

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 817

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

RECEIVED

AUG 30 2018

**DEPARTMENT OF
WATER RESOURCES**

LESSOR: THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE #1101
SEATTLE, WA 98101-2643

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 July 20, 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)
37-426B	4/1/1887	SILVER CREEK, tributary to LITTLE WOOD RIVER	0.06	5.25	1.5
Combined Lease Totals			0.06	5.25	1.5

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, 2018 to December 31, 2022. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 817

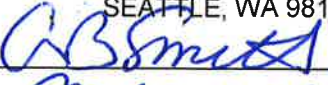
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right 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. 817

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

LESSOR: THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE #1101
SEATTLE, WA 98101-2643

By 
Title Manager
Date 8/26/18

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 8/31/2018

Lease approved by IDWR 

Date 8-31-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 817

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): 37-426B

SILVER CREEK NESW Sec. 20 Twp 01S Rge 20E BLAINE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-426B	IRRIGATION	04/15	to	10/31	0.06 cfs	5.25 AF
Totals:					0.06 cfs	5.25 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	
01S	20E	20			1.0					0.5									1.5

Total Acres: 1.5

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. 817

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 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 diversions.
13. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
14. 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.
15. The unleased portion of this right is limited to 26.5 acres and 0.99 cfs.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 817

37-426B
Effective until December 31, 2022

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



0 250 500 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUL 20 2018

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant The Willows at Silver Creek LLC

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

Water Right No. 37-426B

(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>250.00</u>	Received By: <u>A. Shaul</u>	Date Received: <u>7/20/18</u>	Receipt # <u>C105402</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Gregory B. Smith</u>	

1132

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 The Willows at Silver Creek LLC

Mailing Address 1301 4th Avenue, #1101, Seattle, WA, 98101

Street City State Zip Code

Email Address greg@urbanvisions.com Phone Number (206) 909-5009

☒ 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 James P. Speck Organization Speck & Aanestad, A Professional Corp.

Professional Title attorney Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, ID 83340 Phone Number 208-726-4421

☐ 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.

Pump in Silver Creek, buried mainline to sprinkler irrigation 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. None

- 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.

- 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: 2018 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.



Signature of Designated Applicant

Gregory B. Smith, Manager

Printed Name

6/1/18
Date

James P. Speck

Printed Name

Date

Signature of Authorized Representative

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

<u>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>37-426B</u>	<u>Irrigation</u>	<u>0.06</u>		<u>1.6</u>
	Total Amounts:	<u>0.06</u>		<u>1.6</u>

2. Source of water Silver Creek tributary to Little Wood River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
1S	20E	20			NE	SW	Blaine

NWNE

NE NW

SWNE

NE SW

NWSE

The USDA Forest Service

01S20E

1.0A

0.6A

SE NW

APPLICATION TO LEASE PORTION OF 37-426B
THE WILLOWS AT SILVER CREEK LLC
ATTACHMENT 3



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

September 4, 2018

THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE #1101
SEATTLE WA 98101-2643

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-426B

Dear Lessor:

Water right **37-426B** was leased into the Water Supply Bank (Bank) as of July 20, 2018, 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, 2022**, 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,


John E. Gidd
Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Kevin Lakey – Water District 37
James Speck – Speck & Aanestad

RECEIVED

AUG 30 2018

DEPARTMENT OF
WATER RESOURCES

Greg Smith
The Willows at Silver Creek LLC
1301 4th Ave. #1101
Seattle, WA 98101

August 27, 2018

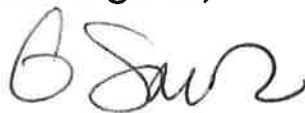
Jean Hersley
Dept of Water Resources
Water Rights Section
P.O. Box 83720
Boise, ID 83720-0098

Dear Ms. Hersley,

Please find enclosed two original Water Supply Bank Lease Contracts.

I can be reached at 206-550-9725 if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to read "G. Smith", written over the printed name.

