

RECEIVED  
MAY 07 2015  
DEPARTMENT OF  
WATER RESOURCES

This is to certify that: **THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST**  
**C/O HOLDEN KIDWELL HAHN & CRAPO**  
**PO BOX 50130**  
**IDAHO FALLS ID**  
**208-523-0620**

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

### Summary of Water Rights or Portions Rented from the Bank

| Water Right   | Priority Date | Source            | Tributary   | Rented Rate | Annual Rented Volume | Acre Limit | Total Rented Acres |
|---------------|---------------|-------------------|-------------|-------------|----------------------|------------|--------------------|
| <b>22-042</b> | 1/22/1916     | South Leigh Creek | Teton River | 0.37 cfs    | 64.8 af              | NA         | NA                 |
| <b>22-616</b> | 1/22/1916     | South Leigh Creek | Teton River | 3.06 cfs    | 534.8 af             | NA         | NA                 |

|                                      |                 |                 |           |           |
|--------------------------------------|-----------------|-----------------|-----------|-----------|
| <b>Annual Combined Rental Totals</b> | <b>3.43 cfs</b> | <b>599.6 af</b> | <b>NA</b> | <b>NA</b> |
|--------------------------------------|-----------------|-----------------|-----------|-----------|

**Term of Rental:** March 20, 2015 to December 31, 2017  
**Rental Fee:** \$1,019.32 annually

The fee for rental of the above-described water is \$10,193.20. Because the renter is also the lessor, the only payment owed is the Board's Administrative fee of ten percent (\$1,019.32). An annual payment shall be received by the Department prior to February 15 each year for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year.

To terminate the agreement prior to the end of the rental period, written notice must be received by the Department at least 30 days prior to the rental fee due date.

No rental fees will be refunded once the fee is collected and the start date for a Rental Agreement has passed.

Detailed water right conditions are attached.

## SUPPORT DATA

IN FILE # 22-42

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

May 7, 2015  
Date

BRIAN PATTON, Acting Administrator  
Idaho Water Resource Board

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 31<sup>st</sup> of each year, and shall contain an analysis of data through the end of the water year (October 31<sup>st</sup>). 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](http://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  | <input checked="" type="checkbox"/> | 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 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> Detailed information on a proposed use of rental water                                                                   |
| 3E | <input checked="" type="checkbox"/> | <input type="checkbox"/> Authorization from the owner/operator of the rental point(s) of diversion                                                           |
| 3G | <input checked="" type="checkbox"/> | <input type="checkbox"/> Water modeling to account for the impacts of the rental request                                                                     |
| 3J | <input checked="" type="checkbox"/> | <input type="checkbox"/> Documents justifying a need to rent water for irrigation at a rate of flow greater than 0.02 cfs/acre                               |
| 3K | <input checked="" type="checkbox"/> | <input type="checkbox"/> Authorization from the owner/operator of the property at the proposed rental place(s) of use                                        |
| 4B | <input checked="" type="checkbox"/> | <input type="checkbox"/> Explanation of how the rental water will sufficiently accomplish your rental purposes                                               |
| 4C | <input checked="" type="checkbox"/> | <input type="checkbox"/> 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<br>(Cubic Feet/Second) | Desired Volume<br>(Acre-Foot) | Minimum Rate*<br>(Cubic Feet/Second) | Minimum Volume*<br>(Acre-Foot) | Acres (if applicable)<br>(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<br>(month/day/year) | Latest Possible Start<br>(month/day/year) | * Proposed Rental<br>Duration<br>(Max 5 Years) | ** For multi-year rentals, indicate whether you desire to rent<br>water for remaining years if a rental request cannot be<br>approved for the first year?                       |
|-----------------------------------------|-------------------------------------------|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4/1/2015                                |                                           | 3 Years                                        | <input checked="" type="checkbox"/> Yes, approve rental for all<br>remaining future years. <input type="checkbox"/> No, return rental request if<br>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         |
|                                                                                                                                                                                  |               |                |            |             |            |              |            |                                                                                           |                |             |            |
|                                                                                                                                                                                  |               |                |            |             |            |              |            |                                                                                           |                |             |            |
|                                                                                                                                                                                  |               |                |            |             |            |              |            |                                                                                           |                |             |            |
|                                                                                                                                                                                  |               |                |            |             |            |              |            |                                                                                           |                |             |            |
|                                                                                                                                                                                  |               |                |            |             |            |              |            |                                                                                           |                |             |            |
|                                                                                                                                                                                  |               |                |            |             |            |              |            |                                                                                           |                |             |            |
| <b>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</b> |               |                |            |             |            |              |            | <b>TOTAL</b>                                                                              | 3.43<br>CFS    | 599.6<br>AF | NA<br>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**:

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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. Jamieson, attorney  
Signature of Applicant

Robert L. Jamieson, 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

**THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST**  
2015 WATER BANK RENTAL APPLICATION  
2013 AERIAL PHOTO

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



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

May 8, 2015

THE BOYD CHARLES SMITH & JILL JOHNSON SMITH TRUST  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405-0130

**RE: RENTAL OF WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 22-00042 AND 22-00616**

Dear Renter:

Please find enclosed a receipt in the amount of **\$1,019.32** and a copy of a fully executed Water Supply Bank Rental Agreement in connection with the rental of 599.6 acre-feet of water for groundwater recharge during 2015. Upon receipt of this fully executed agreement, you are authorized to divert water in compliance with the conditions of water use described in the agreement.

Pursuant to the Water Supply Bank Rules, the rental fee will be retained by the Department to offset administrative costs since you are the owner of the right(s).

If you have any questions, please contact me at (208) 287-4881.

Sincerely,

For -

Sandy Thiel  
Senior Water Resource Agent

Enclosure(s): Receipt No. C100415  
Rental Agreement (copy)

c: Sascha Marston – Fiscal  
James Cefalo – IDWR Eastern Regional Office  
Lyle Swank – State Water District No. 01  
Erick Powell – Brockway Engineering PLLC  
Robert Harris – Holden Kidwell Hahn Crapo PLLC



Holden Kidwell  
Hahn & Crapo P.L.L.C.  
LAW OFFICES

RECEIVED  
MAY 07 2015  
DEPARTMENT OF  
WATER RESOURCES

1000 Riverwalk Drive, Suite 200  
PO Box 50130  
Idaho Falls, Idaho 83405

Tel: (208) 523-0620  
Fax: (208) 523-9518  
www.holdenlegal.com

Email: [rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

May 1, 2015

VIA U.S. MAIL and EMAIL

Sandra Thiel  
Senior Water Resource Agent  
Idaho Department of Water Resources  
PO Box 83720  
Boise, ID 83720-0098  
[sandra.thiel@idwr.idaho.gov](mailto:sandra.thiel@idwr.idaho.gov)

**RE: Executed Water Supply Bank Rental Agreement for Water Right Nos. 22-42  
and 22-616, in the Name of The Boyd and Jill Johnson Smith Trust.**

Dear Sandra:

On April 27, 2015, we received the enclosed letter and Water Supply Bank Rental Agreement for The Boyd and Jill Johnson Smith Trust. Since the Pocatello sorting office of the U.S. Postal Service has been closed, we noticed it takes much longer to receive documents by mail. Therefore, we are sending this letter and its enclosures to you by regular mail and by email to ensure that we have met the Department's time sensitive response deadline. I have executed the Water Supply Bank Rental Agreement as the attorney for the renter, The Boyd and Jill Johnson Smith Trust, and have enclosed a check in the amount of \$1,019.32 as required under the rental agreement.

We appreciate your assistance in this matter. If you have any questions or concerns, please let me know. Also, because we are sending this to you by email, please confirm that you have received it so that we ensure that we have not missed any deadlines. I anticipate you will have the check in hand anywhere from four to seven days, especially given the new delays for sending mail that we have encountered throughout the state.

