

Water Supply Bank No. _____

Water Right No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

Name of Seller/Lessor **KENNEY CREEK RANCH and LAND, LLC**

Phone **(801)791-8040**

Post office address **PO BOX 1209
SALMON, IDAHO 83467**

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No. **74-666 and 74-2247 and 74-15234**. Decreed to
_____ Andrews Livestock Co.

(Name)

in case of **_General Adjudication of the Lemhi Drainage Basin**

dated **_12/30/1982** in **_Lemhi** county of **_____7th** Judicial District _____
(Name of court)

- b. License No. _____ issued by the Idaho Department of Water Resources.

- c. Permit No. _____ issued by the Idaho Department of Water
Resources.

**2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,
show "all" on line a. below and skip the remainder of part 2.)**

- a. Amount of water under right: cubic feet per second &/or _____ acre-feet per annum

b. Point of diversion **T20N R24E S21NWSE** Additional points **T20N R24E S21 NESE**
____T20N R24E S29NESW, T20N R24NE S29 SWSW

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20n	24e	29	9.6		11.9	3.6			17.1	9.6	1.8	25.9	9.2						88.7
		30			4.0											34.6		27.5	66.1
		31	3.0																3.0

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 157.8

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

IDWR personnel have viewed the aerial photos and visited the site to confirm use. Landowner has stated he irrigates land yearly. The SRBA claim has been investigated by IDWR and a copy of the recommendation for the claim is attached to this application.

c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right Unknown; the standard irrigation season for the right is **MARCH 15 through November 15**

d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

e. If the water right is a permit, describe the work accomplished toward developing the right

f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

This lease is under the Columbia River Basin Water Transaction Program. The intent of the program is to experiment with ways to enhance tributary flows for fish. This could include leasing water from the landowner and use of the Idaho Water Bank.

5. SALE/LEASE AGREEMENT

1 The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

X For lease for a period from 07/ 01/ 2004 to 11/15/2004
(Day, month, year) (Day month, year)
(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

 As a gift to the state of Idaho.

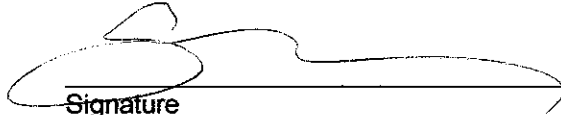
- 2 Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".
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I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

5-18-04
Date


Signature

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

Water Transaction Checklist for Specific Water Transactions to Increase Tributary Flows

Instructions: The local entity should complete the following checklist as completely as possible when proposing a specific water transaction to the Columbia Basin Water Transactions Program (Columbia Basin WTP). Upon transaction completion, the checklist should be updated to reflect any changes to the transaction and a final version should be submitted to the Columbia Basin WTP.

Name of Transaction: **Kenney Creek Ranch and Land LLC partial year lease**

Local Entity Proposing Transaction: **Idaho Department of Water Resources**

Entity Contact Person on Transaction: **Bill Graham, IDWR**

Date Transaction Proposal Submitted to the Columbia Basin WTP: **2004**

Total Amount of Landowner Payment: **\$ 71.44/acre X 121.6 acres = \$ 8,687 \$25.58 X 36.2 acres=\$926 \$9,613**

Amount of Landowner Payment Requested from the Columbia Basin WTP: **\$ \$9,613**

Principal Objective of the Transaction: **Adding 3.72 cfs of flow to Kenney Creek by leasing water rights from Kenney Creek Ranch right numbers 74-666, 74-2247 and a portion of 74-15234.**

ACCOUNTABILITY CRITERIA

1. Have the following documents been submitted to the Columbia Basin WTP as part of the proposal? If not, when will the document(s) be submitted?

- a. Contract with landowner detailing terms of the water right transaction:

Yes ☒ No ☐ Date Submitted: **4/2/04**

Comments: **Water leases and rental documents.**

- b. Water right certificate(s) included in the transaction.

Yes ☐ No ☐ Date Submitted:

Comments: **N/A**

- c. Application(s) submitted to the state water agency for transfer of the water right to instream flow (if applicable). **N/A**

Yes ☐ No ☐ Date Submitted:

Comments: **Water is being provided for instream flow through the IWRB Water Bank.**

- d. Approval order from the state water agency required to affect the transfer and change of use (or explanation as to how the water right will be protected instream without agency approval).

Yes ☒ No ☐ Date Submitted: **4/2/04**

Comments: **Approval is in the form of WRB water lease and rental documents.**

- e. A copy of a completed and signed National Environmental Policy Act (NEPA) checklist submitted to Bonneville Power Administration.

Yes ☒ No ☐ Date Submitted: **4/02/04**

Comments:

- f. Any other important documents to describe and record the transaction.

Yes ☐ No ☒ Date Submitted:

Comments:

2. What other information may assist the Columbia Basin WTP in evaluating this transaction or similar transactions in the future?

The lease is on a Upper Salmon Basin Model Watershed Project (USBMWP) SHIPUSS high-priority stream for flow enhancement within an ESU.

