

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
NOV 12 2019
Department of Water Resources
Eastern Region

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
22-12775	Yes ☐	Yes ☒		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Old West Business Park, LLC
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Friends of the Teton River
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or ☐ and/or
- | | | | |
|-----------------|---------------------|-------|-------|
| P.O. Box 768 | Driggs | ID | 83422 |
| Mailing address | City | State | ZIP |
| 208-354-3871 | info@tetonwater.org | | |
| Telephone | Email | | |
4. If the water rights and/or adjudication claims were split, how did the division occur?
- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: 11/08/2019
6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).
7. This form must be signed and submitted with the following **REQUIRED** items:
- ☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- ☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- ☒ Filing fee (see instructions for further explanation):
- ☐ \$25 per *undivided* water right.
 - ☐ \$100 per *split* water right.
 - ☐ No fee is required for pending adjudication claims.
- ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
- ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: Executive Director, Friends of the Teton 11/8/2019
Signature of new owner/claimant Title, if applicable Date

Signature: _____ Title, if applicable Date

Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by Date 11/12/2019 Receipt No. E045444 Receipt Amt. \$25 -

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by Date 11-20-19

WATER RIGHT GRANT DEED

OLD WEST BUSINESS PARK, LLC, whose address is 3900 S. Hualapai Way, Suite 200, Las Vegas, Nevada 89147 ("Grantor"), does hereby grant, bargain, sell, assign, and convey to Friends of the Teton River, whose address is P.O. Box 768, Driggs, Idaho 83422 ("Grantee") and assigns forever all of Grantor's right, title, and interest in Water Right No. 22-12775 (the "Water Right"), historically appurtenant to the property described on Exhibit A, attached hereto.

A. Grantor covenants and warrants to Grantee as follows:

- a. Grantor is the owner of the Water Right;
- b. Grantor has not conveyed the Water Right to anyone other than the Grantee;
- c. The Water Right is being conveyed free from all liens, claims, or encumbrances; and
- d. Grantor has the authority to convey the Water Right to Grantee.

B. Grantor makes no other covenants, representations or warranties as to the Water Right.

C. No land is included in or conveyed by this grant.

D. Deed Restrictions/Restrictive Covenants: The use and ownership of the above described Water Right by Grantee, and its successors and assigns, shall be subject to the following restrictive covenants ("Restrictive Covenants"), which shall be perpetual, run with the Water Right, are for the benefit of the National Fish and Wildlife Foundation ("NFWF") as a third party beneficiary as set forth more fully herein, and are binding upon Grantee and its successors and assigns:

- a. Purpose: Permanently maintain flow in a specific reach of Badger Creek to facilitate the migration, spawning, and rearing of Yellowstone Cutthroat Trout.
- b. Restrictions: By acceptance and recordation of this Water Right Grant Deed, Grantee covenants and agrees that:
 - i. Grantee shall therefore hold and manage the Water Right consistent with permanently maintaining flow in a specific reach of Badger Creek to facilitate the migration, spawning, and rearing of Yellowstone Cutthroat Trout.

- ii. The Water Right must continue to serve the purposes for which it was acquired.
 - iii. Grantee shall not conduct or allow activity on or use of the Water Right that would impair or interfere with permanently maintaining flow in a specific reach of Badger Creek to facilitate the migration, spawning, and rearing of Yellowstone Cutthroat Trout.
 - iv. NFWF is the beneficiary of the covenants contained herein.
- c. Remedies and Self Help: If Grantee fails to comply with the Restrictive Covenants, after having been given written notice of such alleged failure and a reasonable opportunity to cure the same, NFWF shall have the right to enforce, by injunction, specific performance or declaratory judgment, the Restrictive Covenants, as well as the right to exercise any other rights or remedies provided by law or in equity, and these rights shall not be waived by one or more incidents of failure to enforce such rights; provided, however, that Grantee shall not be considered to be in violation of the Restrictive Covenants if, and to the extent that such noncompliance is caused by, natural disaster outside of human control. NFWF shall have the right but not the obligation to enforce the Restrictive Covenants or any other terms of the Water Right Grant Deed.
- d. Required Notice: In the event of any subsequent transfer, sale, conveyance or condemnation of the Water Right, or any part thereof, by Grantee, or its successors and assigns, the then owner of the Water Right shall give written notice of any such transfer, sale, conveyance, or condemnation to NFWF General Counsel at 1133 15th Street, N.W., Suite 1100, Washington, D.C. 20005, on or before sixty (60) days from the date of any such transfer, sale, conveyance, or condemnation.
- e. Disposition: In the event that the title to the Water Right or an interest in some or all of the Water Right, including a leasehold interest, is transferred or otherwise conveyed to a third party, whether voluntary or involuntary, Grantee hereby agrees that such disposition of the Water Right shall be subject to the conditions set forth in this section as follows:
 - i. Transfers: If Grantee seeks to dispose, transfer, or otherwise convey the Water Right, Grantee shall provide NFWF with prior written notice of such intent and NFWF shall consult with the funding source on the appropriate approach for the Grantee to dispose of the Water Right to ensure programmatic success. Subject to the requirements set forth herein, if title to the Water Right or an interest in some or all of the Water Right, including a leasehold interest, is transferred to a third