Best Regards,

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

G:\WPDATA\RLH\8527 Smith, Boyd\39 Water Bank\2015-04-30 Thiel.docx

*Established in 1896*



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](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

April 21, 2015

THE BOYD CHARLES SMITH  
& JILL JOHNSON SMITH TRUST  
C/O HOLDEN KIDWELL HAHN & CRAPO  
PO BOX 50130  
IDAHO FALLS ID 83405

RE: APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK  
WATER RIGHT NO(S). 22-42 AND 22-616

\*\*\*TIME SENSITIVE RESPONSE REQUIRED\*\*\*

Dear Applicant:

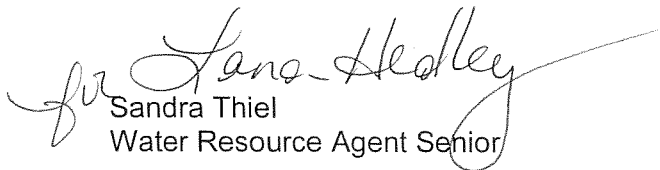
The Department of Water Resources acknowledges receipt of your application to rent water from the Water Supply Bank. **I have enclosed a Water Supply Bank Rental Agreement for your review and signature.** Upon signature and return of the original agreement, together with the rental fee described below, the Department will also sign the original agreement and return an executed copy to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of \$10,193.20 was calculated based on the current rental rate of \$17.00 per acre-foot times a diversion volume of 599.6 acre-feet. Since you are both the lessor and the renter of the right(s), **you are only obligated to pay the 10% administrative fee or \$1,019.32**. An annual payment shall be received by the Department prior to the execution of this agreement and prior to February 15 in all subsequent years for the duration of the rental period. The agreement will be void if payment is not received prior to the due date in a given year. If you would like to terminate the agreement prior to the end of the rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date.

**Please send a check for \$1,019.32** made payable to the Idaho Department of Water Resources, **together with the signed rental agreement, within 14 days** so I can complete processing.

If you have any questions, please contact me at (208) 287-4881.

Sincerely,

  
Sandra Thiel  
Water Resource Agent Senior

Enclosure(s)

c: IDWR Front Desk  
Erick Powell  
Brockway Engineering PLLC

## MEMORANDUM

**To:** Water Right(s) 22-42 and 22-616  
**From:** Sandra Thiel  
**Date:** April 15, 2015  
**Re:** Review & Analysis of Application to Rent Water from the State Water Supply Bank

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**PURPOSE/NARRATIVE:** Erick Powell submitted an application to rent water on behalf of the Boyd Charles Smith & Jill Johnson Smith Trust on March 20, 2015. The holder of the above water rights, The Trust seeks to rent their own water rights which are currently leased into the Water Supply Bank for three years. The purpose of the rental is to provide water for ground water recharge at Teton Ranch, a property owned by the lessor/renter.

The Trust holds two permits, 22-13689 and 22-13690, authorizing groundwater recharge at Teton Ranch. A third permit, 22-13691 is for irrigation from ground water at the ranch and is based on the recharge accomplished under 22-13689 and 22-13690. These permits hold junior priority dates (May 4, 2006), thus the Trust is seeking to rent the above water rights to continue recharging for the time when their permits are no longer in priority.

The Trust submitted a rental application for this same purpose in 2014. The rental application was approved but not signed last year because the spring runoff had already passed by the time the application was approved.

**AUTHORITY TO FILE:** The application has been submitted by Robert Harris of Holden Kidwell Hahn and Crapo, attorney for the Trust in conjunction with Erick Powell at Brockway Engineering.

**WATER RIGHT VALIDITY:** Rights 22-616 and 22-42 were decreed in 2008. They have been leased into the bank since 2013.

**INJURY TO OTHER WATER RIGHTS:** The rental will share the point of diversion with permit 22-13690. The permit for this right allows a diversion rate of 12 cfs. To avoid injury to other water users, the maximum diversion of water should not exceed 12 cfs at the POD when recharge is being undertaken through permit 22-13690 and water is available under this rental. When 22-13690 is not in priority, the maximum diversion at the POD should be no greater than 3.43 cfs, which is the rate of flow for water being rented from the Bank.

