

RECEIVED

DEC 01 2017

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT NO. 683**

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

LESSOR: FORMATION CAPITAL CORP US
812 SHOUP ST
SALMON, ID 83467

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 Wednesday, November 01, 2017.
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)
75-7073	11/23/1976	BUCKTAIL CREEK, tributary to SOUTH FORK BIG DEER CREEK	1.00	724
Combined Lease Totals			1.00	724

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.

WATER SUPPLY BANK LEASE CONTRACT NO. 683

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.



WATER SUPPLY BANK LEASE CONTRACT NO. 683

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

LESSOR: FORMATION CAPITAL CORP US
812 SHOUP ST
SALMON, ID 83467

By Michele Tucker
Title Enviro Mgr
Date 11-20-17

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 12/4/2018

Lease approved by IDWR Cheryl Watson

Date 12-4-2018

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 683**

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): 75-7073

BUCKTAIL CREEK SESE Sec. 17 Twp 21N Rge 18E LEMHI County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
75-7073	MINING	1/01	to	12/31	1.00 cfs	724 AF
Totals:					1.00 cfs	724 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: MINING

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21N	18E	8			x	x													

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.
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.

WATER SUPPLY BANK LEASE CONTRACT NO. 683

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.

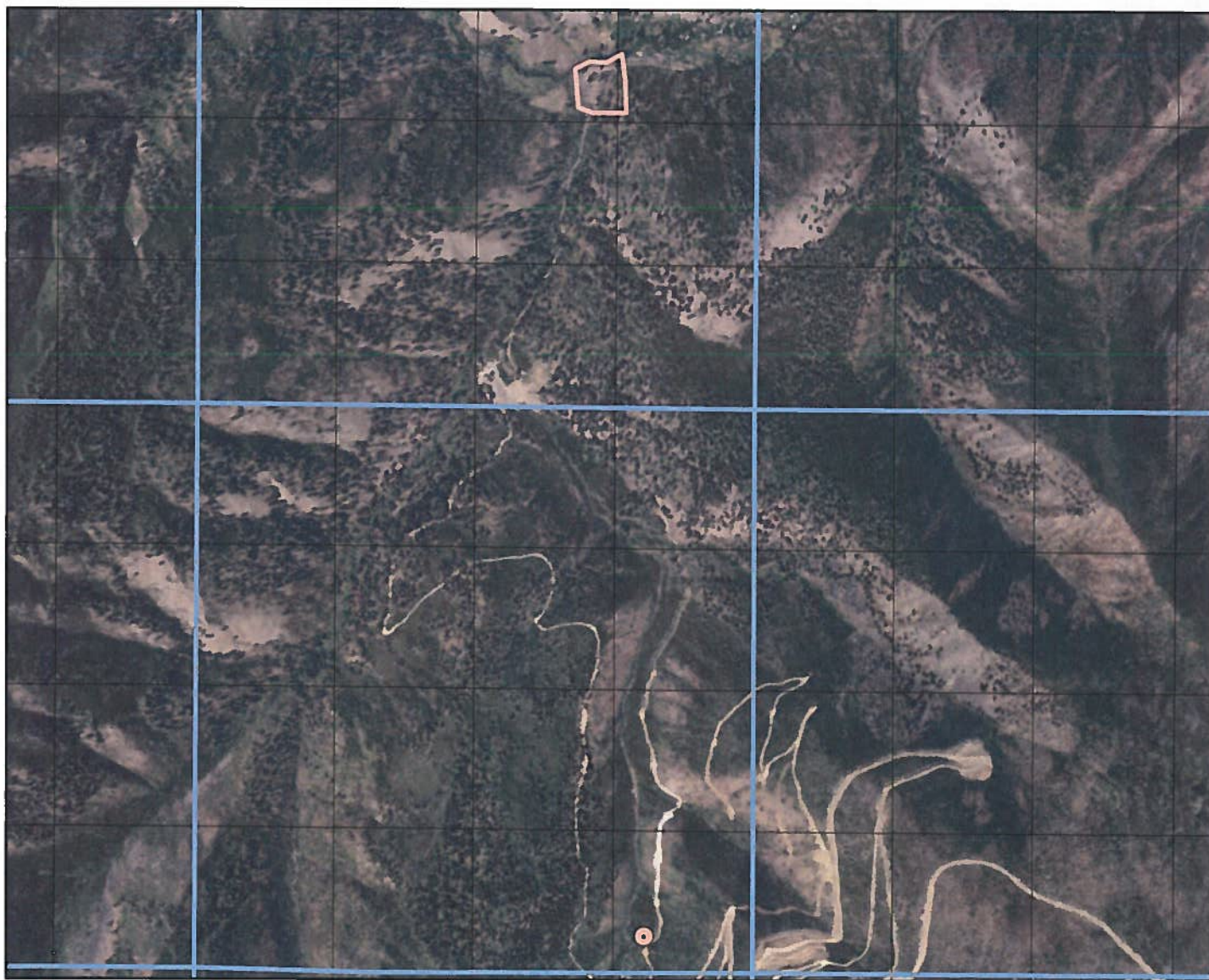


Idaho Water Resource Board
Water Supply Bank Lease Contract No. 683

75-7073

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 0.25 0.5 0.75 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

OCT 02 2017

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Formation Capital Corporation, U.S.
(Select one owner – see item 1A on the application)

Water Right No. 75-7073
(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 <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>an</u>	Date Received: <u>10/2/17</u>	Receipt # <u>C104187</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>FORMATION CAPITAL CORPORATION, US</u>	

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 Formation Capital Corporation U.S.

Mailing Address 812 Shoup St., Salmon, Idaho 83467

Street City State Zip Code

Email Address shilton@formcap.com Phone Number 208-756-4578

☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☒ 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.
portable pump with intake pipe in Bucktail Creek
- 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. 75-13977 - Ground water right for storage in two holding ponds located in same mine operation
- 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. maximum of 1.0 cfs in support of mine construction and operation
- 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: 1/1/18 to 1/1/23 (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.

