



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

June 6, 2014

W GARY ROGERS
3771N US HWY 93
MOORE ID 83255

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Mr. Rogers:

As follow-up to our conversation of this afternoon, June 6, 2014, the Department of Water Resources is returning your application to rent water from the Water Supply Bank ("bank").

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

- an appropriate water supply could not be found to fill your request
- the proposed rental would create an injury to existing rights

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

Other water rights in Basin 34 have recently been offered as candidates for lease into the Water Supply Bank but they have not yet been accepted. They have been offered by Loy and Byron Pehrson, and cover property in Twp 6N, Rge 25 E section 4.

The Department of Water Resources cannot offer you an alternative in time for this irrigation season. If you wish to rent water in the future with a new proposal, please reapply using new forms from the department's website at www.idwr.idaho.gov.

Please note that any application to rent ground water which will move the point-of-diversion more than two miles within the Eastern Snake Plain Aquifer (ESPA), requires an additional evaluation step. The impact of the proposed move must be evaluated using software which models the ESPA. The approved modeling utility is available from our website and there are consultants in your area who can provide that modeling service for you. Modeling the impact to the ESPA is requirement for most WSB rentals. An application will be considered incomplete without it.

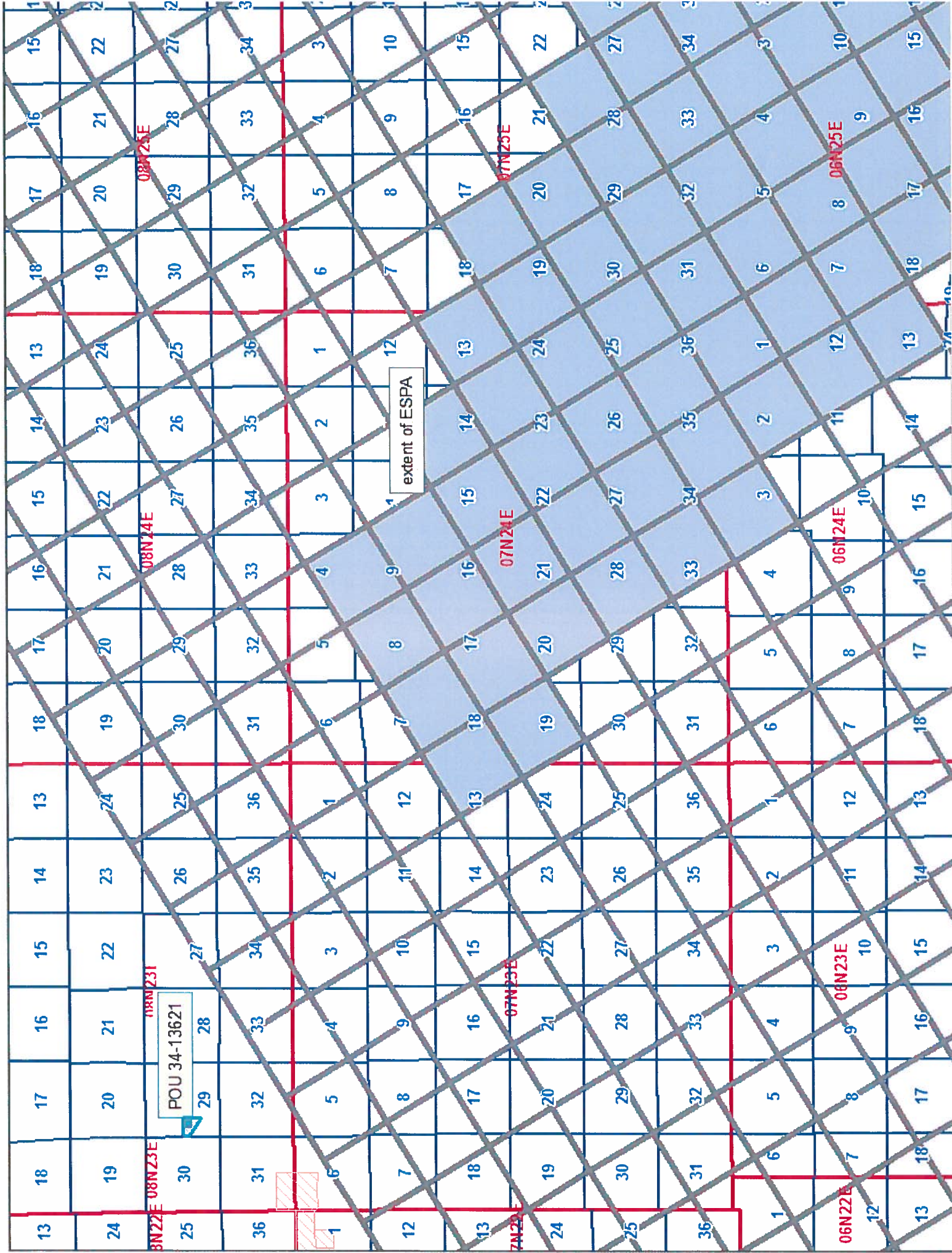
If you have any questions regarding this matter, please contact me, Michele Edl, at (208) 287-4946 or Cherie Palmer, Senior Water Resource Agent and WSB Process Point of Contact.

