

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1606

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

**LESSOR:** DIAMOND/SOLDIER  
PROPERTIES LLC  
C/O GREGORY VIK PO BOX 1607  
BELLEVUE, WA 98009

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FEB 06 2023  
DEPARTMENT OF  
WATER RESOURCES

## RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. 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 and received by the Department on October 24, 2022.
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

| Water Right No.       | Priority Date | Source                               | Diversion Rate (CFS) | Diversion Volume (AF) | Acres (AC) |
|-----------------------|---------------|--------------------------------------|----------------------|-----------------------|------------|
| 37-410                | 5/9/1883      | DEER CREEK, tributary to CAMAS CREEK | 0.25                 | Not Stated            | 30.1       |
| 37-411                | 5/15/1883     | DEER CREEK, tributary to CAMAS CREEK | 1.40                 | Not Stated            | 30.1       |
| Combined Lease Totals |               |                                      | 1.65                 | Not Stated            | 30.1       |

### Summary of Water Rights Elements Rentable from the Bank

| Water Right     | Diversion Rate (CFS) | Diversion Volume (AF) | Acres (Limited) (AC) | Rate Per Acre (CFS/AC) | Volume Per Acre (AF/AC) |
|-----------------|----------------------|-----------------------|----------------------|------------------------|-------------------------|
| 37-410          | 0.25                 | 105                   | 30.1                 | 0.01                   | 3.5                     |
| 37-411          | 1.40                 | 105                   | 30.1                 | 0.04                   | 3.5                     |
| Combined Totals | 1.65                 | 105                   | 30.1                 | 0.05                   | 3.5                     |

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.

SUPPORT DATA  
IN FILE # 37-410

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## WATER SUPPLY BANK LEASE CONTRACT No. 1606

**Minimum Payment Acceptable:** Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2023 to December 31, 2027. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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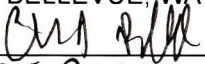
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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1606**

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

**LESSOR:** DIAMOND/SOLDIER  
PROPERTIES LLC  
C/O GREGORY VIK PO BOX 1607  
BELLEVUE, WA 98009

By   
Title VICE PRESIDENT  
Date 1-30-23

**IDAHO WATER RESOURCE BOARD**

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

By   
Brian Patton, Acting Administrator  
Idaho Water Resource Board

Date 2/6/23

Lease approved by IDWR 

Date 2/6/23

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1606**

**ATTACHMENT A  
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water rights or portions thereof leased to the bank are described as follows:

**Source and Location of Point(s) of Diversion for Water Right No(s): 37-410, 37-411**

DEER CREEK L3NENWSW Sec. 19 Twp 01N Rge 15E CAMAS County

| Water Right    | Beneficial Use | Season of Use |    |       | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
|                |                | From          |    | To    |                      |             |
| 37-410         | IRRIGATION     | 04/15         | to | 10/31 | 0.25 cfs             | Not Stated  |
| 37-410         | DOMESTIC       | 01/01         | to | 12/31 | 0.25 cfs             | Not Stated  |
| 37-411         | IRRIGATION     | 04/15         | to | 10/31 | 1.40 cfs             | Not Stated  |
| <b>Totals:</b> |                |               |    |       | 1.65 cfs             | Not Stated  |

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

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |     | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|-----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE  | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 01N | 15E | 30  |    |    |    |    | 29 |    |    | 1.1 |    |    |    |    |    |    |    |    | 30.1   |

Total Acres: 30.1

**PLACES OF USE TO BE IDLED UNDER THIS LEASE: DOMESTIC**

| Twp | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 01N | 15E | 30  |    |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |        |

**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, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.

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DEPARTMENT OF WATER RESOURCES

**WATER SUPPLY BANK LEASE CONTRACT No. 1606**

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, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
  - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
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. 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.
13. Right Nos. 37-410 and 37-411 are limited to the irrigation of a combined total of 30.1 acres in a single irrigation season.
14. This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this General Provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving relief provided by law in the event of injury.
15. Use of the Water under this right may be regulated by the watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37B.

