STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1744

RECEIVED
Nov 09, 2023
DEPARTMENT OF WATER RESOURCES

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

LESSOR: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

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 September 06, 2023.

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)
37-21112	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.589	Not Stated	22.0
Lease Totals			**0.589**	**Not Stated**	**22.0**

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)
37-21112	0.47	77.0	22.0	0.02	3.5
Combined Limit Totals	**0.47**	**77.0**	**22.0**	**0.02**	**3.5**

**** The water right elements rentable have been reduced and changed from the water right elements leased to account for 20% conveyance losses and the inclusion of a diversion volume.***

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

WATER SUPPLY BANK LEASE CONTRACT No. 1744

3. **TERM OF LEASE**: The term of this lease shall be April 28, 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1744

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

LESSOR: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

By Edward E. Duke
Title Manager
Date 11/9/23

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By _____ Date 11/13/23
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 11/13/23

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1744

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): 37-21112

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

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-21112	IRRIGATION	04/15	to	11/15	0.589 cfs	Not Stated
				Totals:	0.589 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	
02N	18E	10						13	9.0										22.0

Total Acres: 22.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, 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.
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.

WATER SUPPLY BANK LEASE CONTRACT No. 1744

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. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
13. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.11 cfs of the leased portion of this right into the Hiawatha Canal whether it is rented or not.

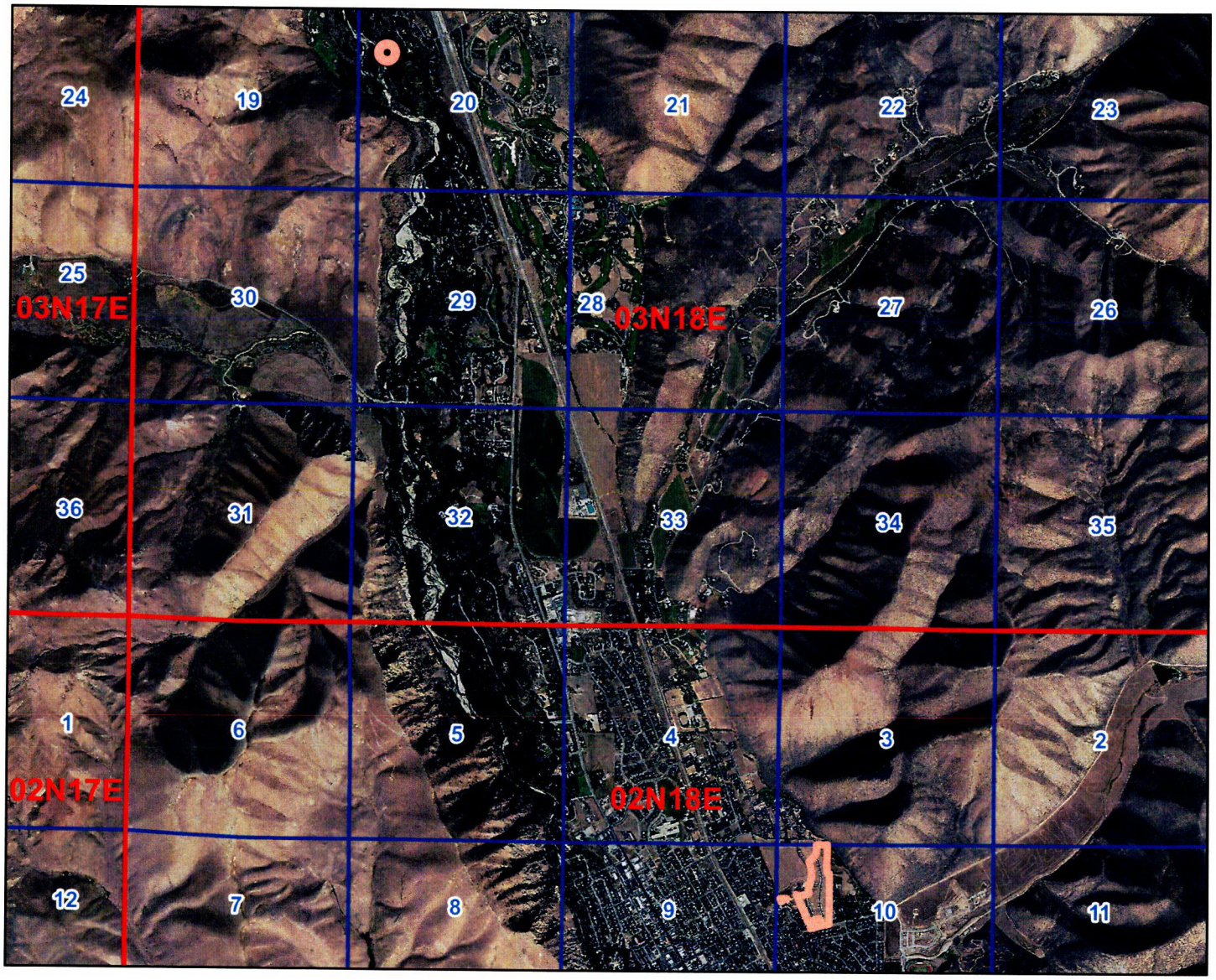
Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1744

37-21112

Effective until December 31, 2027

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



0 5,000 10,000 15,000 Feet

- Water Supply Bank Lease Point of Diversion
- Water Supply Bank Lease Place of Use
- Township/Range
- Sections

N

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
SEP 06 2023
DEPARTMENT OF WATER RESOURCES

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

Designated Applicant Marathon Partners, LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-21112
(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.**

