

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 786

This is to certify that:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
ATTN 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)
71-2004D	10/23/1909	FOURTH OF JULY CREEK, Tributary to SALMON RIVER	0.457	32.1	10.7	0.043	3.0
71-10772	8/15/1933	FOURTH OF JULY CREEK Tributary to SALMON RIVER	0.366	32.1	10.7	0.034	3.0
Combined Limit Rental Totals			0.823	32.1	10.7	0.077	3.0

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect, in perpetuity, and subject to review every one-hundred years, with the first review scheduled prior to December 31, 2121. 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 2022, whichever occurs last.

One-Time Rental Fee:

\$64.20

The rental fee is a one-time administrative fee of \$64.20. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 71-2004 D, 71-10772.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)
MINIMUM STREAM FLOW	0.12	21.4
Combined Total	0.12	21.4

** The authorized water usage reflects a diversion volume limited to the historical consumptive use associated with 10.7 acres of irrigation at 2.0 afa/acre. 0.12 cfs is the diversion rate, applied continuously, that would produce the consumptive volume over the course of the 92-day period of use.*

Detailed water right conditions are attached.

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The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Signature of Renter

Date

Printed Name

Title

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

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

By

BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

Date

Rental approved by IDWR

Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

Beginning Point	FOURTH OF JULY CREEK	SWSE	Sec. 10, Twp 08N, Rge 14E,	CUSTER County
Ending Point	SALMON RIVER	NESW	Sec. 22, Twp 11N, Rge 18E,	CUSTER County

<u>BENEFICIAL USE</u>	<u>FROM</u>	<u>TO</u>	<u>DIVERSION RATE</u>
MINIMUM STREAM FLOW	07/01	09/30	0.12 CFS

RENTERS PLACE OF USE: MINIMUM STREAM FLOW

The place of use for this rental is the reach of the Salmon River above the point of quantification for water right 72-16668. The quantification point is located at the point of diversion described above in Sec 22, Twp 11N, Rge 18E.

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 duration of this rental shall be indefinite. The rental agreement may be reviewed every 100 years.
10. There are no diversions associated with this rental. The quantification point for this instream flow rental is at the above ending point.
11. Use of water under this rental shall be non-consumptive.
12. Use of water under this rental agreement is limited to those times when water is available and in priority at the points of diversion listed on water rights 71-2004D and 71-10772.
13. In the event water is called for under this rental agreement, the renter must provide the watermaster with measurement data demonstrating that the rate called for at the quantification point under this rental is successfully delivered to the Salmon River at the mouth of Fourth of July Creek.

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14. 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 sources tributary to the reach of the Salmon River between the beginning and ending points described above.
15. Use of water under his rental agreement shall be subordinated to all DCMI uses established after April 1, 2005.
16. This rental agreement will be administered consistent with Wild and Scenic Flows from the North Fork Salmon to Long Tom Bar. This rental is subordinated to the extent necessary to permit full utilization of the future water development preserved by the subordination contained within the description of the Wild and Scenic River water rights for the Salmon River, water right numbers 75-13316 and 77-11941.
17. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 170 (71 & 72D).
18. 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. 72-16668 on the Salmon River. 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.

Idaho Water Resource Board
Attachment to Water Supply Bank Rental Agreement No. 786

Indefinite

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



0 5 10
Miles

STATE OF IDAHO
WATER RESOURCE BOARDAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKRECEIVED
SEP 07 2021
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)

71-10728

71-10871

71-10772

71-10278

71-2053A

71-10766

71-2004D

71-10277

71-7002

2139

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant Idaho Water Resource Board

Mailing Address	<u>322 E Front Street, PO Box 83720</u>	<u>Boise</u>	<u>Idaho</u>	<u>83720</u>
	Street	City	State	Zip Code
Email Address			Phone Number	<u>208-287-4800</u>

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**:

The rental of this water is intended to supply flow to the existing minimum stream flow water right on the Salmon River above the East Fork Salmon River, No. 72-16668. The rental to the MSF is intended to increase the natural flow and reduce stream temperatures in the Salmon River to improve habitat for ESA-listed fish species

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)
11.55 CFS	487.5 AF	CFS	AF	162.5 AC

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

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

Desired Start Date (month/day/year)	Latest Possible Start Date (month/day/year)	*Mark Desired Rental Duration (Calendar Years)	**Applicant's preference if rental application cannot be processed prior to the latest possible start?	
7/1/2022	8/01/2022	PERMANENT	☒ 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.

***Pursuant to IDAPA 37.02.03.30.06 the IWRB wishes to rent the water in perpetuity. See IWRB funding resolutions dated (5/21/2021).**

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):

No irrigation of POU. Purpose of use is instream flow with delivery to the Minimum Stream Flow water right
72-16668 on the Salmon River above the East Fork Salmon River

- 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
head gate	Champion River	71-2026, 71-4021, 71-10080, 71-4006, 71-10081
head gate	Fourth of July	71-10762, 71-2014
head gate	Salmon River	71-4038, 71-2016, 71-10765, 71-2053B
head gate	Unnamed Drain	

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: 7/01 (mm/dd) to: 09/30 (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**.

