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MAY 07 2015
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

Robert L. Harris
Signature of Renter

ROBERT L. HARRIS, ATTORNEY
Printed Name and Title*
FOR THE RENTER

4/30/2015
Date

Signature of Renter

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

Brian Patton
By

BRIAN PATTON, Acting Administrator
Idaho Water Resource Board

May 7, 2015
Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WATER SUPPLY BANK RENTAL AGREEMENT
WATER USE DETAILS

LOCATION OF POINT(S) OF DIVERSION

22-42 and 22-616:

SOUTH LEIGH CREEK NW¼NE¼ Lot 1 Sec. 32 Twp 06N Rge 46E TETON County

BENEFICIAL USE

GROUND WATER RECHARGE

SEASON OF USE

04/15 TO 10/31

RENTER'S PLACE OF USE:

Twp	Rge	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
06N	46E	31	X															

CONDITIONS APPLICABLE TO ALL RENTED WATER RIGHTS

1. The use of water under this agreement shall be subject to the provisions of Idaho Code § 42-1766.
2. Rental of the specified right from 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 the ongoing Snake river Basin Adjudication or any other department application process.
3. Use of water under this agreement does not constitute a dedication of the water to renter's place of use, and upon expiration of this agreement, the points of diversion and place of use of the water shall revert to those authorized under the water right and/or again be available to rent from the bank.
4. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
5. Use of water under this agreement shall not prejudice any action of the Department in its consideration of an application for transfer or permit filed by the applicant for this same use.
6. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
7. Renter agrees to hold the Board, the Director and the state of Idaho harmless from all liability on account of negligent acts of the renter while using water.
8. Renter acknowledges and agrees that the Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
9. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
10. No recharge may occur unless the stream flow in South Leigh Creek is at least 100 cfs as measured at approximately 300 feet downstream of State Line Road on South Leigh Creek at the location of a currently-installed measuring device located at latitude and longitude: -111.047595 West, 43.806952 North (hereafter referenced as the "South Leigh Creek Stream Gauge").

11. The beneficial use of water under this rental agreement is authorized once water permit 22-13690 is no longer in priority. The flow of water diverted at the point of diversion above shall provide no more than 12 cfs when permit 22-13690 is in priority.
12. The renter shall install and maintain measuring devices approved by the Idaho Department of Water Resources at the authorized point of diversion listed above.
13. The renter shall install and maintain measuring devices approved by IDWR at the Killpack Canal headgate on South Leigh Creek.
14. The renter shall install and maintain magnetic induction type flow meters with totalizing functions at the point of discharge from the renter's surface water recharge pipes and shall record the total amount diverted weekly.
15. Prior to the diversion and use of water under this rental agreement, the right holder shall install and maintain all fish screening and/or fish passage devices required by the Idaho Department of Fish and Game.
16. Prior to the diversion and use of water under this rental agreement, the water right holder shall install and maintain a measuring device and data logger at the South Leigh Creek Stream Gauge. The data logger shall record flows in the South Leigh Creek at least once every 24 hours. All measurements shall be provided to IDWR annually for the duration of this rental agreement.
17. All data obtained from new production well pump testing, from the monitoring wells and from the South Leigh Creek stream gauge shall be provided to IDWR on a yearly basis for the duration of this rental agreement, accompanied with an interpretive analysis and report, which shall include plots and analysis of recharge, pumping, water level changes and verification of how the system was operated and the extent of recharge available for pumping. The report shall account for the volume and duration of time water was diverted under permit 22-13690 and the volume and duration of time water was diverted under this rental agreement. The interpretive analysis and report shall be completed by a qualified professional and filed with IDWR by January 31st of each year, and shall contain an analysis of data through the end of the water year (October 31st). Once the data and report are submitted, the information shall be scanned by IDWR personnel and made available on the Idaho Department of Water Resource's website.
18. Under no circumstances shall the renter be permitted to reduce the flow in South Leigh Creek below 100 cfs as measured at the South Leigh Creek Stream Gauge. Furthermore, diversion and use of water shall not exceed a magnitude of 10 percent (10%) of the stream flow in South Leigh Creek as measured at the South Leigh Creek Stream Gauge.
19. The water rented under this agreement is appurtenant to irrigation of 171.3 acres.
20. The renter must continue to diligently pursue beneficial use of water under permit 22-13690 for the duration of this rental agreement.
21. Use of water under this agreement 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 Water District No. 1.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 20 2015

