

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

**RECEIVED**  
**FEB 24 2014**  
DEPARTMENT OF  
WATER RESOURCES

This is to certify that: **NORTHWEST FOX CREEK SPRINKLER IRRIGATION CO INC**  
**C/O DAWN STONE**  
**4940 S 500 W**  
**VICTOR ID 83455**  
**(208)787-2759**

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**

| <u>Water Right</u> | <u>Rented Rate</u> | <u>Annual Rented Volume</u> | <u>Total Rented Acres</u> |
|--------------------|--------------------|-----------------------------|---------------------------|
| 22-14053           | 0.82 CFS           | 136 AF                      | 38.9 AC                   |

**Term of Rental:**            **April 15, 2014 to December 31, 2014**

**Rental Fee:**                **\$231.2**

The fee for rental of the above-described water is \$231.2. The rental fee will go to the Department for administrative costs.

Detailed water right specific limitations and conditions are attached.

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:

*Dawn Stone*  
Signature of Renter

*Dawn Stone, Sec/Treas*  
Printed Name and Title\*

*2/22/14*  
Date

*for* *Tony Koch*  
Signature of Renter

*Tony Koch, President*  
Printed Name and Title\*

*2/22/14*  
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 satisfies 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 conditions 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 2/25/2014



**WATER SUPPLY BANK RENTAL AGREEMENT  
WATER RIGHT NO. 22-14053**

The 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 below:

Renter: NORTHWEST FOX CREEK SPRINKLER IRRIGATION CO INC  
C/O DAWN STONE  
4940 S 500 W  
VICTOR ID 83455  
(208)787-2759

Priority Date: 6/1/1890

Source: FOX CREEK

**Tributary to:** TETON RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u>     | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|---------------|-----------------------|---------------|
| IRRIGATION            | 4/15        | to 10/31      | 0.82 CFS              | 136 AF        |
|                       |             | <b>Total:</b> | <b>0.82 CFS</b>       | <b>136 AF</b> |

LOCATION OF RENTER'S POINT(S) OF DIVERSION:

FOX CREEK L4(SWSWNE) Sec. 29, Twp 04N, Rge 46E, TETON County

RENTER'S PLACE OF USE: IRRIGATION

[illegible]

Total Acres: 38.9

## CONDITIONS OF WATER USE

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 must diligently pursue a permanent water right to provide for the uses authorized under this rental agreement.
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. 110.
12. Water is delivered through Fox Creek Canal.



STATE OF IDAHO  
WATER RESOURCE BOARDAPPLICATION TO RENT WATER  
FROM THE WATER SUPPLY BANK

RECEIVED

NOV 25 2013

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) Northwest Fox Creek Sprinkler Irrigation Co., Inc.Mailing Address c/o Dawn Stone, 4940 S 500 West, Victor, ID 83455Phone 208-787-2759

Email \_\_\_\_\_

## A. DESCRIPTION OF WATER SOUGHT FOR RENT

| 1. <u>Maximum Flow Rate (cfs)</u> | <u>Maximum Volume (ac-ft)</u> | <u>Nature of Use</u> | <u>Period of Use</u>         |
|-----------------------------------|-------------------------------|----------------------|------------------------------|
| <u>0.85 cfs</u>                   | <u>141.4 ac-ft</u>            | <u>Irrigation</u>    | <u>04/15</u> to <u>10/31</u> |
| _____                             | _____                         | _____                | _____ to _____               |
| _____                             | _____                         | _____                | _____ to _____               |
| Total: <u>0.85</u>                | <u>141.4</u>                  |                      |                              |

2. Source of water Fox Creek tributary to Teton River

3. Point(s) of Diversion:

| TWP | RGE | SEC | GOVT LOT | ¼  | ¼  | ¼  | County |
|-----|-----|-----|----------|----|----|----|--------|
| 4N  | 46E | 29  | 4        | SW | SW | NE | TETON  |
|     |     |     |          |    |    |    |        |
|     |     |     |          |    |    |    |        |
|     |     |     |          |    |    |    |        |

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 |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

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

Total Acres 40.4

## 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. The place of use is owned by shareholders in the pipeline. A list of their contact information is attached. \_\_\_\_\_

## 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.  
Pipeline to risers to mainline at place of use.
2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.  
There are several water rights that are all diverted through the same diversion system. All of the rights are owned by shareholders in the irrigation company.
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. \_\_\_\_\_

**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.

Dawn I. Stone  
Signature of Applicant

Dawn I. Stone NWFCSPI Sec/Treas  
Printed Name and Title\*

11/13/13  
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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

