

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**RECEIVED**

**JAN 02 2024**

DEPARTMENT OF  
WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 798**

This is to certify that:

JOHN T BALLSCHMIDER  
PO BOX 1710  
KETCHUM, ID 83340-1681

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)
37-208G	6/1/1880	CROY CREEK	0.12	10.5	3.0	0.04	3.5
<b>Combined Rental Totals</b>			<b>0.12</b>	<b>10.5</b>	<b>3.0</b>	<b>0.04</b>	<b>3.5</b>

**Term of Rental:** This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2024. 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 2024, whichever occurs last.

**Annual Rental Fee:**

2024: \$241.50

The full fee for the rental of the above-described right(s) is \$241.50 for 2024. The rental fee includes an administrative fee of \$24.15 for 2024.

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	0.09	10.5	3.0	0.03	3.5

*\* The authorized water usage reflects a reduction from the water right elements rented, to account for the standard maximum rate per acre for small acreages.*

Detailed water right conditions are attached.



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 798**

**WATER USE DETAILS**

**LOCATION OF POINT(S) OF DIVERSION**

ELK CREEK	SESE	Sec. 28, Twp 02N, Rge 17E,	BLAINE County
ELK CREEK	SESE	Sec. 28, Twp 02N, Rge 17E,	BLAINE County

**BENEFICIAL USE**  
IRRIGATION

**DIVERSION RATE**  
0.09 CFS

**VOLUME**  
10.5 AF

**SEASON OF USE**

<b>Water Right No.</b>	<b>From</b>	<b>To</b>
37-208 G	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	
02N	17E	28													1.0			2.0	3.0

Total Acres: 3.0

**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. 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.
10. Diversion of surface water under this rental agreement is limited to those times when the water is available and in priority under right 37-208G at the original point of diversion, located in the NWNE, of Section 35, Township 02N, Range 17E in Blaine County.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK RENTAL AGREEMENT No. 798**

11. Use of water under this rental 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 rental is within State Water District No. 37.
12. The rented portion of right 37-208G when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
13. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.

Idaho Water Resource Board






Attachment to Water Supply Bank Rental Agreement No. 798

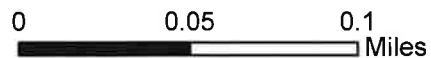
Effective until December 31, 2024

This map depicts the **IRRIGATION 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



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

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

JUL 28 2023  
DEPARTMENT OF  
WATER RESOURCES

**Applicant Name:** John T. Ballschmider

**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](http://idwr.idaho.gov/water_supply_bank).

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

**Department Use Only – Proposed Water Right(s)**

2704

**STATE OF IDAHO  
WATER RESOURCE BOARD**

**Application to Rent Water (Continued)**

**1. CONTACT INFORMATION**

A. Applicant John T. Ballschmider

Mailing Address P.O. Box 1710 Ketchum, Idaho 83340  
Street City State Zip Code

Email Address jtbarchitect@msn.com Phone Number 208-788-8675

*PROPERTY ADDRESS: 300 RED ELEPHANT ROAD, HAILEY, IDAHO*

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 \_\_\_\_\_ Professional Title \_\_\_\_\_

Organization \_\_\_\_\_ Relationship to Applicant \_\_\_\_\_

Mailing Address \_\_\_\_\_

Email Address \_\_\_\_\_ Phone Number \_\_\_\_\_

**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**:

To restore previously degraded wetland, riparian, and sagebrush community for biodiversity Promoting vegetative diversity thru native grasses, forbs, shrubs and trees in order to enhance food sources for return of wildlife.

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)
.02 CFS	4 AF	.01 CFS	1 AF	4 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?	
ASAP	11/1/2023	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 5	<input checked="" type="checkbox"/> Process application as soon as possible	<input type="checkbox"/> 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):

1 1/2 hp pump w/ 1 1/2" hose from POD 1 to POU 1  
2" diameter irrigation pipe from stream POD 2 gravity fed to POU 2

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
POD #1 Pump	Elk Creek	
POD #2 gravity fed 2" pipe	Elk Creek	

*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 4 (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: wetland restoration from: ASAP (mm/dd) to: 11/15 (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.

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:

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)
<b>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</b>					<b>TOTAL</b>			
						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**:

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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**:

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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:

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- 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:

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- 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.

I had a letter dated Sept 29, 2021 by Kevin Lakey, Water District 37, suggesting I needed a water right if I wished to continue the wetland work I had been doing. What I was actually doing was restoration of a stream crossing from when the Woodriver Fire Dept. had crossed the stream to fight a fire on BLM land above. The

- D. Additional Information

This project is a restoration of 3 mill sites. Hand written survey notes on one of the mill sites describe a dam on the stream at 16 foot high. Even after more than 100 years the only returning grasses were wetland sedge's and rushes. This year an amazing amount of germinating grasses came up with no seeding. The area is hydric soil

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

John T. Ballschmider  
Printed Name of Applicant

7/23/2023  
Date

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Printed Name of Representative

\_\_\_\_\_  
Date

Mail to:

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

# Red Elephant Gulch Restoration

John T. Ballschmider  
300 Red Elephant Road,  
Hailey, Idaho 83340

ATTACHMENT 2A

Gulch Restoration

- Legend**
- Feature 1
  - Polygon
  - Red Elephant Gulch Restoration

Area of Restoration

Red Elephant Gulch Rd

POD # 2

POU # 2

POD # 1

POU # 1

Area of Restoration

N43.47°

ECK CREEK

10000 ft



Order NO. 28558  
 Legal Description

ATTACHMENT 2-B

BALCHMIDOR Exhibit "A"

300 RED ELEPHANT  
 HALEY, ID,

MILLSITES IN RED ELEPHANT GULCH



The CENTRAL MILLSITE designated by the Surveyor General as Lot No. 91B according to the Mineral Survey Plat & Field Notes for the Central Lode & Millsite and as described in the Patent dated January 20, 1892 and recorded November 15, 1921 in Book 99 of Patents, Page 381, General Land Office No. 19460, Mineral Certificate No. 296.

And also the SUSIE V MILLSITE designated by the Surveyor General as Lot No. 1038B according to the Mineral Survey Plat & Field Notes for the SUSIE V Lode & Millsite and as described in the Patent dated May 24, 1895 and recorded November 15, 1921 in Book 99 of Patents, Page 369, General Land Office No. 25637, Mineral Certificate No. 403.

And also the AUGUSTA V MILLSITE designated by the Surveyor General as Lot No. 1039B according to the Mineral Survey Plat & Field Notes for the Augusta V Lode & Millsite and as described in the Patent dated January 4, 1895 and recorded November 15, 1921 in Book 99 of Patents, Page 384, General Land Office No. 25113, Mineral Certificate No. 404.

The above property is located within Sections 28 and 33, Township 2 North, Range 17 East, Boise Meridian, Blaine County, Idaho and more particularly described as follows;

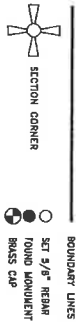
Commencing at a 5/8 inch rebar marking the Southeast Corner of Section 26, Township 2 North, Range 17 East, Boise Meridian, Blaine County, Idaho; Thence N89°12'35"W, 10638.44 feet to a brass cap marking the Southeast Corner of said Section 28; thence N26°51'38"W, 1186.89 feet to Corner Number 1 of the SUSIE V MILLSITE and the True Point of Beginning;

- thence S22°30'00"E, 1082.90 feet;
- thence S70°30'00"W, 201.40 feet;
- thence N22°30'00"W, 1082.90 feet;
- thence N19°30'00"W, 1310.22 feet;
- thence N43°15'00"W, 439.93 feet;
- thence N58°59'40"E, 474.02 feet;
- thence S14°21'33"E, 958.80 feet;
- thence S19°30'00"E, 852.50 feet to the True Point of Beginning.