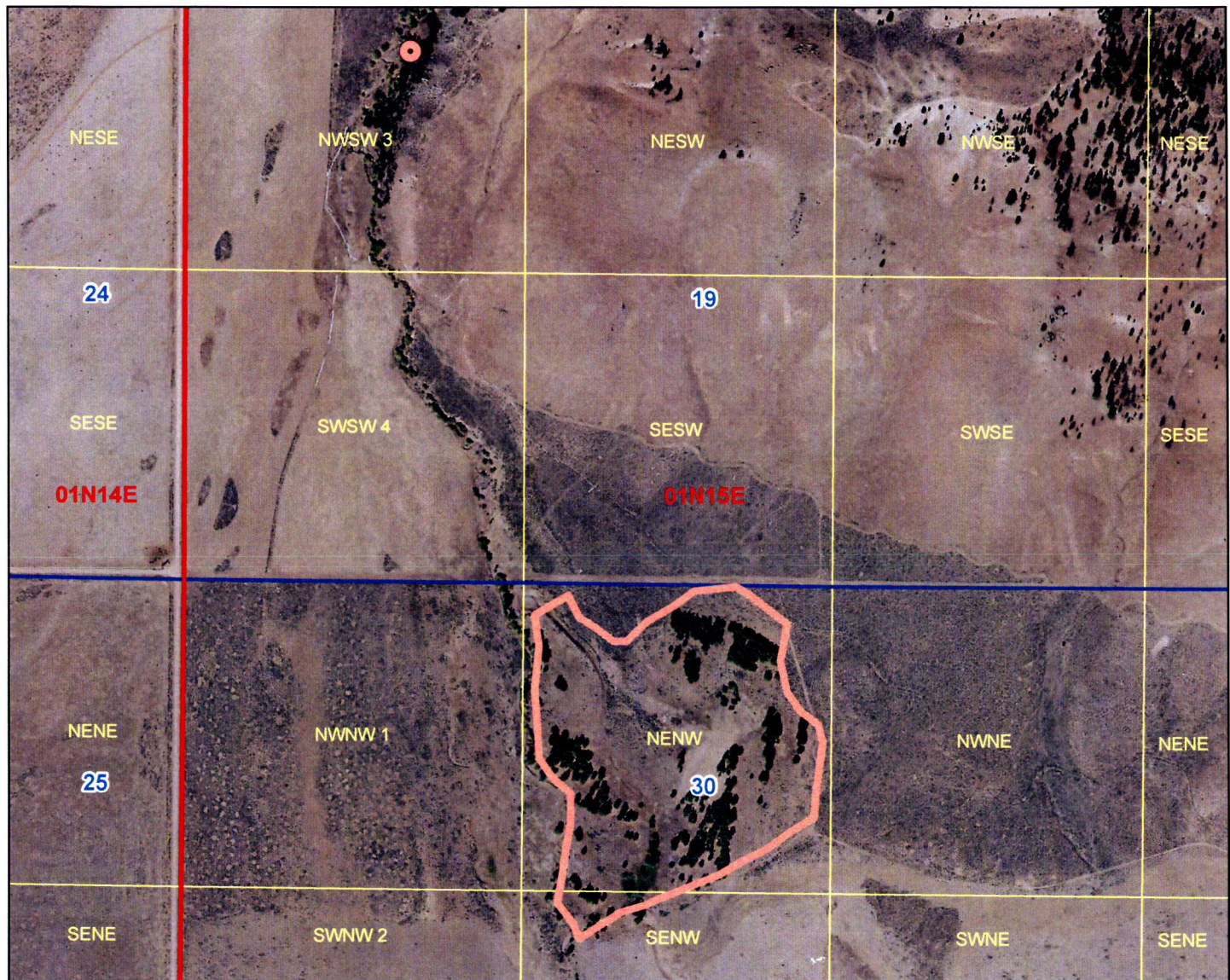
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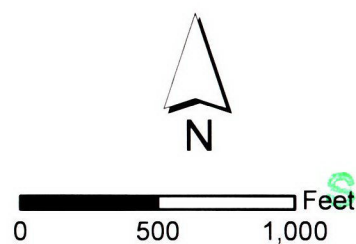
Idaho Water Resource Board  
Water Supply Bank Lease Contract No. 1606

37-410, 37-411  
Effective until December 31, 2027

This map depicts the Irrigation place of use to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



- Approved Lease Point of Diversion
- Approved Lease Place of Use
- Township/Range
- Sections
- QQ



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STATE OF IDAHO  
WATER RESOURCE BOARD

