

**WATER SUPPLY BANK LEASE CONTRACT**

JAN 26 2015

DEPARTMENT OF  
WATER RESOURCES

This Lease Contract ("**Lease**") is effective January 1, 2015, between the Idaho Water Resource Board ("**Board**"), and

**Lessor:** Big Lost Ranch LLC  
700 Emerson St.  
Palo Alto, CA 94301  
650-614-6234

**RECITALS**

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
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> |
|-------------------------------|-------------------|---------------------|-------------------|---------------------------|
| 34-13621                      | 0.39 CFS          | 108.5 AF            | NA                | 31.0 AC                   |
| <b>Combined Lease Totals:</b> | <b>0.39 CFS</b>   | <b>108.5 AF</b>     | <b>NA</b>         | <b>31.0 AC</b>            |

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

Authorized Period of Use under Lease: April 1st to November 1st

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, 2019.
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.

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

**Big Lost Ranch LLC**

700 Emerson St.  
Palo Alto, CA 94301

By Mark Gates  
Printed Name MARK GATES

Date 1/20/15  
Title MANAGING MEMBER, LLC

**IDAHO WATER RESOURCE BOARD**

322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-9098

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

Date January 26, 2015

Lease approved by IDWR Cheri Palmer

Date 1/26/2015

**ATTACHMENT A**  
**WATER RIGHT NO. 34-13621**  
**WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

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

**Lessor:** BIG LOST RANCH LLC  
 700 EMERSON ST  
 PALO ALTO CA, 94301  
 650-614-6234

**Priority Date:** 3/18/1975

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>   | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u>   |
|-----------------------|---------------|-----------|-----------------------|-----------------|
| IRRIGATION            | 04/01         | to 11/01  | 0.39 CFS              | 108.5 AF        |
|                       | <b>Total:</b> |           | <b>0.39 CFS</b>       | <b>108.5 AF</b> |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER L21(NESW) Sec. 29, Twp 08N, Rge 23E, CUSTER County

**PLACE OF USE TO BE IDLED UNDER THIS LEASE:** IRRIGATION

|     |     |     | NE |    |    |    | NW |    |    |    | SW |      |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|------|----|----|----|----|----|----|--------|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW   | SW | SE | NE | NW | SW | SE |        |
| 08N | 23E | 29  |    |    |    |    |    |    |    |    |    | 31.0 |    |    |    |    |    |    | 31.0   |

Total Acres: 31.0

**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.



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

WATER SUPPLY BANK LEASE OR SALE  
APPLICATION CHECKLISTDEC 08 2014  
DEPARTMENT OF  
WATER RESOURCES

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 Big Lost Ranch LLCWater Right No. 34-13621  
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](http://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 \$ 250Received By: gmhDate Received: 12-8-14Receipt # 0099671W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Big Lost Ranch LLC

**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 Big Lost Ranch LLC Email Address Mark@gatesland.com  
Mailing Address 700 Emerson St., Palo Alto, CA 94301 Phone Number 650-614-6234

☒ 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 Mark Gates Organization Big Lost Ranch LLC  
Professional Title Managing partner Email Address Mark@gatesland.com  
Mailing Address 700 Emerson, Palo Alto CA 94301 Phone Number 650-614-6234

☐ 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 34-13621 ☒ 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 and pump

- 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. Will the present place of use continue to receive water from any other source?

Yes ☐ No ☒

If yes, describe. \_\_\_\_\_

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. \_\_\_\_\_

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 1/1/15 to 1/1/2019 (Month Day Year) (Month Day 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 ank does not, in itself, confirm the validity of the water right or any elements of the water right.