MIMUMUM 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	☐	☒	Signatures and contact information for ***all owners*** of the water right to be 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	☐	☒	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.
3	☐	☒	A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
4A	☐	☒	Written consent from irrigation district or water delivery company.
4G	☒	☐	Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount $ 250 -	Received By: KM	Date Received: 9-6-23	Receipt # C117019
W-9 received? Yes ☐ No ☑ (Route W-9 to Fiscal)		Name on W-9:	

2744

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 Marathon Partners, LLC

Mailing Address P.O. Box 3118 (Street) Ketchum (City) ID (State) 83340 (Zip Code)

Email Address edumke@mac.com Phone Number 208-720-0343

☑ 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 Heather E. O'Leary Organization Lawson Laski Clark, PLLC

Professional Title Attorney Email Address heo@lawsonlaski.com

Mailing Address P.O. Box 3310, Ketchum, ID 83340 Phone Number 208-725-0055

☐ 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**.

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.

Hiawatha headgate to Hiawatha Canal to pump from canal

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. None

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. irrigation will be provided by the City of Hailey

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. No water was delivered to Applicant's pump in the Hiawatha Canal in 2021. Pumping power costs incurred for 2018 through 2020 were $1,567.40, $2,361.23 and $1,490.62, respectively. This right was leased to the water supply bank beginning in 2022 until April 27, 2023.

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 ☑

DocuSign Envelope ID: 2BBC3ABC-0D7D-49DF-86[redacted]26EAF3019A5

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 (Year) to 2027 (Year) (maximum lease period 5 calendar years).

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

current rental rate

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

The Designated Applicant acknowledges the following:

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

DocuSigned by:
Edmund E. Dumke
3C4C5AC167SB4D2

Signature of Designated Applicant	Edmund E. Dumke Printed Name	July 27, 2023 Date
Signature of Authorized Representative	Printed Name	Date

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

Attachment 3

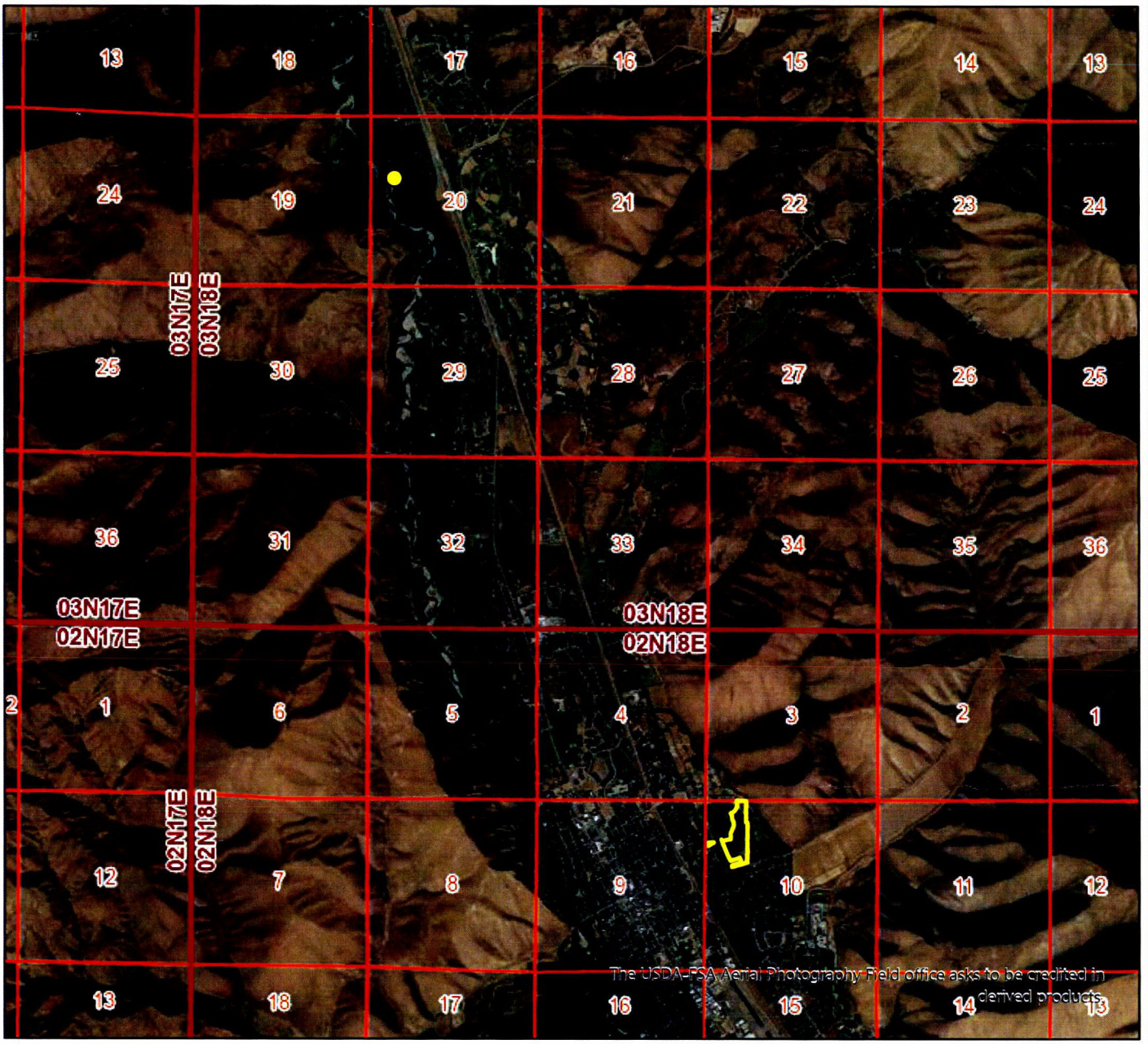
State of Idaho
Department of Water Resources

Water Right

37-21112

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.





