

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective February 3, 2014, between the Idaho Water Resource Board ("**Board**"), and

Lessor: PKD PROPERTIES LLC
TLD PROPERTIES LLC
1404 E 500 N
JACKSON ID 83350
(208) 312-4800

RECEIVED
MAY 20 2014
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>
45-2578	0.11 CFS	29.6 AF	14.3 AC	67.0 AC
45-2597	0.41 CFS	14.9 AF	38.6 AC	67.0 AC
Combined Lease Totals:	NA	NA	40.4 AC	67.0 AC
45-14060	0.65 CFS	260.0 AF	65.0 AC	67.0 AC
Combined Lease Totals:	1.17 CFS	268.0 AF	67.0 AC	67.0 AC

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: March 15 to November 15

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, 2018.
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.

SUPPORT DATA

IN FILE # 45-2578

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.

**PKD PROPERTIES LLC
TLD PROPERTIES LLC**
1404 E 500 N
JACKSON ID 83350

By Paul H. Duncan
Printed Name Paul H. Duncan

Date May 14, 14
Title Member PKD

By Taylor Duncan
Printed Name Taylor Duncan

Date May 14, 14
Title Member TLD

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date May 20, 2014

Lease approved by IDWR Chris Palmer

Date May 20, 2014

ATTACHMENT A
WATER RIGHT NO. 45-2578
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: PKD PROPERTIES LLC
TLD PROPERTIES LLC
1404 E 500 N
JACKSON ID 83350
(208) 312-4800

Priority Date: 04/29/1959

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.11 CFS	29.6 AF
	Total:		0.11 CFS	29.6 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE¼SW¼NW¼	Sec. 8	Twp 13S	Rge 21E	CASSIA County
GROUND WATER	L2 (NE¼SW¼NW¼)	Sec. 31	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	L2 (SW¼SW¼NW¼)	Sec. 31	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SE¼SW¼SW¼	Sec. 5	Twp 13S	Rge 21E	CASSIA County
GROUND WATER	NW¼SW¼SW¼	Sec. 5	Twp 13S	Rge 21E	CASSIA 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	
12S	21E	18													34.0			33.0	67.0

Total Acres: 67.0

Limited to acres within place of use described above: 14.3 AC

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
45-2578, 45-2597 and 45-14060	1.17 CFS	268.0 AF	67.0 AC	67.0 AC

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. This lease is limited to 14.3 acres within the place of use described above in a single irrigation season.
13. The unleased portion of Right Nos. 45-2578 and 45-2597 when combined shall not exceed the irrigation of 1291.6 acres.
14. The unleased portion of Right Nos. 45-2578, 45-2597 and when combined with Right No. 45-7086D shall not exceed the irrigation of 2168.6 acres.
15. The unleased portions of Right Nos. 45-2578, 45-2597 and 45-14060 when combined with Right Nos. 45-13627 and 45-13628 shall not exceed a total annual maximum diversion volume of 8608.0 af and the irrigation of 2152.0 acres.
16. Use of water under this right is subject to control by the watermaster of State Water District No. 45-O.

ATTACHMENT A
WATER RIGHT NO. 45-2597
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: PKD PROPERTIES LLC
TLD PROPERTIES LLC
1404 E 500 N
JACKSON ID 83350
(208) 312-4800

Priority Date: 01/13/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.41 CFS	14.9 AF
	Total:		0.41 CFS	14.9 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$	Sec. 8	Twp 13S	Rge 21E	CASSIA County
GROUND WATER	L2 (NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$)	Sec. 31	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	L2 (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$)	Sec. 31	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 5	Twp 13S	Rge 21E	CASSIA County
GROUND WATER	NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	Sec. 5	Twp 13S	Rge 21E	CASSIA 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	
12S	21E	18													34.0			33.0	67.0

Total Acres: 67.0

Limited to acres within place of use described above: 38.6 AC

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
45-2578, 45-2597 and 45-14060	1.17 CFS	268.0 AF	67.0 AC	67.0 AC