ADMINISTRATIVE CRITERIA

3. How did the water right holder use the water before the transaction? Is there evidence that water right(s) to be acquired was put to beneficial use during the relevant time period set forth by your state's abandonment statute? **Irrigation. Yes, 2002 aerial photography shows use.**
4. When was the application for the transfer of the water right to instream flow submitted to the applicable state agency (or other authority)? If the application has not yet been filed, what is the projected application submission date? When is the state agency expected to approve the transfer and finalize the amount of water that will be allocated to instream flow? **Application was made to the Water Board's Water Bank in April, 2004.**
5. Who will hold the water right once the water is secured for instream flow? **Idaho Water Resource Board**

HYDROLOGIC CRITERIA

6. What is the name of the stream(s) that will have increased instream flows as a result of the transaction? In what subbasin and watershed HUC is the stream(s) located? Please provide the NPCC Subbasin name and Watershed 5th Field HUC (10 digit) number. **Kenney Creek, Upper Salmon River Basin, Tributary to the Lemhi River HUC 1706020408**
7. What is the reach(es) of river that will benefit? (Please provide the approximate river mile of the upper and lower ends of the instream reach(es) and the Global Positioning System (GPS) coordinates of the existing point(s) of diversion.) **Kenney Creek five miles. UTM X 113.61480, Y 45.045563.**

8. For what term will the transaction secure water for instream flow (e.g., two years, ten years, in perpetuity)? **One-year lease period with a possibility of longer agreement in subsequent years.**
9. What is the priority date of the water right(s) secured for instream flow? What is the authorized period of use for the water right(s)? Is the water right(s) typically satisfied during this period of use each irrigation season? If not, what is the actual period of use before the water right(s) is restricted? **9/2/1922 for 74-666, 8/21/1918 for 74-2247 and 7/19/1893 for 74-15234. The authorized period of use is March 15 to November 15. Our lease will start July 1. The water right is generally satisfied throughout the period of use.**
10. What is the proposed period of use of the instream right(s) **Water right season of use is March 15 to November 15 (Partial season lease starting July 1).** What is the period during which the benefits of the proposed use is most ecologically significant (e.g. August 1 to September 5)? **July 1 to October 31.**
11. What is the rate in cfs that will be protectable instream? Will the established rate vary throughout the reach(es)? Will the established rate vary during the period of use? If so, describe the amount(s) by which the established rate will vary and the location and/or time of the variance. **The rate protected is 3.72 cfs for Kenney Creek.**
12. What is the total quantity of water in acre-feet to be put instream during the term of the transaction? Will the established duty vary throughout the reach(es)? If so, describe the amount(s) by which the established duty will vary and the location of the variance. If the transaction is for more than one year, please give an annual quantity in acre-feet (show calculation). **IDWR standard for this area is 3.5 afa/a. However, this is a partial season lease so usage would be about 2.0 afa/a. Therefore, 157.8 acres X 2.0 afa/a= 315.6 acre-feet per annum.**
13. What percentage increase of the historical base flow will the acquired water provide in the primary reach during the instream period of use? **100%** What percentage of the minimum biological flow target will the acquired water provide in the primary reach during the instream period of use? **Will add about 3.72 CFS to Kenney Creek.**

BIOLOGICAL CRITERIA

14. What are the species name and ESA status (endangered, threatened) of the anadromous fish, specifically Evolutionary Significant Units (ESUs), expected to benefit by the increased flow? What life stages of the fish present will benefit from the increased flows? **Bull trout, ESA Threatened, all life stages; steelhead, ESA Threatened, all life stages historic chinook habitat that would most likely be occupied if flows and passage allowed, ESA threatened, all life stages would benefit.**

15. What other fish (i.e., Distinct Population Segment) and wildlife species are expected to benefit? How? **Westslope cutthroat, species of special concern, all life stages would benefit and redband rainbow trout all life stages, species of concern. Wildlife species including large mammals would benefit.**
- ~~16.~~ How is water quality expected to improve as a result of the transaction **Higher flows will enhance stream habitat quality and should reduce water temperature in the summer.**
17. What is the current condition of the riparian zone and stream channel in the affected reach(es)? Are there other projects planned or in effect to address degraded riparian areas or stream habitat? Include photographs of the affected reach(es), with a listing of the approximate river mile of the site. **Riparian vegetation in the affected reach is good to excellent. There is fencing on BLM land on Kenney Creek.**
18. Do the riparian zone and stream channel have the immediate potential to create additional high quality fish and wildlife habitat with the increase in stream flow? If high quality habitat is not immediately available, what are the other limiting factors (e.g. passage, stream temperature, etc.)? **Yes.**
19. Is the stream reach fenced to create a riparian buffer? If so, what are the set-back distances from the stream? **No.**

INNOVATION CRITERIA

20. Name what tool(s) and/or strategies were used in developing this transaction? **This transaction was first discussed at the USBWP Tech Team meeting in December 2003 held in Salmon, Idaho. Project developed through collaboration with USBWP.**
21. Explain what new information has been learned by use of these tool(s) and/or strategies? **As more of these projects are done, word of mouth and public contacts result in more landowners coming forward willing to participate.**
22. What is:
- a. total cost of the water to be acquired; **\$10,681**
 - b. total amount paid to the water right holder from all funding sources; **\$9,613**
 - c. amount of landowner payment requested from the Columbia Basin WTP; **\$9,613**
 - d. estimated transaction costs related to this transaction and the portion (in \$) of these costs paid by BPA; **1,068**
 - e. total cost of the transaction (water cost and transaction costs). **\$10,681**
23. What method was used for determining the value of the water right? **Value of land to be irrigated.**
24. What incentive(s) motivated the water right holder to enter into the transaction?