0 0.3 0.6 1.2 1.8 2.4
Miles

Legend
- PLS Sections
- Townships
- Place of Use Boundary
- Point of Diversion

N

Date created: 7/27/2023

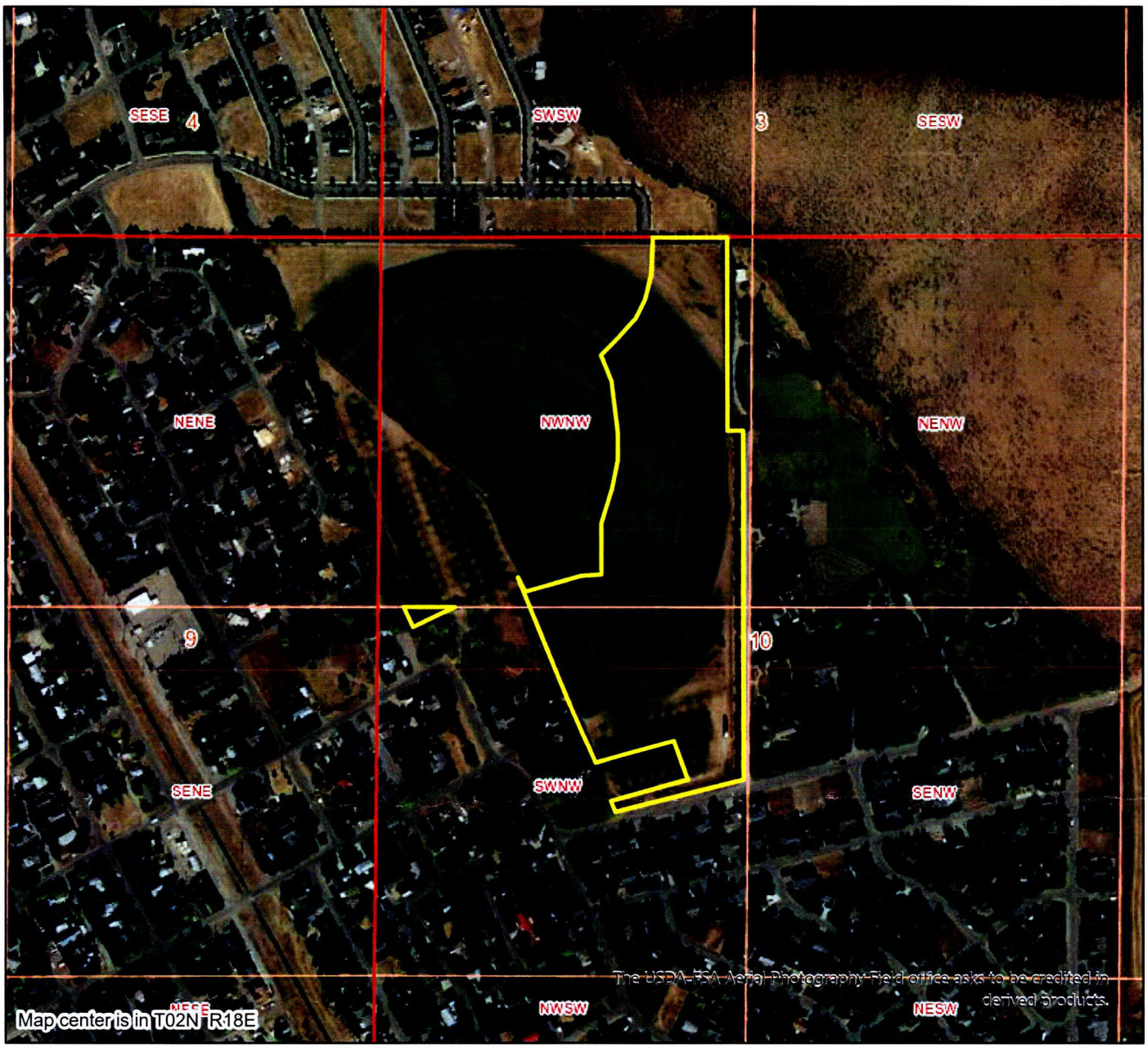
State of Idaho
Department of Water Resources

Water Right

37-21112

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.





0 0.04 0.07 0.14 0.21 0.28
Miles

Legend
- Quarter Quarters
- PLS Sections
- Townships
- Place of Use Boundary

N

Date created: 7/27/2023

Attachment 4A

DocuSign Envelope ID: 9B33C2C6-C392-48B4-B[redacted]C21C7509F0EB

Form 42-1761-3
04/14

RECEIVED
APR 26 2023
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

WATER SUPPLY BANK
REQUEST TO RELEASE A WATER RIGHT FROM THE BANK

ONE FORM PER WATER RIGHT

All water rights leased into the Water Supply Bank shall remain unused by the water right holder for the duration of the Lease Contract. The water right will not be released from the Water Supply Bank until the conclusion of the Lease Contract unless otherwise authorized by the Idaho Water Resource Board. Water right holders may use this form to petition for early termination of their Water Supply Bank Lease Contract.

Water right holders seeking an early termination of a Lease Contract must demonstrate justifiable need for the release. Water rights under Lease Contract that are eligible for early termination can be released from the Water Supply Bank if the release will not impair administration of the Water Supply Bank. **If a water right is currently rented, it cannot be considered for release until the Rental Agreement concludes.** A water right is not released from the Water Supply Bank until written release confirmation is issued by the Water Supply Bank.

