

WATER SUPPLY BANK LEASE CONTRACT No. 730

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

LESSOR: B P BAR RANCH INC
C/O JIM SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM, ID 83340-0987

RECEIVED

APR 06 2018

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 December 29, 2017.
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)
73-12178	3/1/1900	MORGAN CREEK, tributary to PAHSIMEROI RIVER	1.45	192.5	55.0
73-7121	7/4/1993	GROUND WATER	1.88	357.0	102.0
Combined Lease Totals			3.33	374.5	107.00

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
73-12178	1.45	192.5	55.0	0.026	3.50
73-7121	1.88	357.0	102.0	0.018	3.50
Combined Limit Totals	3.33	374.5	107.0	0.031	3.50

* The water right elements rentable have been reduced from the water right elements leased to account for combined limits.

SUPPORT DATA

IN FILE # 73-7121

LEASE CONTRACT NO. 730

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.

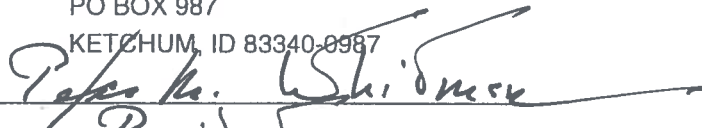
Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2018 to December 31, 2022. 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.
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.

LEASE CONTRACT NO. 730

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

LESSOR: B P BAR RANCH INC
C/O JIM SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM, ID 83340-0987

By 
Title President
Date 3/26/2018

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 4/10/2018

Lease approved by IDWR 

Date 4-10-2018

ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 730

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): 73-7121

GROUND WATER NENENW Sec. 16 Twp 15N Rge 21E LEMHI County

Source and Location of Point(s) of Diversion for Water Right No(s): 73-12178

MORGAN CREEK NENE Sec. 11 Twp 15N Rge 21E LEMHI County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
73-7121	IRRIGATION	04/01	to	10/31	1.88 cfs	357.0 AF
73-12178	IRRIGATION	04/01	to	10/31	1.45 cfs	192.5 AF
Totals:					3.33 cfs	374.5 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	
15N	21E	16		2.0			2.3		0.1	1.8									6.2
15N	21E	17	5.5	40.0	27.9	13.8									13.6				100.8

Total Acres: 107.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

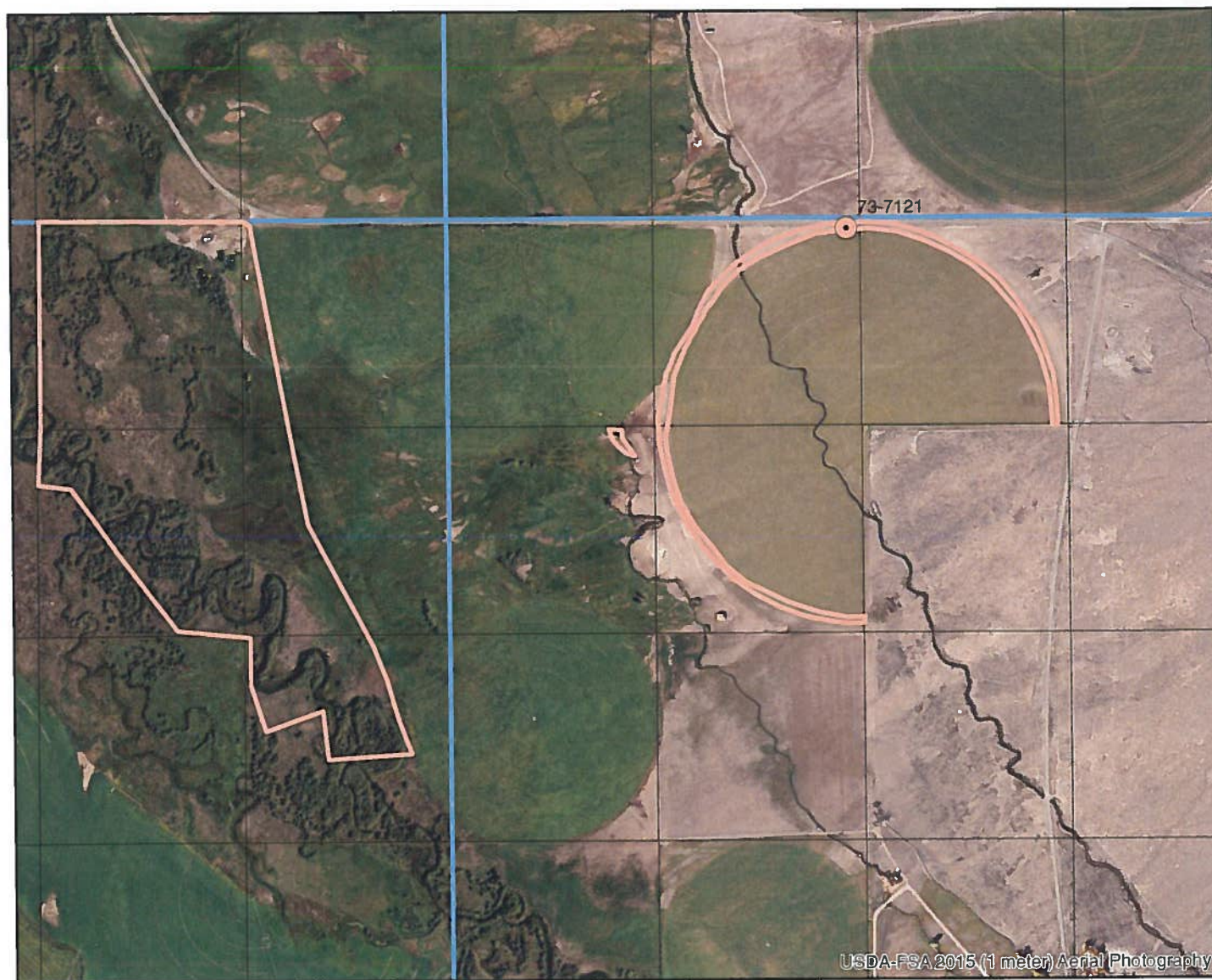
1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of 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.

