

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 714

This is to certify that:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE, ID 83720-0098

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)
75-4199	5/1/1930	BIG HAT CREEK, Tributary to HAT CREEK	0.47	43.05	12.3	0.038	3.5
75-4200	5/1/1930	HAT CREEK, Tributary to SALMON RIVER	1.28	86.45	24.7	0.052	3.50
75-2137	1/11/1960	BIG HAT CREEK, Tributary to HAT CREEK HAT CREEK, Tributary to SALMON RIVER	0.76	93.45	26.7	0.028	3.5
Combined Limit Rental Totals			2.51	222.95	63.7	0.039	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, 2027. 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 - 2027: \$512.79 annually

The rental fee is an administrative fee of \$512.79 per year for years 2023 - 2027. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 75-4199, 75-4200, 75-2137.

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)
MINIMUM STREAM FLOW MAINTENANCE	1.79	159
Combined Total	1.79	159

** The authorized water usage reflects a diversion volume limited to the total estimated consumptive use volume associated with the irrigation of 63.7 acres at a consumptive use rate of 2.5 af/acre. The maximum continuous diversion rate is limited to 0.38 CFS per day under this rental and reflects the maximum annual rental diversion volume applied continuously throughout the rental season of use.*

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 714

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:

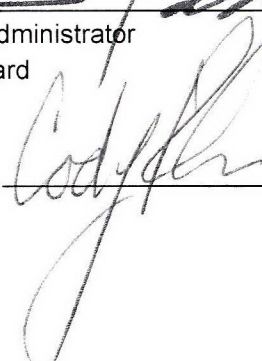
 9/6/2023
Signature of Renter Date

Brian Patton, Executive Officer
Printed Name IDAHO WATER RESOURCE BOARD 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  9/7/23
BRIAN PATTON, Acting Administrator Date
Idaho Water Resource Board

Rental approved by IDWR  9-6-23
Date

WATER SUPPLY BANK RENTAL AGREEMENT No. 714

WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

HAT CREEK (Ending) L2(SENENW) Sec. 20, Twp 17N, Rge 21E, LEMHI County

BENEFICIAL USE

MINIMUM STREAM FLOW

DIVERSION RATE

1.79 CFS

VOLUME

159 AF

The maximum continuous diversion rate is limited to 0.38 CFS per day

SEASON OF USE

From	To
4/1	10/31

RENTERS PLACE OF USE: MINIMUM STREAM FLOW

The place of use for this rental is the reach above the point of quantification for Water Right 75-14189. The quantification point is located at the point of diversion described above in Sec. 20, Twp 17N, Rge 21E.

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. There are no diversions associated with this rental. The quantification point for this instream flow rental is at the above ending point.
10. The extent of the beneficial use of water authorized under this rental is limited to the amount necessary to satisfy and maintain the Minimum Stream Flow Right No. 75-14189 on Hat Creek. Upon finding and order of the Director, the renter may be required to install and maintain gaging stations on the Salmon River at or near the original point(s) of diversion of the leased right(s) to ensure measurement and maintenance of the relevant minimum stream flows.
11. Use of water under this rental shall be non-consumptive.

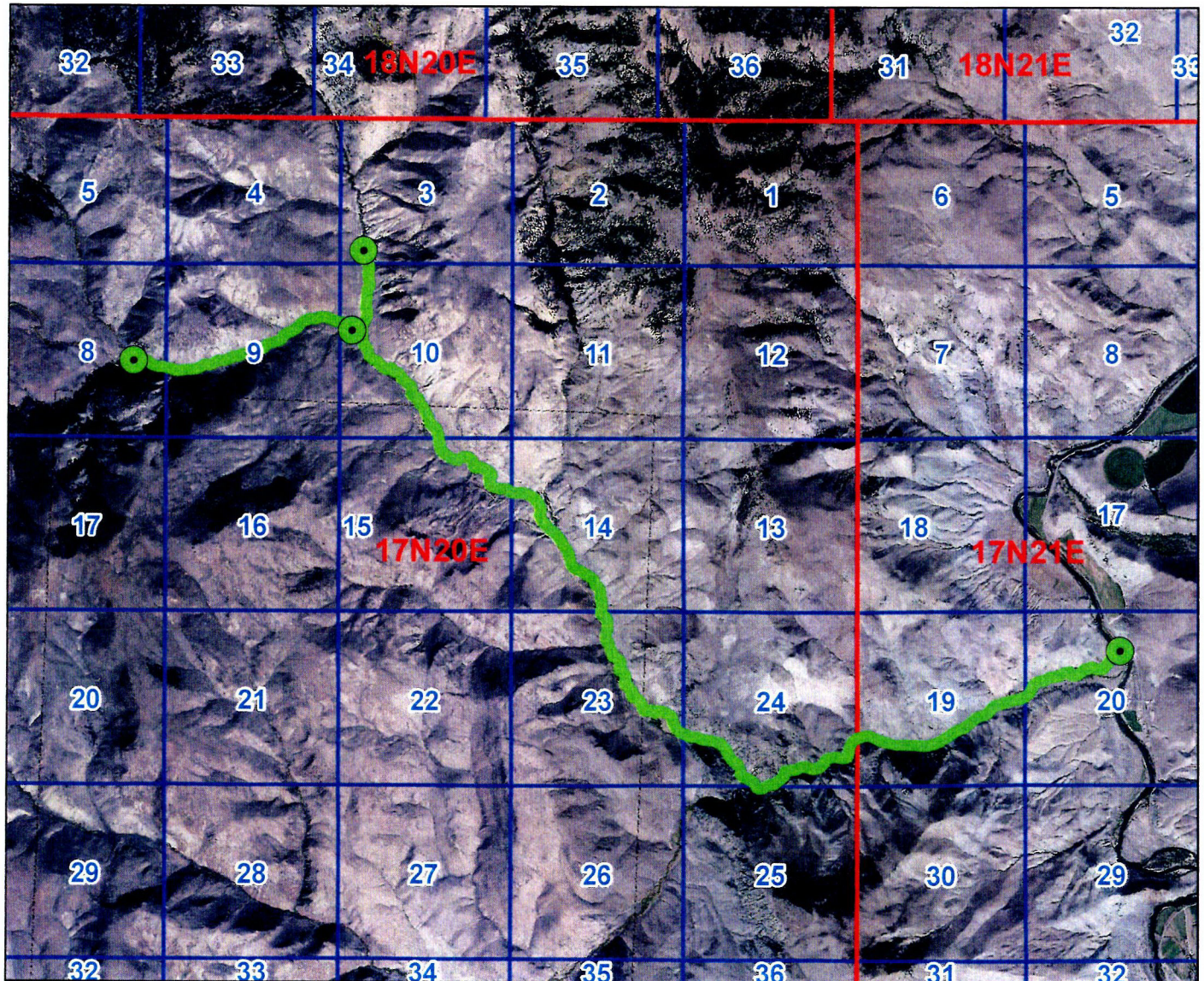
WATER SUPPLY BANK RENTAL AGREEMENT No. 714