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OCT 24 2022

DEPARTMENT OF  
WATER RESOURCES

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

Designated Applicant DIAMOND/SOLDIER PROPERTIES LLC

(Select one owner – see item 1A on the application)

Water Right No. 37-410

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

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

### MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- |    |                                     |                                     |                                                                                                                                                                                                                                                                                                                                                        |
|----|-------------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1A | <input type="checkbox"/>            | <input type="checkbox"/>            | Signatures and contact information for <b>all owners</b> of the water right to be leased or sold on this application.                                                                                                                                                                                                                                  |
| 1B | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | An <a href="#">Internal Revenue Service (IRS) Form W-9</a> for the Designated Applicant.                                                                                                                                                                                                                                                               |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <i>Notice of Change in Water Right Ownership</i> form (accessible from <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> ).                                                                                                                                                                                                                   |
| 1D | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank.                                                                                                                                                                                                                                                                                 |
| 3  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: <a href="http://www.idwr.idaho.gov">www.idwr.idaho.gov</a> .                                                            |
| 4A | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Written consent from irrigation district or water delivery company.                                                                                                                                                                                                                                                                                    |
| 4G | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Evidence demonstrating the water right has not been forfeited pursuant to <a href="#">Section 42-222(2), Idaho Code</a> .                                                                                                                                                                                                                              |

#### Department Use Only

|                                                                                                         |                        |                                                    |                          |
|---------------------------------------------------------------------------------------------------------|------------------------|----------------------------------------------------|--------------------------|
| Fee Amount \$ <u>500.00</u>                                                                             | Received By: <u>PH</u> | Date Received: <u>10.24.22</u>                     | Receipt # <u>C114402</u> |
| W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (Route W-9 to Fiscal) |                        | Name on W-9: <u>Diamond/Soldier Properties LLC</u> |                          |

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STATE OF IDAHO  
WATER RESOURCE BOARD

**APPLICATION TO SELL OR LEASE A WATER RIGHT**  
(Continued)

**1. CONTACT INFORMATION**

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant DIAMOND/SOLDIER PROPERTIES LLC

Mailing Address PO Box 1607 Bellevue, WA 98009

Street City State Zip Code

Email Address Phone Number 425-460-2542

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☒ No ☐  
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐  
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐  
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Greg Sullivan Organization Brockway Engineering

Professional Title Engineer Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301 Phone Number 208-736-8543

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

OR

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

**2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK**

☒ The full water right is being offered to the Bank.

OR

☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

**3. MAP**

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

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STATE OF IDAHO  
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT  
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒  
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).  
*If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).*
- B. Please provide a description of the current water diversion and delivery system.  
Existing diversion structure, mainlines and delivery system.  
\_\_\_\_\_  
\_\_\_\_\_
- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 37-410 and 37-411  
\_\_\_\_\_  
\_\_\_\_\_
- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒  
*Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.*
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒  
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Water right 37-410 and 37-411 have been leased into the Water Supply Bank since 1/1/2013.  
\_\_\_\_\_  
\_\_\_\_\_
- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒  
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?  
If yes, describe. Yes ☐ No ☒  
\_\_\_\_\_  
\_\_\_\_\_

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STATE OF IDAHO  
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT  
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2023 to 2027 (maximum lease period 5 calendar years).  
(Year) (Year)

