

Hemenway, Sandy

From: Skaggs, Pam
Sent: Monday, April 29, 2013 8:24 AM
To: Hemenway, Sandy
Cc: 'Brian Higgs'; 'Paul Arrington'; Keen, Shelley
Subject: RE: WSB rental application for George and Bill Kelley

Sandy,

Tim Luke, Shelley Keen & I have been working with Brian Higgs & folks from the Southwest Irrigation District to come to a better understanding of their mitigation plan & how that affects rights that may be leased to the Water Supply Bank. Beyond the overall decisions, a plan to cover the Kelley's has been proposed as noted below. All the required items haven't been determined or requested at this point, but the Kelley's are one of the users pending a final decision.

When the larger points are addressed, a decision on the Kelley rental for 2013 & others will be made.

Pam

From: Hemenway, Sandy
Sent: Monday, April 29, 2013 7:51 AM
To: Brian Higgs; Paul Arrington
Cc: Skaggs, Pam; Hemenway, Sandy
Subject: RE: WSB rental application for George and Bill Kelley

I will keep you posted on the decision that is made, as soon as I am informed.

Sandy

From: Brian Higgs [<mailto:brian@waterwellconsultants.com>]
Sent: Friday, April 26, 2013 7:18 AM
To: Hemenway, Sandy; Paul Arrington
Cc: Skaggs, Pam; Hemenway, Sandy
Subject: Re: WSB rental application for George and Bill Kelley

Hi.

At this late stage in the process BWI should lease his rights to Kelley's so long as it is for 2013 only. SWID will remove BWI's rights from their 2013 mitigation plan.

Thank you all for your help. I apologize about the misunderstanding.

Brian

From: Hemenway, Sandy
Sent: Wednesday, April 24, 2013 7:49 AM
To: Paul Arrington ; Brian Higgs
Cc: Skaggs, Pam ; Hemenway, Sandy
Subject: RE: WSB rental application for George and Bill Kelley

Paul/Brian,

When this file was given to me by Pam to conduct the review, on a note attached to the application dated 4/12/2013, she stated "we need to start from scratch again. Please see if you can find any other rights for this rental besides Christensen or Burley West." Also, after talking to Tim Luke yesterday and finding out about the number of water rights who have gone into a curtailment agreement, that is limiting the number of water rights that are available in Basin 45, since 8 of the water rights in the bank can no longer be used.

I will keep you posted of my progress.

Sandy Hemenway
Sr. Water Resource Agent
IDWR/State Office, Boise
(208)761-0280
Sandy.hemenway@idwr.idaho.gov

From: Paul Arrington [<mailto:pla@idahowaters.com>]
Sent: Monday, April 22, 2013 4:22 PM
To: Hemenway, Sandy; Brian Higgs
Cc: Paul Arrington
Subject: RE: WSB rental application for George and Bill Kelley

Sandy,

In the attached email, Pam Skaggs identified water rights for the Kelley rental.

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Hemenway, Sandy [<mailto:Sandy.Hemenway@idwr.idaho.gov>]
Sent: Monday, April 22, 2013 4:01 PM
To: Brian Higgs
Cc: Paul Arrington; Hemenway, Sandy
Subject: WSB rental application for George and Bill Kelley
Importance: High

Brian,

Pam Skaggs just came into my office to explain the agreement with SWID, and groundwater users. I ran a query for all the water rights that are in the Water Supply Bank for Basin 45. Do you think you could take a quick look and see if there are any water rights that are not in the agreement, that could be rented out, if they are still available?

Thank you so much for all your time. I really appreciate it.

Sandy Hemenway
Sr. Water Resource Agent
IDWR/State Office, Boise

(208)287-4920

Sandy.hemenway@idwr.idaho.gov

From: Brian Higgs [<mailto:brian@waterwellconsultants.com>]
Sent: Monday, April 22, 2013 3:03 PM
To: Paul Arrington; Hemenway, Sandy
Cc: Paul Arrington
Subject: Re: WSB rental application for George and Bill Kelley

Hi Paul, Shelley, Sandy, and Pamela.

It might help if I add some information to this process, some of which you probably already know.

Irrigators who receive surface water from South West Irrigation District (SWID) through the BID system, WCP, Milner, or Murtaugh Lake do so with the understanding that they will not use their ground water right for irrigation. Therefore, any member of the SWID should not lease their groundwater rights out to be used on a different POU. The purpose of the SWID soft conversions is to keep the groundwater in the ground.