12. Use of water under this rental is limited to those times when water is in priority and available under leased Right Nos 75-2137, 75-4199, & 75-4200 at the beginning points described above.
13. The water rented under this agreement is appurtenant to irrigation of 63.7 acres.
14. Use of water under this agreement 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. 170.
15. Use of water under this rental agreement shall be junior and subordinate to all uses of water with priority dates senior to April 1, 2005 diverting from tributaries to the reach of Alturas Lake Creek between the historical points of diversion and the point of diversion for this rental agreement.

Attachment to Water Supply Bank Rental Agreement No. 714

Effective until December 31, 2027

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



Legend

-  Water Supply Bank Rental POD
-  Water Supply Bank Rental POU
-  Township/Range
-  Sections



0 1 2 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

NOV 08 2022

DEPARTMENT OF
WATER RESOURCESApplicant Name: Idaho Water Resource Board

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)

75-2137

75-4200

75-4199

2502

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Idaho Water Resource Board

Mailing Address 322 East Front Street, PO Box 4800 Boise ID 83720-4800
Street City State Zip Code
Email Address _____ Phone Number 208.287.4800

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 Brian Patton Professional Title Planning & Projects Bureau Chief
Organization Idaho Department of Water Resources Relationship to Applicant Executive Director
Mailing Address 322 East Front Street, PO Box 4800, Boise, ID 83720-4800
Email Address _____ Phone Number 208-287-4800

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**:

The rental of this water is intended to supply flow to the existing Hat Creek Minimum Stream Flow water right, 75-14189. It will also restore the natural flow in Big Hat Creek, improving ESA-listed bull trout habitat in that tributary to Hat Creek.

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)
2.4 CFS	222.95 AF	2.4 CFS	AF	63.7 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?	
4/15/2023	6/01/2023	☐ 1	☐ 2	☐ 3	☐ 4	☒ 5	☒ 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.

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):

Water will remain instream

- 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
75-2137	Big Hat Creek	75-4200
75-4199	Big Hat Creek	N/A
75-4200	Hat Creek	75-2137

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 _____ (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: Instream Flow from: 04/01 (mm/dd) to: 10/31 (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:

Water is for instream use only.

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)
75-2137	Irrigation	0.76	93.5	26.7		0.73	93.5	
75-4199	Irrigation	0.47	43.1	12.3		0.47	43.1	
75-4200	Irrigation	1.28	86.5	24.7		1.28	86.5	
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	2.51	223.1	
						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**:

This rental proposes renting the full standard head gate requirement of 3.5 AF/acre at the original POD's and delivering the standard consumptive use volume of 2.5 AF/acre to the Hat Creek MSF.

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:
The Idaho Water Resource Board has been renting water rights 75-2137, 75-4199, and 75-4200 since 2015. This rental is a renewal of a 2018-2022 rental to the Hat Creek MSF. The Water Transaction Program is currently seeking a long-term solution with regional agency partners and the water right owners.

- 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:

- 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.

