

DEC 18 2014

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

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

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

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. 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>
37-22890	0.02 CFS	Not Stated	NA	2.5 AC
37-22892	0.02 CFS	Not Stated	NA	2.5 AC
37-22894	0.04 CFS	Not Stated	NA	2.5 AC
37-22896	0.03 CFS	Not Stated	NA	2.5 AC
Combined Lease Totals:		0.11 CFS*	Not Stated	2.5
				2.5 AC

*The lease of these rights is limited to 0.09 cfs, the remaining portion is used for conveyance losses.

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.

SUPPORT DATA

IN FILE # 37-22890

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.

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

By

Printed Name

MARK A CAPLOW

Date

12/16/2014

Title

MANAGER

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

December 19, 2014

Lease approved by IDWR

Cheri Palmer

Date

12/19/2014

ATTACHMENT A
WATER RIGHT NO. 37-22890
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

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

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	0.02 CFS	NA
	Total:			0.02 CFS
				NA

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												2.5					2.5

Total Acres: 2.5

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
37-22890, 37-22892, 37-22894 and 37-22896	0.11 CFS	Not Stated	2.5 AC	2.5 AC

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. Water is diverted from Headgate #22 delivered through Hiawatha Canal.
13. A portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.02 cfs of the leased portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 into the Hiawatha Canal whether it is rented or not.
14. Water rights 37-22890, 37-22892, 37-22894 and 37-22896 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.
15. The right listed below, shall provide not more than 3.5 afa per acre at the filed headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined right nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896 and 37-22897.
16. The diversion rate of this right is 0.02 cfs.

ATTACHMENT A
WATER RIGHT NO. 37-22892
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

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

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	0.02 CFS	NA
	Total:		0.02 CFS	NA

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												2.5					2.5

Total Acres: 2.5

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
37-22890, 37-22892, 37-22894 and 37-22896	0.11 CFS	Not Stated	2.5 AC	2.5 AC

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. Water is diverted from Headgate #22 delivered through Hiawatha Canal.
13. A portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.02 cfs of the leased portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 into the Hiawatha Canal whether it is rented or not.
14. Water rights 37-22890, 37-22892, 37-22894 and 37-22896 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.
15. The right listed below, shall provide nor more than 3.5 afa per acre at the filed headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined right nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896 and 37-22897.
16. The diversion rate of this right is 0.021 cfs.

ATTACHMENT A
WATER RIGHT NO. 37-22894
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

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

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 to	10/31	0.04 CFS	NA
	Total:			0.04 CFS
				NA

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												2.5					2.5

Total Acres: 2.5

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
37-22890, 37-22892, 37-22894 and 37-22896	0.11 CFS	Not Stated	2.5 AC	2.5 AC

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. Water is diverted from Headgate #22 delivered through Hiawatha Canal.
13. A portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.02 cfs of the leased portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 into the Hiawatha Canal whether it is rented or not.
14. Water rights 37-22890, 37-22892, 37-22894 and 37-22896 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.
15. The right listed below, shall provide not more than 3.5 afa per acre at the filed headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined right nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896 and 37-22897.
16. The diversion rate of this right is 0.042 cfs.

ATTACHMENT A
WATER RIGHT NO. 37-22896
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

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

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	0.03 CFS	NA
	Total: 0.03 CFS			NA

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												2.5					2.5

Total Acres: 2.5

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
37-22890, 37-22892, 37-22894 and 37-22896	0.11 CFS	Not Stated	2.5 AC	2.5 AC

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. Water is diverted from Headgate #22 delivered through Hiawatha Canal.
13. A portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.02 cfs of the leased portion of water rights 37-22890, 37-22892, 37-22894 and 37-22896 into the Hiawatha Canal whether it is rented or not.
14. Water rights 37-22890, 37-22892, 37-22894 and 37-22896 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.
15. The right listed below, shall provide not more than 3.5 afa per acre at the filed headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined right nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896 and 37-22897.
16. The diversion rate of this right is 0.026 cfs.

