



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

June 1, 2009

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

PETER B BRECK
ANTONIA HUNTER BRECK
PO BOX 1604
ROSS CA 94957

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 37-4332

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.

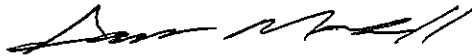
A rental fee of **\$98.00** was calculated based on \$14.00 per acre-foot times a diversion volume of 7.0 acre-feet. Please send a check made payable to the Idaho Department of Water Resources together with the signed rental agreement to my attention within ten (10) days of receipt of this letter so I can complete the processing.

Please note that applications for rental of water must be reviewed in accordance with Idaho Code § 42-1763 and the Department's Water Supply Bank Rule 30 (IDAPA 37.02.03.030). This includes consideration of whether the proposed use will reduce the quantity of water available under other existing water rights. The Big Wood River upstream of Hailey is an effluent stream; that is, ground water is tributary to the river. Minimum stream flow water rights and other surface water rights may be affected by changes in the use of ground water in the Big Wood River basin. The Department still has questions about whether the type of change proposed by the enclosed rental agreement will reduce the quantity of water available under other existing water rights in the Big Wood River basin. However, the use described in the rental agreement is for a relatively small quantity of water, the rental period is limited to one year, and the water right being rented is located in a part of the basin with similar hydraulic characteristics as the rental location. The Department is willing to authorize this rental for this brief period while continuing to evaluate potential injury to other water rights caused by long term or permanent changes in water use. As indicated in condition no. 6 of the rental agreement, the use of water under this agreement should not be construed as

establishing a precedent and shall not prejudice the Department in its consideration of an application for transfer or permit for the use authorized by the rental agreement. All additional Water Supply Bank rental applications submitted in the future will require an independent review and analysis.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Marshall", written in a cursive style.

Aaron Marshall
Water Allocation Bureau

Enclosure: Rental Agreement

c: Allen Merritt – IDWR Southern Regional Office
Jim Speck – Speck & Aanestad

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

This is to certify that: PETER B BRECK
ANTONIA HUNTER BRECK
PO BOX 1604
ROSS CA 94957
(415) 362-5526

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
	37-4332	0.03 CFS	7.0 AF	1.0 AC
COMBINED RENTAL TOTALS:		0.03 CFS	7.0 AF	1.0 AC

TERM OF RENTAL: April 1, 2009 to November 1, 2009

RENTAL FEE: \$98.00

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_____.

DAVID R. TUTHILL, JR., Director
Department of Water Resources

WATER RIGHT NO. 37-4332
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: PETER B BRECK
 ANTONIA HUNTER BRECK
 PO BOX 1604
 ROSS CA 94957
 (415) 362-5526

Priority Date: 04/04/1962

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01 to	11/01	0.03 CFS	7.00 AF
	Total:		0.03 CFS	7.00 AF

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

GROUND WATER NW¼SE¼ Sec. 23 Twp 05N Rge 17E BLAINE County

RENTER'S PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	17E	23														1.0			1.0

Total Acres: 1.0

CONDITIONS OF WATER USE

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. 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.
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. This rental agreement does not authorize the construction of a well.
6. 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.
7. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
8. 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.
9. 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.
10. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.