- party, it must be conveyed subject to (i) the Restrictive Covenants, or (ii) a conservation easement that (a) shall be recorded with the deed and shall incorporate all terms and conditions set forth in the Restrictive Covenants, including the easement holder's responsibility to enforce the easement and (b) names NFWF or its designee as the grantee or third party beneficiary.
- ii. Proceeds: If the Water Right is (a) conveyed or (b) condemned, in whole or in part, Grantee or its successors and assigns shall use the proceeds of any such conveyance, or condemnation, or any residual value derived therefrom, exclusively to pay for property acquisition or other environmental benefit projects designed to permanently maintain flow in a specific reach of Badger Creek to facilitate the migration, spawning, and rearing of Yellowstone Cutthroat Trout.

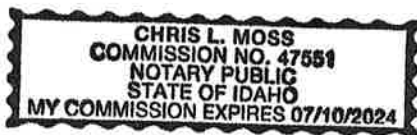
IN WITNESS WHEREOF, the undersigned Grantor has caused his name to be hereto subscribed this 18th day of October, 2019.

OLD WEST BUSINESS PARK, LLC

By: [Signature]
Judy Gardner, Managing Member

On this 18th day of October, 2019 before me, a Notary Public in and for the said State, personally appeared Judy Gardner, Managing Member of Old West Business Park, LLC, known to me.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last written above.



[Signature]
NOTARY PUBLIC for Idaho

Residing at Driggs

My Commission expires: 7-10-2024

Exhibit A

TRACT 1: Beginning at the Northeast corner of Section 20, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence West 1964 feet, more or less, to the East line of the Oregon Shortline Railroad Right-of-Way; thence Southeasterly along railroad 2708 feet, more or less, to the centerline of said Section 20; thence East 1454 feet, more or less; thence North 2640 feet to the point of beginning.

TRACT 2: Beginning at a point 2440 feet South of the East Quarter corner of Section 17, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho, thence South 200 feet, more or less to the Southeast corner of said Section 17; thence West 1964 feet, more or less to Railroad Right-of-Way; thence Northwesterly to a point that is 2440 feet due South of the Centerline of said Section; thence East 2014 feet, more or less to the point of beginning.

TRACT 3: Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho.

