

Before the Idaho Water Resource Board

## WATER SUPPLY BANK RENTAL AGREEMENT

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

1. Renter: Trail Creek Sprinkler Irrigation Company
2. Address: PO Box 131, Victor ID 83455
3. Source of water: Trail Creek and tributaries (including Game Creek, Moose Creek, Warm Creek)
4. Rental period: 2005 through 2009
5. The water will be rented from the water rights associated with the following Snake River Basin Adjudication claims: 22-221C, 22-222A, 22-435A *Missing Danni to make files*
6. Quantity and Use of water rented:

| Beneficial Use            | Season of Use<br>To From | Diversion Rate | Annual Volume |
|---------------------------|--------------------------|----------------|---------------|
| Diversion to Storage      | 4/15 to 10/31            | 0.6            |               |
| Aesthetic & Other Storage | 1/1 to 12/31             |                | 106.0 af      |
| Irrigation                | 4/15 to 10/31            | 2.93           | 513.5 af      |
| Totals:                   |                          | 3.53 cfs       | 619.5 af      |

7. Renter's point of diversion:

| QQQ | QQ | Q  | SEC | TWP | RGE | COUNTY | LOCAL NAME FOR DIVERSION     |
|-----|----|----|-----|-----|-----|--------|------------------------------|
| NW  | SE | SW | 17  | 3N  | 46E | TETON  | GAME CREEK PIPELINE          |
| SW  | SW | SE | 19  | 3N  | 46E | TETON  | TRAIL CREEK CANAL & PIPELINE |
| SW  | SW | SE | 19  | 3N  | 46E | TETON  | STRING CANAL                 |
| SE  | NW | SE | 13  | 3N  | 46E | TETON  | KIMBALL CANAL                |
| SW  | SE | NW | 13  | 3N  | 46E | TETON  | KEARSLEY CANAL               |
| SW  | SE | NW | 13  | 3N  | 46E | TETON  | TOWN CANAL                   |
| NW  | SW | NE | 14  | 3N  | 46E | TETON  | SPENCER CANAL                |
| NW  | SW | NE | 14  | 3N  | 46E | TETON  | HUMBLE CANAL                 |
| NE  | SW | NW | 11  | 3N  | 46E | TETON  | TONKS CANAL                  |
| SE  | NE | SE | 16  | 3N  | 46E | TETON  | WARM CREEK                   |
| SE  | SE | NW | 23  | 3N  | 46E | TETON  | SHERMAN SPRINGS DIVERSION    |
| SE  | SE | SE | 19  | 3N  | 46E | TETON  | MOOSE CREEK DIVERSION        |

8. Renter's place of use:

**IRRIGATION, IRRIGATION FROM STORAGE**

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Total Acres |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |             |
| 3N  | 45E | 13  |    |    |    |    |    |    |    |    | 15 | 17 |    |    |    |    |    |    | 32          |
| 3N  | 45E | 14  |    |    |    |    |    |    |    |    |    |    |    |    | 38 | 39 | 40 | 39 | 156         |
| 3N  | 45E | 23  | 39 | 40 | 40 | 39 |    |    |    |    |    |    |    |    | 13 | 8  |    |    | 179         |
| 3N  | 45E | 24  |    |    |    |    | 19 | 19 |    |    | 2  |    |    |    |    |    |    |    | 40          |

**Total Acres\*: 407**

\*IRRIGATION USE IS LIMITED TO 146.7 ACRES WITHIN THE 407 POU.

**AESTHETIC STORAGE & OTHER**

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Total |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |       |
| 3N  | 45E | 13  |    |    |    |    |    |    |    |    | X  | X  |    |    |    |    |    |    |       |
| 3N  | 45E | 14  |    |    |    |    |    |    |    |    |    |    |    |    | X  | X  | X  | X  |       |
| 3N  | 45E | 23  | X  | X  | X  | X  |    |    |    |    |    |    |    |    | X  | X  |    |    |       |
| 3N  | 45E | 24  |    |    |    |    |    | X  |    |    | X  |    |    |    |    |    |    |    |       |

The fee for rental of the above-described water is \$ 6,814.50 per year. The undersigned renter is also the lessor under this agreement, and is therefore obligated to pay only the administrative fee of \$ 681.45. An annual payment shall be received by the Department of Water Resources prior to April 15, the start of the irrigation season, each year for the duration of the rental period. The agreement will be void if the payment is not received in a given year. The renter agrees to use the water in accordance with the Water Supply Bank rules and in compliance with the conditions of water use shown below.

Conditions of water use under this agreement

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. The beneficial use of Aesthetic Storage and Other will include aesthetic storage, irrigation storage, wildlife storage, recreation storage, and fire protection storage.
3. The total pond surface area is limited to 30.3 acres.
4. Use of water under this agreement is limited to the irrigation of 146.7 acres within place of use described above.
5. Upon Department request, the renter shall provide for the measurement of the

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water diverted in a manner acceptable to the Director and shall report the amount of water diverted at the end of the irrigation season.

