

AUG 06 2021

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 1421**

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

LESSOR: EAGLE CREEK NORTHWEST LLC
C/O UBS FARMLAND INVESTORS LLC
10 STATE HOUSE SQ FL 15
HARTFORD, CT 06103-3600

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 22, 2021.
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)
43-2489	2/11/1960	GROUND WATER, tributary to	3.75	784.0	196
Combined Limit Totals			3.75	784.0	196
Combined Lease Totals			3.75	784.0	196

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, 2021 to December 31, 2021. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1421

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

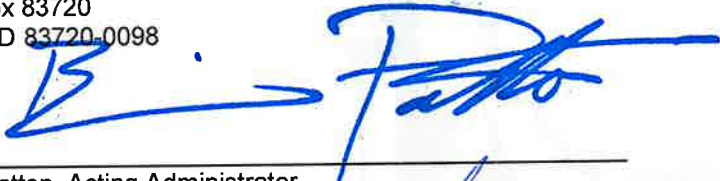
WATER SUPPLY BANK LEASE CONTRACT No. 1421

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

LESSOR: EAGLE CREEK NORTHWEST LLC
C/O UBS FARMLAND INVESTORS LLC
10 STATE HOUSE SQ FL 15
HARTFORD, CT 06103-3600

By 
Title Vice President
Date Aug 4, 2021

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

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 10-27-21

Lease approved by IDWR 

Date 10-22-21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1421

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): 43-2489

GROUND WATER	SENW	Sec. 12	Twp 11S	Rge 26E	CASSIA County
GROUND WATER	NESE	Sec. 1	Twp 11S	Rge 26E	CASSIA County
GROUND WATER	NWNW	Sec. 8	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	L 3NENW	Sec. 5	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SWNE	Sec. 5	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	NESE	Sec. 8	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SENE	Sec. 5	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	NWSE	Sec. 4	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESE	Sec. 4	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	NWSE	Sec. 32	Twp 10S	Rge 27E	CASSIA County
GROUND WATER	SWSE	Sec. 33	Twp 10S	Rge 27E	CASSIA County
GROUND WATER	SESW	Sec. 1	Twp 11S	Rge 26E	CASSIA County
GROUND WATER	SWSW	Sec. 8	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SENE	Sec. 1	Twp 11S	Rge 26E	CASSIA County
GROUND WATER	SESW	Sec. 5	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SWSW	Sec. 32	Twp 10S	Rge 27E	CASSIA County
GROUND WATER	NESE	Sec. 31	Twp 10S	Rge 27E	CASSIA County
GROUND WATER	L 2NWNE	Sec. 6	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SWSW	Sec. 33	Twp 10S	Rge 27E	CASSIA County
GROUND WATER	SESW	Sec. 30	Twp 10S	Rge 27E	CASSIA County
GROUND WATER	NWSW	Sec. 1	Twp 11S	Rge 26E	CASSIA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
43-2489	IRRIGATION	03/15	to	11/15	3.75 cfs	784 AF
Totals:					3.75 cfs	784 AF

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	
10S	27E	31		3.5	3.5		32			32									71
11S	27E	8													31	32	31	31	125

Total Acres: 125

ADDITIONAL CONDITIONS OF ACCEPTANCE

- The water rights referenced above will be rented from the bank at the current rental rate.
- 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.
- 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1421

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.
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 the leased rights 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, the leased water rights are within State Water District No. 143.
13. The unleased extent of water right 43-2489, when combined with water rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, and 43-13603 when combined shall not exceed a total diversion rate of 67.63 cfs, a total annual maximum diversion volume of 15,635.6 af at the field headgate, and the irrigation of 3,932.8 acres.
14. The unleased extent of water right 43-2489, when combined with water rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, 43-13578, 43-13603 and 43-13604, shall not exceed a total diversion rate of 69.37 cfs, a total annual maximum diversion volume of 16,131.6 af at the field headgate, and the irrigation of 4,056.8 acres.
15. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

STATE OF IDAHO
WATER RESOURCE BOARD

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

Designated Applicant Eagle Creek Northwest LLC C/O UBS Agrivest LLC
(Select one owner - see item 1A on the application)

Water Right No. 43-2489
(One water right per application)

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

Yes ☒ No ☐

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☒ | ☐ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$

Received By:

Date Received:

Receipt #

W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

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 Eagle Creek Northwest LLC C/O UBS Agrivest LLC

Mailing Address PO BOX 53 NAMPA, ID 83653

Street

City

State

Zip Code

Email Address _____

Phone Number

2084660419

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

OR

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

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

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

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

Name of Representative Greg Sullivan Organization Brockway Engineering

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

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

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

☒ A part of the water right is being offered to the Bank.
If a portion of the water right is being offered, complete Attachment 2.

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.
- B. Please provide a description of the current water diversion and delivery system.
Existing wells, mainlines and delivery system.
- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 43-2472 et al.
- 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. A full volume of water right has been diverted to these pivot to grow a productive crop for the last 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.
- 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.

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: 2021 to 2021 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate. The current water right owner and the proposed renter have entered into an annual payment agreement. The 10% processing fee will be paid to IDWR. No payment will be made to the water right owner through IDWR.

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.

Charles W. Bryan
Signature of Designated Applicant

Charles W. Bryan
Printed Name

7/6/21
Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
43-2489	Irrigation	3.75	784	196.0
	Total Amounts:	3.75	784	196.0

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
See Exhibit A							

CONTRACT OF AGREEMENT

To Whom It May Concern,

Eagle Creek Northwest LLC C/O UBS Agrivest LLC. and ADT Farms LLC have in place a long term farm lease agreement or contract for property owned by Eagle Creek Northwest LLC C/O UBS Agrivest LLC. The contract includes the property, water rights and water distribution systems pertaining to water right 43-2489.