Shana Hulton
Signature of Designated Applicant

Shana Hulton Admin Dir 9/26/2017
Printed Name Date

Signature of Authorized Representative

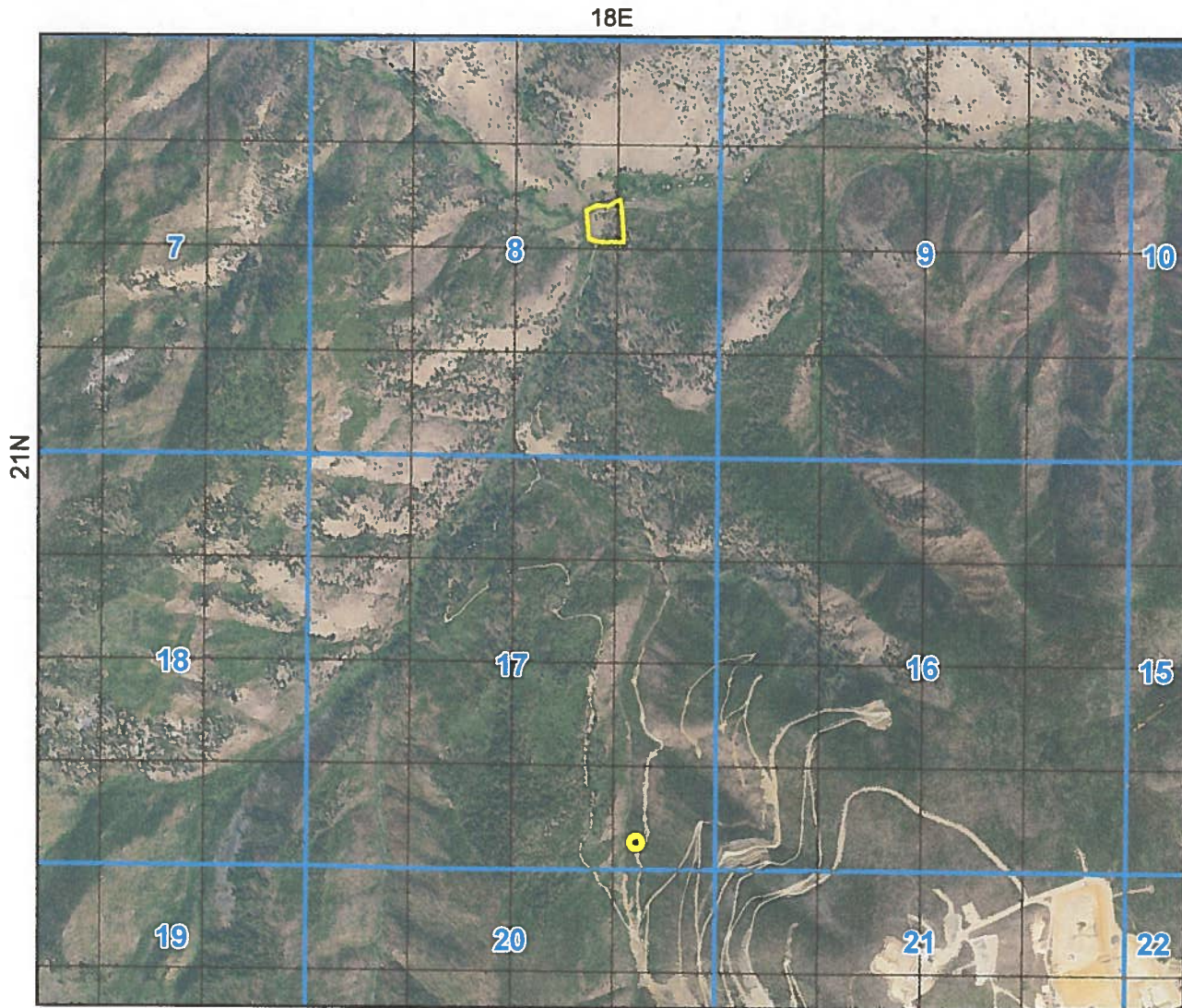
Printed Name

