



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

December 18, 2007

C. L. "BUICH" OTTIER
Governor

DAVID R. TUIHILL, JR.
Director

FMC CORP LLC
PO BOX 4111
POCATELLO ID 83205

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK WATER
RIGHT NO(S) 29-2255C

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.

The total annual rental fee of \$ 247.80 was calculated based on the current rental rate of \$14.00 per acre-foot times a diversion volume of 17.7 acre-feet. Ten percent (10%) of the total rental fee is retained by the Department for administrative fees in accordance with Water Supply Bank rules, IDAPA 37.02.03.01. The remaining ninety percent (90%) is issued back to the lessor of the above referenced water right(s) in the form of a warrant. Since you are the lessor and the renter under this agreement, the Department requires that you submit only the portion of the total payment to be retained for administrative fees. Therefore, an annual rental fee of **\$ 24.78** must be paid in accordance with the rental agreement. An annual payment shall be received by the Department prior to the execution of this agreement and prior to May 1 in all subsequent years for the duration of the rental period. The agreement will be void if the payment is not received for a given year. Please send a check made payable to the Idaho Department of Water Resources together with the signed rental agreement. Return the signed agreement and fee to my attention within fourteen (14) 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 Section 42-1763, Idaho Code, and the Department's Water Supply Bank Rule 30 (IDAPA 37.02.03.030). 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
Water Allocation Bureau

Enc: 1

c: Lyle Swank – IDWR Eastern Regional Office
Paul Arrington – Barker Rosholt & Simpson LLC

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

This is to certify that: FMC CORP LLC
 PO BOX 4111
 POCATELLO ID 83205
 (208) 236-8236

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
	29-2255C	0.18 CFS	17.7 AF	N/A
COMBINED RENTAL TOTALS:		0.18 CFS	17.7 AF	N/A
TERM OF RENTAL:	<u>January 1, 2008 to December 31, 2012</u>			
RENTAL FEE:	<u>\$ 24.78 annually</u>			

The total fee for rental of the above-described water is \$ 247.80. The renter is also the lessor under this agreement and is therefore obligated to pay only the administrative fee of \$ 24.78 annually.

An annual payment must be received prior to the execution of this agreement and prior to **May 1** in all subsequent years for the duration of the rental period. The agreement will be void if the payment is not received in a given year.

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. 29-2255C
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: FMC CORP LLC
 PO BOX 4111
 POCATELLO ID 83205
 (208) 236-8236

Priority Date: 05/22/1939

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	05/01	to 11/01	0.18 CFS	17.7 AF
	Total:		0.18 CFS	17.7 AF

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

GROUND WATER NW¼NW¼ Sec. 3 Twp 06S Rge 33E POWER County

RENTER'S PLACE OF USE: INDUSTRIAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	33E	12									X	X	X	X	X	X	X	X	
06S	33E	13	X	X	X	X	X	X	X	X					X	X	X	X	
06S	33E	14	X	X	X	X			X	X	X	X	X	X	X	X	X	X	
06S	33E	24	X	X	X	X													
06S	34E	7			X					X	X								
06S	34E	18						X	X			X	X						
								L1	L2			L3	L4						

Total Acres: N/A

Acre Limit within Place of Use described: N/A

CONDITIONS OF WATER USE

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code
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. 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 the permanent application for transfer filed by the applicant for this same use.

**WATER RIGHT NO. 29-2255C
WATER SUPPLY BANK RENTAL AGREEMENT**

CONDITIONS OF WATER 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. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code