

AUG 19 2016

DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT

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

LESSOR: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035

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. On August 1, 2016, the Lessor filed an application to lease the water rights described below into the Water Supply Bank.
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 the 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	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
37-21811	05/01/1888	BIG WOOD RIVER	MALAD RIVER	0.26 cfs	106.0 af	30.3 ac
37-21813	09/18/1885	BIG WOOD RIVER	MALAD RIVER	0.26 cfs	160.0 af	30.3 ac
37-21815	06/30/1884	BIG WOOD RIVER	MALAD RIVER	0.51 cfs	160.0 af	30.3 ac
37-21817	03/24/1883	BIG WOOD RIVER	MALAD RIVER	0.32 cfs	160.0 af	30.3 ac
Total annual combined limits of these water rights				1.35 cfs	160.0 af	30.3 ac

Lease Totals

1.08* cfs 160.0 af 30.3 ac

*For conveyance losses.

SUPPORT DATA

IN FILE # 37-21811

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, 2016 to December 31, 2020. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

SCANNED
AUG 22 2016

WATER SUPPLY BANK LEASE CONTRACT

5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

WEST OF FIRST LLC

9533 W RICO BLVD 2ND FLOOR
LOS ANGELES CA 90085

By

Printed Name

Date

Title

IDAHO WATER RESOURCE BOARD

322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

By

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date

Lease approved by IDWR

Date

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 37-21811, 37-21813,
37-21815, and 37-21817

The water right or portion thereof leased to the bank is described as follows:

Lessor: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035

Location of Point(s) of Diversion for Water Right 37-21811, 37-21813, 37-21815 and 37-21817

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

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
37-21811	IRRIGATION	04/15 to 10/31		0.26 cfs	106.0 af
37-21813	IRRIGATION	04/15 to 10/31		0.26 cfs	160.0 af
37-21815	IRRIGATION	04/15 to 10/31		0.51 cfs	160.0 af
37-21817	IRRIGATION	04/15 to 10/31		0.32 cfs	160.0 af
Total:				1.35 cfs	160.0 af

Place of Use to be Idled Under This Lease: IRRIGATION

Twp	Rge	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					3.4 L3			4.9	20.5			1.5					30.3