Water Right No: 37-21112

Name(s) of Lessor(s): Marathon Partners, LLC

Mailing Address: P.O. Box 3118

City: Ketchum State: ID Zip: 83340

Telephone No: 208-720-0343 Email Address: edumke@mac.com

Lease Contract Expiration Date: 12-31-2026

Requested Release Date: May 15, 2023

Reason for Early Release:

This water right was leased because the land to which it is appurtenant was going to be developed into a residential subdivision which did not require irrigation. However, the intended development is not proceeding which makes it necessary to release the water right to enable the property owner to irrigate the land.

DocuSigned by:
Edmund E Dumke
3C4C5AC1675B4D2...
Signature of Lessor

Edmund E Dumke
Printed Name and Title*
Manager, Marathon Partners, LLC

4/23/2023 | 1:30 PM MDT
Date

Signature of Lessor

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney.

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1564

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

LESSOR: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

RECEIVED
AUG 18 2022
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 February 14, 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)
37-21112	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.589	Not Stated	22.0
Lease Totals			**0.589**	**Not Stated**	**22.0**

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)
37-21112	0.471	77.0	22.0	0.021	3.5
Combined Limit Totals	**0.471**	**77.0**	**22.0**	**0.021**	**3.5**

**** The water right elements rentable have been reduced from the water right elements leased to account for conveyance losses of 20 % and a defined volume limit that is based on the regional field headgate irrigation standard of 3.5 afa/acre.***

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

SCANNED
AUG 16 2023

WATER SUPPLY BANK LEASE CONTRACT No. 1564

3. **TERM OF LEASE**: The term of this lease shall be January 1, 2022 to December 31, 2026. 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.

SCANNED
AUG 16 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1564

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

LESSOR: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

By Edward E. Lemke
Title Manager
Date 8/15/22

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By _____ Date 8/22/22
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 8/22/22

SCANNED
AUG - 6 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1564

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): 37-21112

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

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-21112	IRRIGATION	04/15	to	11/15	0.589 cfs	Not Stated
				Totals:	0.589 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	
02N	18E	10						13.0	9.0										22.0

Total Acres: 22.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, 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.
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.

SCANNED
AUG 16 2023

WATER SUPPLY BANK LEASE CONTRACT No. 1564

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. A portion of this water right is used for conveyance.
13. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
14. A portion of this right provides conveyance for other right holders in the shared delivery of water through the Hiawatha Canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.118 cfs of the leased portion of this right into the Hiawatha Canal whether it is rented or not.

SCANNED
AUG 16 2023

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1564

37-21112

Effective until December 31, 2026

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



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

N

0 500 1,000 Feet

SCANNED
AUG 16 2023

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1564

37-21112
Effective until December 31, 2026

This map depicts the **point of diversion** 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

N

0 50 100 Feet

SCANNED
AUG - 6 2023

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
FEB 14 2022
DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Marathon Partners, LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-21112
(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.**

MIMUMUM 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	☑	☐	Signatures and contact information for ***all owners*** of the water right to be 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	☑	☐	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.
3	☐	☐	A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
4A	☐	☑	Written consent from irrigation district or water delivery company.
4G	☑	☐	Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount $ 250	Received By: LL	Date Received: 2.14.22	Receipt # 0111932
W-9 received? Yes ☑ No ☐	(Route W-9 to Fiscal)	Name on W-9:	Marathon Partners, LLC

SCANNED JUN 15 2023

2316

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 Marathon Partners, LLC

Mailing Address c/o Edmund E. Dumke, Manager, P.O. Box 3118, Ketchum, ID 83340
Street City State Zip Code

Email Address edumke@mac.com Phone Number 208-720-0343

☑ 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 James P. Speck Organization Speck & Aanestad, A Professional Corp

Professional Title attorney Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, ID 83340 Phone Number 208-726-4421

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☑ 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**.

SCANNED
SEP 6 2023

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.
Hiawatha headgate to Hiawatha Canal to pump from canal

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. None

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. POU in the process of being developed into residential subdivision where lot irrigation will be provided by City of Hailey municipal water system

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. No water was delivered to Applicant's pump in the Hiawatha Canal in 2021. Pumping power costs incurred for 2017 through 2020 were $1892.10, $1,567.40, $2,361.23 and $1,490.62, respectively.

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 ☑

SCANNED
AUG 8 2023

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: 2022 (Year) to 2026 (Year) (maximum lease period 5 calendar years).

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

current rental rate

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

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture 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	Edmund E. Dumke, Manager Printed Name	February 7, 2022 Date
Signature of Authorized Representative	Printed Name	Date