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. Unleased rights 73-4098A, 73-10110A when combined shall not exceed the irrigation of 305.7 acres within the 412.7 acre place of use.
13. Water right 73-7121 is limited to the irrigation of 102.0 acres within the authorized place of use in a single irrigation season.
14. Prior to diversion of water under water right 73-7121, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide suitable control of the diversion.
15. Water right 73-7121 when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
16. After specific notification by the Department, the right holder of water right 73-7121 shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
17. Water for water right 73-12178 is delivered through the LM-1 diversion.
18. Rights 73-7121 and 73-12178 when combined shall not exceed the irrigation of 107.0 acres.
19. Water right 73-12178 when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
20. Prior to the diversion and use of water under water right 73-12178, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
21. Use of water under this right will 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. 73.
22. Water right 73-12178 is limited to the irrigation of 55.0 acres within the authorized place of use in a single irrigation season.
23. The right holder of water right 73-12178 shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 730

73-7121 & 73-12178
Effective until December 31, 2022

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



0 0.25 0.5 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

DEC 29 2017

DEPARTMENT OF
WATER RESOURCESDesignated Applicant BP Bar Ranch, Inc.

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

Water Right No. 73-7121

(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 <i>all owners</i> 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 | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 \$ 500.00Received By: Date Received: 12/29/2017 Receipt # C104480W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: BP Bar Ranch Inc.

960

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 BP Bar Ranch, Inc.

Mailing Address c/o James P. Speck, PO Box 987, Ketchum, ID, 83340

Street City State Zip Code
Email Address jim@speckandaanestad.com Phone Number 208-726-4421

☒ 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 James P. Speck Organization Speck & Aanestad, A Professional Corp.

Professional Title attorney Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, ID, 83340 Phone Number 208-726-4421

☒ 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.
There is none

- 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. ⁷³¹⁻¹²¹⁷⁸

(25)

- 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. None.

- 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. Notwithstanding the non-use, this Application is filed within the time limit described in the Department's March 5, 2012 Administrator's Memorandum titled Forfeiture Review Period to allow the processing of this Application.

- 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 ☒?

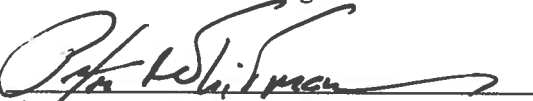
If lease, specify the years when the use of water will be suspended: 2018 to 2022 (maximum lease period 5 calendar years).
(Year) (Year)

- 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.