ADT Farms LLC has agreed to pay the annual farm contract payment for 2021. No additional fees are required by Eagle Creek Northwest LLC C/O UBS Agrivest LLC. of ADT Farms LLC for the rental of any water from the Idaho Water Supply Bank pertaining to water right 43-2489 during the 2021 irrigation season.

Therefore, the rental payment of the 90% of the rental fees for water rights 43-2489 for the year 2021 has been paid in full.

ADT Farms LLC will pay the Idaho Water Supply Bank the 2021 processing 10% rental fee when the rental agreement is signed and returned to IDWR for final approval.

Eagle Creek Northwest LLC C/O UBS Agrivest LLC gives permission to ADT Farms LLC to irrigate farm ground in the NWNW of Section 31 T10S R27E from water diverted from ADT Farms LLC irrigation wells. All legal ownership of the property and appurtenances will remain unchanged by this agreement.

Eagle Creek Northwest LLC C/O UBS Agrivest LLC.:

C. W. B. - , V. P.

Date: 7/6/21

ADT Farms LLC

Date: _____

CONTRACT OF AGREEMENT

To Whom It May Concern,

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Eagle Creek Northwest LLC C/O UBS Agrivest LLC gives permission to ADT Farms LLC to irrigate farm ground in the NWNW of Section 31 T10S R27E from water diverted from ADT Farms LLC irrigation wells. All legal ownership of the property and appurtenances will remain unchanged by this agreement.

Eagle Creek Northwest LLC C/O UBS Agrivest LLC.:

Date: _____

ADT Farms LLC


Date: _____

CONTRACT OF AGREEMENT

To Whom It May Concern,

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Eagle Creek Northwest LLC C/O UBS Agrivest LLC.:

Anthony J. P., Eagle Creek NW LLC

Date: 7/6/21

ADTD Farms LLC

Date: _____

CONTRACT OF AGREEMENT

To Whom It May Concern,

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Eagle Creek Northwest LLC C/O UBS Agrivest LLC.:

Date: _____

ADTD Farms LLC

_____ 

Date: 7-7-21

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

APR 26 2021

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDEPARTMENT OF
WATER RESOURCESDesignated Applicant Eagle Creek Northwest LLC C/O UBS Agrivest LLC
(Select one owner – see item 1A on the application)Water Right No. 43-2489
(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.

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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 \$

Received By:

Date Received:

Receipt #

W-9 received? Yes ☐ No ☐ (Route W-9 to Fiscal)

Name on W-9:

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 Eagle Creek Northwest LLC C/O UBS Agrivest LLC

Mailing Address PO BOX 53 NAMPA, ID 83653

Street

City

State

Zip Code

Email Address _____

Phone Number 2084660419

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

OR

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

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

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

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

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301

Phone Number 208-736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.
- B. Please provide a description of the current water diversion and delivery system.
Existing wells, mainlines and delivery system.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 43-2472 et al.

- 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. A full volume of water right has been diverted to these pivot to grow a productive crop for the last 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. _____

- 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: 2021 to 2021 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate. The current water right owner and the proposed renter have entered into an annual payment agreement. The 10% processing fee will be paid to IDWR. No payment will be made to the water right owner through IDWR.

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.

CWB
Signature of Designated Applicant

Charles W. Baran
Printed Name VA Eagle Creek NW/UC Date 4/20/21

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

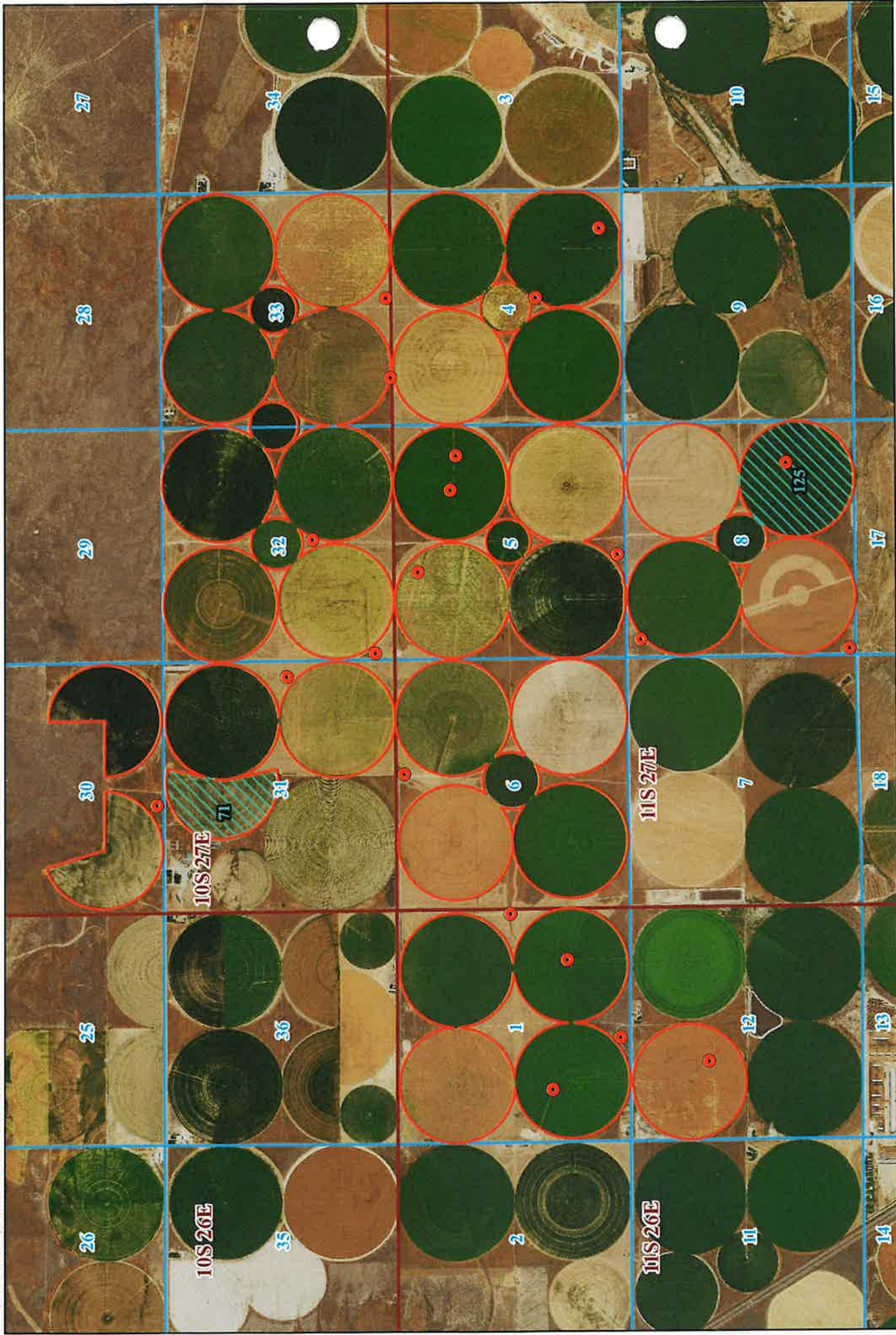
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
43-2489	Irrigation	3.75	784	196.0
	Total Amounts:	3.75	784	196.0

