: 1 OF 1

TO ENSURE PROPER CREDIT PLEASE HAVE YOUR BILL AVAILABLE AND  
CHOOSE ONE OF THE FOLLOWING OPTIONS:

- **PAY ONLINE AT:** [WWW.FS.FED.US/BILLPAY](http://WWW.FS.FED.US/BILLPAY)
- **PAY BY MAIL.** INCLUDE A COPY OF THIS BILL WITH YOUR PAYMENT.  
PLEASE INCLUDE THE BILL NUMBER ON YOUR CHECK OR MONEY ORDER. DO  
NOT SEND CASH. PLEASE MAKE YOUR PAYMENT FOR THE EXACT AMOUNT DUE.  
MAKE YOUR PAYMENT PAYABLE TO : USDA FOREST SERVICE (SEE ADDRESS  
AT RIGHT).

PAY BY MAIL ADDRESS:  
USDA FOREST SERVICE  
C/O CITIBANK  
P.O. BOX 301550  
LOS ANGELES, CA 90030-1550

AMOUNT DUE: \$75.12

AMOUNT ENCLOSED: \$\_\_\_\_\_

TO: OREGON GULCH WATER ASSOCIATION  
HC 64 BOX 8028  
KETCHUM, ID 83340 UNITED STATES

2. NET AMOUNT DUE: \$75.12  
3. DUE DATE: 01/01/2014  
4. BILL NUMBER: BF 041403P0021  
5. PAYER CODE: 0003341212

6. AGREEMENT NO: CONTRACT NO:  
7. DESCRIPTION:  
8. REMARKS:  
FAILURE TO PAY FEES BY DUE DATE CONSTITUTES NON-COMPLIANCE  
WITH AUTHORIZATION.

9. PRINCIPAL: \$75.12  
10. INTEREST:  
11. ADMINISTRATIVE COSTS:  
12. PENALTY:  
13. AMOUNT DUE: \$75.12  
14. ADJ. + CREDIT: \$0.00  
15. NET AMOUNT DUE: \$75.12

NOTE:  
PLEASE SEND ALL CORRESPONDENCE, INQUIRIES, AND CHANGE OF ADDRESS TO:

SAWTOOTH NATIONAL FOREST  
SUPERVISOR'S OFFICE  
2647 KIMBERLY RD. E.  
TWIN FALLS, ID 83301

FAILURE TO MAKE PAYMENT BY DUE DATE WILL RESULT IN THE ASSESSMENT OF LATE PAYMENT CHARGES (INTEREST, ADMINISTRATIVE COST, AND/OR PENALTY CHARGES) IN ACCORDANCE WITH YOUR CONTRACT, PERMIT, OR THE DEBT COLLECTION ACT OF 1982, AS AMENDED.  
POSTMARKS ARE NOT HONORED.

DATE/PERIOD	DESCRIPTION	AMOUNT
01/01/2014 To 12/31/2014	2720 SPECIAL USES KET573201 Ketchum Ranger District 912 IRRIGATION WATER TRANS PIPELINE >= 12" D PERMIT ISSUED: 05/17/1999	\$75.12

FOR OFFICIAL USE ONLY

16. ORG	17. JOB	18. AMOUNT
0414	89831314	\$75.12

pd  
12/13/13  
2784

COPY



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](http://www.idwr.idaho.gov)

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C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

June 5, 2014

Chris and Jackie Flanigan

HC 64 Box 8028

Ketchum, ID, 83340

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 37-2168B**

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

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of \$204 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 12 acre-feet for years 2014-2017 while the 2018 fee of \$240 was calculated based on the rental rate increasing to \$20/acre foot in that year. Your payment for 2014 has been received by the Department and payments for years 2015-2018 will be due prior to February 15 for the duration of the rental agreement. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Please sign the enclosed Rental Agreement and return it to our office so that processing of your rental application can be completed. Please contact me at (208) 287-4918 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clay Weber'. To the left of the signature, the word 'for' is written vertically.