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

SCANNED
AUG 16 2023

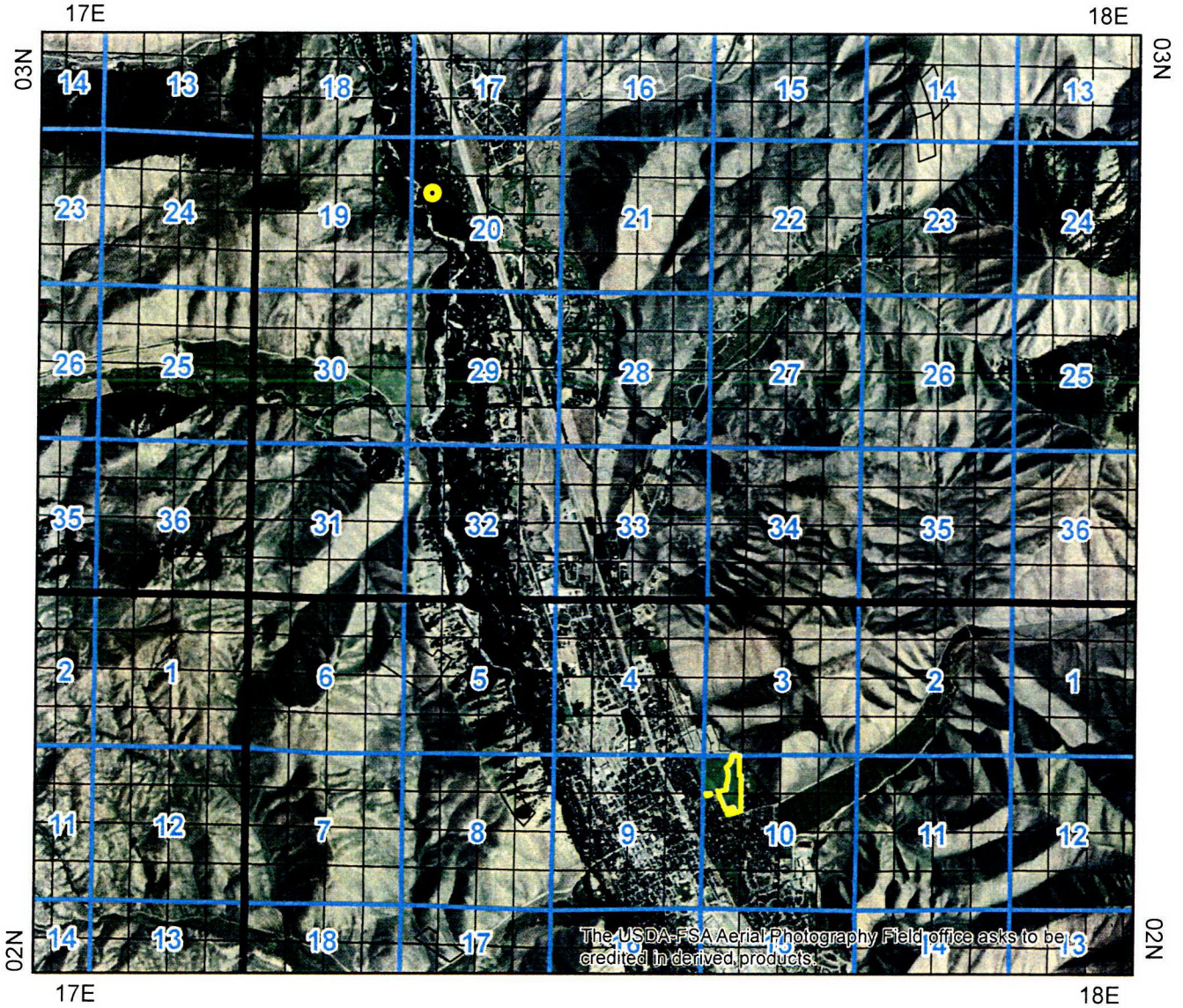
State of Idaho
Department of Water Resources

Water Right

37-21112

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.



MARATHON PARTNERS, LLC
APPLICATION TO LEASE 37-21112
ATTACHMENT 3

RECEIVED
AUG 16 2023

Map produced on January 12, 2022

WSB Mailing Checklist for Leases

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

Key: Who Completes What?
CLERICAL STAFF: MK
REVIEWER: SC

Received Date: 9/6/2023

Desired Lease Duration: 2023-2027

Lease / Rental Package: Y N

If yes, Renter Name:

Application # 2744 Contract # 1744

WR#s	# 37-2112
#	#
#	#
#	#
#	#
#	#
#	#

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?	☐
Request for additional information letter sent:	Y NA
WSB Action Request for deficiencies	☐

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: Marathon Partners, LLC	☑	☐	EMAIL:
Attorney: Heather E. O'Leary - Lawson Laski Clark, PLLC	☑	☐	EMAIL:
Consultants Name: —	☐		Comments: prev contract # 1564 (cancelled 4/23
Watermaster: Stanley Healey	☑		20% Holdback
Delivery Entity: Hiawatha Canal	☑		
Water District: 37	☑		
Ground Water District:	☐		
Region: Southern	☑		
Other:	☐	☐	
Address:			

Call up Date:

DO NOT SCAN

IDAHO DEPARTMENT
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 • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

November 13, 2023

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID, 83340

RE: WATER SUPPLY BANK LEASE CONTRACT 1744 FOR WATER RIGHT 37-21112

Dear Lessor:

Water right 37-21112 is 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). 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. **Please note your water rights may not be available for immediate release if they are rented.**

If you have questions regarding this matter, please contact this office at bank @idwr.idaho.gov or 208-287-4800.

Sincerely,

Skyler Cheever

IDAHO DEPARTMENT OF
WATER RESOURCES
Skyler Cheever | Water Resource Agent
322 E Front St, PO Box 83720, Boise, ID 83720
(208) 287-4800 | www.idwr.idaho.gov

Enclosure: Executed Lease Contract

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 • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

October 31, 2023

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID, 83340

RE: APPLICATION TO LEASE WATER RIGHT 37-21112 TO THE WATER SUPPLY BANK CONTRACT 1744

******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 or
208-287-4800.

Regards,

Skyler Cheever

IDAHO DEPARTMENT OF
WATER RESOURCES
Skyler Cheever | Water Resource Agent
322 E Front St, PO Box 83720, Boise, ID 83720
(208) 287-4800 | www.idwr.idaho.gov

MEMORANDUM FOR WSB LEASE APPLICATION # 2744

To: Water Right No(s). 37-21112

From: Skyler Cheever, Water Resource Agent

Date: 10/31/2023

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

---

PURPOSE/NARRATIVE:
Application 2744 was sent in by Marathon Partners LLC and received on September 6th, 2023, with the correct fee payment received the same date. The applicant proposes to lease the entirety of water right 37-21112 into the water supply bank from 2023-2027. The place of use will continue to receive water from the City of Hailey Municipal system. The applicant's previous contract 1564, was terminated on April 27th,2023 because development of a subdivision on the property was slowed and irrigation might need to occur. However, after an email conversation with the representative on October 20th, 2023, it was confirmed no irrigation occurred in 2023. The point of diversion is within the Snake River Basin and Big Wood River Moratorium, Big Wood River Groundwater Management Area, Galena Groundwater District, and Trust Water Area. This application is intended to renew contract 1564 which was terminated on April 27th, 2023.

