



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

August 27, 2009

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

SINCLAIR OIL CORP DBA SUN VALLEY CO
PO BOX 10
SUN VALLEY ID 83353

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 37-457B

Dear Renter:

The Department of Water Resources ("Department") acknowledges receipt of your application to rent water from the Water Supply Bank ("Bank"). Please find 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 **\$17,000.00** is due in accordance with a private agreement between you and the lessor of the water right. Please send a check made payable to the Idaho Department of Water Resources together with the signed rental agreement to my attention within ten (10) days of receipt of this letter so I can complete the processing.

Please note that while you requested a rental period of two years, for irrigation in 2009 and 2010, the lessor offered water right 37-457B to the Bank only for 2009. The enclosed rental agreement reflects a one-year rental for 2009. If the lessor extends the lease of water right 37-457B to the Bank through 2010, a rental agreement may be prepared for irrigation in 2010 as described in the private agreement between you and the lessor.

Applications for rental of water must be reviewed in accordance with Idaho Code § 42-1763 and the Department's Water Supply Bank Rules (IDAPA 37.02.03). This includes consideration of whether there will be injury to other water rights, whether the proposal would constitute an enlargement of the water rights, whether the water will be put to a beneficial use, whether the water supply available from applicable rights in the Bank is sufficient for the use intended and whether the proposal is in the local public interest. While a one-year rental usually involves a general review of the water rights and proposed use, rental of water over multiple years may require more comprehensive review, notice to advise anyone who desires to protest the proposed water use, and approval by the Idaho Water Resource Board.

If you have any questions, please contact me at (208) 287-4943.

Sincerely,

Aaron Marshall
Sr. Water Resource Agent

Enclosure

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

This is to certify that: SINCLAIR OIL CORP DBA SUN VALLEY CO
 PO BOX 10
 SUN VALLEY ID 83353
 (208) 622-4111

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
	37-457B	4.04 CFS	168.0 AF	48.0 AC
COMBINED RENTAL TOTALS:		4.04 CFS	168.0 AF	48.0 AC

TERM OF RENTAL: April 15, 2009 to October 31, 2009

RENTAL FEE: \$17,000.00

In accordance with a private agreement between the lessor and renter, the total fee for rental of the above-described water is \$17,000.00.

Detailed water right specific limitations and conditions 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 _____ day of _____, 20_____.

By: _____
 (Print Name)

 (Signature)

 (Title if on behalf of company or organization)

Having determined that this agreement satisfies the provisions of Section 42-1763, Idaho Code, and, IDAPA 37.02.03030 (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 ____ day of _____, 20_____.

 GARY SPACKMAN, Interim Director
 Department of Water Resources

WATER RIGHT NO. 37-457B
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: SINCLAIR OIL CORP DBA SUN VALLEY CO
 PO BOX 10
 SUN VALLEY ID 83353
 (208) 622-4111

Priority Date: 05/01/1883

Source: TRAIL CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15 to	10/31	4.04 CFS	168.0 AF
	Total:		4.04 CFS	168.0 AF

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

TRAIL CREEK	NE¼NW¼	Sec. 5	Twp 04N	Rge 18E	BLAINE County
TRAIL CREEK	NE¼SE¼	Sec. 32	Twp 05N	Rge 18E	BLAINE 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	
04N	18E	5					3.4					8.5							11.9
04N	18E	6									1.4				9.5	7.2	4.3	1.8	24.2
04N	18E	7		0.2			0.9			0.5				2.2			1.9		5.7
04N	18E	18		0.1			1.2												1.3
05N	18E	32												3.0			1.9		4.9

Total Acres: 48.0

CONDITIONS OF WATER USE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. 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. 37.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. 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 the ongoing Snake River Basin Adjudication or any other department application process.
5. 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.

**WATER RIGHT NO. 37-457B
WATER SUPPLY BANK RENTAL AGREEMENT**

CONDITIONS OF WATER USE

6. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
7. 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.
8. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
9. 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.
10. 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.
11. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.

State of Idaho
Department of Water Resources
Water Supply Bank Rental Application
RECOMMENDATION FORM

Water Supply Bank Rental Application

Applicant's Name: Sinclair Oil Corp.dba Sun Valley Co.

Watermaster's Recommendation:

- a) _____ I do not oppose approval of this application.
- b) __x____ I do not oppose approval of this application if it is conditioned as follows: Watermaster is informed what Point of Diversion is to be used. If the headgate commonly known as Ketchum #2 is to be used for delivery, a new measuring device needs installed. Also, watermaster requests control of the Rienheimer diversion out of the McCoy #3 ditch to insure the other water right holder in the McCoy ditch is not injured.

- c) _____ I oppose approval of this application for the following reasons:

- d) _____ Additional comments:

Dated this _11_ day of _August , 2009_____. _____

Water District No. 37

Kevin
Lakey_____

Watermaster's Signature