

RECEIVED
OCT 29 2015
DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT

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

Lessor: EMOSA HAILEY LP
PO BOX 1563
HAILEY ID 83333

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 on November 14, 2014 to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
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

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
37-22910	0.01 CFS	Not Stated	NA	0.5 AC
37-22911	0.01 CFS	Not Stated	NA	0.5 AC
37-22912	0.01 CFS	Not Stated	NA	0.5 AC
37-22913	0.01 CFS	Not Stated	NA	0.5 AC

Combined Lease Totals: 0.02* CFS NA NA 0.5 AC

*0.004 cfs will remain in the canal for conveyance loss

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: April 15 to October 31

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

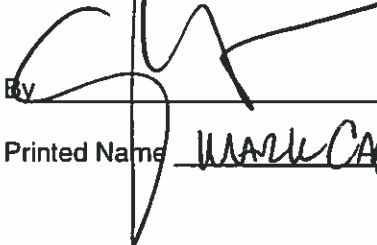
3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2018.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

SUPPORT DATA
IN FILE # 37-22910

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.

EMOSA HAILEY LP
PO BOX 1563
HAILEY ID 83333

By 
Printed Name Mark Carlson

Date 10/20/2015
Title _____

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 10/29/2015

Lease approved by IDWR 

Date 10-29-2015

ATTACHMENT A
WATER RIGHT NO. 37-22910
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: EMOSA HAILEY LP
 PO BOX 1563
 HAILEY ID 83333

Priority Date: 05/01/1888

Source: BIG WOOD RIVER **Tributary to:** MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15 to	10/31	0.01 CFS	Not Stated
	Total:		0.01 CFS	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW ¼ NW ¼ Sec. 20, Twp 03N, Rge 18E, BLAINE County

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	
002 N3N	18E	4									0.5								0.5

Total Acres: 0.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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.
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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Right Nos. 37-22910, 37-22911, 37-22912 and 37-22913 are limited to the irrigation of a combined total of 0.5 acres in a single irrigation season.
13. The rights listed below shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the land 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 and 37-22913.
14. Water is diverted through the Hiawatha Canal. 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 0.004 cfs of the leased portion of these rights into the Hiawatha Canal whether they are rented or not.
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
16. The diversion rate of this right is 0.004 cfs.

ATTACHMENT A
WATER RIGHT NO. 37-22911
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: EMOSA HAILEY LP
 PO BOX 1563
 HAILEY ID 83333

Priority Date: 09/18/1885

Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.01 CFS	Not Stated
	Total:		0.01 CFS	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW¼NW¼ Sec. 20, Twp 03N, Rge 18E, BLAINE County

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									0.5								0.5

Total Acres: 0.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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.
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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Right Nos. 37-22910, 37-22911, 37-22912 and 37-22913 are limited to the irrigation of a combined total of 0.5 acres in a single irrigation season.
13. The rights listed below shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the land 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 and 37-22913.
14. Water is diverted through the Hiawatha Canal. 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 0.004 cfs of the leased portion of these rights into the Hiawatha Canal whether they are rented or not.
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
16. The diversion rate of this right is 0.004 cfs.

ATTACHMENT A
WATER RIGHT NO. 37-22912
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: EMOSA HAILEY LP
 PO BOX 1563
 HAILEY ID 83333

Priority Date: 06/30/1884

Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.01 CFS	Not Stated
	Total:		0.01 CFS	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW¼NW¼ Sec. 20, Twp 03N, Rge 18E, BLAINE County

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									0.5								0.5

Total Acres: 0.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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.
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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Right Nos. 37-22910, 37-22911, 37-22912 and 37-22913 are limited to the irrigation of a combined total of 0.5 acres in a single irrigation season.
13. The rights listed below shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the land 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 and 37-22913.
14. Water is diverted through the Hiawatha Canal. 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 0.004 cfs of the leased portion of these rights into the Hiawatha Canal whether they are rented or not.
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
16. The diversion rate of this right is 0.008 cfs.