AUTHORITY TO FILE:
Edmund Dumke signed the application. Mr. Dumke has the authority to file this agreement because he is a manager with the company according to the Idaho Secretary of States Office Database. Marathon Partners LLC is the current owner of water right 37-21112 according to Department records.

WATER RIGHT VALIDITY:
Water right 37-21112 was decreed in 2012. The place of use was irrigated from 2012 through 2020 according to the previous lease application review in 2022. The place of use was not irrigated in 2021 according to section 4F on the application. The water right was leased into the bank from 2022-April 27th, 2023. Any water right leased into or rented from the water supply bank is likely within a valid defense to forfeiture during the contracted period according to Idaho Code §42-223(5). Therefore, enough evidence is available to the bank to conclude it is likely water right 37-21112 is no lost to forfeiture and can be leased into the water supply bank.

INJURY TO OTHER WATER RIGHTS:
Water right 37-21112 authorizes diversion from the Hiawatha Canal System. In a letter provided by the canal company they recommended a 20% conveyance holdback to account for seepage losses from the canal. I recommend 20% of the diversion rate be left in the canal to account for those losses.

ENLARGEMENT OF USE:
There are no other water rights diverting from the same source for the same use that overlap the place of use. Therefore, there are no enlargement concerns.

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 point of diversion is within basin 37 and Water District 37. The Watermaster and Southern Regional Manager were contacted for comment on October 13, 2023. No response was received, it is assumed there is no concern with this proposal.

Cheever, Skyler

From: Heather O'Leary <heo@lawsonlaski.com>
Sent: Friday, October 20, 2023 1:14 PM
To: Cheever, Skyler; edumke@mac.com
Subject: RE: Water Supply Bank Lease 2744

CAUTION: **This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Hi Skyler:

That water right was not used in 2023.

Please let me know if you need anything else.

Thanks!

LAWSON LASKI CLARK

HEATHER E. O'LEARY
Member
Lawson Laski Clark, PLLC
675 Sun Valley Road, Suite A
PO Box 3310
Ketchum, ID 83340
208-725-0055 Phone
208-725-0076 Fax

CONFIDENTIALITY NOTICE: The information in this e-mail (including attachments, if any) is considered confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this e-mail is prohibited except by or on behalf of the intended recipient. If you have received this email in error, please notify me immediately by reply email, delete this email, and do not disclose its contents to anyone.

IRS Circular 230 Notice: To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code, or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.

From: Cheever, Skyler <Skyler.Cheever@idwr.idaho.gov>
Sent: Tuesday, October 17, 2023 10:28 AM
To: edumke@mac.com
Cc: Heather O'Leary <heo@lawsonlaski.com>
Subject: Water Supply Bank Lease 2744

Hello,

I am currently working on reviewing water supply bank lease application 2744 for Marathon Brothers LLC. The previous lease was released on April 27th, 2023, because development of the property was not going as planned and the property owner needed the water right released from the WSB so the place of use could be irrigated. Was the place of use

irrigated with Hiwatha Canal water during 2023 ? If it was the new lease period should start in 2024. If you have any questions, please let me know.

Best,

Skyler

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

Cheever, Skyler

From: Cheever, Skyler
Sent: Friday, October 13, 2023 11:31 AM
To: Skinner, Corey; watermanager
Subject: Water Supply Bank Lease Application 2744
Attachments: Lease 1744 Map.pdf; Lease Review Memo 2744.pdf

Hello Nick,

I have finished my review of a water supply bank lease application within Basin 37 and Water District 37. The applicant is Marathon Partners LLC. The applicant proposes to lease the entirety of water right 37-21112 into the water supply bank from 2023-2027. Attached is a review memo, and map of the place of use. If there are any comments that need to be made, please do so within 7 days. If you have any questions, please let me know.

Best,

Skyler

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

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

August 29, 2023

RECEIVED

SEP 07 2023

DEPARTMENT OF
WATER RESOURCES

Idaho Water Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Marathon Partners, LLC, Water Lease: Water Right 37-21112

Dear Sir or Madam:

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"). For the reasons outlined below and on the conditions requested, the Canal has no objection to the aforementioned water rights being placed into the Water Bank.

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.

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty percent (20%) of the right is left in the Canal as conveyance loss: and

2. The Canal Company would like to be notified if the water rights are eventually released from the Water Bank. or if the Water Rights are being leased again to the Water Bank after the expiration of the lease period.

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

James W. Phillips, Chairman

JWP: hmj
cc: client

HEATHER E. O'LEARY
MEMBER

HEO@LAWSONLASKI.COM

LAWSON LASKI CLARK
ATTORNEYS AT LAW

RECEIVED
SEP 06 2023
DEPARTMENT OF
WATER RESOURCES

August 31, 2023

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

Re: Application to Lease Water Right
Our File No. 32022-009

Dear Idaho Department of Water Resources:

We are counsel to Marathon Partners, LLC. The purpose of this letter is to apply to lease water right no. 37-21112 to the water supply bank. Accordingly, enclosed herewith is the application to lease the foregoing water right to the water supply bank as well as our firm's check in the amount of $250.00 for the application fee.

