STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 869

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

LESSOR: WEST OF FIRST LLC
9533 W PICO BLVD FL 2
LOS ANGELES, CA 90035-1201

RECEIVED
NOV 30 2018
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 October 23, 2018.

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)
37-21817	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.31	101.5	29.0
37-21815	6/30/1884	BIG WOOD RIVER, tributary to MALAD RIVER	0.49	101.5	29.0
37-21813	9/18/1885	BIG WOOD RIVER, tributary to MALAD RIVER	0.25	101.5	29.0
37-21811	5/1/1888	BIG WOOD RIVER, tributary to MALAD RIVER	0.25	101.5	29.0
Combined Lease Totals			**1.30**	**101.5**	**29.0**

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)
37-21817	0.24	101.5	29.0	0.008	3.5
37-21815	0.40	101.5	29.0	0.014	3.5
37-21813	0.20	101.5	29.0	0.007	3.5
37-21811	0.20	101.5	29.0	0.007	3.5
Combined Limit Totals	**1.04**	**101.5**	**29.0**	**0.035**	**3.5**

SUPPORT DATA
IN FILE # 37-21811

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 869

**** The water right elements rentable have been reduced from the water right elements leased to account for conveyance losses of 20 %.***

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.

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. 869

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

LESSOR: WEST OF FIRST LLC
9533 W PICO BLVD FL 2
LOS ANGELES, CA 90035-1201

By _____
Title MARK CAPLOW, MANAGER
Date _____

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

By _____ Date 12/5/2018
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 12-5-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 869

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): 37-21811, 37-21813, 37-21815, 37-21817

BIG WOOD RIVER SWNW Sec. 20 Twp 03N Rge 18E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-21811	IRRIGATION	04/15	to	10/31	0.20 cfs	101.5 AF
37-21813	IRRIGATION	04/15	to	10/31	0.20 cfs	101.5 AF
37-21815	IRRIGATION	04/15	to	10/31	0.40 cfs	101.5 AF
37-21817	IRRIGATION	04/15	to	10/31	0.24 cfs	101.5 AF
				Totals:	1.30 cfs	101.5 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	
02N	18E	4					2.1 L3			4.9	20.5			1.5					29.0

Total Acres: 29.0

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).
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.

WATER SUPPLY BANK LEASE CONTRACT No. 869

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 rights listed below, shall provide nor more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined Right Nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896, 37-22897, 37-22910, 37-22911, 37-22912, 37-22913, 37-22970, 37-22971, 37-22972 and 37-22973

13. Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 are limited to the irrigation of a combined total of 29.0 acres in a single irrigation season.

14. Water diverted from Headgate #22 delivered through Hiawatha Canal.

15. 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. 37.

16. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.26 cfs of the leased portion of this right into the Hiawatha Canal whether it is rented or not.

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 869

37-21811, 37-21813, 37-21815 & 37-21817
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
- Townships
- PLS Sections
- Quarter Quarters

N

0 0.25 0.5 Miles

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 867, 868 & 869

37-21811, 37-21813, 37-21815, 37-21817,
37-22890, 37-22892, 37-22894, 37-22896,
37-22910, 37-22911, 37-22912 & 37-22913
Effective until December 31, 2023

This map depicts the **point of diversion** 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
- Townships
- PLS Sections
- Quarter Quarters

N

0 250 500 Feet

Form 42-1761-1 10/15

RECEIVED
OCT 23 2018
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

Designated Applicant West of First, LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-21811
(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.**

MIMUMUM 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 $ 250	Received By:	Date Received:	Receipt # C105820
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: West of First LLC	

12/12

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 West of First, LLC

Mailing Address 9533 W. Pico Blvd., Suite A, Los Angeles, CA 90035
Street City State Zip Code

Email Address _____ Phone Number _____

☑ 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 Fritz X. Haemmerle Organization Haemmerle Law, P.L.L.C.

Professional Title Attorney Email Address fxh@haemlaw.com

Mailing Address P.O. Box 1800, Hailey, Idaho 83333 Phone Number (208) 578-0520

☐ 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.

The water is diverted form the Big Wood River and is delivered out of the Hiwatha Canal

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. 37-21813, 37-21815, 37-21817

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.

The water rights have been in the water bank for the last five years.

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: 2019 (Year) to 2024 (Year) (maximum lease period 5 calendar years).

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.

