

RECEIVED

APR 08 2013

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARDWSB No. _____
Receipt No. _____
Date/by _____
(For Department Use Only)**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**Name of Seller/Lessor The Boyd Charles Smith & Jill Johnson Smith Trust c/o Phone 208-523-0620
Mailing address Holden Kidwell Hahn & Crapo PO Box 50130 Idaho Falls, ID83405 Email _____**A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK**If the entire right is for sale or lease, check here ☐, list the water right number, and skip to Part B.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>22-616</u>	<u>3.06</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/31</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
Total Amount: <u>3.06</u>			

2. Source of water South Leigh Creek tributary to Teton River

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06N	46E	32	1	NE	NW	NE	Teton

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	45E	36			5	4.0			1.1	9.8	40					39			98.9
06N	46E	31	9.4	1.3		2			2.5	7.9									23.1
06N	46E	32			11.2		5.3	3.4								9.6	1.3		30.8

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 152.8**B. OWNERSHIP**

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. Is the point of diversion for the water right owned or managed by an irrigation district? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:
- _____

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.
Head gates, pumps and pipes

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

Right 22-616 limited to 400 acres, only irrigation right on 153.3 ac. Combined 22-42, 160, 545, 616, & 13160 for 688.9 ac.

Note- T06N R46E Sec32 : Lot 2 is entered above in section A4 'place of use' on page 1, as SWNE and Lot 3 as NWSE

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe.

D. REQUIRED ITEMS

This form 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 by this lease application.
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.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, for a period from 01-01-2013 to 12-31-2018 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. Show the minimum payment acceptable to the Seller/Lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Robert L. Harris
Signature of Applicant

ROBERT L. HARRIS, ATTORNEY
Printed Name and Title*

April 3, 2013
Date

Signature of Applicant

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



A horizontal number line representing distance in feet. It starts at 0 on the left and ends at 3,600 on the right. Major tick marks are labeled at 0, 900, 1,800, and 3,600. The word "Feet" is written at the far right end of the line.

BROCKWAY ENGINEERING, PLLC.
GEP - MARCH 28, 2013

TETON RANCH - BOYD SMITH
2011 WATER SUPPLY BANK APPLICATION DATA
BROCKWAY ENGINEERING, PLLC
28-Mar-13

T	R	SEC	QQ	Under Allowed (allr)		Total Acres	Lease App	SRBA	Priority Date	WR CFS	Acres to WSB	Acres in WR	%	cfs**/100	cfs of WR to WSB
				Irr	ACRES	Ac for WSB		Decree Date							
6N	45E	36	SWNE	16	21	5	152.8	11/28/2008	22-42 ^{a,c,d}	0.8	18.5	40	46.250	0.37	3.43
			SENE	21	25	4		11/28/2008	22-160 ^{a,c}	3.2	0	160	0.000	0.00	
			SWNW	6.5	7.6	1.1		11/28/2008	22-545 ^{a,c}	1.8	0	90	0.000	0.00	
			SENW	11.2	21	9.8		11/28/2008	22-616 ^{a,c,e}	8.0	152.8	400	38.200	3.06	
			NESW	0	40	40		11/28/2008	22-13160 ^{a,c}	0.63	0	40	0.000	0.00	
6N	46E	31	NWSE	0	39	39		11/24/2008	22-312 ^{b,c}	3.0	0	160	0.000	0.00	
			NENE	30.6	40	9.4		11/24/2008	22-487 ^{c,b,c}	0.72	0	160	0.000	0.00	
			NWNE	38.7	40	1.3		11/24/2008	22-13016 ^{b,c}	1.48	0	160	0.000	0.00	
			SENE	20	22	2									
			SWNW	23.5	26	2.5									
6N	46E	32	SENW	27.1	35	7.9									
			L2 (SWNE)	16.8	28	11.2									
			NENW	26.7	32	5.3									
			NWNW	32.6	36	3.4									
			L3 (NWSE)	15.4	25	9.6									
6N	46E	30	SWSE L4	0	1.3	1.3									
			NWSW L3	22.9	24	1.1									
			SESW	36.1	37	0.9									
			NESE	29.1	34	4.9									
			NWSE	25.3	26	0.7									
6N	46E	31	SWSE	38.6	39	0.4	18.5								
			SESE	37.9	39	1.1									
			NENW	32.8	40	7.2									
			NWNW	35.8	38	2.2									

^a Combined Allowed Acres 688.9

^b Combined Allowed Acres 253

^c Combined Allowed Acres 736.3

^d individual water right limited to 40 acres, rights not stacked

^e individual water right limited to 400 acres, rights not stacked entirely

Erick Powell

From: Van Bussum, Monica <Monica.VanBussum@idwr.idaho.gov>
Sent: Thursday, March 28, 2013 9:26 AM
To: Erick Powell
Subject: RE: Teton Ranch Water Bank Follow Up

Hi Erick,

As you so rightly pointed out, my reasoning below is wrong. After subtracting the amount authorized under the water rights in the 688.9 group, that leaves 358.9 acres that would be authorized under 22-616 if you just look at that group.

So, let's look at the 736.3 group.