ATTACHMENT A
WATER RIGHT NO. 37-22913
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: EMOSA HAILEY LP
 PO BOX 1563
 HAILEY ID 83333

Priority Date: 03/24/1883

Source: BIG WOOD RIVER

Tributary to: MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.01 CFS	Not Stated
	Total:		0.01 CFS	Not Stated

LOCATION OF POINT(S) OF DIVERSION:

BIG WOOD RIVER SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 20, Twp 03N, Rge 18E, BLAINE County

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									0.5								0.5

Total Acres: 0.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, 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.
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.
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.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Right Nos. 37-22910, 37-22911, 37-22912 and 37-22913 are limited to the irrigation of a combined total of 0.5 acres in a single irrigation season.
13. The rights listed below shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the land 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 and 37-22913.
14. Water is diverted through the Hiawatha Canal. 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 0.004 cfs of the leased portion of these rights into the Hiawatha Canal whether they are rented or not.
15. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
16. The diversion rate for this right is 0.005 cfs.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 08 2014

DEPARTMENT OF
WATER RESOURCES

RECEIVED

NOV 14 2014

DEPARTMENT OF
WATER RESOURCESWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLIST

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 Emosa Hailey LPWater Right No. 37-21811 22910
One water right per applicationAll 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. If you are submitting more than one lease application and the water rights have a common place of use, or common diversion rate, or common diversion volume, the combined maximum fee is \$500.00.

Attachment N/A YES

- 1A ☒ ☐ Contact information for *all owners* of the water right that is being 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 ☐ ☒ Written consent from irrigation district or water delivery company.
- 1E ☐ ☒ 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.
- 3D ☐ ☒ Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.
- 4 ☐ ☒ 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. If you don't already have a detailed map, you can create one using IDWR's online General Mapping Tool (<http://maps.idwr.idaho.gov/mapall/>) to locate a water right place of use or point of diversion.

Department Use Only

Fee Amount \$ 500Received By: JmhDate Received: 12-8-14Receipt # C099673W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Emosa Hailey LP

**STATE OF IDAHO
WATER RESOURCE BOARD**

**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 Emosa Hailey LP Email Address _____
Mailing Address P.O. Box 1563, Hailey, ID 83333 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 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 Fritz X. Haemmerle Organization Haemmerle & Haemmerle
Professional Title Attorney Email Address _____
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

Water Right Number 37-21811 ☐ 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.
Water right being offered to the IWSB is currently not used.

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.
37-21811, 37-21813, 37-21815, 37-21817; municipal water rights held by the City of Hailey

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

If yes, describe. Residential lots are now served by the City of Hailey municipal supply

D. 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. A partial decree of this water right was issued in the SRBA on August 30, 2011.

E. 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. 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, for a period from 4/15/2014 to 10/31/2018 (maximum lease period 5 years).
(Month / Day / Year) (Month / Day / 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 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.


Signature of Designated Applicant
EMOSA Hailey, L.P.

MARK A. CAPLOW
Printed Name

NOV. 26, 2014
Date

By: E.M. Caplow & Assoc., Inc., Its G.P.

Mark A. Caplow, President

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

RECEIVED

JUN 22 2015

DEPARTMENT OF
WATER RESOURCES

ATTACHMENT 2

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

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
37-21811	0.004 cfs	irrigation	4/15 to 10/31
(now 37-22910)			to
			to
			to
			to
			to
Total Amount:	0.004 cfs		