POU is instream

- 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:

Other water rights are rented by the IWRB to meet MSF 72-16668 on the Salmon River. However, these rights are not sufficient to meet the MSF.

**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)
71-10728	irrigation	0.8	34.8	11.6		0.8	34.8	11.6
71-10766	irrigation	1.37	36.0	12.0		1.37	36.0	12.0
71-10871	irrigation	4.5	200.4	66.8		4.5	200.4	66.8
71-2004D	irrigation	0.9	35.1	11.7		0.9	35.1	11.7
71-10772	irrigation	0.9	35.1	11.7		0.9	35.1	11.7
71-10277	irrigation	0.3	27.9	9.3		0.3	27.9	9.3
71-10278	irrigation	0.3	27.9	9.3		0.3	27.9	9.3
71-7002	irrigation	1.8	60.3	20.1		1.8	60.3	20.1
71-2053A	irrigation	0.68	30.0	10.0		0.68	30.0	10.0
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	11.55	487.5	162.5
						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**:

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**:

The rental proposes to rent the full standard head gate requirement of 3.0AF/Acre at the POD and deliver the standard consumptive volume of 2.0 AF/Acre to the Salmon River MSF 72-16668.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☒ No ☐

If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs:

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental?

If yes, describe:

Yes ☐ No ☒

- 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

These water rights are currently leased into the water supply bank under contracts nos. 334, 326, 300, 323, 324, 289, and 355. The USFS has submitted an amended lease contract to lease these rights indefinitely.

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

Brian Patton, Executive Officer, IWRB

Printed Name of Applicant

9/7/21

Date

Signature of Representative

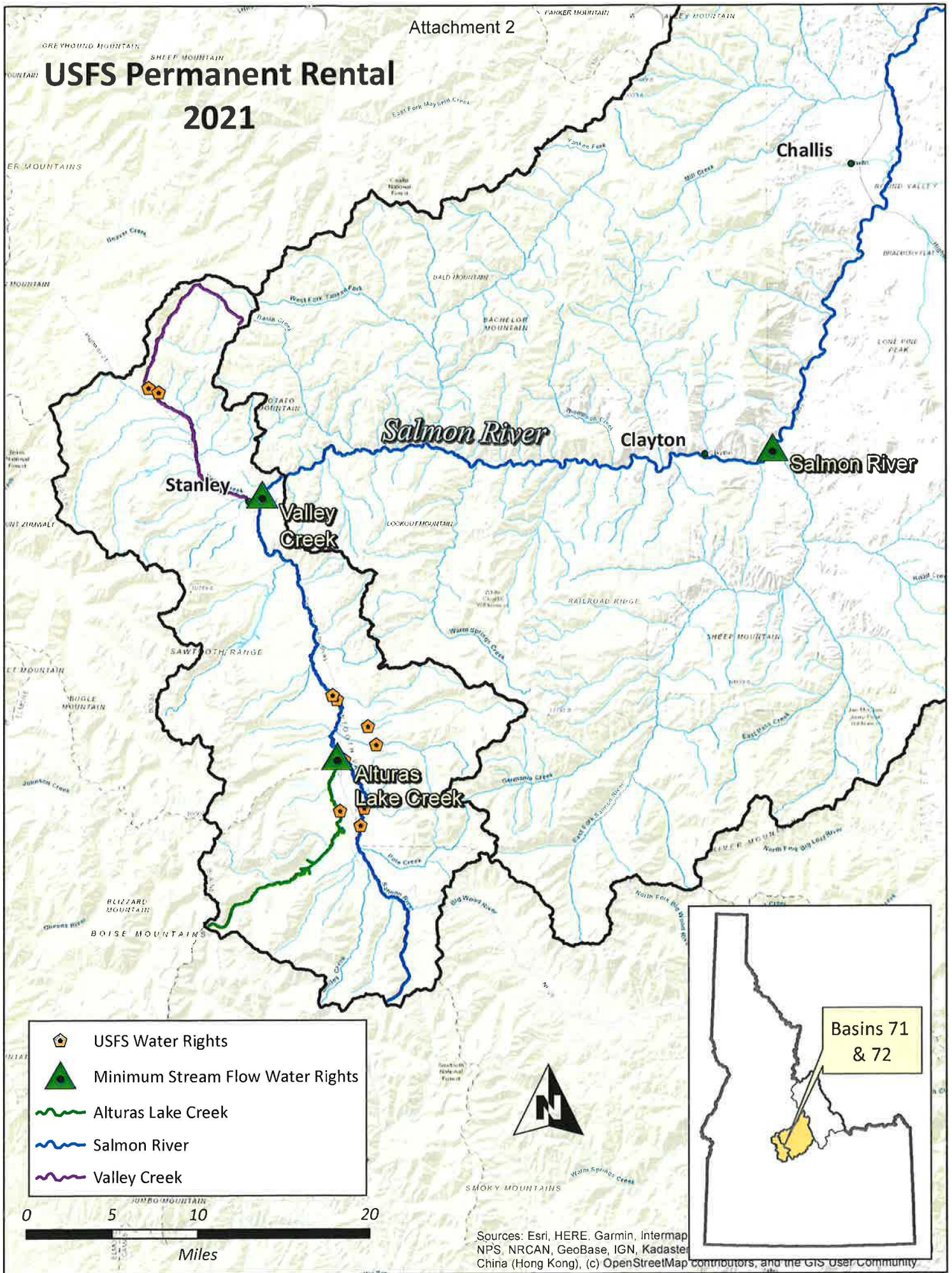
Printed Name of Representative

Date

Mail to:

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

USFS Permanent Rental 2021



Attachment 3A

Memorandum

To: Water Supply Bank

From: Amy Cassel

Date: August 31, 2021

Re: Salmon River above East Fork Salmon River Minimum Stream Flow WR No. 72-16668



The IWRB's Minimum Stream Flow (MSF) WR No. 72-16668 is located approximately 25.62 river miles downstream of USGS 13296500 SALMON RIVER BELOW YANKEE FORK SALMON RIVER NR CLAYTON ID. This is the closest upstream gage of MSF 72-16668, either currently maintained or historic. There are 21 named tributaries entering the Salmon River between USGS 13296500 gage and MSF 72-16668. Two of the four largest tributaries in this reach are currently gaged: USGS 13297330 THOMPSON CREEK and USGS 13297355 SQUAW CREEK.

USGS 13296500 SALMON RIVER BELOW YANKEE FORK SALMON RIVER NR CLAYTON ID

https://waterdata.usgs.gov/nwis/inventory?agency_code=USGS&site_no=13296500

USGS 13297330 THOMPSON CREEK NR CLAYTON ID

https://waterdata.usgs.gov/nwis/inventory?agency_code=USGS&site_no=13297330

USGS 13297355 SQUAW CREEK BELOW BRUNO CREEK NR CLAYTON ID

https://waterdata.usgs.gov/nwis/inventory?agency_code=USGS&site_no=13297355

The table below represents a good-faith estimation of whether or not the Salmon River above East Fork Salmon River MSF is currently being met during naturally flow-limited months (Table 1). Monthly mean discharges (ft³/s) June through October at three upstream USGS gage stations were compiled and is compared to the June through October minimum stream flows for MSF 72-16668.

The discharges observed at three upstream gage stations represent *estimated* flow at the Salmon River above East Fork Salmon River. Observed discharge is compared to the minimum stream flows for WR No. 72-16668 and represents the deficit or surplus flow in the Salmon River needed to meet the Salmon River above East Fork Salmon River MSF. For example, in August-October 2000–2020 the MSF was met, plus an additional 83–58 cfs above the MSF. Whereas in June-July 2000–2020, the estimated flow in the Salmon River above the East Fork Salmon River was, on average, 394–158 cfs short of meeting the MSF. Out of 252 cumulative months over 21 years, IWTP staff estimated monthly MSFs were not met 46 times. For example, 15 out of 21 July MSFs were not met in the Salmon River above the East Fork Salmon River and 5 out of 21 September and October MSFs were not met in Salmon River during the period of analysis.

The United States Forest Service owns water right nos. 71-1072B, 71-10766, 71-10871, 71-2004D, 71-10772, 71-10277, 71-10278, 71-7002, and 71-2053A. These water rights are available for rental and delivery to the MSF 72-16668 on the Salmon River. Idaho Fish and Game's Region 7 (Salmon) Regional Supervisor has provided a

statement attesting to the biological justification of the Salmon River above East Fork Salmon River water right rental for late-season MSFs to benefit migrating adult Chinook salmon (Figure 1).

Month	Monthly Average Discharge 2000-2020	MSF 72-16668	Difference
June	2915.09	3310.00	-394.91
July	1161.7	1320.00	-158.30
August	536.07	453.00	+83.07
September	463.66	405.00	+58.66
October	529.98	447.00	+82.98

Table 1. Monthly average discharge June-October, 2000-2020 (21 years) on the Salmon River and two tributaries up to 25.62 mi upstream from confluence with the East Fork Salmon River. This record of historic discharge is compared to the monthly minimum stream flow required by WR No. 72-16668.



IDAHO DEPARTMENT OF FISH AND GAME

SALMON REGION
99 Highway 93 North
Salmon, Idaho 83467

Brad Little / Governor
Ed Schriever / Director

Jeff Raybould, Chairman
Idaho Water Resource Board
332 E Front Street
Boise, ID 83720

June 30, 2021

**RE: PERMANENT RENTAL OF SAWTOOTH VALLEY WATER RIGHTS TO MEET
UPPER SALMON BASIN MINIMUM STREAM FLOWS**

Dear Chairman Raybould,

It is widely understood that Chinook and Sockeye salmon, steelhead, and bull trout habitat in the Upper Salmon River basin is limited by low flow conditions and high temperatures. Therefore, it is in the interest of the State of Idaho to augment streamflows and provide habitat in the Upper Salmon River Basin to encourage recovery of ESA-listed Chinook and sockeye salmon, steelhead, and bull trout.

The 2004 Snake River Water Rights ("Nez Perce") Agreement commits the state to providing incentives for improving fish habitat which includes improving or protecting flow conditions to augment stream flows. In the Sawtooth Valley, at the headwaters of the Salmon River; Alturas Lake Creek, Valley Creek, and the Upper Salmon River have been identified as high priority streams for flow restoration efforts to provide high quality habitat for anadromous Chinook and sockeye salmon, steelhead and resident bull trout. As provided for in the Nez Perce Agreement, the Idaho Water Resource Board (Board) established minimum streamflow Water Rights 71-10890 on Alturas Lake Creek, 71-10886 on Valley Creek, and 72-16668 on the Salmon River to be met through water right rentals or acquisitions under state law.