November 19, 2014

COPY

Northwest Fox Creek Sprinkler Irr Co Inc C/O DAWN STONE  
4940 S 500 W  
VICTOR, ID 83455

**RE: EXPIRATION OF RENTAL AGREEMENT FOR WATER RIGHT NO(S). 22-14053  
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 2 /18/2014 and the subsequent Rental Agreement authorized diversion of water under Water Right No(s). 22-14053 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](http://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: Rocky Mtn Environmental  
Harvey Walker



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

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

February 26, 2014

NORTHWEST FOX CREEK SPRINKLER IRRIGATION CO INC  
C/O DAWN STONE  
4940 S 500 W  
VICTOR ID 83455

RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 22-14053

Dear Renter:

Please find enclosed a receipt in the amount of **\$231.20** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 136 acre-feet of water for irrigation of 38.9 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, the rental fee will be retained by the Department to offset administrative costs since you have a private agreement with the lessor of the right(s).

If you have any questions, please contact me at (208) 287-4897.

Sincerely,

  
for Sandra Thiel

Water Resource Planner

Enclosure(s): Receipt No. C098362  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
James Cefalo – IDWR Eastern Regional Office  
Lyle Swank – State Water District No. 01  
Harvey Walker – Consultant

## Thiel, Sandra

---

**From:** Kristin M. Moore [kristin.rmea@gmail.com]  
**Sent:** Friday, December 06, 2013 12:28 PM  
**To:** Thiel, Sandra; why@atcnet.net  
**Subject:** hunter/kincaid

Here is Dawn's response about the "PER" notation. Not real definitive yet.

Kristin Moore  
Rocky Mountain Environmental Associates, Inc  
208-524-2353

**From:** Dawn Stone [mailto:foxcreekh2o@gmail.com]  
**Sent:** Friday, December 06, 2013 12:14 PM  
**To:** Kristin M. Moore  
**Subject:** Re: Requested copy

Hi Kristin--isn't this such a fun, convoluted system??? NOT!!

The only thing I can relate that to would be a special permit that was granted for 1929 water for Shirley Setter, the last full owner of that property. I have looked through my late husband's records on this and cannot find a reference, and now that adjudication deleted all the old records, it would hard for me to find any info. I will check with my brother in law, and see if he has any info as well, but I cannot contact him until later on this afternoon. I wonder if it would be tied to the older right of Setter's somehow. I did just find a note written in for the original owner, Beasley for a June, 1890 right, with a number listed as Transfer #2096--noted from the old water right number #21-0022; perhaps that refers to this property as well--just not sure. Hope this helps, and I will get back with you with any info I get from my brother in law. Thanks Dawn

On Fri, Dec 6, 2013 at 10:54 AM, Kristin M. Moore <kristin.rmea@gmail.com> wrote:

Dawn,

We were looking at the shareholder list and wondering what the "PER 17156" means under the Decree/Date list. It doesn't correspond to a water right number. Do you have any insight for us?

Kristin Moore

Rocky Mountain Environmental Associates, Inc

208-524-2353



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

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

February 14, 2014

NORTHWEST FOX CREEK SPRINKLER IRR CO  
C/O DAWN STONE  
4940 S 500 W  
VICTOR ID 83455

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 22-14053**

**\*\*\*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 \$2,312.00 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 136 acre-feet. Since you have a private agreement with the lessor of the right, **you are only obligated to pay the 10% administrative fee or \$231.20.** A payment shall be received by the Department prior to the execution of this agreement and prior to April 15 in all subsequent years 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. 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 send a check for \$231.20** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact me at (208) 287-4879.

Sincerely,

Sandra Thiel  
Water Resource Planner

Enclosure(s)

c: IDWR Front Desk  
Harvey Walker – Rocky Mountain Environmental

## MEMORANDUM

**To:** File 22-14053  
**From:** Sandra Thiel  
**Date:** February 7, 2014  
**Re:** Review of Application to Rent Water from the State Water Supply Bank

---

**PURPOSE/NARRATIVE:** On November 25, 2013 the Department received a rental application from Northwest Fox Creek Sprinkler Irrigation Co. Inc. Initially the organization wanted to make water rented from Fox Creek available through the common delivery system. They ultimately agreed to identify acres on several parcels served by the irrigation company. This water will help maintain irrigation at 1 inch per acre.

There is an agreement between the Hunter's, water right owners of 22-14053 and the Northwest Fox Creek Irrigation Co. The Department will receive 10 percent of the rent volume of 136 AF at \$17. The total will be \$231.2.