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
See Exhibit A							



Legend

- Cassia Creek Lease
- Cassia_Creek_POU

Eagle Creek Northwest LLC
C/O UBS Agrivest LLC
2021 LEASE ACRES
NAIP 2019 AERIAL

0 0.25 0.5 1 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

FEB 22 2021

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Eagle Creek Northwest LLC C/O UBS Agrivest LLC
(Select one owner – see item 1A on the application)Water Right No. 43-2489
(One water right per application)

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

Yes ☒ No ☐

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- 1A ☐ ☒ 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 \$ <u>250</u>	Received By: <u>Ku</u>	Date Received: <u>2.22.21</u>	Receipt # <u>C109957</u>
W-9 received? Yes ☐ No ☒	(Route W-9 to Fiscal)	Name on W-9:	

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 Eagle Creek Northwest LLC C/O UBS Agrivest LLC

Mailing Address PO BOX 53 NAMPA, ID 83653

Street

City

State

Zip Code

Email Address _____

Phone Number 2084660419

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

OR

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

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

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

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

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301

Phone Number 208-736-8543

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

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- ☐ 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

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Existing wells, mainlines and delivery system.

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- 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. A full volume of water right has been diverted to these pivot to grow a productive crop for the last 5 years.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
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- 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: 2021 to 2021 (maximum lease period 5 calendar years).
(Year) (Year)
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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.

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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

CHRISTOPHER W BRYAN
Printed Name

12/16/20
Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
43-2489	Irrigation	2.39	500	125
Total Amounts:		2.39	500	125

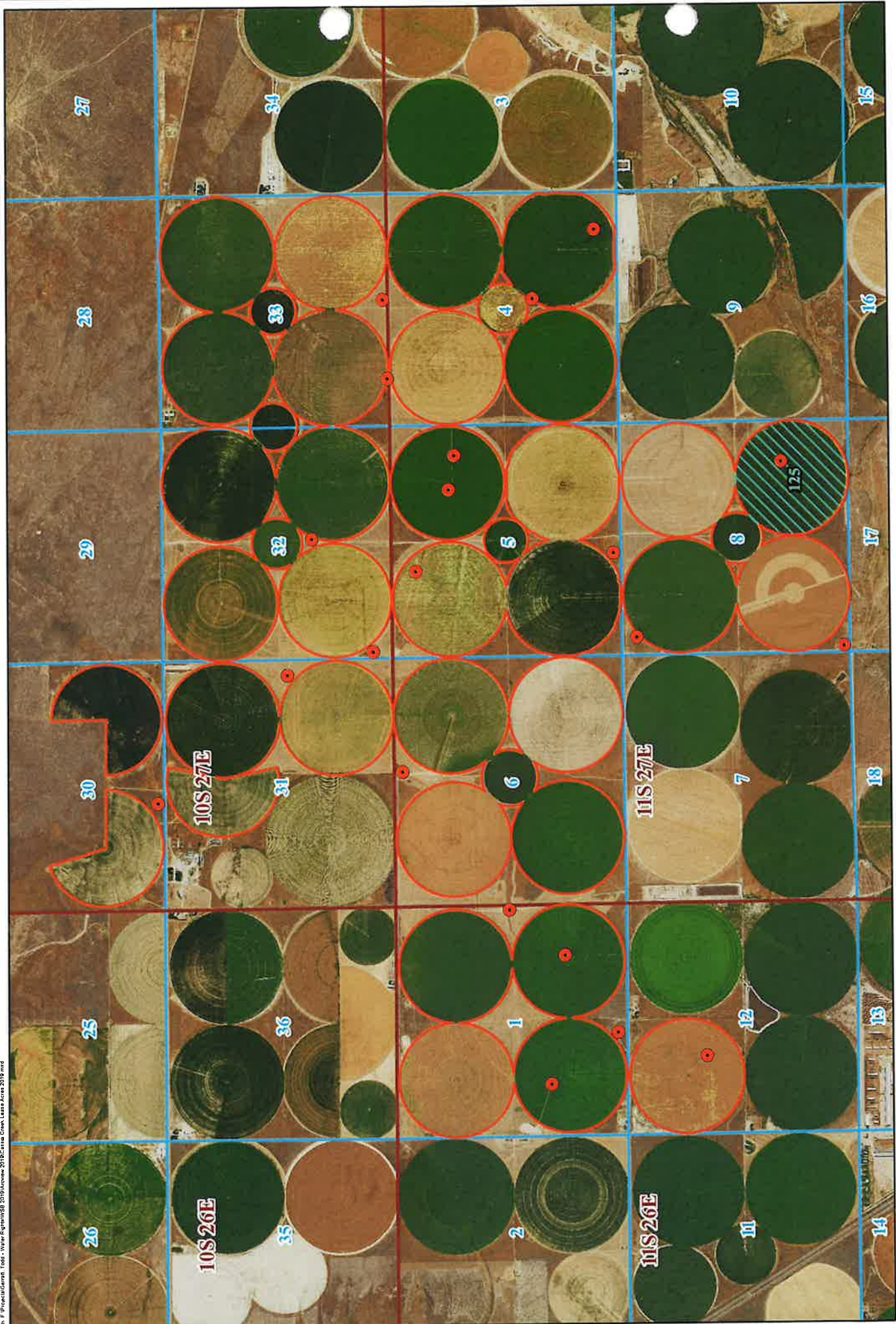
2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
See Exhibit A							