Total Acres: 30.3

Conditions Applicable to All Leased Water Rights

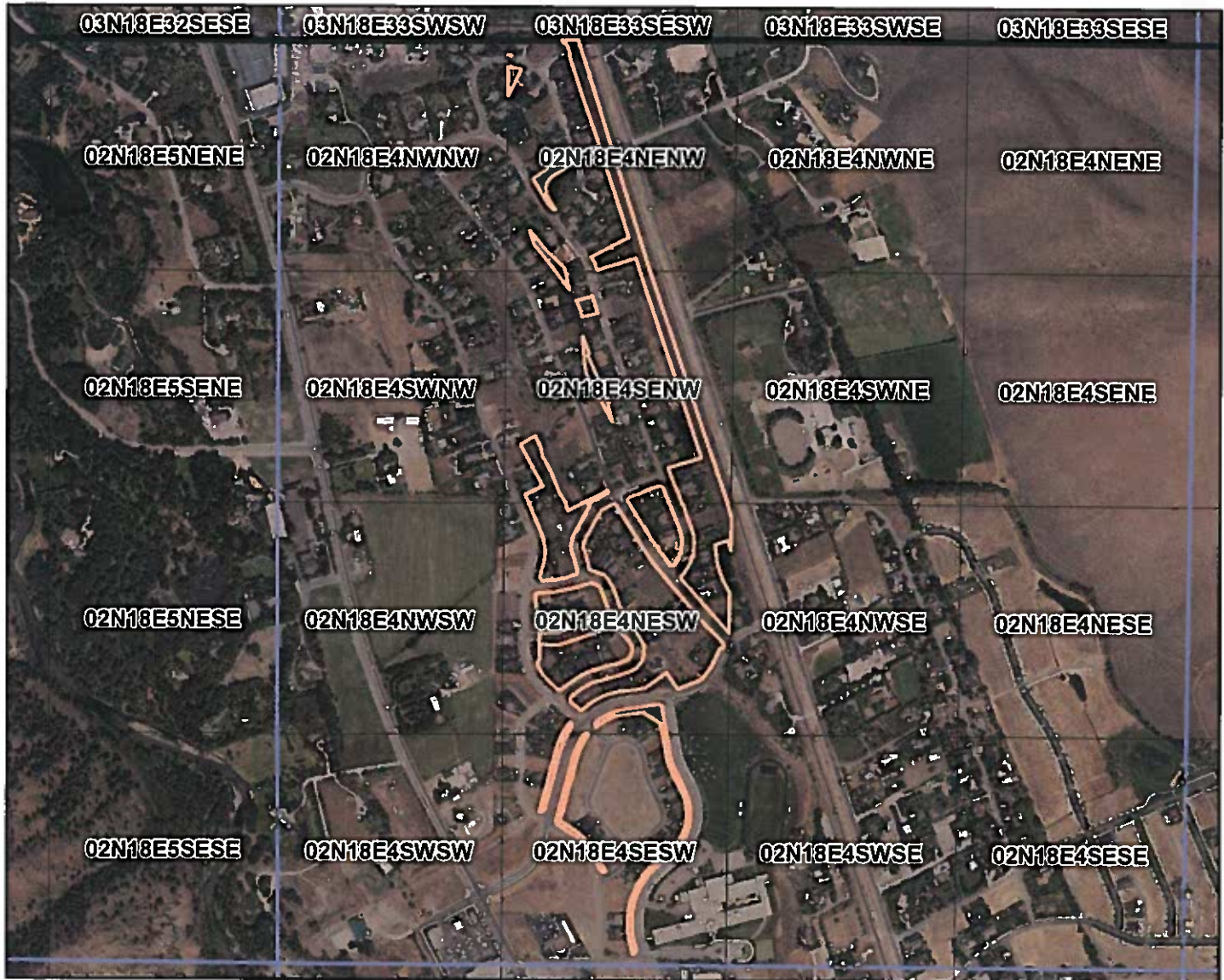
- The water rights referenced above will be rented from the bank at the current rental rate.
- There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
- While a right is in the bank, the lessor may not use the right without approval of the 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.
- 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.
- While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
- Rental of water under this right is subject to the limitations and conditions of approval of the water right.
- 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, nor does it improve the status of the right or accomplish the 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 after the following rental season.
11. The water rights leased to the bank are 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. Use of water under this right is 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.
13. The rights listed below, shall provide not 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.
14. 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 0.27 cfs of the leased portion of these rights into the Hiawatha Canal whether it is rented or not.
15. Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 are limited to the irrigation of a combined total of 30.3 acres in a single irrigation season.
16. Water diverted from Headgate #22 delivered through Hiawatha Canal.

Idaho Water Resource Board
Water Supply Bank Lease

37-21811, 37-21813, 37-21815 and 37-21817
Effective until December 31, 2020

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 Place of Use
- Townships
- PLS Sections
- Quarter Quarters



0 500 1,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

AUG 01 2016

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated 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.

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 \$ 500. Received By: Jmh Date Received: 8-1-16 Receipt # C102323

W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal) apb Name on W-9: West of First LLC

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 West Pico Boulevard, 2nd Floor 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, PLLC

Professional Title Attorney

Email Address fxh@haemlaw.com

Mailing Address P.O. Box 1800, Hailey, ID 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.

Water right being offered to the IWSB is currently not used.

- 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. 37-21811, 37-21813, 37-21815 and 37-21817; municipal rights of the City of Hailey, only used on residential lots.

- 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. Some of the residential lots are served by municipal water rights.

- 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 not been diverted.