**AUTHORITY TO FILE:** The properties proposing to rent the water are within the service area of Northwest Fox Creek. Several of the property owners make up the corporation. See attached annual report form.

**WATER RIGHT VALIDITY:** The water right has been accepted into the Bank.

**INJURY TO OTHER WATER RIGHTS:** There was some concern about possibly changing the point of diversion; however, the point of diversion will not change and the water will be used within the same system.

**ENLARGEMENT OF USE:** Proper administration of limiting conditions and limiting the number of acres irrigated should avoid enlargement.

**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 conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** Tony Olenichak responded on 12/31/2013 (see attached email). One of the primary concerns was that there be no change to the point of diversion. The water right, when rented, will be delivered through the system that currently supplies water the Hunter's place of use. The point of diversion will remain the same.

Rental Place of Use for 22-14053

Township/Range

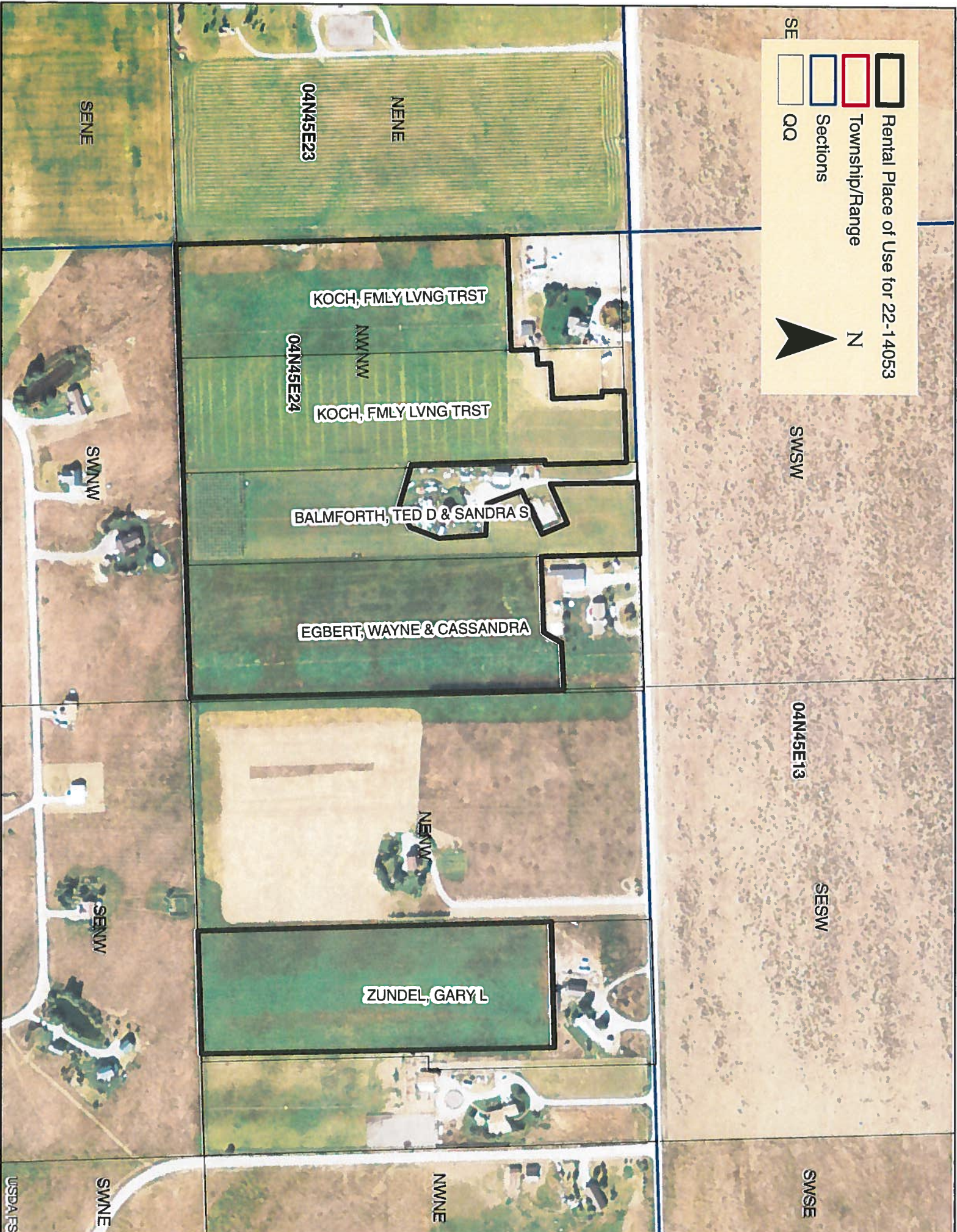
Sections

QQ

SE

N

SWSW



Proposed Rental Place of Use

22-14053 Current Place of Use

Township/Range

Sections

QQ



## MEMORANDUM

**To:** File 22-14053

**From:** Sandra Thiel

**Date:** January 28, 2014

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

---

**PURPOSE/NARRATIVE:** On November 25, 2013 the Department received a rental application from the Northwest Fox Creek Sprinkler Irrigation Co. Inc. Initially the organization wanted to make water rented from Fox Creek available through the delivery common system. They ultimately agreed to identify acres on several parcels served by the irrigation company.

There is an agreement between the Hunter's and the Northwest Fox Creek Irrigation Co. The Department will receive 10 percent of the rented volume of 141.1 AF at \$17. The total will be \$239.87.

**AUTHORITY TO FILE:** The properties proposing to rent the water are within the service area of Northwest Fox Creek Sprinkler Irrigation Co. Several of the property owners make up the corporation. See attached annual report form.

**WATER RIGHT VALIDITY:** The water right has been accepted into the Bank.

**INJURY TO OTHER WATER RIGHTS:** There was concern about possibly changing the point of diversion; however, the point of diversion will not change and the water will be used within the same system.

**ENLARGEMENT OF USE:** Proper administration of limiting conditions and limiting the number of acres irrigated should avoid enlargement.

**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 conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** Comments were requested from the eastern regional office. Tony Olenichak responded on 12/31/2013 (see attached email). One of the primary concerns was that there be no change to the point of diversion. The water right, when rented, will be delivered through the system that currently supplies water to the Hunter's place of use. The point of diversion will remain the same.



|                                                                                                                                                                     |                                                                                                        |                                                                                                                                            |                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>No. C 128793</b>                                                                                                                                                 |                                                                                                        | <b>Due no later than May 31, 2013</b><br><b>Annual Report Form</b>                                                                         |                                                                                                                                                               |
