RECEIVED
MAR 17 2023
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 711

This is to certify that:

FLYING SQUIRREL PRODUCTIONS
LLC
PO BOX 4938
KETCHUM, ID 83340-4940

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 No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-22019	3/29/1961	GROUND WATER	0.15	27.2	7.8	0.02	3.5
Combined Rental Totals			**0.15**	**27.2**	**7.8**	**0.02**	**3.5**

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2025. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2023, whichever occurs last.

Annual Rental Fee:

2023 - 2025: $625.60 annually

The full fee for the rental of the above-described right(s) is $625.60 per year for years 2023 - 2025. The rental fee includes an administrative fee of $62.56 per year for years 2023 - 2025.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate/Acre (CFS/AC)	Volume/Acre (AF/AC)
IRRIGATION	0.15	26.3	7.5	0.02	3.5
Combined Total	0.15	26.3	7.5	0.02	3.5

**** The authorized water usage reflects a reduction from the water right elements rented, to account for a rate of 0.019 cfs/ac allowed on the water right.***

Detailed water right conditions are attached.

SCANNED
MAR 23 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 711

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:

Signature of Renter _____ Date 3/14/23

JONATHAN DEELEY PRESIDENT
Printed Name _____ Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By _____ Date 3/21/23
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Rental approved by IDWR _____ Date 3/21/23

SCANNED
MAR 23 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 711

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NENE Sec. 13, Twp 01N, Rge 18E, BLAINE County

BENEFICIAL USE	DIVERSION RATE	VOLUME
IRRIGATION	0.15 CFS	26.3 AF

SEASON OF USE

Water Right No.	From	To
37-22019	4/15	10/31

RENTERS PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01n	18e	13	4.5			3.0													7.5

Total Acres: 7.5

RENTAL AGREEMENT CONDITIONS OF ACCEPTANCE

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 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. 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.
5. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
6. 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.
7. Renter acknowledges and agrees that the Director may terminate authorization for the use of a water right based on a water right's priority date.
8. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
10. 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.

SCANNED
MAR 2 3 2023

WATER SUPPLY BANK RENTAL AGREEMENT No. 711

11. Use of water under this right may 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.
12. This rental agreement does not authorize the construction of a well.

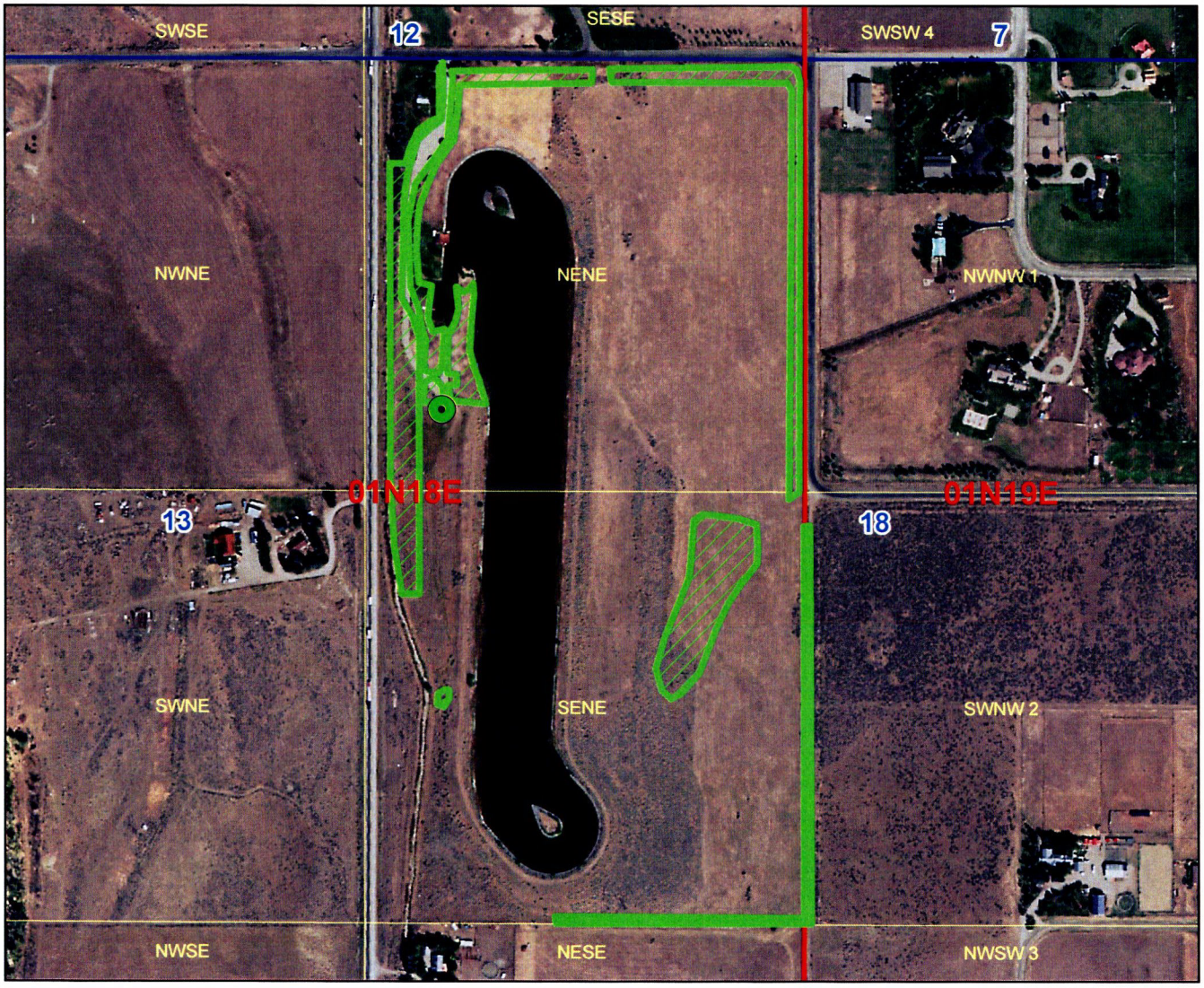
SCANNED
MAR 2 3 2023

Idaho Water Resource Board

Attachment to Water Supply Bank Rental Agreement No. 711

Effective until December 31, 2025

This map depicts the rental place of use pursuant to the rental agreement and is attached to the agreement solely for illustrative purposes.