Once completed, please send me as well as the owner confirmation that the application has been accepted. Thank you for your assistance in this matter and please do not hesitate to contact me should you have any questions or need additional information.

Sincerely,

LAWSON LASKI CLARK, PLLC

Heather E. O'Leary

Enclosures
cc: client

IDAHO DEPARTMENT
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 • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

April 27, 2023

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340

RE: LEASED WATER RIGHT NO(S). 37-21112 RELEASED FROM THE WATER SUPPLY BANK

Dear Lessor:

On April 26, 2023, the Department of Water Resources (Department) received your request to cancel the existing Water Supply Bank (Bank) Lease Contract executed on August 22, 2022 and release water right(s) 37-21112 from the Bank. **At this time the Department acknowledges that the Bank Lease Contract for 22.0 acres of water right(s) 37-21112 has been canceled releasing the right(s) from the Bank.**

The five (5) year period of nonuse related to forfeiture of a water right shall begin to accrue upon release of the right from the bank or shall continue to accrue if a period of nonuse occurred prior to the lease date of the right to the bank.

You can reapply to lease the water right(s) in the future by submitting new application form(s) from the Department's website at www.idwr.idaho.gov along with applicable fees.

If you have any questions, please contact me at (208) 287-4936.

Sincerely,

Mary Condon
Water Supply Bank Coordinator

c: Heather O'Leary – Lawson Laski Clark, PLLC
Water District No. 37
IDWR Southern Region

SCANNED
AUG 16 2023

HEATHER E. O'LEARY
MEMBER
HEO@LAWSONLASKI.COM

LAWSON LASKI CLARK
ATTORNEYS AT LAW

RECEIVED
APR 26 2023
DEPARTMENT OF
WATER RESOURCES

April 24, 2023

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

Re: Request to Release a Water Right from the Bank – Water Right No. 37-21112
Our File No. 32022-009

To whom it may concern:

We are counsel to Marathon Partners, LLC (the "Company"), the owner of Water Right No. 37-21112 ("Water Right"), which is currently leased to the Water Supply Bank. The purpose of this letter is to request the release of the Water Right. Upon information and belief, the Water Right is not currently being rented and is available for release back to the Company. Accordingly, enclosed herewith is the Request to Release Form, which seeks your approval of the release of the Water Right to enable the Company to use it to irrigate its property.

If approved, please send me confirmation of the release. Thank you for your assistance in this matter and please do not hesitate to contact me should you have any questions or need additional information.

Sincerely,

LAWSON LASKI CLARK, PLLC

Heather E. O'Leary

Enclosures

SCANNED
AUG 16 2023

ELECTRONICALLY
4/24/23 FMB
32022-009

WSB Mailing Checklist for Leases

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

Key: Who Completes What?
CLERICAL STAFF: MK
REVIEWER: Jan

Received Date 2/14/2022

Desired Lease Duration 2022-2026

Lease / Rental Package Y (N)

If yes, Renter Name:

Application # 2316 Contract # 1564

WR#s	# 37-21112
#	#
#	#
#	#
#	#
#	#
#	#

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?	☐
Request for additional information letter sent:	Y NA
WSB Action Request for deficiencies	☐

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: Marathon Partners	☐	☐	EMAIL:
Attorney: Jim Speck	☐	☐	EMAIL:
Consultants Name:	☐		Comments:
Watermaster:	☐		
Delivery Entity: BP Hiawatha Canal	☐		
Water District: 37	☐		
Ground Water District:	☐		
Region: Southern	☐		
Other: Hiawatha Canal	☐	☐	
Address:			

HG 3.5

Call up Date: 8-19

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 • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 2, 2022

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340

RE: WATER SUPPLY BANK LEASE CONTRACT 1564
FOR WATER RIGHTS 37-21112

Dear Lessor:

Water right **37-21112** was leased into the Water Supply Bank (Bank) as of January 1, 2022, 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 rights will automatically be released from the Bank on **December 31, 2026,** 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. **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 or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Water District No. 37
Speck Aanestad Law

SCANNED
AUG 16 2023

Hersley, Jean

From: Skinner, Corey
Sent: Monday, August 8, 2022 12:46 PM
To: Hersley, Jean; watermstr@wd37.org
Subject: RE: Lease contract for Marathon Partners 37-21112

No concerns from me.

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Thursday, August 4, 2022 8:46 AM
To: watermstr@wd37.org; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Lease contract for Marathon Partners 37-21112

Please let me know within 7 days if you have any comments or concerns with the attached lease. Thank you.

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

SCANNED
AUG 16 2023

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, August 4, 2022 8:46 AM
To: watermstr@wd37.org; Skinner, Corey
Subject: Lease contract for Marathon Partners 37-21112
Attachments: Lease Contract - 1564.docx; POD.pdf; Lease_2022.pdf; Lease Application Review 37-21112.xls

Please let me know within 7 days if you have any comments or concerns with the attached lease. Thank you.

