STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1731

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

LESSOR: WEST OF FIRST LLC
9533 W PICO BLVD STE A
LOS ANGELES, CA 90035-1201

RECEIVED
OCT 25 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 April 26, 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)
37-22896	3/24/1883	BIG WOOD RIVER, tributary to MALAD RIVER	0.03	Not Stated	2.5
37-22894	6/30/1884	BIG WOOD RIVER, tributary to MALAD RIVER	0.04	Not Stated	2.5
37-22892	9/18/1885	BIG WOOD RIVER, tributary to MALAD RIVER	0.02	Not Stated	2.5
37-22890	5/1/1888	BIG WOOD RIVER, tributary to MALAD RIVER	0.02	Not Stated	2.5
Combined Lease Totals			**0.11**	**Not Stated**	**2.5**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1731

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)
37-22896	0.02	8.8	2.5	0.008	3.5
37-22894	0.03	8.8	2.5	0.012	3.5
37-22892	0.02	8.8	2.5	0.008	3.5
37-22890	0.02	8.8	2.5	0.008	3.5
Combined Limit Totals	**0.09**	**8.8**	**2.5**	**0.044**	**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 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

3. **TERM OF LEASE**: The term of this lease shall be January 1, 2024 to December 31, 2028. 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. 1731

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

LESSOR: WEST OF FIRST LLC
9533 W PICO BLVD STE A
LOS ANGELES, CA 90035-1201

By _____
Title MANAGER
Date 10/19/2023

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

By _____ Date 10/26/23
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 10/26/23

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1731

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): 37-22890, 37-22892, 37-22894, 37-22896

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		
37-22890	IRRIGATION	04/15	to	10/31	0.02 cfs	Not Stated
37-22892	IRRIGATION	04/15	to	10/31	0.02 cfs	Not Stated
37-22894	IRRIGATION	04/15	to	10/31	0.03 cfs	Not Stated
37-22896	IRRIGATION	04/15	to	10/31	0.02 cfs	Not Stated
				Totals:	0.09 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	4												2.5					2.5