- 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. The forfeiture period has not run on this right because the right was decreed in the SRBA court on August 30, 2011

- 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: 2016 to 2020 (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

Mark Caplow, Member

Printed Name

7/27/2016

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
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant. If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

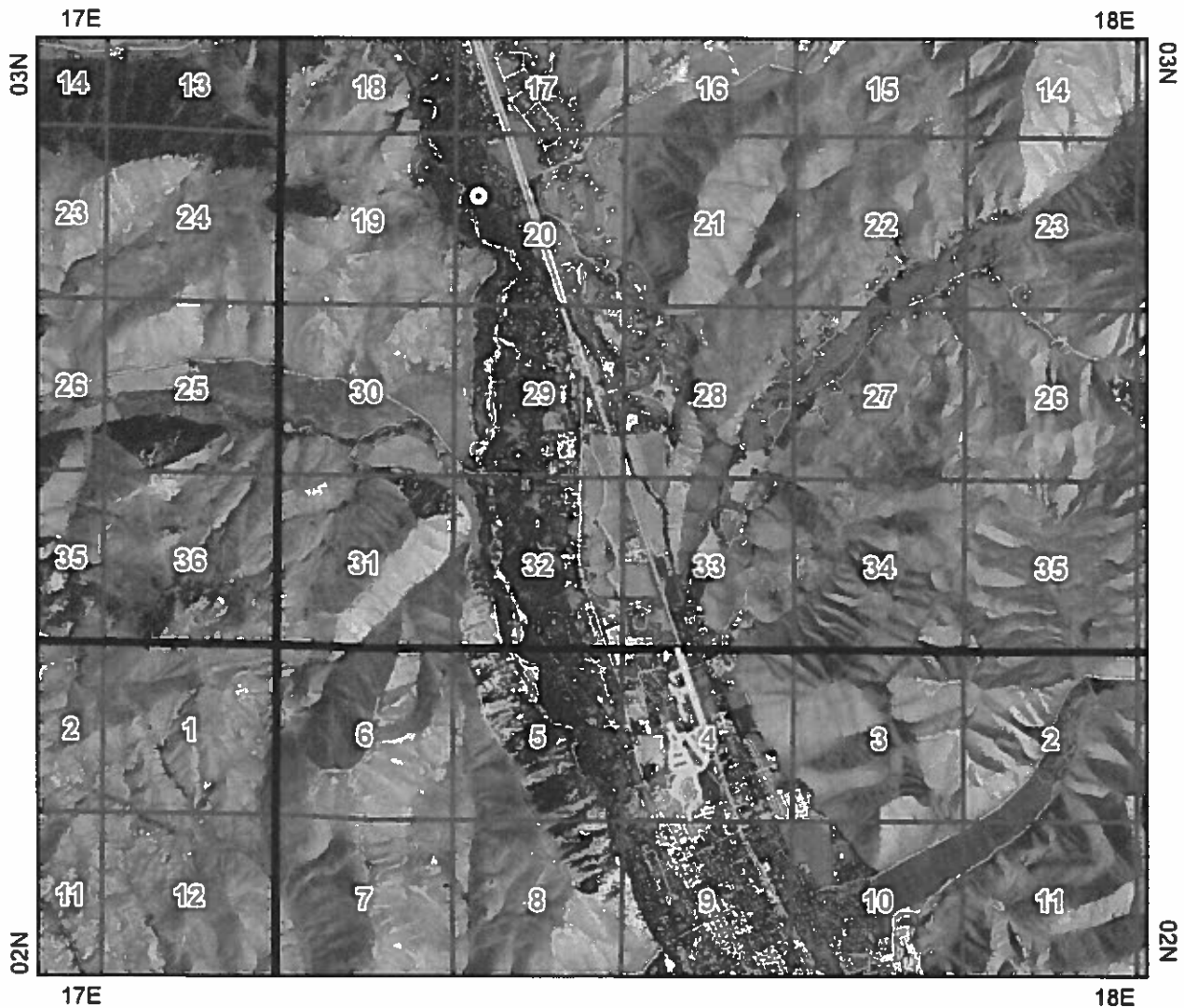
Twp	Rge	Sec	Lot	¼	¼	¼	County

State of Idaho
Department of Water Resources

Water Right
37-21811

IRRIGATION

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



