

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1177

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

LESSOR: THREE FORKS LLC
1575 HAPPY VALLEY RD
WOODSTOCK, VT 05091-7415

RECEIVED

APR 07 2020

DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on February 03, 2020.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
22-7266	12/28/1977	GROUND WATER	0.4	78.0	26.0
Combined Lease Totals			0.4	78.0	26.0

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2020 to December 31, 2024. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1177

5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1177

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: THREE FORKS LLC
1575 HAPPY VALLEY RD
WOODSTOCK, VT 05091-7415

By Nancy C. H. White
Title Manager
Date 1 April 2020

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 4/21/2020

Lease approved by IDWR Angela M. Gunn

Date 4/21/2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1177

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 22-7266

GROUND WATER	NWSWNE	Sec. 26	Twp 05N	Rge 44E	TETON County
GROUND WATER	NWNENW	Sec. 26	Twp 05N	Rge 44E	TETON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
22-7266	IRRIGATION	04/15	to	10/15	0.4 cfs	78.0 AF
Totals:					0.4 cfs	78.0 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: 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	
05N	44E	26	7.0	8.0	6.0	5.0													26.0

Total Acres: 26.0

ADDITIONAL CONDITIONS OF ACCEPTANCE






1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1177

8. Acceptance of a right into 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.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Effective until December 31, 2024

-  Approved Lease Point of Diversion
 Approved Lease Place of Use
 Township/Range
 Sections
 QQ



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 03 2020

Department of Water Resources
Eastern Region

RECEIVED

FEB 10 2020

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Three Forks, LLC

(Select one owner – see item 1A on the application)

Water Right No. 22-7266

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☐ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☐ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☐ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☒ ☐ Signatures and contact information for **all owners** of the water right to be leased or sold on this application.
- 1B ☐ ☒ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☐ ☒ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☐ ☒ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ 250.-Received By: JBDate Received: 2/4/2020 Receipt # E045610W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Three Forks, LLC

Mailing Address 1575 Happy Valley Road, Woodstock Vermont, 05091

Street

City

State

Zip Code

Email Address _____

Phone Number _____

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☐ No ☒
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Kristin Moore Organization Rocky Mountain Environmental Assoc., Inc.

Professional Title Sen. Water Rights Consultant Email Address kristin.rmea@gmail.com

Mailing Address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Phone Number 208-524-2353

☒ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☐ The full water right is being offered to the Bank.

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled 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 idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.
- B. Please provide a description of the current water diversion and delivery system.
The current diversion system is a center pivot.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. There are no other water rights on the property.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. _____

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The proposed leased portion of the right has been leased to the WSB in recent years and has not been used for irrigation on the decreed POU.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. _____

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2020 to 2024 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Nancy C. A. Winter
Signature of Designated Applicant

Nancy C. A. Winter
Printed Name

28 Jan 2020
Date

Signature of Authorized Representative

Printed Name

Date

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

TO: IDAHO DEPARTMENT OF WATER RESOURCES

FROM: THREE FORKS LLC

RE: Authorized Representatives

Rocky Mountain Environmental Associates, Inc.
482 Constitution Way 303
Idaho Falls, ID 83402
(208) 524-2353 / (208) 524-1795 Fax

I, Nancy Winter, hereby authorize Rocky Mountain Environmental Associates, Inc. (RMEA) to act on my behalf regarding Water Supply Bank Application(s) for my water right(s).

Nancy ex. Winter

Signature

Nancy Winter

Printed Name

27 Jan 2020

Date

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>22-7266</u>	<u>Irrigation</u>	<u>0.38</u>	<u>78</u>	<u>26</u>
Total Amounts:				

2. Source of water Groundwater tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
05N	44E	26		NW	SW	NE	Teton
05N	44E	26		NW	NE	NW	Teton

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "TETON RIVER RANCH LLC", CHANGING ITS NAME FROM "TETON RIVER RANCH LLC" TO "THREE FORKS LLC", FILED IN THIS OFFICE ON THE SIXTH DAY OF SEPTEMBER, A.D. 2007, AT 1:07 O'CLOCK P.M.