Total Acres: 2.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

WATER SUPPLY BANK LEASE CONTRACT No. 1731

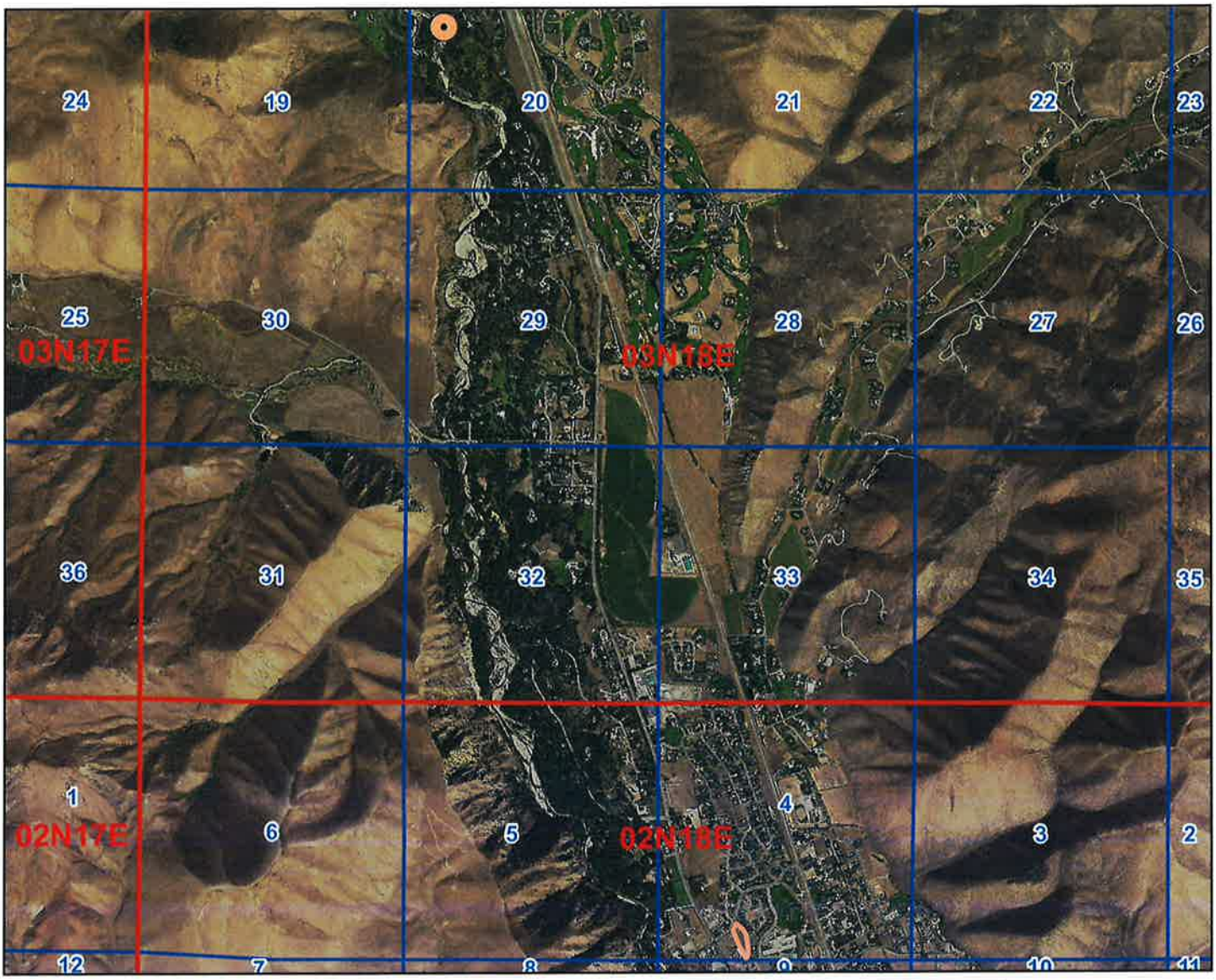
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other 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. Right Nos. 37-22890, 37-22892, 37-22894 and 37-22896 are limited to the irrigation of a combined total of 2.5 acres in a single irrigation season.
13. Water diverted from Headgate #22 delivered through Hiawatha Canal.
14. The rights listed below, shall provide nor more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined Right Nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896 and 37-22897.
15. The actual diversion rate for water right 37-22892 is 0.021 cfs, 37-22894 is 0.042, and 37-22896 is 0.026 cfs.
16. 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.
17. A portion of water rights 37-22890, 37-22892, 37-22894, and 37-22896 provides conveyance for other right holders in the shared delivery of water through the Hiawatha canal. To prevent injury to other water right holders, the watermaster shall deliver 20% or 0.02 cfs of the leased portion of these rights into the Hiawatha Canal whether it is rented or not.
18. The remaining actual diversion rate after the removal of a 20% conveyance for seepage losses for water right 37-22890 is 0.017 CFS.

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1731

37-22890, 37-22892, 37-22894, 37-22896
Effective until December 31, 2028

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
APR 26 2023
DEPARTMENT OF WATER RESOURCES

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

Designated Applicant West of First, LLC
(Select one owner – see item 1A on the application)

Water Right No. 37-22890
(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 $ 2000	Received By: KU	Date Received: 4.26.23	Receipt # C116075
W-9 received? Yes ☑ No ☐	(Route W-9 to Fiscal)	Name on W-9: West of First	

2658

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 West of First, LLC

Mailing Address 9533 W. Pico Blvd, Suite A, Los Angeles, CA 90035
Street City State Zip Code

Email Address _____ Phone Number _____

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

OR

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

B. Has the Designated Applicant 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 Fritz X. Haemmerle Organization Haemmerle Law, PLLC

Professional Title Attorney Email Address fxh@haemmerlelaw.com

Mailing Address PO Box 1800, Hailey, ID 83333 Phone Number 2085780520

☐ 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.
The water is diverted from the Big Wood River and delivered out of the Hiawatha 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. 37-22892, 37-22894, 37-22896

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. The water rights have been in the water bank for the last five (5) years.

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. The water rights have been in the water bank for the last five (5) years.

H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☑

If yes, describe.

