

JUL 19 2021

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 1412**

This Lease Contract ("Lease") is between the Idaho Water Resource Board ("Board"), and

LESSOR: ELKWOOD RIVER BENCH
DEVELOPMENT CO LLC
37 LIMESTONE RD
RIDGEFIELD, CT 06877-2613

SUPPORT DATA

IN FILE #

37-496F

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 and received by the Department on April 16, 2021.
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

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
37-21420	5/1/1881	BIG WOOD RIVER, tributary to MALAD RIVER	0.30	Not Stated	14.8
37-21418	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.27	Not Stated	14.8
37-496F	7/1/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.45	18.7	8.0
Combined Limit Totals			1.02	51.8	14.8
Combined Lease Totals			1.02	51.8	37.6

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
37-21420	0.30	51.8	14.8	0.020	3.50
37-21418	0.27	51.8	14.8	0.018	3.50
37-496F	0.45	18.7	8.0	0.056	2.34
Combined Limit Totals	1.02	51.8	14.8	0.040	2.27

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1412

** The water right elements rentable have been reduced from the water right elements leased to account for combined limits and a defined volume limit that is based on the regional field headgate irrigation standard of 3.5 afa/acre.*

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

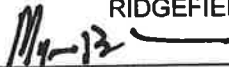
3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2025. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1412

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: ELKWOOD RIVER BENCH
DEVELOPMENT CO LLC
37 LIMESTONE RD
RIDGEFIELD, CT 06877-2613

By 
Title Partner
Date June 30, 2021

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 7/20/21

Lease approved by IDWR 

Date 7/20/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1412

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 37-496F, 37-21418, 37-21420
BIG WOOD RIVER SESW Sec. 20 Twp 03N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-496F	IRRIGATION	04/15	to	10/31	0.16 cfs	18.7 AF
37-21418	IRRIGATION	04/15	to	10/31	0.27 cfs	Not Stated
37-21420	IRRIGATION	04/15	to	10/31	0.30 cfs	Not Stated
37-496F	FIRE PROTECTION	01/01	to	12/31	0.29 cfs	Not Stated
37-496F	AESTHETIC	04/15	to	10/31	0.29 cfs	18.7 AF
Totals:					1.02 cfs	51.8 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: 37-21418 & 37-21420

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	29						8.7	6.1										14.8

Total Acres: 14.8

PLACES OF USE TO BE IDLED UNDER THIS LEASE: 37-496F

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	29						5.0	3.0										8.0

Total Acres: 8.0

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, or the lease term expires. A right may be released from the bank upon request, 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 pursuant to Idaho Code § 42-223(5).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1412