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

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

The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant

Printed Name

Date

Signature of Authorized Representative

Printed Name

Date

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

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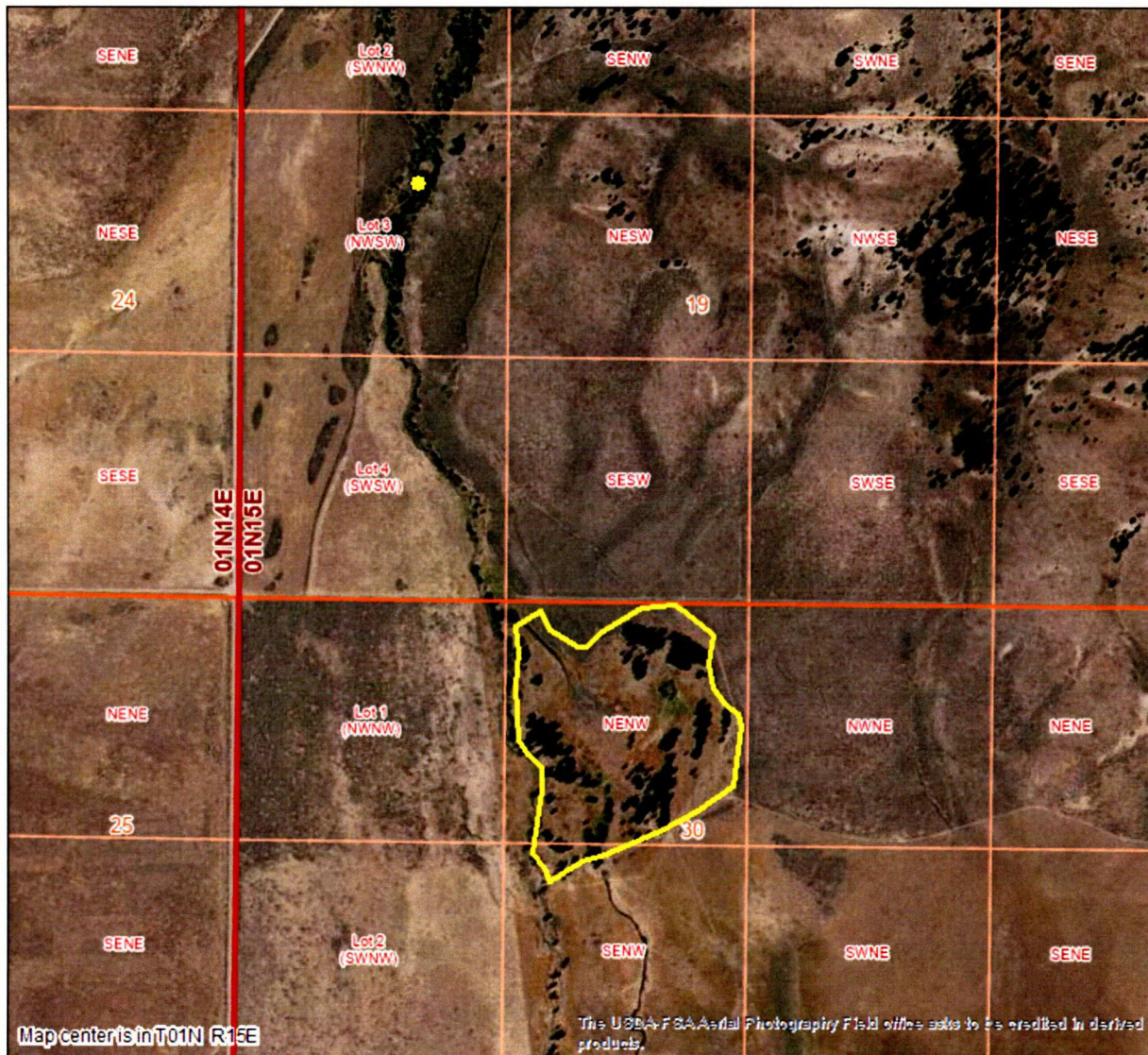
State of Idaho  
Department of Water Resources

## Water Right

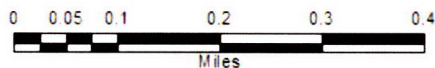
37-410 and 37-411

### IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



Date created: 9/15/2022



Legend

- Point of Diversion
- Place of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



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## DIAMOND/SOLDIER PROPERTIES LLC

### Manager Delegation of Authority

Effective September 23, 2016

Diamond/Soldier Properties LLC (the "Company") is managed by a Manager as provided in the Company's Limited Liability Company Agreement (the "Agreement"). For efficient administration of the Company's affairs, however, the Manager is executing this document to appoint certain officers to assist in the administration of the Company's affairs. The Manager retains the right to manage the affairs of the Company as provided in the Company's Agreement. The Manager shall have the right to revoke this Delegation of Authority at any time, or to overrule any decision of any officer.

#### 1. Officers.

1.129 Number, Election and Term. Officers of the Company shall be a President, a Vice President, a Secretary and a Treasurer, and may include such other officers as the Company may designate from time to time. Officers shall be appointed by the Manager from time to time. Each officer shall hold office until removed as provided below. Any one person may hold more than one office if it is deemed advisable by the manager.