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: 2024 (Year) to 2028 (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	Mark Caplow, Manager Printed Name	4/18/23 Date
Signature of Authorized Representative	Fritz X. Haemmerle Printed Name	4/4/23 Date

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

0004733908

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 #: 0004733908
Date Filed: 5/4/2022 11:26:41 AM

B0706-4915 05/04/2022 11:26 AM Received by ID Secretary of State Lawerence Denney

Entity Name and Mailing Address:

Entity Name:	WEST OF FIRST, LLC
The file number of this entity on the records of the Idaho Secretary of State is:	0000103935
Address	9533 W PICO BLVD LOS ANGELES, CA 90035-1201

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:	W30322

The registered agent on record is:

Registered Agent	CAPITOL CORPORATE SERVICES INC Commercial Registered Agent Physical Address 921 S ORCHARD ST STE G BOISE, ID 83705 Mailing Address 921 S ORCHARD ST STE G MARY ANN QUICK BOISE, ID 83705

Agent or Address Change

☐ Select if you are appointing a new agent.

Limited Liability Company Managers and Members

Name	Title	Business Address
Mark A Caplow	Manager	9533 W PICO BLVD 2ND FLR LOS ANGELES, CA 90035

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

Job Title: Controller

Lorenzo Jolon — Sign Here

05/04/2022 — Date

Page 1 of 1

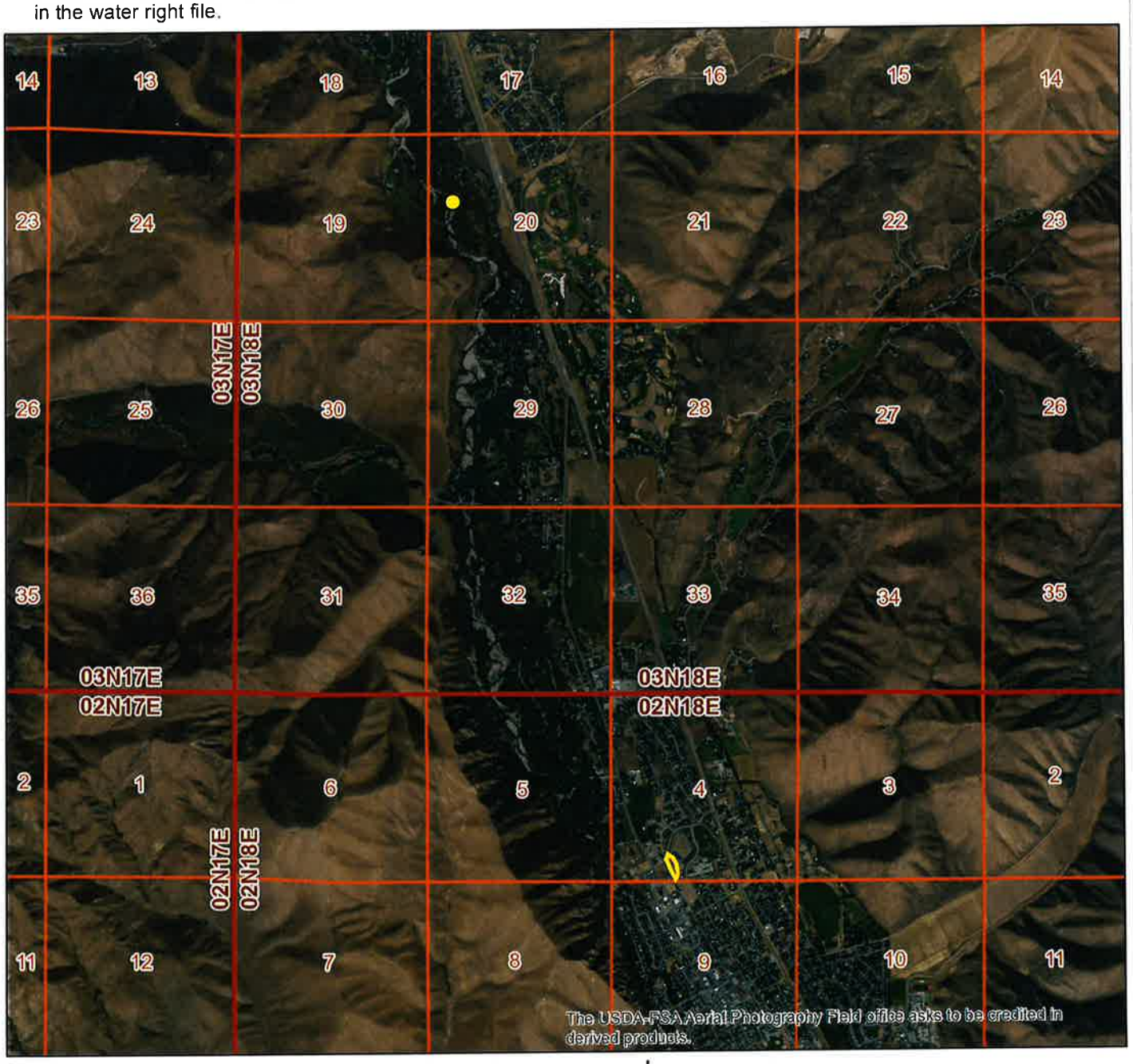
State of Idaho
Department of Water Resources