Signature of Designated Applicant

Peter Whitman, President
Printed Name

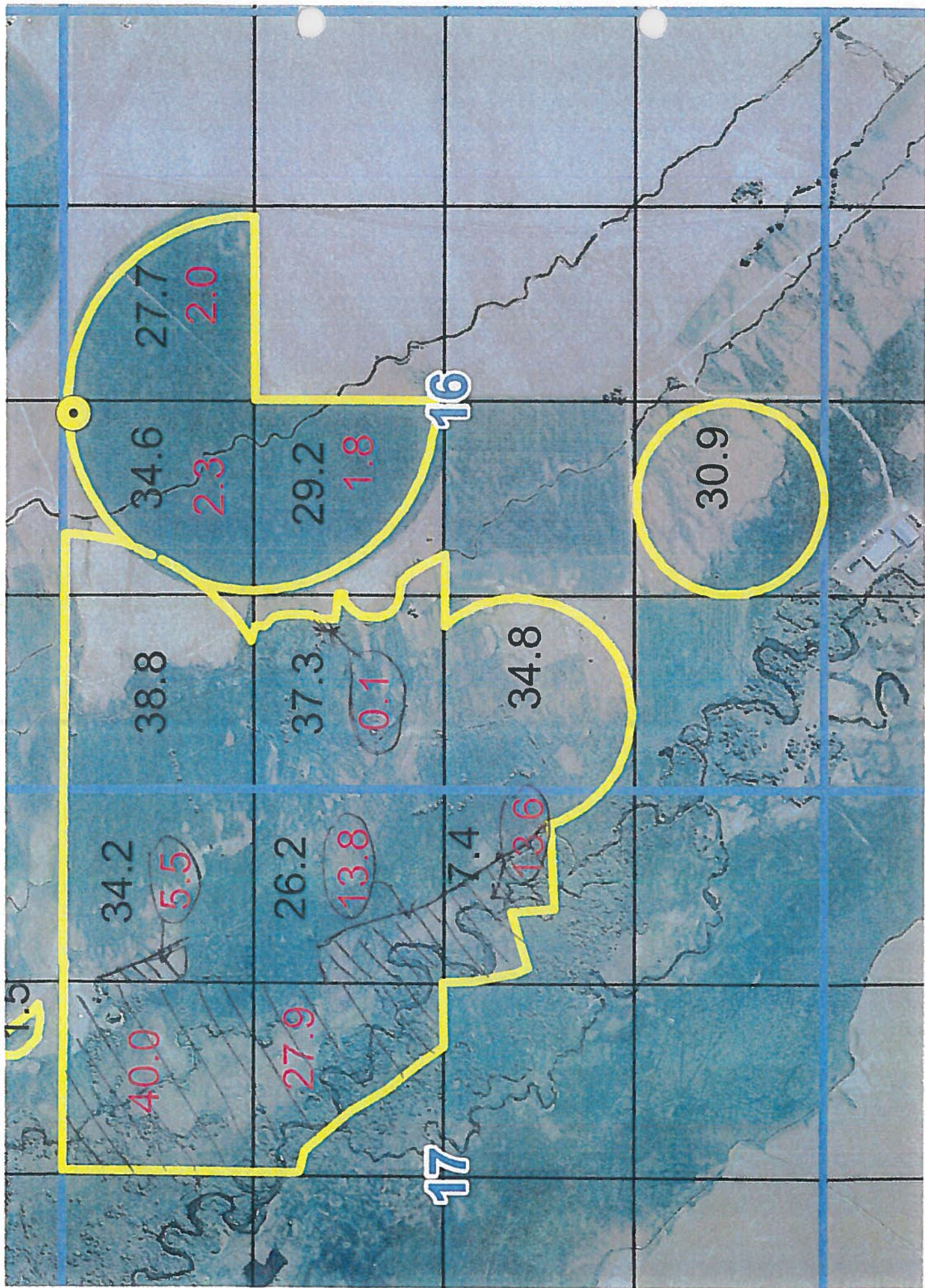
12/11/2017
Date

Signature of Authorized Representative

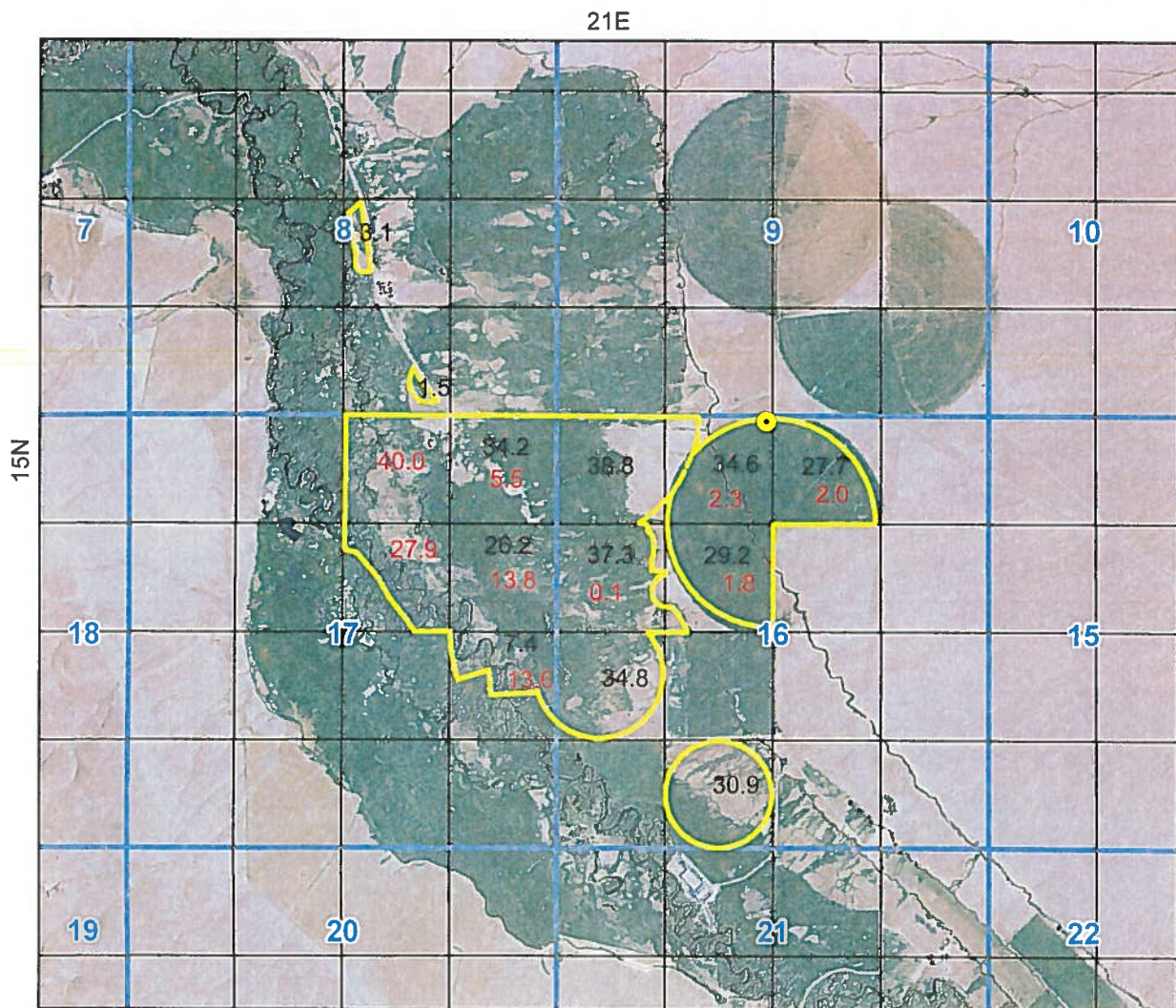
Printed Name

Date

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



BP BAR RANCH, INC.
 412.7 ACRE PERMISSIBLE PLACE OF USE FOR WATER RIGHTS 73-4098A,
 73-7121, 73-10110A AND 73-12178



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

0 0.275 0.55 1.1 Miles

BLACK = 305.7A IRRIGATED

RED = 107A IDLED





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 11, 2018

B P BAR RANCH INC
C/O JIM SPECK
PO BOX 987
KETCHUM ID 83340-0987

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHTS 73-7121 and 73-12178

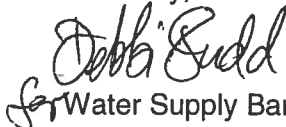
Dear Lessor:

Water rights **73-7121 and 73-12178** were leased into the Water Supply Bank (Bank) as of December 29, 2017, 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, 2022**, 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 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. 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 287-4800.