4366967 8100

070990759



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5980436

DATE: 09-06-07

CERTIFICATE OF AMENDMENT TO
CERTIFICATE OF FORMATION

OF

TETON RIVER RANCH LLC
(original certificate filed on June 18, 2007)

The undersigned authorized person certifies that the information required to be set forth
by Section 18-202 of the Delaware Limited Liability Company Act as follows:

- (1) The name of the limited liability company is:

TETON RIVER RANCH LLC

- (2) The heading and Article First of the Certificate of Formation are amended to read
as follows:

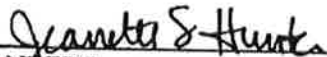
CERTIFICATE OF FORMATION OF THREE FORKS LLC

and

The name of the limited liability company is:

THREE FORKS LLC

- (3) This Certificate of Amendment shall be effective on the filing date.


JEANETTE S. HUNTER, authorized person

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "TETON RIVER RANCH LLC", FILED IN THIS OFFICE ON THE EIGHTH DAY OF JUNE, A.D. 2007, AT 12:13 O'CLOCK P.M.



4366967 8100

070687774

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5741353

DATE: 06-08-07

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:20 PM 06/08/2007
FILED 12:13 PM 06/08/2007
SRV 070687774 - 4366967 FILE

CERTIFICATE OF FORMATION
OF
TETON RIVER RANCH LLC

The undersigned authorized person certifies that the information required to be set forth by Section 18-201 of the Delaware Limited Liability Company Act is as follows:

1. The name of the limited liability company is:


TETON RIVER RANCH LLC

2. The address of its registered office and the name and address of its registered agent in the State of Delaware is:

The Corporation Trust Company
1209 Orange Street
Wilmington, Delaware 19801

3. This Certificate of Formation shall be effective on the filing date.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation of TETON RIVER RANCH LLC on the 8th day of June, 2007.


JEANNETTE S. HUNTER, authorized person

**Contribution Agreement
of
THREE FORKS LLC**

THIS CONTRIBUTION AGREEMENT is made as of the 6th day of September, 2007, by and among Nancy Corwith Hamill Winter, as trustee of that certain trust created by DECLARATION OF TRUST OF NANCY CORWITH HAMILL WINTER, dated March 10, 1993 (*Trust*), as the initial member of THREE FORKS LLC, a Delaware limited liability company (the *Company*). Unless otherwise specified, terms used in this contribution agreement have the same meaning as in the agreement evidencing said Company.

WHEREAS, Trust agrees to exchange the assets listed on the attached Exhibit A for 1,000 Voting Units and 99,000 Nonvoting Units.

WHEREAS, The Company shall issue and exchange 1,000 Voting Units and 99,000 Nonvoting Units for the contributions described above.

NOW, THEREFORE, the parties agree to the issuance of Units in exchange for the above described contributions as follows:

1. Voting and Nonvoting Units. The Company issues on the date hereof 1,000 Voting Units and 99,000 Nonvoting Units. Trust exchanges on the date hereof the assets listed on the attached Exhibit A for 1,000 Voting Units and 99,000 Nonvoting Units.

2. Miscellaneous Provisions.

(a) Parties in Interest. This contribution agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, distributees, legatees, successors and assigns, and nothing expressed or implied herein is intended or shall be construed to confer upon any other person any rights, remedies, obligations or liabilities under or by reason of this contribution agreement.

(b) Entire Transaction. This contribution agreement contains the entire understanding among the parties hereto with respect to the transactions contemplated hereby and supersedes all other agreements and understandings between such parties with respect to such transactions.

(c) Applicable Law. This contribution agreement shall be governed by the internal laws of the State of Delaware.

(d) Headings. The headings contained in this contribution agreement are for reference purposes only and shall not affect in any way the meaning or

interpretation of any provision hereof.

(e) Counterparts. This contribution agreement may be executed in multiple counterparts.

The parties have signed this contribution agreement as of the day and year first above written.

