

Water Supply Bank No. _____
(For Department Use Only)

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK

RECEIVED

MAR - 6 2013

DEPARTMENT OF
WATER RESOURCES

Name of Renter Idaho Water Resource Board Phone 208-287-4800

Mailing address P.O. Box 83720, Boise, ID 83720-0098 Email _____

A. DESCRIPTION OF WATER SOUGHT FOR RENT

1. Maximum Flow Rate (cfs) Maximum Volume (ac-ft) Nature of Use Period of Use
0.17 cfs N/A Instream flow 04/15 to 10/31

Total: 0.17 cfs N/A

2. Source of water Spring Creek tributary to Teton River

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06N	44E	23			SE	SW	Teton (start of Stream Flow reach)
07N	44E	20			NW	NE	Teton (end of Stream Flow reach)

4. Lands to be irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				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 N/A

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion? Yes ☐ No ☒

If no, list owner, contact information, and provide documentation of the authority to use the proposed point of diversion. The water is to be rented for the beneficial use of instream flow in the Teton River (22-7369).

2. Do you own the land at the proposed place of use? Yes ☐ No ☒

If no, list owner, contact information, and provide documentation of the authority to use the proposed place of use. N/A

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. N/A
2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.
N/A
3. Will the proposed place of use receive water from any other source? Yes ☐ No ☐
If yes, describe. N/A
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. The water is to be rented for the beneficial use of instream flow in the Teton River (22-7369), through the Idaho Water Transaction Program. Applicant has entered into an agreement with the right holder to rent the water right for \$4,139.03 (over 5 year term), which includes the 10% rental rate fee (\$413.90).
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

1. Do you wish to rent water from the Board's bank for more than one (1) year? Yes ☒ No ☐
If yes, please specify the number of years desired through proposed rental. 5

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

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

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


Signature of Applicant

BRIAN PATTON, Bureau Chief
Printed Name and Title*
on Behalf of the I.W.R.B.

3/6/13
Date

Signature of Applicant

Printed Name and Title*

Date

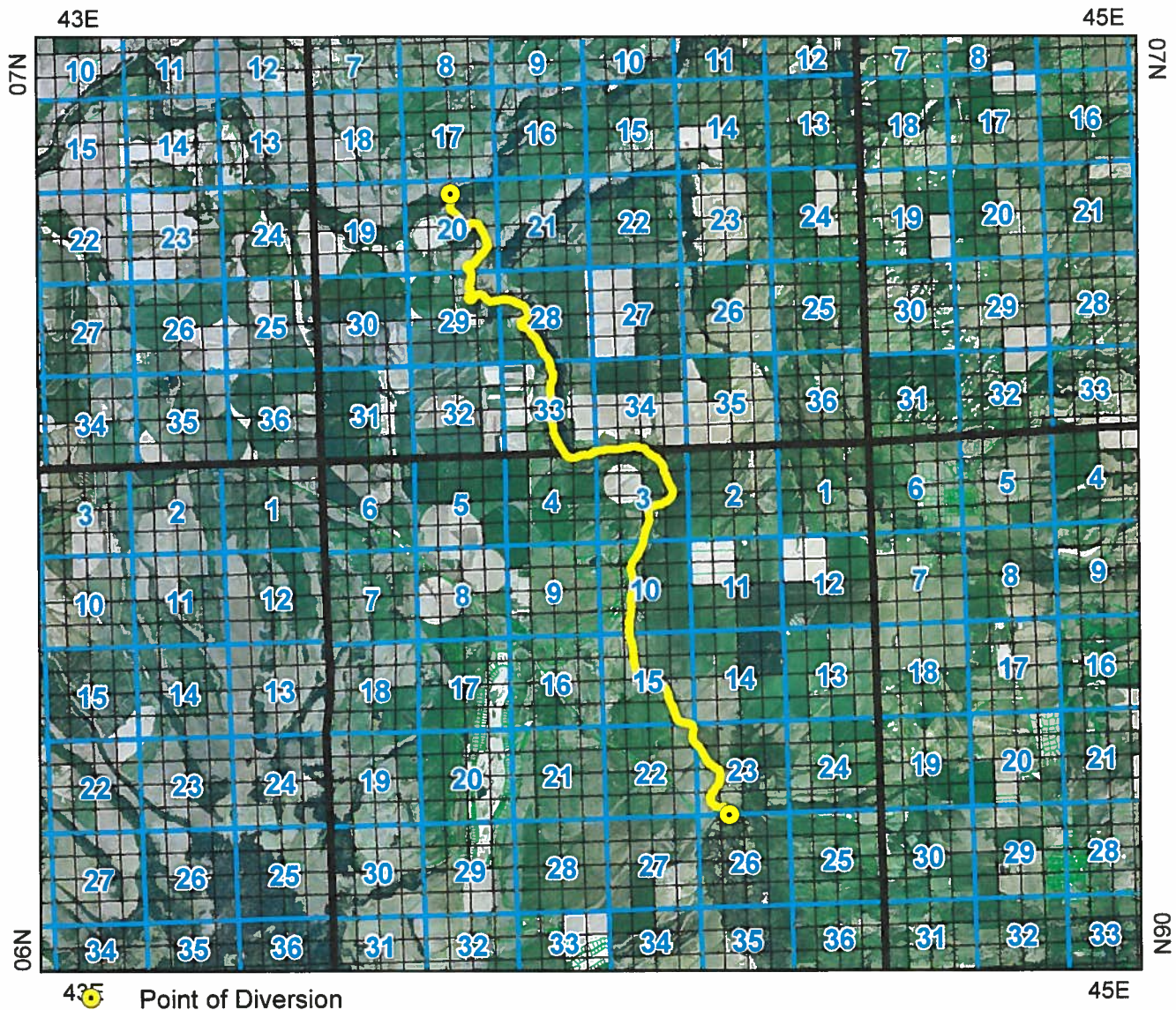
*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