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
75-7073****MINING**

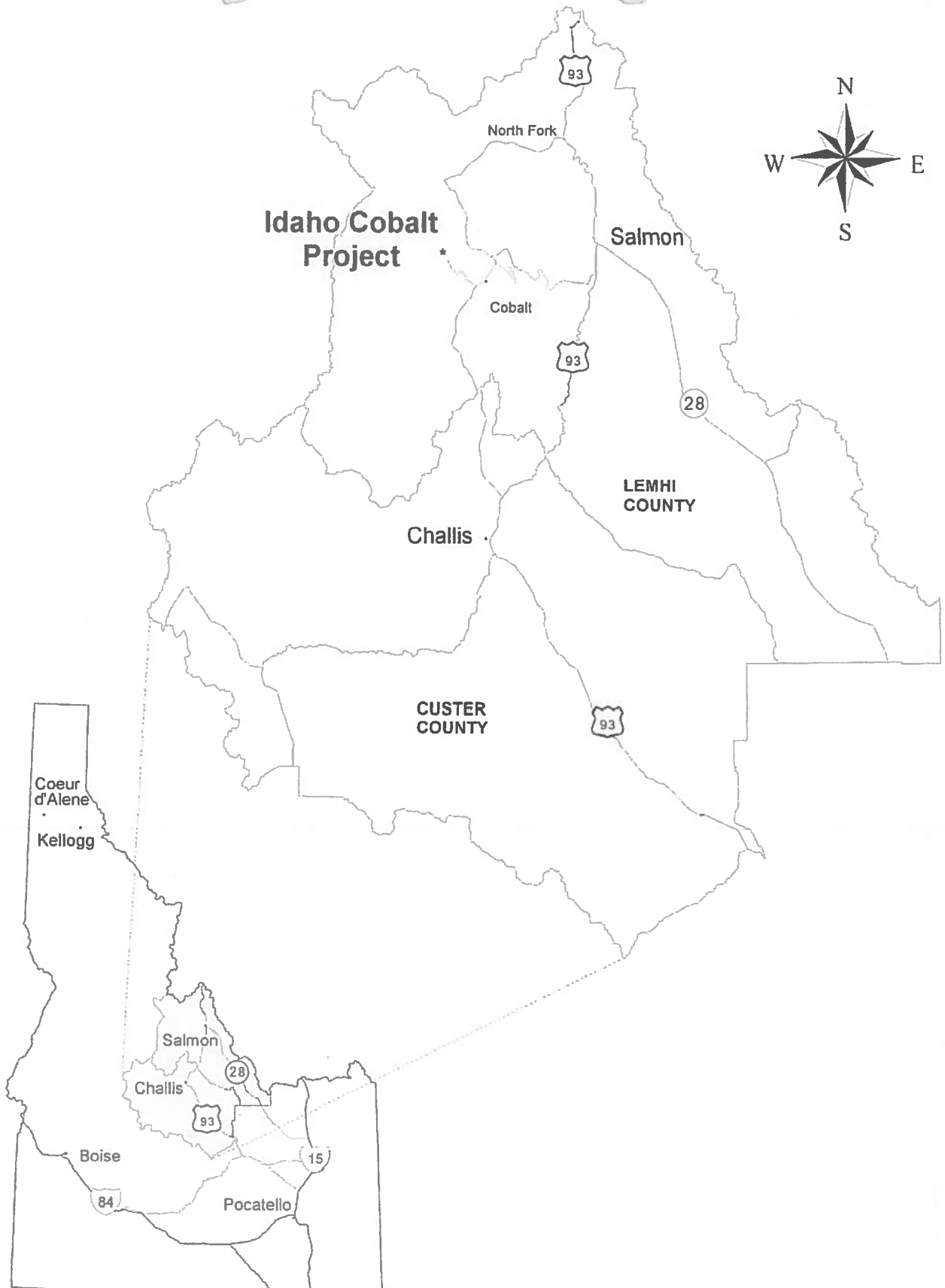
The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be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