| Return to:<br>SECRETARY OF STATE<br>450 N 4th STREET<br>PO BOX 83720<br>BOISE, ID 83720-0080                                                                        |                                                                                                        | <b>2. Registered Agent and Office (NOT A P.O. BOX)</b><br>DAWN STONE<br>4940 S 500 W<br>VICTOR ID 83455                                    |                                                                                                                                                               |
| <b>1. Mailing Address: Correct in this box if needed.</b><br>NORTHWEST FOX CREEK SPRINKLER IRRIGATION<br>CO., INC.<br>DAWN STONE<br>4940 S 500 W<br>VICTOR ID 83455 |                                                                                                        | <b>3. New Registered Agent Signature.</b>                                                                                                  |                                                                                                                                                               |
| <b>NO FILING FEE IF RECEIVED BY DUE DATE</b>                                                                                                                        |                                                                                                        |                                                                                                                                            |                                                                                                                                                               |
| <b>4. Corporations: Enter Names and Business Addresses of President, Secretary, Directors, Treasurer, Vice Pres.</b>                                                |                                                                                                        |                                                                                                                                            |                                                                                                                                                               |
| <b>Office Held</b><br>President<br>V. President<br>Member<br>Member<br>Member<br>Sec Treas                                                                          | <b>Name</b><br>Tony Koch<br>Joanna Johnson<br>Tyler Hays<br>Cass Egbert<br>Ted Balmbirth<br>Dawn Stone | <b>Street or PO Address</b><br>330 E. 400 S<br>P.O. B. 133<br>212 E. 4500 S.<br>P.O. Box 271<br>133 E. 4000 S.<br>4940 S. 500 W            | <b>City State Country Postal Code</b><br>Victor, ID 83455<br>Driggs, ID 83422<br>Victor, ID 83455<br>Victor, ID 83455<br>Victor, ID 83455<br>Victor, ID 83455 |
| <b>5. Organized Under the Laws of:</b><br>IDAHO<br>C 128793                                                                                                         |                                                                                                        | <b>6.</b><br><b>Signature:</b> <i>Dawn Stone</i><br><b>Name (type or print):</b> Dawn Stone<br><b>Date:</b> 6/4/13<br><b>Title:</b> 6/4/13 |                                                                                                                                                               |

**INSTRUCTIONS FOR THE IDAHO ANNUAL REPORT FORM**

## Thiel, Sandra

---

**From:** Olenichak, Tony  
**Sent:** Tuesday, December 31, 2013 8:47 AM  
**To:** Thiel, Sandra  
**Subject:** RE: kincaid/hunter -- leases for 22-14054 and 22-14053

Thanks Sandra. Harvey occasionally pops into my office to ask me questions that aren't directly related to Water District #1. He sometimes incorrectly assumes I'm on top of everything occurring within the district. This information should help me answer some of his questions quickly.