BIG LOST RANCH, LLC

MARK GATES

Signature of Designated Applicant

Printed Name

Date

10/15/14

Signature of Authorized Representative

Printed Name

Date

JIM GREGORY

12/2/14

Mail to:

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



STATE OF IDAHO  
WATER RESOURCE BOARD

RECEIVED

DEC 08 2014

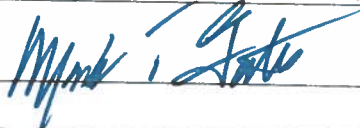
DEPARTMENT OF  
WATER RESOURCES

## ATTACHMENT 1A

## Additional Water Right Holders Party to the Lease Application

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

Water Right No. 34 - 13621

|                       | Designated Applicant                                                                                 | Applicant #2                                                                  | Applicant #3                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Name                  | BIG LOST RANCH, LLC<br>Mark Gates                                                                    |                                                                               |                                                                               |
| Mailing Address       | 700 EMERSON ST<br>PALO ALTO, CA 94301                                                                |                                                                               |                                                                               |
| Phone Number          | 650.614.6234                                                                                         |                                                                               |                                                                               |
| Email Address         | mark@gateland.com                                                                                    |                                                                               |                                                                               |
| Applicant Declaration | As Designated Applicant, I submit this lease application on behalf of all other water right holders. | I authorize the Designated Applicant to submit this application on my behalf. | I authorize the Designated Applicant to submit this application on my behalf. |
| Signature             |                   |                                                                               |                                                                               |

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

RECEIVED

DEC 08 2014

DEPARTMENT OF  
WATER RESOURCES

### SPECIAL POWER OF ATTORNEY

I, Mark Gates, residing at 700 Emerson Street, Palo Alto, CA 94301, am a Managing Member of Big Lost Ranch, LLC and Warm Springs Ranch, LLC, who are the owners of water rights located in District 34 of the State of Idaho and hereby appoint Jim Gregory, of 5306 Zollinger Road, Mackay, ID 83251, as my Attorney-in-Fact ("Agent").

My Agent shall have full power and authority to act on my behalf, but only to the extent permitted by this Special Power of Attorney. My Agent's powers shall include the power to act on my behalf for Big Lost Ranch, LLC, and Warm Springs Ranch, LLC, on all matters requiring a vote in Water District 34.

I hereby grant to my Agent the full right, power, and authority to do every act, deed, and thing necessary or advisable to be done regarding any powers, as fully as I could do if personally present and acting.

Any power or authority granted to my Agent under this document shall be limited to the extent necessary to prevent this Power of Attorney from causing (i) my income to be taxable to my Agent, (ii) my assets to be subject to a general power of appointment by my Agent, and (iii) my Agent to have any incidents of ownership with respect to any life insurance policies that I may own on the life of my Agent.

My Agent shall not be liable for any loss that results from a judgment error that was made in good faith. However, my Agent shall be liable for willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney.

I authorized my agent to indemnify and hold harmless any third party who accepts and acts under this document.

My Agent shall provide an account of all acts performed as my Agent, if I so request or if such a request is made by any authorized personal representative or fiduciary acting on my behalf.

This Power of Attorney shall become effective immediately, shall not be affected by my disability or lack of mental competence, and shall continue effective until December 31, 2015; provided, however, that this Power may be revoked by me at any time by providing written notice to my Agent.

Dated October 15, 2014 at Palo Alto, California.

  
\_\_\_\_\_  
Mark T. Gates, Jr.  
Managing Member  
Big Lost Ranch, LLC  
Warm Springs Ranch, LLC

**ADDENDUM NO. 1 TO  
THE LIMITED LIABILITY COMPANY AGREEMENT OF  
BIG LOST RANCH LLC**

This Addendum No. 1 (the "**Addendum**") is entered into effective as of October 1, 2009, by and among WARD W. WOODS and PRISCILLA B. WOODS, husband and wife (jointly referred to herein as "**Woods**") and MARK T. GATES and ELIZABETH W. GATES, as Trustees of the Amended and Restated Gates Family Living Trust dated May 17, 2005 (f/k/a the Mark T. Gates and Elizabeth W. Gates Living Trust Agreement dated June September 10, 1993) (jointly referred to herein as "**Gates**"). For purposes of this Addendum, each of Woods and Gates are also referred to as a "**Family**".

A. Woods and Gates are Members of Big Lost Ranch LLC, a Delaware limited liability company (the "**Company**"), pursuant to the terms of a certain Limited Liability Company Agreement of Big Lost Ranch LLC dated June 10, 2004 (the "**Operating Agreement**"). Capitalized terms that are used herein and not otherwise defined shall have the meanings set forth in the Operating Agreement.