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

SCANNED
AUG 16 2023

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 • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

August 4, 2022

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340-3101

RE: APPLICATION TO LEASE WATER RIGHTS 37-21112 TO THE WATER SUPPLY BANK CONTRACT 1564

******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, 2026,** 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 or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

SCANNED
AUG 16 2023

C: Speck & Aanestad

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Marathon Partners LLC

Memo Date: August 4, 2022

Water Right Number(s): 37-21112

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

		Check box		COMMENTS/CONCERNS:
1	**Fill out WSB Data Entry Checklist for Leases (Front of File)**	x		
2	**Reason for lease of water rights (Brief description of lease proposal in narrative)**			
	Portion of right			
	All of right	x		
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	**No**	
4	Rentable? (If no explain in comments or narrative)	x		
5	**Authority to file**			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity	x		Edmund E Dumke
	Other (explain in comments)			
6	**Water Right validity**			
	Decreed/Licensed/Statutory claim date (write in comments section)			2012
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?		x	
7	**Injury to other water rights**			
	If the POD is through a delivery entity, was consent provided?	x		
	If the POD is through a delivery entity, was holdback required? (percentage in comments)	x		20%
	Any other concerns		x	
8	**Enlargement concerns**	**Check box**		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	**No**	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)	x		city of Hailey
9	**Local Public Interest**			
	Does the processor know of any problems this action will cause for the local public?		x	
10	**Have you contacted regional office and watermaster for comment/concerns?**	x		
	Send the watermaster comment request form or e-mail request	x		
11	Area Headgate requirement (write in Comments)			3.5
12	**Is water right involved in any other department action? Pull file and check database** ( ) Ownership Change ( ) Transfer ( ) Mitigation ( ) Other - Explain in comments		x	

13 **Narrative:** The Department received this application on February 14, 2022. It was put on hold pending consent from Hiawatha Canal, which was received on July 22, 2022. The applicant wishes to place the entire right in the Bank. The application was signed by Edmund Dumke, manager of Marathon Partners. This right was decreed in 2012 and irrigation has taken place every year since with the exception of 2021. The POU is in the process of being developed by the City of Hailey and irrigation will be provided under the City's municipal rights. The water for this right is delivered through the Hiawatha Canal and they are requiring a 20 % hold back for conveyance loss. This right is currently within WD 37

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AUG 16 2023

0004743505

STATE OF IDAHO

Office of the secretary of state, Lawerence Denney

ANNUAL REPORT

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: $0.00

For Office Use Only

-FILED-

File #: 0004743505

Date Filed: 5/11/2022 9:45:54 PM

Entity Name and Mailing Address:

Entity Name:	MARATHON PARTNERS, LLC
The file number of this entity on the records of the Idaho Secretary of State is:	0000106258
Address	PO BOX 3118 KETCHUM, ID 83340-3101

Entity Details:

Entity Status	Active-Existing
This entity is organized under the laws of:	IDAHO
If applicable, the old file number of this entity on the records of the Idaho Secretary of State was:	W31110

The registered agent on record is:

Registered Agent	EDMUND E DUMKE Registered Agent Physical Address 208 SAGEWILLOW ROAD SUN VALLEY, ID 83353 Mailing Address

Limited Liability Company Managers and Members

Name	TItle	Business Address
Edmund E Dumke	Manager	PO BOX 3118 KETCHUM, ID 83340

The annual report must be signed by an authorized signer of the entity.

Job Title: Manager

Edmund E Dumke — Sign Here

05/11/2022 — Date

SCANNED
AUG 16 2023

BU/UQ-5165 05/11/2022 9:45 PM Received by ID Secretary of State Lawerence Denney

Page 1 of 1

HIAWATHA CANAL

P.O. Box 1604 • Hailey, ID 83333

July 14, 2022

RECEIVED
JUL 22 2022
DEPARTMENT OF
WATER RESOURCES

Idaho Water Bank
322 E. Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Marathon Partners LLC Water Lease: Water Right 37-21112

Dear Sir or Madam:

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"). For the reasons outlined below and on the conditions requested, the Canal has no objection to the aforementioned water rights being placed into the Water Bank.

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.

SCANNED
AUG 16 2023

As a condition of being leased, the Canal Company requests:

1. The Canal Company does not presently object to the aforementioned water rights being placed in the Water Bank, provided that twenty percent (20%) of the right is left in the Canal as conveyance loss: and

2. The Canal Company would like to be notified if the water rights are eventually released from the Water Bank. or if the Water Rights are being leased again to the Water Bank after the expiration of the lease period.

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

James W. Phillips, President

JWP: hmj
cc: client

SCANNED
AUG 16 2023

From: Hersley, Jean
To: James Speck
Cc: edumke@mac.com
Subject: WSB Lease application for 37-21112 for Marathon Partners LLC
Date: Friday, June 24, 2022 10:50:00 AM

Jim,
I am in the process of reviewing the application you submitted on behalf of Marathon Partners. The Department will need consent from the Hiawatha Canal Co before we can move forward with the lease. They usually require a 20 % hold back for conveyance losses.

Please provide the requested information within 30 days or the application will be returned unprocessed. Let me know if you have any questions. Thank you.

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

SCANNED
AUG 16 2023

RECEIVED
FEB 14 2022
DEPARTMENT OF
WATER RESOURCES

JAMES P. SPECK
jim@speckandaanestad.com

DOUGLAS J. AANESTAD
(retired)

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE NORTH
P. O. BOX 987
KETCHUM, IDAHO 83340

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

February 9, 2022

Mary Condon
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

Re: Application to Sell or Lease A Water Right to the Water Supply Bank, No. 37-21112

Dear Mary:

Enclosed you will find the *original* and one copy of the ***Application to Sell or Lease a Water Right to the Water Supply Bank*** as captioned above together with our firm's check in the amount of $250.00 for the filing fee.

Please receipt date-stamped the copy and return it to our office in the postage prepaid self-addressed envelope included for that purpose. Kindly call me right away if you have any questions, comments or concerns about this Application.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____
James P. Speck

Enclosures
cc: Edmund Dumke (w/enclosure)

SCANNED
AUG 16 2023

2314