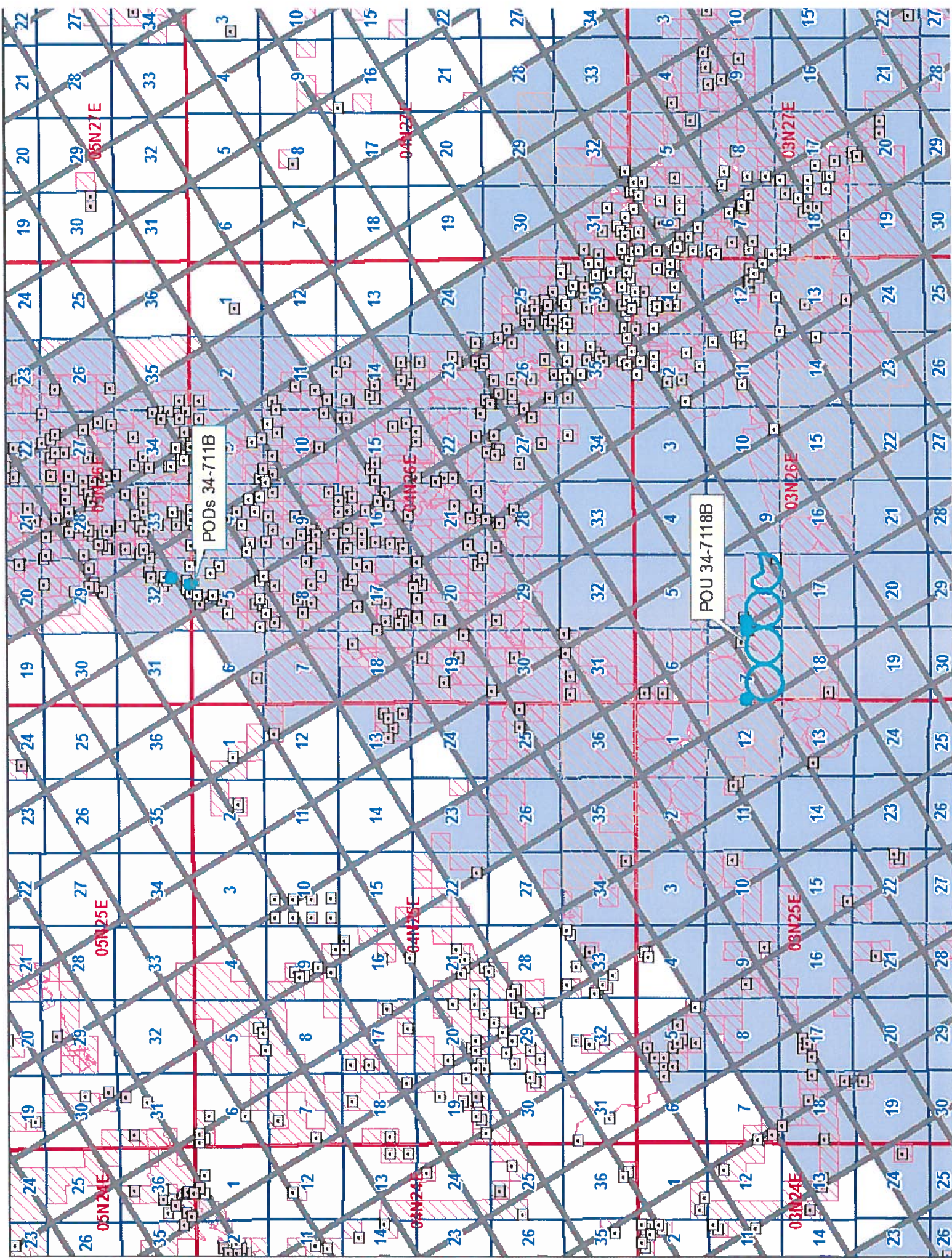
Sincerely,

Michele Edl

Enclosure: Rental Application(s)

c: IDWR Regional Office





STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANKRECEIVED
APR 15 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) W. Gary Rogers
 Mailing Address 3721 N. us Hwy 93 Moore ID. 83255
 Phone 208 390 2548 Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) -39 Maximum Volume (ac-ft) 108.5 Nature of Use Irrigation Period of Use 5-1 to 11-1
 _____ to _____
 _____ to _____

Total: _____

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
051	26E	32		SE	SW	SE	Butte
051	26E	32		SE	NW	SE	Butte

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	
031	26E	7									3.3	3.3	3.3	3.3	3.3	3.3	3.3	3.3	
031	26E	7									2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	20
031	26E	8									2.5	2.5	2.5	2.5					10

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

Total Acres 30

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.

2 wells that pump into Timberdome
Canal System which delivers water to our Farm

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

34-7118B

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

Yes ☒ No ☐

If yes, describe. Wells from water right 34-7118B

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.

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.

W. Gary Rogers
Signature of Applicant

W Gary Rogers Owner 4-9-14
Printed Name and Title* 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

I would like to rent water
from water bank consisting
of water right # 34-13621.

The water will used from
the end guns on three pivots.
these end guns are currently
turned off.

Thank you
Gary Rogers

**WATER RIGHT NO. 34-13621
WATER SUPPLY BANK LEASE ACCEPTANCE**

The water right or portion thereof leased to the bank is described as follows:

Lessor: BIG LOST RANCH LLC
5306 ZOLLINGER RD
MACKAY ID 83251
(208) 588-2447

Priority Date: 03/18/1975

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.39 CFS	108.5 AF
	Total:		0.39 CFS	108.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L21 (NE¼SW¼) Sec. 29 Twp 08N Rge 23E CUSTER County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: 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	
08N	23E	29										31							31