**ENLARGEMENT OF USE:** The use of water under this rental request will supplement ground water recharge that is permitted under 22-13690. Condition 15 of permit 22-13690 requires an annual report is submitted to IDWR detailing any recharge accomplished during the year. To avoid an enlargement of permit 22-13690, this rental will be conditioned to require that the annual report separately specify the length of time and volume of water recharged under the permit from that of the water recharged under rental agreement.

**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 rental appears consistent with the conservation of water resources in Idaho.

**DEPARTMENT STAFF OR WATERMASTER COMMENTS:** The rented right(s) subject to regulation by the Watermaster of Water District # 01. Tony Olenichak replied to a request for comment saying that the 1916 priority water rights to be rented should be available beginning in may and maybe into June.

## Thiel, Sandra

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**From:** Olenichak, Tony  
**Sent:** Wednesday, April 15, 2015 4:30 PM  
**To:** Thiel, Sandra  
**Subject:** RE: Water supply bank rental

The 1916 priority rights should have a bigger window of opportunity than the 2006 priority rights. The 1916 priority is currently off, but will likely come back into priority around the beginning of May and stay on for most of that month, and maybe into June if we have a wet May and a wet beginning to June.

Tony

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**From:** Thiel, Sandra  
**Sent:** Wednesday, April 15, 2015 4:17 PM  
**To:** Olenichak, Tony  
**Subject:** RE: Water supply bank rental

Oops. Sorry about that. This should be the correct version. However, it sounds like they have a very short window this year. Both the water right from South Leigh Creek have priority dates from early 1916.

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**From:** Olenichak, Tony  
**Sent:** Wednesday, April 15, 2015 4:06 PM  
**To:** Thiel, Sandra  
**Subject:** RE: Water supply bank rental

Sandra,

It looks like you attached the wrong Rental Review Memo (2-2262) instead of the one for the Smith water right in Basin 22. Nonetheless, there is currently only enough natural flow to fill up to the 1903 priority for diversions currently diverting water in Water District #1. There's a good chance the 2006 water right will not come into priority this year unless we receive above average precipitation for the next month. If it comes into priority, it likely won't occur until mid-May at the earliest, and probably won't stay in priority for a very long period unless we get deluged by rain and there isn't any demand by senior irrigation rights at that time.

Tony

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**From:** Thiel, Sandra  
**Sent:** Wednesday, April 15, 2015 10:22 AM  
**To:** Olenichak, Tony  
**Subject:** Water supply bank rental

Hello, The attached files provide information about a rental for recharge in basin 22. I included a scanned copy of the application. Please let me know if you have any concerns. Thanks in advance.

**Sandra Beer Thiel**  
Idaho Department of Water Resources  
322 East Front Street  
Boise, Idaho 83720-0098  
(208)287-4881  
[sandra.thiel@idwr.idaho.gov](mailto:sandra.thiel@idwr.idaho.gov)



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED  
MAR 20 2015  
DEPARTMENT OF  
WATER RESOURCES

March 18, 2015

Mr. Remington Buyer  
Water Supply Bank Coordinator  
Idaho Department of Water Resources  
322 East Front Street  
Boise, Idaho 83720

Re: Water Supply Bank Rental Application for the Boyd Charles Smith &  
Jill Johnson Smith Trust  
Project No. 158-09-2010

Dear Remington,

Please find enclosed with this letter an application to rent water from the water supply bank by The Boyd Charles Smith & Jill Johnson Smith Trust. The applicants leased water from North and South Leigh Creeks to the water supply bank through 2017, and this application requests to rent the South Leigh Creek water from the bank for groundwater recharge. The rented water will provide recharge water that will not be available with the applicants groundwater recharge permit (22-13690), which has a 2006 priority date. The Permit's priority date limits the volume of recharge during low water years, and the additional volume will be very useful to determining aquifer response to larger volumes of groundwater recharge.

The applicants submitted a rental application for this same purpose in 2014. The rental application was approved, and the approved rental agreement is included with the application. The rental agreement was not signed last year, because the spring runoff had already past by the time the application was approved. Since this application was approved last year, we request that the 2015 application be approved and the rental agreement be issued within 14-days.

We appreciate your time and effort to process this application.

Cordially,

G. Erick Powell, Ph.D., P.E.

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

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