B. In accordance with Section 19(a) of the Operating Agreement, Woods and Gates wish to (i) modify and clarify the terms of the Operating Agreement to permit the transfer of interests in the Company to a Family Entity (as defined below in Section 1) and (ii) modify certain provisions regarding the management of the Company by the Ranch Manager.

NOW THEREFORE, Woods and Gates agree as follows:

**1 DEFINITION**

1.1 *Family Entity.* For purposes of this Addendum, "**Family Entity**", as applied to a Family, shall mean a partnership, limited partnership, limited liability company or other similar entity whose partners, members and/or beneficial owners are: (i) the Family; (ii) any children or other lineal descendants of the Family; (iii) trusts established for the benefit of any person described in clauses (i) or (ii); or (iv) limited liability companies, partnerships or other entities whose beneficial owners are the persons described in clauses (i), (ii) or (iii) (each a "**Valid Family Member**").

**2 TRANSFERS TO A FAMILY ENTITY; WAIVERS**

2.1 *Consent to Transfer to a Family Entity.* Each Family hereby agrees that a Family may transfer all or any portion of its interest in the Company to a Family Entity (each a "**Family Entity Transfer**"), provided that the transferring Family provides prompt written notice to the Company and the other Family of the Family Entity Transfer. Each Family further agrees that to the extent the terms of Sections 15(a)(i) or 15(a)(ii) of the Operating Agreement require prior written consent by a Family for a Family Entity Transfer, this Addendum is deemed to satisfy such consent requirements. Furthermore, Woods and the Company hereby confirm that they have received notice of the transfer by Gates to Gates Family Partnership, L.P. (the "**Gates Partnership**"), of its 50% membership interest in the Company effective as of October 1, 2009 and such transfer to the Gates Partnership is a valid Family Entity Transfer.

2.2 *Waiver of Certain Provisions.* By virtue of the consent set forth in Section 2.1 above, each Family hereby acknowledges and agrees that a Family Entity Transfer shall not be subject to any right of purchase for the non-transferring Family pursuant to Sections 15(b) or 15(d) of the Operating Agreement. Furthermore, each Family acknowledges and agrees that for purposes of Section 16(a) of the Operating Agreement, a Family Entity which owns interests in the Company shall not be deemed a "Deceased Member" in the event of the death of one or more parties to this Addendum or the death of any Valid Family Member.

2.3 *Subsequent Actions by a Family Entity.* Each Family hereby acknowledges and agrees to the following:

(a) A Family Entity may subsequently transfer its interests in the Company to a Valid Family Member or another Family Entity and such transfer shall not be subject to the transfer restrictions set forth in Section 15 of the Operating Agreement. In addition, a Valid Family Member may transfer its interests as a partner, member or other owner of a Family Entity to another Valid Family Member.

(b) A transfer by the Family Entity of its interests in the Company to another person who is not a Valid Family Member nor another Family Entity shall be subject to the transfer restrictions set forth in Section 15 of the Operating Agreement.

### 3 CERTAIN COVENANTS REGARDING FAMILY ENTITIES

3.1 *Ownership Interests in a Family Entity.* Each Family agrees, on behalf of itself and its heirs, successors and assigns, that so long as a Family Entity owns interests in the Company, such Family Entity shall only have Valid Family Members as its partners, members and/or beneficial owners. If a Family Entity has a partner, member or beneficial owner who would not qualify as a Valid Family Member, then the other Family has the right to purchase the interests in the Company held by such Family Entity pursuant to the provisions set forth in Section 15(d) of the Operating Agreement.

#### 3.2 *Management of a Family Entity.*

(a) Each Family agrees, on behalf of itself and its heirs, successors and assigns, that it shall, at all times that the Operating Agreement is in effect, maintain the partnership agreement or other agreement that governs the Family Entity, the agreement that governs any entity that is a partner or member of such Family Entity and the terms of any trust established by such Family that holds interests in the Family Entity, in a manner that assures:

(i) That there shall be a general partner or manager, as the case may be, of the Family Entity (a "**General Partner**");

(ii) That if the General Partner is a trust, there shall be one trustee of that trust authorized to act on behalf of the trust as General Partner of the Family Entity;

(iii) That if the General Partner is a limited liability company (the "**LLC**"), there shall be one person authorized to act on behalf of the LLC as General Partner of the Family Entity.

