



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

January 6, 2017

RED CLIFFS HOA
PO BOX 680
KETCHUM ID 83340

RE: NOTIFICATION OF WATER SUPPLY BANK LEASE EXPIRATION FOR WATER RIGHTS: 37-8153

Dear Lessor:

Idaho Department of Water Resources (Department) records show that all or a portion of the above referenced water right(s) were leased to the Water Supply Bank (Bank) through December 31, 2016. **This letter is notice that the right(s) are now considered released from the Bank.**

If you would like to renew the lease of these right(s) to the Bank, please complete a new Application to Sell or Lease a Water Right to the Water Supply Bank and remit the applicable filing fee. You can find new applications at the Department's website at www.idwr.idaho.gov.

A water right is not protected from forfeiture unless it is accepted into the Bank or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. The five-year period of nonuse related to forfeiture of a water right shall begin to accrue upon release of the right from the bank or shall continue to accrue if a period of nonuse occurred prior to the lease date of the right to the Bank.

If you have any questions regarding this matter, please contact me at (208) 287-4918.

Sincerely,

A handwritten signature in black ink, appearing to read 'RB' with a long horizontal stroke extending to the right.

Remington Buyer
Water Supply Bank Coordinator

Enclosures:

JAN 07 2016

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT**

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

LESSOR: RED CLIFFS HOMEOWNERS ASSN
PO BOX 680
KETCHUM, ID 83340
(208)725-5566

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 November 13, 2015, the Lessor filed an application to lease the water right 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 RIGHT:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water right described as follows:

Summary of Water Right or Portion Leased to the Bank

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
37-8153	7/21/1984	Ground Water	NA	0.04 cfs	7.5 af	2.5 ac

Lease Totals 0.04 cfs 7.5 af 2.5 ac

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, 2016. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **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

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

RED CLIFFS HOMEOWNERS ASSN
PO BOX 680
KETCHUM, ID 83340

By 
Printed Name STEVE R. COOK

Date 12.30.15
Title PRES OF HOA

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 1/7/2016

Lease approved by IDWR 

Date 1-7-2016

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO. 37-8153

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

Lessor: RED CLIFFS HOMEOWNERS ASSN
PO BOX 680
KETCHUM, ID 83340
(208)725-5566

Location of Point(s) of Diversion for Water Right 37-8153

GROUND WATER NENENE Sec. 31, Twp 04N, 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>
37-8153	IRRIGATION	04/01	to 09/15	0.04 cfs	7.5 af
Total:				0.04 cfs	7.5 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	
04N	18E	31	2.5																2.5

Total Acres: 2.5

Conditions Applicable to Leased Water Right

1. The water right 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.
2. 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.
3. 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.
4. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
5. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
6. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
7. 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.
8. 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.

9. 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.
10. The water right leased to the bank is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
11. Property is also known as Lots 1-5, Block 1, Red Cliffs Subdivision.
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 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

**Idaho Water Resource Board
Water Supply Bank Lease**






37-8153

Effective until December 31, 2016

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.



2013 USDA-FSA Aerial Photography

-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



RECEIVED
NOV 13 2015
DEPARTMENT OF
WATER RESOURCES

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

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. 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. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant Red Cliffs Homeowners Association, Inc.
(Select one owner – see item 1A on the application)

Water Right No. 37-8153
(One water right per application)

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

YES

- Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- 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.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contact information for <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | | <input checked="" type="checkbox"/> | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Written consent from irrigation district or water delivery company. |
| 1E | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank. |
| 3E | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code . |
| 4 | | <input checked="" type="checkbox"/> | 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 . |

Department Use Only

Fee Amount \$ <u>250⁰⁰</u>	Received By: <u>di</u>	Date Received: <u>11-13-15</u>	Receipt # <u>C101203</u>
W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	(Route W-9 to Fiscal)	Name on W-9: <u>Red Cliffs Homeowners Association, Inc</u> <u>P.O. Box 680</u> <u>Ketchum ID 83340</u>	

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

1. CONTACT INFORMATION

A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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 Red Cliffs Homeowners Association Email Address steve@stevecookarchitect.com
 Mailing Address PO Box 680, Ketchum, ID 83340 Phone Number (208) 725-5566

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 completed an IRS Form W-9 (Attachment 1B)? Yes No

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 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 1D).