Remington Buyer  
Water Supply Bank Coordinator

Enclosure(s)  
Water Supply Bank Rental Agreement



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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

May 15, 2014

CHRIS AND JACKIE FLANIGAN  
HC 64 BOX 8028  
KETCHUM ID 83340

### RE: APPLICATION(S) TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of your application(s) to rent water for from the Water Supply Bank (Bank). The Department will review your application(s) as time allows. If your application cannot be processed for the initial year specified on the application, it is possible that it may be approved for subsequent years.

Filing a rental application does not authorize diversion and use of water. It is unlawful to use water without a valid water right or an approved Water Supply Bank rental agreement. **You are not authorized to divert any water for the purposes described in your application until you have paid the rental fee and you and the Department have both signed and executed a rental agreement.**

You can check the status of your rental application by reviewing the Department's processing spreadsheet, accessible from the Water Supply Bank's website at:

[http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterSupply/ws\\_default.htm](http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterSupply/ws_default.htm)

Regards,

A handwritten signature in black ink that reads "Cherie Palmer".

Cherie Palmer  
Sr. Water Resource Agent  
Water Supply Bank Contact

**MEMORANDUM**

**To:** Water Right(s).

**From:** Remington Buyer

**Date:** May 27, 2014

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

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**PURPOSE/NARRATIVE:** Chris and Jackie Flanigan of Ketchum Idaho submitted an application to rent water from the Water Supply Bank received by the Department on April 24, 2014. The Flanigans identified water right 37-2168B, currently leased into the Water Supply Bank, as the right they seek to rent. The Flanigans seek 0.08 cfs to irrigate 3.4 acres of land.

**AUTHORITY TO FILE:** The rental application is signed by both Chris and Jackie Flanigan.

**WATER RIGHT VALIDITY:** Water right 37-2168B is currently leased into the Bank and is not rented. There is 0.23 cfs of available to irrigate 9.1 acres under this Lease Contract.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent from the rental of this water right.

**ENLARGEMENT OF USE:** No enlargement is evident through the rental.

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

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

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** The Water District 37 Watermaster Kevin Lakey and IDWR Southern Region Manager Allen Merrit have been contacted for comments on this rental application. Neither Kevin Lakey nor Allen Merrit have concerns about this rental.

SPECK & AANESTAD  
A PROFESSIONAL CORPORATION  
ATTORNEYS

JAMES P. SPECK  
jim@speckandaanestad.com  
DOUGLAS J. AANESTAD  
doug@speckandaanestad.com

120 EAST AVENUE  
POST OFFICE BOX 987  
KETCHUM, IDAHO 83340

TELEPHONE  
(208) 726-4421  
FACSIMILE  
(208) 726-0752

April 23, 2014

RECEIVED  
APR 24 2014  
DEPARTMENT OF  
WATER RESOURCES

Remington Buyer  
Water Supply Coordinator  
Idaho Department of Water Resources  
322 E. Front St.  
Boise, Idaho 83720-0098

**Re: Chris and Jackie Flanigan - Application to Rent Water From the Water Supply Bank**

Dear Remington:

Enclosed you will find the original and one copy of the above-referenced Application to Rent Water From the Water Supply Bank filed signed by Chris and Jackie Flanigan. As discussed in our recent e-mail exchange, they are hoping to rent a portion of one of the other water rights diverted out of Oregon Creek and delivered through the same pipeline transmission system, i.e., a portion of 37-2168B.

Please review the Application and contact me right away if you have any questions. Kindly receipt date-stamp the copy and return it to me in the postage pre-paid self addressed envelope included for that purpose. Thank you.

Sincerely,

SPECK & AANESTAD  
A Professional Corporation

By:   
James P. Speck

JPS:jef  
Enclosure  
cc: Client w/encl.