State of Idaho
Department of Water Resources

Water Right 22-7369

MINIMUM STREAM FLOW

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.



- 43E Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 1.25 2.5 5 Miles



State of Idaho
Department of Water Resources

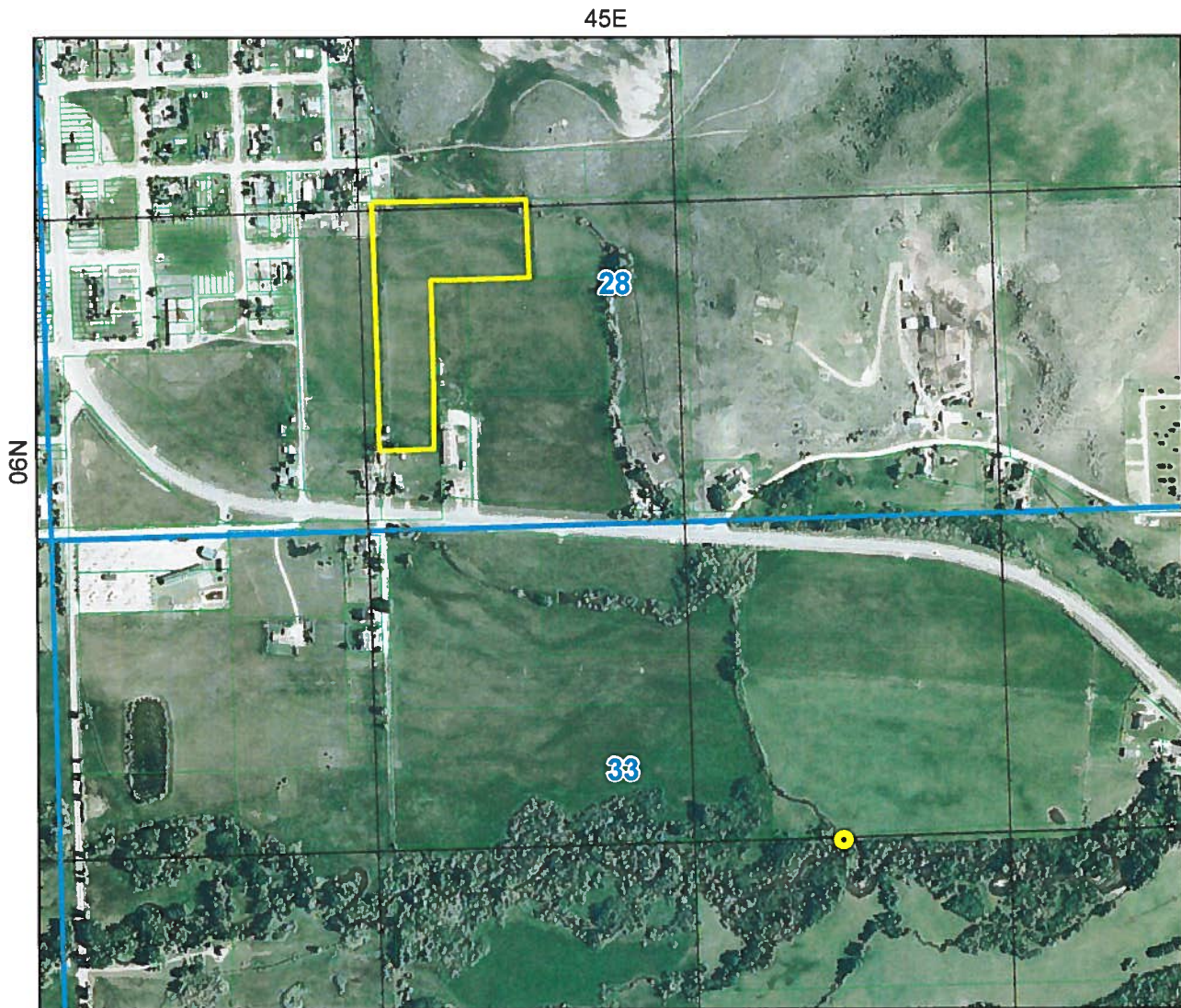
Attachment A

Water Right

22-11993

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.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.075 0.15 0.3 Miles



Idaho Water Resource Board

Water Right Lease Agreement
with
Richard Beard and Ella Beard

This lease agreement ("Agreement") is made and entered into by and between the Idaho Water Resource Board, ("Board") and Richard Beard and Ella Beard, ("Lessor")

RECITALS

- A. WHEREAS, the Board has entered into contract with National Fish and Wildlife Foundation, under the authority of the Department of Energy, Bonneville Power Administration ("BPA"), which recognizes that the Board intends to develop and operate the Water Transaction Program ("Program") to lease water from willing Idaho water right owners to address water shortages including flow augmentation for Yellowstone cutthroat trout, an Idaho *Species of Greatest Conservation Need*. Under this Program, water right owners will forego irrigation of land and place their water rights into the Idaho Water Supply Bank ("Bank") operated by the Idaho Department of Water Resources ("Department") on behalf of the Board.
- B. WHEREAS, the Board solicited offers from the public to sell or lease water to facilitate the flow of additional water in the Teton River and tributaries. In response, the Lessor submitted a proposal for participation in the Program. The proposal shows that the Lessor has a right to use water for irrigation, stockwater, or other consumptive purposes. Placing a portion of the Lessor's water in the Bank during the 2013 irrigation season and subsequent years will result in additional water in Spring Creek and the Teton River for Yellowstone cutthroat trout, an Idaho *Species of Greatest Conservation Need*.

AGREEMENT

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, the parties agree as follows:

I. Description of Lease

- A. Lessor agrees to lease to the Board water right no. 22-11993 appurtenant to the 8.5 acres further described in the map incorporated herein, which is attached and labeled as Attachment A. Lessor agrees not to divert water under the right and to idle the land identified in Attachment A between April 15 and October 31 for the duration of the lease.
- B. The Lessor acknowledges and agrees that the water acquired under this Lease Agreement will be placed in the Bank for a term of five (5) years, and that the Lessor is offering the water right described herein to the Bank by signing this Agreement. The Lessor agrees to provide any additional information that the Department may require to process or facilitate acceptance of the water right into the Bank. Failure to comply with Department requests for information or other requirements is cause for termination of this Agreement.

