

MEMORANDUM

To: Water Right File No(s). 22-616 and 22-42
Associated Rights: 22-160, 22-545, 22-13160, 22-312, 22-487c, 22-13016, 22-13144, 22-13148, 22-130b, 22-481a, 22-482a, 22-483a, 22-2029d, 22-130d, 22-136c, 22-515b, 22-516b, 22-517b
From: Cherie Palmer
Date: May 3, 2013
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application for lease was denied by Monica Van Bussum on February 8, 2013 because of the potential for enlargement. Please see the enlargement section of this memo for more details. At this point we can move forward with the lease. The lease proposes to dry-up 152.8 acres under 22-616 and 18.5 acres under 22-42 and discontinue the use of 3.43 cfs, which is in proportion, for five years. Note that the fee was paid when the application was originally filed for 22-616. An email from Monica states that since it was our error that the application was denied, a new application fee is not due. The receipt number for the lease fee is C096112 for 22-616 and C096888 for 22-42.

AUTHORITY TO FILE: Rob Harris signed the lease application and is authorized as he is the attorney for Boyd Charles Smith and Jill Johnson Smith Trust.

WATER RIGHT VALIDITY: Water rights 22-616 and 22-42 were decreed in 2008. The five year forfeiture clock does not start until after the 2013 irrigation season. Therefore, this water right is considered completely valid despite the appearance that some acres have not been irrigated in many years.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: This application for lease was denied by Monica Van Bussum on February 8, 2013 because of the potential for enlargement. There are many overlapping conditions in water rights 22-616 and 22-42 and it appeared, initially, that all the overlapping rights should be in the bank in order to avoid enlargement; however, email exchanges between Erick Powell of Brockway and Monica concluded that right 22-616 is "worth" 153.3 acres on its own. I completed an overlap analysis, attached, that confirms that 153.3 acres under right 22-616 alone can be leased to the bank without enlargement. The applicant decided to lease 152.8 acres of 22-616 and 18.5 acres of 22-42 to the bank. The total leased amount is 171.3. The rights that share a PPU will be reduced in conditions by 3.43 cfs and 171.3 acres in order to avoid enlargement. Note that the "gray" group has 20.2 acres and 1.07 cfs leased to the bank and the "green" group has 1.4 acres and 0.07 leased to the bank so the total combined limit will reflect all the portions that are leased to the bank.

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: Please see the attached watermaster comment. It appears that if these rights are rented, the rental POD must be upstream from the decreed POD.

	22-160	22-545	22-13160	22-42	
330 acres total	140.1 acres	78.8 acres	35 acres	35 acres	Total 288.9
	19.9 acres	11.2 acres	5 acres	5 acres	
	Combination of 22-160 and 22-616	Combination of 22-545 and 22-616	Combination of 22-13160 and 22-616	Combination of 22-42 and 22-616	Total 41.1
Right 22-616	153.3 acres represents the portion of 22-616 that is not overlapped by any other rights				153.3
	205.6 acres Combination of 22-616, 22-312, 22-487C, & 22-13016 of SLC & NLC water			47.4 acres Combination of 22-312, 22-487C, & 22-13016 of NLC water—not overlapped by SLC	253

Total 736.3

Conclusion: If water right 22-616 is leased into the bank, only 153.3 acres may be taken before you must start taking NLC water under 22-312, 22-487C, and 22-13016.

If water right 22-42 is leased into the bank, 35 acres may be taken into the bank before you must take a proportionate amount of 22-616. Which would mean you must take acres of NLC water.

The applicant would like to put 152.8 acres of 22-616 into the bank. He would also like to put 18.5 acres of 22-42 into the bank totaling 171.3 acres. Since the total leased goal of 171.3 is split between portions of rights that represent UN-overlapped acres, no further acres will need to be put into the bank.

Checks:

Total Combined Limit = 1006.9	835.6
<u>-171.3</u> (leased amount)	- 76.0 (green group)
835.6 (new combined limit)	- 41.0 (grey group)
	<u>-153.6</u> (purple group)
	565.0 (acres left for the orange/blue group)
565.0	312.0
<u>-253.0</u> (orange group)	-160.0 (22-160)
312.0 acres left for blue group	- 90.0 (22-545)
	- 40.0 (22-13160)
	<u>- 22.0</u> (22-42; 40 acres-18 acres leased to bank)
	0 (it balances!)

