

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

RECEIVED
NOV 04 2013
DEPARTMENT OF
WATER RESOURCES

This is to certify that: MARK A MC DONOUGH
PO BOX 74
MELBA ID 83641
(208)919-0579 or (208)703-5081
Mark.mcdonough54@gmail.com

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	Rented Rate	Annual Rented Volume	Total Rented Acres
2-2240	1.48 CFS	334.4 AF	74.3 AC
2-2431	0.99 CFS	371.5 AF	74.3 AC
COMBINED RENTAL TOTALS:	1.48 CFS	371.5 AF*	74.3 AC

***Annual Rented Volume Limited to 334.4 AF at the field headgate.**

TERM OF RENTAL: May 1, 2013, to December 31, 2015

RENTAL FEE: **\$631.55 Annually**

The fee for rental of the above-described water is \$631.55. The rental fee will go the Department for administrative costs. An annual payment shall be received by the Department prior to April 1, the beginning of the irrigation season, 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.

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:

Dated this 4th day of November, 2013.

By: MARK MCDONOUGH
(Print Name)

Mark McDonough
(Signature)

(Title if on behalf of company or organization)

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 this 5th day of November, 2013.

Brian Patton
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

WATER RIGHT NO. 2-2240 WATER SUPPLY BANK RENTAL AGREEMENT

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: MARK A MC DONOUGH
PO BOX 74
MELBA ID 83641
(208)919-0579 or (208)703-5081
Mark.mcdonough54@gmail.com

Priority Date: 10/25/1963

Source: SNAKE RIVER **Tributary to:** COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	1.48 CFS	334.4 AF
	Total:		1.48 CFS	334.4 AF

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

SNAKE RIVER (NW¼SE¼) Sec. 6 Twp 01S Rge 02W CANYON County

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	
01S	02W	5						2.2 L4	21		2.2	27							52.4
01S	02W	6	10 L4			11									0.9 L2				21.9

Total Acres: 74.3 AC

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. The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier 6/15/2009.
12. Rights 2-2431 and 2-2240 when combined shall not exceed a total diversion rate of 1.48 cfs, and a total annual maximum diversion volume of 334.4 af at the field headgate.



WATER RIGHT NO. 2-2431 WATER SUPPLY BANK RENTAL AGREEMENT

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: MARK A MC DONOUGH
PO BOX 74
MELBA ID 83641
(208)919-0579 or (208)703-5081
Mark.mcdonough54@gmail.com

Priority Date: 12/5/1958

Source: SNAKE RIVER **Tributary to:** COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01 to 10/31		0.99 CFS	371.5 AF
	Total:		0.99 CFS	371.5 AF

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

SNAKE RIVER (NW¼SE¼) Sec. 6 Twp 01S Rge 02W CANYON County

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	
01S	02W	5						2.2 L4	21		2.2	27							52.4
01S	02W	6	10 L4			11									0.9 L2				21.9

Total Acres: 74.3 AC

CONDITIONS OF WATER USE

1. 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.
2. The use of water under this agreement shall be subject to the provisions of Idaho Code §42-1766.
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. The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 9/12/2012.
12. Rights 2-2431 and 2-2240 when combined shall not exceed a total diversion rate of 1.48 cfs, and a total annual maximum diversion volume of 334.4 af at the field headgate.





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

November 5, 2013

MARK A MC DONOUGH
PO BOX 74
MELBA ID 83641

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 2-2240 and 2-2431**

Dear Renter:

Please find enclosed a receipt in the amount of **\$631.55** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 371.5 acre-feet of water for irrigation of 74.3 acres during 2013. 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 are the owner of the right(s).

If you have any questions, please contact me at (208) 287-4920.

Sincerely,

Sandy Hemenway
Senior Water Resource Agent

Enclosure(s): Receipt No. C097937
Rental Agreement (copy)

c: Sascha Marston – Fiscal
John Westra – IDWR Western Regional Office

Hemenway, Sandy

Subject: FW: WSB Rental using water rights 2-2240 and 2-2240

From: Mark McDonough [mailto:mark.mcdonough54@gmail.com]
Sent: Monday, October 07, 2013 10:53 AM
To: Hemenway, Sandy
Subject: Re: WSB Rental using water rights 2-2240 and 2-2240

Yes, or before, as I stated.

