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MAY 27 2015

DEPARTMENT OF
WATER RESOURCES

David R. Tuthill, Jr.
Manager, Innovative Mitigation Solutions, LLC
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Boise, ID 83704

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR) APPLICANT'S REQUEST TO RECONSIDER
PERMIT NOS. 37-22682 AND 37-22852 IN) PRELIMINARY ORDER GRANTING
THE NAME OF INNOVATIVE) MOTION FOR SUMMARY JUDGMENT
MITIGATION SOLUTIONS, LLC) WITH RESPECT TO APPLICATION FOR
PERMIT NO. 37-22852

Innovative Mitigation Solutions, LLC (IMS) provides this response to the *Preliminary Order Granting Motion for Summary Judgment with Respect to Application for Permit No. 37-22852*. The Applicant concurs with the analysis of the Hearing Officer in this order regarding the need for the Applicant to have possessory interest in the place of use at the time the application is filed.

However, in this situation the Applicant inadvertently failed to submit a copy of the Lease for the record in advance of the Hearing. During discovery the Applicant was focused on providing lease information for Permit No. 37-22682 (there were two leases) and inadvertently omitted the companion lease for Permit No. 37-22852. The Applicant's investigation of the record reveals that indeed the lease information has not yet been submitted for Permit No. 37-22852.

Accordingly the Applicant now provides a copy of the lease, attached. This is a Place of Use Lease between Cliffside Homeowners Association, Inc. and IMS, dated October 19, 2013. This lease provided the basis for IMS to file Application No. 37-22852 on October 21, 2013. Note the application for permit clearly showed the start point and end point for the lands of Cliffside Homeowners, Inc. The lease is clearly a companion of the application and was inadvertently not filed.

The Applicant recognizes this oversight in providing this document to the record during discovery was an error in response. However, perhaps the Hearing Officer can take into account the fact that the format of this lease is the same as the format for the leases previously submitted as part of the record. Accordingly the Applicant requests the Hearing Officer to reconsider the *Preliminary Order Granting Motion for Summary Judgment with Respect to Application for Permit No. 37-22852*, and to allow the upcoming hearing to include this application as well as 37-22682.

Dated this 27th day of May, 2015

A handwritten signature in cursive script that reads "David R. Tuthill, Jr." The signature is written in dark ink and is positioned above the printed name.

David R. Tuthill, Jr.

Manager, Innovative Mitigation Solutions, LLC

Attachment: Place of Use Lease between Cliffside Homeowners Association, Inc. and Innovative Mitigation Solutions, LLC.