This came to my attention when BWI's rental agreement came across my desk for renewal. BWI has been irrigating with BID water for several years now. I knew he was renting his groundwater to the bank but I was not aware that the bank was leasing it out to Kelley's. Therefore, there is no savings of the groundwater.

I contacted Joel and he agreed to remove his water from the bank so long as there was other water to fill the Kelley's request. This is for 2013 only.

Joel does not have to receive water from SWID but if he chooses to allow the bank to continue leasing his water to the Kelley's, or anyone else, he will no longer receive water from SWID. This also excludes Paul Christensen, Craig Larsen, and others from leasing groundwater to be used at another POU.

Thank you.

Brian

From: [Paul Arrington](#)
Sent: Monday, April 22, 2013 2:22 PM
To: [Hemenway, Sandy](#) ; brian@waterwellconsultants.com
Cc: [Paul Arrington](#)
Subject: RE: WSB rental application for George and Bill Kelley

Sandy, see the attached map with the point of diversion and pipe system shown. I have also attached the email I sent to Shelley Keen with the information requested by Shelley Keen (not sure this email was forwarded to you). Please note that the acreage has been amended.

How long until this is processed?

Thanks,

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Hemenway, Sandy [<mailto:Sandy.Hemenway@idwr.idaho.gov>]
Sent: Tuesday, April 16, 2013 9:52 AM
To: Hemenway, Sandy; Paul Arrington; brian@waterwellconsultants.com
Subject: RE: WSB rental application for George and Bill Kelley
Importance: High

<<DOC000.pdf>>

Here is the original application and a map that may assist you.

From: Hemenway, Sandy
Sent: Tuesday, April 16, 2013 9:49 AM
To: pla@idahowaters.com; brian@waterwellconsultants.com
Cc: Hemenway, Sandy
Subject: WSB rental application for George and Bill Kelley
Importance: High

Hi,

I am conducting the review for the Water Supply Bank (WSB) rental application for George and Bill Kelley. I have a few questions, and cannot proceed with processing this application until the following have been submitted. I have attached the original application, and a map that you may possibly use to answer the following questions:

C. Map. Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. (I have attached a map, that might make it easy.

Please:

- (1) outline and label the proposed 300 acres that will be irrigated within the 359 acres PPU (as requested by Shelley Keen on 2/24/2013), or if it is the entire 359 acres that will be irrigated
- (2) indicate and label the point of diversion(s)
- (3) designate and label the distribution system (pipe type/size, pivot location, etc).

Please submit the requested information within 2 weeks, or the application will be denied.

Sandy Hemenway

Sr. Water Resource Agent
IDWR/State Office
PO Box 83720 or 322 E. Front St.
Boise, ID 83720-0098
OFFICE: (208) 287-4920
CELL: (208) 761-0280

FAX: (208) 287-6700

Email: sandy.hemenway@idwr.idaho.gov

No virus found in this message.

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Version: 2013.0.3272 / Virus Database: 3162/6264 - Release Date: 04/22/13

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Version: 2013.0.3272 / Virus Database: 3162/6269 - Release Date: 04/23/13

Hemenway, Sandy

From: Luke, Tim
Sent: Monday, April 29, 2013 5:03 PM
To: William A Parsons; Brian Higgs
Cc: charles.e.brockway@brockwayeng.com; Keen, Shelley; Skaggs, Pam; Hemenway, Sandy; Greg Sullivan
Subject: WSB Leased Rts in SWID plan 042013.xlsx
Attachments: WSB Lease Release Request rev October 2012.doc; WSB Leased Rts in SWID plan 042013.xlsx

Bill and Brian,

As we discussed last Friday, please find attached a list of the water rights that we identified as being part of the SWID mitigation plan submitted in 2010 that have also been leased to and/or rented from the Water Supply Bank (WSB). The spreadsheet includes some WSB information and our analysis of irrigation status of the lands leased to the bank over the last two years.

As we also discussed Friday, we would like the following from you before any we commit to any new rentals of these rights that have been leased to the WSB, including the BWI rights (pending rental from Kelly) and the MVPC rights (pending rental from MVPC?):

- For each group (by owner) of rights, we need either a request to release the rights from the Bank or some document indicating that SWID is not including the rights in its mitigation plan.
- If the rights are not to be included in the mitigation plan, the document needs to specify a period of time they will not be needed.
- Upon receipt of the appropriate document from SWID, IDWR can approve the rental of BWI rights to the Kelly.
- The rights on the list are not to be used by the lessors for any purpose until they are released from the Bank. Reducing the diversion volume but still irrigating the acres would be a violation.