- D. Additional Information

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

Brian Patton

Date

8 NOV -

Signature of Representative

Printed Name of Representative

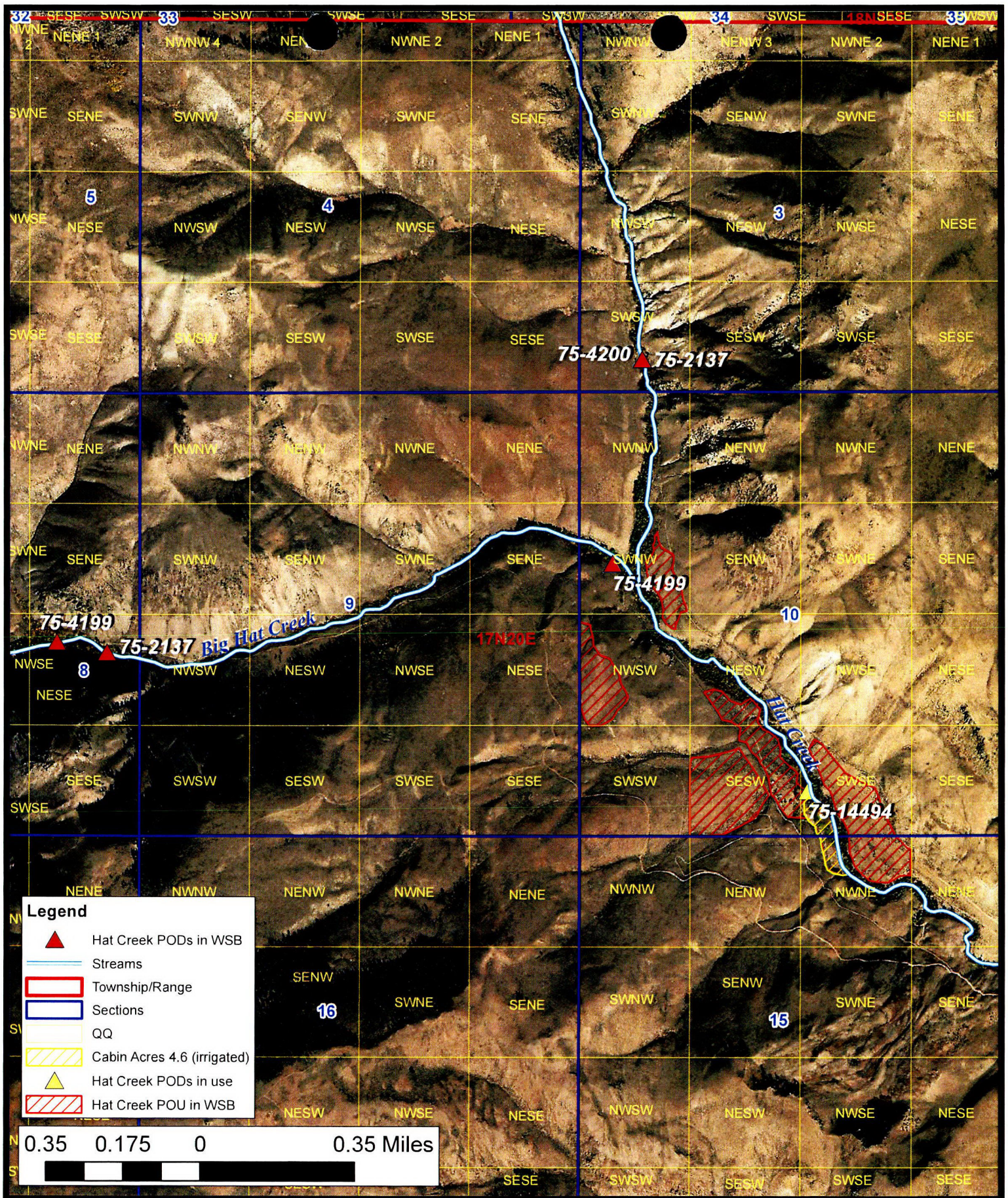
Date

Mail to:

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

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Big Hat Creek Rental 2023-2027 Attachment 2

Map Date: 07/20/2022

Imagery: NAIP 2021

WSB Mailing Checklist for Rentals

(Use on all new rental applications)

Key: Who Completes What?

CLERICAL STAFF: MK

REVIEWER: *[Signature]*

Received Date: 11/8/2022

Latest Start Date: 6/1/2023

Renter: Idaho Water Resource Board

Rental Expiration Date: 2027

Lease/Rental Package: (Y) N

Application # 2502

Agreement # 114

Water Right	Lease Contract ID
# <u>75-2137</u>	
# <u>75-4199</u>	
# <u>75-4200</u>	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	
# _____	

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:

prev agreement # 258

*Admin fees only
- Payment upon execution
from IDWR*

Mailings (per application)

Renter: Idaho Water Resource Board

Attorney: _____

Consultants

Name: Brian Patton - IDWR

Conveyance Entity:

Ex. Irrigation Dist. of Canal Co.

(Ground) Water

Dist: 170

Other: _____

WD Snake 01, Boise, Payette, and Bear River

Region: Southern

Watermaster: David Graybill

Compliance: _____

Original

CC

Email or Address



John.Lofredo@idwr



(final only)



(final only)



(final only)



(final only)



(final only)



(final only)



Resolving NOV? Y / N

#

Call up Date: _____

DO NOT SCAN



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 Mathew Weaver

September 11, 2023

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O CYNTHIA BRIDGE CLARK
PO BOX 83720
BOISE ID 83720-0098

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO(S). 75-2137, 75-4199 & 75-4200, AGREEMENT 714**

Dear Renter:

Please find enclosed a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 222.95 acre-feet of water for Minimum Stream Flow Maintenance 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.

A rental fee of \$5,127.85 per year was calculated based on the current rental rate of \$23.00 per acre-foot times a diversion volume of 222.95 acre-feet. Since you have a private agreement with the lessor, you are only obligated to pay the 10% administrative fee, equal to \$512.79 per year. An annual payment shall be received by the Department prior to December 31st each year for the duration of the rental period.

Please send payment in the amount of \$512.79 for 2023 made payable to the Idaho Department of Water Resources. If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4936.

Sincerely,

Mary Condon

Water Supply Bank Coordinator

Enclosures: Executed Rental Agreement (copy)

c: Sascha Marston – Fiscal
IDWR Southern Regional Office
Watermaster – WD 170

MEMORANDUM FOR LEASE #1665 AND RENTAL # 714

To: Water Right(s) 75-2137, 75-4199 & 75-4200

From: Mary Condon

Date: December 29, 2022 – January 25, 2023

Re: Review & Analysis of Applications to Lease and Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: Companion applications to lease and rent full water rights for minimum stream flow maintenance by the IWRB, received on November 8, 2022, for a 5 year term from 2023-2027. Both applications are continuations of past approvals, since 2004.

Included with the applications is a resolution by the IWRB for the renewal of the leases and rentals, as well as allocation of funds to cover the lease application fee of \$500 and a total rental fee of \$2,536.93. Rental admin fee amount in resolution is based on the unrounded calculated volume times \$2.3 admin fee per acre-foot times five years, but without rounding each year admin fees and with two numbers of the total fee inverted. Rental admin fee will be \$512.79 per year, equal to a total of \$2,563.95 for five years.

There are four rights for irrigation on 68.3 acres, of which three of the rights are fully offered for lease. Previous lease for years 2018-2022 discounted from the leased rentable amounts the full amount allocated to non-offered right 75-14494, in error. Each of the four rights for the entire 68.3 acre POU are additive to the whole and a reduction by the non-offered right is not necessary to avoid enlargement. See combined limits, Table 1.