For purposes of this Addendum, the term "**Authorized Representative**", as applied to a Family Entity, shall mean any natural person serving as the General Partner or the authorized person as described in clause (ii) or clause (iii) above for such Family Entity.

(b) In the case of a Family Entity associated with Gates, Mark T. Gates, Jr. shall initially serve as the Authorized Representative of such Family Entity until the earlier of (i) his resignation, (ii) his death or (iii) removal. In the event Mark no longer serves in such capacity, the other partners, members or beneficial owners of the Family Entity shall move, as quickly as practicable, to appoint and designate Elizabeth W. Gates as the Authorized Representative of such Family Entity and Elizabeth shall serve in such capacity until the earlier of (i) her resignation, (ii) her death or (iii) removal. In the event that neither Mark nor Elizabeth serve in such capacity, the other partners, members or beneficial owners of the Family Entity shall move, as quickly as practicable, to appoint and designate Stephanie Osborne as the Authorized Representative of such Family Entity and Stephanie shall serve in such capacity until the earlier of (i) her resignation, (ii) her death or (iii) removal. Thereafter, any Authorized Representative who becomes unable to serve shall be replaced, as quickly as practicable, by a person appointed or designated at the discretion of the partners, members or beneficial owners of the Family Entity provided that such person is a Valid Family Member of such Family Entity.

(c) In the case of a Family Entity associated with Woods, Ward W. Woods shall initially serve as the Authorized Representative of such Family Entity until the earlier of (i) his resignation, (ii) his death or (iii) removal. In the event Ward no longer serves in such capacity, the other partners, members or beneficial owners of the Family Entity shall move, as quickly as practicable, to appoint and designate Priscilla B. Woods as the Authorized Representative of such Family Entity and Priscilla shall serve in such capacity until the earlier of (i) her resignation, (ii) her death or (iii) removal. In the event that neither Ward nor Priscilla serve in such capacity, the other partners, members or beneficial owners of the Family Entity shall move, as quickly as practicable, to appoint and designate Alexandra Wilkins as the Authorized Representative of such Family Entity and Alexandra shall serve in such capacity until the earlier of (i) her resignation, (ii) her death or (iii) removal. Thereafter, any Authorized Representative who becomes unable to serve shall be replaced, as quickly as practicable, by a person appointed or designated at the discretion of the partners, members or beneficial owners of the Family Entity provided that such person is a Valid Family Member of such Family Entity.

(d) Gates and Woods hereby acknowledge that the provisions of this Section 3.2 shall in on way restrict, prohibit or otherwise impair the right of any individual, at his or her discretion, to resign or otherwise terminate his or her status as an Authorized Representative of a Family Entity.

#### **4 AMENDMENT TO SECTION 10 OF THE OPERATING AGREEMENT**

4.1 *Ranch Manager.* Notwithstanding Section 10 of the Operating Agreement, the parties hereto agree that Mark T. Gates, Jr. shall serve as Ranch Manager until the earlier of (i) his resignation, (ii) his death or (iii) removal by the Members of the Company who hold at least a majority of the Pro Rata Shares. In the event that Mark T. Gates, Jr. no longer serves as Ranch Manager, the Members who hold at least a majority of the Pro Rata Shares shall appoint a successor Ranch Manager as soon as practicable and any future vacancies shall be filled by a

person appointed by Members of the Company who hold at least a majority of the Pro Rata Shares.

## 5 MISCELLANEOUS

5.1 *Counterparts.* This Addendum may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.2 *Effect of the Addendum.* Except as specifically set forth herein, all of the terms and conditions of the Operating Agreement shall remain in full force and effect and are hereby ratified and affirmed. To the extent that the provisions of this Addendum conflict with any provisions contained in the Operating Agreement, the provisions of this Addendum shall control.

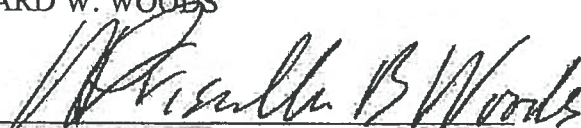
// Signature page follows //

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date first set forth above.