Also attached is a release form for those lessors who may need to remove their rights from the Bank. Please give me or Shelley Keen a call if you have further questions about the list or the WSB.

Tim

Tim Luke
Idaho Department of Water Resources
322 E Front St, PO Box 83720
Boise, ID 83720-0098
208-287-4959
tim.luke@idwr.idaho.gov

STATE OF IDAHO
WATER RESOURCE BOARD

**WATER SUPPLY BANK
REQUEST TO RELEASE A WATER RIGHT FROM THE BANK**

ONE FORM PER WATER RIGHT

This form is a statement that the lessor requests the termination of a Water Supply Bank ("Bank") lease for the water right identified below. A water right will remain 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.

If releasing only part of the leased portion, you must **also** 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.

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.

Water Right No: _____ Telephone No: _____

Name(s) of Lessor(s): _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Requested Release Date: _____

Signature of Lessor Printed Name and Title* Date

Signature of Lessor Printed Name and Title* Date

*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

Type	Basin	Sequence	Suffix	In SWID Miti Plan?	Applicant	Begin Date	End Date	Amount Leased	Amount Available	Rented 2011 or 2012?
LEASE	45	2509		Yes	Burley West Investments LLC	4/26/2011	12/31/2016	ALL	ALL	2011-12
LEASE	45	13522		Yes	Burley West Investments LLC	4/26/2011	12/31/2016	ALL	ALL	2011-12
LEASE	45	7317		Yes	Kent Searle Family Trust	5/1/2009	12/31/2014	PART	ALL	No
LEASE	45	13981		Yes	MVCP LLC	5/1/2009	12/31/2014	PART	ALL	No
LEASE	45	13982		Yes	MVCP LLC	5/1/2009	12/31/2014	PART	ALL	No
LEASE	45	13904		Yes	MVCP LLC	11/15/2010	12/31/2015	PART	NONE	No
LEASE	45	13904		Yes	MVCP LLC	3/15/2013	12/31/2015	PART	NONE	No
LEASE	45	13905		Yes	Moo View Cow Palace	3/19/2010	Indefinite	ALL	NONE	2010-14
LEASE	45	13948		Yes	V & R Farms	3/20/2006	Indefinite	PART	PART	2010-14

LEASE	45	13950	Yes	V & R Farms	3/20/2006	Indefinite	PART	PART	2010-14
LEASE	45	13963	Yes	V & R Farms	3/20/2006	Indefinite	PART	ALL	No
LEASE	45	14184	Yes	Paul Christensen	1/1/2010	12/31/2014	ALL	NONE	No
LEASE	45	14186	Yes	Paul Christensen	1/1/2010	12/31/2014	ALL	NONE	No
LEASE	45	14188	Yes	Paul Christensen	1/1/2010	12/31/2014	ALL	NONE	No
LEASE	45	2578	No	PKD Properties / TLD Properties	3/15/2012	12/31/2013	PART	ALL	2012 2013
LEASE	45	2597	No	PKD Properties / TLD Properties	3/15/2012	12/31/2013	PART	ALL	2012 2013
LEASE	45	14060	No	PKD Properties / TLD Properties	3/15/2012	12/31/2013	PART	ALL	2012 2013

Skaggs, Pam

From: Luke, Tim
Sent: Friday, May 03, 2013 2:21 PM
To: William A Parsons
Cc: Brian Higgs; Jaxon Higgs; Skaggs, Pam; Keen, Shelley
Subject: SWID Mitig Rts and Water Bank

Bill,

I received your letter dated April 30, 2013 regarding those water rights identified as being in both the Southwest Irrigation District (SWID) Mitigation Plan and the IDWR Water Supply Bank (Bank). We have reviewed the rights specifically noted to be excepted from the SWID mitigation plan for the 2013 season for use in pending Bank Rental applications. The rights in question are identified in SWID's Mitigation Plan associated with the Burley Irrigation District J Canal conversion projects. Based on the clarifications provided in your letter, the following actions will be taken for the rights listed below.