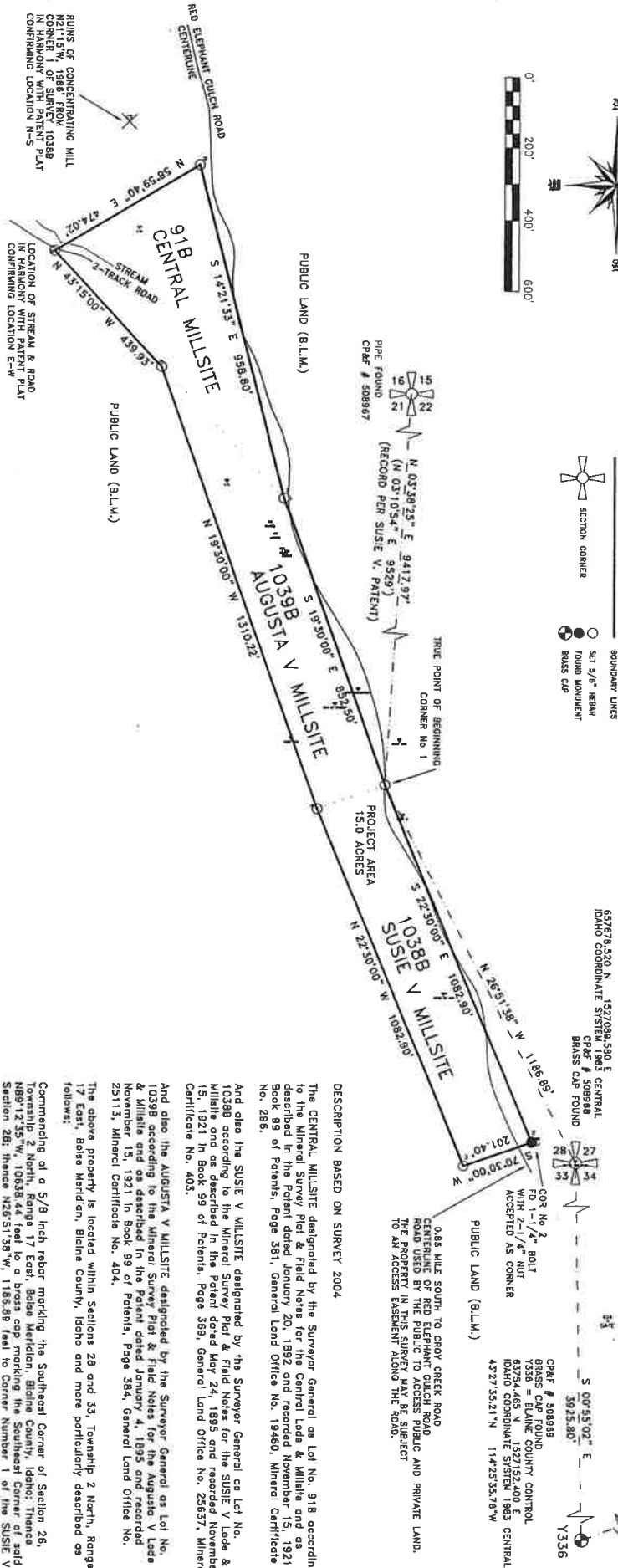
*JTW*

ATTACHMENT 2.1C  
300 R250 ELEPHANT  
AUGUST 2004

A RECORD OF SURVEY FOR JACK BALLSCHMIDER  
LOCATED WITHIN SECTIONS 28 & 33, T2N, R17E, B.M., BLAINE COUNTY, IDAHO



LEGEND



DESCRIPTION BASED ON SURVEY 2004

The CENTRAL MILLSITE delineated by the Surveyor General on Lot No. 918 according to the Mineral Survey Plat & Field Notes for the Central Lodge & Millsite and as described in the Patent dated January 20, 1892 and recorded November 15, 1921 in Book 99 of Patents, Page 381, General Land Office No. 19460, Mineral Certificate No. 285.

And also the SUSIE V MILLSITE delineated by the Surveyor General on Lot No. 10388 according to the Mineral Survey Plat & Field Notes for the SUSIE V Lodge & Millsite and as described in the Patent dated May 24, 1895 and recorded November 15, 1921 in Book 99 of Patents, Page 359, General Land Office No. 25657, Mineral Certificate No. 405.

And also the AUGUSTA V MILLSITE delineated by the Surveyor General on Lot No. 10398 according to the Mineral Survey Plat & Field Notes for the Augusta V Lodge & Millsite and as described in the Patent dated January 4, 1895 and recorded November 15, 1921 in Book 99 of Patents, Page 384, General Land Office No. 25113, Mineral Certificate No. 404.

The above property is located within Sections 28 and 33, Township 2 North, Range 17 East, Boise Meridian, Blaine County, Idaho and more particularly described as follows:

Commencing at a 5/8 inch rebar marking the Southeast Corner of Section 26, Blaine County, Idaho, Boise Meridian, Blaine County, Idaho; thence N89°12'35"W, 10038.44 feet to a brass cap; thence S25°51'39"W, 1156.88 feet to Corner Number 1 of the SUSIE V MILLSITE and the True Point of Beginning;

thence S22°30'00"E, 1082.90 feet;  
 thence S70°30'00"W, 201.40 feet;  
 thence N22°30'00"W, 1082.90 feet;  
 thence N19°30'00"W, 1310.22 feet;  
 thence N43°15'00"W, 439.93 feet;  
 thence N53°54'01"E, 474.02 feet;  
 thence S53°54'01"E, 474.02 feet;  
 thence S19°30'00"E, 892.50 feet to the True Point of Beginning.

The above described parcel contains approximately 15.0 acres.

I do hereby certify that I am a Registered Professional Land Surveyor, licensed by the State of Idaho, and that this map has been prepared from a survey made on the ground under my direct supervision to the normal standard of care of Professional Land Surveyors practicing in Idaho, and that on the basis of my knowledge and belief, this map is an accurate representation of said survey.

SURVEYOR'S CERTIFICATE

RECORDED 5/04/2004 : INSTRUMENT No. 000000

NORTHSTAR GPS  
PLOT BY: GKW

RECORD OF SURVEY  
A RECORD OF SURVEY  
BLAINE COUNTY, IDAHO  
SURVEY FOR JACK BALLSCHMIDER  
SEC. 28 & 33, T2N, R17E, B.M.