Greg Smith
The Willows at Silver Creek LLC



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

August 14, 2018

THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE # 1101
SEATTLE WA 98101-2643

RE: APPLICATIONS TO LEASE WATER RIGHT 37-426B 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, 2022**, 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 rights may not be available for immediate release if they have 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

Enclosure: Proposed Lease Contracts

c: Speck & Aanestad

BCI: 83720098 0127N213002-00310
UNABLE TO FORWARD
RETURN TO SENDER
INSUFFICIENT ADDRESS
NIXIE 980 CC 1700 0107/31/18

980 981 98101 C3-97
PRRT FIRST-CLASS MAIL
U.S. POSTAGE PAID
Boise, ID
PERMIT# 1
6020180727-112458382
6 RETURN SERVICE REQUESTED
98101

RECEIVED

AUG 06 2018

DEPARTMENT OF
WATER RESOURCES

re-sent 8-14-18
same address
#1101

THE WILLOWS AT SILVER CREEK
LLC
1301 4TH AVE #101
SEATTLE WA 98101-2643

JA

Hersley, Jean

From: Skinner, Corey
Sent: Thursday, July 26, 2018 4:05 PM
To: Hersley, Jean
Subject: RE: WSB Lease contract for 37-426B

No issues from me.

From: Hersley, Jean
Sent: Thursday, July 26, 2018 1:47 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Kevin Lakey <watermanager@cableone.net>
Subject: WSB Lease contract for 37-426B

Attached is the review memo, draft contract and map. Please let me know within 7 days if you have any comments or concerns. 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

July 26, 2018

THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE #101
SEATTLE WA 98101-2643

RE: APPLICATIONS TO LEASE WATER RIGHT 37-426B 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, 2022**, 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 rights may not be available for immediate release if they have 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,

for Jan Husley
Water Supply Bank

Enclosure: Proposed Lease Contracts

c: Speck & Aanestad

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, July 26, 2018 1:47 PM
To: Skinner, Corey; 'Kevin Lakey'
Subject: WSB Lease contract for 37-426B
Attachments: Lease Application Review Checklist July 2017.xls; Lease Contract - # 817 37-426B.docx; Leased acres.pdf

Attached is the review memo, draft contract and map. Please let me know within 7 days if you have any comments or concerns. Thank you.

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

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: The Willows at Silver Creek LLC

Memo Date: July 26, 2018

Water Right Number(s): 37-426B

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	x		
	All of right			
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)			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?			
	If the POD is through a delivery entity, was holdback required? (percentage in comments)		na	%
	Any other concerns			
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)		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	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	

Narrative: The Department received this application on July 20, 2018. The applicant wishes to place a portion, 1.5 acres, in the Bank. Gregory B Smith signed the application. See attached LLC Agreement, item 5 for registered agent. This right was decreed in 2010. the aerial photography suggests irrigation took place in 2013 and again in 2016. Forfeiture is not an issue. IDF&G quitclaimed the right to Picabo Livestock Co, Inc in February, 2018, who in turned quit claimed the right to The Willows. The portion of the water right that is being offered to the Bank is on IDF&G property. The Willows has easement agreements to this land. There are no overlapping rights. This right is currently within WD 37.

**LIMITED LIABILITY COMPANY AGREEMENT
OF
The Willows at Silver Creek LLC**

THIS LIMITED LIABILITY COMPANY AGREEMENT ("*Agreement*") is made and entered into effective as of November 16, 2017, by and among those members whose names and signatures appear on the signature pages of this Agreement.

1. Definitions. The following definitions shall apply for purposes of this Agreement (unless otherwise expressly noted herein):

"*Act*" means the Washington Limited Liability Company Act (Revised Code of Washington Ch. 25.15), and any amendments thereto and successors thereof.

"*Certificate of Formation*" means the certificate of formation filed with the office of the Secretary of State of the State of Washington to form the Company, as such may be amended from time to time.

"*Company*" means The Willows at Silver Creek LLC, a Washington limited liability company.

"*Manager*" means Gregory B. Smith and any other Person who may become a substitute or additional Manager.