0 0.5 1 2 Miles

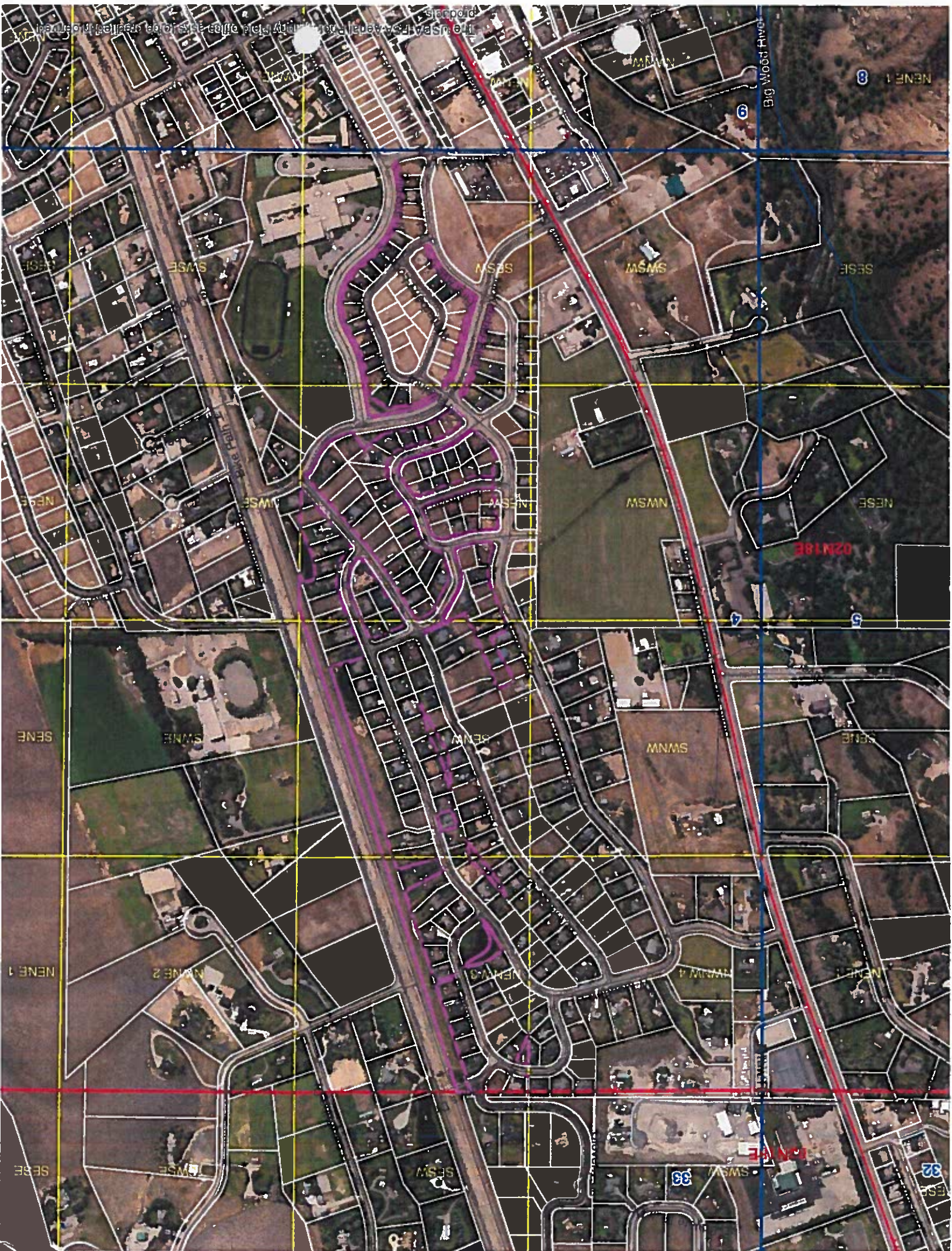
○ Point of Diversion

□ Place Of Use Boundary

□ Townships

□ PLS Sections





**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

**Fritz X. Haemmerle
HAEMMERLE LAW, P.L.L.C.
P.O. Box 1800
Hailey, ID 83333**

(space above line for Recorder's use)

QUITCLAIM DEED

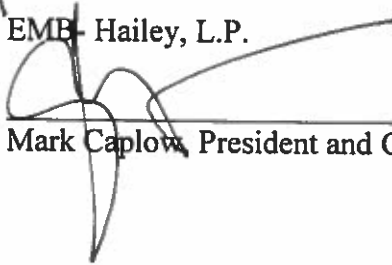
INSTRUMENT No. _____

FOR VALUE RECEIVED, EMB-Hailey, L.P. a California LTD Partnership (Grantor) does hereby convey, release, remise and forever quit claim unto West of First, LLC, 9533 West Pico Boulevard, 2nd Floor, Los Angeles, CA 90035 (Grantee), all interest in any appurtenant water including, but not limited to, 37-21811, 37-21813, 37-21815 and 37-21817.