Sincerely,


for Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Ted O Neal – Water District 73
Cindy Yenter – Water District 170

SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

April 3, 2018

RECEIVED

APR 06 2018

DEPARTMENT OF
WATER RESOURCES

Jean Hersley
Idaho Department of Water Resources
322 E. Front Street
Boise, ID 83702

RE: *BP Bar Ranch, Inc.*
Water Supply Bank Lease Contract No. 730

Dear Jean:

Enclosed for processing you will find duplicate, signed *originals* of the Water Supply Bank Lease Contract No. 730. Please have Brian Patton sign both copies and return one fully executed Lease back to me. I understand you will insert the appropriate map of the leased areas on both copies of the contract.

If you have questions, please contact me. Thank you for your assistance.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____

James P. Speck

Enclosures

cc: Mr. Peter Whitman w/out encls.
Ms. Trish Dowton w/out encls.

Hersley, Jean

From: Hersley, Jean
Sent: Monday, March 05, 2018 3:25 PM
To: 'James Speck'
Subject: RE: BP Bar Ranch/Water Supply Bank Lease Contract 730
Attachments: Idled Acres 73-7121 & 73-12178.pdf; Map of POD 73-12178.pdf

The attached maps are as close as I could come to the one you sent. The map has to match the lease. If you have any questions, please let me know.

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

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Thursday, February 22, 2018 2:47 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: pw292@comcast.net; Trish Dowton <dowton3xranch@gmail.com>
Subject: Re: BP Bar Ranch/Water Supply Bank Lease Contract 730

Jean,

My clients would like to correct the map you attached to this proposed Contract. I know it was based in large part on my input, but I have now had our farmer draw out on the 2015 photo the areas they actually irrigate which they believe add up to 305.7A. Can you use this to "correct" the Lease map? Please contact me if you have any questions.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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Hersley, Jean

From: James Speck <jim@speckandaanestad.com>
Sent: Thursday, February 22, 2018 2:47 PM
To: Hersley, Jean
Cc: pw292@comcast.net; Trish Dowton
Subject: Re: BP Bar Ranch/Water Supply Bank Lease Contract 730
Attachments: irrigated area - 2015.pdf

Jean,

My clients would like to correct the map you attached to this proposed Contract. I know it was based in large part on my input, but I have now had our farmer draw out on the 2015 photo the areas they actually irrigate which they believe add up to 305.7A. Can you use this to "correct" the Lease map? Please contact me if you have any questions.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 13, 2018

B P BAR RANCH INC
C/O JAMES SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0987

RE: APPLICATIONS TO LEASE WATER RIGHT 73-7121 & 73-12178 TO THE WATER SUPPLY BANK

****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.

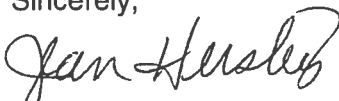
The right will automatically be released from the Bank on **December 31, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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 rights may not be available for immediate release if they have 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 287-4800.

Sincerely,


Water Supply Bank

Enclosure: Proposed Lease Contracts

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, February 13, 2018 10:40 AM
To: Yenter, Cindy
Subject: WSB Lease for BP Bar Ranch
Attachments: Lease Application Review.xls; Lease.pdf; Report - Lease Contract - #730.docx

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 13, 2018

TED O NEAL
WATER DISTRICT No. 73
11 O NEAL LN
MAY ID 83253

RE: Water Supply Bank Lease Application for Water Rights: 73-7121 & 73-12178

Dear Watermaster:

The Department of Water Resources is soliciting your comments or concerns on the proposed lease submitted by BP Bar Ranch Inc. A copy of the review memo and draft contract is enclosed.

Please review the information, then complete the enclosed recommendation form and return it to this office within 7 days of the date of this letter. You may return the form via postal mail or you may fax it to me at (208) 287-6700, Attn: Jean or email to jean.hersley@idwr.idaho.gov.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

A handwritten signature in cursive script that reads "Jean Hersley".

Jean Hersley
Technical Records Specialist II

Enclosure(s)

Hersley, Jean

From: James Speck <jim@speckandaanestad.com>
Sent: Monday, January 29, 2018 4:01 PM
To: Hersley, Jean
Subject: RE: WSB Lease Applications for B P Bar Ranch Inc. 73-7121 & 73-12178
Attachments: WSB lease - lands to be dried up.pdf

Jean,

Attached is a map of the relevant portion of the PPU for the ranch water rights. I have cross hatched the approximate locations of the lands to be idled with the exception of the 3/4 pivot. The black numbers represent the number of acres in each 1/41/4 section my clients have measured that the pivot irrigates. The red numbers are simply the difference between the measured acres and the number of acres in the POU for that 1/41/4 section as determined in the approval of the 2011 Transfer 77037. I can't identify on this map exactly where they are located. Will this be sufficient?

