WATER SUPPLY BANK LEASE CONTRACT

RECEIVED
JUN 05 2015
DEPARTMENT OF
WATER RESOURCES

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

Lessor: BIG CREEK RANCH LLC
PO BOX 5987
KETCHUM ID 83340-5987
(208)788-1771

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.

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	Lease Rate	Lease Volume	Acre Limit	Total Leased Acres
73-7038	0.55 CFS	112.0 AF	32.0 AC	32.0 AC
Combined Lease Totals:	**0.55 CFS**	**112.0 AF**	**32.0 AC**	**32.0 AC**

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: 4/01/15 to 10/31/19

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**: This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2019.

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. **DUPLICATE ORIGINAL**: This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

BIG CREEK RANCH LLC
PO BOX 5987
KETCHUM ID 83340-5987

By _____ Date 6/4/15

Printed Name Michael Page Title Manager

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By _____ Date June 8, 2015
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 6/8/2015

ATTACHMENT A

WATER RIGHT NO. 73-7038

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: BIG CREEK RANCH LLC
PO BOX 5987
KETCHUM ID 83340-5987
(208)788-1771

Priority Date: 1/18/1978

Source: GROUND WATER **Tributary to:**

BENEFICIAL USE	From	To		Diversion Rate	Volume
IRRIGATION	04/01	to 10/31		0.55 CFS	112.0 AF
			Total:	**0.55 CFS**	**112.0 AF**

LOCATION OF POINT(S) OF DIVERSION:
GROUND WATER SWSW Sec. 17, Twp 14N, Rge 22E, CUSTER County

PLACE OF USE TO BE IDLED UNDER THIS LEASE:

IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
14N	22E	17											3.0						3.0
14N	22E	18																29.0	29.0

POU Total Acres: 32.0

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, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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.
    b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
    c. New lessor(s) of record will receive payment after the following rental season.

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. At the time of this approval, this water right is within State Water District Nos. 170 and 73.

Form 42-1761-1 1/14

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
JAN 27 2015
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE OR SALE APPLICATION CHECKLIST

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. 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. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant Big Creek Ranch LLC

Water Right No. 73-7038
One water right per application

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

Attachment	N/A	YES	
		☑	Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
		☑	Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
		☑	Application filing fee of $250.00. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is $500.00.
1A	☑	☐	Contact information for ***all owners*** of the water right that is being 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	☑	☐	Written consent from irrigation district or water delivery company.
1E	☐	☑	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.
3D	☑	☐	Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
4		☑	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. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (http://maps.idwr.idaho.gov/mapall/) to locate a water right place of use or point of diversion.

Department Use Only

Fee Amount $ 250.00	Received By: J Strange	Date Received: 1-27-2015	Receipt # C099858
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: Big Creek Ranch LLC	

STATE OF IDAHO
WATER RESOURCE BOARD

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

1. CONTACT INFORMATION

A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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 Big Creek Ranch LLC Email Address _____

Mailing Address P.O. Box 5987, Ketchum, ID 83340-5987 Phone Number (208) 788-1771

☑ 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 completed an IRS Form W-9 (Attachment 1B)? Yes ☑ No ☐

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 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 1D).

E. 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 1E).

Name of Representative Roxanne Brown Organization SPF Water Engineering, LLC

Professional Title _____ Email Address rbrown.spfwater.com

Mailing Address 300 E. Mallard Dr., Suite 350, Boise, ID 83706 Phone Number (208) 383-4140

☐ 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

Water Right Number 73-7038 ☑ 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

A. Please provide a description of the current water diversion system.
The current water diversion system consists of a well and pump to distribution piping and sprinkler irrigation system.

B. 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.
Water right 73-10050 authorizes diversions from the same well for domestic and stockwatering purposes.

C. Will the present place of use continue to receive water from any other source? Yes ☐ No ☑

If yes, describe. _____

D. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☑

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. A partial decree was issued October 20, 2009 for water right 73-7038.

E. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☑

If yes, describe. _____

4. 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, for a period from 4/1/2015 (Month / Day / Year) to 10/31/2019 (Month / Day / Year) (maximum lease period 5 years).

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.