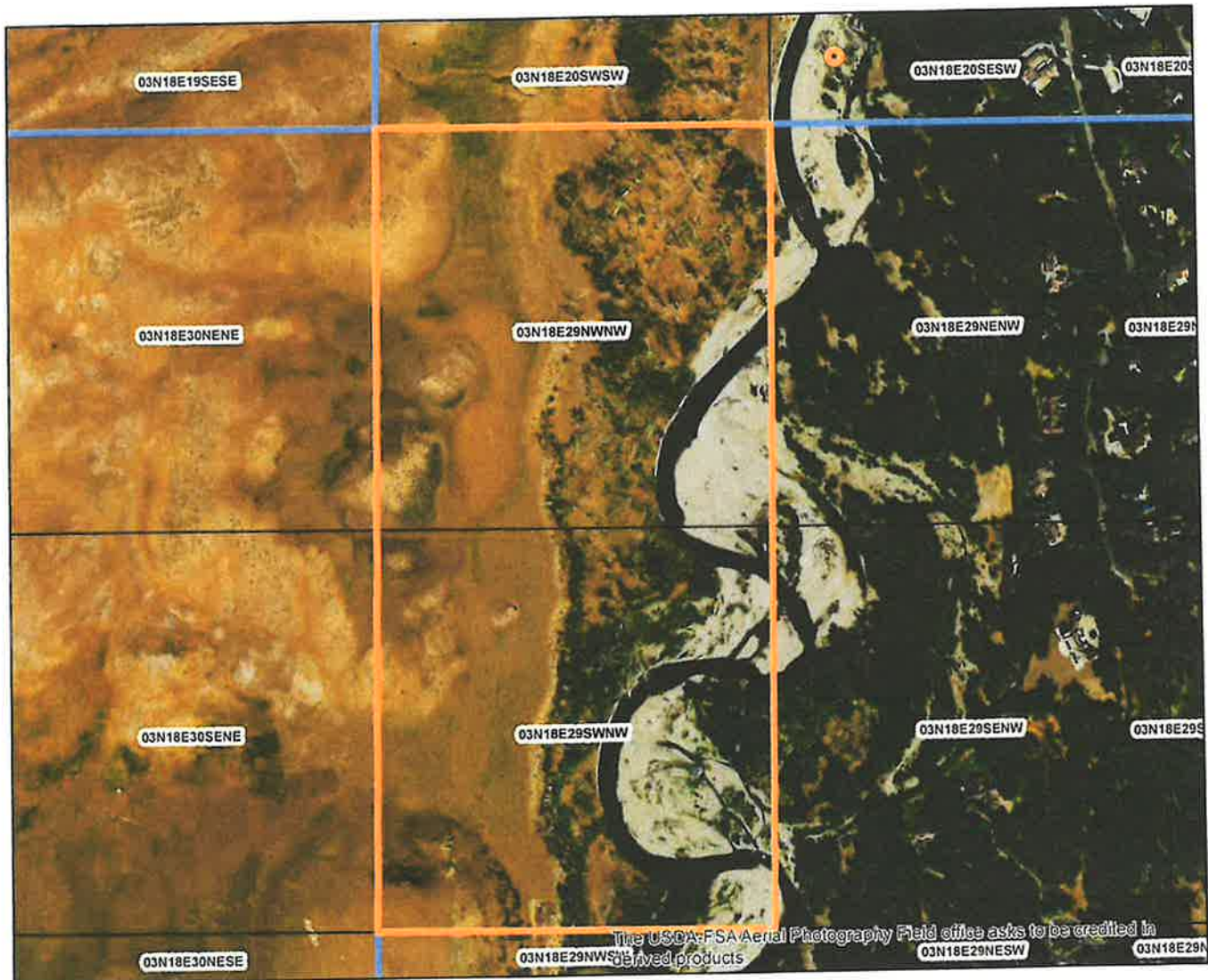
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in 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, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
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. The combined annual volume of water under right Nos. 37-21418 and 37-21420 shall not exceed 51.8 af.
13. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
14. Measuring devices of a type approved by this Department shall be maintained at the point of diversion and point of discharge to the Big Wood River.
15. Water right 37-496F when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.
16. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1412