AUTHORITY TO FILE: Review of county taxlot data shows water right owners own the lands under POU of rights offered for lease. PODs for each of the rights are either on lands owned by Salmon-Challis Nation Forest or lands owned by the lessor, and do not share the diversion works with any other rights not listed under this lease. Applications for lease signed by owner of rights. The application for rental signed by Brian Patton, authorized agent on behalf of the Board, along with a resolution signed by the IWRB on October 26, 2022, to authorize the transaction for another five (5) years. The water rights offered for lease and rental are donated by the owners of the water rights, and no owner payment from the rental is required. The lease filing fee of \$500 and the rental administrative fee will be paid by the IWRB and reimbursed with funds made available from the Bonneville Power Administration through the Columbia Basin Water Transaction Program upon approval of the WSB transaction. No concerns with authority to file.

WATER RIGHT VALIDITY: Offered water rights and amounts have been leased to the Bank since 2004 and were decreed while in the Bank. Rentals of the consumptive use amounts from irrigation for minimum streamflow maintenance by the IWRB have accompanied the lease applications since 2004. Partial decrees in 2009 corrected combined limits of the four rights for acres and rate, as they are additive and not limited. No concerns with validity of the water right and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Continued lease and rental of these water rights is not expected to cause injury to other water rights.

ENLARGEMENT OF USE: Area headgate standard is 3.5 acre-feet per acre, consumptive use standard is 2.5 acre-feet per acre, and area season of use is 4/1 to 10/31. Lease will be the full irrigation and stockwater under rights 75-2137, 75-4200, & 75-4199.

ApplicationType	BasinN	Sequenc	Max Rate	Max Volume	C/U	TotalAcres	AcreLimit	cfs/acre	af/acre	WaterUseList
Decree	75	2137	0.76	Not Stated	66.75	68.3	26.7	0.0285	3.5	IRRIGATION
Decree	75	4200	1.28	Not Stated	61.75	24.7	24.7	0.0518	3.5	IRRIGATION, STOCKWATER
			1.28		61.75					IRRIGATION
			0.03							STOCKWATER
Decree	75	4199	0.47	Not Stated	30.75	43.6	12.3	0.0382	3.5	IRRIGATION, STOCKWATER
			0.47		30.75		12.3	0.0382	3.5	IRRIGATION
			0.03							STOCKWATER
Decree	75	14494	0.1	Not Stated	11.5	4.6	4.6	0.0217	3.5	IRRIGATION
combined limit 75-4199 & 14491							51.2			
combined limit all						68.3	68.3			
sum			2.61	239.05	170.75		68.3	0.0382	3.5	
ApplicationType	BasinN	Sequenc	Max Rate	Max Volume	C/U	TotalAcres	AcreLimit	cfs/acre	af/acre	WaterUseList
LEASE	75	2137	0.76	93.45	66.75	68.3	26.7	0.0285	3.5	IRRIGATION
LEASE	75	4200	1.28	86.45	61.75	24.7	24.7	0.0518	3.5	IRRIGATION, STOCKWATER
			1.28		61.75					IRRIGATION
			0.03					0.0518		STOCKWATER
LEASE	75	4199	0.47	43.05	30.75	43.6	12.3	0.0382	3.5	IRRIGATION, STOCKWATER
			0.47		30.75		12.3		3.5	IRRIGATION
			0.03							STOCKWATER
NOT OFFERED	75	14494	0	0	0	0	0			IRRIGATION
Lease 75-4199 w/out 14494							12.3			
Lease combined limit offered			2.51	222.95		63.7	63.7	0.0394	3.5	
sum of lease			2.51	222.95	159.25		63.7	0.0394	3.5	
difference			0.1	16.1	11.5	0	4.6	equal to unleased 75-14494		

Table 1. Combined limits of leased amounts

Rental request is a change in nature of use for the MSF maintenance of existing MSF right 75-14189. No change to the SOU is requested for the rental of these rights. The flow rate continuously available to the stream under this rental is based on a reverse calculation from the calculated standard consumptive use volume, as 159.25 af / (214 days x 1.983) and equals 0.38 cfs.

			CFS	HG	C\U	Acres
Rental	75	2137 1/11/1960	0.76		93.45	N/A
Rental	75	4200 5/1/1930	1.28		86.45	N/A
Rental	75	4199 5/1/1930	0.47		43.05	N/A
			2.51		222.95	N/A
daily CFS			0.38			1-Apr
Vol rented			222.95			31-Oct
Admin fee			\$ 512.79			214
5 years			\$ 2,563.95			

Table 2. Rental amounts and rental fee

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 lease appears consistent with the conservation of water resources in Idaho and a rental for Stream Flow Maintenance is a beneficial use. See stream gage data for years 2004 and 2005, below.

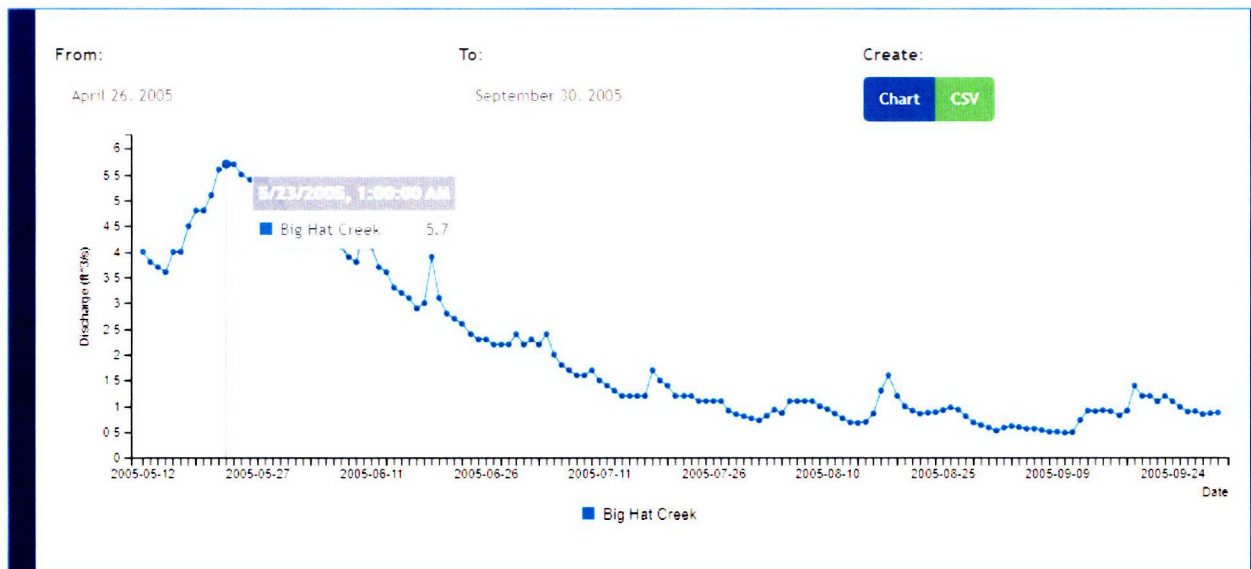
DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is within Southern Region and is subject to Water District # 170. Request for comments or concerns from watermaster and region sent on January 25, 2023.