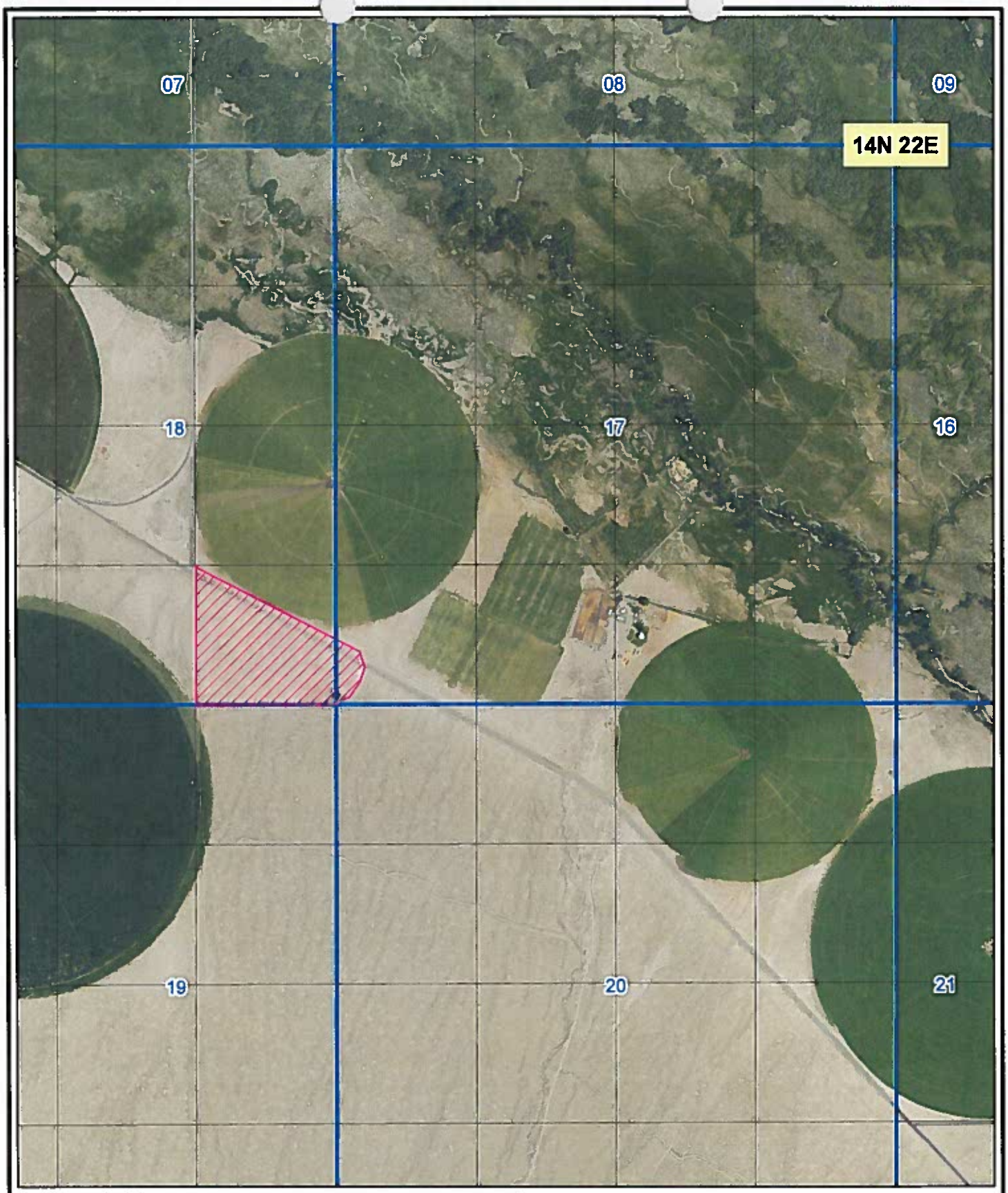
The Designated Applicant acknowledges the following:

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 provisions are stayed.
5. Acceptance of a water right into the ank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant	Michael Page, Manager Printed Name	1/21/15 Date
Roxanne Brown Signature of Authorized Representative	Roxanne Brown Printed Name	1/26/2015 Date

Mail to:

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



EXPLANATION

Place of Use

2013 NAIP Photography

Idaho Water Supply Bank Lease Application
Water Right No. 73-7038

N

0.25 Miles

SPF WATER ENGINEERING

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

June 9, 2015

BIG CREEK RANCH LLC
PO BOX 5987
KETCHUM ID 83340-5987

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 73-7038

Dear Lessor:

Water Right **73-7038** was leased into the Water Supply Bank in accordance with the executed original Lease Contract enclosed. **Your water right as described on the Lease Contract is considered leased into the Bank and should remain unused until it is formally released from the Bank.**

The right will automatically be released from the Bank on **December 31, 2019,** unless the right is released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** 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. This form is available from our public website at www.idwr.idaho.gov.