Water Right

37-22890

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 0.275 0.55 1.1 1.65 2.2
Miles

Legend

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

N

Date created: 3/29/2023

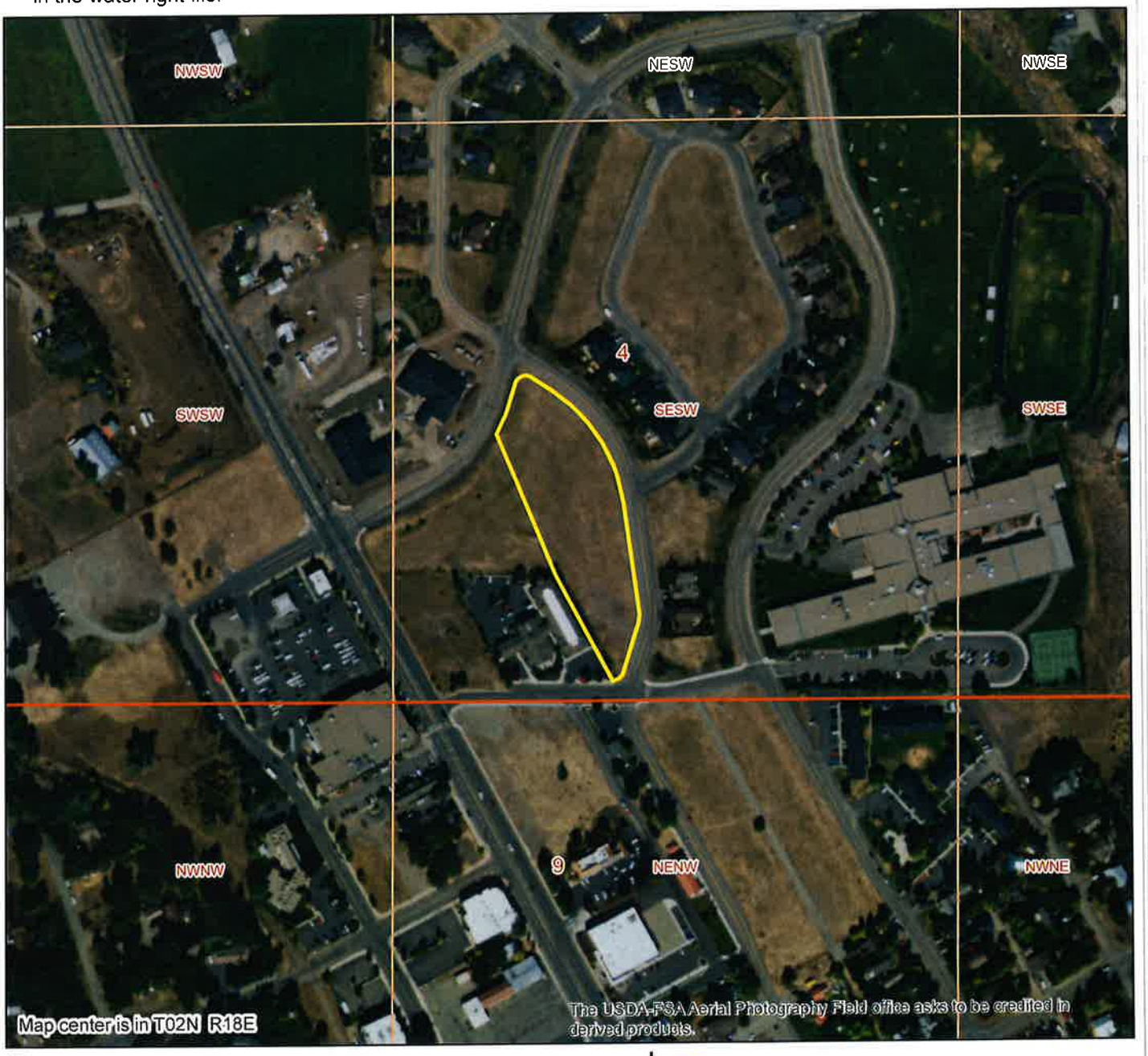
State of Idaho
Department of Water Resources