FYI.....Water District #1 rarely monitors place of use. The water district staff measures and regulates the water rights assigned at the headgates at the stream but once the water flows down the ditch past the headgate, the watermaster's responsibility has generally ended. Distribution to the place of use downstream from the headgate usually occurs by employees of the canal company, water user ditch association, or some other individual appointed by the water users on the ditch. That's why I can rarely offer commentary on whether or not certain acres have been irrigated from a canal. I usually only have knowledge concerning the amount of water previously allowed to flow down the ditch past the headgate, and the complications that could occur if the point of diversion is changed. Any additional information you can provide concerning changes, including place of use, is helpful.

Happy New Year!  
Tony

---

**From:** Thiel, Sandra  
**Sent:** Tuesday, December 31, 2013 8:26 AM  
**To:** Olenichak, Tony  
**Cc:** Harvey Walker  
**Subject:** FW: kincaid/hunter -- leases for 22-14054 and 22-14053

Good Morning,  
Harvey Walker called yesterday and said that he planned to talk to you today. He asked if I could send you the description of the proposed place of use for the rental of 2 rights, 22-14054 and 22-14053. Kristin Moore sent the attached map.

I have had several conversations with Harvey and Kristin about the lease and rental of water through the Northwestern Fox Creek irrigation system. You supplied comments for 22-14054, included below. The second right 22-14053 has the same point of diversion from Fox Creek. The email from Kristin below address some of my concerns about right 22-14053.

I realize this is a barrage of information but I wanted to give you some of the background. Thank you for your help with this on New Year's Eve.

**Sandra Beer Thiel**  
Idaho Department of Water Resources  
322 East Front Street  
Boise, Idaho 83720-0098  
(208)287-4881  
[sandra.thiel@idwr.idaho.gov](mailto:sandra.thiel@idwr.idaho.gov)

---

**From:** Kristin M. Moore [<mailto:kristin.rmea@gmail.com>]  
**Sent:** Friday, December 20, 2013 11:22 AM  
**To:** Thiel, Sandra  
**Cc:** [why@atcnet.net](mailto:why@atcnet.net)  
**Subject:** kincaid/hunter

Sandy,

Harvey and I have been working on finding acres for the water bank rental for Northwestern Fox Creek Sprinkler Irrigation. The attached map shows the acres that we would like to identify for irrigation. The acres in the north are covered by Fox Creek Canal Company water rights, which are all junior to the Hunter/Kincaid water rights except for one small right. I think that these acres are justified in needing the extra water.

The other acres to the south are owned by Dawn Stone. They do not have any water rights appurtenant to them at all, but it is accessible to the pipeline.

The Hunter's property is also covered by Permit 22-13306 for domestic use. It includes irrigation of ½ acre per lot. I remember asking a similar question about drying up the acres when we first started, but I couldn't remember what the answer was, other than that they would be fine and there would be no violations. Unfortunately, I couldn't remember the reason why. After we spoke, I found this permit. Hope that answers the questions.

Thank you! And let me know if you have any more questions.

**Kristin Moore**

Water Rights Analyst

482 Constitution Way, Ste 303, Idaho Falls, ID 83402

E-Mail: [kmoore@rockymountainenvironmental.com](mailto:kmoore@rockymountainenvironmental.com)

VOICE: 208-524-2353 ||| FAX: 208-524-1795

Sandra and Lyle,

Water right 22-14054 is a 6/1/1890-priority water right for 0.7 cfs on Fox Creek and a POD at the Upper Fox Creek Canal. Based on the disputes amongst water users that occurred on Fox Creek this past year (and previous years) and the "futile call" situation that frequently occurs on Fox Creek, I doubt that the POD for 22-14054 could be changed through a Water Bank transaction because of the potential to injure other water rights on Fox Creek if the POD is moved. If the lease proposes to change only the place of use or nature of use without changing the POD, there may not be a problem with the transaction.

Tony Olenichak  
Program Manager  
Water District #1  
208-525-7171