Exhibit A
Eagle Creek Northwest LLC
PODs

	QQ	Sec.	Twp.	Rge.	County	Source
1	SESW	30	10S	27E	CASSIA County	GROUND WATER
2	NESE	31	10S	27E	CASSIA County	GROUND WATER
3	SWSW	32	10S	27E	CASSIA County	GROUND WATER
4	NWSE	32	10S	27E	CASSIA County	GROUND WATER
5	SWSW	33	10S	27E	CASSIA County	GROUND WATER
6	SWSE	33	10S	27E	CASSIA County	GROUND WATER
7	SENE	1	11S	26E	CASSIA County	GROUND WATER
8	NWSW	1	11S	26E	CASSIA County	GROUND WATER
9	SESW	1	11S	26E	CASSIA County	GROUND WATER
10	NESE	1	11S	26E	CASSIA County	GROUND WATER
11	SENE	12	11S	26E	CASSIA County	GROUND WATER
12	NWSE	4	11S	27E	CASSIA County	GROUND WATER
13	SESE	4	11S	27E	CASSIA County	GROUND WATER
14	SWNE	5	11S	27E	CASSIA County	GROUND WATER
15	SENE	5	11S	27E	CASSIA County	GROUND WATER
16	NENW	5	11S	27E	CASSIA County	GROUND WATER
17	SESW	5	11S	27E	CASSIA County	GROUND WATER
18	NWNE	6	11S	27E	CASSIA County	GROUND WATER
19	NWNW	8	11S	27E	CASSIA County	GROUND WATER
20	SWSW	8	11S	27E	CASSIA County	GROUND WATER
21	NESE	8	11S	27E	CASSIA County	GROUND WATER



Legend

-  Cassia Creek Lease
-  Cassia_Creek_POU

**Eagle Creek Northwest LLC
C/O UBS Agrivest LLC**
2021 LEASE ACRES
NAIP 2019 AERIAL





IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to call ahead for an appointment.

[Home](#) / [Water Rights](#) / [Research](#) / [Search Water Rights](#)

WATER RIGHT REPORT

12/14/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 43-2489

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	EAGLE CREEK NORTHWEST LLC C/O UBS FARMLAND INVESTORS LLC CHARLES BRYAN PO BOX 53 NAMPA, ID 83653-0053 2084660419
Directors Report Owner	SUN VALLEY AGRIBUSINESS PARTNERS LLC PO BOX 2169 SUN VALLEY, ID 83353 2087250888
Original Owner	J R SIMPLOT CO C/O JAMES B ALDERMAN PO BOX 27 BOISE, ID 83707-0027 2083362110
Original Owner	AMY E ACHS
Original Owner	RONALD A ACHS
Original Owner	CLAIR D BOSEN
Original Owner	VIOLA L BOSEN PO BOX 2169 SUN VALLEY, ID 83353

80039.712

Priority Date: 02/11/1960

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	8.9 CFS	1860 AFA
Total Diversion			8.9 CFS	1860 AFA

Location of Point(s) of Diversion:

GROUND WATER	SESW	Sec. 30	Township 10S	Range 27E	CASSIA County
GROUND WATER	NESE	Sec. 31	Township 10S	Range 27E	CASSIA County
GROUND WATER	SWSW	Sec. 32	Township 10S	Range 27E	CASSIA County
GROUND WATER	NWSE	Sec. 32	Township 10S	Range 27E	CASSIA County
GROUND WATER	SWSW	Sec. 33	Township 10S	Range 27E	CASSIA County
GROUND WATER	SWSE	Sec. 33	Township 10S	Range 27E	CASSIA County
GROUND WATER	SENE	Sec. 01	Township 11S	Range 26E	CASSIA County
GROUND WATER	NWSW	Sec. 01	Township 11S	Range 26E	CASSIA County
GROUND WATER	SESW	Sec. 01	Township 11S	Range 26E	CASSIA County
GROUND WATER	NESE	Sec. 01	Township 11S	Range 26E	CASSIA County
GROUND WATER	SENE	Sec. 12	Township 11S	Range 26E	CASSIA County
GROUND WATER	NWSE	Sec. 04	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESE	Sec. 04	Township 11S	Range 27E	CASSIA County
GROUND WATER	SWNE	Sec. 05	Township 11S	Range 27E	CASSIA County
GROUND WATER	SENE	Sec. 05	Township 11S	Range 27E	CASSIA County
GROUND WATER	NENW Lt 3	Sec. 05	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESW	Sec. 05	Township 11S	Range 27E	CASSIA County
GROUND WATER	NWNE Lt 2	Sec. 06	Township 11S	Range 27E	CASSIA County
GROUND WATER	NWNW	Sec. 08	Township 11S	Range 27E	CASSIA County
GROUND WATER	SWSW	Sec. 08	Township 11S	Range 27E	CASSIA County
GROUND WATER	NESE	Sec. 08	Township 11S	Range 27E	CASSIA County

