

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 998

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

LESSOR: PRIVATE CAPITAL GROUP INC
160 W CANYON CREST RD
ALPINE, UT 84004

RECEIVED
JUL 01 2019
DEPARTMENT OF
WATER RESOURCES

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 May 29, 2019.
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)
11-7601	4/15/1885	BEAR RIVER, tributary to GREAT SALT LAKE	0.80	139.3	39.8
Combined Limit Totals			0.80	139.3	39.8
Combined Lease Totals			0.80	139.3	39.8

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, 2019 to December 31, 2023. 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.

SCANNED
JUL 03 2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 998

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.

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

LESSOR: PRIVATE CAPITAL GROUP INC
160 W CANYON CREST RD
ALPINE, UT 84004

By 
Title Director
Date 6/28/19

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 7/29/2019

Lease approved by IDWR 

Date 7-2-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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**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): 11-7601

BEAR RIVER L 2NWNE Sec. 6 Twp 15S Rge 46E BEAR LAKE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
11-7601	IRRIGATION	04/15	to	09/30	0.80 cfs	139.3 AF
Totals:					0.80 cfs	139.3 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S	45E	11			39.7					0.1									39.8

Total Acres: 39.8

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).
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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 998

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. Water is delivered through the Nuffer Ditch.
13. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 11.
14. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
15. Rights 11-7597 and 11-7601 when combined shall not exceed the irrigation of 324 acres.
16. This right is limited to the irrigation of 39.8 acres within the authorized place of use in a single irrigation season.
17. 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(s).

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 998

11-7601

Effective until December 31, 2023

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



0 0.5 1 Miles

RECEIVED

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

MAY 13 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Private Capital Group, Inc.Water Right No. 11-7601

(Select one owner – see item 1A on the application)

(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>250</u>	Received By: <u>[Signature]</u>	Date Received: <u>5/13/19</u>	Receipt # <u>1102780</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Private Capital Group</u>	

#110 1409

**STATE OF IDAHO
WATER RESOURCE BOARD**

**APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)**

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Private Capital Group, Inc.

Mailing Address 160 W. Canyon Crest Road Alpine Utah 84004
Street City State Zip Code

Email Address mackenzie@stillwaterep.com Phone Number 775-220-0861

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒

If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐

If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐

If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Thomas J. Budge Organization Racine Olson

Professional Title Attorney Email Address tj@racineolson.com

Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391 Phone Number 208-232-6101

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

- ☒ The full water right is being offered to the Bank.

OR

- ☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

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.

Gravity flow surface water system.

- 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. 11-7597, which is also being leased to the Water Supply Bank

- 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. Not measured, but water diverted and use consistent with historic practice to raise hay.

- 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?

If yes, describe. Yes ☐ No ☒

**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: 2017 to 2022 (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.

DocuSigned by:

Ben Schramm

Signature of Designated Applicant

Ben Schramm

Printed Name

5/3/2019 | 2:05:40 PM PDT

Date

Signature of Authorized Representative

Printed Name

Date

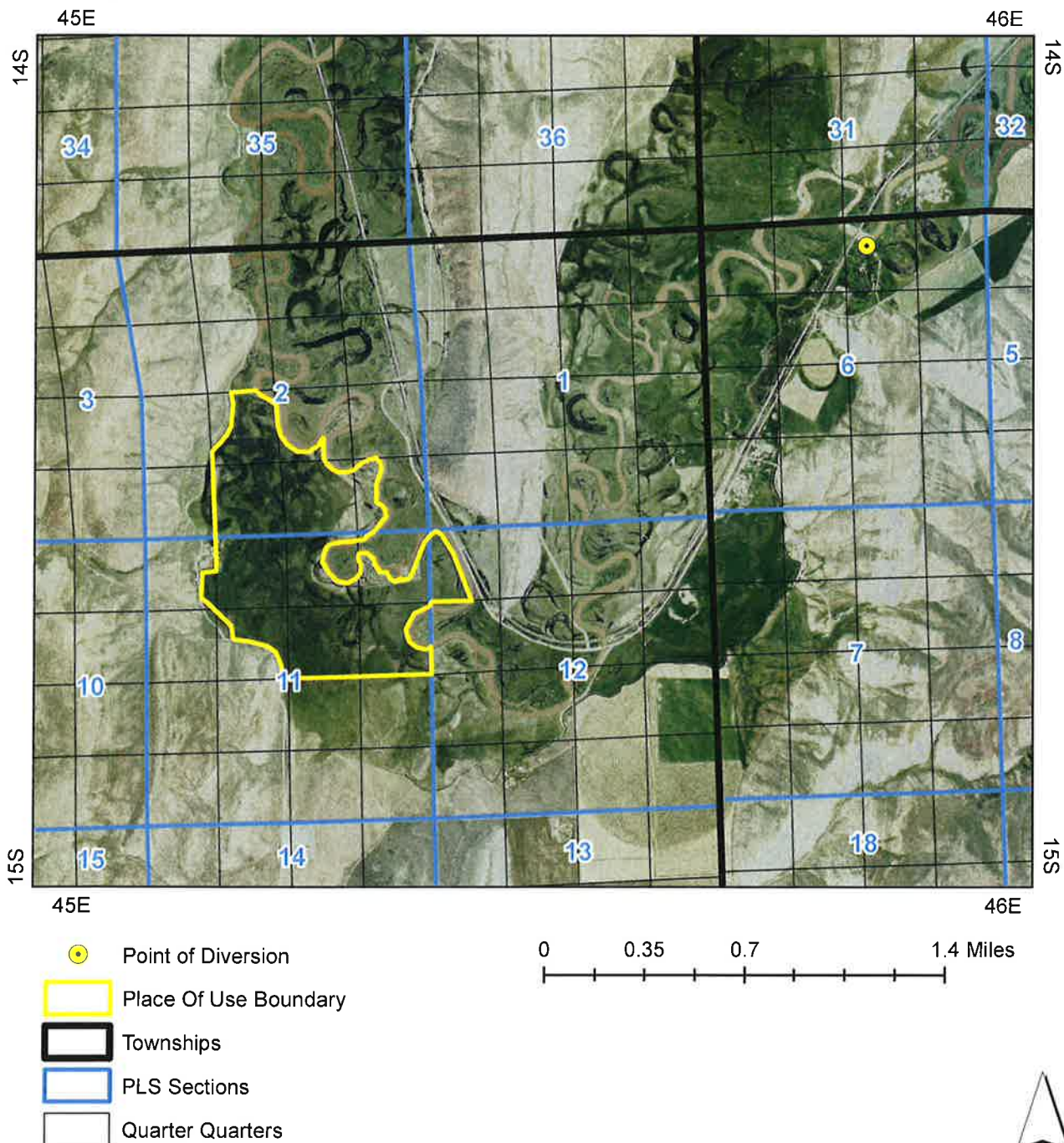
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right 11-7601

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.



IDAHO Department of Water Resources



[Home](#) / [Water Rights](#) / [Research](#) / [Search Water Rights](#)

WATER RIGHT REPORT

4/19/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 11-7601

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PRIVATE CAPITAL GROUP INC 160 W CANYON CREST RD ALPINE, UT 84004 7752200861

Original Owner OLA TRANSTRUM

Priority Date: 04/15/1885

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BEAR RIVER	GREAT SALT LAKE

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	09/30	0.8 CFS	
Total Diversion			0.8 CFS	

Location of Point(s) of Diversion:

BEAR RIVER | NWNE Lt 2 | Sec. 06 | Township 15S | Range 46E | BEAR LAKE County

IRRIGATION Use:

Acre Limit: 39.8

Place(s) of use:

Place of Use Legal Description: IRRIGATION BEAR LAKE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
-----------------	--------------	----------------	------------	--------------	--------------	------------	--------------	--------------	------------	--------------	--------------	------------	--------------	--------------

