

# WATER SUPPLY BANK LEASE CONTRACT

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

**LESSOR: CITY OF HAILEY**  
 115 S MAIN ST #H  
 HAILEY ID 83333  
 208-788-4221

**RECEIVED**  
**MAY 05 2016**  
 DEPARTMENT OF  
 WATER RESOURCES

## RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. On December 30, 2015, 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
37-22773	5/1/1888	BIG WOOD RIVER	MALAD RIVER	0.12 cfs	49.4 af	14.1 ac
37-22774	9/18/1885	BIG WOOD RIVER	MALAD RIVER	0.12 cfs	49.4 af	14.1 ac
37-22775	6/30/1884	BIG WOOD RIVER	MALAD RIVER	0.24 cfs	49.4 af	14.1 ac
37-22776	3/24/1883	BIG WOOD RIVER	MALAD RIVER	0.14 cfs	49.4 af	14.1 ac
<b>Total annual combined limits of these water rights</b>				0.24 cfs	49.4 af	14.1 ac

**Lease Totals** 0.24\* cfs      49.4 af      14.1 ac

\*Limited to a total diversion rate of 0.19 cfs for conveyance losses

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, 2018. 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.

SUPPORT DATA

IN FILE # 37-22773

# 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.

CITY OF HAILEY  
115 S MAIN ST #H  
HAILEY ID 83333



By [Signature] Date 5/3/16  
Printed Name Fritz X. Haemmelte Title Mayor

IDAHO WATER RESOURCE BOARD  
322 EAST FRONT ST  
PO BOX 83720  
BOISE ID 83720-0098

By [Signature] Date 5/19/2016  
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Lease approved by IDWR [Signature] Date 5-9-2016

## ATTACHMENT A

### WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 37-22773, 37-22774,  
37-22775, and 37-22776

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

**Lessor:** CITY OF HAILEY  
115 S MAIN ST #H  
HAILEY ID 83333  
208-788-4221

**Location of Point(s) of Diversion for Water Right 37-22773, 37-22774, 37-22775 and 37-22776**

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>
37-22773	IRRIGATION	04/15	to 10/31	0.12 cfs	49.4 af
37-22774	IRRIGATION	04/15	to 10/31	0.12 cfs	49.4 af
37-22775	IRRIGATION	04/15	to 10/31	0.24 cfs	49.4 af
37-22776	IRRIGATION	04/15	to 10/31	0.14 cfs	49.4 af
<b>Total:</b>				<b>0.24 cfs</b>	<b>49.4 af</b>

**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										2.1	6.6					5.4					14.1

Total Acres:    14.1

**Conditions Applicable to All Leased Water Rights**

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, 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 right(s) 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. When combined with all other rights, the leased rights shall provide not more than 3.5 afa per acre at the field headgate for irrigation in the place of use whenever sprinkler methods of irrigation are used.
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 0.05 cfs of the leased portion of this right into the Hiawatha Canal whether it is rented or not.
15. Water rights 37-22773, 37-22774, 37-22775 and 37-22776 are diverted from Headgate #22 delivered through the Hiawatha Canal.



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

DEC 30 2015

DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant City of Hailey  
(Select one owner – see item 1A on the application)

Water Right No. 37-22776  
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package? Yes  No

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

**MIMUMUM REQUIREMENT CHECKLIST**

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- Confirmation this form has been printed *single sided*, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A   Signatures and contact information for *all owners* of the water right to be leased or sold on this application.
- 1B   An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C   *Notice of Change in Water Right Ownership* form (accessible from [www.idwr.idaho.gov](http://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](http://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 \$	Received By:	Date Received:	Receipt #
W-9 received? Yes <input type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9:	

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 City of Hailey  
Mailing Address 115 S. Main St., #H Hailey ID 83333  
Street City State Zip Code  
Email Address \_\_\_\_\_ Phone Number 208-788-4221

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 Roxanne Brown Organization SPF Water Engineering LLC  
Professional Title Sr. Water Right Specialist Email Address rbrown@spfwater.com  
Mailing Address 300 E. Mallard Dr., Suite 350, Boise, ID 83706 Phone Number (208) 383-4140

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.

Authorized irrigation place of use is now roads and right-of-ways for Northridge Subdivision

- 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. 37-22774, 37-22775, 37-22773

- 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. Stacked rights are all being banked

- 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. Water right was decreed in 2011

- 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. Water right was decreed in 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

Mitigation use and associated water is not being banked

37-22776

STATE OF IDAHO  
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT  
(Continued)

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DEPARTMENT OF  
WATER RESOURCES

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: 3 yrs to \_\_\_\_\_ (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.