IRRIGATION Use:

Acre Limit: 465

Place(s) of use:

Place of Use Legal Description: IRRIGATION CASSIA County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
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12/15/2020, 9:21 AM

2. Rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2489, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, and 43-13603 when combined shall not exceed a total diversion rate of 71.38 cfs, a total annual maximum diversion volume of 16419.6 af at the field headgate, and the irrigation of 4128.8 acres.
3. X35 Rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2489, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, 43-13578, 43-13603, and 43-13604 when combined shall not exceed a total diversion rate of 73.29 cfs, a total annual maximum diversion volume of 16997.7 af at the field headgate, and the irrigation of 4292.8 acres.
4. 206 Rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2489, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, 43-13578, 43-13603, and 43-13604 are limited to the irrigation of a specific 4292.8 acres within the 5456.5 acre place of use authorized by this right in a single irrigation season. The specific 4292.8 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 4292.8 acres to be irrigated within the 5456.5 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
5. R64 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
8. T07 The right holder shall accomplish the change authorized by this transfer within two years of the date of this approval.
9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Dates:

Licensed Date:

Decreed Date: 05/04/2004

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 143

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Combined Acres Limit: 4128.8

Combined Volume Limit: 16419.6

Combined Rate Limit: 71.38

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 43-2489

	Designated Applicant	Applicant #2	Applicant #3
Name	EAGLE CREEK NORTHWEST LLC		
Mailing Address	PO BOX 53 NAMPA, ID 83653		
Phone Number	2084660419		
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

Eagle Creek Northwest LLC

Resolution

January 2, 2018

The undersigned, being the sole Member of Eagle Creek Northwest LLC, a Delaware limited liability company (the "Company"), hereby consents to the adoption of the following resolutions:

RESOLVED: That all officers of the Company now in office are hereby removed.

RESOLVED: Pursuant to Article V of the Company's Operating Agreement, the following persons are hereby appointed to the indicated offices of the Company:

President	James B. McCandless
Vice President	J. Scott Haffner
Vice President	Charles W. Bryan, Jr.
Vice President	Barbara Pierson Roy
Secretary	Rose Marie Beaulieu
Treasurer	Elaina Benson

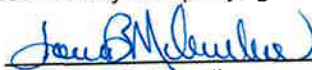
RESOLVED: Pursuant to Article III of the Company's Operating Agreement, any of the above officers shall be an "Authorized Person" to execute, deliver and file any documents or certificates on behalf of the Company.

RESOLVED: To direct that this Resolution be filed with the records of meetings of the Company.

EXECUTED as of this date set forth above.

AGRIVEST FARMLAND FUND L.P., a
Delaware limited partnership

By: AgriVest GP LLC, a Delaware
limited liability company, general partner

By: 
James B. McCandless
President



0003844878



STATE OF IDAHO
Office of the secretary of state, Lawrence 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 #: 0003844878

Date Filed: 4/14/2020 11:28:15 AM

Entity Name and Mailing Address:

ADT FARMS, LLC

The file number of this entity on the records of the Idaho Secretary
of State is: 0000060478

Address

2500 OVERLAND AVE
BURLEY, ID 83318-2941

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: W15454

The registered agent on record is:

Registered Agent

TODD GERRATT
Registered Agent

Physical Address

2500 OVERLAND AVE
BURLEY, ID 83318

Mailing Address

2500 OVERLAND AVE
BURLEY, ID 83318-2956

Limited Liability Company Managers and Members

Name	Title	Business Address
☒ TODD GERRATT	Member	2500 OVERLAND BURLEY, ID 83318
☒ ALAN GERRATT	Member	2500 OVERLAND BURLEY, ID 83318

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

Todd Gerratt

Sign Here

04/14/2020

Date

Job Title: Member

B0502-4511 04/14/2020 11:28 AM Received by ID Secretary of State Lawrence Denney



0003844883



STATE OF IDAHO
Office of the secretary of state, Lawrence Denney
ANNUAL REPORT
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

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File #: 0003844883

Date Filed: 4/14/2020 11:29:40 AM

B0502-4516 04/14/2020 11:29 AM Received by ID Secretary of State Lawrence Denney

Entity Name and Mailing Address:

ADTD FARMS, LLC

The file number of this entity on the records of the Idaho Secretary of State is: 0000060482

Address 2500 OVERLAND AVE
BURLEY, ID 83318-2941

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: W15455

The registered agent on record is:

Registered Agent TODD GERRATT
Registered Agent
Physical Address
2500 OVERLAND AVE
BURLEY, ID 83318
Mailing Address