United States  
Department of  
Agriculture

Forest  
Service

Sawtooth National Forest  
Supervisor's Office

2647 Kimberly Road East  
Twin Falls, ID 83301  
208-737-3200  
Fax: 208-737-3236

File Code: 2720  
Date: July 31, 2013

Chris Flanigan  
Oregon Gulch Water Association  
HC 64 Box 8028  
Ketchum, ID 83340

Dear Mr. Flanigan:

Enclosed is a fully signed copy of Amendment #2 to your special use permit authorizing replacement of a water transmission ditch with a buried diversion and pipeline located on the Ketchum Ranger District. If you have any questions or concerns, please contact your permit administrator, Joe Miczulski, at (208) 622-0087.

Sincerely,

*Ann Niesen*

*REBECCA S. NOURSE*  
Forest Supervisor



Caring for the Land and Serving People

Printed on Recycled Paper



Auth ID: KET573201  
Contact ID: 477853010602  
Use Code: 912

FS-2700-23 (v. 10/09)  
OMB No. 0596-0082

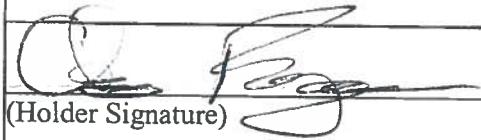
**U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
AMENDMENT  
FOR  
SPECIAL-USE AUTHORIZATION**

**Amendment#: 2**

This amendment is attached to and made a part of the KET573201 special use authorization for a water transmission ditch issued to OREGON GULCH WATER ASSOCIATION on 05/17/1999 which is hereby amended as follows:

Replacement of a water transmission ditch in the Oregon Gulch drainage with a new buried diversion and approximately 365 feet of buried 8" diameter PVC pipe, 1,785 feet of buried 6" PVC pipe, valves, and vents as needed.

This Amendment is accepted subject to the conditions set forth herein, and to conditions I.A. to VII. I. attached hereto and made a part of this Amendment.

  
(Holder Signature)

  
(Authorized Officer Signature)

CHRIS FLANIGAN  
PERMITEE, OREGON GULCH WATER ASSOC.

REBECCA S. NOURSE  
FOREST SUPERVISOR

Date: 7/24/13

Date: 7/29/2013

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one (1) hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

**Decision Memo**  
**Oregon Gulch Water Association Special-Use Permit Amendment**  
USDA Forest Service  
Ketchum Ranger District, Sawtooth National Forest  
Blaine County, Idaho

**Background**

The Sawtooth National Forest is proposing to amend an existing special-use permit issued to the Oregon Gulch Water Association, represented by Chris Flanigan. The amended permit would authorize the Association to replace an existing water transmission ditch in the Oregon Gulch drainage with a new subsurface diversion and approximately 2,150 total feet of buried pipe on the Ketchum Ranger District.

The Association proposes to install a new subsurface water collection system in Oregon Gulch creek and bury approximately 365 feet of 8" diameter PVC pipe, 1,785 feet of 6" PVC pipe, valves, and vents as needed to reach private property. The new collection system will consist of two-20 foot long, 8" diameter perforated PVC pipes connected to a manifold, and clean cobble backfill buried approximately 24" deep in the channel bed. The transmission pipe will be buried approximately 24" deep parallel but outside the existing ditch in the old reclaimed Oregon Gulch roadbed. Material removed from the excavation will be stockpiled adjacent to the site and utilized for backfill. A Parshall flume will be installed to measure water volume transmitted through the pipeline.

The pipeline will cross the Saddle Trail #326 at one location. The crossings will be cut-and-cover type, and the trail will be restored to its previous condition. Equipment access for the project will be via Oregon Gulch Road #143, accessing National Forest System lands near the Oregon Gulch Trailhead, and proceeding to the worksite following the ditch and old road alignment. Equipment needed for the project is expected to be an excavator, a front-end loader, and a dump truck. The excavator will be used for vegetation removal and excavation of the subsurface diversion and trench for the pipeline. The dump truck will bring the cobble material to the trail head, but may not be capable of climbing the route to the subsurface diversion. The loader may be used to bring the cobble material to the site.