PREPARED BY: GORDON K. WILLIAMS, P.L.S.  
NORTHSTAR GPS  
100 E. 200 N. AETCUM, IDAHO, 83340  
PHONE (208) 788-3784

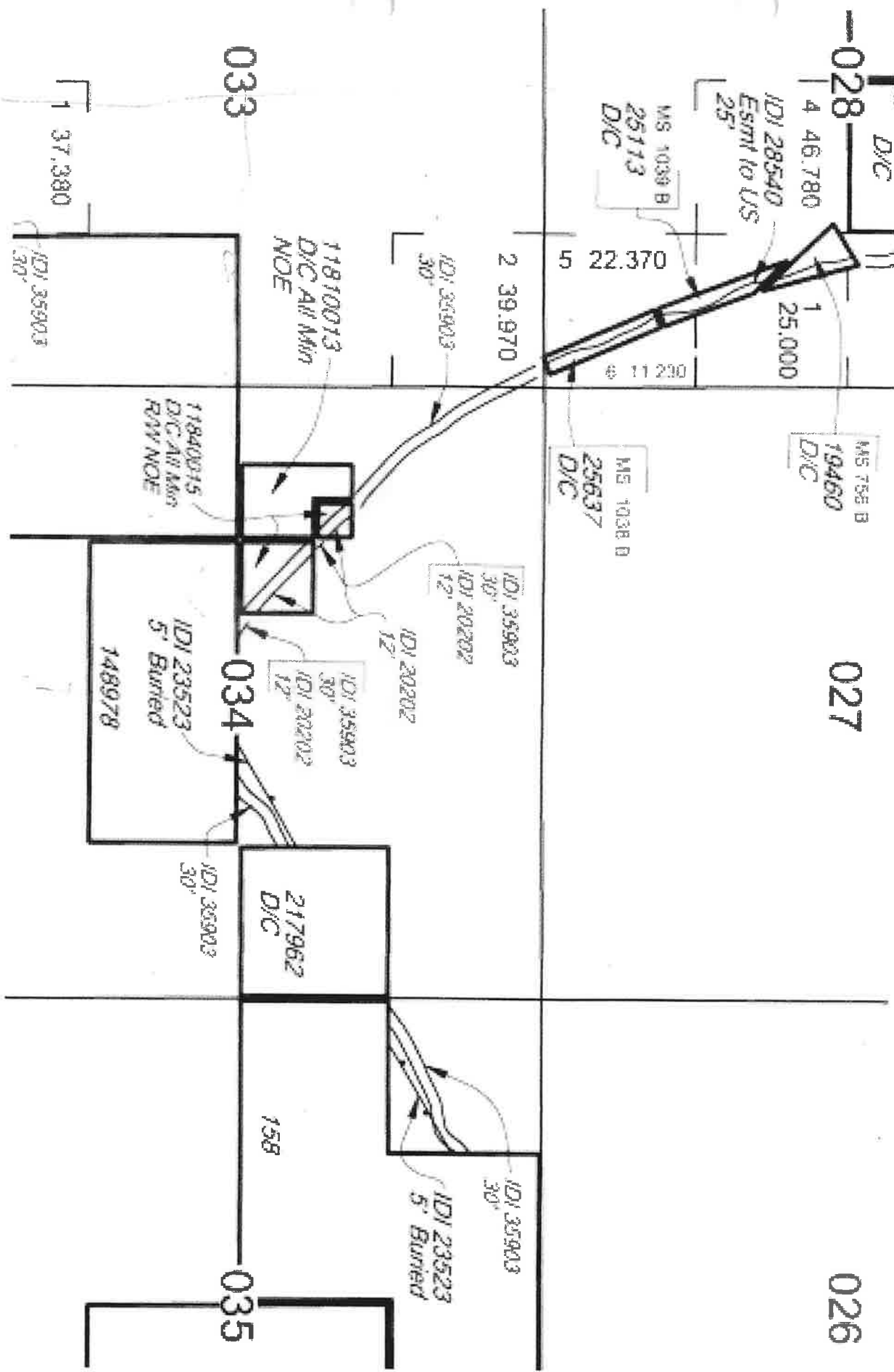
BLAINE COUNTY

Screenshot of:

# TOWNSHIP 2 NORTH RANGE 17 EAST OF THE BOISE MERIDIAN, IDAHO

APPROXIMATE 2.5  
300 PER ACRES  
KALLEN, ID  
D/C

BLAINE COUNTY 013  
TOWN 2 NORTH RANGE 17 EAST





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](mailto:idwrinfo@idwr.idaho.gov) • Website: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Mathew Weaver**

January 9, 2024

JOHN T BALLSCHMIDER  
PO BOX 1710  
KETCHUM ID 83340-1681

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 37-208G, AGREEMENT 798**

Dear Renter:

Please find enclosed a receipt in the amount of **\$241.50** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 10.5 acre-feet of water for irrigation of 3.0 acres during 2024. 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 \$217.35 of the rental fee will be paid to the lessor(s) and 10% or \$24.15 will be retained by the Department to offset administrative costs for 2024.

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

Sincerely,

Mackenzie Kienholz  
Water Supply Bank Specialist

Enclosures: Receipt No. C117601  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
IDWR - Southern Region Office  
Water District No. 37



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](mailto:idwrinfo@idwr.idaho.gov) • Website: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Mathew Weaver

November 21, 2023

JOHN T BALLSCHMIDER  
PO BOX 1710  
KETCHUM, ID 83340-1681

**RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 37-208G, AGREEMENT 798**

**\*\*\*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 \$241.50 per year was calculated based on the current rental rate of \$23.00 per acre-foot times a diversion volume of 10.5 acre-feet.

**Please send a check for \$241.50 for 2024** 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 \$217.35 of the rental fee will be paid to the lessor(s) and 10% or \$24.15 will be retained by the Department to offset administrative costs for **2024**.

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

Sincerely,

Mackenzie Kienholz  
Water Supply Bank Specialist

Enclosure(s): Proposed Rental Agreement

c: IDWR Front Desk

**MEMORANDUM FOR AGREEMENT #798**

**To:** Water Right(s) 37-208G  
**From:** Mackenzie Kienholz  
**Date:** 11/14/2023  
**Re:** Review & Analysis of Application to Rent Water from the State Water Supply Bank

**PURPOSE/NARRATIVE:** Rental application #2704 was submitted by John T. Ballschmider and was received by the Department on 7/28/2023. The application requests any available surface water rights for the irrigation of four acres beginning in 2023 and lasting as long as possible. In a phone conversation with the applicant on 11/8/2023, review staff asked whether Mr. Ballschmider would like to pursue the rental for 2023 as originally requested or shift to a 2024 start date as it was unlikely that an approval would be reached before his latest requested start date of 11/15/2023. Mr. Ballschmider confirmed that he would like to move the application to a 2024 start. Review staff identified right 37-208G to satisfy this rental. The application notes that the rental is for a wetland restoration project, however the purpose of water rented from the Bank is to irrigate native vegetation to restore the riparian on this section of Elk Creek, so the beneficial use for this rental will be irrigation not restoration.

This rental is within Water District #37.

**AUTHORITY TO FILE:** The land at the rental place of use and points of diversion is owned by the applicant, John T. Ballschmider according to Blaine County parcel data. No concerns with authority to file.

**WATER RIGHT VALIDITY:** Water right validity was evaluated when the right was leased to the Bank and no concerns were found.

**INJURY TO OTHER WATER RIGHTS:** The proposed rental point of diversion is located on Elk Creek which is tributary to Croy Creek where the leased right is originally diverted from. There are no existing rights at the rental location. There are 11 water rights on either Elk Creek or Croy Creek between the lease and rental points of diversion, six of which have the same 6/1/1880 priority date as the right being rented, 37-208G. The other five rights have more junior priority dates than 37-208G. See Table 1 below for a list of water rights diverted between the lease and rental location. To prevent injury to these water rights, diversions from Elk Creek under this rental will be limited to times when the rental water is available and in priority at the original point of diversion on Croy Creek. At this time, this rental will be limited to a one-year term to ensure there are no unanticipated injury concerns that arise from diverting 37-208G upstream on Elk Creek.

Water Right	Priority Date	Overall Max Diversion Rate (CFS)	Source	Tributary	Water Use	Owner
37-208G*	6/1/1880	0.55	CROY CREEK	BIG WOOD RIVER	IRRIGATION, STOCKWATER	CASSER, CONRAD V; CASSER, MINNA H
37-208A	6/1/1880	1.6	CROY CREEK	BIG WOOD RIVER	IRRIGATION	DIAMOND A LIVESTOCK INC; FAULKNER LAND & LIVESTOCK CO INC
37-208C	6/1/1880	0.4	CROY CREEK	BIG WOOD RIVER	IRRIGATION	BERGDAHL, JUDY; BERGDAHL, ROBERT
37-208D	6/1/1880	0.38	CROY CREEK, ELK CREEK	BIG WOOD RIVER, CROY CREEK	IRRIGATION	MC CAULEY, LESLIE CLARK
37-208F	6/1/1880	0.37	CROY CREEK	BIG WOOD RIVER	IRRIGATION, STOCKWATER	FERRIS, GREG; FERRIS, LEE ANN
37-208B	6/1/1880	0.2	ELK CREEK	CROY CREEK	IRRIGATION	DENZEL R & MARY S ROWLAND REVOCABLE LIVING TRUST
37-21478	4/15/1911	0.54	ELK CREEK	CROY CREEK	IRRIGATION	DENZEL R & MARY S ROWLAND REVOCABLE LIVING TRUST
37-14579	6/28/1934	0.02	ELK CREEK	CROY CREEK	STOCKWATER	UNITED STATES OF AMERICA BUREAU OF LAND MANAGEMENT
37-16495	6/28/1934	0.02	CROY CREEK	BIG WOOD RIVER	STOCKWATER	UNITED STATES OF AMERICA BUREAU OF LAND MANAGEMENT
37-17343	6/28/1934	0.02	ELK CREEK	CROY CREEK	STOCKWATER	UNITED STATES OF AMERICA BUREAU OF LAND MANAGEMENT
37-17356	6/28/1934	0.02	CROY CREEK	BIG WOOD RIVER	STOCKWATER	UNITED STATES OF AMERICA BUREAU OF LAND MANAGEMENT
<b>TOTALS</b>		<b>4.04</b>				