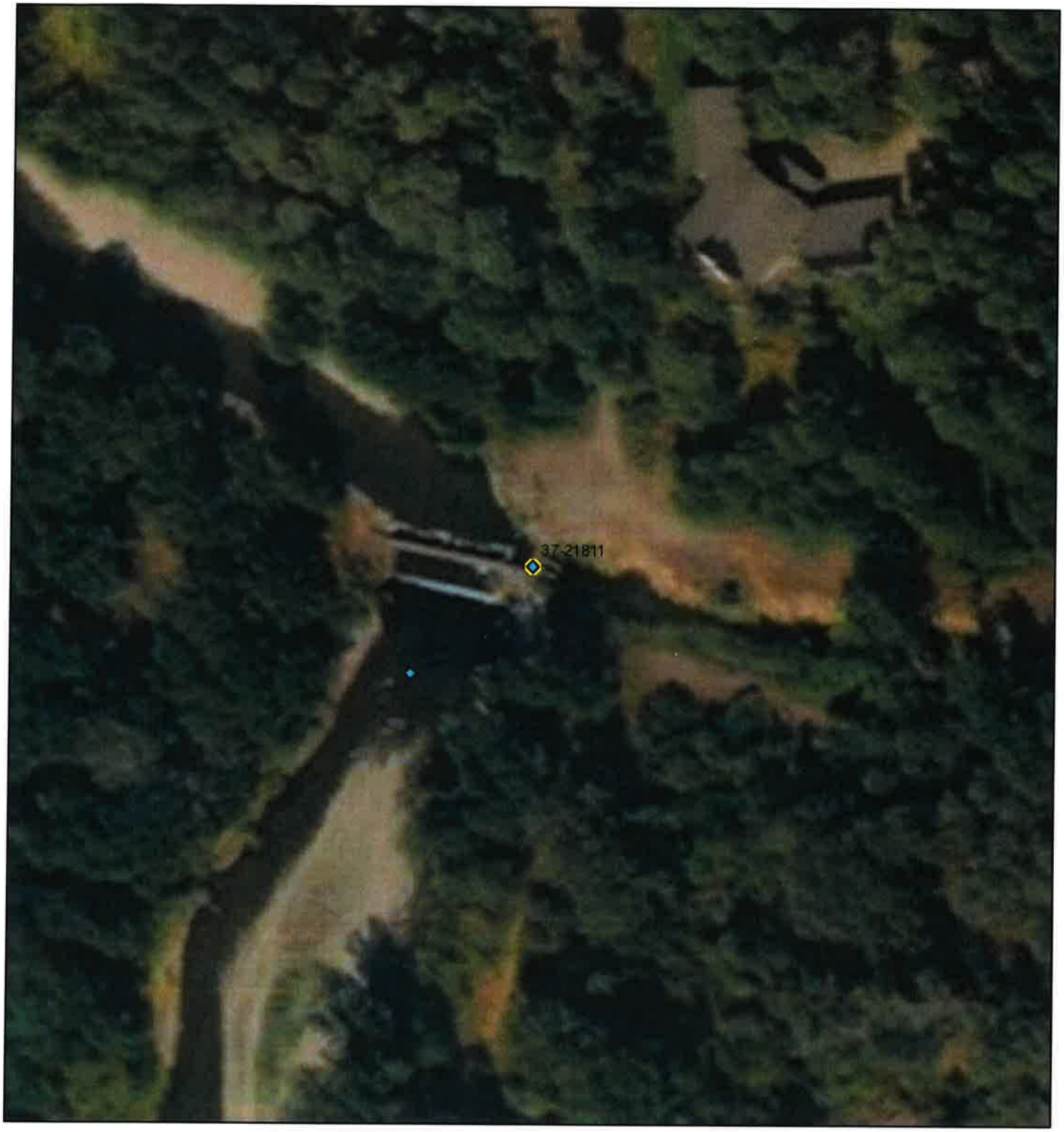
The Designated Applicant acknowledges the following:

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.