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

0 0.275 0.55 1.1 Miles





Formation Capital Corporation
Idaho Cobalt Project

Map
Attachment 3 -1



United States
Department of
Agriculture

Forest
Service

Salmon-Challis
National Forest
Supervisor's Office

1206 S. Challis
Salmon, ID 83467
208 756-5100

Attachment 3K

File Code: 2810

Date: December 8, 2009

Formation Capital Corporation
812 Shoup Street
Salmon, ID 83467
Attn: William Scales

Dear Bill:

Enclosed is the Forest Service Evaluation for your 12-09 Idaho Cobalt Project mining plan of operations for the activities on National Forest lands in the Blackbird, Big Deer and Bucktail Creek drainages on the Salmon/Cobalt Ranger District. This document lists the modifications required for approval of your plan.

Procedurally, you may: 1) Appeal the decision to require modifications of the Plan of Operations. If you elect to do this, you must submit (within 45 days of receipt of this letter), a written statement explaining why you believe the decision is in error or is contrary to existing law or regulations; or 2) Incorporate the modifications by signing the enclosed Forest Service Evaluation for this plan. A signature on this form documents your agreement to incorporate, by reference, these measures into the plan. If you elect to sign the evaluation form, please return it to this office.

Your plan contains a number of items that are required for you to complete prior to commencing surface disturbing activities. In order to track these items I have listed them below. FCC shall:

- Work with the Forest Service to form an Inter-Agency task force to provide oversight of the ICP. In conjunction with the Forest Service conduct an Inter-Agency meeting prior to surface disturbing activities.
- Provide designs for TWSF and Ponds, Topsoil Stockpile Area, roads to and around the Millsite and TWSF, and the Mill and Concentrator Pads and obtain SCNF approval for areas to be cleared.
- Provide documentation from the EPA that winter work plans and the FCC Health and Safety and Security Plan are consistent with plans of other entities working at the site.
- Obtain a signed Road Use Permit.
- Ensure Assignment of FCC's Right of Way for the private land portions of the Blackbird Road to the USDA Forest Service is properly recorded.



This decision authorizes construction activities outside the normal operating season of June 1, to November 30 for Stage I activities. Any future operational activities, including operating outside of the normal operating season must be authorized by the District Ranger.

Since the bond is posted, once you have completed item 2 noted above, a copy of the Forest Supervisors signed evaluation form approving stage I will be returned to you.

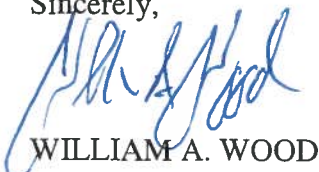
Prior to commencing activities for Stage II Formation Capital Corporation is required to:

Note: Stage II Activities consist of Road and facility construction, timber clearing not completed in Stage I, Phase 1 of TWSF and mine development to the water table

- Provide Documentation of approval from the CERCLA RPM and Forest Service CERCLA PM for any designs or activity that would affect existing wastes, rock piles water diversions, and other remedial measures in place to ensure design performance is not adversely impacted and thereby ensure protection of the Blackbird remedy.
- Provide an agreement to the Forest Service indicating permission to utilize power lines across private property to the ICP prior to any underground mining activity.
- Finalize, Appendix M, Post-Mining Groundwater Capture Plan for the Salmon-Cobalt Ranger District's approval prior to any underground mining activities. The Groundwater Capture Plan must be approved by the District Ranger.
- Post \$5,757,391.00 financial assurance for the surface disturbing aspects of Stage II, activities.

For further information please contact Russ Bjorklund @ 208-756-5283.

Sincerely,



WILLIAM A. WOOD
Forest Supervisor

- Coordinate with the Forest Hydrologists in ensuring design features for sediment capture facilities on National Forest System Lands identified in Appendix G are properly installed prior to initiating construction activities and or concurrently with activities ie. Road construction.
- Post \$5,757,391.00 financial assurance for the surface disturbing aspects of Stage II, activities.