Table 1. Water rights with POD located between lease and rental PODs. \*Leased/Rented right

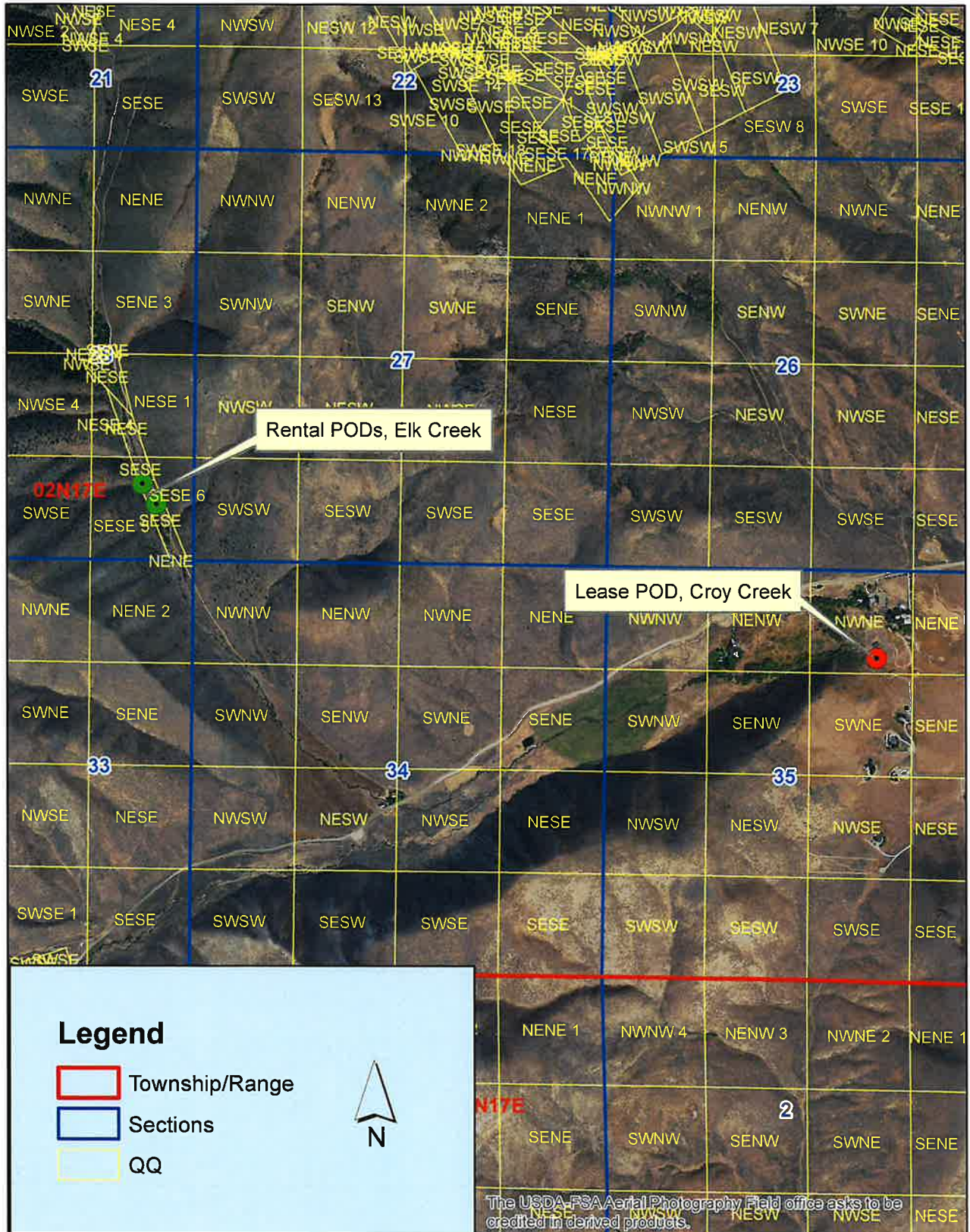
**ENLARGEMENT OF USE:** All properties, apart from source, of the water right including season of use, rate/acre, acre-feet/acre and beneficial use will be maintained. The right as decreed has a source of Croy Creek whereas the rental will divert from Elk Creek tributary to Croy Creek. Water District #37 watermaster Sunny Healey noted that recently "Croy Creek has been dry upstream of the Elk Creek confluence," essentially meaning that in these recent observations Elk Creek makes up Croy Creek. This rental will still be conditioned to limit diversions from Elk Creek to times when the water is available and in priority at the original point of diversion on Croy Creek. Right 37-208G is not stacked with or overlapped by any other water rights. There are no existing rights at the rental location.

**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. A request for comments was sent to the WD #37 watermaster and IDWR Southern Regional Office on 11/14/2023.

# WSB Rental Application 2704, J T Ballschmider 2024



## Kienholz, Mackenzie

---

**From:** Kienholz, Mackenzie  
**Sent:** Tuesday, November 14, 2023 9:03 AM  
**To:** watermanager; Skinner, Corey  
**Subject:** Comments Request - WSB Rental Application #2704, Ballschmider  
**Attachments:** WM Copy Rental Review Memo 2704 J Ballschmider.pdf; Rental Map - Ballschmider.pdf; Move Map - Ballschmider 37-208G.pdf

Good morning,

Please see the attached review documents for Water Supply Bank Rental Application #2704 for John T. Ballschmider. The application requests a beneficial use of wetland restoration, however after talking about the project in depth with the applicant he stated that this water is specifically being requested to irrigate native vegetation to help restore the riparian. Please respond with any questions or comments within 10 days.

Thank you,

Mackenzie Kienholz  
Water Supply Bank Specialist



Planning & Projects

[Mackenzie.kienholz@idwr.idaho.gov](mailto:Mackenzie.kienholz@idwr.idaho.gov)

Phone: (208) 287-4822

## Kienholz, Mackenzie

---

**From:** Kienholz, Mackenzie  
**Sent:** Monday, November 13, 2023 12:48 PM  
**To:** john thomas ballschmider  
**Subject:** RE: Water Supply Bank Rental Application

Good morning, Jack,

I believe the map showing 3 acres based on the NAIP imagery is enough for me to create something fairly close. I'll let you know if I have any other questions, otherwise I will finish my review and pass it on for supervisor review.

Thank you,  
Mackenzie

**From:** john thomas ballschmider <jtbarchitect@msn.com>  
**Sent:** Sunday, November 12, 2023 10:50 PM  
**To:** Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>  
**Subject:** Re: Water Supply Bank Rental Application

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Mackenzie:

New update: 3 acres, basemap was NAIP Imagery hybrid. It is better resolution and more realistic in a few important wetland areas.

I have a meeting on the mountain at 10:00 Monday, probably home by 1:30. You can call before 9:30 if you have early questions.