22-13016 + 22-312 + 22-487C = 253 ac
22-616 = 400 ac
22-42 = 40 ac
22-160 = 160 ac
22-545 = 90 ac
22-13160 = 40 ac
Total: 983 ac
Authorized limit under water rights: 736.3 ac

736.3 – 253 ac = 483.3 acres
483.3 acres – 40 ac (22-42) = 443.3 acres
443.3 acres – 160 acres (22-160) = 283.3 acres
283.3 acres – 90 acres (22-545) = 193.3 acres
193.3 acres – 40 acres = 153.3 acres

Since we have 153.3 acres remaining in the group and have not subtracted 22-616, this would lead me to believe that 22-616 is "worth" 153.3 acres. Given this reasoning, it would appear we could have accepted 153.3 acres into the Bank and should not have rejected the lease application for 22-616, but should have approved it with a smaller acreage. Since that appears to be the case, you could reapply for your client and we would not charge the lease application fee – we shouldn't charge to redo our mistakes. You'll want to keep this email for future reference since other staff will be reviewing your next Bank application.

Monica

From: Erick Powell [mailto:erick.powell@brockwayeng.com]
Sent: Wednesday, March 27, 2013 11:15 AM
To: Van Bussum, Monica
Subject: RE: Teton Ranch Water Bank Follow Up

Hi Monica,

Any movement on this? I'm not sure where we stand, as this is your last week. I've been trying to be patient, but I'm not so good at it. Anything that I can get you to finalize this before you leave? Or is this a question that I should take up with Pam?

Thanks,
Erick

From: Van Bussum, Monica [<mailto:Monica.VanBussum@idwr.idaho.gov>]
Sent: Friday, March 22, 2013 12:06 PM
To: Erick Powell
Subject: RE: Teton Ranch Water Bank Follow Up

Hi Erick,

If you look, that group that's limited to 253 is not in the group that's limited to 688.9. I limited my analysis to that smaller, nuclear group before moving to the 736.3 group.

So, let's just look at the 688.9 group.

22-42 = 40 ac
22-160 = 160 ac (which seems oh so appropriate)
22-545 = 90 ac
22-616 = 400 ac
22-13160 = 40 ac
Total: 730 ac
Authorized limit under water rights: 22-42 + 22-160 + 22-545 + 22-616 + 22-13160 = 688.9 acres

688.9 acres – 40 ac (22-42) = 648.9 ac – 160 ac (22-160) = 488.9 ac – 90 ac (22-545) = 398.9 ac – 40 ac (22-13160) = 358.9 ac

This is less than 400 acres and we haven't even subtracted any of 22-616. It looks like my math was a little off yesterday too (it was getting close to 5 o'clock for me too). Do you see the math the same way?

Monica

From: Erick Powell [<mailto:erick.powell@brockwayeng.com>]
Sent: Thursday, March 21, 2013 4:23 PM
To: Van Bussum, Monica
Subject: RE: Teton Ranch Water Bank Follow Up

Hi Monica,
It must be getting close to 5 pm, because I can't make the numbers work.

The suite of rights are limited to 736.3 acres. If we take out the group that has a combined acreage of 253 acres, that leaves us with 483.3 acres (well below the combined limit of 688.9 acres). If we then exclude 330 acres (#160 for 160 acres, #545 for 90 acres, #13160 for 40 acres, and #42 for 40 acres) that leaves 153.3 acres. I don't get 70 acres ... Where am I going wrong here?

The original applications requested 163.3 acres from the 'Purple Group' and 10.1 acres from the 'Green Group' for a total of 173.4 acres. If 22-616 consists of 153.3 acres of irrigation could we also pull 20 acres from right 22-42 (which also has a priority date of 1916)?

Thanks,
Erick

From: Van Bussum, Monica [<mailto:Monica.VanBussum@idwr.idaho.gov>]
Sent: Thursday, March 21, 2013 3:51 PM
To: Erick Powell
Subject: RE: Teton Ranch Water Bank Follow Up

Hi Erick,

I've been looking and I have some thoughts.

22-42 = 40 ac

22-160 = 160 ac (which seems oh so appropriate)

22-545 = 90 ac

22-616 = 400 ac

22-13160 = 40 ac

Total: 730 ac

Authorized limit under water rights: $22-42 + 22-160 + 22-545 + 22-616 + 22-13160 = 688.9$ acres

I don't mention this combination in my letter but it will be important if you want to put a portion of 22-616 into the Bank.

From my letter:

$22-13016 + 22-312 + 22-487C = 253$ ac

22-616 = 400 ac

22-42 = 40 ac

22-160 = 160 ac

22-545 = 90 ac

22-13160 = 40 ac

Total: 983 ac

Authorized limit under water rights: 736.3 ac

However, as I mentioned, the first group isn't listed in my letter. If we take that limitation into account:

$22-13016 + 22-312 + 22-487C = 253$ ac

$22-42 + 22-160 + 22-545 + 616 + 22-13160 = 688.9$ ac

$253 \text{ acres} + 688.9 \text{ acres} = 941.9 \text{ acres}$

Limitation from above: 736.3 acres

It's taken me this long to try to get a handle on the acreage limiting conditions. I think it's more important that we look at that first group – the most “nuclear” group, if you will.

If we add up the other rights (42, 160, 545, and 13160), they add up to 330 acres. I would take that to mean that 22-616 is worth 70 acres.

Does that make *any* sense?

Monica

From: Erick Powell [<mailto:erick.powell@brockwayeng.com>]
Sent: Thursday, March 21, 2013 10:05 AM
To: Van Bussum, Monica
Subject: Teton Ranch Water Bank Follow Up

Hi Monica,

I know that your time at IDWR is rapidly coming to a close. Have you had any chance to review our discussion from last week?

Thanks,
Erick

G. Erick Powell, Ph.D., P.E.
Brockway Engineering, PLLC
2016 Washington Street North, #4
Twin Falls, Idaho 83301
Office: 208-736-8543
erick.powell@brockwayeng.com

All information, calculations, maps, drawings, or other documents transmitted via email are preliminary unless explicitly stated in the email text or in the documents themselves.

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