STAGE III

- Prior to mine development past the water table Post \$20,572,476.00 long term water treatment financial assurance.

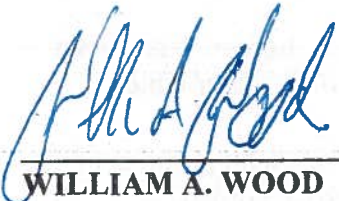
This Plan of Operations, including all provisions made herein and attachments thereto, meeting requirements under 36 CFR 228.4, are approved and mutually agreed upon by the UNITED STATES OF AMERICA, acting through the USDA-FOREST SERVICE, Salmon-Challis National Forest, Salmon/Cobalt Ranger District, and MINING CLAIMANTS / OPERATORS:

Approval of this operating plan does not constitute recognition or certification of ownership by any person named as owner herein.

Approval of this operating plan does not constitute now or in the future recognition or certification of the validity of any mining claim to which it may relate or to the mineral character of the land on which it lies.

UNITED STATES OF AMERICA

MINING CLAIMANT/OPERATOR



WILLIAM A. WOOD

Forest Supervisor

Salmon-Challis National Forest



AUTHORIZED REPRESENTATIVE



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 5, 2017

FORMATION CAPITAL CORP US
812 SHOUP ST
SALMON ID 83467

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 75-7073

Dear Lessor:

Water right **75-7073** was leased into the Water Supply Bank (Bank) as of November 1, 2017, 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,


Debby Cudd
Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region



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 15, 2017

FORMATION CAPITAL CORP US
812 SHOUP ST
SALMON ID 83467

RE: **APPLICATION TO LEASE AND RENT WATER FROM THE WATER SUPPLY BANK
WATER RIGHT NO. 75-7073**

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

Dear Applicant:

The Department of Water Resources acknowledges receipt of your applications to lease water to and rent water from the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts and a Water Supply Bank Rental Agreement for your review and signature. Please sign and return ALL Lease Contracts and Rental agreements within 14 days.** Upon signature and return of the original contracts and agreement, together with the rental fee described below, the Department will also sign the original contracts and agreement and return executed copies to you. Execution of the agreement and compliance with the conditions of approval authorize diversion and use of water as provided in the agreement.

A rental fee of **\$14,480.00** was calculated based on the current rental rate of \$20.00 per acre-foot times a diversion volume of 724.0 acre-feet. Since you are both the lessor and the renter of the right, **you are only obligated to pay the 10% administrative fee or \$1,448.00.** Please send a check for **\$1,448.00** made payable to the Idaho Department of Water Resources so I can complete processing.

The Department shall receive an annual payment prior to January 1 in all subsequent years for the duration of the rental period. The rental agreement will be void if payment is not received prior to the due date in a given year. If the rental is voided and you do not terminate the lease contract, the water rights will still be subject to rental by other parties.

If you would like to terminate the lease and rental agreement prior to the end of the lease/rental period, you must submit written notice of your intent to the Department at least 30 days prior to the rental fee due date. You may use the Request to Release a Water Right From the Bank located at <http://idwr.idaho.gov/files/water-supply-bank/WSB-Request-to-Release-a-WR-from-the-Bank.pdf>.

If all signed leased contracts, signed rental agreements and the rental fee payment is not received within 14 days your lease/rental package may be in danger of being returned without being executed. In such case, the lease application fee will not be refunded.

If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

Water Supply Bank

Enclosures:

Proposed Lease Contracts
Proposed Rental Agreement(s)
Receipt # C104187

c: IDWR Front Desk

Memorandum

To: Water Rights 75-7073
From: Sandra Thiel
Date: November 6, 2017
Re: Water Supply Bank Lease/Rental Applications for Formation Capital

Purpose/Narrative: Formation Capital Corporation first leased water right 75-7073 to the water supply bank in 2008. This lease and the accompanying rental expired in 2013. Formation submitted a second lease/rental application in 2013. They intended to rent the water through 2017. However, in December 2015 Formation Capital requested to terminate their rental agreement. According to the most recent rental application the previous agreement was released because of interim shutdown of mine construction. The right remained leased to the Bank through 2017.

The application identified the same rental place of use as previous rentals. The US Forest Service owns the lease and rental places of use and points of diversion. The Salmon-Challis National Forest supervisor determined that Formation Capital's Idaho Cobalt Project required an environmental impact statement. The attached map is from the Environmental Protection Agency's (EPA) Record of Decision for the project.