Jack

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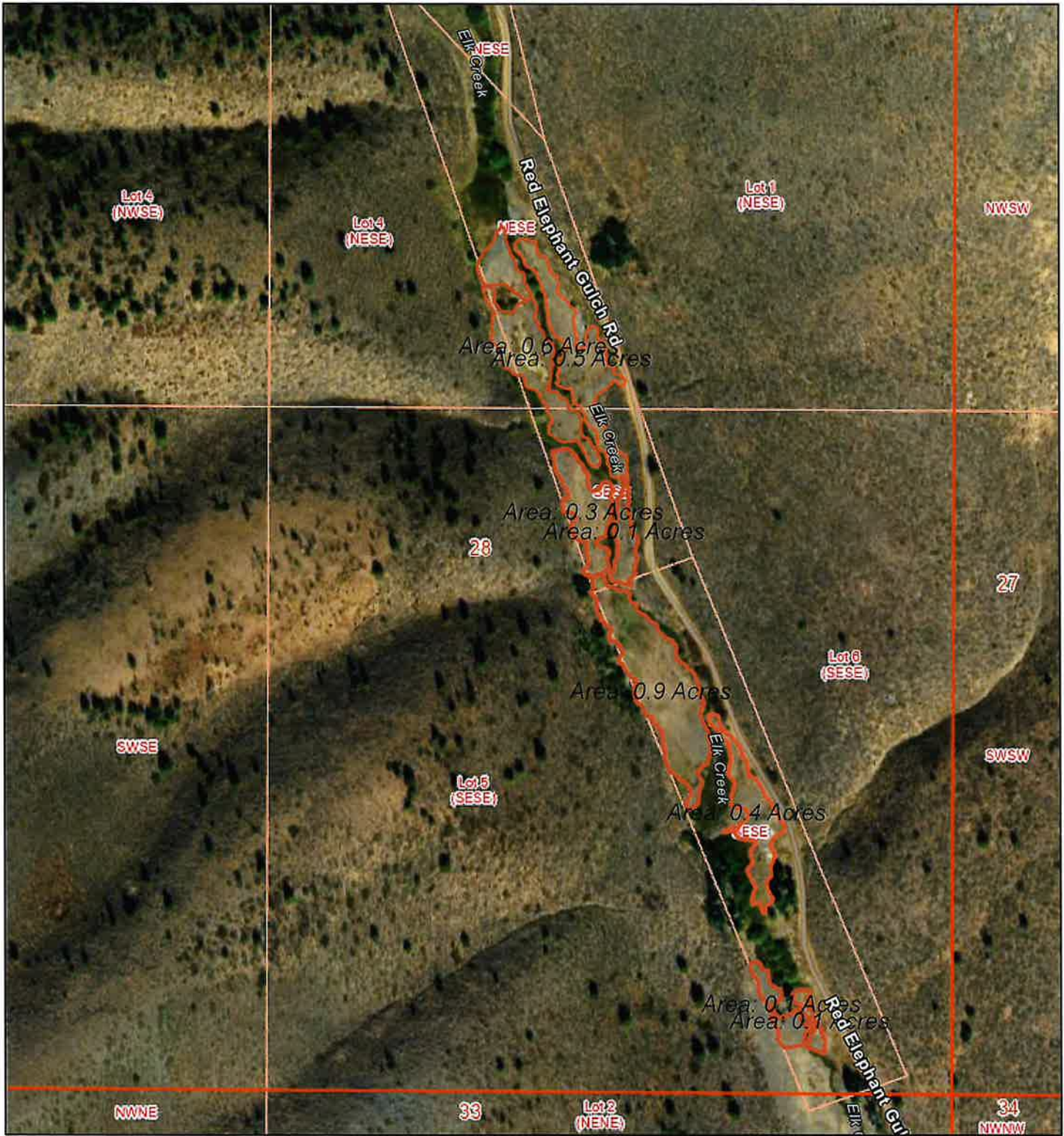
**From:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>  
**Sent:** Thursday, November 9, 2023 12:08 PM  
**To:** john thomas ballschmider <[jtbarchitect@msn.com](mailto:jtbarchitect@msn.com)>  
**Subject:** RE: Water Supply Bank Rental Application

Hello Jack,

Thank you for sending this so quickly. I will take a look and let you know if I have any other questions about the shape. We are not in the office tomorrow, so it may not be until next week that I am able to get back to you.

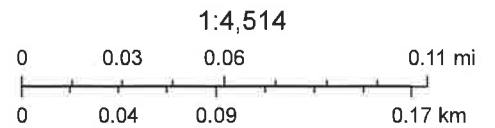
Thank you,  
Mackenzie

# Red Elephant Water



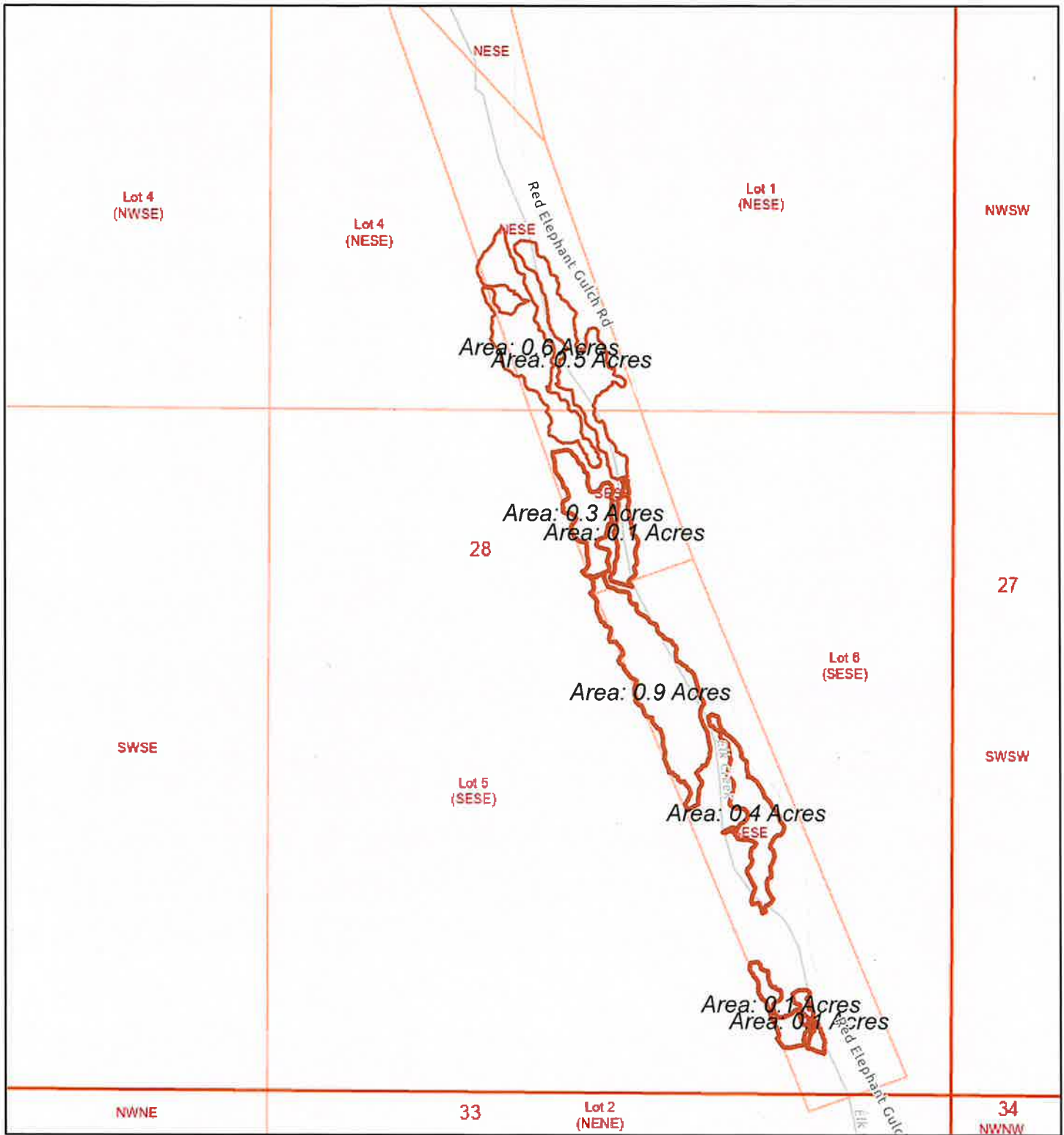
11/12/2023, 10:05:27 AM

- Quarter Quarters
- PLS Sections
- Townships



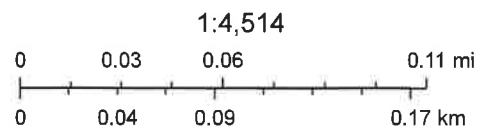
Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, Source: Esri, USDA FSA, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

# Red Elephant Water Gray



11/12/2023, 10:09:02 AM

- Quarter Quarters
- PLS Sections
- Townships



Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

**From:** john thomas ballschmider <[jtballschitect@msn.com](mailto:jtballschitect@msn.com)>  
**Sent:** Thursday, November 9, 2023 8:26 AM  
**To:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>  
**Subject:** Re: Water Supply Bank Rental Application

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Mackenzie:

2.0 acres, this works for me, how about you. Can I save this a better way for you.