**WOODS:**

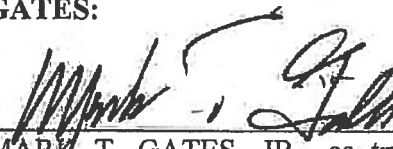


WARD W. WOODS

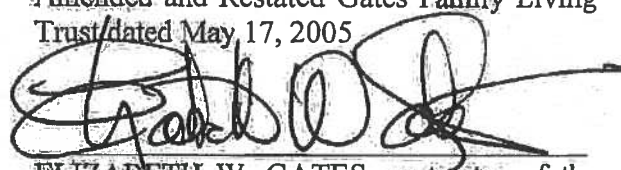


PRISCILLA B. WOODS

**GATES:**



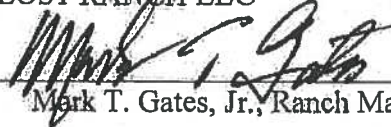
MARK T. GATES, JR., as trustee of the  
Amended and Restated Gates Family Living  
Trust dated May 17, 2005



ELIZABETH W. GATES, as trustee of the  
Amended and Restated Gates Family Living  
Trust dated May 17, 2005

**COMPANY:**

BIG LOST RANCH LLC

By: 

Mark T. Gates, Jr., Ranch Manager



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

January 27, 2015

BIG LOST RANCH LLC  
700 EMERSON ST  
PALO ALTO CA 94301

### RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 34-13621

Dear Lessor:

Water Right **34-13621** was leased into the Water Supply Bank on January 1, 2015 in accordance with the executed original Lease Contract enclosed. **Your water right as described on the Lease Contract are considered leased into the Bank and should remain unused until it is formally released from the Bank.**

The right will automatically be released from the Bank on **December 31, 2019**, unless the right is released earlier by the Board, or upon your request. **Please note your right may not be available for immediate release if it has 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](http://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,

  
for Clay Webster  
Water Resource Agent  
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: IDWR Eastern Region Office



State of Idaho

## DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

GARY SPACKMAN  
Director

C.L. "BUTCH" OTTER  
Governor

January 13, 2015

BIG LOST RANCH LLC  
700 EMERSON ST  
PALO ALTO CA 94301

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 34-13621 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 BOTH 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, 2019**, 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."

In the review process, the Department found that the description for the authorized point-of-diversion of your water right is in government lot 21 (NESW). There is no government lot 21 in section 29. However, the USGS map of the area shows that the point-of-diversion should be described in government lot 8.

To correct this discrepancy, an application for transfer should be filed before you resume use of right 34-13621.

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 # C099671

## MEMORANDUM

**To:** Water Right No(s). 34-13621  
**From:** Michele Edl  
**Date:** 1/12/2015  
**Re:** Review of Applications to Lease Water Rights to the State Water Supply Bank

---

**PURPOSE/NARRATIVE:** On December 8, 2014, IDWR received an application to lease the entirety of this right to the WSB for 2015 through 2019. The right had been leased to the WSB from 2009 - 2014 when the previous lease expired. This application is to reinstate a lease agreement.

**AUTHORITY TO FILE:** Ambiguity about who had the authority to file has been resolved since the previous lease agreement. Big Lost Ranch LLC is listed with ISOS as W106290. Mark Gates is listed as a signatory authority. Mr. Gates signed the application.

**WATER RIGHT VALIDITY:** Imagery shows the right was last used in 2006. It has been leased to the bank since 2009. Forfeiture is not an issue.

**INJURY TO OTHER WATER RIGHTS:** No injury is apparent. This water right may share a point-of-diversion with 34-7016A for irrigation use. But WMIS records for the well show it as "Unused".

**ENLARGEMENT OF USE:** No enlargement is evident through the lease alone. The right provides less than 0.02 cfs/ac. Proper rental review should protect against enlargement.

**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 is not subject to any Water District.

Condition 11 on the previous lease contract, identifies the POU within the service territory of the City of Ketchum. I did not find that to be true.

The partial decree states that the POD is L21 (NESW). I found that there is no government lot 21 in Township 8N, Range 23E, section 29. The POD for the right is located government lot 8 (NESW). Available Custer County taxlot information shows the applicant as the owner of the property in lot 8. The right holders will be informed of this discrepancy and of their responsibility to correct it before resuming use of the right at this location.