STATE OF IDAHO
WATER RESOURCE BOARDWATER SUPPLY BANK LEASE OR SALE
APPLICATION CHECKLISTRECEIVED
SEP 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 West of First LLCWater Right No. 37-21811 37-22890
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 \$ <u>500⁰⁰</u>	Received By: <u>AS</u>	Date Received: <u>9/8/14</u>	Receipt # <u>C099366</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>West of First, LLC</u>	

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
SEP 08 2014
DEPARTMENT OF
WATER RESOURCES

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 West of First LLC Email Address _____
Mailing Address 9533 W. Pico Blvd., Los Angeles, CA 90035 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. Haemmerke Organization Haemmerle & Haemmerle PLLC
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 ☒

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 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

Printed Name

Date

MARK CAPLOW

9/3/14

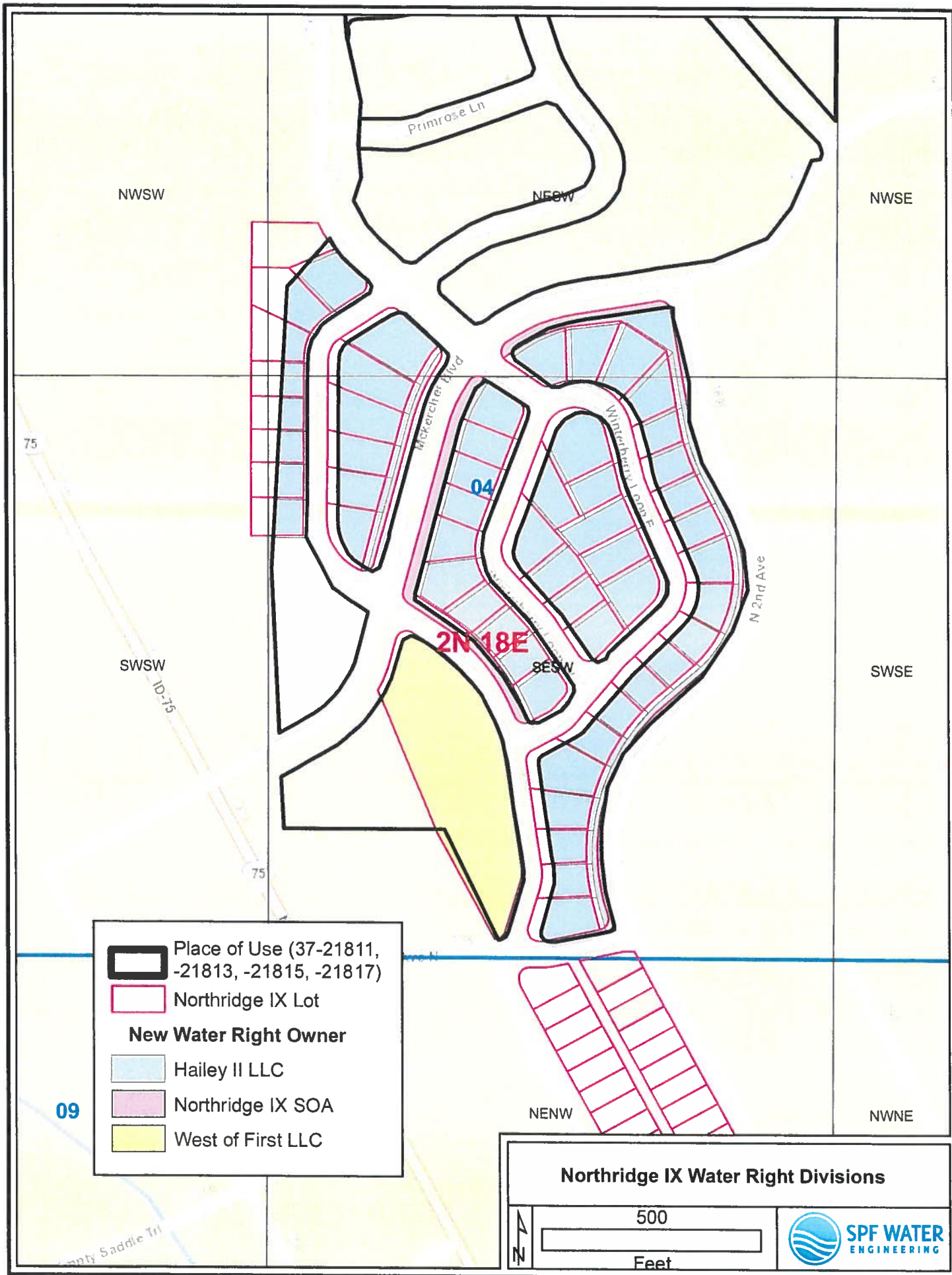
Signature of Authorized Representative

Printed Name

Date

Mail to:

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





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

December 22, 2014

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

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 37-22890, 37-22892, 37-22894 and 37-22896

Dear Lessor:

Water Rights 37-22890, 37-22892, 37-22894 and 37-22896 were leased into the Water Supply Bank 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: Haemmerle & Haemmerle
IDWR Southern Region
Kevin Lakey – Water District No. 37



REAL ESTATE ■ INVESTMENTS ■ MANAGEMENT

RECEIVED

DEC 18 2014

DEPARTMENT OF
WATER RESOURCES

December 16, 2014

Cherie Palmer
Water rights Supervisor
State of Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098

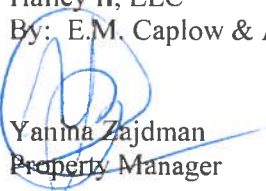
Re: West of First, LLC
Water Supply Bank Lease Contracts for Water Rights(s)
37-22890, 37-22892, 37-22894 and 37-22896

Dear Ms. Palmer,

Per your letters of 10/30/14, 12/10/14 and after our Attorney Fritz Haemmerle's review enclosed are the signed Water Supply Bank Lease Contracts for the above-referenced water rights.

Thank you.

Hailey II, LLC
By: E.M. Caplow & Associates, Inc.


Yanina Zajdman
Property Manager

Enc (as stated)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

December 10, 2014

WEST OF FIRST
9533 W PICO BLVD
LOS ANGELES CA 90035

PLEASE RESPOND BY
DECEMBER 22, 2014

RE: REQUEST FOR RETURN OF SIGNED WATER SUPPLY BANK LEASE CONTRACTS FOR
WATER RIGHT(S) 37-22890, 37-22892, 37-22894 AND 37-22896

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 October 30, 2014. 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 287-4944.

Sincerely,


for Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

c: Haemmerle & Haemmerle, PLLC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

October 30, 2014

WEST OF FIRST
9533 W PICO BLVD
LOS ANGELES CA 90035

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-22890, 37-22892, 37-22894 and 37-22896
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, 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 287-4944.

Sincerely,

for Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

c. Hammerle & Hammerle, PLLC

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

RECEIVED

OCT 10 2014

DEPARTMENT OF
WATER RESOURCES

October 7, 2014

Cherie Palmer
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

*Re: Hiawatha Canal Water Leases; 37-22890, 37-22892, 37-22894, 37-22896,
37-22891, 37-22893, 37-22895 and 37-22897/37-22321*

Dear Ms. Palmer:

The purpose of this letter is to respond generally to water rights being leased to the Water Bank, which are conveyed in the Hiawatha Canal ("Canal") by the Hiawatha Canal Company, a.k.a. The Hiawatha Canal Water Users Association of Lateral or Laterals ("Canal Company"). Also, this letter will specifically address the proposed water rights being placed in the Water Bank for the aforementioned water rights.

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

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

Cherie Palmer
Page 2
October 7, 2014

Accordingly, the Canal Company does not presently object to the water rights being placed in the Water Bank by the City of Hailey under water rights 37-22321, 37-22311 and 37-22316, provided that twenty-percent (20%) of the right is left in the Canal as conveyance loss.

Then, there is the larger question of protecting the water users of the Canal from a situation where sufficient water is taken out of the Canal and placed in the Water Bank so as to prevent delivery of water to those users remaining in Canal. This is a concern that the Board of the Hiawatha Canal Company would like to know your current thoughts on and would like to discuss further with you.

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

Sincerely,

HIAWATHA CANAL COMPANY



David Cropper, President

FXH: fxh
cc: client
Roxanne Brown, SPF Water Engineering



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 24, 2014

WEST OF FIRST LLC
HAILEY II LLC
9533 W PICO BLVD
LOS ANGELES CA 90035

RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION(S) TO LEASE WATER RIGHTS 37-22890, 37-22892, 37-22894, 37-22896 (In the name of West of First LLC) and 37-22891, 37-22893, 37-22895 and 37-22897 (In the name of Hailey II LLC) TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to lease the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank). Please note the water right numbers changed due to the Notice of Change of Ownership submitted with the Bank applications. The original water rights were divided and the new numbers are listed above. The Department will review your application as resources allow.

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

Please provide the following information within 14 days of the date of this letter or the application will be returned:

- Permission from Hiawatha Canal Company to lease water to Bank for each applicant
- Internal Revenue Service form W-9 for each applicant

The department will continue processing your application(s) once you have submitted the requested information. Water right forms are available from the Department's web site at www.idwr.idaho.gov. If you have any questions, please contact me at (208) 287-4944.