"*Member*" means each person who executes a counterpart of this Agreement as a Member and each person who may hereafter become a Member. If a Manager has purchased a Membership Interest in the Company, it will have all the rights of a Member with respect to such Membership Interest, the term "Member" shall include a Manager if it has purchased a Membership Interest.

2. Formation. The Company was formed on September 29, 2017, when the Certificate of Formation was filed with the office of the Secretary of State in accordance with the requirements of the Act.

3. Name. The name of the Company is The Willows at Silver Creek LLC.

4. Principal Place of Business. The Company's principal place of business shall initially be 816 Second Avenue, Suite 300, Seattle, Washington 98104. The Company may locate its places of business at any other place or places as Manager may from time to time deem advisable.

5. Registered Office and Registered Agent. The Company's registered agent is Gregory B. Smith, and the address of its registered office is 816 Second Avenue, Suite 300, Seattle, Washington 98104. The registered office and registered agent may be changed by Manager from time to time by filing an amendment to the Certificate of Formation.

6. Term. The term of the Company shall commence upon the filing of the Certificate of Formation and shall have a perpetual existence, unless the Company is sooner dissolved by the unanimous consent of the Member.

7. Member. The name and address of the Member are set forth on attached Schedule 1, as amended from time to time.

8. Purpose. The Company is authorized to purchase, own, finance, develop, operate for the production of income, improve and alter, lease and sell or otherwise dispose of the real property located at Bare ground, Picabo, Idaho (the "*Property*"), and to exercise all other powers necessary to or reasonably connected with the Company's business which may be legally exercised by a limited liability company under the Act.

9. Management. The business and affairs of the Company shall be managed by the Manager. The Manager shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business.

10. Liability of Members. No Member shall be personally liable merely by reason of being a member of the Company, for any debt, obligation or liability of the Company beyond the Member's capital contribution, except as otherwise provided in the Act.

11. Indemnification. The Company shall indemnify the Member and the Manager for all loss, liability or expense incurred by the Member or the Manager, respectively, in connection with the Company's business to the fullest extent permitted by the Act.

12. Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Washington, including without limitation, the Act.

13. Amendments. This Agreement may be amended only in writing by the Member.

[Signatures on following page]

EXECUTED by the undersigned Member effective as of the date first above written.

MEMBER:



Gregory B. Smith

SCHEDULE 1

MEMBER INFORMATION

Members:	Units:	Percentage Interest:
Gregory B. Smith 816 Second Avenue, Suite 300 Seattle, WA 98104	100	100%

UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, KIM WYMAN, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

CERTIFICATE OF FORMATION

to

THE WILLOWS @ SILVER CREEK LLC

a/an WA Limited Liability Company. Charter documents are effective on the date indicated below.

Date: 11/2/2017

UBI Number: 604-180-734



Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Kim Wyman, Secretary of State

Date Issued: 11/3/2017

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

RECEIVED
JUL 20 2018
DEPARTMENT OF
WATER RESOURCES

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

July 18, 2018

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

**Re: *The Willows at Silver Creek, LLC - Application to Lease a Portion of
Water Right 37-426B to the Water Supply Bank***

Dear Remington:

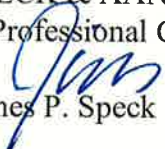
Enclosed you will find the original and one (1) copy of the above-referenced Application. The portion proposed for the Lease has been used to irrigate the adjacent property owned by the Idaho Department of Fish and Game. That irrigation occurred for many years under the prior ownership of the land now owned by my client, the applicant in this case. The extent of the encroachment was discovered and brought to our attention by Corey Skinner in the course of a change in the point of diversion for this water right that was part of the transaction whereby my client purchased the property and water right from the prior owner.

Please let me know right away if you have any questions or comments about this Application. Also have your staff receipt date stamp the enclosed copy of the Application and return it to me in the postage prepaid self-addressed envelope we have included for that purpose.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation


James P. Speck

JPS:rh

Encls.

cc: Mr. Greg Smith w/ Application