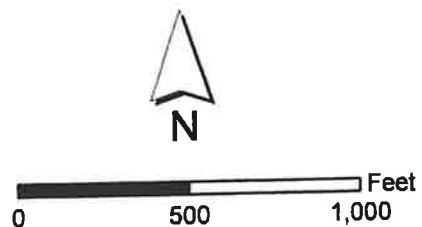
37-496F

Effective until December 31, 2025

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



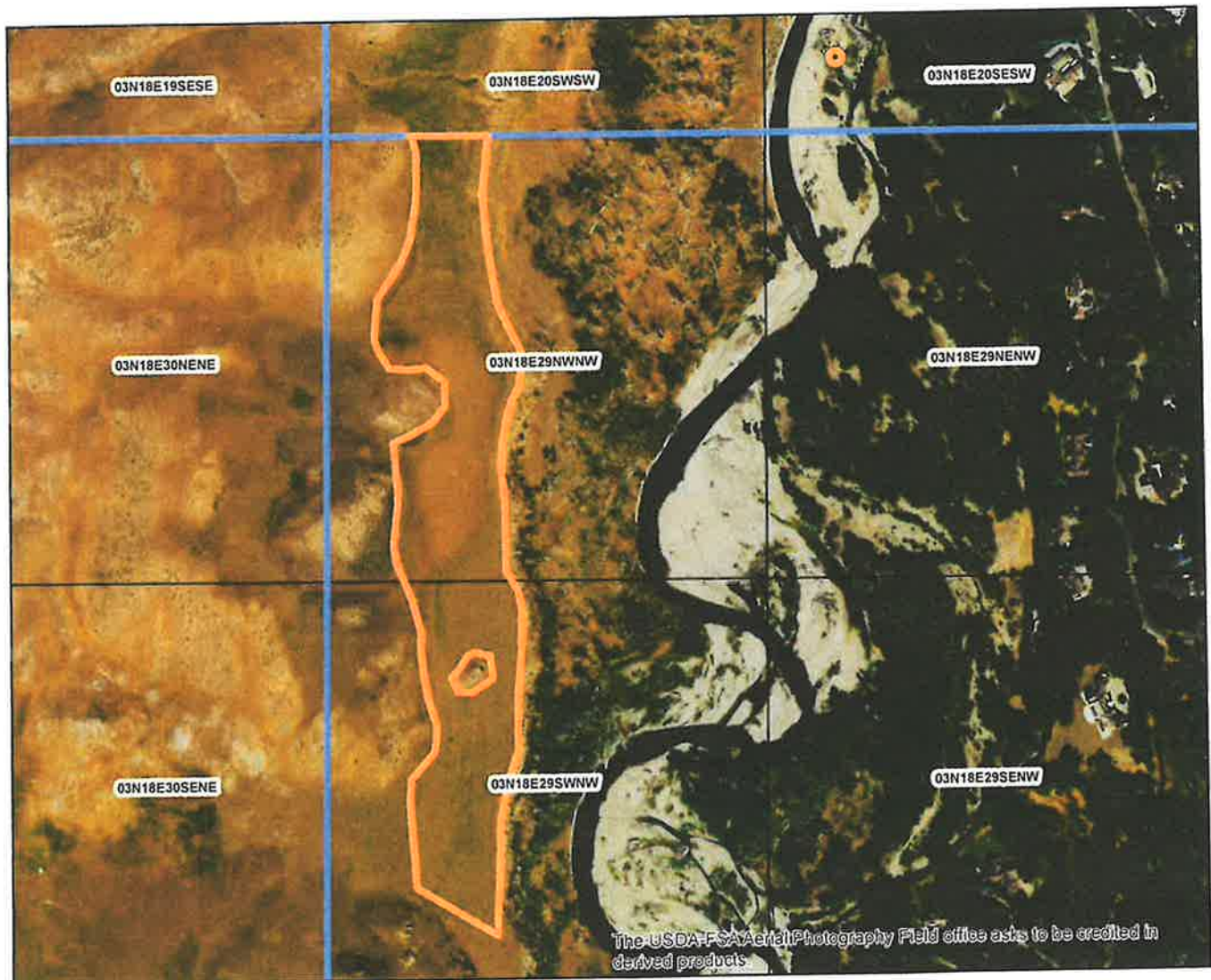
-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ



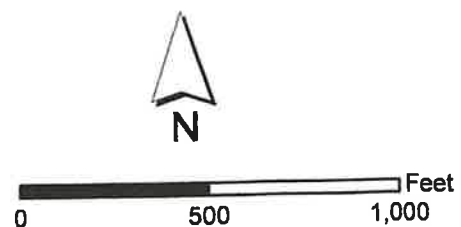
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1412

37-21418 & 37-31420
Effective until December 31, 2025

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 22, 2021

ELKWOOD RIVER BENCH DEVELOPMENT CO LLC
37 LIMESTONE RD
RIDGEFIELD CT 06877-2613

RE: APPLICATION TO LEASE WATER RIGHTS 37-496f, 37-21418 & 37-21420 TO THE WATER
SUPPLY BANK CONTRACT 1412

****TIME SENSITIVE RESPONSE REQUIRED****

Dear Applicant:

The Department of Water Resources mailed two contracts to you on June 18, 2021. It was brought to our attention that the total number of acres was incorrect. **I have enclosed two AMENDED original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL 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 right will automatically be released from the Bank on **December 31, 2025**, unless the right is 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 right may not be available for immediate release if it has 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 this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hershey

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Speck & Aanestad

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 16 2021

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Elkwood River Bench Development Co. LLC
(Select one owner – see item 1A on the application)Water Right No. 37-496F
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☐ ☒ Signatures and contact information for **all owners** of the water right to be leased or sold on this application.
- 1B ☐ ☒ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☒ ☐ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☒ ☐ Written consent from irrigation district or water delivery company.
- 4G ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to [Section 42-222\(2\), Idaho Code](#).