The first 20 feet of the existing ditch will be backfilled to prevent water flow and the unintended capture of aquatic species in the ditch. The remainder of the ditch and a previously abandoned headgate will remain in place to reduce soil disturbance and vegetation loss. Disturbance will occur at the subsurface diversion and along the pipeline route. Maximum disturbed width is proposed to be 15 feet. All disturbed areas will be re-graded to original grade and re-seeded with a seed mix containing native grasses, shrubs, and trees as approved by the Sawtooth National Forest Botanist for this location.

The purpose of this proposed special-use permit amendment is to authorize a modification to an existing permitted water transmission system on National Forest System lands. The need is to reduce water loss associated with use of an open, unlined ditch and deliver water pursuant to existing valid Idaho Water Rights.

*Joe Mazzalski  
622-5371*

## **Decision and Rationale**

I have reviewed the project file and decided to amend the existing special-use permit to authorize the Oregon Gulch Water Association's installation of a new subsurface water collection system in Oregon Gulch creek and bury approximately 365 feet of 8" diameter PVC pipe, 1,785 feet of 6" PVC pipe, valves, and vents as needed to reach private property.

The applicant proposes to do the work during autumn of 2012. See the attachments at the end of this document, for a depiction of the proposed route.

Idaho Water Rights A37-02168A, A37-02168B and A37-02168C authorizes a total diversion of 0.61 cubic feet per second (cfs) for stockwater and irrigation purposes from Oregon Gulch located in the NW1/4, NE1/4, SE1/4, Section 9, T5N, R17E, B.M.

Following are mitigation items which are part of the Decision:

1. The proponent and Forest Service will assure construction activities for this project will minimally affects parking at the Oregon Gulch Trailhead and use of the Oregon Gulch Trail #326.
2. Ground disturbing activities would only occur after August 1 of any calendar year to avoid disturbance to or the destruction of active nests of migratory birds or Forest Service sensitive bird species.
3. Due to the presence of spotted knapweed and dalmatian toadflax in the area, all equipment used for project implementation will be high pressure washed (e.g. tires, undercarriages, shovels, tracks...) to remove all visible plant parts, dirt, and material that may carry noxious weed seeds, and inspected prior to accessing National Forest lands to prevent the introduction of noxious or non-native invasive plant species. This includes the inside of the bed of the dump truck used to haul cobble to the site.
4. Materials used in implementation and rehabilitation (e.g. fill, sediment barriers) will be noxious weed free and/or comply with the 1995 weed free forage guidelines. These materials will be identified and sources will be reported to the Sawtooth National Forest prior to project implementation.
5. All fueling of machinery and storage of fuel and other toxic substances associated with the proposed activity will occur outside of the Riparian Conservation Area (RCA), a 300 foot buffer around the creek. Equipment shall be clean and free of leaks when working in stream channels and RCAs, and heavy machinery used in the proposed action will not ford the wetted stream channel. Fuel will be stored only in containers approved for such storage, with spill prevention and spill containment devices and practices applied.
6. Top soil, large clumps of shrubs (i.e. willows) and bunchgrasses and fill will be stockpiled for rehabilitation.
7. Upon completion of excavation all areas will be backfilled and contoured to the surrounding terrain, and stockpiled topsoil will be replaced on the surface.

8. To accelerate the rehabilitation of disturbed areas, where possible willows and grass clumps will be replanted, and to reduce possible colonization of disturbed soil with non-native species the areas will be seeded with a seed mix containing native grasses, shrubs, and trees as approved by the Sawtooth National Forest Botanist for this location.
9. All disturbed areas and access routes will be obscured using available brush, logs, boulders or slash on-site.
10. All areas disturbed during implementation will be reviewed by the Ketchum Ranger District following a growing season to assess if adequate recovery of perennial vegetation is occurring or if additional restoration is required.