According to the 2017 Lemhi County parcel data, Noranda Mining Inc. owns land within the proposed rental place of use. The EPA's Record of Decision required Formation Capital to obtain right-of-way or access agreements through patented lands owned by Noranda.

Formation Capital intends to put the entire right into the Bank for years 2018 through 2022.

Mining diversion rate 1.0 cfs

$1.0 \text{ cfs} \times 365 \text{ days (water right season of use is year round)} \times 1.9835 = 724 \text{ AF}$

Formation Capital owns ground water permit 75-13977 which overlaps the proposed rental place of use. Proof of beneficial use was due February 2, 2015. Formation Capital filed an extension of time to submit proof extending the date to 2020. Noranda Mining Inc. holds rights 75-2094 and 75-2117 within the same quarter quarter as the proposed rental. Preston Rufe, then representative of Formation Capital, sent an email to Department staff on March 4, 2013, explaining that Noranda Mining is a different company and not affiliated with Formation Capital. Noranda owns the Blackbird mine property adjacent to Formation Capital's Idaho Cobalt Project.

Authority to File: Formation Capital Corporation U.S. submitted both the lease and rental applications. Shana Hilton signed both applications. According to the Secretary of State's webpage, Shana Hilton is listed as the contact for Formation Capital.

Water Right Validity/Forfeiture Evaluation: Water right 75-7073 was decreed in 2008 and leased into the Bank that year. The initial lease was for 2008 through 2013. A second lease expires at the end of 2017. There are no forfeiture concerns.

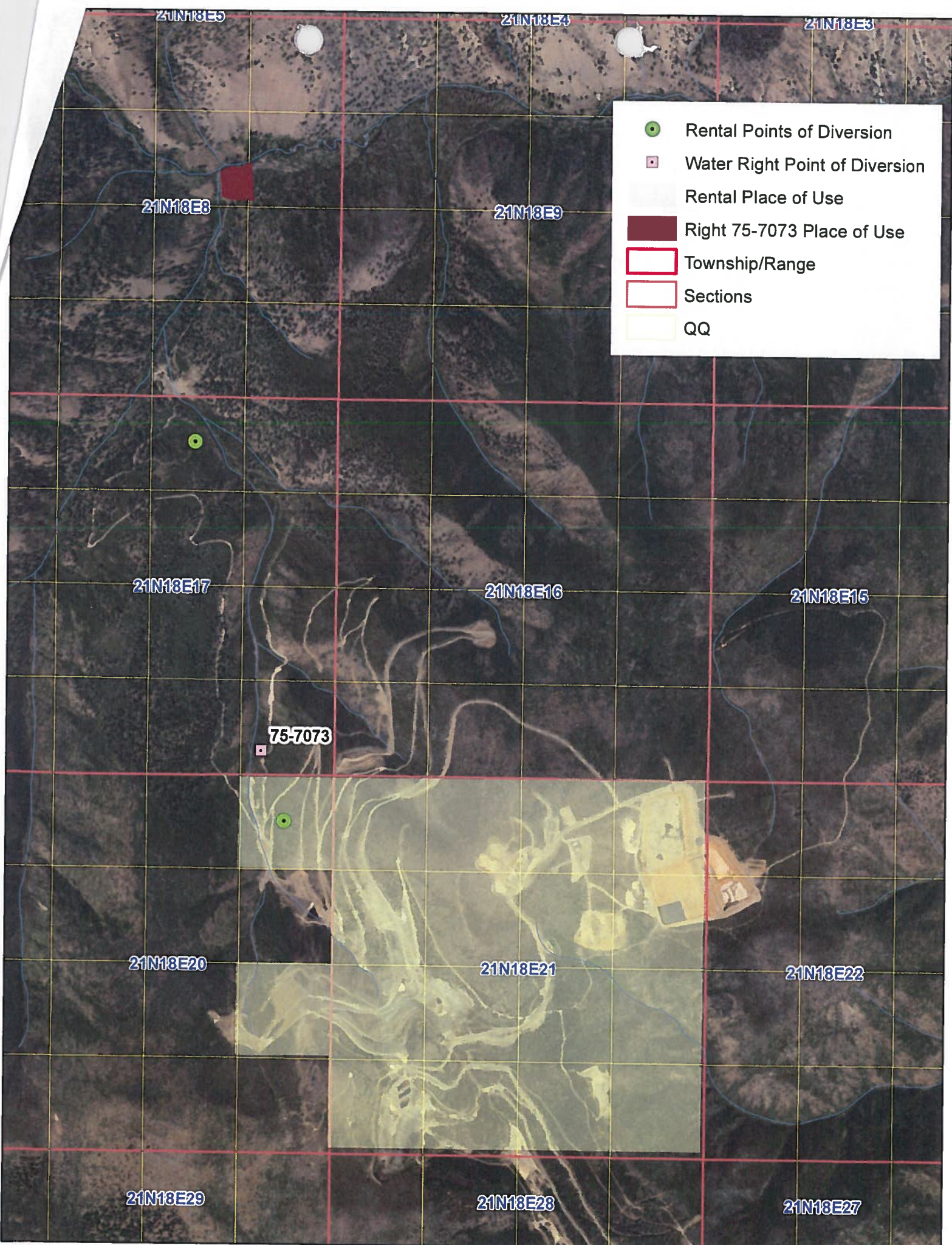
Injury to Other Water Rights: The applications are for surface water and there are no diversions between the original water right point of diversion and the proposed rental points of diversion. Both lease and rental are for mining uses. There is no record of reported injury from past lease and rentals for the same water. No injury is expected.