Signature of Designated Applicant	West of First, LLC MARK CAPLOW, MANAGER Printed Name	10/16/18 Date
Signature of Authorized Representative	Printed Name	Date

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

ArcGIS Web Map



10/10/2018, 10:25:46 AM

1:1,128

0 0.01 0.01 0.02 mi

0 0.01 0.02 0.04 km

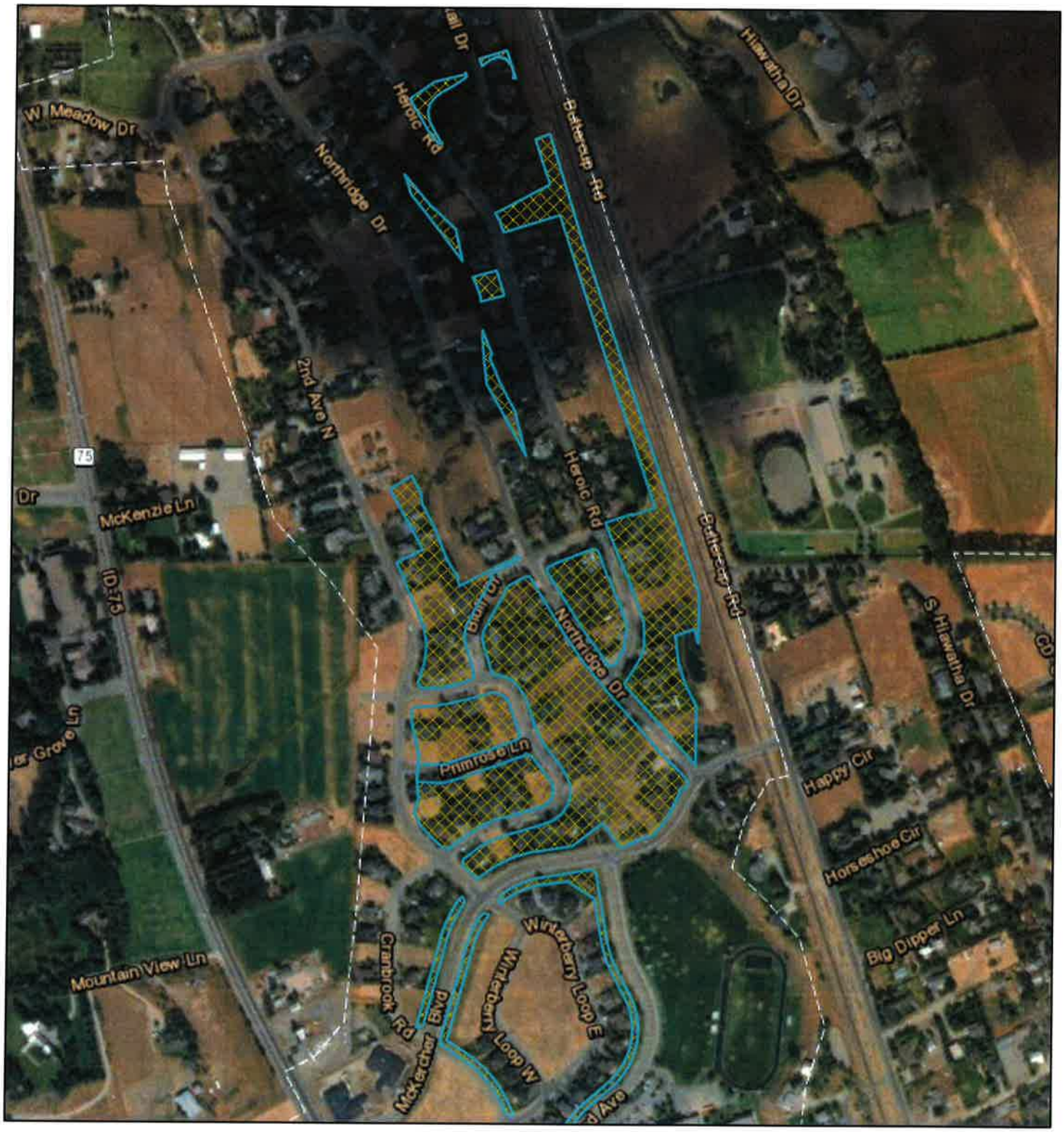
- Surface Water PODs
- POD - Water Rights

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Web AppBuilder for ArcGIS

DigitalGlobe | Esri, HERE, iPC | USGS TNM - National Hydrography Dataset, Data refreshed July, 2018 | Idaho Department of Water Resources | Esri, HERE, Garmin, iPC |

ArcGIS Web Map



10/10/2018, 10:34:28 AM

1:9,028

0 0.05 0.1 0.2 mi

0 0.07 0.15 0.3 km

POU - Water Rights

- All Other POU (non-provider)
- Irrigation Providers and Municipal Service Areas