Legend

- Authorized Rental Point of Diversion
- Authorized Rental Place of Use
- Township/Range
- Sections
- QQ

N

0 500 1,000 1,500 Feet

SCANNED
MAR 2 3 2023

Form 42-1761-2 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO RENT WATER FROM THE BOARD'S WATER SUPPLY BANK

RECEIVED
AUG 10 2022
DEPARTMENT OF WATER RESOURCES

Applicant Name: Flying Squirrel Productions LLC

Is this application being submitted with a lease application as a lease/rental package? Yes ☐ No ☑
If yes, specify companion water rights in Section 4

This application must be completed according to the minimum requirement checklist below. This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Rental applications should be submitted well in advance of the desired start date for the use of rental water. Rental applications may be processed as early as November 1 of the year prior to the intended use of rental water. Any rental application received on or before November 1 for use in the next year will be assigned a received date of November 1. Rental applications submitted more than one year in advance of the proposed start date for the use of rental water will not be accepted and will be returned to applicants. Rental applications may be returned to applicants if the desired start date for the use of rental water cannot be accommodated by the Water Supply Bank. Rental requests will not be accepted once the rental season of use period has concluded.

One rental application per beneficial use of water. For multiple beneficial uses of water, separate rental requests should be submitted for each unique beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources.

For additional instructions on completing a rental application, visit the Bank's website at http://idwr.idaho.gov/water_supply_bank.

MINIMUM REQUIREMENT CHECKLIST			
Check All Items as Either Attached (Yes) or Not Applicable (N/A)			
		Yes	
		☑	Completed *Application to Rent Water from the Board's Water Supply Bank*
		☑	Confirmation that this form has been printed single sided, per requirement of the Water Supply Bank
Attachment	**N/A**	**Yes**	
2		☑	A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request
3A	☐	☑	Detailed information on a proposed use of rental water
3F	☑	☐	Authorization from the owner/operator of the rental point(s) of diversion
3H	☑	☐	Water modeling to account for the impacts of the rental request
3J	☑	☐	Documents justifying a rate of flow greater than 0.02 cfs/acre
3K	☑	☐	Authorization from the owner/operator of the property at the proposed rental place(s) of use
4B	☐	☑	Explanation of how the rental water will sufficiently accomplish your rental purposes
4C	☑	☐	Explanation of consumptive use amounts for water rights experiencing a change in nature of use

Department Use Only – Proposed Water Right(s)

2420

SCANNED
MAR 23 2023

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant: Flying Squirrel Productions LLC

Mailing Address: P.O. Box 4938 Ketchum, ID 83340
(Street / City / State / Zip Code)

Email Address: jneeley@briodest.com Phone Number: 208-720-6913

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☐ No ☐
If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative: Zach Latham Professional Title: Hydrologist

Organization: Brockway Engineering PLLC Relationship to Applicant: Consultant

Mailing Address: 2016 Washington St. N Suite #4 Twin Falls, ID 83333

Email Address: zach.latham@brockwayeng.com Phone Number: 208-736-8543

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use and water diversion, delivery and distribution systems. Make sure the rental place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to irrigate. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe why you desire to rent water and provide a detailed description of your proposed use. If the proposed use is not for irrigation, describe in detail how you determined the amount of rental water required. If the space below is insufficient, attach additional sheets as required and label them **Attachment 3A**:

Applicant desires to irrigate 7.5 acres within subdivision from any available ground water irrigation water right, see attached map.

B. Enter the desired and/or minimum rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Desired Acres (if applicable)
0.15 CFS	26.3 AF	0.15 CFS	26.3 AF	7.5 AC

* ***Sometimes water rights provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.***

C. This section must be completed in full. Enter the proposed start date and latest possible start date for using rental water as well as the number of years you would like to rent water. The latest possible start is the latest possible date by which you would be willing to pay for a rental and be able to benefit from utilizing rental water.

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)					**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
		☐ 1	☐ 2	☐ 3	☐ 4	☑ 5		
5/1/23	6/1/23						☑ Process application as soon as possible	☐ Return application to applicant

* ***The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.***

** ***Per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right. Water Supply Bank rental applicants are not authorized to utilize rental water prior to the execution of an approved rental agreement. Rental requests may be returned to applicants if no water is available from the Bank to fulfill a rental request.***

SCANNED
MAR 2 3 2023

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

D. Describe your water distribution system and how rental water will be delivered from the point(s) of diversion (POD) to the proposed place of use (POU):
Existing well will be used to irrigate place of use via burried pressurized irrigation system.

E. Describe the physical type (pump, headgate, etc.) and location of the POD from which rental water is proposed to be diverted:

POD Description	Water Source	Other Water Rights Diverted from this POD
New Well	Ground Water	37-21842

If the POD(s) above are located where water is turned into a canal, lateral or ditch, or if they are located on your property but are serviced by water that is delivered via a canal, lateral or ditch, your rental request must include documented authorization from all relevant canal companies, irrigation districts and/or water delivery entities, confirming that they consent to your diversion of water from their system.

F. Has documented consent from all relevant water delivery entities been obtained? Yes ☐ N/A ☑
If yes, include documented consent as **Attachment 3F**.

G. Do any POD(s) identified in Question 3E divert from a water source that may require water modeling? Yes ☐ No ☑
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

H. Has water modeling been provided with your rental request? Yes ☐ N/A ☑
If yes, label modeling Attachment 3 H.
Rental applications that require modeling will be returned if modeling is not provided.

I. Specify the desired beneficial use of water and the requested season of use or number of acres required:

☑ Irrigation 7.5 (number of acres) Duration: Subject to IDWR standard seasons of use

☐ Commercial from: _____ (mm/dd) to: _____ (mm/dd)

☐ Stockwater from: _____ (mm/dd) to: _____ (mm/dd)

☐ Industrial from: _____ (mm/dd) to: _____ (mm/dd)

☐ Other: _____ from: _____ (mm/dd) to: _____ (mm/dd)

J. For irrigation uses, do you propose to divert water at a rate greater than 0.02 cfs/acre? N/A ☐ Yes ☐ No ☑
If yes, justify the rate of flow and attach any supporting documents as **Attachment 3J**. Justification may include information on soil composition, conveyance losses, crop type, irrigation systems, public access areas, etc. A rate of 0.03 cfs/acre is permissible for irrigation of 5 acres or less.
N/A.