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. This lease is limited to 38.6 acres within the place of use described above in a single irrigation season
13. The leased amount of Right Nos. 45-2578 and 45-2597 shall not exceed the idling of 40.4 acres.
14. The leased amount of Right Nos. 45-2578 and 45-2597 when combined shall not exceed the irrigation of 1291.6 acres.
15. The unleased amount of Right Nos. 45-2578 and 45-2597 when combined with Right No. 45-7086D shall not exceed the irrigation of 2168.6 acres.
16. The unleased portions of Right Nos. 45-2578, 45-2597 and 45-14060 when combined with Right Nos. 45-13627 and 45-13628 shall not exceed a total annual maximum diversion volume of 8608.0 af and the irrigation of 2152.0 acres.
17. Use of water under this right is subject to control by the watermaster of State Water District No. 45-O

ATTACHMENT A
WATER RIGHT NO. 45-14060
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: PKD PROPERTIES LLC
TLD PROPERTIES LLC
1404 E 500 N
JACKSON ID 83350
(208) 312-4800

Priority Date: 12/03/1971

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.65 CFS	260.0 AF
	Total:		0.65 CFS	260.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	SW¼SE¼SE¼	Sec. 13	Twp 12S	Rge 20E	CASSIA County
GROUND WATER	L3 (SE¼NW¼SW¼)	Sec. 18	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼NE¼	Sec. 1	Twp 12S	Rge 20E	CASSIA County
GROUND WATER	SW¼SW¼NE¼	Sec. 17	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼SW¼	Sec. 12	Twp 12S	Rge 20E	CASSIA County
GROUND WATER	SW¼SW¼NW¼	Sec. 17	Twp 12S	Rge 21E	CASSIA County
GROUND WATER	SW¼SW¼SW¼	Sec. 12	Twp 12S	Rge 20E	CASSIA 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	
12S	21E	18													34.0			33.0	67.0

Total Acres: 67.0

Limited to acres within place of use described above: 65.0 AC

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
45-2578, 45-2597 and 45-14060	1.17 CFS	268.0 AF	67.0 AC	67.0 AC

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. This lease is limited to 65.0 acres within the place of use described above in a single irrigation season.
13. The unleased portions of Right Nos. 45-2578, 45-2597 and 45-14060 when combined with Right Nos. 45-13627 and 45-13628 shall not exceed a total annual maximum diversion volume of 8608.0 af and the irrigation of 2152.0 acres.
14. The unleased portion of Right No. 45-14060 when combined with Right No. 45-13628 shall not exceed a total annual maximum diversion volume of 8408.0 af at the field headgate and the irrigation of 2102.0 acres.
15. The unleased portion of Right no. 45-14060 when combined with Right no. 45-13627 shall not exceed a total annual maximum diversion volume of 8384.0 af at the field headgate and the irrigation of 2096.0 acres.

STATE OF IDAHO
WATER RESOURCE BOARD
WATER SUPPLY BANK
REQUEST TO EXTEND LEASE TERM
ONE FORM PER WATER RIGHT

RECEIVED

FEB 03 2014

DEPARTMENT OF
WATER RESOURCES

fax received
Jan 31, 2014

This form is a statement that the lessor requests an extension of a Water Supply Bank ("Bank") lease for the water right identified below. A water right remains in the Bank for the accepted lease period unless released earlier by the Water Resource Board or until the lessor submits a request in writing to the Department of Water Resources to release the right from the Bank. However, if a water right is currently rented, the portion of the right being rented must remain in the Bank for the duration of the rental agreement.

If requesting a change in lease amounts (reducing or increasing acreage, etc.), you must file an Application to Sell or Lease a Water Right to the Water Supply Bank. This form can be found on IDWR's website at: www.idwr.idaho.gov.

Water Right No: 45-2578 Telephone No: 208 312-4800
Name(s) of Lessor(s): PKD Properties LLC + TLD Properties LLC
Mailing Address: 1404 E 500 N
City: Jackson State: Idaho Zip: 83350
Current Expiration Date: Dec 31, 2013
Requested Expiration Date: Dec 31, 2018
Lease term not to exceed 5 years.