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO RENT WATER
FROM THE BOARD'S WATER SUPPLY BANKApplicant Name: The Boyd Charles Smith & Jill Johnson Smith TrustIs this application being submitted with a lease application as a lease/rental package? Yes ☐ No ☒

An *Application to Rent Water from the Board's Water Supply Bank* must be completed in accordance with the minimum requirement checklist below to be acceptable for processing by the Idaho Department of Water Resources (IDWR). This checklist is part of the rental application and must be included with the rental application. **Applications that do not meet the minimum requirements will not be placed in the processing queue and may be returned until all minimum requirements have been met.**

Applications to rent water should be submitted well in advance of the desired start date for the use of water. Rental applications may be submitted as early as November 1 of the year prior to the intended use of rental water. Rental applications submitted more than one year in advance of the proposed start date for water use will not be accepted and will be returned to applicants. Rental applications will not be processed if they are received after the end of the rental season of use.

One rental application per beneficial use of water. One rental application can be submitted if you propose to rent water from multiple sources. For multiple beneficial uses of water, individual rental requests should be submitted for each unique beneficial use of water.

For additional instructions on completing a rental application, visit the Department's website at www.idwr.idaho.gov.

Checked All Items as Either Attached (Yes) or Not Applicable (N/A)

YES

☒ Completed *Application to Rent Water from the Board's Water Supply Bank*

Attachment N/A YES

- | | | |
|----|-------------------------------------|--|
| 2 | ☒ | A map showing the proposed point(s) of diversion, place(s) of use, and water diversion and distribution systems proposed to be used with your rental request |
| 3A | ☐ | ☒ Detailed information on a proposed use of rental water |
| 3E | ☒ | ☐ Authorization from the owner/operator of the rental point(s) of diversion |
| 3G | ☒ | ☐ Water modeling to account for the impacts of the rental request |
| 3J | ☒ | ☐ Documents justifying a need to rent water for irrigation at a rate of flow greater than 0.02 cfs/acre |
| 3K | ☒ | ☐ Authorization from the owner/operator of the property at the proposed rental place(s) of use |
| 4B | ☒ | ☐ Explanation of how the rental water will sufficiently accomplish your rental purposes |
| 4C | ☒ | ☐ Explanation of consumptive use amounts for water rights experiencing a change in nature of use |

Department Use Only – Proposed Water Right(s)

22-42

22-616

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

1. CONTACT INFORMATION

A. Applicant The Boyd Charles Smith & Jill Johnson Smith Trust

Mailing Address c/o Rob Harris; Holden Kidwell Hahn & Crapo; P.O. Box 50130; Idaho Falls, ID 83405

Email Address rharris@holdenlegal.com Phone Number 208-523-0620

B. Is this application being completed by an authorized representative on behalf of the applicant? Yes ☒ No ☐

If yes, representatives (includes company employees if the applicant is a corporation, as well as legal counsel or consultants) should provide their information below if they desire to be included on correspondence with the rental applicant.

Representative Rob Harris Professional Title Attorney

Organization Holden Kidwell Hahn & Crapo Relationship to Applicant Attorney

Mailing Address P.O. Box 50130; Idaho Falls, ID 83405

Email Address rharris@holdenlegal.com Phone Number 208-523-0620

2. MAP

Create a map of the proposed point(s) of diversion, place(s) of use, and water diversion, delivery and distribution systems. Make sure the place of use is outlined with an obvious, bolded line. For irrigation purposes, note that the place of use outlined on your map cannot exceed the number of acres you are proposing to rent. Attach the map to this application and label it **Attachment 2**.

3. DESCRIPTION OF PROPOSED USE FOR RENTAL WATER

A. Describe the purpose of your rental request. Include any anticipated rates of water application, water use practices or number of stock (if any). If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of rental water required. Attach additional sheets if required and label it **Attachment 3A**:

It is proposed that the water will be diverted from South Leigh Creek through an existing irrigation point of diversion, conveyed through existing ditches and pipes to a measuring device and to a recharge basin, where the water will be recharged to the local aquifer.