Total Acres: 31.0

CONDITIONS OF ACCEPTANCE

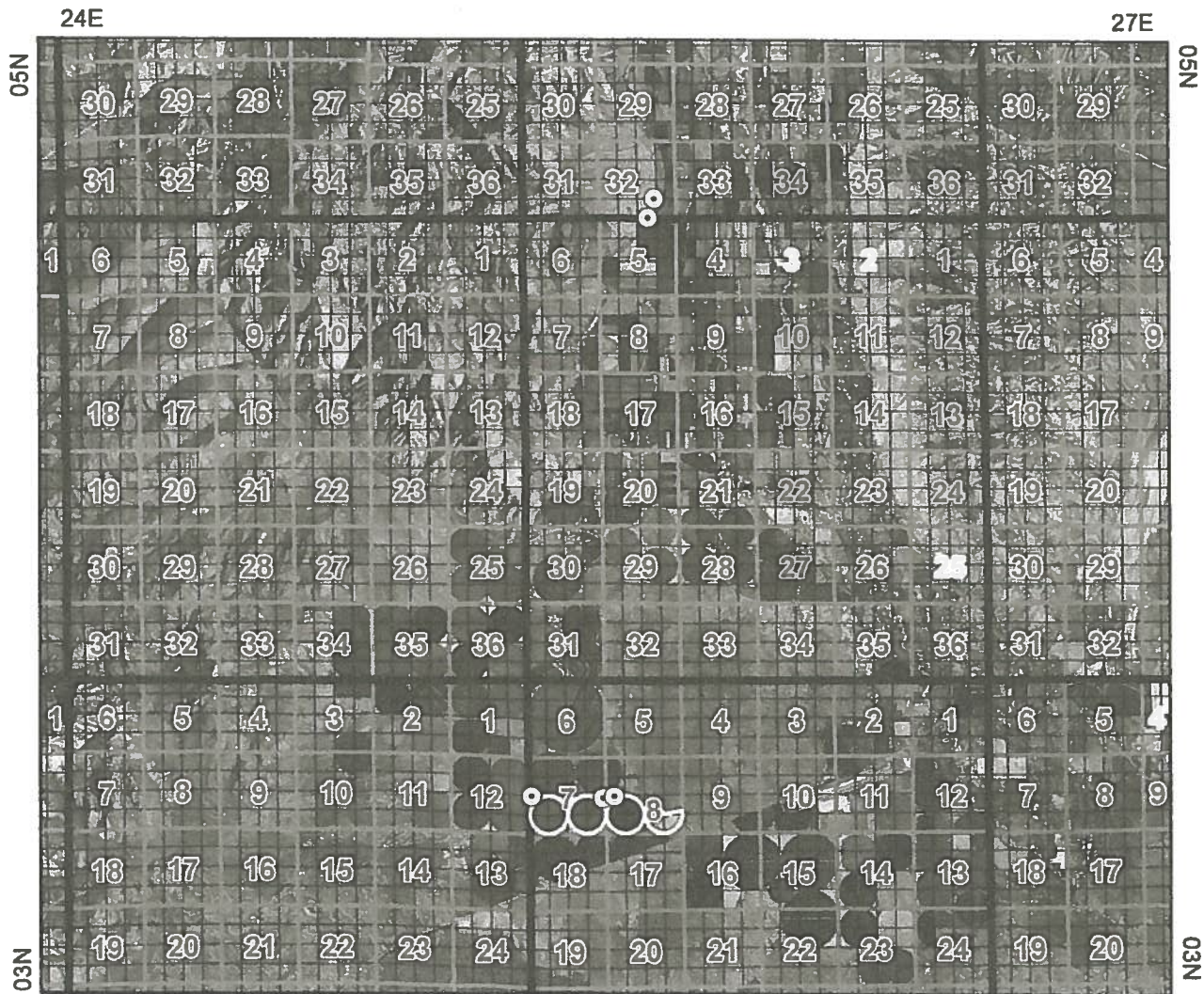
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into 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.
9. In accordance with Idaho Code § 42-248 and 42-1409(6), all owners of water rights are required to notify the department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.

State of Idaho
Department of Water Resources

Water Right 34-7118B

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- 24E 05N Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 1.5 3 6 Miles





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May 15, 2014

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MOORE ID 83255

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 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

Regards,

Cherie Palmer
Sr. Water Resource Agent
Water Supply Bank Contact

MEMORANDUM

To: Right(s) 34-13621

From: Michele Edl

Date: June 5, 2014

Re: Review & Analysis of Gary Rogers' Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On April 15, 2014, W. Gary Rogers submitted an application to rent a water right from the State Water Supply Bank. The application proposes to rent water to irrigate a place-of-use consisting of 30 acres located in Twp 3N, Rge 26E, the southern halves of sections 7 and 8. The application proposed to rent water for 1 year, the 2014 irrigation season.

AUTHORITY TO FILE: According to available Butte County taxlot information, W. Gary Rogers owns the proposed place-of-use. He signed the application.

WATER RIGHT VALIDITY: Right 34-13621 was leased to the State Water Supply Bank for 5 irrigation years beginning November 5, 2009. A review of aerial photography shows that the water right appears to have been idled at the authorized place-of-use. The right is available to be rented.

INJURY TO OTHER WATER RIGHTS: The POD and the POU for the rented right are both outside of the ESPA, while the proposed POD and POU are within the ESPA. In essence this rental will be a new diversion from the ESPA and cannot be authorized.

Therefore, I recommend that this rental be denied.

ENLARGEMENT OF USE:

LOCAL PUBLIC INTEREST:

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

DEPARTMENT STAFF OR WATERMASTER COMMENTS: I recommend that this application be denied because this would be a new consumptive diversion from the ESPA.

There are Basin 34 water rights pending for acceptance into the WSB. Even if they were already available for rental, the applicant would be required to provide modeling of the impacts to ESPA.