- C. Lessor warrants that it is the owner of the water right and land identified herein and possesses the right, title, and interest in the water and land or has obtained any necessary consent or approval to enter into this Agreement. Lessor further warrants that it has not entered into any other type of agreement that would prohibit the Lessor from placing the water into the Bank.

II. Additional Conditions

- A. If it is determined after the execution of this Lease Agreement that certain acres are not eligible under the Program because of a mistake, error, or misrepresentation in the Lessor's application, compensation will be reduced accordingly.
- B. The Lessor's idled land will be monitored in accordance with Water Transaction Program requirements. The monitoring may include field visits, the collection and analysis of satellite data, and related flow measurements collected at the Board's discretion. The Lessor agrees to allow the collection of data and access for field visits.
- C. The Lessor shall immediately notify the Board if there are any changes in ownership, or any encumbrances or liens placed upon, any of the real property or water right covered by this contract during the term of this Lease Agreement.

III. Payments

- A. The Lessor agrees to lease and the Board agrees to compensate the Lessor for the rental of water described herein through payment from the Idaho State Water Supply Bank at a price of \$97.39 per acre of land idled per year, for a total of \$4,139.00, which includes a ten percent rental administration fee (\$413.90) and Lessor payments of \$3,725.13 over the contract term. In addition, the Board shall pay directly to the Department the lease application fee (\$250.00) in accordance with Water Supply Bank Rules, IDAPA 37.02.03.
- B. Payment as shown in section III.A above is based upon a dollar amount per acre of land idled, regardless of the diversion rate or maximum diversion volume allowed under the water right, the historical diversion rate, or consumptive use under the water right, or the diversion rate or diversion volume approved for lease by the Department.
- C. Pursuant to the Water Supply Bank Rules, IDAPA 37.02.03, after the water rights are rented from the Bank, payment is to be made by the Water Supply Bank to the Lessor. Lessor shall submit an invoice for the annual rent amount to the Board on or about October 31st of each year. Payment will be made on or about November 15th of each year, after the irrigation season and subject to final verification of program compliance.

IV. Term, Termination of Agreement and Remedies

- A. This Lease Agreement shall become effective on the date of the last signature hereto and shall extend through October 31, 2017.

- B. At the Board's discretion, this Lease Agreement may be terminated upon:
- (1) Failure of the Lessor to abide by the terms and conditions of the Lease Agreement;
 - (2) Refusal of the Lessor to allow representatives of the Board access to the land to monitor compliance with the Lease Agreement;
 - (3) Application of water by the Lessor to the lands during the period of this Lease Agreement, except in emergency situations where the application of water is required for public safety reasons;
 - (4) Discovery of fraudulent information submitted in the Lessor's Application.
- C. If this Lease Agreement is terminated for any reason listed under section IV.B, or by the Lessor for any other reason, prior to its ending date, the Lessor shall reimburse the Board for a pro-rated portion of the amount stated in Section III.A of the Lease Agreement, as determined by the Board.

V. Miscellaneous

- A. The Landowner or Lessor is responsible for all taxes, assessments, soil conservation measures such as weed and erosion control and other obligations related to any of the lands described under this Lease Agreement.
- B. The Landowner will indemnify and hold harmless the Board and the Department from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death, or property damage of any nature caused by the landowner or any person, firm, or corporation acting on the landowner's behalf related to or arising out of this Lease Agreement.
- C. Lessor acknowledges and agrees that a memorandum of this Lease Agreement will be executed simultaneously herewith and a copy thereof will be recorded in the records of the county.
- D. The terms of this Lease Agreement shall constitute a distinct transaction separate and apart from any potential efforts the Board may pursue in the future to purchase the water rights from the Lessor.

VI. Duplicate Originals

- A. This contract is executed in duplicate. Each of the contracts with an original signature of each party shall be an original.

Signatures

Lessor

Print Name(s): Richard Samuel Beard and Ella Beard

Mailing address: PO Box 122
Tetonia, ID 83452

Phone: 208. 456. 2885

Signed ☒ Sam Beard

Date: 03/01/13

Signed ☒ Ella Beard

Date: 03/01/13

Title: _____

State of Idaho)

S.S.

