

MEMORANDUM

TO: Water Right File 37-22249
FROM: Cynthia Bridge Clark
DATE: August 3, 2011
SUBJECT: Review of Application to Rent a Water Right from the State Water Supply Bank

SUMMARY

On March 18, 2009, the Department received an application to rent water right no. 37-22249 from the Water Supply Bank on behalf of Sheri Eagle Stevens and W. Grant Stevens. The Stevens' owned parent water right no. 37-155 which was split into water right nos. 37-22248 and 37-22249. They remain the current owners of water right 37-22248, while the Eagles Nest Investment Group, LLC took ownership of water right 37-22249. Water right 37-22249 authorizes diversion of 1.28 cfs from the Big Wood River for irrigation of 39.8 acres within Section 16, Township 2N, Range 18E.

The Stevens' entered into a private lease agreement with the Eagles Nest Investment Group to use water right 37-22249 for the 2009 irrigation season. The agreement is automatically renewed and extended on an annual basis until terminated by either party. The private agreement requires that the Stevens' divert and use the water as authorized under the water right and on the lands to which it is appurtenant. Candice McHugh, attorney representing the applicants (acting on behalf of attorney Randy Budge), confirmed that the private agreement is still active, was executed in 2009 and 2010 and that the applicants wish to execute the rental in 2011.

The private agreement stipulates an annual payment of \$500 shall be paid to the water right owner. A \$50 payment was submitted with the original rental application to cover a 10% administrative fee to the Water Supply Bank in 2009. However, the administrative fee is based on a minimum rental rate of \$14 per acre-foot of water rented. The diversion volume authorized under water right 37-22249 based on the standard field headgate requirement is 139.3 af/yr ($3.5 \text{ af/ac/yr} \times 39.8 \text{ ac} = 139.3 \text{ af/yr}$). While the lessor may accept a reduced payment for the rental, the administrative fee is 10% of \$1,950.20 or \$195.02 per year.

The approved rental agreement is drafted for the 2009-2011 irrigation seasons. The total administrative fee for the 5-year rental agreement, including a credit of \$50, is \$535.06.

AUTHORITY TO FILE

The application was signed by Randall C. Budge, attorney, who is recognized as the representative in the water right records.

WATER RIGHT VALIDITY

Water right no. 37-22249 was partially decreed in the Snake River Basin Adjudication on June 29, 2010.

INJURY

No injury is apparent through the rental.

ENLARGEMENT

No enlargement is evident through the rental as proposed. Rental of water under this right should comply with the existing conditions of the water right and comments should be obtained from the Big

Wood River watermaster (Water District 37). Specifically, diversion of water under water right nos. 37-22248 and 37-22249 is limited to a maximum of 1.57cfs.

LOCAL PUBLIC INTEREST

Review staff has no information to suggest this application is inconsistent with the local public interest.

WATER DISTRICT

This water right is administered within water district 37 (Big Wood River).

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES

The lease appears to be consistent with conservation of water resources in Idaho. The applicant/owner has been operating under an approved permit and a right leased with the State of Idaho.

RENTAL CONSIDERATIONS

None. During a telephone conversation with Kevin Lakey, Water District 37 watermaster, indicated he has no concerns.