K. Do you own the land at the proposed rental place of use (POU)? Yes ☑ No ☐
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it **Attachment 3K**.

L. List all other water rights and sources of water at the rental place of use for the same purpose, including privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company or any other water delivery entity. Explain why additional water is required:
37-510A, 37-685D. Applicant desires to irrigate 7.5 acres after existing surface water rights have been cut off on priority due to low river flows.

SCANNED
MAR 2 2 2022

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights? Yes ☐ No ☑

If yes, specify below the elements of the water rights you are requesting to rent. **If no,** continue to Question 4B.

Important Information: Diversion rates and volumes sought for rent must be proportionate to the per acre diversion rates and per acre volume limits of the water right under lease contract to the Water Supply Bank. Prior to completing this section, applicants should review all water right lease contracts and any active rental agreements to determine which elements of a water right are available to satisfy a rental request. Lease and rental documents are searchable via IDWR's website.

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany this rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request**. For leased rights featuring combined limits, rentals must be consistent with combined diversion rate, volume or acre limits. Combined limits should be listed on a row below water right numbers.

Water Right Elements Leased to Water Supply Bank					Leased totals, minus water right elements involved in active rental agreements, equals water right elements available for rent	Water Supply Bank Rental Request		
Water Right Number (leave blank if sub-total of combined limits)	Nature of Use	Diversion Rate (CFS)	Volume (AF)	Acres (AC)		Diversion Rate (CFS)	Volume (AF)	Acres (AC)
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre limits of water rights leased to the Water Supply Bank					TOTAL			
						CFS	AF	AC

**Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.*

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

N/A.

C. Does your rental request propose to change the nature of use for any water right(s) being rented? Yes ☐ No ☑

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented if you have it, as well as the new consumptive use amount for your proposed beneficial use. If space below is insufficient, attach a separate page and label it **Attachment 4C**:

N/A.

SCANNED
MAR 2 3 2023

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☑ No ☐
If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☑ No ☐
If yes, describe:
If additional water becomes available for transfer, a future permanent transfer may be contemplated.

C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☑
If yes, describe the date and location of the NOV.
N/A.

D. Additional Information
Applicant seeks to rent any available ground water irrigation right(s) for the irrigation of 7.5 acres.

DECLARATION

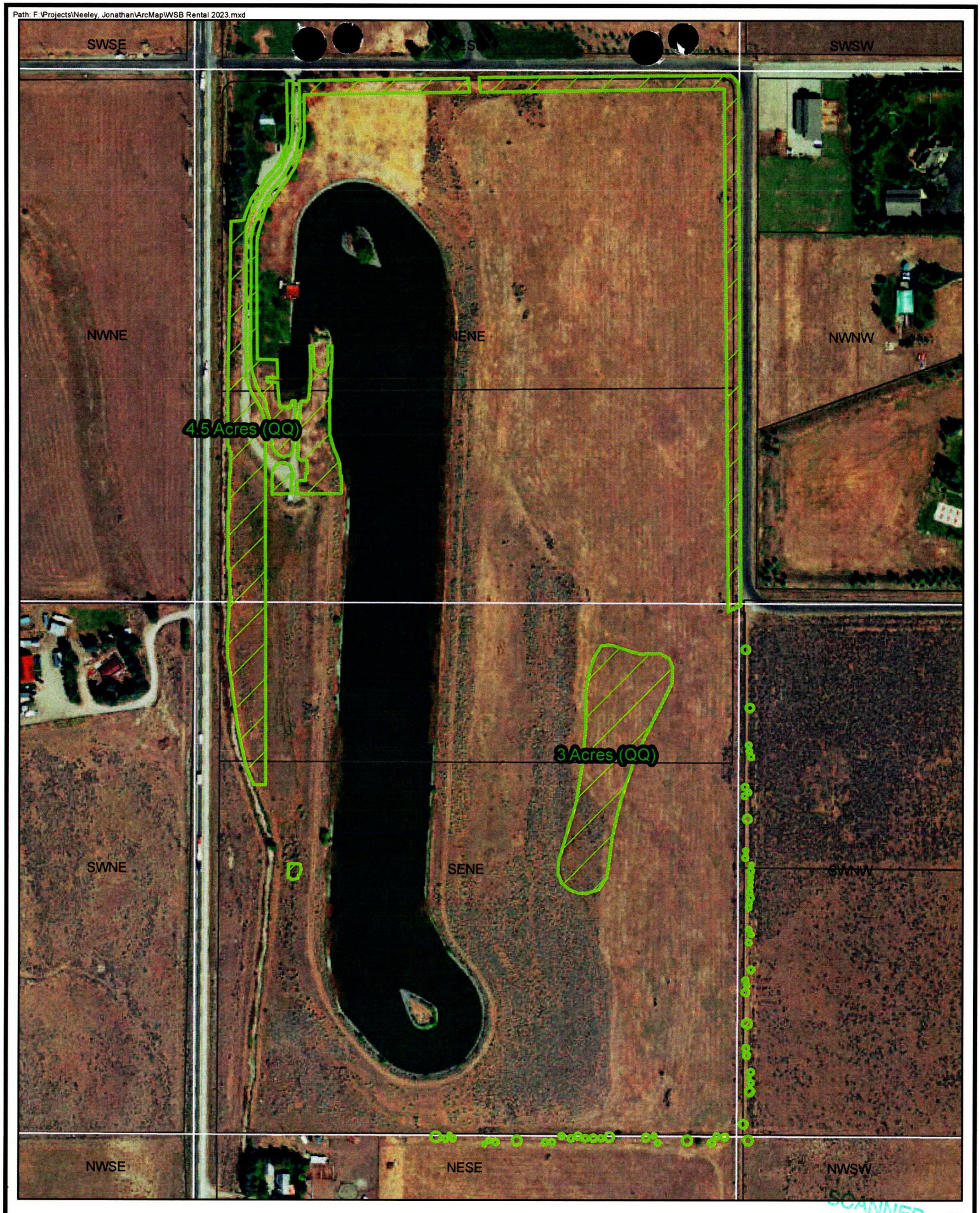
I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws. I understand that the submission of a rental application provides no guarantee for approval of a rental agreement. I also understand that, per Idaho Code 42-201, it is unlawful to divert or use water without a valid water right and that I am not authorized to utilize water as proposed in this application prior to the execution of an approved rental agreement.