X [Signature]  
Signature of Designated Applicant

Fritz X. Haenrich  
Printed Name

12/14/15  
Date

[Signature]  
Signature of Authorized Representative

Roxanne Brown  
Printed Name

12/30/2015  
Date

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**

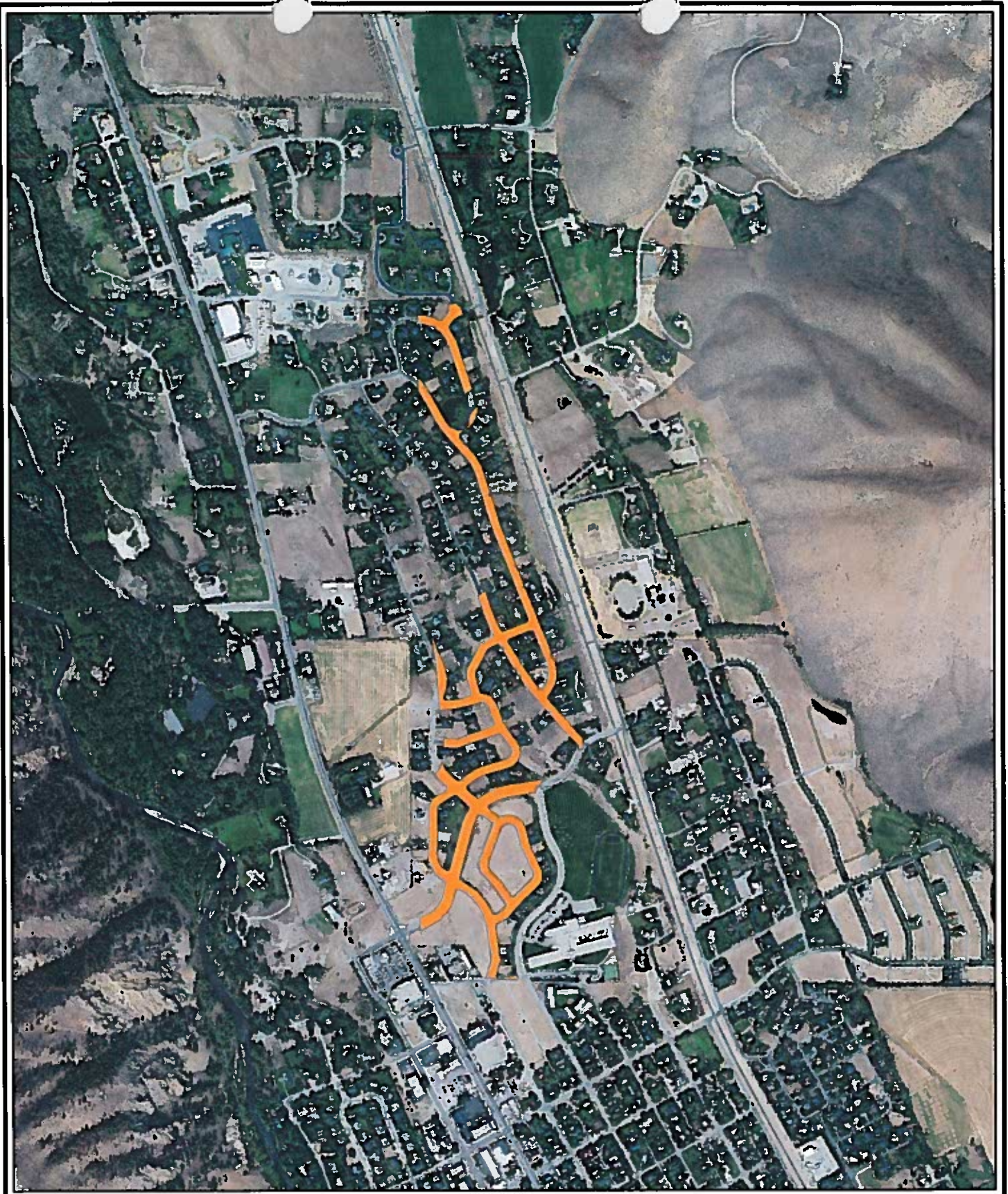
**DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK**

1. <u>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>37-22776</u>	<u>Irrigation</u>	<u>0.145</u>		<u>14.1</u>
	<b>Total Amounts:</b>	<u>0.145</u>		<u>14.1</u>

2. Source of water Big Wood River tributary to Malad River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
3N	18E	20			SW	NW	Blaine



Idled (Northridge Subdivision roadways)

City of Hailey - IWSB Lease Application  
Water Right Nos.: 37-22773, 37-22774,  
37-22775, 37-22776



0.25

Miles



# HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

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December 16, 2015

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

*Re: City of Hailey Rights (37-22311, 37-22316, 37-22321, 37-22773, 37-22774, 37-22775 and 37-22776)*

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:

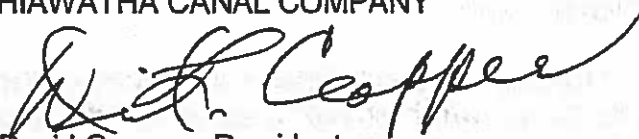
1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss; and

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: fxb

cc: client

Mariel Miler, City of Hailey

Ned C. Williamson, Esq (City of Hailey)