Stream Gage Data – Big Hat Creek Lat/Long: 44.818/-114.111

Closest historic stream flow measurement site is next to two of the lease PODs on Big Hat Creek, within the Minimum Stream Flow reach of right 75-14189. No gages or measurements exist on the main Hat Creek. POD for MSF right should actually be within the NWNE vs L2 SENENW of Section 20 described on the proof report.



Measurement period from April 26, 2004 through September 30, 2004.

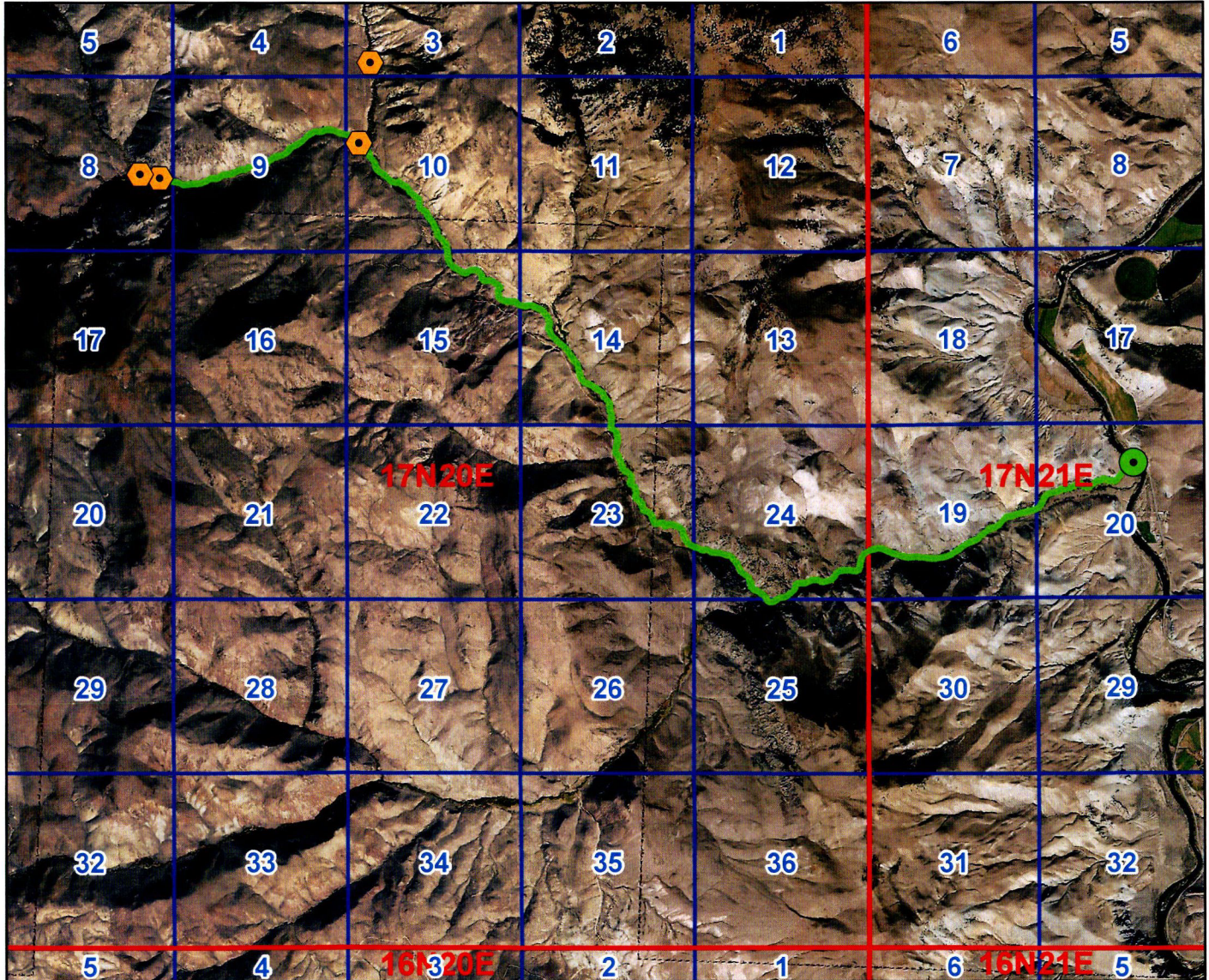


Measurement period from April 26, 2005 through September 30, 2005.