- IDWR will move forward with the George and Bill Kelley rental of Burley West Investments LLC (BWI) rights 45-2509 and 45-13522 for the 2013 season only. Joel Parker of BWI had earlier requested the release of these rights from the bank, but confirmed his agreement to this rental for 2013. These rights should be released from the bank following the 2013 season.
- IDWR will also move forward with the MVCP LLC rental of a portion of their own right 45-13904 for 82.1 acres irrigation in the 2013 season only. The rented portion of this right should be released from the bank following the 2013 season. There are also 42 acres of irrigation under this right leased separately to the bank that should be released from the bank.
- Rights 45-7317, 45-13981 and 45-13982 are also currently leased to the bank by MVCP LLC, but are not part of any pending rental applications. These rights should be released from the bank since they are part of the SWID Mitigation plan.
- Right 45-13905 for commercial and stock water use is leased into the bank and will continue as such unless MVCP LLC chooses to request release. The right is currently rented through the 2014 season. Your letter noted that it be included in the SWID mitigation plan.
- All other rights leased to the bank that are also part of the SWID mitigation plan should be released from the bank immediately by the right holders using the Water Supply Bank Lease Release Request form.
45-13948, 45-13950 & 45-13963 V & R Farms
45-14184, 45-14186 & 45-14188 Paul Christensen
- IDWR has also found that rights 45-2578, 45-2597 and 45-14060, owned by PKD Properties LLC and TLD Properties LLC, are leased to the Bank. A portion of these rights (3.6 acres) have been rented by the LDS Church. These rights appear to have some overlap with ground water right 45-7086D which is identified in the SWID Mitigation Plan associated with the West Cassia Pipeline. SWID may need to review these rights with respect to its mitigation plan.

Finally, IDWR understands from your correspondence that SWID's 2013 mitigation obligations are being met through other strategies. We are aware of course that SWID is a participant in the buyout of the Blue Lakes hatchery with the Idaho Ground Water Appropriators (IGWA) so all SWID obligations are satisfied for the Blue Lakes delivery call. We further understand that SWID is working with IGWA and members of the Surface Water Coalition (SWC) to finalize mitigation obligations for 2013 and that such obligations will be in the form of direct delivery of storage water to SWC members.

Sincerely,

For 45-2509 + 45-13522 WSB

Tim Luke
Idaho Department of Water Resources
322 E Front St, PO Box 83720
Boise, ID 83720-0098
208-287-4959
tim.luke@idwr.idaho.gov

PARSONS, SMITH, STONE, LOVELAND & SHIRLEY, LLP

WILLIAM A. PARSONS
RICHARD K. SMITH
RANDOLPH C. STONE
LANCE A. LOVELAND
DAVID F. SHIRLEY

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(208) 878-0146

pss@pmt.org

April 30, 2013

RECEIVED

MAY 01 2013

DEPARTMENT OF
WATER RESOURCES

Mr. Tim Luke
Idaho Department of Water Resources
322 East Front Street
Box 83720
Boise, ID 83720-0098

**RE: Southwest Irrigation District - Mitigation
Our File No.: 201**

Dear Tim:

Following our conference call the other day with you, Brian Higgs and myself, Southwest Irrigation District provides the following information:

1. This letter is submitted to clarify and secure the relationship between Water Bank acres and the Southwest Irrigation District Mitigation Plan. Southwest Irrigation District agrees to omit Water Right Nos. 45-2509 and 45-13522 owned by Burley West Investments, LLC and rented to George Kelley from the 2013 Mitigation Plan. This will be allowed for the 2013 irrigation season only.

2. Southwest also agrees to omit the acres leased to the Water Bank by MVCP (Searle) a portion of Water Right Nos. 45-13904, 45-13982, 45-13981 and 45-7317 rented by the same entity for 2013.

3. Southwest recognizes that Water Right No. 45-13905 is a Commercial/Stock Water Right that is not under the jurisdiction of Southwest Irrigation District and not included in the Southwest Irrigation District Mitigation Plan.

4. All other Rights participating in the Southwest Mitigation Plan should not be leased to the Water Bank, and we are advising Paul Christensen and V & R Farms to pull out of the bank as they are required to do. Forms will be provided to them.

Page – 2
April 30, 2013

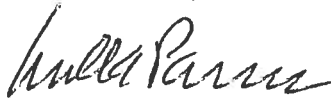
It is also noted that the protest of the Surface Water Coalition as to the Mitigation Plan is still pending resolve. As we indicated to you, the Surface Water Coalition is preparing a Contract for Southwest Irrigation District for the mitigation to be handled outside the general Mitigation Plan. Southwest has been working on this for some time and are advised recently by Travis Thompson that a Term Sheet is going to be circulated very soon which may lead to that agreement. In the meantime, Southwest has taken care of the Surface Water Coalition for its mitigation.