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

4. Lands irrigated or 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	
2N	18E	4									0.456								0.456

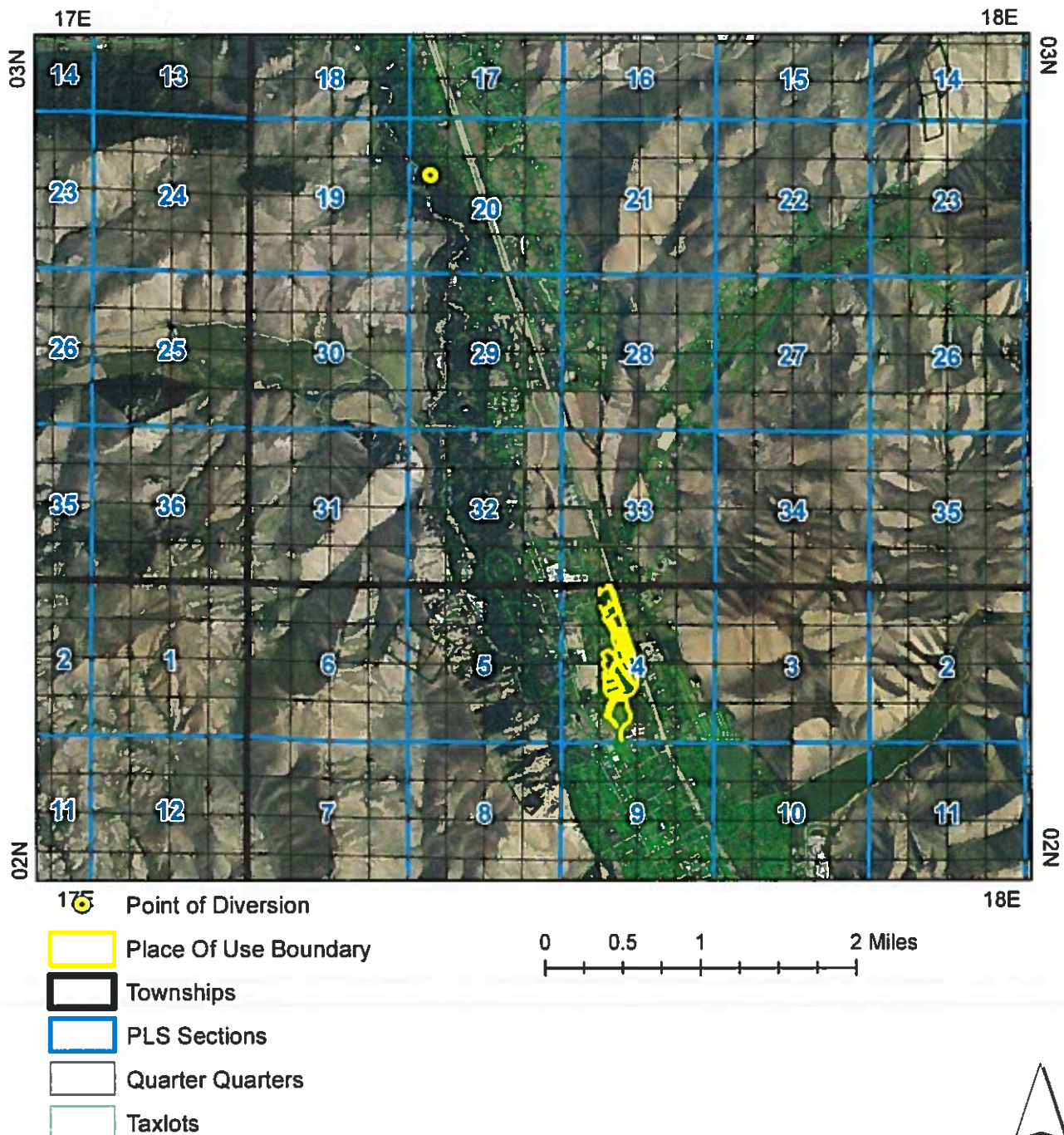
If the water right is for irrigation, show total number of acres offered to the Bank. Total Acres 0.456

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.





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

October 30, 2015

EMOSA HAILEY LP
9530 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-22910, 37-22911, 37-22912 & 37-22913

Dear Lessor:

Water Rights **37-22910, 37-22911, 37-22912 & 37-22913** were leased into the Water Supply Bank on November 14, 2014 in accordance with the executed original Lease Contract enclosed. **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.**

The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** 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. This form is available from our public website at www.idwr.idaho.gov.

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 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: ☒ Roxanne Brown – SPF Water Engineering LLC
☒ Fritz Haemmerle – Haemmerle Law PLLC
IDWR Southern Region
Kevin Lakey – Water District 37
Dave Cropper – Hiawatha Canal

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

October 13, 2015

RECEIVED
OCT 29 2015
DEPARTMENT OF
WATER RESOURCES

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

Re: *Water Leases (Erosa Hailey, LP); Water Rights 37-22910, 37-22911. 37-22912, and 37-22913.*

Dear Clay:

Please find enclosed the executed Water Leases for the aforementioned water rights. Please advise if there is anything else you require.

Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.