E. 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 1E).

Name of Representative James P. Speck Organization Speck & Aanestad, A Professional Corp.
 Professional Title attorney Email Address jim@speckandaanestad.com
 Mailing Address PO Box 987, Ketchum, ID 83340 Phone Number (208) 726-4421

Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 37-8153 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

A. Please provide a description of the current water diversion system.

Well, buried mainlines, potable water lines to homes & lines to sprinkler residential irrigation systems

B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.

None

C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes No

Stacked water rights are water rights that are utilized 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.

D. Will the present place of use continue to receive water from any other source? Yes No

If yes, describe. _____

E. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes No

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to [Section 42-222\(2\), Idaho Code](#). _____

F. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes No

If yes, describe. _____

4. MAP Attachment 4 depicts the 2.5A that will be irrigated leaving 2.5A "idled". The owners of Lots 1 and 2 have specifically agreed to reduce the areas irrigated on their respective lots to 0.5A each. Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

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: $\frac{2016}{(Year)}$ to $\frac{2016}{(Year)}$ (maximum lease period 5 years).

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.

SR. COOK
Signature of Designated Applicant

STEVE R. COOK
Printed Name

11.11.15
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 2

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

<u>1. Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>37-8153</u>	<u>0.04 cfs/7.5 AF</u>	<u>irrigation</u>	<u>April 1</u> to <u>Sept. 15</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
Total Amount:	<u>0.04 cfs/7.5 AF</u>		

2. Source of water _____ ground water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	18E	31		NE	NE	NE	Blaine

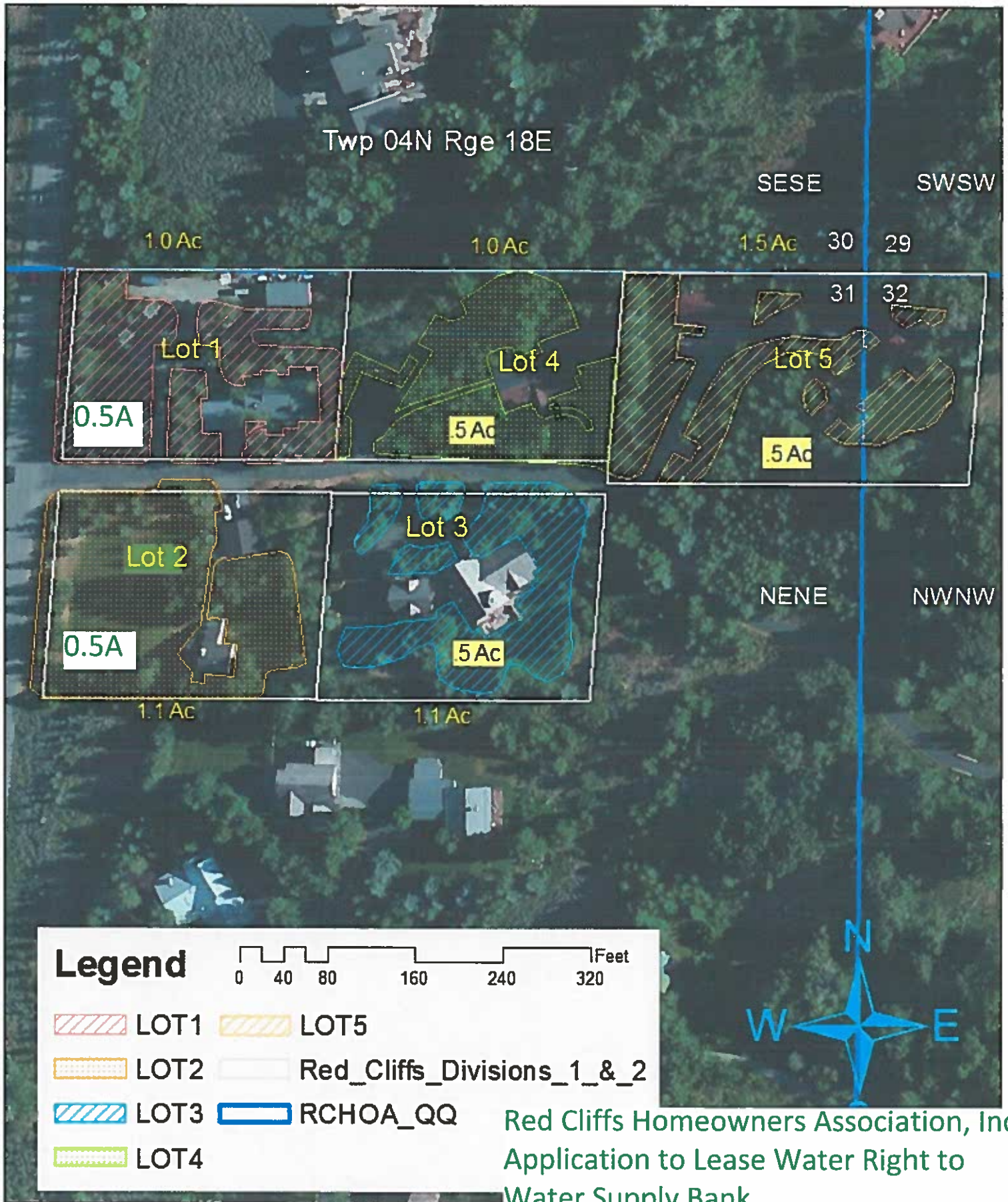
4. Acres to be idled within the place of use:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	18E	31	2.5																2.5