TRUST CREATED BY DECLARATION OF
TRUST OF NANCY CORWITH HAMILL
WINTER, DATED MARCH 10, 1993


By: Nancy Corwith Hamill Winter, Trustee

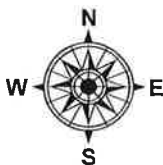


0 450 900 1,800 Feet

2017 Aerial Photography

Legend

- Point of Diversion 22-7266
- WSB_Acres2020
- Place of Use 22-7266
- Twp & Rng
- Section
- QQ



Irrigated Acres and WSB Three Forks, LLC

RMEA #18-0123

by: KM

Date: 12/23/2019





State of Idaho
DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 22, 2020

THREE FORKS LLC
1575 HAPPY VALLEY RD
WOODSTOCK VT 05091

**RE: WATER SUPPLY BANK LEASE CONTRACT 1177
FOR WATER RIGHTS 22-7266**

Dear Lessor:

Water rights **22-7266** was leased into the Water Supply Bank (Bank) as of January 1, 2020, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2024**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

for Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- EASTERN REGION
Kristen Moore- Rocky Mountain Environmental Assoc.

Thank you

RECEIVED

APR 07 2020

DEPARTMENT OF
WATER RESOURCES

Received.

March 28

Returned

April 2

Hersley, Jean

From: Cefalo, James
Sent: Tuesday, March 24, 2020 2:46 PM
To: Hersley, Jean
Subject: RE: WSB Lease for Three Forks LLC 22-7266

Jean,

I don't have any concerns with the proposed WSB Lease.

James

From: Hersley, Jean
Sent: Tuesday, March 24, 2020 2:22 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: WSB Lease for Three Forks LLC 22-7266

Please let me know within 7 days if you have any comments or concerns with the attached lease.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 24, 2020

THREE FORKS LLC
1575 HAPP VALLEY RD
WOODSTOCK VT 05091

**RE: APPLICATION TO LEASE WATER RIGHT 22-7266 TO THE WATER SUPPLY BANK
CONTRACT 1177**

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

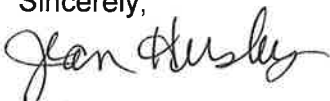
The right will automatically be released from the Bank on **December 31, 2024**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,


for Water Supply Bank

Enclosures: Proposed Lease Contracts

c. Rocky Mountain Environmental

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, March 24, 2020 2:22 PM
To: Cefalo, James
Subject: WSB Lease for Three Forks LLC 22-7266
Attachments: Idled Acres.pdf; Lease Application Review Checklist July 2017.xls; Report - Lease Contract - 1177.docx

Please let me know within 7 days if you have any comments or concerns with the attached lease.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, March 24, 2020 2:24 PM
To: kristin.rmea@gmail.com
Subject: WSB Lease Contract for Three Forks LLC
Attachments: 20200324140315.pdf

These contracts will go out in tomorrow's mail. Please let me know if you have any questions. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: Three Forks LLC

Memo Date: March 24, 2020

Water Right Number(s): 22-7266

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right	x		
	All of right			
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	x		
		Yes	No	
4	Rentable? (If no explain in comments or narrative)	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity	x		
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2008
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?	x		2014-2018
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
	Any other concerns		x	
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request		x	
11	Area Headgate requirement (write in Comments)			3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	

Narrative: The Department received this application on February 3, 2020. The application would like to place the pivot corners of T05NR44E26, NE quarter, in the Bank, 26 acres. The pivot corners of the rest of the right were placed in the Bank in 2019-2023 by JLC Holdings. Nancy Winter, trustee, signed the application. This right was decreed in 2008 and the pivot corners were placed in the Bank in 2014-2018. These pivot corners were not part of Contract 899. Some irrigation took place in the corners in 2012 so the forfeiture clock re-starts. No irrigation took place in 2013, 2014-2018 (when the corners were in the Bank) and 2019. There are no overlapping rights. This is a ground water right and not currently within a WD.

13

Hersley, Jean

From: Kristin Moore <kristin.rmea@gmail.com>
Sent: Tuesday, March 24, 2020 1:15 PM
To: Hersley, Jean
Subject: Re: Three Forks LLC

Yes, the corners are usually planted.