Jack

john thomas ballschmider

**Architect**

---

**From:** john thomas ballschmider <[jtballschitect@msn.com](mailto:jtballschitect@msn.com)>  
**Sent:** Wednesday, November 8, 2023 4:47 PM  
**To:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>  
**Subject:** Re: Water Supply Bank Rental Application

Mackenzie:

2.6 acres. I think it is pretty close, let me know if it is fairly understandable. I could probably try and get it a little better

Jack

john thomas ballschmider

**Architect**

---

**From:** john thomas ballschmider <[jtballschitect@msn.com](mailto:jtballschitect@msn.com)>  
**Sent:** Wednesday, November 8, 2023 4:02 PM  
**To:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>  
**Subject:** Re: Water Supply Bank Rental Application

Mackenzie:

I cannot find where to turn on the area calc , i have 5 shapes drawn, sort of, can i get those to show area. I took pictures of most of this today

Jack

john thomas ballschmider  
**Architect**

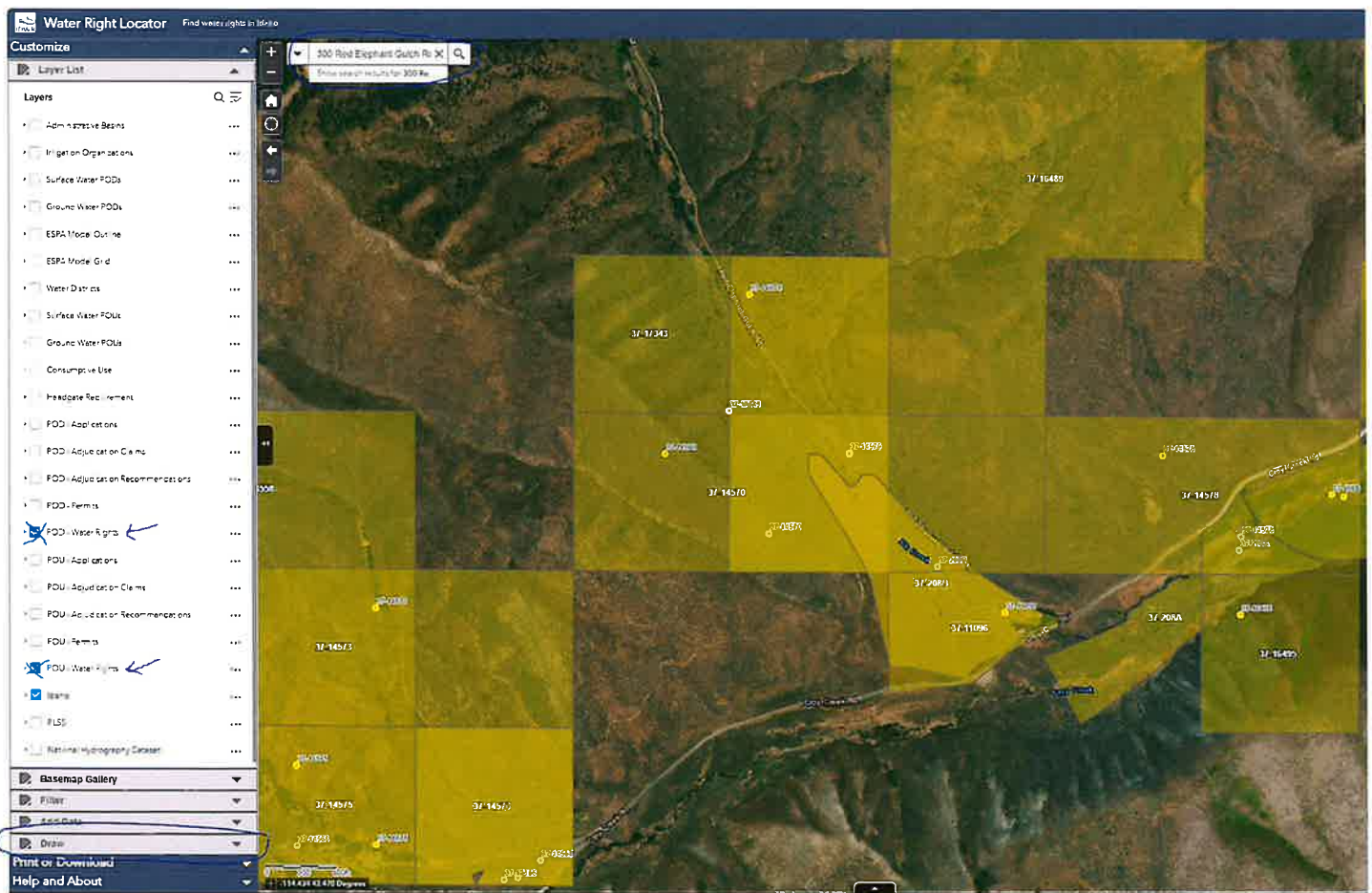
**From:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>  
**Sent:** Wednesday, November 8, 2023 12:21 PM  
**To:** john thomas ballschmider <[jtbarchitect@msn.com](mailto:jtbarchitect@msn.com)>  
**Subject:** RE: Water Supply Bank Rental Application

Hello John,

This is the link to the tool on the IDWR website where you can draw on the map.