Signature of Applicant	Printed Name of Applicant	Date
	JONATHAN NEELEY	8/2/22
Signature of Representative	Printed Name of Representative	Date

Mail to:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

SCANNED
MAR 2 3 2023



0 105 210 420 Feet

BROCKWAY ENGINEERING, PLLC.
JJJ - Date: 7/12/2022

Flying Squirrel Productions LLC
WSB Rental 2023-2027

NAIP 2021 AERIAL

Legend
- POD- Well
- WSB Rental- 7.5 Acres

N

SCANNED
MAR 2 3 2023

WSB Mailing Checklist for Rentals

(For use on all new rental applications)

Key: Who Completes What?
CLERICAL STAFF:
REVIEWER: SN

Received Date: 8/10/2022
Latest Start Date: 6/1/2023
Renter: Flying Squirrel Productions LLC
Rental Expiration Date 2025
Lease/Rental Package Y N

Application # 2420 Agreement # 711

Water Right	Lease Contract ID
# ~~37-8053~~	~~1218~~
# 37-22019	1273
#	
#	
#	
#	
#	
#	
#	
#	
#	
#	
#	

Applicant Authorized?	(Y) / N
Map of POU and POD	(Y) / N
POD consent?	(Y) / N
ESPA Modeling?	Y / N (NA)
Application Complete?	(Y) / N
Minimum Checklist in database?	☑
Request for additional information letter sent:	Y NA
WSB Action Request for deficiencies	☐

Comments:
Supplemental-Senior rights Irrigation

Mailings (per application)	Original	CC	Email or Address
Renter: Flying Squirrel Productions LLC	☒	☐	jneeley@briodest.com
Attorney: -NA-	☐	☐	
Consultants			
Name: Zach Latham (Brockway)	☐	☒	zach.latham@brockwayeng.com
Conveyence Entity: Wood River Valley Irrigation Dist No 45 (Ex. Irrigation Dist. of Canal Co.)	(final only)	☐	
(Ground) Water Dist: Galena GWD	(final only)	☒	galenagwd@gmail.com
Other: WD 37 (WD Snake 01, Boise, Payette, and Bear River)	(final only)	☐	
Region: Southern	(final only)	☐	
Watermaster: Sunny Healey	(final only)	☐	watermanager@wd37.org
Compliance: -NA-	(final only)	☐	

Resolving NOV? Y (N)
#

Call up Date:_____

DO NOT SCAN

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

March 22, 2023

FLYING SQUIRREL PRODUCTIONS LLC
PO BOX 4938
KETCHUM ID 83340-4940

RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 37-22019, AGREEMENT 711

Dear Renter:

Please find enclosed a receipt in the amount of **$625.60** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 27.2 acre-feet of water for irrigation of 7.5 acres during 2023. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, 90% or $563.04 of the rental fee will be paid to the lessor(s) and 10% or $62.56 will be retained by the Department to offset administrative costs for 2023.

If you have any questions, please contact this office at bank@idwr.idaho.gov or (208) 287-4800.

Sincerely,

for Water Supply Bank

Enclosures: Receipt No. C115605
Rental Agreement (copy)

c: Sascha Marston – Fiscal – *via email*
IDWR Southern Regional Office – *via email*
Brockway Engineering – *via email*

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

March 8, 2023
~~November 15, 2022~~

FLYING SQUIRREL PRODUCTIONS LLC
PO BOX 4938
KETCHUM ID 83340-4940

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK WATER RIGHT NO(S). 37-22019, AGREEMENT 711

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have 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 $625.60 per year was calculated based on the current rental rate of $23.00 per acre-foot times a diversion volume of 27.2 acre-feet.

Please send a check for $625.60 for 2023 made payable to the Idaho Department of Water Resources, **together with the signed rental agreement**, **within 14 days** so I can complete processing. An annual payment shall be received by the Department prior to the execution of this agreement and prior to January 1 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

Pursuant to the Water Supply Bank Rules, 90% or $563.04 of the rental fee will be paid to the lessor(s) and 10% or $62.56 will be retained by the Department to offset administrative costs for **2023**.

If you have any questions, please contact this office at bank@idwr.idaho.gov or (208) 287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosure

c: IDWR Front Desk
Zach Latham- Brockway Engineering LLC

MEMORANDUM FOR APPLICATION #2420

To: Water Right(s) 37-22019

From: Shilynn Novak

Date: February 16, 2023; ***updated 3/2/2023***

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

---

PURPOSE/NARRATIVE: This memo was written after watermaster and regional comment was requested by WSB processing staff for rental of Lease #1218 (water right 37-885B). The watermaster had concerns about the groundwater being administered as surface water along with additional concerns about water right administration in the Basin 37. Due to initial watermaster concerns about Lease #1218, processing staff determined the best course of action was to find another lease that was not administered as surface water and address the watermaster questions separately.

Lease #1273 (water right 37-22019) is a ground water right that is not administered as a surface water right. Lease #1273 has the most water available to rent from and does not require renting water from multiple leases to meet the needs of the applicant.

Below is the new memo for Rental Application #2420 that supersedes the January 12, 2023 memo.

Rental application 2420 was received by the Department August 10, 2022 for supplemental irrigation of 7.5 acres approximately ~~4.8~~ 2.5 miles south of the City of Bellevue. The applicant desires to irrigate 7.5 acres after existing surface water rights have been cut using ground water from a water right. The applicant proposes to use an existing well and a pressurized irrigation system to irrigate the POU.

No water rights were proposed for use. Lease 1272 was used since it is a ground water right and better meets the needs of the applicant in the limited leases available to rent in the area. This lease has the most water available for the rental and does not require renting water from multiple leases to meet the needs of the applicant. The applicant desired a lease for five years, but this lease is until the end of 2025. The ground water is also "upstream" of the rental location which reduces the impacts on other water users between the locations.