Department Use Only

Fee Amount \$ <u>750</u>	Received By: <u>Ku</u>	Date Received: <u>4.16.21</u>	Receipt # <u>C110240</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Myer Berlow</u>	

2055

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).
- B. Please provide a description of the current water diversion and delivery system.
None _____

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 37-21418 & 37-21420

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. _____

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. N/A.. Leased to the Bank 2015 - 2020

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. _____

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe. _____

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

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

If lease, specify the years when the use of water will be suspended: 2021 to 2025 (maximum lease period 5 calendar years).
(Year) (Year)

B. 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 water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Myer Berlow
Signature of Designated Applicant

Myer Berlow, Manager

Printed Name

04-12-2021
Date

Signature of Authorized Representative

James P. Speck

Printed Name

Date

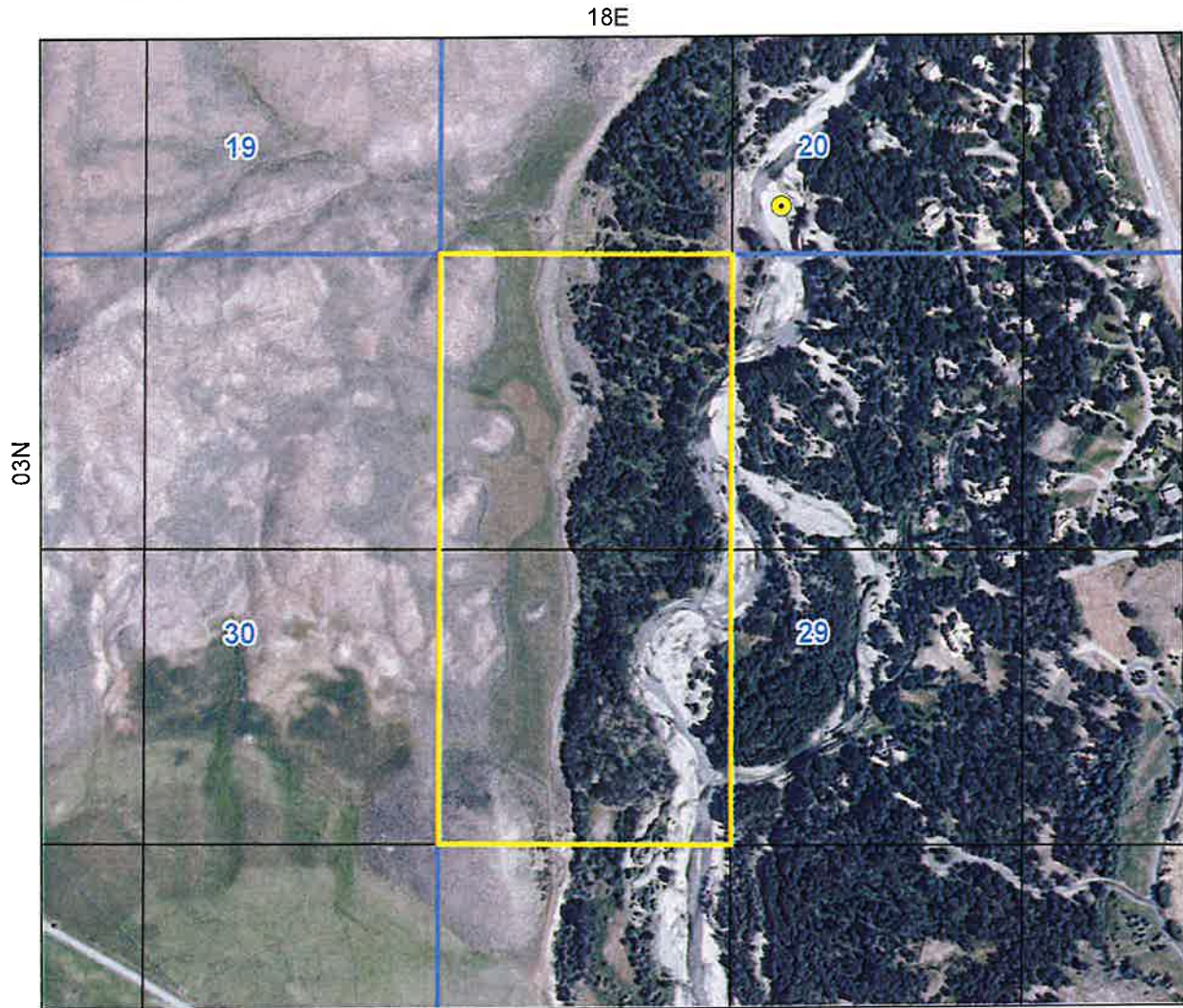
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right
37-496F

