

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective March 16, 2015, between the Idaho Water Resource Board ("**Board**"), and

Lessor: OLD WEST BUSINESS PARK LLC
9842 NICOVA AVE
LAS VEGAS NV 89148
702-498-4048
gardner.judy36@gmail.com

RECEIVED

MAY 21 2015

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.
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

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
22-12775	1.91 CFS	Not Stated	NA	108.3 AC
Combined Lease Totals:	1.91 CFS	Not Stated	NA	108.3 AC

The water rights described herein shall be available for rental from the Bank as follows:
Authorized Period of Use under Lease: April 15 to October 31

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.

OLD WEST BUSINESS PARK LLC

9842 NICOVA AVE
LAS VEGAS NV 89148

By 
Printed Name JUDY GARDNER

Date 5/17/15
Title MANAGING AGENT

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date May 21, 2015

Lease approved by IDWR 

Date 5/21/2015

ATTACHMENT A
WATER RIGHT NO. 22-12775
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: OLD WEST BUSINESS PARK LLC
9842 NICOVA AVE
LAS VEGAS NV 89148
702-498-4048

Priority Date: 06/01/1891

Source: BADGER CREEK

Tributary to: TETON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	1.91 CFS	Not Stated
	Total:		1.91 CFS	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

BADGER CREEK NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 09, Twp 06N, Rge 45E, TETON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	45E	17															2.4	5.7	8.1
06N	45E	20	40.0	14.0	6.2	40.0													100.2

Total Acres: 108.3

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. Water is delivered through Phillips Ditch.



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 16 2015

DEPARTMENT OF
WATER RESOURCESWATER 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 Old West Business Park, LLCWater Right No. 22-12775
One water right per applicationAll items must be checked as either *Attached (Yes)* or *Not Applicable (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.

Attachment N/A YES

- 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 \$

Received By:

Date Received:

Receipt #

W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Old West Business Park 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 Old West Business Park, LLC Email Address gardner.judy36@gmail.com
Mailing Address 9842 Nicova Avenue, Las Vegas, NV 89148 Phone Number 702-498-4048

☒ 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 _____ Organization _____
Professional Title _____ Email Address _____
Mailing Address _____ Phone Number _____

☐ 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 22-12775 ☒ 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.
Water right is diverted from Badger Creek at a splitter structure that is regulated by a diversion structure equipped with two headgates and fish screens, and from there is conveyed to the Phillips Ditch for delivery to the property.
- 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.
An exempt domestic groundwater right exists on the property to which water right 22-12775 is appurtenant, and is used to fill a fire pond under the legal terms, conditions, and restrictions associated with that right.

C. Will the present place of use continue to receive water from any other source?

Yes ☒ No ☐

If yes, describe. see above, 3.b.

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. Partial decree for the right was issued on 11/24/2008. The right has been enrolled in the Watter Supply Bank since 2013, so forfeiture is not an issue.

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. N/A

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 1/1/2015 to 12/31/2019 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / 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.

The water right holder has entered into an agreement with the Idaho Water Resource Board to secure the water right for instream use through the Idaho Water Transaction Program.

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

Judy Gardner, Managing Member
Printed Name

2/23/15
Date

Signature of Authorized Representative

Printed Name

Date

Mail to:

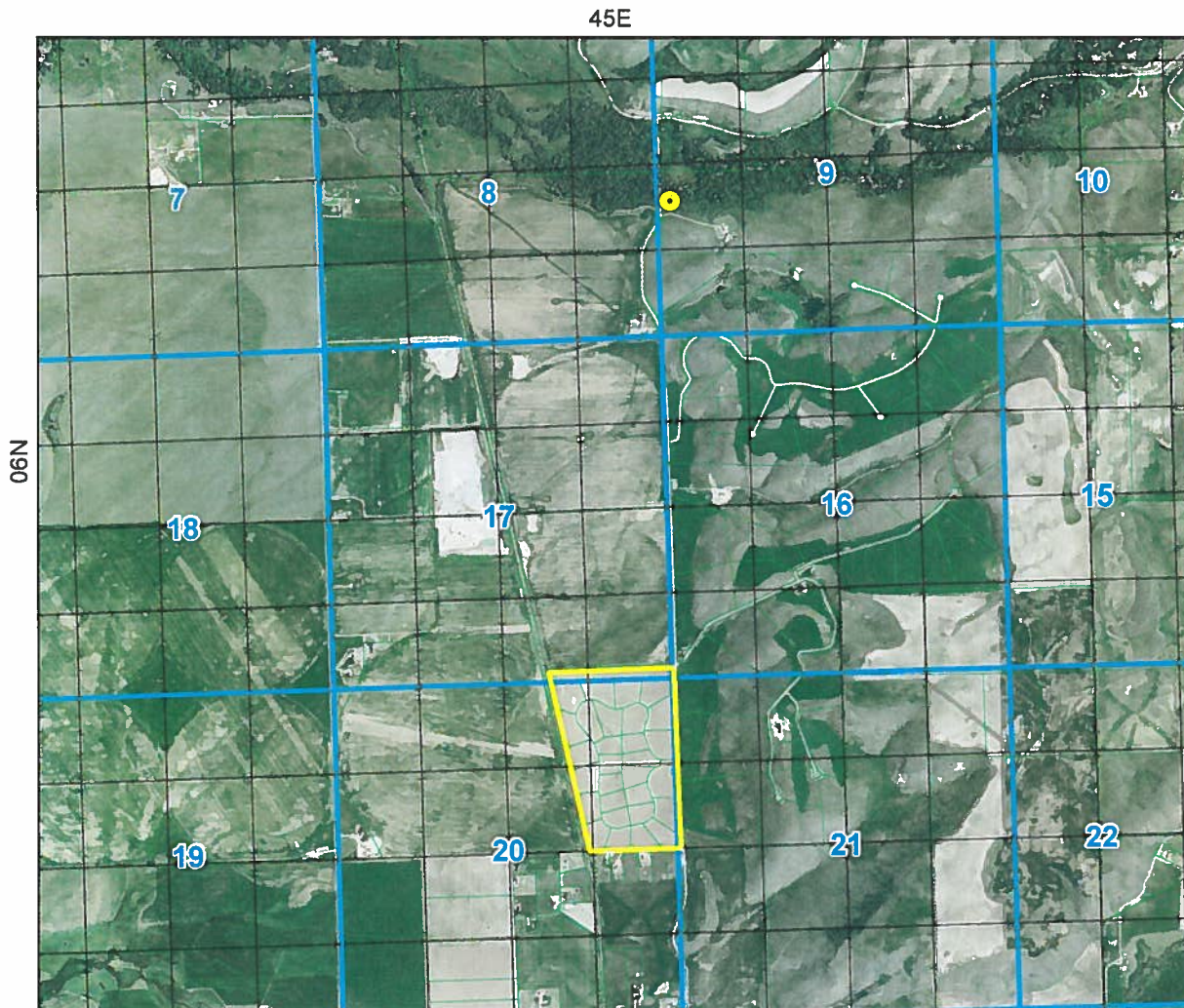
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

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
- Taxlots

0 0.35 0.7 1.4 Miles





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 22, 2015

OLD WEST BUSINESS PARK LLC
9842 NICOVA AVE
LAS VEGAS NV 89148

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 22-12775

Dear Lessor:

Water Right **22-12775** was leased into the Water Supply Bank on March 16, 2015 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.**

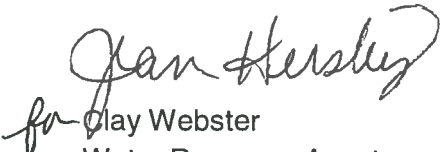
The right will automatically be released from the Bank on **December 31, 2019**, unless the right is released earlier by the Board, or upon your request. **Please note your right may not be available for immediate release if it has been rented.** To release the right from the Bank prior to the release 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 287-4910.