I configured the lease contract with the official, decreed information (wrong government lot) but recommend that the right not be rented until the POD location issue is addressed.

## Edl, Michele

---

**From:** Cefalo, James  
**Sent:** Friday, January 09, 2015 4:04 PM  
**To:** Edl, Michele  
**Subject:** RE: region comment on Big Lost Ranch WSB lease

Michele,

I have no comments or concerns about the proposed WSB lease.

James

---

**From:** Edl, Michele  
**Sent:** Friday, January 09, 2015 3:45 PM  
**To:** Cefalo, James  
**Subject:** region comment on Big Lost Ranch WSB lease

James,

I have completed my review of the WSB lease application, submitted by Big Lost Ranch LLC for WR 34-13621. In essence, this should have been a simple re-up of a lease that expired in December 2014. However, I found an error in the POD location that we didn't catch previously. I don't know if that is a deal breaker. I have assumed that I can move forward with a lease.

Please give me your feedback about this application.

I have attached my review memo and a jpg showing the lease location.

Thank you.

Michele

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

1/7/2015

Water Right 34-13621

**Owner Type**      **Name and Address**  
Current Owner      BIG LOST RANCH LLC  
700 EMERSON ST  
PALO ALTO, CA 94301

**Priority Date:** 3/18/1975

**Basis:** Decreed

**Status:** Active

**Source**      **Tributary**  
GROUND WATER

| <b>Beneficial Use</b> | <b>From</b>            | <b>To</b> | <b>Diversion Rate</b> | <b>Volume</b> |
|-----------------------|------------------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/01                  | 11/01     | 0.390 CFS             | 108.5 AF      |
|                       | <b>Total Diversion</b> |           | 0.390 CFS             | 108.5 AF      |

**Source and Point(s) of Diversion**

GROUND WATER      L21(NESW)      Sec. 29, Twp 08N, Rge 23E, CUSTER County

**Place Of Use**

IRRIGATION within CUSTER County

|     |     |     | NE |    |    |    | NW |    |    |    | SW |      |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|------|----|----|----|----|----|----|--------|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW   | SW | SE | NE | NW | SW | SE |        |
| 08N | 23E | 29  |    |    |    |    |    |    |    |    |    | 31.0 |    |    |    |    |    |    | 31.0   |

POU Total Acres: 31.0

**Conditions of Approval:**

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. P21 THIS RIGHT IS A SPLIT FROM FORMER RIGHT 34-7106B

**Comments:**

1. kpickett      2/3/2006      POD  
Correlated PODID 536653 from SpatialDataID 194261 to SpatialDataID 194339

**Dates and Other Information**

Decreed Date: 2/25/2002  
Civil Case Number: 39576  
Judicial District: FIFTH  
State or Federal: S  
Water District Number: 34  
Mitigation Plan: False