<https://research.idwr.idaho.gov/apps/hydrologic/aquainfo/Home/Data#!/>

Idaho Water Resource Board
Move Map
75-2137, 75-4199, 75-4200

Effective until December 31, 2027



Legend

-  Active Water Supply Bank Lease POD
-  Water Supply Bank Rental POD
-  Water Supply Bank Rental POU
-  Township/Range
-  Sections



Attachment 1 to WSB Lease and Rental Review Memo for WRs 75-2137, 75-4199, & 75-4200

Date: August 16, 2023

From: Mary Condon

This memo is in response to a request for additional information to support no injury to other water rights expected through this proposed lease and rental. To provide some background, rentals of leased irrigation rights for the maintenance of minimum streamflow rights held by the Board have been transacted through the Board's bank since at least 2004. The water rights listed above are some of the earliest leased and rented for that purpose and have had continuous lease rentals for streamflow maintenance since then. Typically, and as has been for the last 20 years for these rights, rentals which change the nature of use are reduced to the calculated consumptive portion only, with the non-consumptive portion remaining un-diverted. Additionally, as has been in practice for the last 20 years including rentals of these rights, the daily maximum diversion rate is also defined when the rental is for continuous instream use, based on the consumptive use volume.

Within the last year, the water rights section in the State Office has requested that rentals of surface water which change the nature of use and also condense or change the season of use that the rental be further limited and defined to monthly volumes based on regional Evapotranspiration (ET) data to avoid injuring junior users who may have become dependent on the return flows. While this rental does not propose to condense the season of use, it was requested that this rental be further defined to a monthly maximum, unless it can be shown that no junior users have become dependent on return flows (i.e., the non-consumptive portion when used as irrigation, typically highest in the spring and fall months).

Rights offered for lease (75-2137, 75-4199 & 75-4200 in blue) and other rights downstream of the leased PODs to the MSF right point of quantification are tabulated below, grouped by source, and then sorted by priority date:

Basin Number	Sequence Number	SourceTable	PriorityDat	Rate	Volume	Acres	WaterUseList	SourceList	TributaryList
75	11028	Water Right	6/1/1885	0.02	Not Stated		STOCKWATER	BIG HAT CREEK	HAT CREEK
75	14624	Water Right	6/1/1915	0.18	Not Stated	4.6		BIG HAT CREEK	SALMON RIVER
75	14625	Water Right	6/1/1915	0.08	Not Stated	2.5		BIG HAT CREEK	SALMON RIVER
75	14982	Water Right	6/1/1915	0.5	Not Stated	17.9		BIG HAT CREEK	SALMON RIVER
75	4199	Water Right	5/1/1930	0.47	Not Stated	12.3	IRRIGATION, STOCKW	Big HAT CREEK	HAT CREEK, SALMON RIVER
75	13259	Water Right	6/28/1934	0.02	Not Stated		STOCKWATER	BIG HAT CREEK	HAT CREEK
75	2137	Water Right	1/11/1960	0.76	Not Stated	26.7	IRRIGATION	BIG HAT CREEK, HA	HAT CREEK, SALMON RIVER
		sum Big Hat		1.25					
75	13254	Water Right	1/1/1876	0.02	Not Stated		STOCKWATER	HAT CREEK	SALMON RIVER
75	11025	Water Right	6/1/1885	0.02	Not Stated		STOCKWATER	HAT CREEK	SALMON RIVER
75	14494	Water Right	5/1/1889	0.1	Not Stated	4.6	IRRIGATION	HAT CREEK	SALMON RIVER
75	4200	Water Right	5/1/1930	1.28	Not Stated	24.7	IRRIGATION, STOCKW	HAT CREEK	SALMON RIVER
75	4026	Water Right	7/18/1932	2.11	Not Stated	77.2	IRRIGATION	HAT CREEK	SALMON RIVER
75	4180	Water Right	1/1/1952	0.36	Not Stated	7.1	IRRIGATION	HAT CREEK	SALMON RIVER
		sum Hat Ck		0.14					
		Total sum		1.39					
75	14189	Water Right	4/1/2005	*108	Not Stated		MINIMUM STREAM F	HAT CREEK	SALMON RIVER

Table 1 – see also Attachment 1 – Map of POD

Junior Rights: There are three junior rights to leased rights 75-4199 and 75-4200, of which 75-13259 is above the place of use, 75-4026 is downstream of the diversions and POUs and may have benefited the return flows of these rights, and 75-4180 is closest to the diversions and POUs of the leased rights and would have benefited from the actual diversion of these rights prior to placement in the bank and perhaps return flows from flood irrigation and seepage.

To note, there are several fields which could be irrigated under the leased rights, sitting on either side of Hat Creek, where the fields on the east side of the creek were irrigated using a canal which pulled from Hat Creek (North Fork) above the first field, and the fields on the west side of Hat Creek pulled from Big Hat Creek (West Fork) and Hat Creek above (North Fork) and adjacent to the fields (main stem). See diagram of diversion and fields at right in Figure 1.

Beginning with right 75-4180, which uses the end of the same diversion canal for the leased POUs on the east side of Hat Creek, it does not appear to be irrigated since 2004 aerial imagery. The recommendation during the adjudication of right 75-4180 found only 7.7 of the 65 acres claimed could be lawfully irrigated by the user, since the other claimed lands were federal lands. This reduction in irrigable acres also reduced the allowable diversion rate from 1.3 cfs to 0.36 cfs, with 0.22 cfs for conveyance. The claimant objected stating 0.36 cfs was not enough to get to the POU and spread it across the land. Even if 75-4180 did benefit from return flows when it and all of the leased rights were used, it has been inactive for at least 20 years. Any injury from this lease and rental to the owner of 75-4180 should have been raised at some point in the last 20 years.