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 me at 287-4933.

Sincerely,

FOR- Steven Visosky
Water Resource Agent

Enclosure: Executed Lease Contract

c: Roxanne Brown – SPF Water Engineering LLC
James Cefalo – IDWR Eastern Region
Ted O'Neal – Water District #170 & 73

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

May 15, 2015

BIG CREEK RANCH LLC
PO BOX 5987
KETCHUM ID 83340-5987

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 73-7038 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(s) to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH 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 rights will automatically be released from the Bank on **December 31, 2019,** unless the rights are 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 me at 287-4933.

Sincerely,

FOR - Steven Visosky
Water Resource Agent

Enclosure: Proposed Lease Contracts
Receipt # C099858

c. Roxanne Brown—SPF Water Engineering LLC

MEMORANDUM

To: Water Right No(s). 73-7038

From: Steven Visosky

Date: 5/11/15

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on January 27, 2015. The full water right is being offered to the bank from 2015 through 2019.

This water right is located in the Wild and Scenic Watershed of the Salmon River excluding the Middle Fork.

AUTHORITY TO FILE: The designated applicant is Michael Page. The Department verified him as the registered agent / manager of Big Creek Ranch LLC through Idaho Secretary of State web site. * The designated applicant is actually Big Creek Ranch LLC - they submitted the WQ. Michael Page is an authorized signatory of Big Creek Ranch. — cp 6/8/15

WATER RIGHT VALIDITY: The decreed date of this right is 10/20/2009.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident. Proper rental review should protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right is subject to Water District #170 and #73. Regional comment request was sent to Nick Miller via email 4/27/15 with no response by 5/11/15. A written request of comment was sent to watermaster Ted ONeal via USPS on 4/28/15 with no response feedback on 5/11/15.

April 28, 2015
~~May 11~~, 2015

TED O NEAL
81 FUREY LANE
MAY ID 83253

RE: Water Supply Bank Lease Applications Water Right No. 73-7038

Dear Watermaster:

The Idaho Department of Water Resources received an Application to Lease Water Rights into the Water Supply Bank for water right no. 73-7038.

Please let us know if you have any objections or concerns regarding this application within 10 days. Review can be completed as soon as your response is received. Prompt response to this request is appreciated so your recommendation can be considered during the review process. I have enclosed a recommendation form for your convenience.

If after 10 days from the date of this letter the department has not received your written recommendation, IDWR will presume you do not oppose approval of the application and you have no comments for the department to consider.

If you have any questions about this application, please feel free to contact me.

Sincerely,

Steven Visosky
Water Resource Agent
Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
Phone (208) 287-4933
Fax (208) 287-6700

Enclosure

Visosky, Steven

From: Miller, Nick
Sent: Monday, April 27, 2015 9:53 AM
To: Visosky, Steven
Subject: RE: Watermaster and regional comment for WSB lease application for Big Creek Ranch LLC 73-7038

I have this email for him: onealranch@hotmail.com

Try that and see what you get back. He is really more of a pencil and paper kind of guy, but let's try the email thing.

From: Visosky, Steven
Sent: Friday, April 24, 2015 3:48 PM
To: Miller, Nick
Subject: Watermaster and regional comment for WSB lease application for Big Creek Ranch LLC 73-7038

Nick,

We are processing this lease application. Do you have any concerns? The other day you mentioned that I should send the lease review to both you and the watermaster for WD73 since it falls into both Districts. I looked up the contact info for the watermaster for WD73 and it lists Ted ONeal but it doesn't list an email for him. Do you have an email address for Ted or should I send it via the mail?

Thanks,

Steven Visosky
Water Resource Agent
Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
Phone (208) 287-4933
Fax (208) 287-6700