Water Right

37-22890

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 0.0225 0.045 0.09 0.135 0.18
Miles

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

N

Date created: 3/29/2023

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 Mathew Weaver**

October 27th, 2023

WEST OF FIRST LLC
9533 W. PICO BLVD., STE A
LOS ANGELES CA, 90035

RE: WATER SUPPLY BANK LEASE CONTRACT 1731 FOR WATER RIGHT'S 37-22890, 37-22892, 37-22894, AND 37-22896.

Dear Lessor:

Water right's 37-22890, 37-22892, 37-22894, and 37-22896 are leased into the Water Supply Bank (Bank) as of January 1, 2024, 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, 2028,** 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 4, 2023

WEST OF FIRST LLC
9533 W. PICO BLVD., STE A
LOS ANGELES CA, 90035

RE: APPLICATION TO LEASE WATER RIGHT'S 37-22890, 37-22892, 37-22894, AND 37-22896 TO THE WATER SUPPLY BANK CONTRACT 1731

******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, 2028,** 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 APPLICATION # 2658

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

From: Skyler Cheever, Water Resource Agent

Date: 9/18/2023

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

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PURPOSE/NARRATIVE:
Application 2658 was sent in by West of First LLC and received on April 26th, 2023, with the correct fee payment received the same date. The applicant proposes to lease the entirety of water rights 37-22890, 37-22892, 37-22894, and 37-22896 into the water supply bank from 2024-2028. The place of use will continue to receive water from the City of Hailey Municipal system. The place of use is within the Snake River Basin and Big Wood River Moratorium Area, Big Wood River Groundwater Management Area, Galena Groundwater District, and Trust Water Area. This application is a renewal of lease contract 868 which is set to expire on December 31st, 2023.

AUTHORITY TO FILE:
Mark Caplow signed the application. Mr. Caplow has the authority to file this agreement because he is a manager with the company according to the Idaho Secretary of States Office Database. West of First LLC is the current owner of water rights 37-22890, 37-22892, 37-22894, and 37-22896 according to Department records.

WATER RIGHT VALIDITY:
The parent water rights 37-21811, 37-21813, 37-21815, and 37-21817 were decreed in 2011. An ownership change leading to the creation of the proposed water rights occurred in 2014. The water rights were then leased into the water supply bank from 2014-December 31st, 2023. Any water rights leased or rented from the water supply bank would be within a valid defense to forfeiture during the contracted period according to Idaho Code §42-223(5). Therefore, there is enough evidence available to the bank to indicate these water rights are likely not lost to forfeiture and can be leased into the water supply bank.

INJURY TO OTHER WATER RIGHTS:
The proposed water rights are authorized to divert from the Hiawatha Canal system. A letter from the canal company recommended a 20% conveyance holdback to account for seepage losses from the canal. Therefore, I recommend the rentable diversion rate should be reduced by 20% to account for seepage losses.