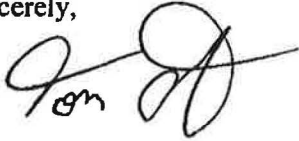
Since the mid-1990's the United States Forest Service (USFS) owns Water Right Nos: 71-41, 71-42B, 71-43B, 71-49B, 71-50, 71-59, 71-61, 71-64B, 71-66, 71-68, 71-2004D, 71-2053A, 71-7002, 71-10277, 71-10278, 71-10728, 71-10766, 71-10772 and 71-10871 (Water Rights) on Alturas Lake Creek, Valley Creek, the Salmon River, and several Salmon River tributaries, and has leased the referenced rights into the Idaho Water Supply Bank. The Board, pursuant to Section 42-1734, Idaho Code, has the authority to acquire, purchase, lease, or exchange land, rights, water rights, easements, franchises, and other property deemed necessary or proper for the construction, operation, and maintenance of water projects; and the USFS desires to protect the Water Rights in stream and has offered them to the Board for rental and permanent delivery to Board minimum stream flow Water Right Nos. 71-10890 (Alturas Lake Creek), 71-10886 (Valley Creek), and 72-16668 (Salmon River above East Fork Salmon River).

It is the opinion of the Idaho Department of Fish and Game that the permanent rental of these Water Rights is in the public interest, is consistent with the State Water Plan, intent of the Nez Perce Agreement, and aligns with the mission statement of Idaho Fish and Game to preserve,

Keeping Idaho's Wildlife Heritage

protect, and perpetuate all wildlife within the State of Idaho. As such the Department extends our support for the permanent rental of the Water Rights into the water supply bank and rented by the Board for 90 days (July 1 – October 1) to meet late-season minimum stream flows on Alturas Lake Creek, Valley Creek, and on the Salmon River above the East Fork Salmon River in order to facilitate upstream migration and spawning of Snake River Spring/Summer-run Chinook salmon.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Curet', with a stylized flourish extending from the end.

Tom Curet, IDFG Regional Supervisor – Salmon Region



IDAHO DEPARTMENT OF
WATER RESOURCES

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

Governor Brad Little

Director Mathew Weaver

August 26, 2024

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). 71-59, 71-61, 71-64B, 71-66, 71-68, 71-2004D, 71-2053A, 71-7002,
71-10277, 71-10278, 71-10772, 71-10871, AGREEMENTS 667, 786, 813, 814, 785, & 658**

Dear Renter:

The total rental fee amount of **\$11,918.00**, in connection with the enclosed copies of six fully executed Water Supply Bank Rental Agreements for the rental of 5,959 acre-feet annually for Minimum Streamflow Maintenance, has been received.

Name	WR No(s).	Volume Rented	Admin Fee Due	Owner Payment	Amount Received
Rental Agreement 667 - USFS SNRA (Champion Creek – Salmon River)	WR 71-10277 & 71-10278	27.9 AF	\$55.80	N/A	\$55.80
Rental Agreement 786 - USFS SNRA (4 th of July Creek – Salmon River)	WR 71-2004D & 71-10772	32.1 AF	\$64.20	N/A	\$64.20
Rental Agreement 813 - USFS SNRA (Unnamed Drain - Salmon River)	WR 71-2053A & 71-7002	90.3 AF	\$180.60	N/A	\$180.60
Rental Agreement 814 - USFS SNRA (Salmon River)	WR 71-10871	200.4 AF	\$400.80	N/A	\$400.80
Rental Agreement 785 - USFS SNRA (Busterback Ranch - Salmon River)	WR 71-59 & 71-61	3,642.3 AF	\$7,284.60	N/A	\$7,284.60
Rental Agreement 658 - USFS SNRA (Busterback Ranch - Alturas Lake Creek)	WR 71-64B, 71-66, 71-68	1,966 AF	\$3,932.00	N/A	\$3,932.00

Pursuant to the Water Supply Bank Rules and IWRB Resolution No. 16-2021, the rental fee will be retained by the Department to offset administrative costs as a one-time fee for the indefinite terms of these rental agreements.

Sincerely,

Water Supply Bank Program Coordinator

Enclosures: Executed Rental Agreements 667, 786, 813, 814, 785, & 658 (copies)

c: Sascha Marston – IDWR Fiscal
John Loffredo – IDWR Water Transactions Program Manager

From: [Marston, Sascha](#)
To: [Loffredo, John](#)
Cc: [Condon, Mary](#)
Subject: RE: Invoice for WSB permanent rental fees from IWRB RDA
Date: Thursday, August 22, 2024 10:44:34 AM
Attachments: [image001.png](#)

John,

The \$11,918.00 was transferred to the WSB.

Sascha

From: Loffredo, John <John.Loffredo@idwr.idaho.gov>
Sent: Monday, August 19, 2024 9:42 AM
To: Marston, Sascha <Sascha.Marston@idwr.idaho.gov>
Cc: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: FW: Invoice for WSB permanent rental fees from IWRB RDA

Good Morning Sascha and Mary,

Apologies for the prolonged back and forth.