AESTHETIC

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.1 0.2 0.4 Miles



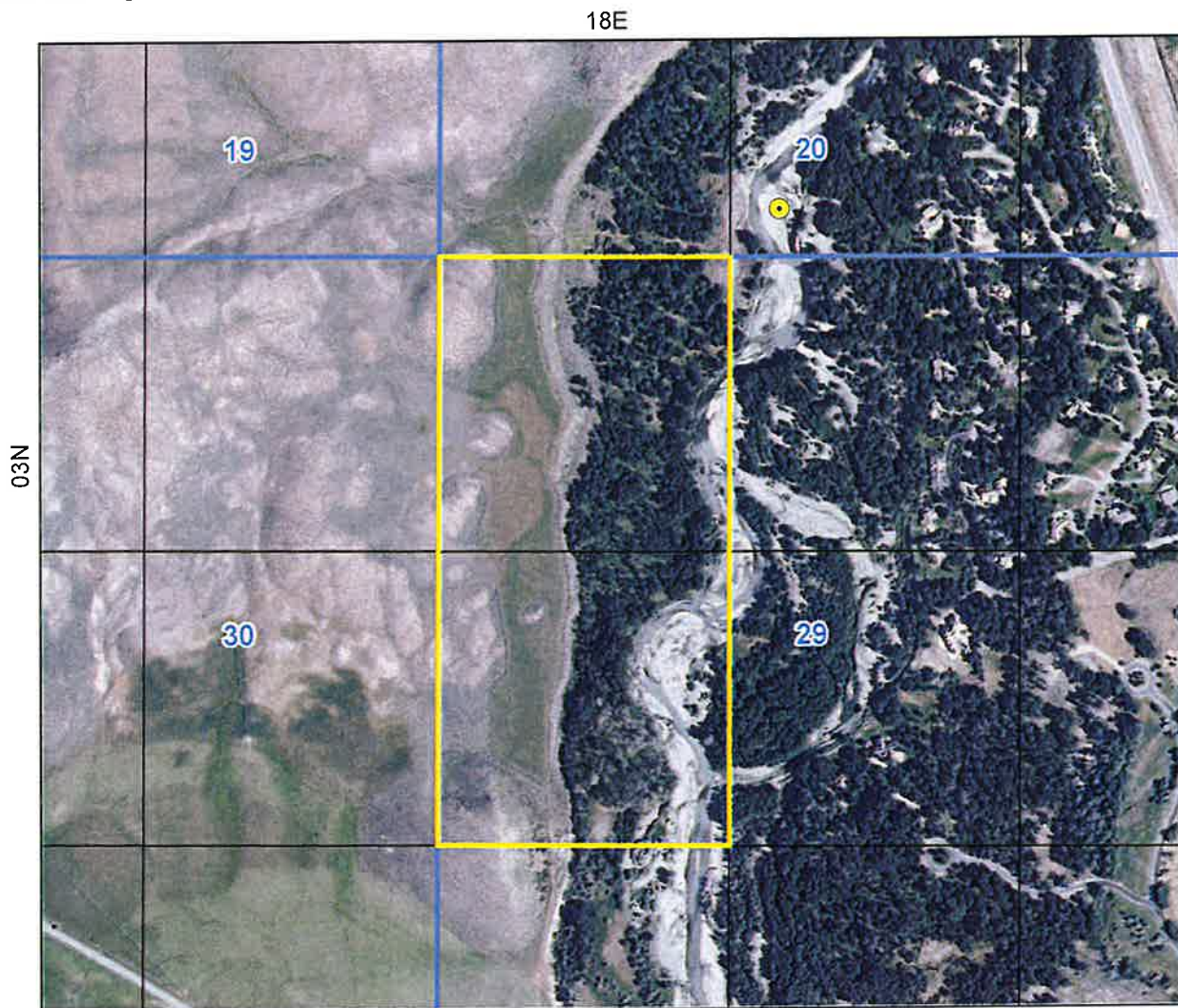
ATTACHMENT 3, P.1

State of Idaho
Department of Water Resources

Water Right
37-496F

FIRE PROTECTION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.1 0.2 0.4 Miles