All lease extension request forms must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled for the duration of this lease.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

The lessor requests that the above water right remain in the Bank through the date referenced above.

<u>PKD Properties LLC</u> <u>by Paul H. Duncan</u>	<u>Paul H. Duncan</u>	<u>Member</u>
Signature of Lessor	Printed Name and Title*	Date <u>1-30-2014</u>
<u>TLD Properties LLC</u> <u>by Taylor F. Duncan</u>	<u>Taylor F. Duncan</u>	<u>Member</u>
Signature of Lessor	Printed Name and Title*	Date <u>1-30-2014</u>

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

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

FOR OFFICE USE ONLY

Filing fee received by: CS Date: 2/3/14 Receipt No: C098266

Details for POU - Water Rights

Total features returned: 4

Basin	SeqNo	Suffix	Priority Date	Owner
45	14060		12/3/1971	PMD PROPERTIES LC
1	23	A	2/6/1995	SOUTHWEST IRRIGATION DISTRICT
42	2578		4/29/1959	PMD PROPERTIES LC
42	2597		1/13/1960	PMD PROPERTIES LC



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

December 22, 2014

PKD Properties LC
1404 E 500 N
JACKSON ID 83350

**RE: RENTAL OF WATER RIGHT(S) LEASED TO THE WATER SUPPLY BANK.
WATER RIGHT NO. 45-2578, 45-2597 and 45-14060**

Dear Lessor:

The Department of Water Resources is enclosing a state warrant in the amount of **\$4,100.4** as payment to you for the rental of the above referenced water right(s) from the Water Supply Bank managed by the Idaho Water Resource Board. Payment for the rental of your water rights is represented by a single rental agreement as follows:

Receipt No.	Amount	Volume	Renter	Rate/AF
C099181	\$4,059.60	238.8 AF	George Kelley	\$17.00
C099181	\$ 251.6	14.8 AF	George Kelley	\$17.00
C099080	<u>\$ 244.8</u> \$4,556.00	14.4 AF	Corp. of the Presiding Bishop of the Church of Jesus Christ Of Latter-Day Saints	\$17.00

In accordance with Water Supply Bank rule 35.01, *IDAPA 37.02.03* return for the rental is ninety percent (90%) of the gross amount received at the rate per acre described above.

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

Sincerely,

for 
Sandra Thiel
Sr. Water Resource Agent

Warrant Number: 127031844



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 20, 2014

PKD PROPERTIES LLC
TLD PROPERTIES LLC
1404 E 500 N
JACKSON ID 83350

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 45-2578, 45-2597 and 45-14060

Dear Lessor:

Water Rights 45-2578, 45-2597 and 45-14060 were leased into the Water Supply Bank on February 3, 2014 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4944.

Sincerely,

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: Jeff Cooper- Water District No. 45-O
Allen Merritt- IDWR Southern Regional Manager



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 13, 2014

PKD PROPERTIES LLC
TLD PROPERTIES LLC
1404 E 500 N
JACKSON ID 83350

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 45-2578, 45-2597 and 45-14060 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, 2018**, 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 287-4944.

Sincerely,

for 
Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

Hersley, Jean

From: Cooper, Jeff
Sent: Wednesday, March 26, 2014 3:09 PM
To: Hersley, Jean
Subject: RE: WSB Lease Extensions for 45-2578, 45-2597 and 45-14060

Thanks Jean. Appreciate the help!!!

From: Hersley, Jean
Sent: Wednesday, March 26, 2014 3:08 PM
To: Cooper, Jeff
Subject: RE: WSB Lease Extensions for 45-2578, 45-2597 and 45-14060

I have attached a copy of the previous lease agreement. The previous agreement limits all 3 right plus others that aren't in the Bank. I'm still checking the amounts on the previous agreement. I'm not sure they are correct. I will get together with Pam in the next few days to go over with her. I will keep you informed. They are putting the same portion of each right into the Bank.