Jim

-----Original Message-----

From: Hersley, Jean
Sent: Tuesday, January 23, 2018 12:38 PM
To: James Speck

The Department is in the process of reviewing the WSB lease applications you submitted on behalf of B P Bar Ranch Inc. During the review, it was determined that we will need a map of the specific acres your client will be idling for this lease. If you have any questions, please contact me. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

WATER SUPPLY BANK
Lease Review Checklist
Quick Tools

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

Applicant(s) Name: BP BAR RANCH INC

Memo Date: January 17, 2018

Water Right Number(s): 73-7121 & 73-12178

Reviewers Name: Jean

	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		
All of right	x	
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)		
	Yes No	
4 Rentable? (If no explain in comments or narrative)	x	
5 Authority to file		
Current owner or designated applicant	X	Peter Whitman, president
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)		2003/2010
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	
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		
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 these applications on December 29, 2017. Peter Whitman, president, signed the applications. The applicant wishes to place the entirety of both rights in the Bank. Applicant claims that the pivot used in the NWN of Section 16 is only capable of irrigating 27.7 acres. Aerial photography suggests otherwise. Will allow the entirety of both rights and will have to look at the imagery again if these rights are placed in the Bank in the future. 73-7121 was licensed in 2003 and 73-12178 was decreed in 2010. Aerial images suggest irrigation took place as recent as 2017. These rights together are limited to 107 acres of irrigation in a 412.7 PPU. There are two other rights that overlap, 73-4098A and 73-10110A, which are limited to the irrigation of 305.7 acres together. These rights do not need to be placed in the Bank because they can be used separately. These rights are currently within WD 73 & 170.

No. C 97184	Due no later than Jan 31, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. BP BAR RANCH, INC. WAYNE HAMBLIN 104 S WARPETH SALMON ID 83467		WAYNE HAMBLIN 104 S WARPETH SALMON ID 83467	
			3. <u>New</u> Registered Agent Signature:*	
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).				
Office Held	Name	Street or PO Address	City	State Country Postal Code
DIRECTOR	WILLIAM COLEMAN	104 PLAIN ROAD	WAYFORD	MA USA 01778-1102
DIRECTOR	PATRICK WILMERDING	% PRIVATE SIGNALS 50 CONGRESS ST. SUITE 640	BOSTON	MA USA 02109-1102
SECRETARY	BENJAMIN H ALLEN	PO BOX 5219	ATHENS	GA USA 30604-1102
PRESIDENT	PETER R WHITMAN	292 BRIDGE STREET	SOUTH HAMILTON	MA USA 01982-1102
DIRECTOR	CHARLES T FOLEY	2300 SCENIC HWY NORTH	LAKE WALES	FL USA 33853-1102
5. Organized Under the Laws of: ID C 97184		6. Annual Report must be signed.* Signature: WAYNE HAMBLIN Name (type or print): WAYNE HAMBLIN		Date: 12/04/2017 Title: AGENT
Processed 12/04/2017		* Electronically provided signatures are accepted as original signatures.		

RECEIVED

DEC 29 2017

DEPARTMENT OF
WATER RESOURCES
TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

December 28, 2017

Via Federal Express

Mr. Remington Buyer
Idaho Department of Water Resources
322 E. Front Street
Boise, ID 83702

**RE: BP Bar Ranch, Inc.
Water Right Nos. 73-12178 & 73-7121**

Dear Remington:

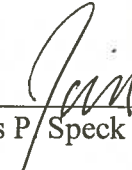
Enclosed for processing you will find two (2) *original*, fully executed Applications to Sell or Lease a Water Right to the Water Supply Bank for the above-referenced Water Rights along with one (1) copy of each Application. I have also enclosed my firm's check in the amount of \$500.00 for the required filing fees. If these documents meet with your approval, please process and receipt date-stamp the copies and return them to me in the enclosed self-addressed, postage-paid envelope. I would appreciate it if you could process these forms prior to the end of 2017.

If you have questions, please contact me. Thank you for your assistance.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____


James P. Speck

Enclosures

cc: Mr. Peter Whitman w/ copies of forms