I believe you indicated you would have your staff send us a list of any other persons that are leasing water to the Water Bank that may be involved in the Mitigation Plan of Southwest.

We hope to receive from you the names of the people for which mitigation is being provided by Southwest.

Very truly yours,

**PARSONS, SMITH, STONE, LOVELAND,
& SHIRLEY, LLP**

A handwritten signature in black ink, appearing to read 'William A. Parsons', written in a cursive style.

William A. Parsons

WAP/sw

Keen, Shelley

From: Paul Arrington [pla@idahowaters.com]
Sent: Monday, February 25, 2013 5:20 PM
To: Keen, Shelley
Subject: RE: Water Supply Bank rental application for George and Bill Kelley

Shelley:

I will follow up with my clients. This week is kind of crazy so it may be a few days before I can get back to you.

Thanks,

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Keen, Shelley [<mailto:Shelley.Keen@idwr.idaho.gov>]
Sent: Sunday, February 24, 2013 5:13 PM
To: Paul Arrington
Subject: Water Supply Bank rental application for George and Bill Kelley

Paul,

IDWR is processing the Water Supply Bank rental application you submitted for George and Bill Kelley. Before proceeding further, I want to double-check a few items with you.

- The application proposes a five-year rental, but Rights 45-2509 and 45-13522 are leased to the Bank for only four more irrigation seasons. Are your clients okay with a rental of only four years?
- The application requests 359 acres, the total available under Rights 45-2509 and 45-13522, but the prior rental was eventually limited to 300 acres to keep rental costs down. Do the Kelleys still want to limit their rental to 300 acres? As part of the consideration, it may be worth noting that the rental fee has increased from \$14 per acre to \$17 per acre, so the annual rental fee for 300 acres (1200 AF) would increase from \$16,800 to \$20,400. If the Kelleys are seeking more than 300 acres, a revised ESPA model run will be required.
- The map submitted in 2011 shows an area of 466 acres. Now that the irrigation methods have been established, IDWR will require a map showing the 300 (or 359) acres actually proposed to be irrigated.

Let me know how your clients would like to proceed.

Sincerely,

Shelley Keen
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4947
shelley.keen@idwr.idaho.gov

Keen, Shelley

From: Keen, Shelley
Sent: Thursday, February 28, 2013 6:59 PM
To: 'Brian Higgs'
Subject: RE: Request for comments on Water Supply Bank rental application for Bill and George Kelley

Brian,

Thanks for the quick response. The Water Supply Bank is operated according to the rules in IDAPA 37.02.03. Rule 1.02 states:

The purposes of the Water Supply Bank, as defined by statute, are to encourage the highest beneficial use of water; provide a source of adequate water supplies to new and supplemental water uses; and provide a source of funding for improving for improving water user facilities and efficiencies.

Rentals are typically from one to five years. Rentals applications exceeding five years must be advertised, so they are rare. There is no limitation on the number of times an applicant can reapply. In other words, while rentals are temporary, they can be renewed to provide a long-term supply.

To approve a rental, the Department must be sure the proposal will not result in injury to other water users. When a water right is leased into the Water Supply Bank, the authorized use must be stopped for the duration of the lease. The renter of the water right cannot exceed the original limitations of the right, and IDWR often imposes conditions to prevent injury. Just like with permanent transfers, a Water Supply Bank rental would be deemed to cause injury if it proposed moving water from one basin to another.

The Kelleys have rented, and are proposing to rent again, Rights 45-2509 and 45-13522, which were decreed to Burley West Investments, LLC. The decreed point of diversion is in Sec. 32, T10S, R22E, just west of Burley. The proposed point of diversion is in Sec. 35, T11S, R24E, about 1.5 miles northwest of Albion. The proposed point of diversion is just outside of the ESPA area of common ground water supply, but it is within the ESPA model grid cells. The model shows the change to have almost no change in impacts to the Snake River reaches, and mitigation has not been required for the past two seasons.

The Burley West Investments place of use has been irrigated the past two seasons. The file indicates they brought in Southwest Irrigation District water after the ground water was put into the Water Supply Bank and moved. Do you know if this is the case? We need to be sure they didn't continue to irrigate with ground water after leasing their ground water rights into the Bank.