County of Teton)

On this 1st day of Mar 2013, before me, the undersigned Notary Public, in and for said county and state, personally appeared Sam & Ella Beard, known to be the person whose name is subscribed to within instrument and acknowledged to me that he/she executed the same.

In WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first written.



Devrie Dayton
Notary Public in and for Idaho
Commission Expires: 4/24/18

State of Idaho
Idaho Water Resource Board

Signed B. Patton Date: 3/5/13
FOR Chairman, Idaho Water Resource Board

State of Idaho)

S.S.

County of)

On this 5th day of March 2013, before me, the undersigned Notary Public, in and for said county and state, personally appeared Brian Patton, known to be the person whose name is subscribed to within instrument and acknowledged to me that he/she executed the same.

In WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first written.

Deborah J. Gibson
Notary Public in and for Idaho
Commission Expires: 12/6/18

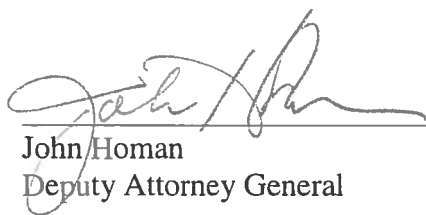
APPROVED AS TO FORM



Brian Patton, Acting Administrator
Planning and Technical Services Div.


Date

Sascha Marston
Financial Officer


Date

John Homan
Deputy Attorney General


Date

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE)
SPRING CREEK RENTAL WATER)
TRANSACTION AGREEMENT)
_____)

A RESOLUTION TO MAKE
A FUNDING COMMITMENT

WHEREAS, Spring Creek is a tributary to the Teton River that provides quality spawning and rearing habitat for Yellowstone cutthroat trout and other resident fish, but is flow and passage limited at certain times of the year; and

WHEREAS, it is in the interest of the State of Idaho to increase stream flow in the Teton River and its tributaries to encourage recovery of Yellowstone cutthroat trout, which are currently designated as an Idaho Species of Greatest Conservation Need; and

WHEREAS, staff has developed a five-year lease/rental agreement with Richard LaVere Beard to improve stream flow for fish in Spring Creek; and

WHEREAS, staff has developed a five-year lease/rental agreement with Richard & Ella Beard to improve stream flow for fish in Spring Creek; and

WHEREAS, the water rights shall be leased into the Board's Idaho Water Supply Bank, to be rented by the Idaho Water Resource Board (IWRB) for the beneficial use of instream flow in the Teton River, for a period of five years; and

WHEREAS, a proposal in the amount of \$3,074.28 has been submitted to the Columbia Basin Water Transaction Program to be used to fund the Richard LaVere Beard lease/rental agreement, including the associated Idaho Water Supply Bank application fee (\$250.00) and 10% administrative fee (\$282.43); and

WHEREAS, a proposal in the amount of \$4,389.03 has been submitted to the Columbia Basin Water Transaction Program to be used to fund the Richard & Ella Beard lease/rental agreement, including the associated Idaho Water Supply Bank application fee (\$250.00) and 10% administrative fee (\$413.90); and

WHEREAS, staff anticipates the funds being placed into the IWRB Revolving Development Account for annual payment to the water right owners and the Idaho Water Supply Bank; and

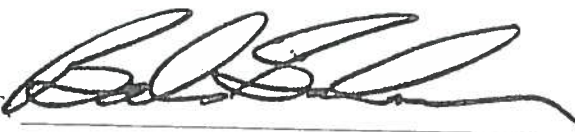
WHEREAS, the Spring Creek transactions are in the public interest and in compliance with the State Water Plan.

NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into a lease/rental agreement with Richard LaVere Beard, and/or his successors, and Richard & Ella Beard, and/or their successors, for water rights 22-00380C and 22-11993 for delivery to minimum stream flow 22-7369, using an amount not to exceed \$7,463.31.

NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition that the IWRB receives the requested funding from the Columbia Basin Water Transaction Program in the amount of \$7,463.31.

DATED this 28th day of November, 2012.


TERRY T. UHLING, Chairman
Idaho Water Resource Board

ATTEST 
BOB GRAHAM, Secretary