Kristin Moore

Water Rights Analyst
482 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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On Tue, Mar 24, 2020 at 11:41 AM Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Idaho Code § 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

When the corners were watered irregularly, was any crop being grown?

Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942

From: Kristin Moore [mailto:kristin.rmea@gmail.com]
Sent: Tuesday, March 10, 2020 11:32 AM

To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>

Subject: RE: Three Forks LLC

Jean,

I spoke with the farmer who operates the farm for Three Forks LLC. He indicated that prior to 2014, the corners were watered irregularly. Typically, when the system had extra water, they would open valves and flood the corners with whatever extra water they had. I did find evidence of this practice on imagery from Google Earth from 7/16/2012. It does not show all corners as being irrigated at this specific time, but it does show that they followed this practice, making an attempt to irrigate corners if there was enough water.

Kristin Moore

Senior Water Rights Analyst

482 Constitution Way, Ste 303, Idaho Falls, ID 83402

E-Mail: kristin.rmea@gmail.com

VOICE: 208-524-2353 ||| FAX: 208-524-1795



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From: Kristin Moore [<mailto:kristin.rmea@gmail.com>]

Sent: Thursday, February 13, 2020 12:57 PM

To: 'Hersley, Jean' <Jean.Hersley@idwr.idaho.gov>

Subject: RE: Three Forks LLC

Thanks, Jean. I will review your forfeiture concern and get back with you.

Kristin Moore

Senior Water Rights Analyst
482 Constitution Way, Ste 303, Idaho Falls, ID 83402
E-Mail: kristin.rmea@gmail.com
VOICE: 208-524-2353 ||| FAX: 208-524-1795



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From: Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]
Sent: Thursday, February 13, 2020 11:53 AM
To: Kristin Moore <kristin.rmea@gmail.com>
Subject: RE: Three Forks LLC

Thanks Kristen. Attached is the acknowledgment letter and water right report showing that the ownership has been updated.

An issue came up regarding the lease of a portion of water right 22-7266 that was submitted with the ownership change. The 26 acres of pivot corners that are being offered to the Bank were not placed in the Bank in 2019 by JLC Holdings, LLC. There are 105 acres of pivot corners in the Bank from 2019-2023. The issue is a question of forfeiture. Have these pivot corners ever been irrigated? The water right was decreed in 2008. The corners were placed in the Bank in 2014-2018. So from 2008 to 2014, were the pivot corners irrigated? If not, that is the 5 years of non-use and unless these pivot corners were irrigated in 2019, there could be a question of forfeiture. Please provide information showing an exception or defense to forfeiture of these pivot corners.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. Please respond

within 30 days or the Department will return this application unprocessed. Please let me know if you have any questions.

Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942

From: Kristin Moore [<mailto:kristin.rmea@gmail.com>]

Sent: Thursday, February 13, 2020 8:14 AM

To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>

Subject: RE: Three Forks LLC

Jean,

See the attached documents. Three Forks LLC is registered in Delaware. Nancy Winter is the sole member of the company.

Kristin Moore

Senior Water Rights Analyst

482 Constitution Way, Ste 303, Idaho Falls, ID 83402

E-Mail: kristin.rmea@gmail.com

VOICE: 208-524-2353 ||| FAX: 208-524-1795



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From: Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]
Sent: Monday, February 10, 2020 3:36 PM
To: kristin.rmea@gmail.com
Subject: Three Forks LLC

Kristen,

The Department is reviewing the ownership change and Water Supply Bank Lease application you submitted on behalf of Three Forks, LLC. The lease application contained a document that gave you permission to act on behalf of Three Forks, LLC. The authorization is signed by Nancy Winters. The Department needs documentation that gives Nancy Winters the authorization to make you an authorized representative.

The state office is processing the ownership change for 22-7266 and the WSB Lease Application. Please provide the requested information within 30 days or the applications will be returned unprocessed. Please contact me if you have any questions. Thank you.

Jean Hersley

Technical Records Specialist II

Idaho Dept Water Resources

(208) 287-4942