B. Enter the desired and/or minimum necessary rates of flow, volume, or irrigable acres requested for your rental purposes:

Desired Rate (Cubic Feet/Second)	Desired Volume (Acre-Foot)	Minimum Rate* (Cubic Feet/Second)	Minimum Volume* (Acre-Foot)	Acres (if applicable) (Acre)
3.43 CFS	599.6 AF	CFS	AF	NA AC

Sometimes water rights available for rent provide an exceptionally low rate per acre and/or low volume per acre. This section is meant to establish an acceptable range of water sufficient for your proposed water use. Please see question 4B and complete if necessary.

C. Enter the proposed start date and latest possible start date for using rental water. Also provide the number of years you would like to rent water:

Proposed Start Date (month/day/year)	Latest Possible Start (month/day/year)	* Proposed Rental Duration (Max 5 Years)	** For multi-year rentals, indicate whether you desire to rent water for remaining years if a rental request cannot be approved for the first year?
4/1/2015		3 Years	☒ Yes , approve rental for all remaining future years. ☐ No , return rental request if first year is unapprovable.

* The number of years permissible for a rental is subject to the lease contract duration for the water right(s) being rented.

** Subject to the availability of rentable water. A multi-year rental that cannot begin during the first year requested may be approved for some or all remaining years, depending on availability. Rental requests will be returned if no water is available to rent in the first and/or subsequent years of the rental request.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- D. Refer to the map you created in item 2 and specify the location of the point(s) of diversion (POD) from which rental water is proposed to be diverted:

Water Source	TWP	RGE	SEC	¼	¼	¼	County	Other water rights for the same purpose diverted from this POD
South Leigh Creek	6N	46E	32	NE	NW	NE	Teton	22-13690

The entry in this grid must match the map from item 2 on the application.

- E. Do you own and/or possess the authority to divert water from the above POD(s)? Yes ☒ No ☐
If no, provide documentation from the owner/operator confirming your authorization to use the POD(s) and label it **Attachment 3E**.

- F. Do any POD(s) identified in Question 3D divert from a water source that may require water modeling? Yes ☐ No ☒
Refer to the Water Modeling Requirements Information Sheet to determine if a rental POD may require water modeling.

- G. Has water modeling been provided with your rental request? Yes ☐ No ☒

If yes, include as **Attachment 3G**. Otherwise please explain why modeling was not provided:
Not necessary

Rental applications that require modeling will be returned if modeling is not provided.

- H. Specify the proposed beneficial use: ☐ Irrigation ☐ Commercial ☐ Industrial ☐ Municipal
☒ Groundwater Recharge ☐ Mining ☐ Stockwater ☐ Other: _____

- I. Refer to the map you created in item 2 and specify below the places you propose to use water. If for irrigation, specify the number of acres to be irrigated per ¼ ¼ tract. Otherwise indicate usage by marking the ¼ ¼ tracts with the first letter of your proposed use identified above:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	46E	31	E																
The entry in this grid must match the map from item 2 on the application.																			Total Acres (for irrigation)

- J. For irrigation uses, do you propose a water diversion rate greater than 0.02 cfs/acre? N/A ☒ Yes ☐ No ☐
If yes, explain the justification for this rate of flow and attach any supporting documents as **Attachment 3J**:

- K. Do you own the land at the proposed rental place of use (POU)? Yes ☒ No ☐
If no, attach documentation from the POU owner/operator confirming your authorization to use the POU and label it **Attachment 3K**.

- L. Describe your water distribution system and how water will be delivered from the POD(s) to the proposed POU(s):
Water will be delivered through existing POD, ditches, and pipes. A dedicated measuring device will be used to measure the quantity of water recharged.

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

M. List all other water rights and sources of water at the rental place of use for the same purpose and explain why additional water is required. Include privately owned water rights and water received from a municipal supplier, an irrigation district, a canal company, or any other water deliver entity:
22-13690 - This is a privately held recharge permit. The 2006 priority date often limits the quantity of water available for recharge. The rental will allow for more water to be recharged.