Sincerely,


for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Friends of the Teton River
IDWR Eastern Region and Water District No., 01

Memo

To: Sascha Marston
From: Morgan Case *mle*
Date: 5/21/2015
Re: 2015 Lease Application Fees

Please transfer the following 2015 lease application fees to the Water Supply Bank:

- \$1250 – Beaver Creek DOT LLP
- \$750 – Hat Creek and Big Hat Creek Storlie/Kaiser
- \$250 – Badger Creek Old West Business Park

Funds to cover these payments will come from NFWF through the CBWTP (PCA 24332) at the end of the irrigation season.

c: Cynthia Bridge Clark
Brian Patton
Remington Buyer
Cherie Palmer



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 12, 2015

OLD WEST BUSINESS PARK LLC
9842 NICOVA AVE
LAS VEGAS NV 89148

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 22-12775 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 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.

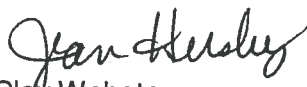
The rights will automatically be released from the Bank on **December 31, 2019**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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 287-4910.

Sincerely,

for 

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Friends of the Teton River

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, May 05, 2015 3:26 PM
To: Swank, Lyle
Subject: RE: WSB Lease Application for 22-12775
Attachments: Lease Review Memo.docx; DOC.pdf

Sorry.

From: Swank, Lyle
Sent: Tuesday, May 05, 2015 3:24 PM
To: Hersley, Jean
Cc: Olenichak, Tony
Subject: RE: WSB Lease Application for 22-12775

Try again. The attachment was not included.
Lyle

From: Hersley, Jean
Sent: Tuesday, May 05, 2015 3:18 PM
To: Swank, Lyle
Cc: Olenichak, Tony
Subject: WSB Lease Application for 22-12775

Attached is the review memo and application to lease water right 22-12775 into the Bank. Please send your comments or concerns within 7 days. Thank you.

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

MEMORANDUM

To: Water Right No(s). 22-12775
From: Jean Hersley
Date: May 5, 2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received on March 16, 2015. The applicant wishes to place the entire water right in the Bank.

This water right is part of the Idaho Water Transactions Program through the IWRB.

See email string for information on Phillips Ditch permission to lease water to the Bank. Phillips Ditch is not owned or operated by a corporation or irrigation district.

AUTHORITY TO FILE: Judy Gardner, Managing member of Old West Business Park, LLC signed the application.

WATER RIGHT VALIDITY: This water right was decreed in 2008. The entire right has been in the Bank since 2013.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. 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(s) are subject to Water District # 01.

OLD WEST BUSINESS PARK, LLC

Business Entity Information			
Status:	Active	File Date:	3/21/2007
Type:	Domestic Limited-Liability Company	Entity Number:	E0217372007-5
Qualifying State:	NV	List of Officers Due:	3/31/2016
Managed By:	Managing Members	Expiration Date:	
NV Business ID:	NV20071433980	Business License Exp:	3/31/2016

Additional Information	
Central Index Key:	

Registered Agent Information			
Name:	JUDY GARDNER	Address 1:	3900 S HUALAPAI WAY STE 200
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89147
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 0
No stock records found for this company			

☒ Officers ☐ Include Inactive Officers			
Managing Member - JUDY GARDNER			
Address 1:	9842 NICOVA AVE	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89148	Country:	USA
Status:	Active	Email:	

☒ Actions\Amendments			
Action Type:	Articles of Organization		
Document Number:	20070199077-62	# of Pages:	1
File Date:	3/21/2007	Effective Date:	
(No notes for this action)			
Action Type:	Initial List		

Document Number:	20070415329-13	# of Pages:	1
File Date:	6/15/2007	Effective Date:	
ILO			
Action Type:	Annual List		
Document Number:	20080061976-59	# of Pages:	1
File Date:	1/30/2008	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20090096578-86	# of Pages:	1
File Date:	1/30/2009	Effective Date:	
09-10			
Action Type:	Registered Agent Change		
Document Number:	00002373591-50	# of Pages:	1
File Date:	7/29/2009	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20100176990-15	# of Pages:	1
File Date:	3/22/2010	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20110095252-87	# of Pages:	1
File Date:	2/7/2011	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20120274257-52	# of Pages:	1
File Date:	4/19/2012	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20130178676-01	# of Pages:	1
File Date:	3/18/2013	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20140216893-76	# of Pages:	1
File Date:	3/25/2014	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20150109045-67	# of Pages:	1
File Date:	3/10/2015	Effective Date:	
(No notes for this action)			

Palmer, Cherie

From: Case, Morgan
Sent: Thursday, April 30, 2015 4:11 PM
To: Palmer, Cherie
Subject: FW: Badger Creek (Old West Business Park, Bagley, and Wilson)

Cherie,

Just following up to make sure that the info Sarah provided below was enough to allow processing of the lease/rental for Badger Creek.