Enlargement of Use: No enlargement is anticipated.

Local Public Interest: Staff has no information to suggest the rental is contrary to local public interests.

Beneficial Use/Conservation of Water Resources: The application includes an attachment describing the proposed uses. In addition to diverting water for mining uses, Formation Capital intends to divert water to mining storage, and divert from storage for mining.

Department/Watermaster Comments: The lease and rental are outside of existing water districts. Eastern region did not have concerns about the lease and rental.



-  Rental Points of Diversion
-  Water Right Point of Diversion
-  Rental Place of Use
-  Right 75-7073 Place of Use
-  Township/Range
-  Sections
-  QQ

Thiel, Sandra

From: Cefalo, James
Sent: Friday, November 03, 2017 11:44 AM
To: Thiel, Sandra
Subject: RE: Formation Capital Corporation water supply bank lease/rental applications

Sandra,

I don't have any concerns or comments for the proposed WSB lease.

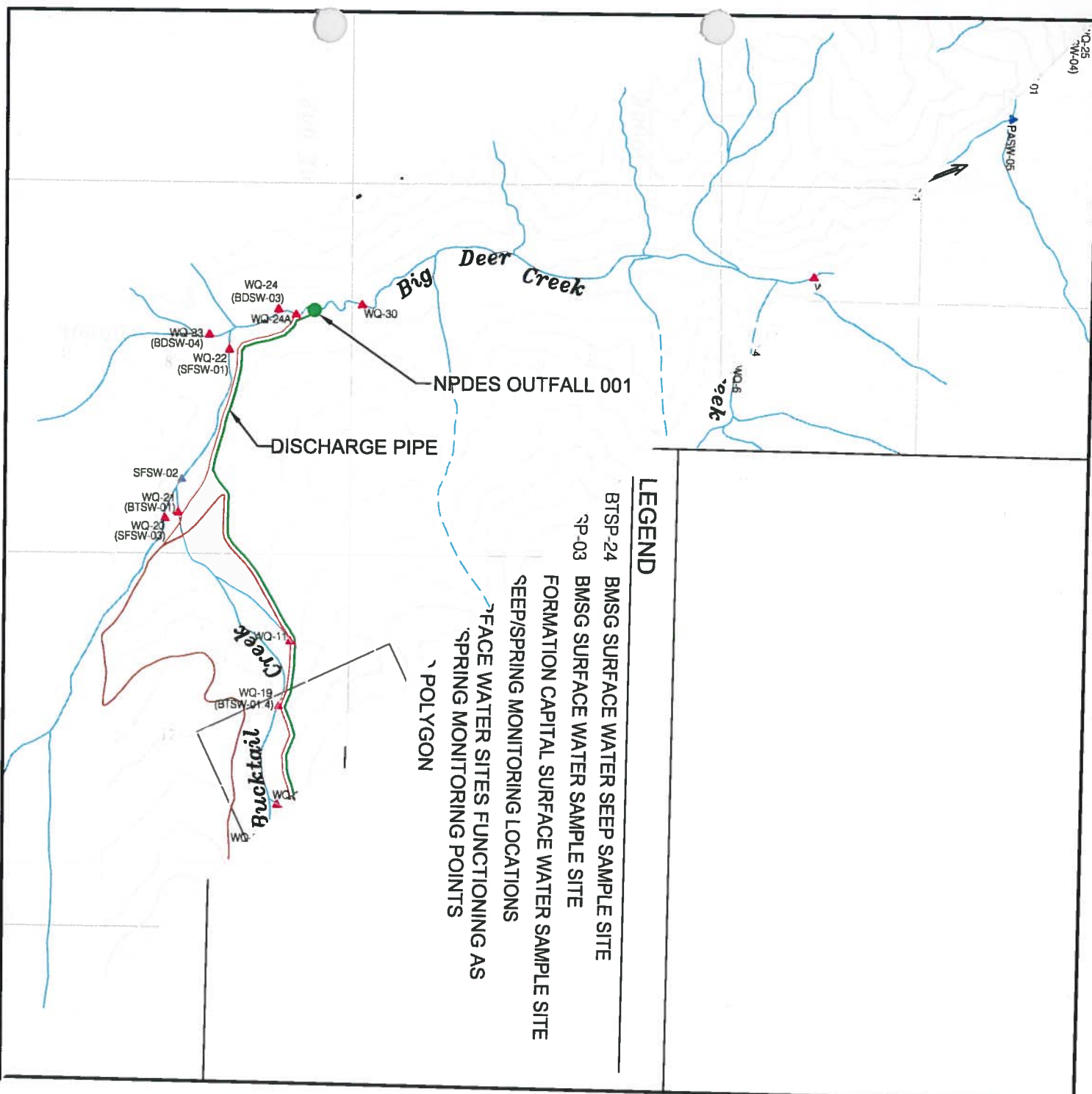
James

From: Thiel, Sandra
Sent: Friday, November 03, 2017 11:23 AM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Formation Capital Corporation water supply bank lease/rental applications

Hello James, The Water Supply Bank season has begun. Please let me know if you have any concerns about Formation Capital's lease and rental.

Sandra Beer Thiel

Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov



No. C 88737	Due no later than Feb 28, 2017 Annual Report Form		2. Registered Agent and Address (NO PO BOX)																					
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. FORMATION CAPITAL CORPORATION, U.S. SHANA HILTON 812 SHOUP ST SALMON ID 83467	CORPORATION SERVICE COMPANY 12550 W EXPLORER DR STE 100 BOISE ID 83713																						
		3. <u>New</u> Registered Agent Signature:*																						