ENLARGEMENT OF USE:
A portion of the proposed water rights place of use overlaps with water rights 37-22773, 37-22774, 37-22775 and 37-22776. Both the proposed rights and overlapping rights derive from the same parent water rights. However, the sum of acres between the proposed water rights and overlapping rights is equal to the original total on the parent water rights before the splits occurred. Therefore, according to Administrative Water Rights Transfer Memo #24, the proposed water rights and overlapping rights are not "stacked". The proposed water rights can be leased together, separately from the overlapping rights, without causing an enlargement. There are no other 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 September 18th, 2023. No response was received, it is assumed there is no concern with this proposal.

E.M. CAPLOW & ASSOCIATES
REAL ESTATE ▪ INVESTMENTS ▪ MANAGEMENT

RECEIVED
OCT 25 2023
DEPARTMENT OF
WATER RESOURCES

October 19, 2023

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

Attn: Skyler Cheever

Re: Water Supply Bank Lease Contract 1731 to Application to Lease Water Rights 37-22890, 37-22892, 37-22894, and 37-22896

Dear Mr. Cheever,

Per your letter of October 4, 2023, enclosed is the Water Supply Bank Contract 1731, signed by Mr. Mark Caplow on behalf of West of First, LLC.

Please provide us with a fully executed copy for our files.

Thank you.

E.M. Caplow & Associates, Inc.

Yanina Zajdman, Property Management

Enc (as stated)

9533 W. PICO BOULEVARD 2ND FLOOR ▪ LOS ANGELES, CA 90035 TEL: 310▪277▪8688 FAX: 310▪277▪4855

Cheever, Skyler

From: Cheever, Skyler
Sent: Tuesday, September 19, 2023 8:21 AM
To: Skinner, Corey; watermanager
Subject: Water Supply Bank Lease Application 2658
Attachments: Lease 1731 Map.pdf; Lease Review Memo 2658.docx

Hello Corey and Ms. Healey ,

I have finished my review of a water supply bank lease application within Basin 37 and Water District 37. The applicant is West of First LLC . The applicant proposes to lease the entirety of water rights 37-22890, 37-22892, 37-22894, and 37-22896 into the water supply bank from 2024-2028. 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

HAEMMERLE LAW, P.L.L.C

Attorney & Couselor at Law

Fritz X. Haemmerle
fxh@haemlaw.com

P.O. Box 1800
Hailey, ID 83333

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

April 11, 2023

RECEIVED
APR 26 2023
DEPARTMENT OF
WATER RESOURCES

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

Re: Request to Water Bank 37-22910, 37-22911, 37-22912 and 37-22913; 37-22890, 37-22892, 37-22894 and 37-22896; 37-21811, 37-21813, 37-21815, and 37-21817; and 37-22891, 37-22893, 37-22895 and 37-22897
Applicant: West of First, LLC

To Whom It May Concern:

Please find enclosed my clients' Application to Lease Water to Water Bank for the aforementioned water rights. This letter includes: (1) Application, with maps and W-9; (2) Letter from Hiawatha Canal; and (3) check for $2,000.00 (four stacked rights at $500.00 ea).

If you require any further information, please advise.

Sincerely,

HAEMMERLE LAW, P.L.L.C.

Fritz X. Haemmerle

FXH: fxh
Encl.
cc: client

2657, 2658, 2659 & 2660

COPY

RECEIVED
APR 26 2023
DEPARTMENT OF
WATER RESOURCES

HIAWATHA CANAL
P.O. Box 1604 • Hailey, ID 83333

April 4, 2023

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

Re: Water Rights 37-22910, 37-22911, 37-22912 and 37-22913; 37-22890, 37-22892, 37-22894 and 37-22896; 37-21811, 37-21813, 37-21815, and 37-21817; and 37-22891, 37-22893, 37-22895 and 37-2289.
Applicant: West of First, LLC

Dear Sir or Madam:

The purpose of this letter is to address the aforementioned water bank lease application, which water right is conveyed by 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 its laterals 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 the Water Bank should require twenty-percent (20%) of the right be left in the Canal as conveyance loss.

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 and leases to the Water Bank. 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.

COPY

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 20% of the right is left in the main Hiawatha 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
Encl.
cc: client