Right 75-4026, also for irrigation, may have benefited from return flows, as it is downstream of the diversions and places of use of leased rights 75-2137, 75-4199, & 75-4200, but more likely benefited from multiple other tributaries to Hat Creek after the POU of these leased rights. Right 75-4026 does not appear to have been used since before 2008, which is noted in the field exam for the right that the diversion works washed out some years prior and had not been rebuilt. Review of aerial imagery shows heavy vegetation appeared on the POU for 75-4026 in 2004 and then in 2017, but with no way of getting water from Hat Creek to the POU through a canal since before 2008 it wasn't immediately clear how the POU was irrigated in 2017. The topography immediately to the southwest of the large POU drains like a

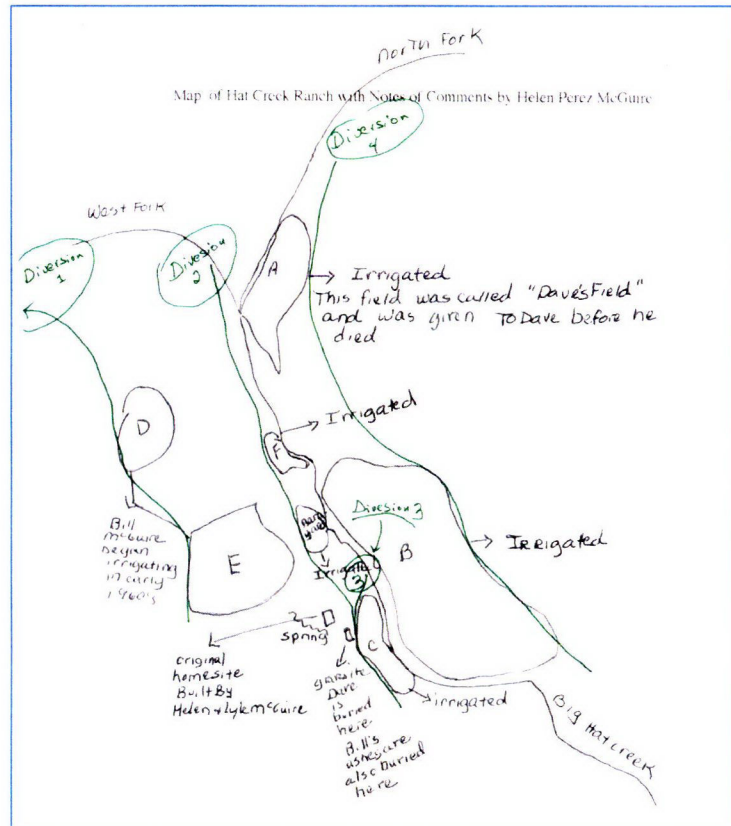


Figure 1, Adjudication Backfile for 75-2137, page 21

bowl to the first delivery ditch and connects to several feed ditches to irrigate the POU, which is actually a bench. Year 2017 was an especially wet year with more than average snowfall and would explain the heavy vegetation in 2017 imagery. The POU was slated for development as a community, but protests from the owners of these leased rights for possible injury resulted in a resolution that any development on or adjacent to the POU for 75-4026 will make the right subordinate to junior right 75-2137. Therefore, even if 75-4026 did benefit from return flows of the leased rights, it has been inactive for nearly 20 years and is unlikely to develop in the future. Any injury from the previous and proposed lease and rental to the owner of 75-4026 should have been raised at some point during the last 20 years.

The last junior right is 75-13259 for de minimus stockwater from Big Hat Creek is diverted above the first place of use of the leased rights. This right does not benefit from return flows. All other rights within the reach are senior or have a different source. No injury through the continuation of the lease and rental for the consumptive use amounts limited to a maximum daily rate for another five years is anticipated or likely to occur within the reach.

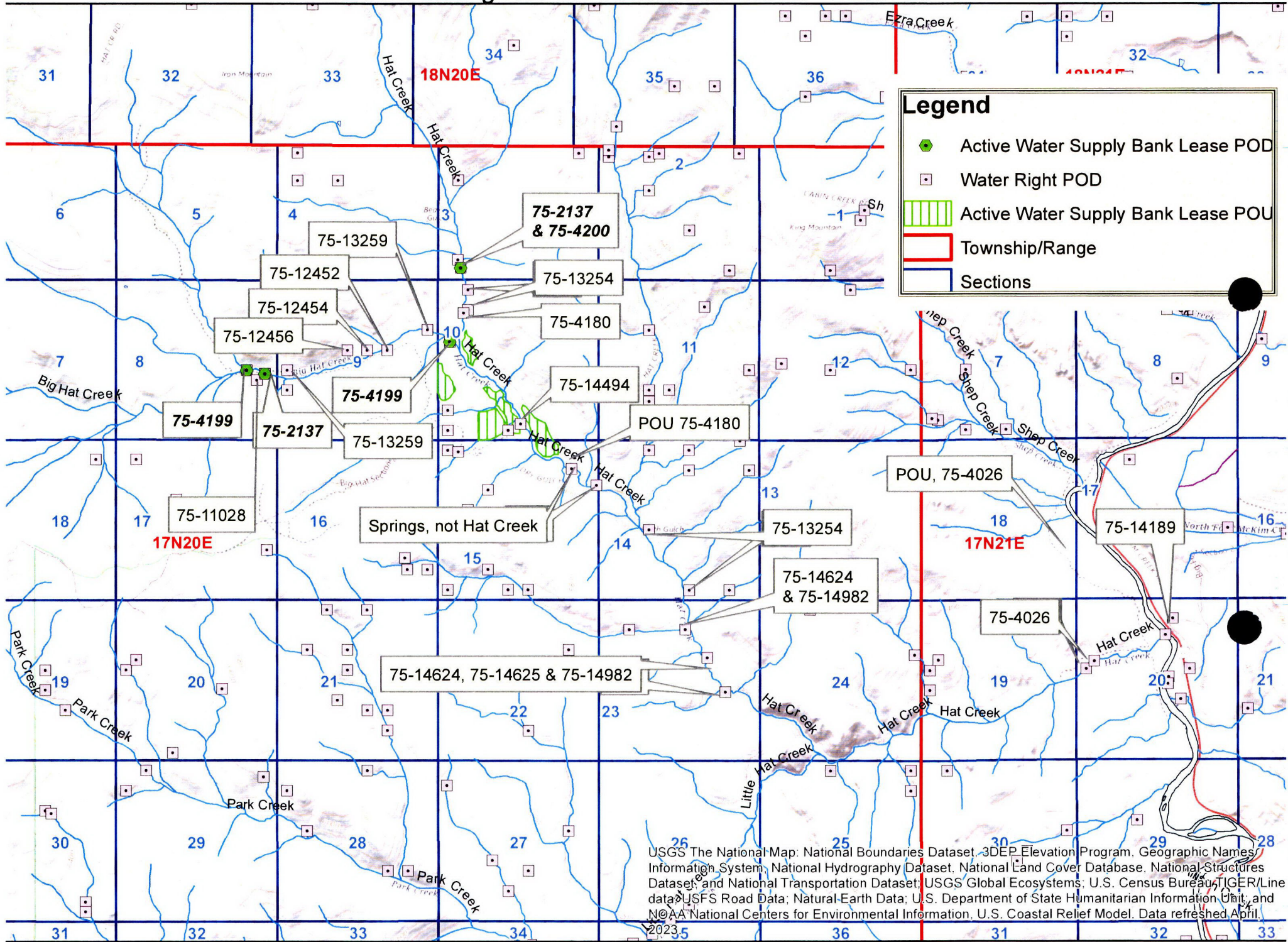
The above referenced rights have been leased to the bank and rented back for this same purpose since 2004, with slight variations to the amounts calculated and for the rights offered over different contracts. Table 2 below shows the water rights and the maximum rate made available for rental since 2004.