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Web AppBuilder for ArcGIS

USDA FSA, DigitalGlobe, GeoEye, CNES/Airbus DS | Esri, HERE, iPC | USGS TNM - National Hydrography Dataset, Data refreshed July, 2018, | Idaho Department of Water Resources | Esri, HERE

No. **W 30322**

Return to:

SECRETARY OF STATE
700 WEST JEFFERSON
PO BOX 83720
BOISE, ID 83720-0080

NO FILING FEE IF RECEIVED BY DUE DATE

Due no later than May 31, 2018

Annual Report Form

1. Mailing Address: Correct in this box if needed.

WEST OF FIRST, LLC
MARK CAPLOW
9533 PICO BLVD
LOS ANGELES CA 90035

2. Registered Agent and Address **(NO PO BOX)**

CAPITOL CORPORATE SERVICES INC
921 S ORCHARD ST STE G
BOISE ID 83705

3. New Registered Agent Signature:*

4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.

Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MANAGER	MARK A CAPLOW	9533 W PICO BLVD 2ND FLOOR	LOS ANGELES	CA		90035
MANAGER	E&E CAPLOW LIVING TRUST, DATED 4/22/1991	9533 W PICO BLVD 2ND FLOOR	LOS ANGELES	CA	USA	90035

5. Organized Under the Laws of:

ID
W 30322

6. Annual Report must be signed.*

Signature: L Jolon
Name (type or print): L Jolon
Date: 03/29/2018
Title: Controller

Processed 03/29/2018

* Electronically provided signatures are accepted as original signatures.

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 6, 2018

WEST OF FIRST LLC
9533 W PICO BLVD FL 2
LOS ANGELES CA 90035-1201

RE: WATER SUPPLY BANK LEASE CONTRACT 869
FOR WATER RIGHTS 37-21811, 37-21813, 37-21815, and 37-21817

Dear Lessor:

Water rights **37-21811, 37-21813, 37-21815, and 37-21817** were leased into the Water Supply Bank (Bank) as of October 23, 2018, 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, 2023,** 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 287-4800.

Sincerely,

for Debra Budd
Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lakey – Water District 37
Fritz Haemmerle – Haemmerle Law
Hiawatha Canal Co

Hersley, Jean

From: Skinner, Corey
Sent: Monday, November 19, 2018 9:41 AM
To: Hersley, Jean
Subject: RE: WSB Leases for West of First

No concerns from me on these.

From: Hersley, Jean
Sent: Monday, November 19, 2018 8:53 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Kevin Lakey <watermanager@cableone.net>
Subject: WSB Leases for West of First

These leases are renewals of leases already active in the WSB. Please let me know if you have any comments or concerns with 7 days. Thank you.

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

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 19, 2018

WEST OF FIRST
9533 W PICO BLVD FL 2
LOS ANGELES CA 90035-1201

RE: APPLICATION TO LEASE WATER RIGHTS 37-22910, 37-22911, 37-22912 & 37-22913-CONTRACT 867 & WATER RIGHTS 37-22890, 7-22892, 37-22894 & 37-22896-CONTRACT 868 & WATER RIGHTS 37-21811, 37-21813, 37-21815 & 37-21817-CONTRACT 869

******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 of each 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,

Jean Husley

Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Haemmerle Law Office

Hersley, Jean

From: Hersley, Jean
Sent: Monday, November 19, 2018 8:53 AM
To: Skinner, Corey; 'Kevin Lakey'
Subject: WSB Leases for West of First
Attachments: Lease Application Review 37-21811 et al.xls; Report - Lease Contract -869.docx; Lease Application Review 37-22890 et al.xls; Report - Lease Contract - 868.docx; Lease Application Review 37-22910 et al.xls; Report - Lease Contract -867.docx

These leases are renewals of leases already active in the WSB. Please let me know if you have any comments or concerns with 7 days. Thank you.

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

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: West of First

Memo Date: November 15, 2018

Water Right Number(s): 37-21811, 37-21813, 37-21815 & 37-21817

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)**	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		
	Other (explain in comments)			
6	**Water Right validity**			
	Decreed/Licensed/Statutory claim date (write in comments section)			2011
	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		2016-2018
7	**Injury to other water rights**			
	If the POD is through a delivery entity, was consent provided?	x		
	If the POD is through a delivery entity, was holdback required? (percentage in comments)	x		20%
	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		
		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)			
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	x		
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 October 23, 2018. These rights are currently within the Bank until the end of 2021. The applicant wants to supercede contract 665 to keep all their water rights with the same end date in the Bank. Contract 665 will end on December 31, 2018 and this lease will be for 2019-2023. These rights were decreed in 2011 and were placed in the Bank in 2016. forfeiture is not an issue. The water for these rights is delivered through the Hiawatha Canal and they are requiring a 20% hold back for conveyance loss. These rights are currently within WD 37.

