

MEMORANDUM

To: File 74-666, 74-2247, 74-15234

From: Cynthia Bridge Clark

Date: June 30, 2004

Re: Lease/Rental of Water Rights to the State Water Supply Bank

The Department of Water Resources Planning Division initiated an agreement with Kenney Creek Ranch & Land, LLC to lease irrigation water for in stream flow use on Kenney Creek under the Columbia River Basin Water Transaction Program. According to department staff, the intent of the program is to enhance tributary flows for fish augmentation.

An application was filed with the Water Supply Bank (bank) to lease all of rights 74-666 and 74-2247, and a portion of right 74-15234, totaling 157.8 acres, from July 1, 2004 to November 15, 2004. A companion rental application was filed in the name of the Idaho Water Resource Board to rent the same rights for in stream flow use under the Federal Reserve Wild and Scenic River Snake River Basin Adjudication (SRBA) Claim no. 75-13316. The claim identifies a beneficial use of "Wild and Scenic River" on the Salmon River. The federal claim was determined to be valid by the Idaho Supreme Court in *Potlatch v. U.S.*, 134 Idaho 912, 12 P.3d 1256 (2000) (Wild and Scenic) and *Potlatch v. U.S.*, 134 Idaho 916, 12 P.3d 1260 (2000) (Hells Canyon). The claim is currently in litigation to substantiate authorized quantities. The rental application was filed to ensure that the water associated with the rights remain in Kenney Creek rather than being diverted by the holders of junior water rights.

The application proposes a change in nature of use from irrigation to in stream flow. To avoid enlargement of the rights, the volume available for rent was limited to the consumptive use. Evidence of historical beneficial use was not required for the determination of the consumptive volume for the short-term rental lease/rental. The consumptive use was calculated based on the number of acres leased, the standard consumptive irrigation requirement (2.5 afa per acre), the number of days in the irrigation season (246 days), and the lease/rental period (138 days). The diversion rate was also a consideration given that the new use will require continuous flow. The continuous flow rate is limited to 0.81 cfs (total consumptive volume/(1.984 x 138 days)).

The right numbers and corresponding portions leased/rented are listed below:

Right No.	Acres (ac)	Diversion Rate (cubic ft per sec., cfs)	Consumptive Diversion Vol. (acre-feet per acre, afa)
74-666	76.9 ac	2.08 cfs	107.8 afa
74-2247	44.7 ac	0.92 cfs	62.7 afa
74-15234	36.2 ac	0.72 cfs	50.8 afa
Total:	157.8 ac	3.72 cfs	221.3 afa

Rental of rights 74-666, 74-2247, and 74-15234 is limited to a total combined diversion rate of 3.72 cfs and combined diversion volume of 221.3 afa, or a continuous diversion rate of 0.81 cfs for use from July 1, 2004 to November 15, 2004.

Acceptance in the bank was based on recommendations issued for each of the rights in Snake River Basin Adjudication (SRBA). The payment rate was negotiated between the water right owner and the department's planning division in conjunction with the Columbia River Basin Water Transaction Program.