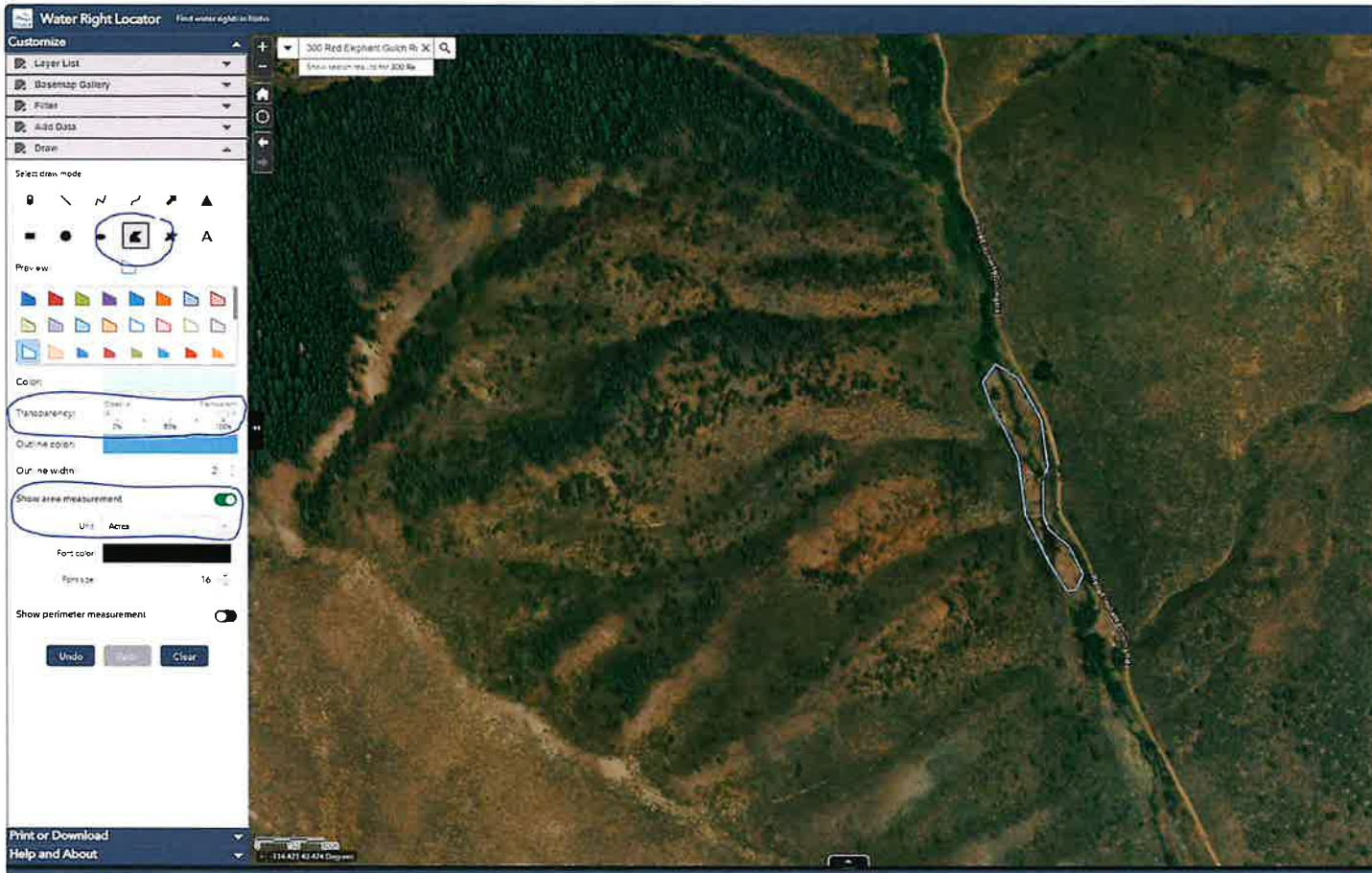
<https://maps.idwr.idaho.gov/agol/WaterRightLocator/>

1. In the search bar at the top left of the map screen, enter your address to get you to generally the right area.
2. It will probably be helpful to deselect "POD – Water Rights" and "POU – Water Rights" from the layer list on the lefthand side of the screen.
3. On the bottom left side of the screen, open the drop down labeled "Draw".



4. In the Draw tool, select the fourth shape in on the second row (see image). This allows you to draw irregular shapes. I recommend sliding the "Transparency" to 100%. I also turned on the "Show area measurement" tool and set the unit to acres.

5. From here you can essentially “connect the dot” until you have a shape that looks about right. Click once to add a point to the shape and double click to finish the shape. You can make multiple shapes if that is easier. I made a random shape in the image below just as an example.



If you have any questions, please feel free to give me a call. We will not be in the office on Friday, November 10<sup>th</sup> due to Veteran’s Day, but I will be in tomorrow and next week.

Thank you,  
Mackenzie Kienholz  
Water Supply Bank Specialist

**From:** Kienholz, Mackenzie  
**Sent:** Wednesday, November 8, 2023 10:50 AM  
**To:** john thomas ballschmider <[jtbarchitect@msn.com](mailto:jtbarchitect@msn.com)>  
**Subject:** RE: Water Supply Bank Rental Application

Good morning, John,

Thank you for taking the time to talk with me about your Water Supply Bank rental application this morning. As discussed, I will move the requested start date to 2024. Below is a snip of the 8-acre place of use I initially came up with based on the application information. As you mentioned, this is likely not the correct shape as the total acreage should be closer to 3-4 acres. Please let me know how I should correct the shape to match your place of use more closely.

Thank you,  
Mackenzie Kienholz  
Water Supply Bank Specialist



**From:** Kienholz, Mackenzie  
**Sent:** Wednesday, August 9, 2023 12:33 PM  
**To:** john thomas ballschmider <[jtbarhitect@msn.com](mailto:jtbarhitect@msn.com)>  
**Subject:** RE: Water Supply Bank Rental Application

Hello John,

Thank you for providing this additional information. It is always helpful to get the most comprehensive understanding as possible. I will add this information to your application, and your application to the processing queue noting that it is ready for review.

Thank you again,  
Mackenzie Kienholz  
Water Supply Bank Specialist

**From:** john thomas ballschmider <[jtbarchitect@msn.com](mailto:jtbarchitect@msn.com)>  
**Sent:** Tuesday, August 8, 2023 1:24 PM  
**To:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>  
**Subject:** Re: Water Supply Bank Rental Application

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Mackenzie:

I do have a hardcopy but it appears cutoff the same as yours.  
I have attached a copy of the letter and photos from Kevin Lakey/  
Water District 37, that I was referring to dated 9.29.21.

Section 5.C. cont. The stream jumped to a new channel and I was trying to restore it to the original place because an area of tailings was exposed that previously had vegetation from a riparian zone.

5.D cont. The area is hydric soil and I think the reason I cannot grow regular native grasses; wetland plants (sedges, rushes, mosses, wetland weeds, will grow when exposed to water.

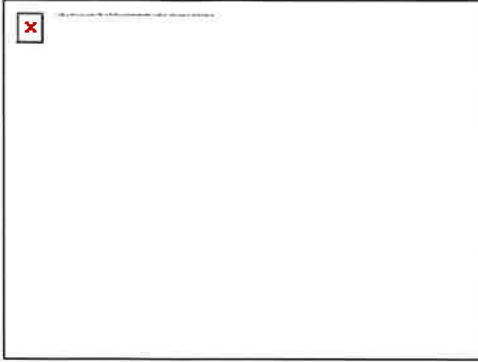
In the picture w/ the wetland sign, is where the fire dept crossed the stream. Motorcycles had begun using the stream crossing afterwards and I was trying to discourage this as I was trying to restore the area.

In the same picture, on the ridge beyond the next side gulch, you can just make out the dead standing trees from the fire that was extinguished. I was reluctant to seek help from the dept of water resources as I did not want to be reporting damage to the stream and my land by the fire dept.

I was grateful they were there, I know personally a few of the firefighters as they also work on the mountain for Sun Valley as do I in the winter. I would not hear the end of it on the mountain if I reported them for damage to my property.

I have not applied for a water right or a water rental as I did not think I would qualify. I always heard there was no water left in the water shed. This year I noticed most of the properties in the nearest subdivision on Croy were all flooded, and I had wetlands that were dry. The two closet water users to me have not been irrigating for years, which makes me wonder where that water is going.

If you would like to view what I have been working on, please see  
<https://restor.eco/platform/sites/63179880-19c5-446a-8373-27f184c736d4/>



## Red Elephant Reclamation – Overview | Restor

Red Elephant Reclamation is a nature restoration site in United States. Explore all info about this project on Restor.

[restor.eco](http://restor.eco)

thank you for your time

Jack

john thomas ballschmider

### Architect

560 sixth street east  
p.o. box 1710  
Ketchum, Idaho  
83340  
208-788-8675  
<http://architypedesign.com>

---

**From:** Kienholz, Mackenzie <[Mackenzie.Kienholz@idwr.idaho.gov](mailto:Mackenzie.Kienholz@idwr.idaho.gov)>

**Sent:** Tuesday, August 8, 2023 10:48 AM

**To:** [jtbarchitect@msn.com](mailto:jtbarchitect@msn.com) <[jtbarchitect@msn.com](mailto:jtbarchitect@msn.com)>

**Subject:** Water Supply Bank Rental Application

Hello John,

The answers to items 5C and 5D were cut off on your Water Supply Bank Rental Application #2704 (see attached). Did you happen to save a copy of your answers to these items, or could you please provide a version of the complete answers?