1.130 Appointment of Officers. The Manager appoints the following persons to the offices designated below:

| <u>Name</u>     | <u>Office</u>           |
|-----------------|-------------------------|
| Greg Vik        | President               |
| Chris J. Pollak | Vice President          |
| Jeff Anderson   | Secretary and Treasurer |

1.131 Resignation or Removal: Any officer or agent of the Company may resign from such position by delivering written notice of the resignation to the Company, but such resignation shall be without prejudice to the contract rights, if any, of the Company. Any officer or agent of the Company may be removed by the Manager, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights. Vacancies in any office caused by any reason may be filled by the manager by selecting a suitable and qualified person to act during the unexpired term.

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AUG 14 2023

1.132 Salaries. The compensation of all the officers, agents and other employees of this Company shall be fixed by the Manager and may be changed from time to time by the Manager.

1.133 President. The President shall have general charge and control of the day to day affairs of the Company subject to the ultimate control of the Manager of the Company, shall perform all duties as may be delegated from time to time by the Manager of the Company and shall make such reports to the Manager and the Members of the Company as may be required. The President shall be authorized to execute all documents on behalf of the Company.

1.134 Vice Presidents. The Vice President shall perform such duties as shall be assigned by the president or Manager of the Company. In the case of absence, disability or death of the President, the Vice Presidents shall perform and be vested with all the duties and powers of the President, until the President shall have resumed such duties or the President's successor is elected. In the event there is more than one Vice President, the Manager of the Company may designate one of the Vice Presidents as a Senior Vice President, who, in event of the absence, disability or death of the President shall perform such duties as shall be delegated by the Manager of the Company. Each Vice President shall also have authority to execute documents on behalf of the Company and bind the Company.

1.135 Secretary. The Secretary shall keep a record of the proceedings at the meetings of the Members of the Company, shall have custody of all the books, records and papers of the Company, except such as shall be in charge of the Treasurer or some other person authorized to have custody or possession thereof, shall from time to time make such reports to the Manager, the officers and the Members of the Company as may be required, and shall perform such other duties as the Manager of the Company may from time to time delegate. In addition, if no Treasurer is elected, the Secretary shall perform all the duties required of the Office of Treasurer.

1.136 Treasurer. The Treasurer shall keep accounts of all monies of the Company received or disbursed, shall from time to time make such reports to the Manager, the officers and the Members of the Company as may be required, and shall perform such other duties as the Managers of the Company may from time to time delegate. The Treasurer shall have authority to execute banking documents required for the operation of the business of the Company.

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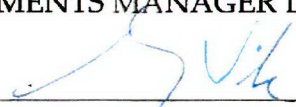
AUG 19 2023

2. Liability; Indemnification. None of the Company's officers or agents shall be liable to the Company, the Manager or the Members for any act or omission based upon errors of judgment, negligence, or other fault in connection with the business or affairs of the Company so long as the person against whom the liability is asserted acted in good faith on behalf of the Company and in a manner reasonably believed by such person to be within the scope of his or her authority under this Agreement and in the best interests of the Company, but only if such action or failure to act does not constitute gross negligence or willful misconduct. The Company agrees to indemnify the Company's officers and agents to the fullest extent permitted by law and to save and hold them harmless from and in respect of all (a) fees, costs, and expenses incurred in connection with or resulting from any claim, action, or demand against the company or any of its agents that arise out of or in any way relate to the Company, its properties, business, or affairs and (b) such claims actions and demands and any losses or damages resulting from such claims, actions and demands, including amounts paid in settlement or compromise (if recommended by attorneys for the Company) of any such claim, action or demand; provided, however, that this indemnification shall apply only so long as the person against whom a claim, action or demand is asserted has acted in good faith on behalf of the Company and in a manner reasonably believed by such person to be within the scope of its authority and in the best interests of the Company, but only if such action or failure to act does not constitute gross negligence or willful misconduct. The termination of any action, suit, or proceeding by judgment, order, settlement, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that any person acted with gross negligence or willful misconduct. The rights of any officer or agent under this paragraph are in addition to any rights such person may have under any other agreement with the Company or any affiliate of the Company.

The Manager of the Company hereby approves this Manager Delegation of Authority.

MANAGER:

INVESTMENTS MANAGER LLC

By:   
Greg Vik, President

SCANNED  
AUG 14 2023

# WSB Mailing Checklist for Leases

Instructions: Staple to outside of lowest numbered water right file during processing.