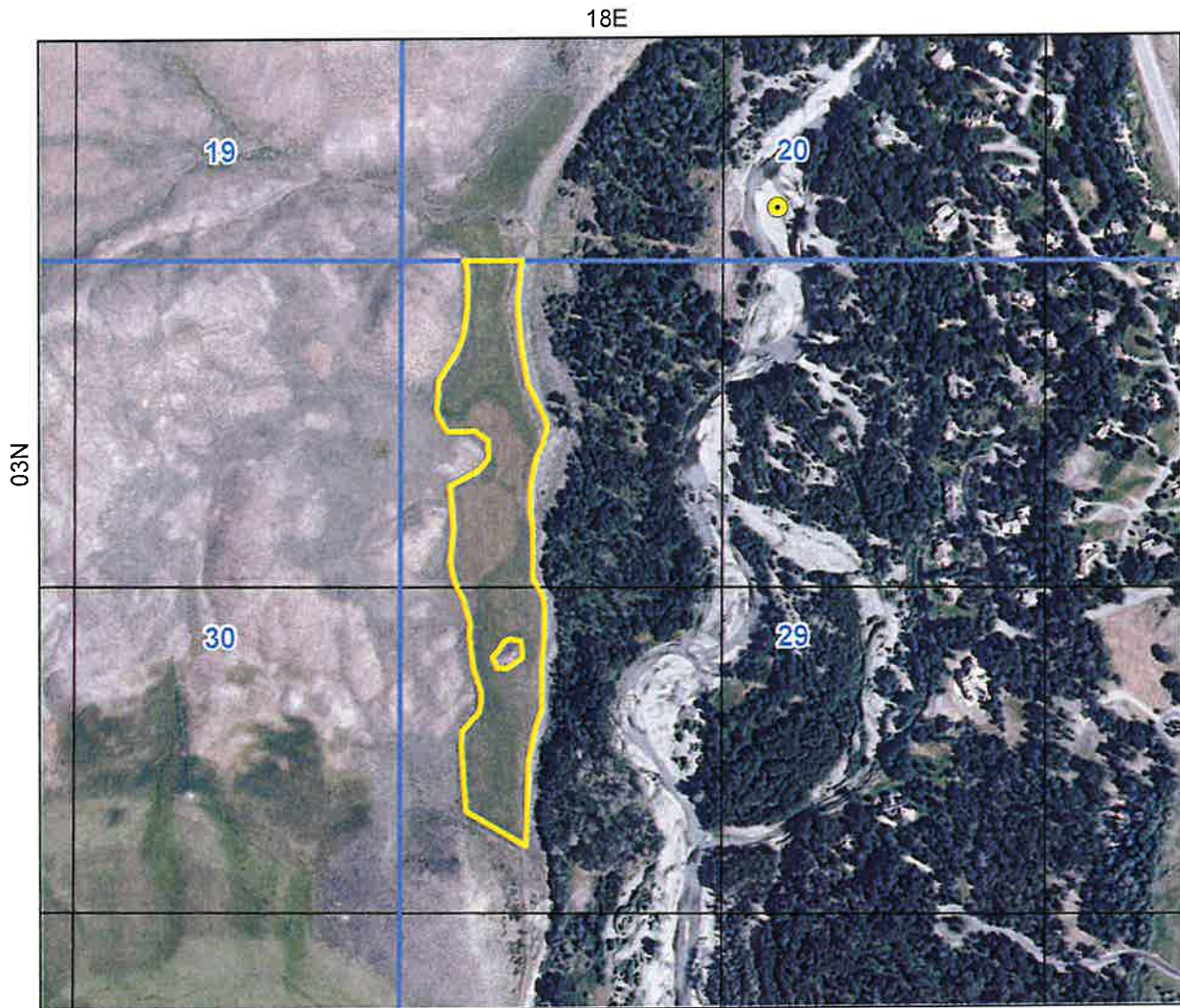
State of Idaho
Department of Water Resources