Thanks,

Morgan

From: Sarah Rupp [<mailto:sarah@tetonwater.org>]
Sent: Wednesday, April 01, 2015 12:39 PM
To: Case, Morgan; Amy Verbeten
Cc: Palmer, Cherie
Subject: RE: Badger Creek (Old West Business Park, Bagley, and Wilson)

Cherie,

Morgan forwarded your questions about the Badger Creek lease/rentals to me. I've attempted to address each question, below. Let me know if you have more questions or if it would be easier to talk through any of these things over the phone.

Thanks,

Sarah

Sarah Lien (Rupp)
Water Resources Director and Staff Attorney
Friends of the Teton River
PO Box 768
18 North Main Street Suite 310
Driggs, Idaho 83422
208.354.3871 ext. 11
sarah@tetonwater.org

From: Palmer, Cherie
Sent: Thursday, March 26, 2015 10:17 AM
To: Case, Morgan
Subject: Badger Creek (Old West Business Park, Bagley, and Wilson)

Morgan,

I am reviewing these new lease/rental applications and cannot process them without additional information:

Lease question:

- The lease applicant must provide consent from the owner/operator of Phillips ditch if it is a corporation or owned by an irrigation district. This requirement is pursuant to 42-108.

The Phillips Ditch is not owned or operated by a corporation or irrigation district.

Rental questions:

- The rental applicants must provide consent from the owner/operator of Ricks ditch if it is a corporation or owned by an irrigation district. Both applicants say that they already use the point of diversion and that grants them consent but, in this case, it appears that the water is going to be introduced into the Ricks ditch and the operator/owner of the ditch may assess wielding fees. At the minimum the operator/owner needs to be aware that additional water will be coming through the ditch and are okay with that.

Again, the Ricks Ditch is not owned or operated by a corporation or irrigation district. No wielding fees are assessed and no one water right holder is in charge of deliveries.

- 22-12775 can provide 108.3 acres. Wilson applied to rent 19 acres leaving 89.3 acres behind. Bagley applied to rent 292 acres total, which mean he would be short 202.7 acres. Does he intend for the Department to find him more acres through different water rights?

Of that 108.3, 19 acres will be allocated to Wilson and the remainder will be allocated to Bagley (89.3).

In both instances the rented water will be used to supplement the irrigation of ground already being irrigated by Wilson and Bagley.

Terrance Bagley does not intend for the Department to find him more acres through different water rights. He seeks to utilize that portion of the water rented to him to supplement the irrigation of his most productive land. The rented water will simply be applied to whatever portion of his 292 acres is most productive in 2015, but there is not expectation that the rental will be sufficient to irrigate his whole parcel.

- The rental applications were filed on the old rental applications and the Wilson's printed their application on both sides of the paper. Both of these issues cause us problems with our processing. In the future, can you make sure applicants use fresh applications from the website and make sure the applications are printed single-sided? That would be a huge for us.

I apologize for these problems. In the future I will be sure to make sure the most recent form is being used and print one-sided.

I will place these applications on hold until I hear back from you. I look forward to wrapping these up and hope to see a response soon.

Thanks for your time in advance!

Cherie

Palmer, Cherie

From: Palmer, Cherie
Sent: Thursday, March 26, 2015 11:17 AM
To: Case, Morgan
Subject: Badger Creek (Old West Business Park, Bagley, and Wilson)

Morgan,

I am reviewing these new lease/rental applications and cannot process them without additional information:

Lease question:

- The lease applicant must provide consent from the owner/operator of Phillips ditch if it is a corporation or owned by an irrigation district. This requirement is pursuant to 42-108.