Executed  
2/10/23

**Key:** Who Completes What?

CLERICAL STAFF: MK

REVIEWER:

Received Date 10/24/2022

Desired Lease Duration 2023-2027

Lease / Rental Package Y (N)

If yes, Renter Name:

Application # 2472

Contract # 1606

| WR#s   | #      |
|--------|--------|
| 37-411 | 37-410 |
| #      | #      |
| #      | #      |
| #      | #      |
| #      | #      |
| #      | #      |
| #      | #      |
| #      | #      |

|                                                 |                                     |
|-------------------------------------------------|-------------------------------------|
| Applicant Authorized?                           | (Y) / N                             |
| Multiple owners, Attach 1A included?            | Y / N (NA)                          |
| If portion is offered, Attach 2 included?       | Y / N (NA)                          |
| Map of POU and POD?                             | (Y) / N NA                          |
| POD Consent (if required)?                      | Y / N (NA)                          |
| Application Complete?                           | (Y) / N                             |
| Minimum checklist in data base?                 | <input checked="" type="checkbox"/> |
| Request for additional information letter sent: | Y NA                                |
| WSB Action Request for deficiencies             | <input type="checkbox"/>            |

Stacked Water Rights Need to be Leased? ☐

If checked, list water rights:

If the WR owner provided a different address on the application than what's in our database, update address in workflow.

## Mailings (per lease application)

CC Original

Designated Applicant: Diamond/Soldier Properties LLC

☐
☒

EMAIL:

Attorney:

☐
☐

EMAIL:

Consultants

Name: Greg Sullivan-Brockway Engineering

☒

Comments:

prev contract 762

Watermaster: Rusty Kramer

☐

Delivery Entity:

☐

Water District: 37B

☐

Ground Water District:

☐

Region: Southern

☐

Other: Big Wood River GWMA

☐
☐

Address:

Call up Date:

DO NOT SCAN



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098  
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov) • Website: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

March 10, 2023

DIAMOND / SOLDIER PROPERTIES LLC  
C/O GREGORY VIK  
PO BOX 1607  
BELLEVUE, WA 98009

**RE: WATER SUPPLY BANK LEASE CONTRACT 1606 FOR WATER RIGHTS 37-410 & 37-4111, WATER SUPPLY BANK LEASE CONTRACT 1607 FOR WATER RIGHTS 37-409A, 37-2076A, 37-2157 & 37-2455**

Dear Lessor:

Water right(s) 37-410 & 37-4111, 37-409A, 37-2076A, 37-2157 & 37-2455 was/were leased into the Water Supply Bank (Bank) as of January 1, 2023, in accordance with the enclosed executed lease contract. **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.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right(s) will automatically be released from the Bank on **December 31, 2027**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov). **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at [bank@idwr.idaho.gov](mailto:bank@idwr.idaho.gov) or 208-287-4800.

Sincerely,

*Jean Hersley*

for  
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region Office  
Greg Sullivan- Brockway Engineering PLLC  
Water District No. 37B

SCANNED

AUG 14 2023



322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098  
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov) • Website: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

January 23, 2023

DIAMOND / SOLDIER PROPERTIES LLC  
C/O GREGORY VIK  
PO BOX 1607  
BELLEVUE, WA 98009

**RE: APPLICATION TO LEASE WATER RIGHTS 37-410, 37-411, 37-368A, 37-409A, 37-2076A, 37-2157 & 37-2455 TO THE WATER SUPPLY BANK CONTRACT 1606 & 1607**

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2027**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has 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 this office at [bank@idwr.idaho.gov](mailto:bank@idwr.idaho.gov) or 208-287-4800.

Sincerely,

*Amanda Johnson-Veibell*

for  
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Greg Sullivan

SCANNED

AUG 4 2023

## MEMORANDUM FOR APPLICATION # 2472

To: Water Right No(s). 37-410, 37-411

From: Skyler Cheever – Water Resource Agent

Date: 10/28/2022

Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

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### **PURPOSE/NARRATIVE:**

Application 2472 was sent in by Diamond/Soldier Properties LLC and received on October 24, 2022, with fee payment received the same date. The application proposes to lease the full water rights no(s). 37-410 and 37-411 from 2023 to 2027. The water rights authorize the use of water from Deer Creek to irrigate 30.1 acres. The water rights are within the Big Wood River GWMA, Snake River Moratorium, and Trust Water area. The rights have been in the water supply bank since 2013 with the latest lease expiring December 31, 2022.