Although the application was received in fall of 2022, the desired start date is for use in May of 2023. The application was signed by Jonathan Neeley on behalf of Flying Squirrel Productions LLC (Flying Squirrel). Zach Latham of Brockway Engineering and his contact information was listed on the rental but did not indicate on the application if it was being completed by an authorized representative on behalf of the applicant.

AUTHORITY TO FILE: Jonathan Neeley signed the rental application. Mr. Neeley was listed as the "Managing Member" on an ownership changed received February 10, 2022. (Specifically the ownership for water right 37-21842.) Zach Latham of Brockway Engineering and his contact information was listed on the rental but did not indicate on the application if it was being

completed by an authorized representative on behalf of the applicant. Since Mr. Latham was the one who filed the ownership change on behalf of Flying Squirrel in early 2022 and his contact information is listed in the representative portion of the application, he will be CC'd on all correspondences with the applicant.

According to the Blaine County Assessor's website, Flying Squirrel is listed as the property owner at the rental POU and POD locations.

No concerns about the authority to file.

WATER RIGHT VALIDITY: This rental did not request a specific water right to rent but only requested a ground water right to supplement existing water rights 37-510A and 37-685D. Lease Contract 1273 is for water right 37-22019 is available for lease in the limited area.

Water right 37-22019 was decreed in 2010. An Extension of Time to Avoid Forfeiture was submitted and approved. This extended the time to resume beneficial use to 2021. A transfer was approved for this water right in 2020 which also showed the water right to be valid. The water right was placed into the WSB in 2021 until expiration end of 2025. No concerns about water right validity at this time.

INJURY TO OTHER WATER RIGHTS: This rental is only for irrigation around the property and is not for use of filling the pond or to use the pond for irrigation on the property. This is the first time water is being rented at this location.

The Lease POD is approximately 6.8 miles north/northwest of the rental POD. IDWR has recognized that surface and ground water are interconnected in the Wood River Valley. There are multiple water right PODs that exist between both locations. Although there are multiple water right PODs between both locations, water is moving downstream from the lease location to the rental location which should make impacts between locations least likely to be felt by those water right holders.

Looking at ground water rights that are approximately a half mile away, it appears that there are only five rights that may be impacted, and the nearest right is one that also belongs to the rental applicant. The other rights are approximately 0.02 miles away but should not be impacted due to the small amount of water which will supplement the surface water irrigation for water rights 37-510A and 37-685D.

Pumping ground water under this rental may result in a depletion of water in the Big Wood River. ~~To avoid injury to the minimum stream flow rights and to reduce impacts on the Big Wood River, a condition will be added to the rental agreement to limit the ground water diversions to only those times when more than 189 cfs is flowing in the Big Wood River, as measured at the Hailey Gauge.~~ ***This condition was dropped during supervisor review as there was no reason to curtail this rental when curtailment would not provide water to the end point for water rights 37-7919 and 37-8307. No request for comment was sent after this update.***

Both the rental and lease locations fall within the Big Wood River Ground Water Management Area. This rental does not appear to be affected by the BWRGWMA Moratorium Order because WSB as rights that were established and are not new. This rental falls within Water District 37 which regulates both surface and ground water within the water district boundaries. Both the rental and lease locations are in the Galena Ground Water District. The watermaster will be

contacted to voice any concerns of injury to other water rights in the area. Review staff has no immediate concerns.

ENLARGEMENT OF USE: Water right 37-22019 is an irrigation water right that has a duty of water of 0.019 cfs/ac and 3.5 af/ac. To avoid enlargement, this duty of water will be carried to the rental agreement by keeping the requested minimum rate and adjusting the rented volume and acres. See table below:

	Acres	CFS	AF
	7.8	0.15	27.2
Use limited to:	**7.5**	**0.15**	**26.3**

A portion of water rights 37-510A and 37-685D (at rental location) are currently leased to the water supply bank and is on Lease Contract 836. This lease is for 53.3 acres of surface water irrigation of the 57.4 acres allowed on the water right. The rental will use ground water for irrigation of some acreage that is leased to the WSB. There are no enlargement concerns with this situation because the acres leased to the WSB have not been used at the POU location and is for surface water.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District #37. Any additional comments from the Southern Regional Office and the watermaster will be added to this section. ***No comments were received from region and watermaster by 3/2/2023.***

[redacted] [redacted]

Novak, Shilynn

From: Novak, Shilynn
Sent: Friday, February 17, 2023 10:08 AM
To: watermanager; Skinner, Corey
Subject: WSB Rental #2420/#711- New Request for Comment
Attachments: Rental Review Memo - update.docx; 711 Rental Agreement DRAFT.docx; Rental move map.pdf; Rental App 2420.pdf; 37-22019 Proof Report.docx

Hello,

In the interest of time and because it made more sense to use a right that was not administered as a surface water right, a different lease was used for the Flying Squirrel rental. I plan to address the ground water administered as surface water questions/concerns from Sunny and Ryan separately. In the meantime…

This rental requests ground water for irrigation of 7.5 acres when its other two surface water rights are curtailed. I've included the proof report for 37-22019, the move map showing the lease and rental locations, the updated review memo, and the DRAFT rental agreement. The IDWR website should be working better now, but please let me know if you would like any additional information.

Please let me know in 7 days if you have any comments, questions, or concerns otherwise I will proceed with processing this rental.

Thank you,
Shilynn

IDAHO DEPARTMENT OF WATER RESOURCES

Shilynn Novak
Water Resource Agent, Sr. | Water Rights Section
322 E Front St Ste 648 | Boise ID 83702-7371
Direct: 208.287.4915 | Front Desk: 208.287.4800

MEMORANDUM FOR APPLICATION #2420

To: Water Right(s) 37-22019

From: Shilynn Novak

Date: February 16, 2023

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

---

PURPOSE/NARRATIVE: This memo was written after watermaster and regional comment was requested by WSB processing staff for rental of Lease #1218 (water right 37-885B). The watermaster had concerns about the groundwater being administered as surface water along with additional concerns about water right administration in the Basin 37. Due to initial watermaster concerns about Lease #1218, processing staff determined the best course of action was to find another lease that was not administered as surface water and address the watermaster questions separately.

Lease #1273 (water right 37-22019) is a ground water right that is not administered as a surface water right. Lease #1273 has the most water available to rent from and does not require renting water from multiple leases to meet the needs of the applicant.