4. RENTAL REQUESTS FOR SPECIFIC WATER RIGHTS

A. Are you requesting to rent specific water rights? Yes ☒ No ☐
If yes, specify below the water rights you are requesting to rent. Otherwise continue to Section 5 of this application form.

Please note: Diversion rates and volumes to be rented from a leased water right must be proportionate to the per acre diversion rates and per acre volume limits of the water right leased to the Bank. Applicants should query a water right's rental availability by reviewing active lease and rental documents, searchable via [IDWR's website](#), to ensure all elements of a water right remain available in sufficient quantity to satisfy a rental request.

Water rights identified below must either already be leased to the Bank or a lease proposal should accompany the rental request. **Rental requests for water rights not yet leased to the Bank will be returned if companion lease applications are not provided with the rental request.**

For leased rights with combined limits, applicants should request to rent against the combined limit diversion rate, volume or acre limits.

Elements of Water Rights Leased to the Bank (Contract Details)								Leased totals minus water actively engaged in rental agreement equals rental availability	Rental Request		
Water Right Number	Nature of Use	Water Source	Rate (CFS)	Volume (AF)	Acres (AC)	Start (year)	End (year)		Rate (CFS)	Vol. (AF)	Acres (AC)
22-42	Irrigation	South Leigh Ck	0.37			2013	2017		0.37	64.8	NA
22-616	Irrigation	South Leigh Ck	3.06			2013	2017		3.06	534.8	NA
Applicants must ensure the requested rate per acre and volume per acre do not exceed the rate per acre and volume per acre that have been leased to the Water Supply Bank								TOTAL	3.43 CFS	599.6 AF	NA AC

Attach multiple copies of this page if space above is insufficient to list all water rights requested to be rented on this application.

B. If water right conditions, combined limits, or the sum of all water right elements being requested provide an unconventional duty of water (e.g., an unusually low rate per acre or volume per acre for irrigation use), explain how your proposed rental will sufficiently accomplish your intended purposes. Attach a separate page if space is insufficient and label it **Attachment 4B**:

STATE OF IDAHO
WATER RESOURCE BOARD

Application to Rent Water (Continued)

- C. Does your rental request propose to change the nature of use for any water right(s) being requested? Yes ☒ No ☐

If yes, explain how the water right(s) will be converted to new uses. Include the historic, consumptive use amounts for the water right being rented, as well as the new consumptive use amount for your proposed beneficial use. Attach a separate page if space is insufficient and label it **Attachment 4C**:

Historic use was for irrigation which was consumptively used. The current rental request is for groundwater recharge, which is non-consumptive. No expansion of consumptive use will occur.

5. ADDITIONAL INFORMATION

- A. Is this the first time that rental water is being requested for this purpose at the rental place of use? Yes ☐ No ☒

If no, list previous rental requests/agreements and explain why you have not secured a permanent water right for your needs: Rental agreement for 2014 was approved and attached to this application. The approval was obtained late in the season, and water was not available by priority. The Water Supply Bank instructed us to re-submit the rental application for 2015 through 2017.

- B. Have you or do you intend to submit an application for permit or transfer proposing a similar use as this rental? Yes ☒ No ☐

If yes, describe: Applicant holds permit no. 22-13690. The priority date of this permit is 2006. Often this right is only available for a few days. We wish to recharge more volume to better understand how the aquifer behaves with groundwater recharge.

- C. Was this rental application submitted in response to a Notice of Violation (NOV) or a pending NOV? Yes ☐ No ☒

If yes, describe the date and location of the NOV.

DECLARATION

I hereby assert that the information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval. I understand that if this rental application is approved, it will be subject to the provisions of Section 42-1766, Idaho Code and all applicable state and federal laws.

Robert L. Harris, attorney
Signature of Applicant

Robert L. Harris, attorney
Printed Name of Applicant

March 18, 2015
Date

Signature of Representative

Printed Name of Representative

Date

Mail to:

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

Legend

- RENTAL POD
- RENTAL POU
- Teton Ranch

THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST

2015 WATER BANK RENTAL APPLICATION
2013 AERIAL PHOTO



BROCKWAY ENGINEERING, PLLC.
GEP - Date: 3/18/2015