### **AUTHORITY TO FILE:**

Chris Pollak signed the application Mr. Pollack has the authority to file this lease agreement because they Mr. Pollak is the Vice President of Diamond/Soldier Properties LLC.

### **WATER RIGHT VALIDITY:**

The water right has been continually leased into the water supply bank since 2013. There are no concerns with continued lease of the full rights.

### **ENLARGEMENT OF USE:**

The two rights are limited to the irrigation of 30.1 acres, irrigation use of either right separately would be an increase in volume and rate beyond what was historically used. Both rights should be accepted into the water supply bank together and any rental should be limited to a combined 30.1 acres of irrigation to ensure enlargement does not occur.

### **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 lease POD is located within Basin 37 and Water District 37B. The Watermaster and Southern Regional Manager were contacted for comment on October 28<sup>th</sup>, 2022. No response was received, it is assumed they have no concerns.

SCANNED  
AUG - 9 2023

## Cheever, Skyler

---

**From:** Cheever, Skyler  
**Sent:** Friday, October 28, 2022 10:51 AM  
**To:** Skinner, Corey; waterdistrict37b@outlook.com  
**Subject:** Comment Email For Lease Application 2472  
**Attachments:** Lease Contract 1606.docx; Lease Review Memo 2472.docx; Lease\_2472 Map.pdf

Hello Mr. Skinner and Mr. Kramer,

I am currently reviewing a Water Supply Bank Lease within Basin 37 and Water District 37B. The lease proposes to lease the entire Water Rights No. 37-410, and 37-411 to the water supply bank. These rights divert surface water from Deer Creek to irrigate 30.1 acres. This property has been leased in the supply bank since 2013 and the current lease goes through December 31<sup>st</sup>, 2022. Attached to this email is the draft review memo, draft map of the place of use and draft contract. Please send any comments if applicable in 7 days. If you have any questions or need clarification, please let me know.

Best,

Skyler

Skyler Cheever  
Water Resource Agent, State Office  
Email: [skyler.cheever@idwr.idaho.gov](mailto:skyler.cheever@idwr.idaho.gov)  
Phone: 208-287-4913

SCANNED

AUG 14 2023



322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098  
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: [idwrinfo@idwr.idaho.gov](mailto:idwrinfo@idwr.idaho.gov) • Website: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

October 26, 2022

DIAMOND/SOLDIER PROPERTIES  
PO BOX 1607  
BELLEVUE WA 98009

**RE: APPLICATION(S) TO LEASE WATER RIGHT NO(S). 37-368A, 37-409A, 37-2076A,  
37-2157A & 37-2455 AND 37-410 & 37-411 TO THE WATER SUPPLY BANK**

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). The Department will review your application as resources allow. If the application(s) is not processed prior to the end of the proposed lease period, it will be returned to the applicant. The Department regrets any inconvenience caused by the delay.

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 if additional information is required.

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](http://www.idwr.idaho.gov).

If you have any questions, please contact me at (208) 287-4822.

Sincerely,

A handwritten signature in black ink, appearing to read "Mackenzie Kienholz", written over a horizontal line.

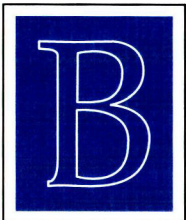
Mackenzie Kienholz  
Water Supply Bank Specialist

c: Greg Sullivan – Brockway Engineering

Enclosure: Receipt #C114402

SCANNED

AUG 14 2023



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

OCT 24 2022

DEPARTMENT OF  
WATER RESOURCES

October 20, 2022

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

Re: Diamond/Soldier Properties LLC

Dear Ms. Condon:

Lease application for water right 37-410 and 37-411 is attached to this letter. This water right is owned by Diamond/Soldier Properties LLC. The lease period for this water right will be for the 2023, 2024, 2025, 2026 and 2027 irrigation seasons.

Three lease packages are being submitted at this time but only one check for \$1,250.00 will be submitted to the Idaho Water Supply Bank.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Greg Vik, Rod Gonsales

Enc: Lease Application, Aerial Map, W-9 Form, Manager Delegation of Authority,  
Brockway Engineering Check # 17162 for \$1,250.00

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506

SCANNED

AUG 4 2023

2472