All according to the official records of the State of Idaho.

DATED this 5 day of July, 2016.

EMB-Hailey, L.P.



Mark Caplow, President and General Partner

STATE OF CALIFORNIA

)

)ss.

County of Los Angeles)

On this 5TH day of June, 2016, before me,
Lorenzo Jolon, the undersigned, a notary public in and for the State of
California, personally appeared Mark Caplow, President and General Partner of EMB-Hailey, L.P.,
a California Limited Partnership, who proved to me on the basis of satisfactory evidence to be the
person whose name is subscribed to the within instrument and acknowledged to me that he executed
the same in his authorized capacity, and that by his signature on the instrument is the person, or the
entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing is true and correct.

WITNESS my hand and official seal.




NOTARY PUBLIC for California
Residing at Los Angeles
Commission expires Jan 16, 2018



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 22, 2016

WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035

RE: WATER SUPPLY BANK LEASE CONTRACT 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 August 1, 2016, 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 right 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, 2020**, 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,

Water Supply Bank

Enclosure: Executed Lease Contract

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



REAL ESTATE ■ INVESTMENTS ■ MANAGEMENT

RECEIVED

AUG 19 2016

DEPARTMENT OF
WATER RESOURCES

August 15, 2016

State of Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Applications to Lease West of First, LLC Water Rights 37-21811, 37-21813, 37-21815 and 37-21817 to The Water Supply Bank

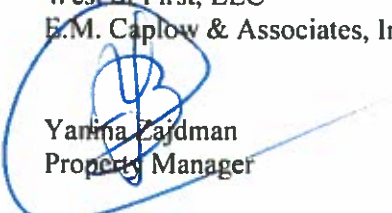
Dear Sir/Madam:

Enclosed are the Water Supply Bank Lease Contracts for the above-referenced Water Rights, which have been signed by West of First, LLC.

Once they have been signed by Idaho Water Resource Board, please forward a copy to our office for our records.

Thank you.

West of First, LLC
E.M. Caplow & Associates, Inc.



Yanina Lajdman
Property Manager

Enc (as stated)



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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 5, 2016

WEST OF FIRST LLC
C/O HAEMMERLE LAW PLLC
PO BOX 1800
HAILEY ID 83333

**RE: APPLICATIONS TO LEASE WATER RIGHT 37-21811, 37-21813, 37-21815 and 37-21817 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, 2020**, 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 
Water Supply Bank

Enclosure: Proposed Lease Contracts
Receipt # C102323

WATER SUPPLY BANK
Agent Lease Review Checklist
Applicant(s) Name: West of First LLC

Memo Date: August 5, 2016

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

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2009	2015
2010	2016
2011	2017
2012	2018
2013	2019

	Check box		COMMENTS/CONCERNS:
1	☒		
Fill out WSB Data Entry Checklist for Leases			
2	☐		
Reason for lease of water rights (Brief description of lease proposal in narrative)			
	☒		
Portion of right			
All of right			
3	☐		
Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
	☐	☐	
	Yes	No	
4	☒		
Rentable? If no explain in comments			
5	☐		
Authority to file			
	☒		
Current owner or designated applicant			
	☒		
SOS Web site checked for business entity			
	☐		
Other (explain in comments)			
6	☐		
Water Right validity			
	☐		
Decreed/Licensed/Statutory claim date (write in comments section)			
	☐		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?			
7	☐		
Injury to other water rights			
	☒		
If the POD is through a delivery entity, was consent provided?			
	☒		Hiawatha Canal
	☒		20%
If the POD is through a delivery entity, was holdback required? (percentage in comments)			
8	☐		
Enlargement concerns			
	☒		
Complete a POU comparison overlap analysis			
	☒		
Complete a combined limits review			
	☒		
Complete POD overlap analysis (if there is an overlap add condition to lease)			
	☐	☐	
	Yes	No	
	☐	☒	
Are there overlapping rights that need to be placed in the bank also?			
	☒		
Will the place of use continue to receive water?			
9	☐		
Local Public Interest			
	☐	☒	
Does the processor know of any problems this action will cause for the local public?			
10	☒		
Have you contacted regional office and watermaster for comment/concerns?			
	☒		
Send the watermaster comment request form or e-mail request			
11	☐		
Area Headgate requirement			
	☐		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			
13	Narrative: The application proposes to place the entirety of all rights in the Bank. Mark A Caplow, manager, signed the applications. The parents of these rights were decreed in 2010. Forfeiture is not an issue. The rights overlap with rights from the City of Hailey but have never been diverted. The residential lots will continue to receive water from the City. Water is delivered through the Hiawatha Canal. 20% will be diverted into the canal for conveyance losses. These water rights are currently within WD 37.		