Fritz X. Haemmerle

FXH: fxh
Encl
cc: client

Webster, Clay

From: Roxanne Brown [RBrown@spfwater.com]
Sent: Thursday, October 22, 2015 1:25 PM
To: Webster, Clay
Subject: RE: Lease Contracts for 2-2092A and 37-22910, 37-22911, 37-22912 and 37-22913

Clay – Thank you for your diligence!

2-2092A: after clearing the old house and yard off and installing a pivot, Mr. Gingerich has decided not to lease 2-2092A to the Bank. The new system will irrigate the entire area under the water right. Do you need a signed letter from Gingerich withdrawing the lease application? He does not expect a refund.

37-22910, et al.: I will forward this email to Emosa's attorney and get an answer as to the status of the lease documents.

Roxanne

From: Webster, Clay [<mailto:Clay.Webster@idwr.idaho.gov>]
Sent: Thursday, October 22, 2015 12:53 PM
To: Roxanne Brown
Subject: Lease Contracts for 2-2092A and 37-22910, 37-22911, 37-22912 and 37-22913

Roxanne,

We haven't received the signed lease contracts for these rights.

2-2092A for Verlin Gingerich
37-22910, 37-22911, 37-22912 and 37-22913 for Emosa Hailey.

We sent follow-up letters on these earlier this month.

Sincerely,

Clay Webster

Water Resource Agent
clay.webster@idwr.idaho.gov

208-287-4910

Idaho Department of Water Resources (IDWR)

322 E. Front Street

P.O. Box 83720

Boise, ID 83720-0098

208-287-4800

www.idwr.idaho.gov



State of Idaho

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C.L. "BUTCH" OTTER

Governor

October 6, 2015

GARY SPACKMAN

Director

EMOSA HAILEY
PO BOX 1563
HAILEY ID 83333

**RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS FOR
WATER RIGHT(S) 37-22910, 37-22911, 37-22912 and 37-22913**

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

Dear Applicant,

The Department of Water Resources (Department) mailed **two original Water Supply Bank Lease Contracts for your review and signature** on September 15, 2015. The signed contracts have not been returned to the Department.

Please sign both original Lease Contracts and return them to the Department within ten (10) days of this letter to complete processing. The Lease Contract is not considered final until both you and the Department have signed.

If the signed lease contracts are not received by the Department within the 10-day period, the lease application(s) will be returned, and the application fee will not be refunded. You can reapply to lease the water right(s) in the future by submitting new application form(s) along with applicable fees.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

for 
Clay Webster
Water Resource Agent
WSB Process Point of Contact

c: SPF Water Engineering LLC
Haemmerle & Haemmerle



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 15, 2015

EMOSA HAILEY LP
PO BOX 1563
HAILEY ID 83333

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-22910, 37-22911, 37-22912 and 37-22913
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(s) 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 rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are 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 287-4910.

Sincerely,


for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts
Receipt # C099673

c. Haemmerle & Haemmerle
SPF Water Engineering LLC

MEMORANDUM

To: Water Right No(s). 37-22910, 37-22911, 37-22912 and 37-22913

From: Jean Hersley

Date: September 14, 2015

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: These application(s) were received on November 14, 2014, along with a Notice of Change in Water Right Ownership. The water right numbers on the WSB applications are the WR number BEFORE the split. Since the water rights were split, the Department requested an updated Attachment 2 via email on December 23, 2014 and June 9, 2015 by regular mail. The attachments were received on June 22, 2015. Ownership of the land and water rights are not the same however, the current owner of the water rights owned the land and claimed the water rights in the SRBA. Ownership is no longer an issue.

The applicant wishes to place the entirety of all rights in the Bank:

37-22910- 0.004 cfs and 0.456 acres

37-22911- 0.004 cfs and 0.456 acres

37-22912- 0.008 cfs and 0.456 acres

37-22913- 0.005 cfs and 0.456 acres

These water rights totally overlap and are limited to a combined total of 0.5 acres in a single irrigation season. Water is diverted through the Hiawatha Canal so the watermaster will deliver 20% through the canal whether it is rented or not.

The acres leased to the Bank will continue to receive water from the City of Hailey municipal system.

The lease period will be 2014 to 2018.

AUTHORITY TO FILE: Mark Caplow, president, signed the applications.