Sascha, the last we touched base on this you asked for additional documentation on the \$11,918 being requested by the WSB for the total \$14,941.20 approved by the IWRB on the Busterback Rentals.

Attached is Mary's spreadsheet calculating consumptive use volumes and admin fees for the two of three MSF rentals executed to-date. The last worksheet has the \$11,918 total highlighted.

Please let us know if you have any further questions regarding the transfer of these funds from the RDA to the WSB.

Regards,

John Loffredo | Program Manager
[Idaho Water Transaction Program](#)
Idaho Department of Water Resources
1301 Main St., Ste. 10 | Salmon, ID 83467
tel: (208) 742-0659 cell: (208) 296-0880
john.loffredo@idwr.idaho.gov



Memo

To: Sascha Marston
From: John Loffredo
Date: 01/22/2024
Re: 2024 Water Supply Bank Water Transaction Payment from RDA Subaccount

Please prepare the following payments from funds in the Board’s RDA (NFWF subaccount) to the Water Supply Bank (rental fees) for the following FY24 water transactions:

Name	WR No.	2024 rental fee	Payment to water user	One-Time, Permanent Rental Fee Reimbursement to WSB
USFS SNRA Busterback Ranch (RA 785)	WR 71-59 & 71-61	NA	NA	\$7,284.60
USFS SNRA Busterback Ranch (RA 814)	WR 71-10871	NA	NA	\$400.80
USFS SNRA Busterback Ranch (RA 667)	WR 71-10277 & 71-10278	NA	NA	\$55.80
USFS SNRA Busterback Ranch (RA 786)	WR 71-2004D & 71-10762	NA	NA	\$64.20
USFS SNRA Busterback Ranch (RA 831)	WR 71-2053A & 71-7002	NA	NA	\$180.60
USFS SNRA Busterback Ranch (RA 658)	WR 71-64B, 71-66, 71-68	NA	NA	\$3,932.00

c: Cynthia Bridge Clark
Brian Patton
Mary Condon

BEFORE THE IDAHO WATER RESOURCE BOARD

**IN THE MATTER OF THE PERMANENT RENTAL OF
SAWTOOTH VALLEY WATER RIGHTS**

**RESOLUTION TO MAKE A FUNDING
COMMITMENT**

1 WHEREAS, Chinook and Sockeye salmon, steelhead, and bull trout habitat in the Upper Salmon
2 River basin is limited by low flow conditions and high water temperatures; and
3

4 WHEREAS, it is in the interest of the State of Idaho to augment stream flows and provide habitat
5 in the Upper Salmon River Basin to encourage recovery of ESA-listed Chinook and Sockeye salmon,
6 steelhead, and bull trout fish; and
7

8 WHEREAS, the 2004 Snake River Water Rights ("Nez Perce") Agreement commits the state to
9 providing incentives for improving fish habitat which includes improving or protecting flow conditions to
10 augment stream flows; and
11

12 WHEREAS, Alturas Lake Creek, Valley Creek, and the Upper Salmon River have been identified as
13 high priority streams for flow restoration efforts, to provide high quality habitat for anadromous Chinook
14 and Sockeye salmon, steelhead and resident bull trout; and
15

16 WHEREAS, as provided for in the Nez Perce Agreement, the Idaho Water Resource Board (Board)
17 established minimum streamflow Water Rights 71-10890 on Alturas Lake Creek, 71-10886 on Valley
18 Creek, and 72-16668 on the Salmon River to be met through water right rentals or acquisitions under state
19 law; and
20

21 WHEREAS, the United States Forest Service (USFS) owns Water Right Nos. 71-41, 71-42B, 71-43B,
22 71-49B, 71-50, 71-59, 71-61, 71-64B, 71-66, 71-68, 71-2004D, 71-2053A, 71-7002, 71-10277, 71-10278,
23 71-10728, 71-10766, 71-10772 and 71-10871 (Water Rights) on Alturas Lake Creek, Valley Creek, the
24 Salmon River, and several Salmon River tributaries, and has leased the referenced rights into the Idaho
25 Water Supply Bank; and
26

27 WHEREAS, the Board, pursuant to Section 42-1734, Idaho Code, has the authority to acquire,
28 purchase, lease, or exchange land, rights, water rights, easements, franchises, and other property deemed
29 necessary or proper for the construction, operation, and maintenance of water projects; and
30

31 WHEREAS, the USFS desires to protect the Water Rights in stream and offers them to the Board
32 for rental and permanent delivery to Board minimum stream flow Water Right Nos. 71-10890, 71-10886,
33 and 72-16668; and
34

35 WHEREAS, the permanent rental of the Water Rights is in the public interest, and is consistent
36 with the State Water Plan and intent of the Nez Perce Agreement; and
37

38 WHEREAS, the total rate of the flow from the Water Rights is 124 cfs, resulting in a one-time rental
39 fee of \$14,941.20 to be paid to the Idaho Water Supply Bank; and
40

41 WHEREAS, funds are available in the Board's Revolving Development Account to cover the cost of
42 the one-time rental fee; and
43

44 NOW THEREFORE BE IT RESOLVED that the Board authorizes expenditure of a one-time rental fee
45 in the amount of fourteen thousand, nine hundred forty-one dollars and twenty cents (\$14,941.20) to the
46 Idaho Water Supply Bank from the Board's Revolving Development Account.
47
48

DATED this 21st day of May 2021.