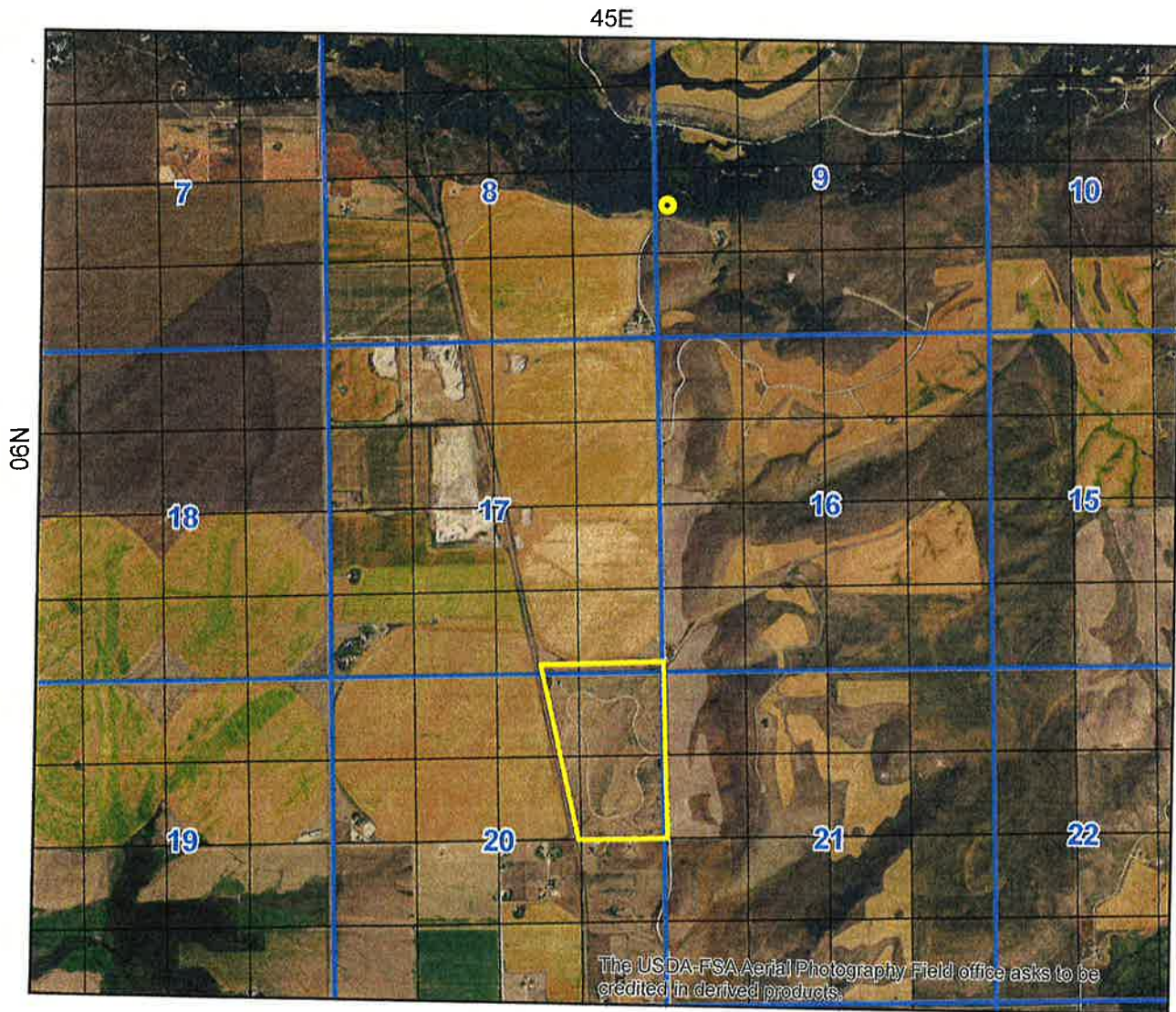
Section 20: That portion of the Northwest Quarter Southeast Quarter lying East of the Railroad Right-of-Way.

State of Idaho
Department of Water Resources

Water Right 22-12775

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.35 0.7 1.4 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 20, 2019

FRIENDS OF THE TETON RIVER
PO BOX 768
DRIGGS ID 83422-0768

Re: Change in Ownership for Water Right No(s): 22-12775

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of the above referenced water right(s) to you. The Department has modified its records and has enclosed a computer-generated report for you.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please note, water right(s) 22-12775 was leased to the Water Supply Bank (bank) in 2015. In accordance with the bank lease acceptance, the lessor/current right holder (right holder) may not use the right(s) while it is in the bank, even if the right(s) is not rented from the bank. The right(s) will remain in the bank until **December 31, 2019** unless released earlier by the Water Resource Board or upon request by the right holder. To reduce the term of the lease, the right holder must submit a written request to the department. The department will verify if the right is rented or available for release, and notify the right holder of the release date.

Also note, water right owners are required to report any change of water right ownership and any change of mailing address to the Department within 120 days of the change. Reporting forms are available from any office of the Department, or from the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4942.

Sincerely,

Jean Hersley
Technical Records Specialist 2

Enclosure(s)

c: Water District No. 1



Friends of the
Teton River
IDWR, Eastern Region
900 N. Skyline Drive, Ste. A
Idaho Falls, ID 83402-1718

November 8, 2019

Re: Notice of Change in Water Right Ownership – Water Right No. 22-12775

To Whom It May Concern:

Please find, enclosed, water right ownership update information including:

- Notice of Change in Water Right Ownership form
- Copy of conveyance document
- Aerial photograph depicting the POU and POD for the water right
- \$25 Filing Fee

There are a couple matters of importance related to the change in ownership of Water Right No. 22-12775.

1. The water right has been enrolled in the Idaho Water Supply Bank for the past five years (2015-2019). Payment associated with the rental of the water right in 2019 is to be paid to Old West Business Park, LLC, not the new owner.
2. The water right has been severed from the historically appurtenant property. Therefore, water right assessments, typically collected through Teton County, Idaho Assessor's Office, should NOT be assessed to those landowners owning the historically appurtenant property. Please make appropriate arrangements for any future water right assessments to be billed directly to the following:

Friends of the Teton River
PO Box 768
Driggs, ID 83422

Please contact me, at the email or number listed below, with any questions.

Best,

Sarah Lien
Staff Attorney
sarah@tetonwater.org
208-354-3871

208 354 3871
www.tetonwater.org

18 North Main Street, Suite 310
PO Box 768
Driggs, Idaho 83422

RECEIVED

NOV 12 2019

Department of Water Resources
Eastern Region

RECEIVED

NOV 18 2019

DEPARTMENT OF
WATER RESOURCES