Sincerely,


for Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Enclosure: Receipt #C099366 and C099368
Form W-9

c: Haemmerle & Haemmerle PLLC

Hersley, Jean

From: Merritt, Allen
Sent: Wednesday, September 24, 2014 1:43 PM
To: Hersley, Jean
Subject: RE: WSB Lease Applications for Hailey II, LLC and West of First, LLC

These rights are within the Service area of the City of Hailey and it appears some of the lands are likely irrigated from the city system so there appears to be an overlap of use and to rent them out as primary rights may be an issue.

From: Hersley, Jean
Sent: Wednesday, September 24, 2014 12:23 PM
To: Merritt, Allen; Kevin Lakey
Subject: WSB Lease Applications for Hailey II, LLC and West of First, LLC

I received a change of ownership from Hailey II, LLC and West of First LLC to split 4 water rights. The splits are as follows:

37-21811 (split into 37-21811, 37-22890 and 37-22891), 37-21813 (split into 37-21813, 37-22892 and 37-22893), 37-21815 (split into 37-21815, 37-22894 and 37-22895), and 37-21817 (split into 37-21817, 37-22896 and 37-22897)

Each applicant wishes to put their portion of each right into the Bank. They want it to be retroactive from the beginning of the irrigation season this year to the end of 2018.

Hailey II, LLC rights are: 37-22891, 37-22893, 37-22895 and 37-22897.

West of First LLC rights are: 37-22890, 37-22892, 37-22894 and 37-22896.

I have attached the review memos. If you have any questions, comments or concerns, please let me know within 7 days. If I do not hear from you, I will proceed with the processing of these applications.

Thank you.

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

Hersley, Jean

From: Kevin Lakey [watermanager@cableone.net]
Sent: Thursday, February 06, 2014 8:02 AM
To: Hersley, Jean
Subject: RE: WSB Lease Applications from Northridge II Subdivision Owners' Assoc Inc

I don't have a problem with this application.

Kevin Lakey
Water District 37

From: Hersley, Jean [<mailto:Jean.Hersley@idwr.idaho.gov>]
Sent: Tuesday, February 04, 2014 12:55 PM
To: Merritt, Allen; Kevin Lakey
Subject: WSB Lease Applications from Northridge II Subdivision Owners' Assoc Inc

Attached is the review memo for WSB Lease Applications for water rights 37-22810 through 37-22813.

Your comments or concerns are needed within 14 days. If we don't hear from you within this time period, I will assume you do not have any objections to the lease of these rights and will continue processing the applications.

If you have any questions, please contact me.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

<<DOC005.pdf>>

MEMORANDUM

To: Water Right No(s). 37-22890, 37-22892, 37-22894 and 37-22896

From: Jean Hersley

Date: 9/24
12/19/2014 

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

PURPOSE/NARRATIVE: These applications were filed on September 8, 2014 along with a Change in Ownership. The original rights, 37-21811, 37-21813, 37-21815 and 37-21817, were all split 3 ways. The WSB applications list the original right with a portion going to the Bank. After the split, it is the full amount of the water right being leased into the Bank. The applicant wishes to lease to the Bank until 2018. These rights are located in the Northridge IX Subdivision.

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

WATER RIGHT VALIDITY: The parent rights were decreed in 2011. Forfeiture is not an issue.

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.

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.

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

August 16, 2014

RECEIVED
SEP 08 2014
DEPARTMENT OF
WATER RESOURCES

Idaho Department of Water Resources
c/o Pamela S. Skaggs, Water Rights Supervisor
P.O. Box 83720
Boise, ID 83720-0098

Re: *Change in Ownership and Water Lease Application (EMB to West of First LLC)*

Dear Ms. Skaggs:

Please find enclosed: (1) a Change in Ownership Form (from EMB to West of First LLC); and (2) Water Supply Lease Application. I am sending the Change of Ownership directly to you for sake of convenience, instead of sending the forms to the Southern (Twin Falls) Office. I have also enclosed a fee of \$400.00 for the Name Change and \$500.00 for the Water Lease Application. All the rights are on the same place of use.

If anything else is required, please do not hesitate to call. Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

Fritz X. Haemmerle

FXH: fxh
cc: client

RECEIVED

AUG 28 2014

E.M. CAPLOW & ASSOC. INC
REAL ESTATE • INVESTMENTS