Jeff Raybould, Chairman
Idaho Water Resource Board

ATTEST 

Jo Ann Cole Hansen, Secretary

71-2004D & 71-10772

				cfs	*vol	*acres	cfs/acre	vol/acre	
71-2004D & 71-10772	1-May	31-Oct	as leased						
	Normal Season of use			184	0.82	32.1	10.7	0.077	3.0
	cfs per day			0.09					
	vol per day			0.17					
	total vol			32.1					
	1-Jul	30-Sep	Rental	cfs	vol	acres	cfs/acre	vol/acre	
	Season of Use			92	0.82	21.4	10.7	0.077	2.0
	cfs per day			0.117	0.5				
	vol per day			0.23					
total vol			21.4						

11/23/2013 Rental/Main Salmon/work

Attachment 1 – CIR and return flow evaluation on WRs 71-2004 D & 71-10772

August 3, 2023

M. Condon, IDWR



Picture 1

During the site visit in 2022, it was apparent that the place of use idled for the lease is on a plateau, and any return flows or seepage from irrigation would not have returned to Fourth of July Creek, or the Salmon River. Picture 1, above is the east turn entry to the work center from the highway, and the hill to the left in the picture is the far west part of the property.



Picture 2

Picture 2 above, shows the aerial imagery of the property and location of the work center, view is facing east. Irrigation was pulled into the northeast corner of the property and flood irrigated southwest along the plateau. Blue outline of the irrigation place of use is not exact, and is for reference only.



Picture 3

Picture 3 facing north at the place of use for leased rights 71-2004 D and 71-10772, with the work center at the southern most part of the place of use. Blue outline of the irrigation place of use is not exact, and is for reference only. Irrigation was applied as flood irrigation at the top northeast corner of the plateau (arrow), spreading westerly and southerly. It is unlikely any seepage from irrigation would return to either the Fourth of July Creek or the Salmon River. Seepage would be eventually captured in the waste ditch/canal beginning from the Fourth of July Creek in the picture above and running alongside the plateau in the lowest depression continuing north northwest to the next property for irrigation by another water user. Due to historic evidence flood irrigation was applied to the lands prior to lease and the supporting images of no return flows to the natural channel or tributary contained in this attachment, I recommend a rental of the calculated consumptive use available under these leased rights, with no monthly restrictions during the condensed season of use.



IDAHO WATER RESOURCE BOARD

Brad Little
Governor

Jeff Raybould
Chairman
St. Anthony
At Large

Roger W. Chase
Vice-Chairman
Pocatello
District 4

Jo Ann Cole-Hansen
Secretary
Lewiston
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Dale Van Stone
Hope
District 1

Albert Barker
Boise
District 2

Dean Stevenson
Paul
District 3

Peter Van Der Meulen
Hailey
At Large

Brian Olmstead
Twin Falls
At Large

August 30, 2021

RE: Applications to Rent WR Nos. 71- 41, 71-42B, 71-43B, 71-49B, 71-50 for delivery to the Valley Creek Minimum Stream Flow Water Right 71-10886, WR Nos. 71-64B, 71-66, and 71-68 for delivery to the Alturas Lake Creek Minimum Stream Flow Water Right 71-10890, and WR Nos. 71-59, 71-61, 71-10277, 71-10278, 71-2004D, 71-10772, 71-1072B, 71-10871, 71-10766, 71-7002, and 71-2053 for delivery to the Salmon River Minimum Stream Flow Water Right 71-16668

Enclosed please find applications to permanently rent the above-mentioned water rights numbers for delivery to the Idaho Water Resource Board's minimum stream flow water rights on Valley Creek, Alturas Lake Creek, and the Salmon River. The purpose of this rental is to improve flows to facilitate the spawning and rearing of fish species listed under the Endangered Species Act.

The water rights are owned by the United States Forest Service (USFS) and are currently leased into the water supply bank. On August 31, 2021, the USFS submitted lease applications to amend the current lease contracts from 5 years to indefinite. The Idaho Water Resource Board passed a resolution on May 21, 2021, approving the indefinite rental and the one-time rental fee (attached).

Also attached is correspondence between the USFS Acting Regional Forester – Intermountain Region and the Idaho Water Resource Board. The correspondence indicates the wishes of both parties to pursue a permanent rental of the water rights.

Please copy all correspondence regarding this rental to:

Gayla (Jamie) Gough
Water Rights Specialist
Forest Service
Intermountain Region
p: 208-204-4571
gayla.gough@usda.gov

If you have any questions or need further clarification regarding the rental application, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amy Cassel', with a long, sweeping horizontal line extending to the right.