15S	45E	2	NESW	27	SESW	39.4			
			NWSE	4.9	SWSE	38.4	SESE	12.5	
		11	NENE	21.5	NWNE	30.4	SWNE	39.7	SENE 33.9
			NENW	39.6	NWNW	3.6	SENE	18.3	
		12	NWNW	14.8					

Total Acres: 324

Conditions of Approval:

1. X27 This right is limited to the irrigation of 39.8 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 11-7597 and 11-7601 when combined shall not exceed the irrigation of 324 acres.
3. R43 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(s).
4. R05 Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 11.
5. 947 This right is an Agricultural Right subject to the administration provisions set forth on page 19 of the Decree in Preston Montpelier Irr. Co. v. Dingle Irr. Co, et. al., (Mar. 7, 1924, 5th Jud. Dist. Ct.) (AKA "Terrell Decree").
6. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. Water is delivered through the Nuffer Ditch.
8. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Dates:

Licensed Date:

Decreed Date: 03/07/1924

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 11

Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

UNANIMOUS WRITTEN CONSENT & RESOLUTION OF THE BOARD OF
DIRECTORS OF PRIVATE CAPITAL GROUP, INC.,
A UTAH CORPORATION, TO ACTION WITHOUT A MEETING

(Removal and Appointment of Various Officers of the Corporation)

Pursuant to and in accordance with the provisions of Utah Code and the Code of Bylaws of Private Capital Group, Inc., a Utah corporation, (the "**Corporation**"), the undersigned, being all of the Board of Directors (the "**Board**") do hereby consent to and adopt the following resolutions by written consent as of February 26, 2016 (this "**Resolution**");

RECITALS:

WHEREAS, prior to this Resolution, the Company was managed by Jared Lucero as President, and Eric Enloe as Secretary and Treasurer ("**Enloe**");

WHEREAS, pursuant to the powers vested in them under Section 5.01 of the Amended and Restated Code of Bylaws of Private Capital Group, Inc. ("**Section 5.01**"), the Board of Directors desire to remove Enloe as the Secretary and Treasurer of the Corporation; and

WHEREAS, pursuant to the powers vested in them under Section 5.02 of the Second Amended and Restated Code of Bylaws of Private Capital Group, Inc. ("**Section 5.02**"), the Board desires to appoint various individuals to be officers of the Corporation.

RESOLUTIONS:

RESOLVED, that the Board does hereby remove Enloe as Secretary and Treasurer of the Corporation.

FURTHER RESOLVED, the Board does hereby appoint Jed Robinson to the office of Vice President of Borrower Relations.

FURTHER RESOLVED, the Board does hereby appoint Mike Pedersen to the office of Vice President of Lender Relations.

FURTHER RESOLVED, the Board does hereby appoint Chris Wallace to the office of Vice President of Underwriting.

FURTHER RESOLVED, the Board does hereby appoint Benjamin Schramm to the office of Vice President of Project Management.

FURTHER RESOLVED, the Board does hereby appoint Michelle Kinkade to the office of Secretary.

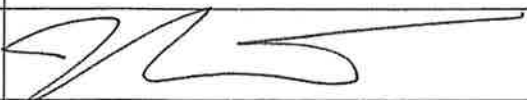
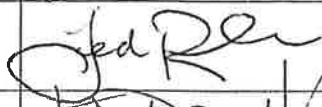
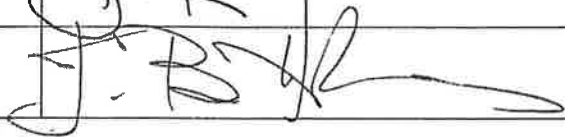
FURTHER RESOLVED, the Board does hereby appoint Lorraine Gerber to the office of Treasurer.

This Unanimous Written Consent and Resolution of the Board of Directors shall have the same force and effect as a vote of the Directors at a meeting which has been duly called, convened, and held in accordance with law, the Articles of Incorporation, and the Code of Bylaws of the Corporation.

IN TESTIMONY WHEREOF, the undersigned certify that each is a duly elected, qualified, and acting member of the Board of the Corporation, and that the signatures of the Directors contained on the following pages are the genuine signatures of all the Directors of the Corporation.