Thanks,

Shelley Keen
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4947
shelley.keen@idwr.idaho.gov

From: Brian Higgs [<mailto:brian@waterwellconsultants.com>]

Sent: Tuesday, February 26, 2013 8:23 AM

To: Keen, Shelley

Cc: Jaxon Higgs

Subject: Re: Request for comments on Water Supply Bank rental application for Bill and George Kelley

Hi Shelley.

Thank you for asking.

I do have one concern. It is my understanding that rental from the water bank is for temporary situations prior to transfer approvals, etc. Some irrigators appear to use the rental pool as a continuous ground water supply. This may be the case with this rental. There is very little ground water right on the ground, yet there is a pivot and distribution system.

The Albion area is a closed basin and fully righted. If the rented ground water does not come from the Albion Basin, with associated drying up of the rental acres, then a senior ground water right may not be filled due to the rental of some water from the ESPA or other basin.

I probably need some clarification on the rules.

Thank you.

Brian

From: Keen, Shelley

Sent: Monday, February 25, 2013 5:09 PM

To: BRIAN@WATERWELLCONSULTANTS.COM

Subject: Request for comments on Water Supply Bank rental application for Bill and George Kelley

Brian,

IDWR has received an application from Bill and George Kelley to continue their Water Supply Bank rental of Water Rights 45-2509 and 45-13522 for four more years. I am still trying to clarify whether they want to rent water for 300 acres or 359 acres. It would be diverted in the NENE, Sec. 35, T11S, R24E, and be used in Sections 25 and 36 of the same township.

Do you have any concerns about extending the rental?

Regards,

Shelley Keen
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4947
shelley.keen@idwr.idaho.gov

Keen, Shelley

From: Keen, Shelley
Sent: Monday, March 11, 2013 8:34 AM
To: 'Paul Arrington'
Subject: RE: Water Supply Bank rental application for George and Bill Kelley

Thanks, Paul. We will get to work on it.

Shelley Keen
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
(208) 287-4947
shelley.keen@idwr.idaho.gov

From: Paul Arrington [<mailto:pla@idahowaters.com>]
Sent: Tuesday, March 05, 2013 12:22 PM
To: Keen, Shelley
Cc: Paul Arrington
Subject: RE: Water Supply Bank rental application for George and Bill Kelley

Shelley:

Here are the answers to your question:

- Please amend the term to four years consistent with the other rights
- Upon closer review of the existing water rights and irrigation, the Kelleys only actually need 291 acres.
- I have attached a map that shows the Kelley's three pivots. The area with hash marks and the yellow "57" represents the existing irrigation rights. The remaining area under the pivots (291 acres) is what is irrigated with the rental water.

Thanks,

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Keen, Shelley [<mailto:Shelley.Keen@idwr.idaho.gov>]
Sent: Sunday, February 24, 2013 5:13 PM
To: Paul Arrington
Subject: Water Supply Bank rental application for George and Bill Kelley

Paul,

Skaggs, Pam

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Thursday, March 21, 2013 4:13 PM
To: Skaggs, Pam
Subject: Re: Water Supply Bank Lease Search - Burley West Investments LLC

Thank you for the quick response.

Burley West Investments will request his rights be removed from the bank if there is other water for the Kelly's since they have planted their ground. Is there other bank water available for Kelly's for 2013?

Other than the questions answered by Shelley there is an additional problem with BWI's lease to the bank. BWI's wr's are included in the SWID mitigation plan. If the rights are leased out then no mitigation credit is given to SWID. SWID/BID also has by laws stating that if the irrigator or rentor/lessor receiving surface water for a soft conversion uses their groundwater then the irrigator will not receive any surface water.

Bottom line is we need to remove BWI rights from the bank and find Kelly's other water not associated with a mitigation plan.

Thank you.

Brian

From: Skaggs, Pam
Sent: Thursday, March 21, 2013 3:34 PM
To: Brian Higgs
Subject: RE: Water Supply Bank Lease Search - Burley West Investments LLC

Brian,

To answer to your general questions:

- 1) A right holder can request release of a right leased to the WSB & it will be granted if the right(s) are not currently rented.
- 2) Water right(s) are accepted into the bank to provide the best beneficial use of water & when accepted are available for rent by other users. A right holder can lease a right to the bank on a 1 or 2 year basis if they aren't sure that they want a long term commitment.