Amy Cassel

Program Manager, Idaho Water Transactions Program
Idaho Department of Water Resources
102 S. Warpath
Salmon, ID 83467

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE PERMANENT RENTAL OF
SAWTOOTH VALLEY WATER RIGHTS

RESOLUTION TO MAKE A FUNDING
COMMITMENT

1 WHEREAS, Chinook and Sockeye salmon, steelhead, and bull trout habitat in the Upper Salmon
2 River basin is limited by low flow conditions and high water temperatures; and
3

4 WHEREAS, it is in the interest of the State of Idaho to augment stream flows and provide habitat
5 in the Upper Salmon River Basin to encourage recovery of ESA-listed Chinook and Sockeye salmon,
6 steelhead, and bull trout fish; and
7

8 WHEREAS, the 2004 Snake River Water Rights ("Nez Perce") Agreement commits the state to
9 providing incentives for improving fish habitat which includes improving or protecting flow conditions to
10 augment stream flows; and
11

12 WHEREAS, Alturas Lake Creek, Valley Creek, and the Upper Salmon River have been identified as
13 high priority streams for flow restoration efforts, to provide high quality habitat for anadromous Chinook
14 and Sockeye salmon, steelhead and resident bull trout; and
15

16 WHEREAS, as provided for in the Nez Perce Agreement, the Idaho Water Resource Board (Board)
17 established minimum streamflow Water Rights 71-10890 on Alturas Lake Creek, 71-10886 on Valley
18 Creek, and 72-16668 on the Salmon River to be met through water right rentals or acquisitions under state
19 law; and
20

21 WHEREAS, the United States Forest Service (USFS) owns Water Right Nos. 71-41, 71-42B, 71-43B,
22 71-49B, 71-50, 71-59, 71-61, 71-64B, 71-66, 71-68, 71-2004D, 71-2053A, 71-7002, 71-10277, 71-10278,
23 71-10728, 71-10766, 71-10772 and 71-10871 (Water Rights) on Alturas Lake Creek, Valley Creek, the
24 Salmon River, and several Salmon River tributaries, and has leased the referenced rights into the Idaho
25 Water Supply Bank; and
26

27 WHEREAS, the Board, pursuant to Section 42-1734, Idaho Code, has the authority to acquire,
28 purchase, lease, or exchange land, rights, water rights, easements, franchises, and other property deemed
29 necessary or proper for the construction, operation, and maintenance of water projects; and
30

31 WHEREAS, the USFS desires to protect the Water Rights in stream and offers them to the Board
32 for rental and permanent delivery to Board minimum stream flow Water Right Nos. 71-10890, 71-10886,
33 and 72-16668; and
34

35 WHEREAS, the permanent rental of the Water Rights is in the public interest, and is consistent
36 with the State Water Plan and intent of the Nez Perce Agreement; and
37

38 WHEREAS, the total rate of the flow from the Water Rights is 124 cfs, resulting in a one-time rental
39 fee of \$14,941.20 to be paid to the Idaho Water Supply Bank; and
40

41 WHEREAS, funds are available in the Board's Revolving Development Account to cover the cost of
42 the one-time rental fee; and
43

44 NOW THEREFORE BE IT RESOLVED that the Board authorizes expenditure of a one-time rental fee
45 in the amount of fourteen thousand, nine hundred forty-one dollars and twenty cents (\$14,941.20) to the
46 Idaho Water Supply Bank from the Board's Revolving Development Account.
47
48

DATED this 21st day of May 2021.


Jeff Raybould, Chairman
Idaho Water Resource Board

ATTEST 
Jo Ann Cole Hansen, Secretary



IDAHO WATER RESOURCE BOARD

Brad Little
Governor

October 1, 2020

Roger W. Chase
Chairman
Pocatello
District 4

Frank Beum
Acting Regional Forester
Intermountain Region
324 25th Street
Ogden, UT 84401

Jeff Raybould
Vice-Chairman
St. Anthony
At Large

Dear Mr. Beum:

Vince Alberdi
Secretary
Kimberly
At Large

The Idaho Water Resource Board (IWRB) holds Minimum Stream Flow Water Right Nos. 71-10886 for Valley Creek and 72-16668 for the Salmon River. These minimum stream flow water rights were issued following the Snake River Water Rights Agreement of 2004 with the intent "to preserve fish and wildlife, scenic, and recreational values and to protect and enhance water quality..." IWRB staff has determined that the minimum flow rates authorized under water rights 71-10886 and 72-16668 are not always met. Therefore, any available water that is leased into the Idaho Water Supply Bank that could be rented to meet the minimum stream flows would be beneficial to the State of Idaho and aid the in the recovery of fish species listed under the Endangered Species Act.

Peter Van Der Meulen
Hailey
At Large

Albert Barker
Boise
District 2

The United States Forest Service (USFS) currently holds 13 separate lease agreements through the water supply bank that total approximately 123 cfs and 2,490 acres and consist of 19 individual water rights. The rights are not currently rented and are therefore available for a rental to meet instream flows in Valley Creek and the Salmon River.