Limited Liability Company Managers and Members

Name	Title	Business Address
TODD GERRATT	Member	2500 OVERLAND AVE BURLEY, ID 83318
ALAN GERRATT	Member	2500 OVERLAND AVE BURLEY, ID 83318
DAVID GERRATT	Member	2500 OVERLAND AVE BURLEY, ID 83318
STEVE GERRATT	Member	2500 OVERLAND AVE BURLEY, ID 83318
JACOB GERRATT	Member	2500 OVERLAND AVE BURLEY, ID 83318

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

Todd Gerratt

Sign Here

04/14/2020

Date

Job Title: Member



0003899404

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

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

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File #: 0003899404

Date Filed: 6/4/2020 9:54:46 AM

B0515-5779 06/04/2020 9:54 AM Received by ID Secretary of State Lawrence Denney

Entity Name and Mailing Address:

Entity Name: EAGLE CREEK NORTHWEST LLC
Foreign Name (name in home jurisdiction): EAGLE CREEK NORTHWEST LLC
The file number of this entity on the records of the Idaho Secretary of State is: 0000166883
Address: 10 STATE HOUSE SQ
FL 15
HARTFORD, CT 06103-3600

Entity Details:

Entity Status: Active - Existing
This entity is organized under the laws of: DELAWARE
If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: W51753

The registered agent on record is:

Registered Agent: CORPORATION SERVICE COMPANY
Commercial Registered Agent
Physical Address
12550 W EXPLORER DR STE 100
BOISE, ID 83713
Mailing Address
12550 W EXPLORER DR STE 100
BOISE, ID 83713

Agent or Address Change

☐ Select if you are appointing a new agent.

Limited Liability Company Managers and Members

Name	Title	Business Address
AgriVest Farmland Fund L.P.	Member	10 STATE HOUSE SQUARE, 15TH FLOOR HARTFORD, CT 06103

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

James B. McCandless06/04/2020

Sign Here

Date

Job Title: President of GP of Member

227

CERTIFICATE OF ASSUMED BUSINESS NAME/FILED/EFF

(Please type or print legibly)

To the SECRETARY OF STATE, STATE OF IDAHO

Pursuant to Section 53-504, Idaho Code, the undersigned gives notice of adoption of an Assumed Business Name.

02 JAN -3

SECRETARY OF STATE
STATE OF IDAHO

1. The assumed business name which the undersigned use(s) in the transaction of business is:

Jones & Widerburg Farms

2. The true name(s) and business address(es) of the entity or individual(s) doing business under the assumed business name is/are:

Name	Complete Address
<u>Michael L. Jones</u>	<u>579 Jene Drive, Sandy UT 84070</u>
<u>Marvin A. Widerburg</u>	<u>1387 West 10250 South</u> <u>South Jordan, UT 84095</u>
<u>Kendall D. Jones</u>	<u>82 South 150 East</u> <u>Burley, ID 83318</u>

3. The general type of business transacted under the assumed business name is:
(mark only those that apply)

☐ Retail Trade	☐ Manufacturing	☐ Transportation and Public Utilities
☐ Wholesale Trade	☒ Agriculture	☐ Finance, Insurance, and Real Estate
☐ Services	☐ Construction	☐ Mining

4. The name and address to which future correspondence should be addressed:

Kendall D. Jones
82 South 150 East
Burley, ID 83318

5. Name and address for this acknowledgment copy is (if other than # 4 above):

Land Title and Escrow, Inc.
P. O. Box 177
Burley, ID 83318

Signature: Kendall D. JonesPrinted Name: Kendall D. JonesCapacity: General Partner

(see instruction # 8 on back of form)

Submit Certificate of
Assumed Business
Name and \$20.00 fee to:

Secretary of State
700 West Jefferson
Basement West
PO Box 83720
Boise ID 83720-0080
208 334-2301

Secretary of State use only

050823

IDAHO SECRETARY OF STATE
01/03/2002 05:00
CK: 3791 CT: 2321 DH: 437818
1 @ 20.00 = 20.00 ASSUM NAME # 2

Revision 2/97

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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

October 28, 2021

EAGLE CREEK NORTHWEST LLC
C/O USB FARMLAND INVESTORS
10 STATE HOUSE SQ FL 15
HARTFORD, CT 06103-3600

**RE: WATER SUPPLY BANK LEASE CONTRACT 1421
FOR WATER RIGHTS 43-2489**

Dear Lessor:

Water right **43-2489** was leased into the Water Supply Bank (Bank) as of January 1, 2021, 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, 2021**, 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Southern Region
Greg Sullivan
Water District No. 143

Hummer, Phill

From: Buyer, Remington
Sent: Tuesday, August 24, 2021 4:05 PM
To: Hummer, Phill
Cc: Parker, Cody
Subject: RE: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994

My perspective is that we should process a lease (and/or) rental based on how it was requested by an applicant, whenever it is possible for us to do so.

In cases when water rights are combined limited and they cannot be pulled apart (they're stacked together) we should lease in portions of all water rights in the portfolio. In cases where water rights feature combined limits, and they can be pulled apart, and the applicant is requesting to lease in less than all the combined limited rights, we should lease what they have asked for (if possible) and avoid leasing in additional water rights. This makes data entry easier, and it makes administering the lease and subsequent rentals easier as well.

There shouldn't be an enlargement in water right 43-2489, based on the conditions of the contract. If they violate the terms of the contract, we can reject a future lease and refer the lease to Compliance for enforcement provisions.

From: Hummer, Phill
Sent: Tuesday, August 24, 2021 3:33 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994

Remington,

I looked at lease application 1990 for 43-2489. Is the standard practice still to have people submit equal portions of stacked water rights for lease? So in this case we would normally ask them to submit lease applications for 196 acre portions of the rights in the combined limit. I know Alex worked on a similar lease last year and we decided it was probably ok to lease just the one water right if the applicant agreed to reduce the total number of acres. But in other situations, I think Dave had a similar situation lease, we have asked them to submit leases for the other rights. So it seems we are not consistent.