WATER RIGHT VALIDITY: The parent rights of these water rights were decreed in 2010, except 37-22910, which was decreed in 2011.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement. (Complete Place of Use Comparison)

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right(s) are subject to Water District # 37.

Hersley, Jean

From: Merritt, Allen
Sent: Tuesday, September 15, 2015 10:30 AM
To: Hersley, Jean
Subject: RE: WSB Leases for Emosa Hailey LP 37-22910-22913

No issue except comments should be from Kevin Lakey and not Rusty Kramer.

From: Hersley, Jean
Sent: Tuesday, September 15, 2015 8:56 AM
To: Rusty Krame; Merritt, Allen
Subject: WSB Leases for Emosa Hailey LP 37-22910-22913

This lease was submitted for the 2014 through 2018 season. The Department had some issues with ownership which have been resolved. Attached is the review memo. Please let me know if you have any comments or concerns within 7 days. Thank you.

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

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 13, 2015 9:43 AM
To: 'Roxanne Brown'
Cc: 'fxh@haemlaw.com'
Subject: RE: Emosa Hailey LP WSB Leases

Roxanne,
I'm following up on an earlier email. What is the status of this?

From: Hersley, Jean
Sent: Wednesday, August 05, 2015 9:10 AM
To: 'Roxanne Brown'
Cc: 'fxh@haemlaw.com'
Subject: Emosa Hailey LP WSB Leases

Roxanne,
The Department is in the process of reviewing the WSB applications submitted on behalf of Emosa Hailey LP. According to our taxlot information, the 0.5 acres these water rights are appurtenant too is owned by Northridge VII Subdivision Owners Association. The information is current as of 2/10/2015. I am assuming Emosa Hailey LP kept the water rights in their name when the property was sold to Northridge VII HOA. I need a copy of that transaction to be able to process these applications. If you have any questions, please contact me.

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

Field, Christine

From: Roxanne Brown [RBrown@spfwater.com]
Sent: Monday, June 22, 2015 1:27 PM
To: Field, Christine
Cc: fxh@haemlaw.com
Subject: IWSB Lease Applications for Water Right Nos. 37-22910, 37-22911, 37-22912, 37-22913
Attachments: Emosa IWSB Lease Applications Attachments 2.pdf

Christine –

In response to a letter dated June 9, 2015 from Clay Webster, we are forwarding to you an "Attachment 2" for each of the IWSB lease applications listed in the subject line of this email.

A *Notice of Change in Water Right Ownership* was filed on Water Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 concurrently with the lease applications. The lease applications refer to placing a portion of these Parent rights in the bank after the ownership change is complete and new numbers issued. The Attachment 2 for each right refers to the portion of each Parent right that Emosa Hailey LP owns. The purpose of the lease applications is to place 100% of the Emosa Hailey LP rights in the bank, and those rights are listed in the subject line. The Attachment 2 pages were not needed after the ownership change process was complete.

I have updated the Attachments 2 by adding the current water right number to each. Please contact me if you or Clay have additional questions..

Roxanne Brown | Sr. Water Right Specialist

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2136

e. rbrown@spfwater.com | w. www.spfwater.com





State of Idaho

DEPARTMENT OF WATER RESOURCES

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Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 9, 2015

EMOSA HAILEY LP
PO BOX 1563
HAILEY ID 83333

**RE: APPLICATION(S) TO SELL LEASE A WATER RIGHT TO THE WATER SUPPLY BANK
FOR WATER RIGHT NO(S). 37-22910, 37-22911, 37-22912 AND 37-22913**

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

Dear Lessor:

The Department of Water Resources received applications to Lease Water Rights 37-22910, 37-22911, 37-22912 and 37-22913 from you on December 8, 2014. On December 23, 2014 an e-mail was sent for Attachment 2 of the lease application. This attachment is necessary when submitting only a portion of the Water Right to the Water Supply Bank.

As of the date of this letter, the Department has not received any information from you.

Because the Department cannot process the Applications to lease these water rights without the information requested, we will hold any action on your applications pending receipt of the necessary information. If we do not receive the necessary information within **14 days** these applications will be denied because they cannot be processed without the requested information.

If you have any questions or no longer have an interest in the water right, please contact me at (208) 287-4910.

Sincerely,

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

C: Fritz Haemmerle @ Haemmerle & Haemmerle