Below is the new memo for Rental Application #2420 that supersedes the January 12, 2023 memo.

Rental application 2420 was received by the Department August 10, 2022 for supplemental irrigation of 7.5 acres approximately ~~4.8~~ 2.5 miles south of the City of Bellevue. The applicant desires to irrigate 7.5 acres after existing surface water rights have been cut using ground water from a water right. The applicant proposes to use an existing well and a pressurized irrigation system to irrigate the POU.

No water rights were proposed for use. Lease 1272 was used since it is a ground water right and better meets the needs of the applicant in the limited leases available to rent in the area. This lease has the most water available for the rental and does not require renting water from multiple leases to meet the needs of the applicant. The applicant desired a lease for five years, but this lease is until the end of 2025. The ground water is also "upstream" of the rental location which reduces the impacts on other water users between the locations.

Although the application was received in fall of 2022, the desired start date is for use in May of 2023. The application was signed by Jonathan Neeley on behalf of Flying Squirrel Productions LLC (Flying Squirrel). Zach Latham of Brockway Engineering and his contact information was listed on the rental but did not indicate on the application if it was being completed by an authorized representative on behalf of the applicant.

AUTHORITY TO FILE: Jonathan Neeley signed the rental application. Mr. Neeley was listed as the "Managing Member" on an ownership changed received February 10, 2022. (Specifically the ownership for water right 37-21842.) Zach Latham of Brockway Engineering and his contact information was listed on the rental but did not indicate on the application if it was being

completed by an authorized representative on behalf of the applicant. Since Mr. Latham was the one who filed the ownership change on behalf of Flying Squirrel in early 2022 and his contact information is listed in the representative portion of the application, he will be CC'd on all correspondences with the applicant.

According to the Blaine County Assessor's website, Flying Squirrel is listed as the property owner at the rental POU and POD locations.

No concerns about the authority to file.

WATER RIGHT VALIDITY: This rental did not request a specific water right to rent but only requested a ground water right to supplement existing water rights 37-510A and 37-685D. Lease Contract 1273 is for water right 37-22019 is available for lease in the limited area.

Water right 37-22019 was decreed in 2010. An Extension of Time to Avoid Forfeiture was submitted and approved. This extended the time to resume beneficial use to 2021. A transfer was approved for this water right in 2020 which also showed the water right to be valid. The water right was placed into the WSB in 2021 until expiration end of 2025. No concerns about water right validity at this time.

INJURY TO OTHER WATER RIGHTS: This rental is only for irrigation around the property and is not for use of filling the pond or to use the pond for irrigation on the property. This is the first time water is being rented at this location.

The Lease POD is approximately 6.8 miles north/northwest of the rental POD. IDWR has recognized that surface and ground water are interconnected in the Wood River Valley. There are multiple water right PODs that exist between both locations. Although there are multiple water right PODs between both locations, water is moving downstream from the lease location to the rental location which should make impacts between locations least likely to be felt by those water right holders.

Looking at ground water rights that are approximately a half mile away, it appears that there are only five rights that may be impacted, and the nearest right is one that also belongs to the rental applicant. The other rights are approximately 0.02 miles away but should not be impacted due to the small amount of water which will supplement the surface water irrigation for water rights 37-510A and 37-685D.

Pumping ground water under this rental may result in a depletion of water in the Big Wood River. To avoid injury to the minimum stream flow rights and to reduce impacts on the Big Wood River, a condition will be added to the rental agreement to limit the ground water diversions to only those times when more than 189 cfs is flowing in the Big Wood River, as measured at the Hailey Gauge.

Both the rental and lease locations fall within the Big Wood River Ground Water Management Area. This rental does not appear to be affected by the BWRGWMA Moratorium Order because WSB as rights that were established and are not new. This rental falls within Water District 37 which regulates both surface and ground water within the water district boundaries. Both the rental and lease locations are in the Galena Ground Water District. The watermaster will be contacted to voice any concerns of injury to other water rights in the area. Review staff has no immediate concerns.

ENLARGEMENT OF USE: Water right 37-22019 is an irrigation water right that has a duty of water of 0.019 cfs/ac and 3.5 af/ac. To avoid enlargement, this duty of water will be carried to the rental agreement by keeping the requested minimum rate and adjusting the rented volume and acres. See table below:

	Acres	CFS	AF
	7.8	0.15	27.2
Use limited to:	**7.5**	**0.15**	**26.3**

A portion of water rights 37-510A and 37-685D (at rental location) are currently leased to the water supply bank and is on Lease Contract 836. This lease is for 53.3 acres of surface water irrigation of the 57.4 acres allowed on the water right. The rental will use ground water for irrigation of some acreage that is leased to the WSB. There are no enlargement concerns with this situation because the acres leased to the WSB have not been used at the POU location and is for surface water.