This is going to be one of those issues that will need further discussion regarding how we handle this type of lease application because I don't want to do every one differently. Especially in this instance where they did not propose to lease the most senior water right and it appears that eagle creek nw irrigated more than the number of acres they were authorized to irrigate last year. An additional consideration is the admission by Mr. Sullivan that the acres proposed for lease were irrigated and harvested earlier this year and are now idle which to me seems like an enlargement of the water right. But again it requires additional discussion. I hope that the water rights group will come to some decision and I or someone will write a guidance document detailing how to address these situation before next processing season.

For now I think we can proceed with the lease and probably the rentals (pending Cody review) given the fact we did something similar last year, do not have a standard for handling these yet, and the lateness of time of year. But I would feel a lot more comfortable signing the lease contract if this enlargement concern was addressed in more detail in the lease review memo. That would also provide some argument/reasoning that can be used in further discussions.

-Phill



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 23, 2021

EAGLE CREEK NORTHWEST
C/O USB FARMLAND INVESTORS LLC
10 STATE HOUSE SQ FL 15

**RE: APPLICATION TO LEASE WATER RIGHTS 43-2489 TO THE WATER SUPPLY BANK
CONTRACT 1421**

******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, 2021**, 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Greg Sullivan – Brockway Engineering

Memorandum

To: Water Supply Bank Application 1990
From: Remington Buyer
Date: July 7, 2021
Re: Lease to the Bank of water right 43-2489

Purpose/Narrative: An application was received by the Department February 22, 2021 from Eagle Creek Northwest LLC and Jones & Widerburg Farms, proposing to lease into the Bank water rights 43-2489, 43-13645 and 43-13649, for 2021, so that the leased rights might be rented as the basis for rental applications 1993 and 1994.

An initial review of water rights 43-13645 & 13649 (lease application 1991) revealed the rights were combined limited with water rights 43-7040, 4062, 13056 & 13647. Out of enlargement concerns, an information request was issued to Jones & Widerburg Farms on April 1, 2021, requesting that the applicant either: 1) lease the additional four combined limited water rights to the Bank through lease application 1991, or; 2) commit to a reduced, combined limited use of the remaining, unleased water rights. The application was set to deficient and place on hold after the information request was issued.

As of today, no information has been received from the applicant. However, a subsequent review of the lease proposal conducted this week indicates that a lease may be possible, despite not receiving the requested information. Specifically, although there are combined limits associated with the lease of both water rights 43-13645 & 13659, as well as 43-2489, it appears that a lease of both water rights is possible, provided combined limit totals are accurately described on and adhered to under the lease contract. This memo pertains to the lease of water right 43-2489.

Note: on July 7th, 2021, an amended version of lease application 1990 was received, which increased the acreage proposed to be leased to the Bank, from 125 acres, to 196 acres. After a review of the rental request against water rights 43-13645 and 13647, it was determined that these water rights were not within the boundaries of the Raft River Critical Ground Water Area (RR CGWA) and therefore, they were not rentable for rental applications 1993 and 1994. Accordingly, the amounts proposed to be lease under 43-2489 were increased through the amended lease application, to accommodate the rental requests.

Authority to File: Lease application 1990 (from Eagle Creek Northwest LLC) was signed by Charles W Bryan. A January 2, 2018 written resolution provided with application 1990 confirms Mr. Bryan is a Vice President of Eagle Creek Northwest LLC and that he is authorized to execute documents on behalf of the company. No concerns about Mr. Bryan's authority to file application 1990 on behalf of Eagle Creek Northwest LLC.

The land proposed to be idled and left unirrigated under water rights 43-13645 & 13649 is owned by Eagle Creek Northwest LLC. No concerns about the authority to file lease application 1990.

Water Right Validity/Forfeiture Evaluation: Water right 43-2489 appears to be valid.

A review of 2020 sentinel satellite imagery for the irrigation place of use for water right 43-2489 (and the other 16 water rights with which it is combined limited) reveals approximately 4,130 acres were vegetated, presumably through irrigation. The 17 water rights are combined limited to the irrigation of a maximum of 4,292.8 acres, however a portion of water right 43-2489 was leased to the Bank in 2020 (through contract 1168) so the maximum irrigation permissible in 2020 was 4,111.8 acres, which is close to the approximately 4,130 acres calculated as vegetated. No concerns about the validity of water right 43-2489.

Injury Evaluation: No injury is apparent through this lease. Proper review should avoid enlargement through a rental.

Enlargement of Use: Eagle Creek Northwest LLC's water rights are limited to an overall annual diversion volume of 16,997.7 af. Through the lease, 784 af will be removed from the annual authorized diversion total. A review of 2020 WMIS data indicates 7,751.7 af was diverted by Eagle Creek Northwest in 2020. No concerns about diversion volume enlargements. A condition will be added to the lease contract to affirm that unleased extent of all of the Eagle Creek Northwest water rights will be limited to 69.37 cfs, 16,131.6 af for the irrigation of 4,056.8 acres (see Appendix A for combined limit calculations).

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

Beneficial Use/Conservation of Water Resources: The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Comments were requested from IDWR's Southern Region and Water District 143 on 7/7/2021.

Water Supply Bank Evaluation: WSB review staff recommend approval of this lease proposal.