6. Use of water under this agreement does not constitute a dedication of the water to renter's land 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.
7. 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.
8. Use of water under this agreement shall not prejudice any action of the Department in its consideration of a permanent application for transfer filed by the applicant for this same use, nor does it prejudice any future rental agreement that may be made of the subject water rights after this rental agreement expires.
9. Acceptance of a right into the bank, and rental of a 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. The validity of a water right will be reviewed in the ongoing Snake River Basin Adjudication, and considered in any other department application process.
10. The amounts and conditions of the rental agreement may be revised upon review of the availability of surface water sources, the extent of beneficial use, or the validity of a right in the ongoing Snake River Basin Adjudication or any other department application process.
11. This rental does not grant any right-of-way or easement to use the diversion works or conveyance works of another party.
12. Renter agrees to comply with all applicable state and federal laws while using water under this agreement.
13. 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.
14. In the event that continued water use is not authorized, the renter agrees to hold the Board, the Director and the state of Idaho harmless from any claim for reimbursement or expenses associated with the development of new and supplemental water uses.
15. Failure of the right holder to comply with the conditions of this agreement is cause for the Director to rescind acceptance of the lease.

Dated this 6<sup>th</sup> day of December, 2004.

by John Vinger pres.  
for

Trail Creek Sprinkler Irrigation Co.

Having determined that this agreement satisfies the provisions of Section 42-1763, Idaho Code, and, IDAPA 37.02.03030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and conditions herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board this 20<sup>th</sup> day of December, 2004.

Karl J. Dreher

KARL J. DREHER, Director  
Department of Water Resources

**Marshall, Aaron**

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|                     |                                                                                                                 |                               |
|---------------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------|
| <b>From:</b>        | Rob Harris [rharris@holdenlegal.com]                                                                            | <b>RECEIVED</b>               |
| <b>Sent:</b>        | Tuesday, May 11, 2010 11:52 AM                                                                                  |                               |
| <b>To:</b>          | Marshall, Aaron                                                                                                 | <b>MAY 11 2010</b>            |
| <b>Cc:</b>          | Spackman, Gary; Wagle, Victoria                                                                                 |                               |
| <b>Subject:</b>     | Trail Creek Sprinkler Irrigation WB Leases                                                                      |                               |
| <b>Attachments:</b> | Trail.Creek.Woolstenhulme.WB.App.pdf; Trail.Creek.Teton.Springs.WB.App.pdf;<br>Trail.Creek.The.Ponds.WB.App.pdf | Department of Water Resources |

Aaron:

Attached are the water bank leases we discussed on the phone earlier today. These are simply renewals of water bank leases that expired at the end of 2009. I had hoped to have the requests for extension on these to you early this year, but has some issues with coordinating with the parties and with the Trail Creek Sprinkler Irrigation board. As indicated, we are simply requesting an extension of the water bank leases that were already approved in 2005. I believe Gary Spackman was involved in these applications, and I am copying him for his information. Our intent is to collect gis data and prepare a formal transfer application sometime towards the end of this year, or early next.

To avoid confusion, there are actually three leases, but they use the same water rights and are for ponds in the same general area. One is for the Teton Springs development, one for a development known as the Ponds, and a third for a private pond owned by Arnold Woolstenhulme. The attachments are labeled accordingly.

If you have any questions, let me know. I know that a lot of time went into the prior applications when they were worked on by my predecessor, Kent Foster. I understand you have a significant workload, but it appears that these applications could be renewed without significant re-review. I will check back with you at the end of the week to see if you have any questions.

Thanks for your assistance.

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC  
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P.O. Box 50130  
Idaho Falls, ID 83405-0130  
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**STATE OF IDAHO  
WATER RESOURCE BOARD  
WATER SUPPLY BANK  
REQUEST TO RELEASE OR LEASE TERM EXTENSION FORM**

This form is a statement that the lessor requests a change in the status 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 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. See Attached List Telephone No.: 208-787-2952  
Name(s) of Lessor: Trail Creek Sprinkler Irrigation Company  
Mailing Address: PO Box 131  
City: Victor State: ID Zip: 83455  
Email: \_\_\_\_\_

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

Requested Release Date: \_\_\_\_\_

Release all or part of the leased portion of the water right: All \_\_\_\_\_ Part \_\_\_\_\_

NOTE: If releasing only part of the leased portion, please attach a clear description of the portion to remain in the Bank.

The lessor requests that the above water right be released from the Bank on the date referenced above.

|                           |                              |            |
|---------------------------|------------------------------|------------|
| 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

**REQUEST TO EXTEND THE TERM OF LEASE:**

Current Expiration Date: December 31, 2009

Requested Expiration Date: December 31, 2014

Extend lease term for all or part of the leased portion of the water right: All ☒ Part \_\_\_\_\_

NOTE: If extending the lease term for only part of the leased portion, please attach a clear description of the portion to remain in the bank.

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

|                                          |                                                    |                       |
|------------------------------------------|----------------------------------------------------|-----------------------|
| Signature of Lessor <u>[Signature]</u>   | Printed Name and Title <u>Arnold Wahlstenhulme</u> | Date <u>4/01/2010</u> |
| Signature of Lessor <u>X John Winger</u> | Printed Name and Title <u>John Winger Pres.</u>    | Date <u>4/28/2010</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, PO Box 83720, Boise, ID 83720-0098