Rental questions:

- The rental applicants must provide consent from the owner/operator of Ricks ditch if it is a corporation or owned by an irrigation district. Both applicants say that they already use the point of diversion and that grants them consent but, in this case, it appears that the water is going to be introduced into the Ricks ditch and the operator/owner of the ditch may assess wielding fees. At the minimum the operator/owner needs to be aware that additional water will be coming through the ditch and are okay with that.
- 22-12775 can provide 108.3 acres. Wilson applied to rent 19 acres leaving 89.3 acres behind. Bagley applied to rent 292 acres total, which mean he would be short 202.7 acres. Does he intend for the Department to find him more acres through different water rights?
- The rental applications were filed on the old rental applications and the Wilson's printed their application on both sides of the paper. Both of these issues cause us problems with our processing. In the future, can you make sure applicants use fresh applications from the website and make sure the applications are printed single-sided? That would be a huge for us.

I will place these applications on hold until I hear back from you. I look forward to wrapping these up and hope to see a response soon.

Thanks for your time in advance!

Cherie



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MAR 16 2015

DEPARTMENT OF
WATER RESOURCES

MEMORANDUM

To: Remington Buyer, Idaho Water Supply Bank Coordinator

From: Sarah Lien, Friends of the Teton River

Date: March 10, 2015

Re: Idaho Water Transactions Program – Teton Basin, Badger Creek Leases/Rental

Please find, attached, Water Supply Bank Lease and Rental Applications pertaining to an agreement that the Idaho Water Resource Board has entered into with a water right holder on Badger Creek, tributary to the Teton River. The purpose of the agreement, which is being funded through the Columbia Basin Water Transactions Program, is to improve streamflow conditions for Yellowstone cutthroat trout in a section of Badger Creek. You may recall that Morgan and I discussed this transaction with you in November of 2014, when it was reviewed by the Board.

The water right being leased into the Water Supply Bank is water right no. 22-12775. This water right will subsequently be rented for irrigation use by to two water right holders, both of whom divert water at the Ricks Ditch. The Ricks Ditch is located downstream of the historic point of diversion for water right no. 22-12775. The term of the lease/rental shall be for 5 years.

The Board, through the Columbia Basin Water Transactions Program, will be paying the Water Supply Bank Lease Application Fee, as well as the associated rental fees. I have enclosed the Board's funding resolution which speaks to this issue. The anticipated Water Supply Bank Fees are as follows:

- Lease Application Fee of \$250
- 10% Administrative Rental Fee of \$3,449.37, broken down over the 5 year period, as follows (taking into account the increased rental fee beginning in 2018):
 - 2015 - 108.3 acres x 3.5 AF/acre x \$1.70 per AF = \$644.39
 - 2016 - 108.3 acres x 3.5 AF/acre x \$1.70 per AF = \$644.39
 - 2017 - 108.3 acres x 3.5 AF/acre x \$1.70 per AF = \$644.39
 - 2018 - 108.3 acres x 3.5 AF/acre x \$2.00 per AF = \$758.10
 - 2019 - 108.3 acres x 3.5 AF/acre x \$2.00 per AF = \$758.10

Please contact me or Morgan Case if you have any questions. I can be reached by phone at (208) 709-7008 or by email at sarah@tetonwater.org.



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MAR 16 2015

DEPARTMENT OF
WATER RESOURCES

208 354 3871
www.tetonwater.org

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

March 10, 2015

Attn: Mandi Pearson
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098

Re: Idaho Water Transactions Program - Badger Creek Documents

Mandi,

Please find, enclosed, the Badger Creek transaction documents, as well as Water Supply Bank documents for Remington Buyer. Once the Board's signature has been added to the documents, please mail the water right holder's copies to the FTR office, at the address listed below. I will then record the contracts and see that the water right holder's receive a fully executed copy for their records.

Please let me know if you have any questions. I can be reached by phone at (208) 709-7008 or by email at sarah@tetonwater.org.

Best,

Sarah Lien (Rupp)
Water Resources Director and Staff Attorney
Friends of the Teton River
PO Box 768
Driggs, Idaho 83422