#### **Scoping and Public Involvement**

A news release requesting public comment on the proposal was sent to local news outlets on July 30, 2012. A legal 'Notice of Proposed Action' (NOPA) requesting public comment for 30 days on the proposal was printed in the August 1, 2012 edition of the *Idaho Mountain Express*. One comment was received from the Idaho Department of Parks & Recreation expressing no concerns with the proposal.

#### **Reasons for Categorically Excluding the Proposed Action**

This action is categorically excluded from documentation in an environmental impact statement or an environmental assessment because it falls within category 36 CFR 220.6(e)(2), which allows, Approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land.

The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects, which may significantly affect the environment. In regard to extraordinary circumstances, the Forest Service Handbook lists several topics that must be considered (36 CFR 220.6(b)). Forest Service resource specialists have previously visited the project area, reviewed relevant studies and other published information, and documented their findings regarding these and other potential extraordinary circumstances in the project file and are summarized below.

**Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.** Forest Service resource specialists determined that no federally listed or candidate plant, animal, or fish species will be affected by this proposal. Based on these considerations, threatened and endangered species or their critical habitat does not constitute an extraordinary circumstance for this proposed action.

**Flood plains, wetlands, or municipal watersheds.** The project location is outside flood plains and wetlands, and disturbed ground will be rehabilitated and revegetated. Based on these considerations, flood plains, wetlands, or municipal watersheds do not constitute an extraordinary circumstance for this proposed action.

**Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.** The project area is outside of any Congressionally designated

areas. Thus, the proposal does not affect designated wilderness, wilderness study areas, or National Recreation Areas and does not constitute an extraordinary circumstance.

**Inventoried Roadless Areas.** The project area is outside of any Inventoried Roadless areas. Thus, the proposal does not affect Roadless Areas and does not constitute an extraordinary circumstance.

**Research Natural Areas.** The project area is outside of any Research Natural Areas, thus, this project does not constitute an extraordinary circumstance.

**American Indian and Alaska Native religious or cultural sites.** No Native American sites have been found in or near the project location. This project will not affect Treaty Rights. Based on this consideration, American Indian and Alaska Native religious or cultural sites do not constitute an extraordinary circumstance for this proposed action.

**Archaeological sites, or historic properties or areas.** There are no archeological sites or historic properties in the project area. (See heritage report which concluded a "No Effect".) Based on these considerations, archaeological sites, or historic properties or areas, do not constitute an extraordinary circumstance for this proposed action.

Per 36 CFR 220.6 (b) "The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist."

I have reviewed the proposed action and the project record and while there are resource conditions present, the record shows the potential effects from the proposed action do not warrant further analysis. For these reasons, I am excluding this decision from further documentation.

Based on the findings summarized above, I am categorically excluding this decision from documentation in an Environmental Assessment or Environmental Impact Statement. Based on experience with management activities similar to this, and upon the environmental analysis conducted for this project, the effects of implementing this action will be limited in context and intensity. Appropriate categories for exclusion have been established in regulation and our review indicates no extraordinary circumstances to preclude their application.

#### **Findings Required by Other Laws**

The Forest Land and Resource Management Plan for the Sawtooth National Forest was revised in 2003. The plan provides direction for the management of the Sawtooth National Forest.

The project is proposed in the Big Wood River 04 Management Area. The Management Prescription Category within this Management Area is 4.3, Concentrated Recreation. Special uses are permitted in this Management Area and within the Management Prescription Category mentioned above. Special Use Guidelines for the Forest include: Chapter III, Forest-wide Management Direction for Lands and Special Uses,

**Implementation Date**

The special-use permit amendment and project implementation will occur during Autumn, 2012.

**Administrative Review or Appeal Opportunities**

This decision is not subject to administrative appeal under Forest Service Regulations 36 CFR 215.12 because no comments expressing concerns were received during the established comment period.

**Contact Person**

For additional information concerning this decision or the Forest Service appeal process, contact:

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\_\_\_\_\_  
Jose V. Castro  
Acting Sawtooth Forest Supervisor

  
\_\_\_\_\_  
Date

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