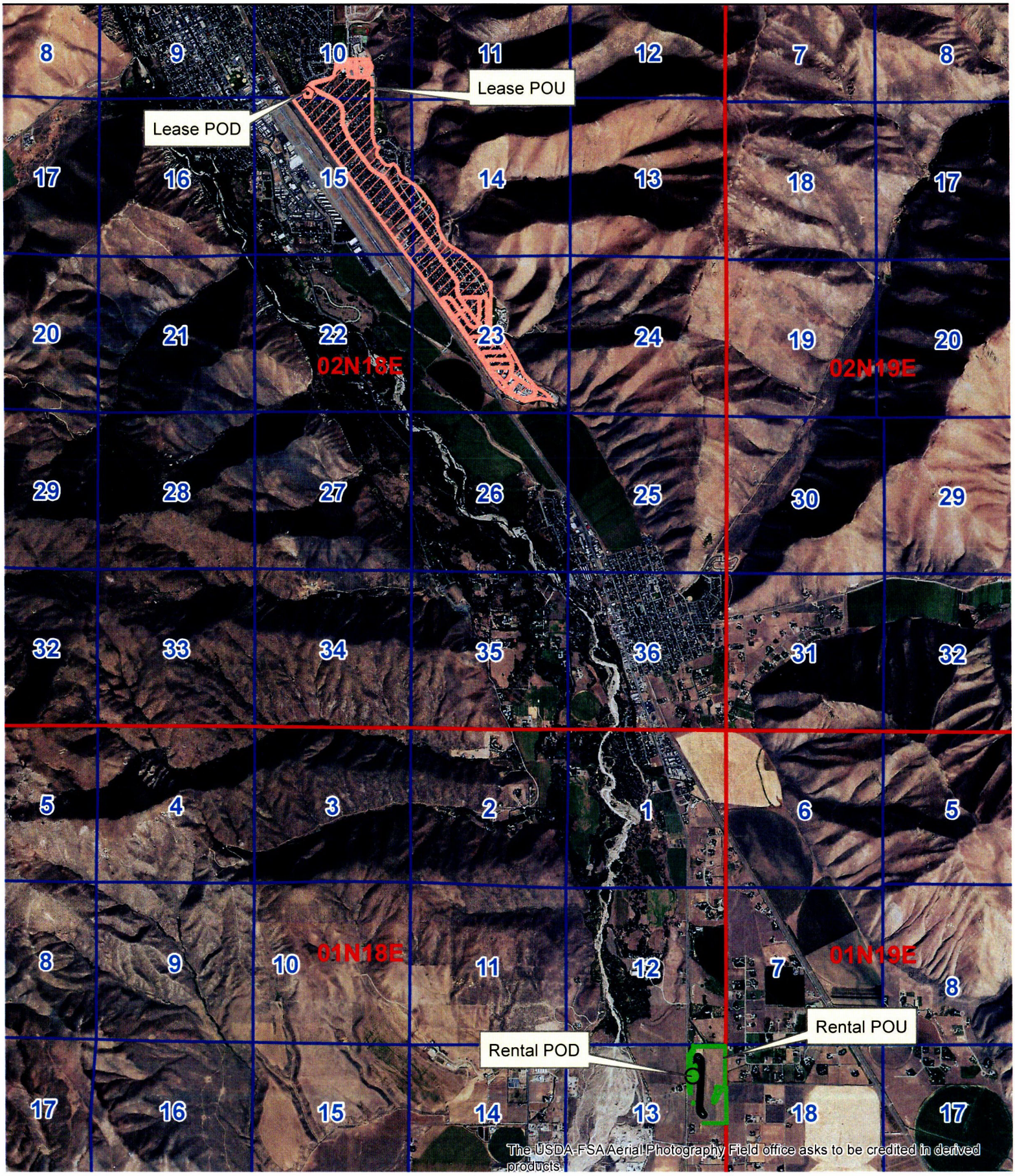
LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District #37. Any additional comments from the Southern Regional Office and the watermaster will be added to this section.

Rental Move Map

Lease #1273 to Rental #2420



Novak, Shilynn

From: watermanager <watermanager@wd37.org>
Sent: Wednesday, January 18, 2023 4:23 PM
To: Novak, Shilynn
Cc: Ryan Fuchs
Subject: RE: Request for Comment - WSB Rental App 2420

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: **This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Good afternoon Shilynn,

Thank you for your thorough review and opportunity to comment. I've included a mix of comments and questions below with suggested conditions of approval at the end. I will try to answer my questions through research, but any additional education is appreciated. Please let me know if you would like to discuss any of the items listed. I've cc'd assistant watermaster Ryan Fuchs for his consideration and information.

Thank you,

Sunny Healey
Water District 37
208-886-2451

Thoughts:
Concern, especially the second part: 1. The river moves away from a headgate, making it difficult to maintain the diversion, which initiates a transfer of the river right to groundwater but maintains the priority date of the surface water right. 2. Then we transfer the 'transferred river diversion' around the valley for groundwater pumping. Should we be doing this? To what extent? It seems to make more sense for properties closer to the river. Are there any provisions that favor groundwater leases to groundwater rentals vs 'surface water transferred to groundwater' to groundwater rentals? Will they be treated equally in the future?

Questions, concerns, considerations, suggestions:
Concern for the general practice of transferring ground water rights, that originate from surface water with senior surface water right priorities, to ground water - for ground water pumping at distances from the river (aquifer locations) not intended in the original transfer (T4480).

If the water right can be transferred via rental to a ground water pumping location downstream of the original diversion point, could it also be rented at a location upstream?

Will conditions of the BWRGWMA Management Plan apply? Should they?

Does use of this right in this rental need to be mitigated under the 5/17/22 GW moratorium?

Is the well at the rental location in the confined or unconfined aquifer?

Adding an irrigation component of 7.5 acres to the rental POD (location of 37-21842) will require creation of a WMIS point, installation of a measuring device, and addition of a new diversion point for administration.

I believe the leased POD is at WMIS 1003365. Is this correct? A new measuring device may be required.

If application is approved, the following conditions (or similar conditions) are suggested:

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department, to the manufacturer's specifications, and in a manner that will provide the watermaster suitable control of the diversions.

Use of water under Right No. 37-885B is limited to those times when water is available to fill the right at the original point of diversion from the Big Wood River within the NWSE, S26, T02N, R18E, as determined by the watermaster.

Suggested condition or other mitigation solution (if considering the May 17th, Big Wood River Ground Water Moratorium and to be consistent with similar water rights i.e. condition of approval #8 in water right 37-352B):
An equivalent amount of surface water in the Big Wood River shall remain undelivered and allowed to sink to mitigate the use of groundwater under this right.

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Tuesday, January 17, 2023 3:54 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; watermanager <watermanager@wd37.org>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: RE: Request for Comment - WSB Rental App 2420

Good afternoon,

Due to an unexpected obstruction on page 2 of the rental app, I've attached a new scan of the rental application as well as the other scanned documents. Please provide any comments to this rental by end of day Thursday (Jan 19).

My apologies and I hope everyone is having a good day. (And a good chuckle at this point.)

Sincerely,
Shilynn

Shilynn Novak
Water Resource Agent, Sr. | Water Rights Section
322 E Front St Ste 648 | Boise ID 83702-7371
Direct: 208.287.4915 | Front Desk: 208.287.4800
IDAHO DEPARTMENT OF WATER RESOURCES

From: Novak, Shilynn
Sent: Thursday, January 12, 2023 4:36 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; watermanager@wd37.org
Cc: Bank <Bank@idwr.idaho.gov>
Subject: Request for Comment - WSB Rental App 2420

Hello,

I am seeking comment for Rental App 2420. This rental requests ground water for irrigation of 7.5 acres when its other two surface water rights are curtailed. I've included the Move Map showing the lease and rental locations as well as a review memo. I've also attached proof reports of the water right that is leased to the Bank (37-885B) and proof reports of the two surface water rights at the rental location (37-510A and 37-685D) since the IDWR website is experiencing document search issues. Attached is the scanned application and additional documents in the WSB file.