Rental Term	Rights	Acres	C/U	Rental Maximum Rate	Rental Daily Rate	
2004	75-2137, 75-4199, & 75-4200	26 26 <u>14</u> 26	65	0.52	0.15	combined limited the acres, rather than their additive amounts
2005	75-2137, 75-4199, & 75-4200	26 26 <u>14</u> 26	65	0.52	0.15	combined limited the acres, rather than their additive amounts
2006 & 2007	75-2137	26	65	0.52	0.15	A letter in backfile for 75-2137 requests all three rights be leased again at end of 2005, but nothing in 75-4199 or 75-4200 files until new lease in 2009.
2008	75-2137	25.8	64.5	0.52	0.15	
2009	75-2137 & 75-4199	26.7 <u>12.3</u> 39	93.5 <u>43</u> 136.5	0.76 <u>0.47</u> 1.23	0.26	condition page per water right vs inclusive; Amended Partial Decree issued; Partial Decree issued, right 75-4200 was used
2010-2014	75-2137 & 75-4199	26.7 <u>12.3</u> 39	93.5 <u>43</u> 136.5	0.76 <u>0.47</u> 1.23	0.21	condition page per water right vs inclusive; right 75-4200 was used
2015-2017	75-2137, 75-4199, & 75-4200	26.7 12.3 <u>24.7</u> 63.7	159.3	1.79	Not defined	corrected memo in agreement file
2018-2022	75-2137, 75-4199, & 75-4200	26.7 12.3 <u>24.7</u> 63.7 -9.2= 54.7	136.2	1.53	0.32	Amounts rentable was reduced by 9.2 acres as overlap of 75-14494 for 4.6 acres with two of the leased rights. Right 75-14494 is additive to the total 68.3 acres under all four rights and should not reduce the other rights.
2023-2027	75-2137, 75-4199, & 75-4200	26.7 12.3 <u>24.7</u> 63.7	159.3	1.79	0.38	Proposal of new rental is same as 2015-2017, and would have been the same as 2018-2022 if the rentable acres had not been reduced.

Table 2

I recommend that the consumptive use volume of the rights be rented and conditioned as limited to the maximum daily rate for continuous flow during the irrigation season of use, without further conditioning the rights to a monthly maximum since the rights have been made available for flow maintenance for the same amounts and quantities proposed for 2023-2027 since 2015, and review criteria consistent with Rule Subsection 30.01 – Rentals of Water Rights from the Board's Bank, IDAPA 37.02.03 and with Idaho Code §42-1763B(1) – Interim Authority for Rental of Water to Augment Flows for Listed Anadromous Fish. Further, the only two junior rights which may have benefited from return flows have been inactive for more than five years and closing in on 20 years. The previous rentals for streamflow maintenance tabulated above could potentially be considered claims to the water not used under rights 75-4180 and 75-4026, pursuant to Idaho Code § 42-223(12)(c).

PODs on Big Hat Creek and Hat Creek - Basin 75



Cody's Notes

- No discussion in the memo of whether junior users downstream of the historical PODs have benefitted from return flows. If so, we need to break the quantities into monthly consumptive use values to ensure that those junior users aren't injured.
- Need to add a condition saying that water should only be used when it is available and in priority at the original locations.
- add condition:

The extent of the beneficial use of water authorized under this rental is limited to the amount necessary to maintain Minimum Stream Flow Right 75-14189 on Hat Creek...

- add "use of water shall be nonconsumptive" condition
- consider the same argument for adding measuring device or reporting conditions at the mouth of Big Hat Creek as we talked about with the other rentals



322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
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Governor Brad Little

Director Gary Spackman

November 22, 2022

IDAHO WATER RESOURCE BOARD
322 E FRONT ST
BOISE ID 83720

RE: APPLICATION(S) 2502 TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of your application(s) to rent water for from the Water Supply Bank (Bank). Your rental request has been placed into the queue for processing and will be considered as time permits. Filing a rental application does not authorize diversion and use of water; it is unlawful to use water without a valid water right or an approved Water Supply Bank rental agreement.

Rental requests are reviewed as of November first in the year preceding the intended use of water. Rental requests should be submitted well in advance of the date for the intended use or rental water. **You are not authorized to divert any water for purposes associated with your rental request until you have paid the rental fee and you and the Department have both signed and executed a rental agreement.**

You can check the status of your rental application by reviewing the Department's processing spreadsheet, accessible from the Water Supply Bank's website at:

<https://idwr.idaho.gov/iwrb/programs/water-supply-bank/resources/>

Sincerely,

A handwritten signature in black ink, appearing to read "Mackenzie Kienholz".

Mackenzie Kienholz
Water Supply Bank Specialist

c: Brian Patton – IDWR, Planning & Projects Bureau Chief