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** 2.5

Red Cliffs HOA

Irrigated Area in Lots 1-5





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" OTTIER
Governor

GARY SPACKMAN
Director

January 8, 2016

RED CLIFFS HOMEOWNERS ASSN
PO BOX 680
KETCHUM ID 83340

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 37-8153

Dear Lessor:

Water right 37-8153 was leased into the Water Supply Bank (Bank) as of November 13, 2015, 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, 2016**, 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 me at 287-4881.

Sincerely,

Sandra Thiel
Sr. Water Resource Agent

Enclosure: Executed Lease Contract

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

RECEIVED

JAN 07 2016

DEPARTMENT OF
WATER RESOURCES

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

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

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

January 5, 2016

Sandra Thiel
Sr. Water Resource Agent
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: *Red Cliffs Homeowners Assn. - Application to Lease Water Right No. 37-8153 to the Water Supply Bank*

Dear Sandra:

My law firm represents Red Cliffs Homeowners Association. Enclosed you will find the duplicate originals of the Water Supply Bank Lease Contract for the above-referenced water right signed by my client. Since this Lease is a companion to the Application to Rent filed by another client of mine, J. Kristoffer Popovich, this water right must now be rented to Mr. Popovich. The Red Cliffs Homeowners Association and Mr. Popovich have a separate agreement with respect to the rental of this water right. Please contact me right away if there are any issues or concerns with Mr. Popovich's rental application.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures

cc: Client w/encl.
J. K. Popovich w/encl.
R. Buyer w/encl.



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 24, 2015

RED CLIFFS HOMEOWNERS ASSN
PO BOX 680
KETCHUM ID 83340

RE: APPLICATION TO LEASE WATER RIGHT 37-8153 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, 2016, 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 me at 287-4881.

Sincerely,

Sandra Thiel
Sr. Water Resource Agent

Enclosure: Proposed Lease Contracts
Receipt # C101203

c: James Speck – Speck & Aanestad

RECEIVED

NOV 13 2015

DEPARTMENT OF
WATER RESOURCES

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

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

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

November 11, 2015

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

*Re: Water Supply Bank Companion Lease and Rental Applications for Portion of
Right No. 37-8153*

Dear Remington:

Enclosed you will find the original and one copy each of the Application Lease in the name of Red Cliffs Homeowners Association, Inc. and the companion Application to Rent in the name of J. Kristoffer Popovich for a portion of Water Right No. 37-8153. I have also enclosed our firm's check payable to the Department for the \$250 Lease Application filing fee.

Please have the copies receipt date-stamp and return them to me in the enclosed postage prepaid and self-addressed envelope. If you have any questions, comments or concerns about these Applications, please call me right away.

Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures
cc: Client w/encl.