Mark
mark.mcdonough54@gmail.com

On Mon, Oct 7, 2013 at 10:47 AM, Hemenway, Sandy <Sandy.Hemenway@idwr.idaho.gov> wrote:

So will you be in on November 7 or November 8th with your check?

From: Mark McDonough [mailto:mark.mcdonough54@gmail.com]
Sent: Monday, October 07, 2013 10:28 AM

To: Hemenway, Sandy
Subject: Re: WSB Rental using water rights 2-2240 and 2-2240

Sandy,

November 1, may be a 'banking day'. I would suggest, a couple of business days 'lee way' for check clearing purposes. Say, the following Tuesday.

If I can bring you a check, on the previous Friday, I certainly will attempt to do so.

Does the above, make sense to you?

Thank you. I appreciate your help.

Mark

mark.mcdonough54@gmail.com

208 703-5081

P.O. Box 74

Melba, Idaho 83641

On Mon, Oct 7, 2013 at 10:17 AM, Hemenway, Sandy <Sandy.Hemenway@idwr.idaho.gov> wrote:

OK, I put a note in your file that November 1, 2013, which is a Friday, is when you get paid and will be paying the rental fees (for 2-2240, 2-2431,

63-361 and 63-9807 rental agreements).

As stated on the cover letter that accompanies the rental agreement, annual payments are due prior to March 15, in all years for the duration of the rental period (through 2015). This would be the same for both rental agreement (2-2240, 2-2431, 63-361 and 63-9807). So, your payments would be as follows:

- (1) November 1, 2013 (for 2-2240, 2-2431, 63-361 and 63-9807 rental agreements)
- (2) Prior to March 15, 2014 (for 2-2240, 2-2431, 63-361 and 63-9807 rental agreements)
- (3) Prior to March 15, 2015 (for 2-2240, 2-2431, 63-361 and 63-9807 rental agreements)

Hemenway, Sandy

Subject: FW: WSB Rental using water rights 2-2240 and 2-2240
Attachments: DOC016.pdf; DOC014.pdf

From: Hemenway, Sandy
Sent: Tuesday, October 01, 2013 11:47 AM
To: Mark McDonough
Cc: Hemenway, Sandy
Subject: FW: WSB Rental using water rights 2-2240 and 2-2240

Mark,

On the attached cover letter, it states that payment and the signed forms are required to be submitted to the Department within 14-days. If you require additional time, I will need something in writing stating when the Department can expect their payment.

If you continue to rent these water rights, the fee is \$631.55 annually, due by April 1st of each year, as shown on the attached copy of the agreement.

If you decide to take the water rights out of the water supply bank and resubmit an application for the acres not being irrigated, we suggest that you obtain a representative to help you construct the application, along with a map representing the acres that will be resubmitted into the bank. The other option would be to file an Application for Extension of Time to Avoid Forfeiture of a Water Right.

http://www.idwr.idaho.gov/RulesStatutesForms/WaterRights/PDFs/Application_for_extension_to_avoid_forfeiture.pdf

Sandy Hemenway
Sr. Water Resource Agent
IDWR/State Office, Boise
(208)287-4920
Sandy.hemenway@idwr.idaho.gov

Hemenway, Sandy

Subject: FW: WSB Rental Agreement McDonough 2-2240, 2-2431
Attachments: McDonough R2.0 Rental AgreementTemplate2-2240 and 2-2431.docx; McDonough R2.1.2 Proposed Rental Agreement Cover Letter-10% only fee for 2-2240 and 2-2431.docx; McDonough R2.8 Rental Review Memo Template2-2240 and 2-2431.docx; Review Notes and Research.pdf; DOC017.pdf

From: Hemenway, Sandy
Sent: Tuesday, October 01, 2013 7:37 AM
To: Lester, Steve
Cc: Hemenway, Sandy
Subject: WSB Rental Agreement McDonough 2-2240, 2-2431

Steve,

Mark McDonough is renting 74.3 acres from himself to irrigate his own property that is already covered under a portion of water rights 2-2240 and 2-2431. For this reason, I didn't request your remarks, since they were already Decreed water rights with the same POU.