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional). <table border="1"> <thead> <tr> <th>Office Held</th> <th>Name</th> <th>Street or PO Address</th> <th>City</th> <th>State</th> <th>Country</th> <th>Postal Code</th> </tr> </thead> <tbody> <tr> <td>PRESIDENT</td> <td>PAUL J FARQUHARSON</td> <td>1810-999 WEST HASTINGS STREET</td> <td>VANCOUVER</td> <td></td> <td>CANADA</td> <td>V6C2W2</td> </tr> <tr> <td>VICE PRESIDENT</td> <td>RICK HONSINGER</td> <td>1810-999 WEST HASTINGS STREET</td> <td>VANCOUVER</td> <td></td> <td>CANADA</td> <td>V6C 2W2</td> </tr> </tbody> </table>				Office Held	Name	Street or PO Address	City	State	Country	Postal Code	PRESIDENT	PAUL J FARQUHARSON	1810-999 WEST HASTINGS STREET	VANCOUVER		CANADA	V6C2W2	VICE PRESIDENT	RICK HONSINGER	1810-999 WEST HASTINGS STREET	VANCOUVER		CANADA	V6C 2W2
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5. Organized Under the Laws of: NV C 88737	6. Annual Report must be signed.* Signature: MARC TRAN Name (type or print): MARC TRAN Date: 01/18/2017 Title: CFO																							
Processed 01/18/2017		* Electronically provided signatures are accepted as original signatures.																						



Formation

Formation Capital Corporation, U.S.
812 Shoup Street, Salmon, Idaho 83467
Tel: 208.756.4578
Fx: 208.756.2573

RECEIVED

OCT 02 2017

DEPARTMENT OF
WATER RESOURCES

Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

September 24, 2017

Re: 75-7073

Enclosed please find an 1) application to lease, 2) application to rent, and 3) a request to release water right 75-7073. Formation Capital Corporation would like to reinstate their rental and lease agreements for this right.

In December of 2015, we requested our rental agreement be suspended due to an interim shutdown of mining activities. We are now reinitiating mine construction and operation.

We contacted Clay Webster of IDWR on September 10, 2017 to determine the process for a new rental agreement. He notified us that, as our lease was due to expire, our best course of action would be to release our existing lease and initiate a new one.

Please find the enclosed forms and application fee.

If you have any questions please contact us at 208-756-4578.

Thank you,