Thank you,

Mackenzie Kienholz  
Water Supply Bank Specialist



Planning & Projects

[Mackenzie.kienholz@idwr.idaho.gov](mailto:Mackenzie.kienholz@idwr.idaho.gov)

Phone: (208) 287-4822

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT 37  
107 WEST 1<sup>ST</sup>  
SHOSHONE, IDAHO 83352  
(208) 886-2451



Kevin Lakey  
Watermaster

John Thomas Ballschmider  
P.O. Box 1710  
Ketchum, Idaho 83340

September 29, 2021

Mr. Ballschmider:

I am writing regarding your property at 300 Red Elephant Drive near Hailey, Idaho.

The enclosed photos I took on September 8, 2021, show that water is being diverted from Elk Creek perhaps to develop a wetland on your property. In researching Idaho Department of Water Resources (IDWR) records, I can find no record of a water right with a wetland beneficial use on your property. If you wish to continue developing a wetland at this location, you must obtain a water right through the IDWR. To do this you need to contact the IDWR Southern Region office in Twin Falls. Their phone number is 1(208)736-3033. Their physical and mailing address is 650 Addison Avenue W. Ste 500, Twin Falls, Idaho 83301-5858.

Any further questions should be directed to IDWR Southern Region.

Respectfully,

A handwritten signature in cursive script that reads "Kevin Lakey".

Kevin Lakey  
Water District 37

Mr. Ballschmider:

I do not oppose your efforts to develop a wetland. In fact, I think there should be more effort toward this type of work in a basin that is subject to such extremes in snow pack levels. You just need to do it in a legal manner with proper water rights.

A handwritten signature in cursive script that reads "Kevin Lakey".

## Kienholz, Mackenzie

---

**From:** watermanager <watermanager@wd37.org>  
**Sent:** Thursday, August 24, 2023 5:00 PM  
**To:** Kienholz, Mackenzie  
**Subject:** Re: WSB Wetland Restoration Application - Ballschmider

**Follow Up Flag:** Follow up   
**Flag Status:** Flagged

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Good afternoon, Mackenzie,

Thank you for the opportunity to review this application. I included some initial thoughts below but now I probably have more questions than answers! I would appreciate any further education on these subjects.

The Ballschmider proposed project is less than 3 miles from the 10,400-acre Rinker Rock Creek Ranch which has installed over 65 beaver analog dams to “restore wetlands” among other objectives. Stream restoration being monitored by NASA, specifically using beavers, on Birch Creek near Preston, Idaho has resulted in the stream flowing for 40 days longer into the year. So, in general, I think that a wetland restoration project may not cause injury and could even be beneficial to senior water rights in Croy Creek and Elk Creek. However, there is a lot of planning using clear, achievable, measurable goals to make these projects successful. Do we know if Mr. Ballschmider has a wetland restoration project plan? It’s difficult to say if 4 AF is sufficient, not having more detailed information on how it will be used.

The senior surface water rights downstream on Elk Creek and Croy Creek all have the same priority date 6/1/1880. In theory, an upstream 6/1/1880 water right has the same priority as a downstream 6/1/1880 water right regardless of stream loss or position on the creek, right? We’ll have to ask, will there be an effect moving this right upstream? Generally, trying to move senior surface rights upstream is not permitted and brings concerns of injury, but what if they are the same senior priority date? We might need to clarify rules for futile calls for equal priority rights on an ephemeral stream and/or request a mitigation plan for the other 6/1/1880 rights downstream. As a note, in recent observations (2022) Croy Creek has been dry upstream of the Elk Creek confluence. So, Elk Creek makes up Croy Creek in this area, but the water right is listed as “Croy Creek” and proposed to be used from “Elk Creek.” So, we’ll have to ask about the possibility of moving a right to a tributary even though the tributary is sometimes the only water contributing to Croy Creek here.

Does that have an impact on a rental through the WSB? I’m not sure if it’s a WSB rule but seems like a good idea to keep leases and rentals hydro-geographically connected. Maybe another way to say it- keep leases and rentals in the same Basin of Priority Administration, or in this case, keep leases and rentals in the same separately-administered stream system. It seems there are few other locations where this right would be rentable without concerns of injury.

Looking forward to working through this with you.

-Sunny

Water District 37

208-886-2451

cell 208-886-0251

---

**From:** Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>

**Sent:** Wednesday, August 23, 2023 9:43 AM

**To:** watermanager <watermanager@wd37.org>

**Subject:** WSB Wetland Restoration Application - Ballschmider

Good morning, Sunny,

We received an application to rent water from the Water Supply Bank from John T. Ballschmider. He has requested water to be diverted from Elk Creek for wetland restoration. It sounds like he had already been doing this when former watermaster Kevin Lakey sent him a letter in 2021 telling him he needed a water right or rental to work on this project legally. The closest water we have available in the Bank is right 37-208G which diverts from Croy Creek (downstream of the proposed POD). I have attached a document showing the location of the lease and rental. The first image is the proposed rental PODs and POU as submitted by the applicant. The second and third mark the location of the rental with a larger blue circle and the location of the POD for right 37-208G with a smaller blue diamond. Upon completion of any rental review, we will formally request comments from the watermaster, but at this time I would like to know your thoughts on whether this move would be possible and/or whether there would be injury concerns.

Additionally, the applicant requested 4 acre-feet for 4 acres; do you believe that this would be a sufficient volume/acre for a wetland restoration project such as this?

Finally, our Hydrology Section noted that in the Basin 37 General Provision in the SRBA it was stated that right 37-208G was one of the rights to be administered separately from all other rights in the basin. Do you have any thoughts on whether this may impact a rental through the Bank?

I would appreciate any thoughts you may have on the application as a whole. Please let me know if there is any other information I can provide.

Mackenzie Kienholz  
Water Supply Bank Specialist



Planning & Projects

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## Kienholz, Mackenzie

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**From:** Moody, Alex  
**Sent:** Thursday, August 17, 2023 11:19 AM  
**To:** Kienholz, Mackenzie  
**Subject:** RE: Lease and Rental POD Considered Same Source?

Mackenzie,

I could not find any stream measurements for Croy Creek, but I did find daily watermaster diversion data for 2020 from the following water rights. Annual values are shown.

37-208F Ferris: 42 af, 21 cfs  
37-208D McCauley: 15 af, 8 cfs  
37-208C Bergdahl: no diversion in 2020  
37-208G Casser (potential rental source): 37 af, 19 cfs

There are likely more data on those if you're interested. They are in watermaster report books that we keep in the hydrology section. I could also point you to some potential digital copies on the N drive.

Also, Talking with Jennifer Sukow, she was wondering about the administration of these streams and we found the following from the Basin 37 General provisions in the SRBA (<https://idwr.idaho.gov/wp-content/uploads/sites/2/adjudication/general-provisions-basin-37.pdf>)

See pages 15 and 16. "The following rights are administered separately from all other water rights in basin 37"

Croy Creek: 37-208A, 37-208B, 37-208D  
Elk Creek: 37-21478 ( irrigation downstream of rental POD)

We're not sure what that means in terms of this rental application, but I thought I'd mention it in case you are aware of any relevance this may have.

Hope this helps a bit.

Alex

**From:** Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>  
**Sent:** Wednesday, August 09, 2023 1:08 PM  
**To:** Hydrology <Hydrology@idwr.idaho.gov>  
**Subject:** Lease and Rental POD Considered Same Source?

Good afternoon,

We received an application to divert water from Elk Creek for a restoration project at 300 Red Elephant Gulch Rd, Hailey ID. I am trying to determine if any available rights in the Bank can be used to satisfy this rental request. The applicant requested 4 af. The best chance that I can see is right 37-208G, for which the source is Croy Creek tributary to the Big Wood River. I have attached images of both the rental location and 37-208G POD location. We will need to evaluate whether there would be injury to other water users, but do you have any information on this area and whether water at the rental location would normally reach the original POD for 37-208G?

Thank you,

Mackenzie Kienholz  
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