FYI----Mark is thinking about possibly taking these water rights out of the bank for 3 years, and possibly putting back a portion into the WSB. Right now he has a farmer that has signed a 3-year lease for 74.3 acres of these overlapping water rights. Mark has already been told that if he takes the entire water rights out of the bank that he will either need to begin irrigating on the property, or put the unirrigated property back into the bank to prevent forfeiture.

Sandy

Hemenway, Sandy

Subject: FW: WSB Rental using water rights 2-2240 and 2-2240
Attachments: DOC016.pdf; DOC014.pdf

From: Hemenway, Sandy
Sent: Tuesday, October 01, 2013 6:36 AM
To: Mark McDonough
Cc: Hemenway, Sandy; Skaggs, Pam
Subject: WSB Rental using water rights 2-2240 and 2-2240

Mark,

Please find attached a copy of the rental agreement and cover letter. A hard copy will be mailed to you today.

You will need to sign and return BOTH copies of the agreement with \$631.55 (\$631.55 per year). The Department will then sign the agreement and mail one of the copies back to you for your records. You can then make the determination later whether or not you want to remove these water rights from the water supply bank. If you decide to withdraw them from the water supply bank, you will need to start irrigating the property, or submit another Water Supply Bank Application to include the acres that will not be irrigated. To put these back into the bank, the fee for these two water rights would be \$250 per water right for this system (\$500 total).

Today, I will complete your other WSB Rental Application for the 20 acres. I will be out of the office the rest of the week, so if you have any questions, please contact Pam Skaggs at (208) 287-4951 during my absence.

Thanks,

Sandy

Hemenway, Sandy

Subject: FW: Mark McDonough Water Supply Bank, and changes with water right 2-10209 shapefile

From: Hemenway, Sandy

Sent: Monday, September 30, 2013 5:20 AM

To: 'Mark McDonough'

Subject: RE: Mark McDonough Water Supply Bank, and changes with water right 2-10209 shapefile

Each water right put back into the water supply bank would be \$250 each. If there is more than two water rights that are all included on the same system (same place of use or same point of diversion), then the maximum fee would be \$500.

Hemenway, Sandy

From: Hemenway, Sandy
Sent: Saturday, September 28, 2013 9:10 PM
To: Mark McDonough
Cc: Hemenway, Sandy
Subject: Application for Transfer (for legally changing the shape for water right 2-10209)
Attachments: APPLICATION_FOR_TRANSFER_OF_A_WATER_RIGHT.pdf

Mark,

Please find attached the Application for Transfer, so you can legally change the legal description for the place of use to show that it is only in 2 sections, instead of 3 (as shown on the Decreed water right).

Sandy Hemenway
Sr. Water Resource Agent
IDWR/State Office, Boise
(208)287-4920
Sandy.hemenway@idwr.idaho.gov

Hemenway, Sandy

From: Mark McDonough [mark.mcdonough54@gmail.com]
Sent: Wednesday, October 02, 2013 5:06 PM
To: Hemenway, Sandy
Subject: Re: WSB Rental using water rights 2-2240 and 2-2240

Sandy, Sorry, I did mean November 1, 13.

Mark
mark.mcdonough54@gmail.com
208 703-5081

On Tue, Oct 1, 2013 at 11:23 AM, Hemenway, Sandy <Sandy.Hemenway@idwr.idaho.gov> wrote:

Today is October 1, did you mean November 1?

From: Mark McDonough [mailto:mark.mcdonough54@gmail.com]
Sent: Tuesday, October 01, 2013 10:48 AM
To: Hemenway, Sandy
Subject: Re: WSB Rental using water rights 2-2240 and 2-2240

Sandy,

Copy on all.