Water Right

37-496F

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles



ATTACHMENT 3, P.3



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 21, 2021

ELKWOOD RIVER BENCH DEVELOPMENT CO LLC
37 LIMESTONE RD
RIDGEFIELD CT 06877-2613

**RE: WATER SUPPLY BANK LEASE CONTRACT 1412
FOR WATER RIGHTS 37-496F, 37-21418 & 37-21420**

Dear Lessor:

Water rights 37-496F, 37-21418 & 37-21420 were leased into the Water Supply Bank (Bank) as of January 1, 2021, in accordance with the enclosed executed lease contract. **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.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2025**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights 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 on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hershey

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Speck & Aanestad Law
Water District No. 37



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 22, 2021

ELKWOOD RIVER BENCH DEVELOPMENT CO LLC
37 LIMESTONE RD
RIDGEFIELD CT 06877-2613

**RE: APPLICATION TO LEASE WATER RIGHTS 37-496f, 37-21418 & 37-21420 TO THE WATER
SUPPLY BANK CONTRACT 1412**

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

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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 this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Speck & Aanestad

Hersley, Jean

From: James Speck <jim@speckandaanestad.com>
Sent: Tuesday, June 22, 2021 8:19 AM
To: Hersley, Jean
Subject: RE: WSB Lease Contracts for Elkwood River Bench Development

I e-mailed him. Please send me the corrected version too. Thanks.

Jim

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Tuesday, June 22, 2021 8:03 AM
To: James Speck <jim@speckandaanestad.com>
Subject: RE: WSB Lease Contracts for Elkwood River Bench Development

This had already gone out in the mail. Ask your clients not to sign the contract and I will send a new one. Sorry about that.

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

From: James Speck [<mailto:jim@speckandaanestad.com>]
Sent: Thursday, June 17, 2021 4:17 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: WSB Lease Contracts for Elkwood River Bench Development

Jean,

I believe the 8A irrigated by 37-496F overlaps the 14.8A irrigated by the other two rights, so the limit of leased acres is 14.8A and not 22.8A. Can you check that before this is mailed out?

Jim

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Thursday, June 17, 2021 1:07 PM
To: James Speck <jim@speckandaanestad.com>
Subject: WSB Lease Contracts for Elkwood River Bench Development

These contracts will go out in tomorrow's mail. Please let me know if you have any questions. Thank you.

Jean Hersley

Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 18, 2021

ELKWOOD RIVER BENCH DEVELOPMENT CO LLC
37 LIMESTONE RD
RIDGEFIELD CT 06877-2613

RE: APPLICATION TO LEASE WATER RIGHTS 37-496f, 37-21418 & 37-21420 TO THE WATER SUPPLY BANK CONTRACT 1412

****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 ALL 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 right will automatically be released from the Bank on **December 31, 2025**, unless the right is 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 right may not be available for immediate release if it has 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 this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Speck & Aanestad

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, April 20, 2021 10:38 AM
To: Skinner, Corey; 'Kevin Lakey'
Subject: WSB Lease for Elkwood River Bench 37-496F, 37-21418, 37-21420
Attachments: Idled Acres 21418 21420.pdf; Lease Application Review.xls; Lease Contract - 1412.docx; POU Shape 37-496F.pdf

Please let me know within 7 days if you have any comments or concerns with the attached lease. Thank you.