Please let me know in 7 days if you have any comments, questions, or concerns otherwise I will proceed with processing this rental.

Thank you,

Shilynn Novak

Water Resource Agent, Sr. | Water Rights Section
Idaho Dept. of Water Resources
322 E Front St Ste 648 | Boise ID 83702-7371
Phone: (208) 287-4915

Novak, Shilynn

From: Novak, Shilynn
Sent: Thursday, January 12, 2023 4:36 PM
To: Skinner, Corey; watermanager@wd37.org
Cc: Bank
Subject: Request for Comment - WSB Rental App 2420
Attachments: MoveMap.pdf; Rental Review Memo #2420.docx; 37-510A and 37-685D Proof Reports.docx; 37-885B Proof Report.docx; Additional File Docs.pdf; Rental App 2420.pdf

Hello,

I am seeking comment for Rental App 2420. This rental requests ground water for irrigation of 7.5 acres when its other two surface water rights are curtailed. I've included the Move Map showing the lease and rental locations as well as a review memo. I've also attached proof reports of the water right that is leased to the Bank (37-885B) and proof reports of the two surface water rights at the rental location (37-510A and 37-685D) since the IDWR website is experiencing document search issues. Attached is the scanned application and additional documents in the WSB file.

Please let me know in 7 days if you have any comments, questions, or concerns otherwise I will proceed with processing this rental.

Thank you,

Shilynn Novak

Water Resource Agent, Sr. | Water Rights Section
Idaho Dept. of Water Resources
322 E Front St Ste 648 | Boise ID 83702-7371
Phone: (208) 287-4915

MEMORANDUM FOR APPLICATION #2420

To: Water Right(s) 37-885B

From: Shilynn Novak

Date: January 12, 2023

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

---

PURPOSE/NARRATIVE: Rental application 2420 was received by the Department August 10, 2022 for supplemental irrigation of 7.5 acres approximately 4.8 miles south of the City of Bellevue. The applicant desires to irrigate 7.5 acres using ground water from a water right with a more senior priority date. The applicant proposes to use an existing well and a pressurized irrigation system to irrigate the POU.

No water rights were proposed for use. Lease 1218 was used since it is a ground water right and has a more senior priority, although use is dependent on levels of the Big Wood River. The applicant desired a lease for five years, but his lease is until the end of 2024. There are limited ground water leases that are less likely to be affected by curtailments in the area and this lease was one that met most of the desired requests by the applicant.

Although the application was received in fall of 2022, the desired start date is for use in May of 2023. The application was signed by Jonathan Neeley on behalf of Flying Squirrel Productions LLC (Flying Squirrel). Zach Latham of Brockway Engineering and his contact information was listed on the rental but did not indicate on the application if it was being completed by an authorized representative on behalf of the applicant.

AUTHORITY TO FILE: Jonathan Neeley signed the rental application. Mr. Neeley was listed as the "Managing Member" on an ownership changed received February 10, 2022. (Specifically the ownership for water right 37-21842.) Zach Latham of Brockway Engineering and his contact information was listed on the rental but did not indicate on the application if it was being completed by an authorized representative on behalf of the applicant. Since Mr. Latham was the one who filed the ownership change on behalf of Flying Squirrel in early 2022 and his contact information is listed in the representative portion of the application, he will be CC'd on all correspondences with the applicant.

According to the Blaine County Assessor's website, Flying Squirrel is listed as the property owner at the rental POU and POD locations.

No concerns about the authority to file.

WATER RIGHT VALIDITY: This rental did not request a specific water right to rent but only requested a ground water right to supplement existing water rights 37-510A and 37-685D. Lease Contract 1218 is for water right 37-885B is available for lease in the limited area.

The two existing rights that will be supplemented have 10/15/1884 priority dates while the 37-885B has a priority date of 7/1/1883. There is always the possibility that the rented right will be curtailed but it is a more senior water right than the other two AND is currently available to rent from the WSB.

The right was decreed in 2010 and was placed into the WSB in 2014 where it has been since. Water was rented at this location for the irrigation of 17 acres under Rental Agreement 178 (RA

178). Since there is irrigation occurring at the lease location through a separate approved rental, it is assumed that the applicant is complying with their lease contract. There is no WMIS data available, but the watermaster will be sent a request for comment to see if there are any concerns. Review staff has no immediate concerns.

INJURY TO OTHER WATER RIGHTS: This rental falls within Water District 37 which regulates both surface and ground water within the water district boundaries. This rental does not require ESPA modeling because it is outside of the modeling area and ESPA. Both the rental and lease locations are in the Galena Ground Water District. Both the rental and lease locations fall within the Big Wood River Ground Water Management Area, but this should not affect the ability to complete this rental.

This rental is only for irrigation around the property and is not for use of filling the pond or to use the pond for irrigation on the property. This is the first time water is being rented at this location.

The Lease POD is approximately 3.7 miles north/northeast of the rental POD. There are multiple water right PODs that exist between both locations. Although there are multiple water right PODs between both locations, both surface water and ground water rights are regulated by the watermaster. The curtailment and delivery by the watermaster would help ensure there are no concerns about impact on the other water rights between both locations.

The watermaster will be contacted to voice any concerns of injury to other water rights in the area. Review staff has no immediate concerns.

ENLARGEMENT OF USE: 37-885B lists a condition stating that the use of the right is limited to time when water is available to fill the right at the original POD from the Big Wood River as determined by the watermaster. This condition should carry over to the rental agreement.

A portion of water rights 37-510A and 37-685D are currently leased to the water supply bank and is on Lease Contract 836. This lease is for 53.3 acres of surface water irrigation of the 57.4 acres allowed on the water right. The rental will use ground water for irrigation of some acreage that is leased to the WSB. There are no enlargement concerns because the acres leased to the WSB have not been used at the POU location and is for surface water.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District #37. Any additional comments from the Southern Regional Office and the watermaster will be added to this section.

Move Map

Rental App 2420; Lease Contract 1218