NLC = North Leigh Creek Water

SLC = South Leigh Creek Water

Overlap Analysis for the Lease of Water Rights 22-42 and 22-616

Acres when pulled apart

indiv acres		483.3
22-160; 1891	160	323.3
22-545; 1896	90	233.3
22-13160; 1905	40	193.3
22-42; 1916	40	153.3
22-616; 1916	400	
Total Combined Limit		688.9

22-312	160
22-487C	160
22-13016	160
Total Combined Limit	253

22-42	40
22-160	160
22-545	90
22-616	400
22-13160	40
22-13016	160
22-312	160
22-487C	160
Total Combined Limit	736.3

736.3 - 253 = 483.3 acres	
22-13144	1006.9
22-13148	1006.9
Total Combined Limit	153.6

22-130B	41	0.68
22-481A	41	0.3
22-482A	41	0.9
22-483A	41	0.3
22-2029D	41	0.71
Total Combined Limit		41 2.18

736.3 acres - 253 acres under the orange group = 483.3 acres

- 20.2 ac leased to bank
1,07 cfs

22-130D	76
22-136C	76
22-515B	76
22-516B	76
22-517B	76
Total Combined Limit	76

1.4ac Leased to bank
- 0.07 cfs

	RATE	
22-42	40	0.8
22-160	160	3.2
22-545	90	1.8
22-616	400	8
22-13160	40	0.63
22-312	160	3
22-487C	160	0.72
22-13016	160	1.48
22-13144	1006.9	3.6
22-13148	1006.9	2.9
22-130B	41	0.68
22-481A	41	0.3
22-482A	41	0.9
22-483A	41	0.3
22-2029D	41	0.71
22-130D	76	0.8
22-136C	76	1.6
22-515B	76	0.6
22-516B	76	0.4
22-517B	76	0.6
Total Combined Limit	1006.9	32.31 cfs

736.3

153.6

limiting factor for rate
other rights are additive

41

76

1006.9

20.2 1.07 (gray group)
1.4 0.07 (green group)
171.3 3.43 (blue group)
814 27.74 cfs
acres

Palmer, Cherie

From: Olenichak, Tony
Sent: Monday, April 29, 2013 3:34 PM
To: Palmer, Cherie
Cc: Swank, Lyle
Subject: RE: Boyd Charles Smith 22-616 WSB application WaterMaster comment

Cherie,

I don't see any problem with depositing 22-42 and 22-616 into the WSB. However, there may be some limitations with leasing the rights out to another point-of-diversion. The stretch of South Leigh Creek between the Boyd Smith (Kilpack Ditch) diversion and lower South Leigh Creek is a "losing" reach. Often, the water passing the Kilpack Ditch will not reach the Teton River when not diverted by any South Leigh Creek diversions before it sinks into the ground, and therefore the surface water-rights may not be able to be moved downstream to another point-of-diversion without further evaluation.

Tony Olenichak
Program Manager
Water District #1
208-525-7171

From: Swank, Lyle
Sent: Friday, April 26, 2013 3:00 PM
To: Olenichak, Tony
Cc: Palmer, Cherie
Subject: FW: Boyd Charles Smith 22-616 WSB application WaterMaster comment

Tony and Cherie,

Because Tony is very familiar with Boyd Smith, and I will be out of the office for most of next week. I am delegating Tony to provide the Watermaster comments and remarks requested for the WSB application.

Lyle

From: Palmer, Cherie
Sent: Friday, April 26, 2013 12:16 PM
To: Swank, Lyle
Subject: Boyd Charles Smith 22-616 WSB application WaterMaster comment

Hi Lyle,

I am working on an application to lease 22-616 into the WSB for 5 years. I have attached my draft memo to this email for your reference and the lease application is scanned and is available on-line. Please let me know if you have any concerns with the lease. Thanks for your time.

<< File: overlaps.xlsx >> << File: L1.2 Lease Review Memo.docx >>

Cherie