I do not see a notation, for 'start payment', when due? for year one? I told you Oct 1, I got paid.

thanks,

Mark

mark.mcdonough54@gmail.com

703-5081

On Tue, Oct 1, 2013 at 6:36 AM, Hemenway, Sandy <Sandy.Hemenway@idwr.idaho.gov> wrote:

Mark,

Please find attached a copy of the rental agreement and cover letter. A hard copy will be mailed to you today.

You will need to sign and return BOTH copies of the agreement with \$631.55 (\$631.55 per year). The Department will then sign the agreement and mail one of the copies back to you for your records. You can then make the determination later whether or not you want to remove these water rights from the water supply bank. If you decide to withdraw them from the water supply bank, you will need to start irrigating the property, or submit another Water Supply Bank Application to include the acres that will not be irrigated. To put these back into the bank, the fee for these two water rights would be \$250 per water right for this system (\$500 total).

Today, I will complete your other WSB Rental Application for the 20 acres. I will be out of the office the rest of the week, so if you have any questions, please contact Pam Skaggs at (208) 287-4951 during my absence.

Thanks,

Sandy

From: Mark McDonough [<mailto:mark.mcdonough54@gmail.com>]

Sent: Monday, September 30, 2013 8:31 AM

To: Hemenway, Sandy

Subject: Re: Mark McDonough Water Supply Bank, and changes with water right 2-10209 shapefile

Sandy,

'Taking them out' (water on corn for 3 years), and 'putting them back', is not as expensive, as 'renting from myself'.

No five year, use it or loose it. What is the total rental cost, over 3 years to me - what we were currently working on?

Thanks,

Mark

mark.mcdonough54@gmail.com

On Mon, Sep 30, 2013 at 5:19 AM, Hemenway, Sandy <Sandy.Hemenway@idwr.idaho.gov> wrote:

Each water right put back into the water supply bank would be \$250 each. If there is more than two water rights that are all included on the same system (same place of use or same point of diversion), then the maximum fee would be \$500.

From: Mark McDonough [mailto:mark.mcdonough54@gmail.com]

Sent: Sunday, September 29, 2013 3:39 AM

To: Hemenway, Sandy

Subject: Re: Mark McDonough Water Supply Bank, and changes with water right 2-10209 shapefile

Sandy, I see all this new stuff, below.

I better get back to you, in person.

Did you understand my question? Please refer back to? Re: fees to 'put back' into the water bank?

Thanks,

Mark

mark.mcdonough54@gmail.com

On Sat, Sep 28, 2013 at 9:05 PM, Hemenway, Sandy <Sandy.Hemenway@idwr.idaho.gov> wrote:

Mark,

Water Bank:

Notice of fee change: A rule adopted by the Idaho State Legislature requires a \$250 fee be submitted with all lease applications effective April 8, 2011. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.

All or a portion of your water rights are considered leased into the Bank, and should remain unused, until you release them from the Bank. Water Rights that are rented from the Water Supply Bank are rented at \$17/af, with 90% going to the leasee, and 10% going to the Department. The time period on a rental/lease application ends on 12/31.

In reference to the shapefile for water right 2-10209 overlapping the water rights in your rental application, the shape was changed on ArcMap to indicate the actual place of use only for the purpose of the water supply bank rental application overlaps (which showed the place of use only in two sections). To **legally** change a Decreed water rights shape for water right 2-10209 (which shows the place of use in three different sections), **you will need to file an Application for a Transfer**. For this reason, I will be sending you an Application for Transfer under a separate email.

If you have any questions, please give me a call.

Sandy Hemenway

Sr. Water Resource Agent

IDWR/State Office, Boise

(208)287-4920 (Monday thru Thursday 6am – 4pm)

Sandy.hemenway@idwr.idaho.gov

From: Mark McDonough [mailto:mark.mcdonough54@gmail.com]
Sent: Friday, September 27, 2013 3:34 PM
To: Hemenway, Sandy
Subject: Mark McDonough re: water rights, we just 'rented' to Mark.

Sandy,

Hypothetical question:

if I had simply 'removed' the above water rights, from the water bank, can you tell me what the 'cost' would be, to 'put them back in the water bank', say, in 2 years, from today?

Thanks again for all your great help.

Mark

mark.mcdonough54@gmail.com

703-5081