Shelley Keen contacted you by email on 02-28-2013 for comment as water master on a renewal of Water Supply Bank (WSB) Rental of Water Rights 45-2509 & 45-13522 by Bill & George Kelly. This new rental contract has not been executed at this time. The previous rental expired 11-15-2012.

If the right holder & lessor, Burley West Investments LLC submits a Request to Release a Water Right From the Bank ([http://www.idwr.idaho.gov/RulesStatutesForms/WaterRights/PDFs/WSB Lease Release Request.pdf](http://www.idwr.idaho.gov/RulesStatutesForms/WaterRights/PDFs/WSB%20Lease%20Release%20Request.pdf)) **immediately**, we could release the rights since they are not currently rented.

If a Release Request is not submitted, the rights will be rented for the remainder of the existing Lease Agreement until 12-31-2016. Burley West Investments LLC would receive an annual payment for each year water is rented.

From: Skaggs, Pam
Sent: Thursday, March 21, 2013 3:35 PM
To: 'Brian Higgs'
Subject: RE: Water Supply Bank Lease Search - Burley West Investments LLC

Brian,

To answer to your general questions:

- 1) A right holder can request release of a right leased to the WSB & it will be granted if the right(s) are not currently rented.
- 2) Water right(s) are accepted into the bank to provide the best beneficial use of water & when accepted are available for rent by other users. A right holder can lease a right to the bank on a 1 or 2 year basis if they aren't sure that they want a long term commitment.

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If a Release Request is not submitted, the rights will be rented for the remainder of the existing Lease Agreement until 12-31-2016. Burley West Investments LLC would receive an annual payment for each year water is rented.

Please advise me immediately if Burley West Investments will be submitting a Request to Release for these rights.

Pam

Pamela S. Skaggs
Water Rights Supervisor
Idaho Dept. of Water Resources
322 E Front St
PO Box 83720
Boise ID 83720-0098
(208) 287-4951
pam.skaggs@idwr.idaho.gov

From: Brian Higgs [<mailto:brian@waterwellconsultants.com>]
Sent: Thursday, March 21, 2013 2:25 PM
To: Skaggs, Pam
Subject: Re: Water Supply Bank Lease Search

Hi Pam.

I have a couple questions.

- 1-Joel Parker, Burley West Investments, has some groundwater in the bank. It is leased out to George Kelly on a contract. Can he break that contract?
- 2-Can groundwater be placed into the bank with a note specifying that it cannot be leased out?

Thank you.

Brian

Skaggs, Pam

From: Paul Arrington [pla@idahowaters.com]
Sent: Monday, March 25, 2013 10:07 AM
To: Skaggs, Pam
Cc: Paul Arrington
Subject: RE: Kelley Water Supply Bank Rental renewal request

Thanks, go ahead and process the agreement for these rights.

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Skaggs, Pam [mailto:Pam.Skaggs@idwr.idaho.gov]
Sent: Monday, March 25, 2013 9:46 AM
To: Paul Arrington
Subject: RE: Kelley Water Supply Bank Rental renewal request

Paul,

The rental fee is the same \$17 per acre-foot.

Both sets of rights provide 4.0 af/acre, or 4 af/acre x 291 acres = 1164 af.

\$17 x 1164 af = \$19,788 annual rental fee.

Pam

Pam Skaggs
WR Supervisor
287-4951

From: Paul Arrington [mailto:pla@idahowaters.com]
Sent: Monday, March 25, 2013 9:39 AM
To: Skaggs, Pam
Subject: RE: Kelley Water Supply Bank Rental renewal request

Will this increase the rental price?

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Skaggs, Pam [<mailto:Pam.Skaggs@idwr.idaho.gov>]
Sent: Monday, March 25, 2013 9:26 AM
To: Paul Arrington
Subject: RE: Kelley Water Supply Bank Rental renewal request

Paul,

I received a formal request from Burley West Investments LLC to discontinue the lease on their rights. I have identified an alternative supply of water for the Kelleys for 2 years. The rights were the original rights proposed for the previous rental in 2011 and will provide 4.03 cfs & 1164.0 af for the 291 acres last described by your emails. We can continue to move forward with these rights if the limited period is acceptable.

Pam

Pam Skaggs
WR Supervisor
287-4951

From: Paul Arrington [<mailto:pla@idahowaters.com>]
Sent: Thursday, March 21, 2013 4:10 PM
To: Skaggs, Pam
Subject: RE: Kelley Water Supply Bank Rental renewal - Burley West Investments LLC 45-2509 & 45-13522

Thanks. Please keep me posted.