From: Cooper, Jeff
Sent: Wednesday, March 26, 2014 2:50 PM
To: Hersley, Jean; Merritt, Allen
Subject: RE: WSB Lease Extensions for 45-2578, 45-2597 and 45-14060

Jean-

Thanks for the heads up. I hadn't been notified of this lease in the past and it looks all correspondence was sent to WD 140. Based on the portion of 67 into the 473 acres (978 AFA) allowed under this 45-2578, this would reduce the amount they could pump by 138.5 AFA. Is this consistent with the lease? Also, what effect does this have on the other combined rights, in particular 45-2597? I have to watch the volumes very closely as those two rights are part of the Cottonwood Critical Groundwater Area Order. Any information you could shed on the subject would be greatly appreciated. Thank you.

-Jeff C.

From: Hersley, Jean
Sent: Wednesday, March 26, 2014 9:26 AM
To: Cooper, Jeff; Merritt, Allen
Subject: WSB Lease Extensions for 45-2578, 45-2597 and 45-14060

PKD Properties and TLD Properties have requested to extend the leases of the above mentioned water rights. They have been in the Bank since 2012. There are 67 acres that are leased and are the same 67 acres for each right. Please let me know if you have any comments or concerns. Thank you.

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

MEMORANDUM

To: Water Right No(s). 45-2578, 45-2597 and 45-14060
From: Jean Hersley
Date: March 26, 2014
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received these Lease extension requests via fax on January 31, 2014 and in the mail on February 3, 2014. The applicant wishes to extend the leases on 67 acres that have been in the Bank since 2012. The leases are for the same 67 acres.

AUTHORITY TO FILE: Paul Duncan and Taylor Duncan signed the applications on behalf of PKD Properties and TLD Properties. They are the registered agents of the companies.

WATER RIGHT VALIDITY: The water rights were decreed in 2005 in the SRBA and have been in the Bank since 2012. Aerial photography indicates no irrigation has taken place.

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 # 450.

No. W 9370	Due no later than Jul 31, 2013 Annual Report Form		2. Registered Agent and Address (NO PO BOX)	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE			PAUL H DUNCAN 1404 E 500 N JACKSON ID 83350	
	1. Mailing Address: Correct in this box if needed. PKD PROPERTIES, L.C. PAUL H DUNCAN 1404 E 500 N JACKSON ID 83350		3. <u>New</u> Registered Agent Signature:*	
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.				
Office Held	Name	Street or PO Address	City	State Country Postal Code
MANAGER	PAUL H DUNCAN	750 EAST 100 SOUTH	RUPERT	ID USA 83350
MANAGER	KATHY FISHER DUNCAN	750 EAST 100 SOUTH	RUPERT	ID USA 83350
5. Organized Under the Laws of: ID W 9370	6. Annual Report must be signed.* Signature: Paul H Duncan Name (type or print): Paul H Duncan Date: 05/15/2013 Title: Manager			
Processed 05/15/2013	* Electronically provided signatures are accepted as original signatures.			

No. W 100005	Due no later than Jan 31, 2014 Annual Report Form		2. Registered Agent and Address (NO PO BOX)
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed.		TAYLOR DUNCAN 1404 E 500 N JACKSON ID 83350
	T.L.D. PROPERTIES, LLC TAYLOR DUNCAN 1404 E 500 N JACKSON ID 83350		3. <u>New</u> Registered Agent Signature:*
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.			
Office Held	Name	Street or PO Address	City State Country Postal Code
MEMBER	TAYLOR F DUNCAN	1404 E 500 N	JACKSON ID USA 83350
5. Organized Under the Laws of: ID W 100005		6. Annual Report must be signed.* Signature: Taylor Duncan Date: 11/20/2013 Name (type or print): Taylor Duncan Title: Manager	
Processed 11/20/2013		* Electronically provided signatures are accepted as original signatures.	