**APPROVAL OF DIRECTORS
OF
PRIVATE CAPITAL GROUP, INC.**

We, the undersigned, being all the directors of the Corporation have read this Unanimous Written Consent and Resolution of the Directors and do hereby agree and consent to all actions contained herein.

DIRECTOR:	SIGNATURE:
JARED L. LUCERO	
JED E. ROBINSON	
J. BRETT BOREN	



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 3, 2019

PRIVATE CAPITAL GROUP INC
160 W CANYON CREST RD
ALPINE UT 84004

**RE: WATER SUPPLY BANK LEASE CONTRACT 998
FOR WATER RIGHT 11-7601**

Dear Lessor:

Water right **11-7601** was leased into the Water Supply Bank (Bank) as of May 29, 2019, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is 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 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. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is 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 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Josh Hanks – Water District 11
T J Budge – Racine Olson



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 3, 2019

PRIVATE CAPITAL GROUP INC
160 W CANYON CREST RD
ALPINE UT 84004

RE: APPLICATION TO LEASE WATER RIGHT 11-7597-CONTRACT 994, WATER RIGHT 11-7601-
CONTRACT 998, WATER RIGHT 11-930-CONTRACT 1000, WATER RIGHT 11-7827-
CONTRACT 1003 TO THE WATER SUPPLY BANK

****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.

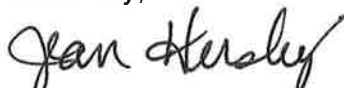
The right will automatically be released from the Bank on **December 31, 2023**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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 287-4800.

Sincerely,


Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Racine Olson PLLP

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Pacific Capital Group Inc

Memo Date: May 28, 2019

Water Right Number(s): 11-7597 & 11-7601

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box		COMMENTS/CONCERNS:
1	☒		
Fill out WSB Data Entry Checklist for Leases (Front of File)			
2	☒		
Reason for lease of water rights (Brief description of lease proposal in narrative)			
			Portion of right
	☒		All of right
3	☒		
Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
4	☒	☒	
Rentable? (If no explain in comments or narrative)			
5	☒		
Authority to file			
	☒		Current owner or designated applicant
	☒		SOS Web site checked for business entity
			Other (explain in comments)
6	☒		
Water Right validity			
			Decreed/Licensed/Statutory claim date (write in comments section)
			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?
7	☒		
Injury to other water rights			
		na	If the POD is through a delivery entity, was consent provided?
			If the POD is through a delivery entity, was holdback required? (percentage in comments)
			Any other concerns
8	☒		
Enlargement concerns			
	☒		Complete a POU comparison overlap analysis
	☒		Complete a combined limits review
	☒		Complete POD overlap analysis (if there is an overlap add condition to lease)
	☒	☒	Are there overlapping rights that need to be placed in the bank also?
	☒	☒	Will the place of use continue to receive water? (if yes explain in comments)
9	☒		
Local Public Interest			
	☒		Does the processor know of any problems this action will cause for the local public?
10	☒		
Have you contacted regional office and watermaster for comment/concerns?			
	☒		Send the watermaster comment request form or e-mail request
11			
Area Headgate requirement (write in Comments)			
12	☒		
Is water right involved in any other department action? Pull file and check database			
() Ownership Change () Transfer () Mitigation () Other - Explain in comments			

Narrative: The Department received these applications on May 13, 2019. The applicant wishes to place the entirety of both rights in the Bank. The application was signed by Ben Schramm- VP. Private Capital Group, Inc. has the authority to file. A 2017 Water Right Allocation agreement, Private Capital is the owner of these water rights. In the early 2000's, the water rights were purchased separate from the property. Private Capital Group will keep the water rights on the current POU until they are sold. The water rights are valid. They were decreed in 1920 and evidence available to the Department indicates that the rights have been used consistently in the historic place of use. These rights have a combined limit of 324.0 acres, which is additive, not restrictive. They will be placed on separate contracts. There are no other overlapping water rights that need to be placed in the Bank.

13 These rights are currently within WD 11.