No. W 30322	Due no later than May 31, 2016 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. WEST OF FIRST, LLC MARK CAPLOW 9533 PICO BLVD LOS ANGELES CA 90035	CAPITOL CORPORATE SERVICES INC 921 S ORCHARD ST STE G BOISE ID 83705	3. <u>New</u> 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:	6. Annual Report must be signed.*		
ID W 30322	Signature: L Jolon Name (type or print): L Jolon		Date: 04/11/2016 Title: Controller
Processed 04/11/2016	* 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

August 2, 2016

WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO(S) 37-21811, 37-21813, 37-21815 AND 37-21817 TO THE WATER
SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

- **Complete Attachment 2 (attached) for each Water Right with a Description of the Water Right Portion offered to the Water Supply Bank**

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4800.

Sincerely,

Christine Field
WSB Support

C: Fritz Haemmerle - Haemmerle Law PLLC

Enclosure(s): Attachment 2

RECEIVED
AUG 01 2016
DEPARTMENT OF
WATER RESOURCES

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

July 12, 2016

Idaho Water Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: West of First, LLC (37-21811, 37-21813, 37-21815 and 37-21817)

Dear Sir or Madam:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). For the reasons outlined below and on the conditions requested, the Canal has no objection to the aforementioned water rights being placed into the Water Bank.

The Hiawatha Canal Company is concerned about the amount of water being removed from the Canal and placed in the Water Bank by various water right holders. Generally, at this time, the Canal Company does not object to water rights conveyed in the Hiawatha Canal being placed in the Water Bank provided that if the water rights are leased to parties outside of the Canal, then the Water Bank should require twenty-percent (20%) of the right be left in the Canal as conveyance loss. I suggest that the Department place a condition on the leases to this effect.

Providing you some historical perspective, the Canal Company filed for mitigation (conveyance loss) rights in the adjudication for rights that had been forfeited or abandoned out of the Canal. The Department agreed that the conveyance loss in the Canal was twenty-percent (20%), and therefore, entered recommendations accordingly. See e.g., water rights 37-22630, 37-22631, 37-22632 and 37-22633. This conveyance has been recognized by the Idaho Department of Water Resources in similar transfers. Leaving twenty-percent (20%) of the leased rights in the Canal will insure that all rights in the Canal continue to be delivered without injury to water right holders in the Canal.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss; and

2. The Canal Company would like to be notified if the water rights are eventually released from the Water Bank, or if the Water Rights are being leased again to the Water Bank after the expiration of the lease period.

Thank you in advance for responding to this letter and addressing our concerns. If you have any questions, please do not hesitate to call me.

Sincerely,

HIAWATHA CANAL COMPANY



David Cropper, President

FXH: fxh
cc: client



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

RECEIVED

AUG 01 2016

DEPARTMENT OF
WATER RESOURCES

July 12, 2016

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

Re: *Request to Water Bank 37-21811, 37-21813, 37-21815 and 37-21817*
Applicant: *West of First, LLC.*

To Whom It May Concern:

Please find enclosed my client's Application to Lease Water to Water Bank, for the aforementioned water rights along with a Name Change. There are also two checks included: (1) \$100 for the Name Change; and (2) \$500 for the Water Bank Applications

If you require any further information, please advise.

Sincerely,

HAEMMERLE LAW, P.L.L.C.

Fritz X. Haemmerle

FXH: fxh
Encl.
cc: client