John "Bert" Stevenson
Rupert
District 3

Dale Van Stone
Hope
District 1

The IWRB would like to formally request that the USFS consider renting these leased water rights, in perpetuity, to the IWRB in order to help meet the minimum stream flow water rights in Valley Creek and the Salmon River. The USFS will retain ownership of the 19 water rights and a permanent rental will not require a new lease application or the associated five-year administrative costs. A proposal will be made to use funding from the Columbia Basin Water Transactions Program (CBWTP) to cover all fees associated with this transaction, including a one-time permanent rental fee and any water district administration fees. The IWRB is the only Qualified Local Entity in the state of Idaho to receive CBWTP funding. The goals of the CBWTP are to increase streamflow in the Columbia River Basin to increase the productivity and resiliency of Pacific salmon, steelhead trout, and a host of resident fish species, and the IWRB believes this transaction is consistent with those goals and the intent of the minimum streamflow water rights.

Jo Ann Cole-Hansen
Lewiston
At Large

If you have questions about the IWRB's interest in collaboration on this effort, please feel free to contact Amy Cassel, Idaho Water Transactions Program Manager for the IWRB, at (208) 742-0656.

Sincerely,

A handwritten signature in blue ink that reads "Roger Chase". The signature is fluid and cursive, with the first name "Roger" and the last name "Chase" clearly distinguishable.

Roger Chase

Chairman, Idaho Water Resource Board

Cc: Jim DeMaagd, Sawtooth National Forest Service
Kathryn Conant, National Forest Service

United States
Department of
Agriculture

Forest
Service

Intermountain Region

324 25th Street
Ogden, UT 84401

RECEIVED

DEC 02 2020

IDAHO WATER
RESOURCE BOARD

File Code: 2540

Date: November 10, 2020

Roger Chase, Chairman
Idaho Water Resources Board
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Dear Mr. Chase:

Thank you for your October 1, 2020, letter regarding your request that the U.S. Department of Agriculture, U.S. Forest Service (Forest Service) consider a permanent rental of 19 water rights currently leased into the Idaho Water Supply Bank to the Idaho Water Resources Board (IWRB). We view this proposal as a win-win opportunity for the State of Idaho and the Forest Service working together in support of minimum streamflow's which aid in the recovery of fish species listed under the Endangered Species Act (ESA).

In 1992, the Forest Service purchased the Busterback Ranch, which included five irrigation water rights in the Upper Salmon River Basin for the purpose of enhancing flows for salmon migration. The cost of this acquisition was \$3.2 million. The Bonneville Power Administration contributed \$769,000 toward the purchase in order to dedicate the water rights to instream flow, as agreed to in a Memorandum of Understanding. Unfortunately, after the purchase was completed, the Forest Service learned that Idaho state law provides no mechanism for the Forest Service to convert the irrigation water rights to instream flow water rights. Thus, the intent of the purchase could not be fulfilled.

The ESA prohibits federal action that may jeopardize the existence of any threatened or endangered species. Chinook salmon, sockeye salmon, steelhead trout, and bull trout spend part of their life cycle in and around Valley Creek and the upper Salmon River. These species are listed as threatened or endangered under the ESA. An endangered plant, the Ute ladies'-tresses, is also known to grow in riparian habitat in the area. Had the Forest Service undertaken historic irrigation withdrawals from 1992 through the 2020 irrigation seasons, such diversions would have constituted a federal action and could have resulted in the destruction of, or adverse modification of, critical habitat. Moreover, such action could have jeopardized the continued existence of the listed species. Finally, such diversions may have placed the Forest Service at risk of violating the take prohibitions of the ESA.

Under state law, water rights must be applied to beneficial use at least once every five years in order to prevent forfeiture. Over the years, the Forest Service worked closely with the State of Idaho to protect these water rights in accordance with state and federal law. In 1999, these water rights were decreed to the United States in the Snake River Basin Adjudication. In March 2004, the Forest Service received five-year extensions of time to avoid forfeiture for non-use.



Those extensions expired in March 2009, and there were no provisions under state law to allow for further extensions. The rights became subject to immediate forfeiture for non-use.

At that time, the State of Idaho requested that the Forest Service consider leasing the water rights into the Idaho Water Supply Bank where they could be protected from forfeiture for a longer period of time. That action was taken, and the rights have been in the Idaho Water Supply Bank for the last 11 years. During that time, no one has applied to rent the rights from the Idaho Water Supply Bank. The current five-year lease contract for the five Busterback water rights (as well as 14 other irrigation rights) are set to expire on December 31, 2021.

The intent of the Forest Service in leasing these water rights to the Idaho Water Supply Bank is to protect instream flows for fish that are listed under the ESA. Entering into a permanent rental agreement with the IWRB would provide long-term protection from forfeiture for the water rights and would contribute to the State of Idaho's minimum streamflow program, which support threatened or endangered fish. Working with the IWRB to achieve these common goals also supports the values of shared stewardship between the Forest Service and the State of Idaho.

We look forward to working with your staff to coordinate on the rental contracts for the 19 water rights associated with the 13 lease agreements. Please coordinate with Jamie Gough, Idaho Forest Service Water Rights Coordinator, at jamic.gough@usda.gov or 208-204-4571.

Sincerely,

JAMES
DEMAAGD

Digitally signed by JAMES
DEMAAGD
Date: 2020.11.10
14:11:21 -07'00'

/s/ James Demaagd (for)

FRANK R. BEUM
Acting Regional Forester, Intermountain Region

Enclosure: USFS Letter from IWRB

cc: Kathryn Conant, Regional Director, Lands and Minerals, Intermountain Region