Condon, Mary

From: Fritz Haemerle <fxh@haemlaw.com>
Sent: Thursday, November 08, 2018 4:19 PM
To: Condon, Mary
Subject: RE: West of First, LLC Lease Application 1212

Mary:

Thank you for bringing this to my attention. My client wants you to process all the applications, which would put all the rights on the same cycle through 2023.

If there is anything else your require, do not hesitate to call. Thank you.

Fritz X. Haemmerle
HAEMMERLE LAW, P.L.L.C.
P.O. Box 1800
Hailey, ID 83333
Tel: (208) 578-0520
FAX: (208) 578-0564

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From: Condon, Mary [mailto:Mary.Condon@idwr.idaho.gov]
Sent: Wednesday, November 07, 2018 4:36 PM
To: Fritz Haemerle
Subject: West of First, LLC Lease Application 1212

Mr. Haemmerle,

We have received lease applications for water rights **37-21811, 37-21813, 37-21815 & 37-21817.** These water rights are fully leased into the bank from 2017 to 2021 under contract ID 665.
Is it your intent to have the current lease superseded and have a new lease for these rights in contract from 2019 to 2023 or has this been in error?
Kindly respond and I can have the applications returned and associated filing fee refunded promptly.

The other set of lease applications for water rights 37-22890, 37-22892, 37-22894 & 37-22896 for 2019-2023 are currently ready for review by our staff.

Best,
Mary

Mary Condon
Water Supply Bank Specialist
Planning & Projects Bureau
Idaho Department of Water Resources
Main: (208) 287-4936
Fax: (208) 287-6700

HAEMMERLE LAW, P.L.L.C.
Attorney & Counselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

October 23, 2018

RECEIVED
OCT 26 2018
DEPARTMENT OF
WATER RESOURCES

Idaho Dept. of Water Resources
c/o Amanda Veibell
P.O. Box 83720
Boise, ID 83720-0098

Re: Fee for Water Bank Applications (West of First, LLC and Hailey II, LLC)

Dear Amanda:

Per your request for fees, please find enclosed the following checks:

1. $1,500.00 to cover Water Bank fees for West of First, LLC
2. $100.00 for the Name Change on West of First, LLC
3. $500.000 for Water Bank fees for Hailey II, LLC

Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.

Fritz X. Haemmerle

FXH: fxh
Encl
cc: client

HAEMMERLE LAW, P
Attorney & Counselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

October 10, 2018

RECEIVED
OCT 23 2018
DEPARTMENT OF
WATER RESOURCES

Idaho Dept. of Water Resources
c/o Water Bank, Remington Buyer
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Bank Applications (West of First, LLC Water rights 37-21811, 37-21813, 37-22815, 37-22817, 37-22890, 37-212892, 37-22894, 37-22896, 37-22910, 37-22911, 37-22912, 37-22913).

Dear Remington:

This firm represents the Applicant, West of First, LLC. The purpose of this letter is to place the aforementioned water rights in the Water Bank.

I have enclosed with this letter:

(1) Applications for 37-21811, 37-21813, 37-22815, 37-22817, 37-22890, 37-212892, 37-22894, 37-22896, 37-22910, 37-22911, 37-22912, 37-22913);

(2) proof of authority for Mark Caplow;

(3) one completed W-9 Form for the West of First, LLC;

(4) maps showing the POD and POU for the water rights;

(5) a consent letter from the Hiawatha Canal; and

(6) and a check for $1,500.00 to cover the fee for banking the three (3) sets of stacked water rights.

Water rights 37-22910, 37-22911, 37-22912 and 37-22913 are being banked by West of First, LLC. These rights have an associated Name Change from Emosa Hailey LP to West of First. I have included a Name Change for these rights along with a Quitclaim Deed and a separate check for $100.00 to cover the Name Change.

Please confirm receipt of this Application. If you require any further information, please advise.

Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.

Fritz X. Haemmerle

FXH: fxh
Encl
cc: client