Paul L. Arrington
Barker Rosholt & Simpson LLP
(208) 733-0700 - telephone
(208) 404-9436 - mobile

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From: Skaggs, Pam [<mailto:Pam.Skaggs@idwr.idaho.gov>]
Sent: Thursday, March 21, 2013 4:06 PM
To: Paul Arrington
Subject: Kelley Water Supply Bank Rental renewal - Burley West Investments LLC 45-2509 & 45-13522

Hello Paul,

I am going to be working more directly on Water Supply Bank (WSB) matters now that Monica is leaving. I thought I should advise you that there may be a hiccup in the renewal of the George & Bill Kelley WSB rental. I had an inquiry today asking if the rights could be released from the bank. Since we don't have an executed Rental agreement in place, the rights could be released. If that happens we will have to look for other rights to fill the rental & that may be difficult.

I will let you know rather we will go forward with the proposed rights or seek others when I receive a response regarding the option to release the leased rights.

Pam

Pamela S. Skaggs
Water Rights Supervisor
Idaho Dept. of Water Resources
322 E Front St
PO Box 83720

Boise ID 83720-0098
(208) 287-4951
pam.skaggs@idwr.idaho.gov

Skaggs, Pam

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Friday, April 12, 2013 8:53 AM
To: Skaggs, Pam
Subject: Re: Burley West Investment lease & Kelley Rental

Hi Pam.

I was just reviewing the new lease possibilities for the BWI. The problem is that Paul Christensen is in the same boat as BWI. He receives water from SWID and therefore, cannot lease out his water.

Thank you.

Brian

From: Skaggs, Pam
Sent: Thursday, April 11, 2013 2:55 PM
To: Brian Higgs
Subject: RE: Burley West Investment lease & Kelley Rental

Brian,

The Burley West Investment has been requested released from the bank. I talked to Paul Arrington & he agreed to an alternate set of rights 45-14184, 45-14186 & 45-14188 for a slightly reduced amount & time.

4.03 cfs, 1164.0 af for 291 acres

We haven't had anyone move forward on this new proposal, but I will be asking someone to prepare the rental agreement.

This proposal is very similar to the previous rental, moving water from 10S, 22E to the same location as the previous rental in 11S, 24E, Sections 25 & 36. Do you have any concerns about this proposal?

Pam

From: Brian Higgs [mailto:brian@waterwellconsultants.com]
Sent: Wednesday, April 10, 2013 6:16 PM
To: Skaggs, Pam
Subject: Burley West Investment lease

Hi Pam.

I left town for a couple weeks and just returned. Is there any update on the BWI/Kelley lease in Albion?

Thank you.

Brian

Skaggs, Pam

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Thursday, April 11, 2013 3:17 PM
To: Skaggs, Pam
Subject: Re: Burley West Investment lease & Kelley Rental

Thank you. I think you might turn into a pretty good replacement for Monica. Might.

From: Skaggs, Pam
Sent: Thursday, April 11, 2013 2:55 PM
To: Brian Higgs
Subject: RE: Burley West Investment lease & Kelley Rental

Brian,

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To: Skaggs, Pam
Subject: Burley West Investment lease

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I left town for a couple weeks and just returned. Is there any update on the BWI/Kelley lease in Albion?

Thank you.

Brian

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2013.0.3272 / Virus Database: 3162/6238 - Release Date: 04/11/13

Hemenway, Sandy

From: Hemenway, Sandy
Sent: Wednesday, May 22, 2013 2:41 PM
To: Paul Arrington
Cc: Hemenway, Sandy; Luke, Tim; BRIAN@WATERWELLCONSULTANTS.COM; Merritt, Allen
Subject: REVISED Kelley WSB rental agreement and coverletter 45-2509, 45-13522

Paul



DOC004.pdf

Here is the revised agreement with the changes you requested.

Sandy Hemenway
Sr. Water Resource Agent
IDWR/State Office
PO Box 83720 or 322 E. Front St.
Boise, ID 83720-0098
OFFICE: (208) 287-4920
CELL: (208) 761-0280
FAX: (208) 287-6700
Email: sandy.hemenway@idwr.idaho.gov

5/22/2013 Paul called + stated that they wanted to go with the same amounts on previous agreement after all, ^(one that expired 11/15/2012) due to fee increase for \$14/af to \$17/af; also because the pivots really can operate on a lesser amount. A new agreement + cover letter was sent out. S. Hemenway