**Combined Use Limits**

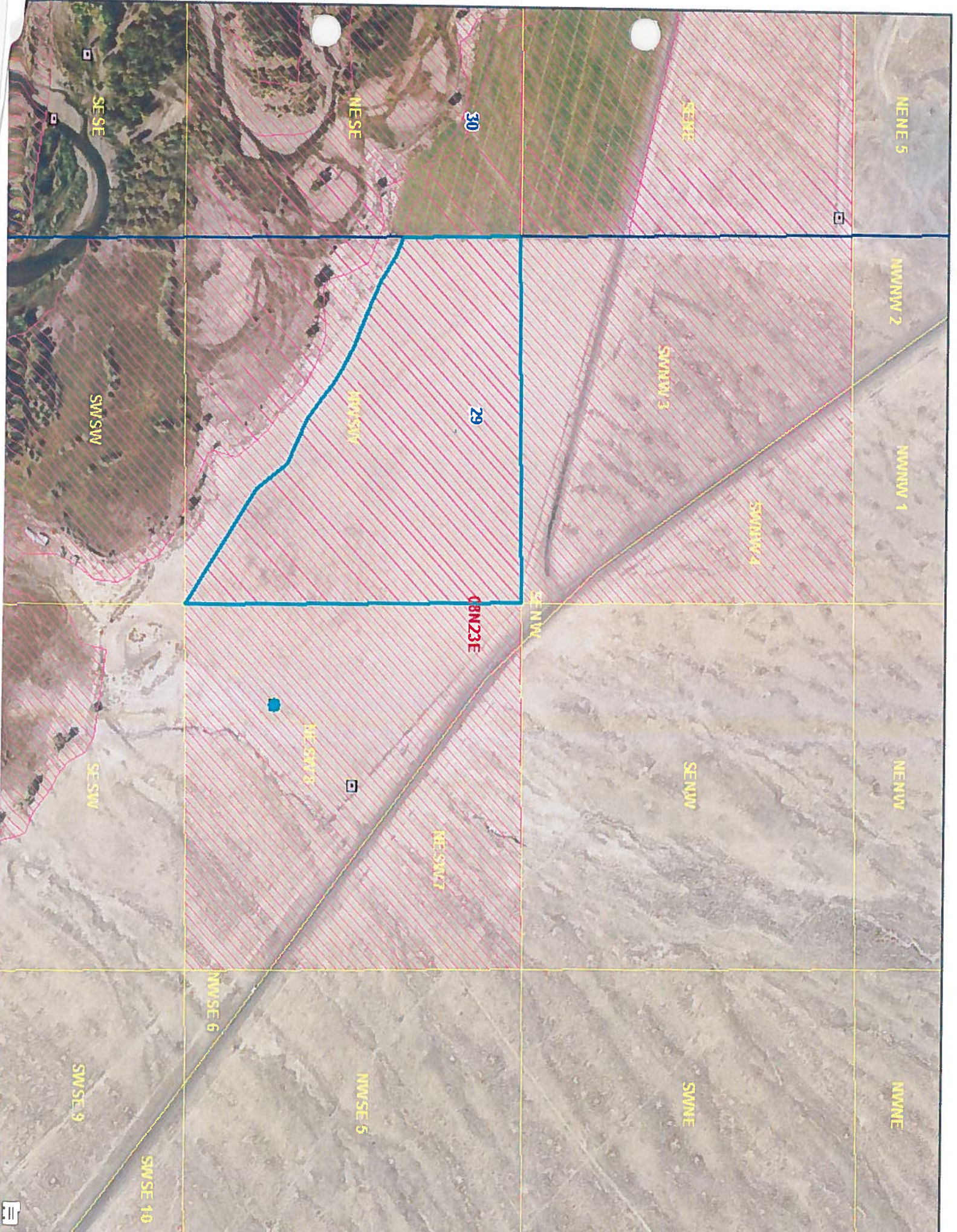
N/A

**SubCase:**

N/A

**Water Supply Bank:**

N/A





## IDAHO SECRETARY OF STATE Viewing Business Entity

Lawrence Denney, Secretary of State

[ [New Search](#) ] [ [Back to Summary](#) ]  
[ [Get a certificate of existence for BIG LOST RANCH LLC](#) ]  
[ [Monitor BIG LOST RANCH LLC business filings](#) ]

### BIG LOST RANCH LLC

700 EMERSON ST  
PALO ALTO, CA 94301

**Type of Business:** LIMITED LIABILITY COMPANY

**Status:** EXISTING, ANREPT SENT 02 Jun 2014

**State of Origin:** DELAWARE

**Date of** 29 Aug 2011

**Origination/Authorization:**

**Current Registered Agent:** NORTHWEST REGISTERED AGENT LLC  
1900 NORTHWEST BLVD STE 106A  
COEUR D ALENE, ID 83814

**File Number:** W106290

**Date of Last Annual Report:** 10 Jun 2014

**Original Filing:**

**Filed 29 Aug 2011** CERTIFICATE  
OF AUTHORITY

[ [Help Me Print/View TIFF](#) ]

[View Image \(PDF format\)](#)

[View Image \(TIFF format\)](#)

**Annual Reports:**

[ [Help Me Print/View TIFF](#) ]

**Report for year 2014** ANNUAL REPORT

[View Document Online](#)

**Report for year 2013** ANNUAL REPORT

[View Document Online](#)

**Report for year 2012** ANNUAL REPORT

[View Document Online](#)

---

[Idaho Secretary of State's Main Page](#)

[State of Idaho Home Page](#)

Comments, questions or suggestions can be emailed to: [sosinfo@sos.idaho.gov](mailto:sosinfo@sos.idaho.gov)