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

WATER SUPPLY BANK			Quick Tools	
Lease Review Checklist			Decreed Year	No Forfeiture Concerns Thru:
Applicant(s) Name: Elkwood River Bench Development			2011	2017
Memo Date: April 20, 2021			2012	2018
Water Right Number(s): 37-496F, 37-21418 & 37-21420			2013	2019
Reviewers Name: Jean			2014	2020
			2015	2021
		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right			
	All of right	x		
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? (If no explain in comments or narrative)	x		
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity	x		Myer Berlow, manager
	Other (explain in comments)			
6	Water Right validity			
	Decreed/Licensed/Statutory claim date (write in comments section)			2009-2010
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?	x		
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
	Any other concerns		x	
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		23033, 23034, 23036
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?	x		
	Send the watermaster comment request form or e-mail request			
11	Area Headgate requirement (write in Comments)			3.5
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	
13	Narrative: The Department received these applications on April 16, 2021. The applications were signed by Myer Berlow, manager. The current owner wishes to place the entirety of all three rights in the Bank. Water right 37-496F was decreed in 2010 and 37-21418 & 37-21420 were decreed in 2009. 37-496F was in the Bank 2010-2015, 2017-2020. 37-21418 & 37-21420 were in the Bank from 2010-2014 then from 2017-2020. There are no issues with forfeiture. These rights completely overlap each other and have a combine diversion volume of 51.8 af so they will need to be rented together. Water right 37-496F is for irrigation, fire protection and aesthetic use so this needs to be taken into consideration when renting this water. Water rights 37-23033, 37-23034 & 37-23036 are also diverted from the same POD. These rights are currently within WD 37.			



0003924518

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***REINSTATEMENT ANNUAL REPORT**

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$30.00

*For Office Use Only***-FILED-**

File #: 0003924518

Date Filed: 7/2/2020 11:16:54 AM

Reinstatement Annual Report Form

Select one: Standard, Expedited or Same Day Service (see descriptions below)

Expedited (+\$40; filing fee \$70)

Current Entity Name

ELKWOOD RIVER BENCH DEVELOPMENT COMPANY, LLC

The file number of this entity on the records of the Idaho Secretary of State is:

0000515933

Organized under the laws of:

IDAHO

Entity Type:

Limited Liability Company (D)

Entity Subtype:

Limited Liability Company Subtype

Limited Liability Company

Limited Liability Company Name:

Limited Liability Company name

ELKWOOD RIVER BENCH DEVELOPMENT COMPANY, LLC

The registered agent on record is:

Our records indicate that the previously-selected Registered Agent is no longer valid. Please select a new Registered Agent.

Need to appoint new agent

The name and street address of the new registered agent and office in Idaho is:

Registered Agent

Registered Agent

Myer Berlow

Physical Address:

214 WILLOW ROAD

HAILEY, ID 83333

Mailing Address:

214 WILLOW RD

HAILEY, ID 83333-5135

☒ I affirm that the registered agent appointed has consented to serve as registered agent for this entity.

The mailing address of the corporation is:

214 WILLOW RD
HAILEY, ID 83333-5135

Limited Liability Company Managers and Members

Name	Title	Address
☒ Myer Berlow	Manager	214 WILLOW ROAD HAILEY, ID 83333

The Application for Reinstatement must be signed by at least one governor.

Edward A. Lawson07/02/2020

Sign Here

Date

Job Title:

Organizer

BUS19-3493 01/02/2020 11:10 AM RECEIVED BY ID SECRETARY OF STATE LAWRENCE DENNEY

RECEIVED

APR 16 2021

DEPARTMENT OF
WATER RESOURCES

TELEPHONE
(208)726-4421

FACSIMILE
(208)726-0752

JAMES P. SPECK
jim@speckandaanestad.com

DOUGLAS J. AANESTAD
(retired)

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE NORTH
P. O. BOX 987
KETCHUM, IDAHO 83340
April 14, 2021

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

**Re: Application to Sell or Lease A Water Right to Water Supply Bank -
 Elkwood River Bench Development Co. LLC, Water Right Nos. 37-496F, 37-21418
 and 37-21420**

Dear Remington:

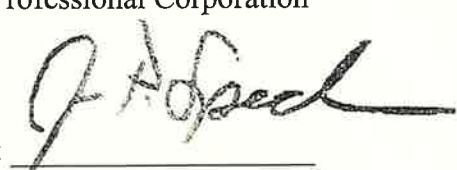
Enclosed you will find the original and one copy each of the above-referenced Applications together with our firm's checks in the amount of \$750.00 for the filing fees.

Please receipt date-stamp the copies and return them to me in the postage prepaid, self-addressed envelope I have included for that purpose.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 

James P. Speck

Enclosures

cc: Myer Berlow - via Email w/encl.

2055