Economic incentive.

MONITORING CRITERIA

25. How will the increases in flow be documented and monitored? **Stream Gauge.**
26. How will benefits to fish and/or wildlife be documented and monitored? **Photo points will show riparian habitat impacts. Aerial photos will help to monitor compliance.**
27. How will increases in water quality be documented and monitored? **Kenney Creek is not listed as water quality impaired.**

Please provide key contact information if another agency, program, or individual will be collecting and evaluating the flow, biological and water quality data)

28. Is the anticipated increase in streamflow sufficiently great to alter the physical shape of stream beds and floodplains? If so, have factors such as bank erosion, flooding, and other effects of streamflow change been taken into account for both their positive and negative impacts for fish and wildlife and related water uses? **The streambed and floodplain will not be altered. Bank erosion will not be a problem.**

WATERSHED CONTEXT

- ~~29.~~ What does the Northwest Power and Conservation Council's relevant Subbasin Plan state regarding instream flows and water transactions in the watershed? **The NWPPC Subbasin Plan for the Upper Salmon is not yet completed. However this stream is rated as high priority for flow enhancement by the USBWP.**
30. Are there other existing watershed assessments or comprehensive planning efforts under which your water transactions are being implemented? If so, please describe the assessment(s) and/or effort(s). **N/A**
31. Have regulatory instream or minimum flows been set in the watershed or are there other limitations on new appropriations (i.e., has the basin been closed to new appropriations)? **No instream or minimum flows have been established in Kenney Creek. The Lemhi River has a minimum stream flow. The IDWR Upper Salmon River Basin Plan could include recommendations for new instream flows if unallocated water is available.**
32. What kind of water resource planning efforts is ongoing in the basin, if any? What is the status of those efforts? Are those efforts attempting to address instream flows? **IDWR's Basin planning efforts are starting this year in the Upper Salmon River Basin. The Northwest Power and Conservation Council's Upper Salmon Basin plan is in progress.**

33. Are the benefits anticipated from water transactions part of or tied to other habitat improvement projects in the watershed? If so, please describe the relationship and briefly describe the other projects necessary to achieve the habitat goals. **The USBWP is doing habitat improvement projects throughout the Upper Salmon River Basin.**

KENNEY CREEK RANCH and LAND

I met with Gordon Lucas and Steve Young at the Kinney Creek Ranch and took a tour with them and discussed what they are interested in doing this year. After some discussion, they determined that they were interested in a partial year lease (after July 1) for the Kenney Creek water rights for the property east of the Lemhi Road. They want to continue to irrigate the land west of the road.

This would include all water diverted at KC-3 (74-666, 74-2247). Our records show 76.9 acres and 44.7 acres respectively for these rights. If I recall, Roxanne said there was some overlap. I calculated the value of a full-season lease on this land at \$106.59/acre. **I calculated the value of a partial-year lease at \$71.44/acre. So, if there is 121.6 acres, the lease value is \$8687.**

The other water right involved is ~~74-682~~ (the correct number is 74-15234, SES, May 26, 2004). Only part of the lands under this water right would be leased. This water is diverted at KC-2. From the adjudication map, I come up with 36.2 acres. I calculate the value of a full season lease on these lands at \$52.55/acre. **The value of a partial year lease is \$25.58/acre. So, if my acreage figure is correct, the lease value is \$926.**

The total value of the partial year lease is \$9613, or something very close to that number. In this lease, the meadow on the SE side of the Lemhi Road would continue to be irrigated. That ground is irrigated by 74-671 from L-28 on the Lemhi River.

I talked to Gordon Lucas this morning. They are willing to do this lease (even if there is some adjustment on the acreage at the per/acre figures I calculated. In order to do this lease, a weir needs to be installed at KC-2. I told Gordon to call Rick Sager to obtain a weir under the BOR/WD74 weir program. I indicated to him that the expense of installing the weir would be by the landowner. I have been unable to contact Bill Andrews. If Bill is agreeable, his water would be diverted at KC-2 also and KC-1 would not be operated this year. This lease would give us a year to work out a delivery system design with NRCS to irrigate the ranch and provide better fish passage and reconnection.

S/Bob Loucks

<u>B-Ts</u>	<u>SES</u>
15234	0.72
666	2.08
2247	0.92