Lease Review Memo Appendix A

Combined limits as well as leased and unleased extents of water right 43-2489

Combined Limit Groups	Water Rights	Priority	Rate	Volume	Acres	PPU Acres	Rt/Ac	Voll/Ac	Rate	Volume	Acres	PPU Acres	Rt/Ac	Voll/Ac
7 6 3 1	43-2471	7/7/1959	6.00	1,440.0	360.0	5,456.5	0.017	4.0	6.00	1,440.0	360.0	5,456.5	0.017	4.0
7 6 3 1	43-2472	7/7/1959	7.00	1,440.0	360.0	5,456.5	0.019	4.0	7.00	1,440.0	360.0	5,456.5	0.019	4.0
7 6 3 1	43-4199	3/15/1962	2.16	432.0	108.0	5,456.5	0.020	4.0	2.16	432.0	108.0	5,456.5	0.020	4.0
	Additive Elements		15.16	3,312.0	828.0		0.018	4.0						
	1 Combined Limit		13.00	3,312.0	828.0		0.016	4.0	13.00	3,312.0	828.0		0.016	4.0
	Difference		-2.16	0.0	0.0									
7 6 3 2	43-2475	7/7/1959	8.50	1,820.0	455.0	5,456.5	0.019	4.0	8.50	1,820.0	455.0	5,456.5	0.019	4.0
7 6 3 2	43-13577	9/4/1963	4.08	1,987.9	968.0	5,456.5	0.004	2.1	4.08	1,987.9	968.0	5,456.5	0.004	2.1
	Additive Elements		12.58	3,807.9	1,423.0		0.009	2.7						
	2 Combined Limit		12.58	3,807.9	1,023.0		0.012	3.7	12.58	3,807.9	1,023.0		0.012	3.7
	Difference		0.00	0.0	-400.0		0.000	0.0						
	Additive Elements		25.58	7,119.9	1,851.0		0.014	3.8						
	3 Combined Limit		25.58	5,296.0	1,324.0		0.019	4.0	25.58	5,296.0	1,324.0		0.019	4.0
	Difference		0.00	-1,823.9	-527.0		0.000	3.5						
7 6 5 4	43-13603	7/7/1959	3.86	1,104.0	276.0	5,456.5	0.014	4.0	3.86	1,104.0	276.0	5,456.5	0.014	4.0
7 6 5 4	43-2519	3/28/1961	4.20	1,216.0	304.0	5,456.5	0.014	4.0	4.20	1,216.0	304.0	5,456.5	0.014	4.0
	Additive Elements		8.06	2,320.0	580.0		0.014	4.0						
	4 Combined Limit		8.06	2,000.0	500.0		0.016	4.0	8.06	2,000.0	500.0		0.016	4.0
	Difference		0.00	-320.0	-80.0		0.000	4.0						
7 6 5	43-2488	2/11/1960	5.60	1,200.0	300.0	5,456.5	0.019	4.0	5.60	1,200.0	300.0	5,456.5	0.019	4.0
	Additive Elements		13.66	3,200.0	800.0		0.017	4.0						
	5 Combined Limit		13.66	3,040.0	760.0		0.018	4.0	13.66	3,040.0	760.0		0.018	4.0
	Difference		0.00	-160.0	-40.0		0.000	4.0						
7 6	43-2489	2/11/1960	8.90	1,860.0	465.0	5,456.5	0.019	4.0	5.15	1,076.0	269.0	5,456.5	0.019	4.0
7 6	43-2504	10/24/1960	6.40	1,520.0	380.0	5,456.5	0.017	4.0	6.40	1,520.0	380.0	5,456.5	0.017	4.0
7 6	43-2505	10/24/1960	6.40	1,480.0	370.0	5,456.5	0.017	4.0	6.40	1,480.0	370.0	5,456.5	0.017	4.0
7 6	43-2516	3/21/1961	0.60	120.0	30.0	5,456.5	0.020	4.0	0.60	120.0	30.0	5,456.5	0.020	4.0
7 6	43-2517	3/21/1961	3.00	525.0	150.0	5,456.5	0.020	3.5	3.00	525.0	150.0	5,456.5	0.020	3.5
7 6	43-2575	5/20/1964	6.08	2,448.0	612.0	5,456.5	0.010	4.0	6.08	2,448.0	612.0	5,456.5	0.010	4.0
7 6	43-13351	3/10/1975	0.39	67.4	19.5	5,456.5	0.020	3.5	0.39	67.4	19.5	5,456.5	0.020	3.5
7 6	43-13352	3/10/1975	0.37	63.2	18.3	5,456.5	0.020	3.5	0.37	63.2	18.3	5,456.5	0.020	3.5
	Additive Elements		71.38	16,419.6	4,128.8		0.017	4.0						
	6 Combined Limit		71.38	16,419.6	4,128.8	5,456.5	0.017	4.0	67.63	15,635.6	3,932.8	5,456.5	0.017	4.0
	Difference		0.00	0.0	0.0									
7	43-13604	7/7/1959	1.74	496.0	124.0	5,456.5	0.014	4.0	1.74	496.0	124.0	5,456.5	0.014	4.0
	Additive Elements		73.12	16,915.6	4,252.8		0.017	4.0						
7	Combined Limit		73.29	16,997.7	4,292.8	5,456.5	0.017	4.0	69.37	16,131.6	4,056.8	5,456.5	0.017	4.0
	Difference		0.17	82.1	40.0		0.004	2.1						
Proposed Lease			Rate	Volume	Acres	Rt/Ac	Voll/Ac							
43-2489			3.751	784	196.0	0.019	4.00							

WMIS ID	2020 Volume	WMIS ID	2020 Volume
1002550	1,364.69	1002691	388.21
1002552	491.29	1002800	135.26
1002568	126.55	1002813	199.54
1002596	640.06	1002815	387.11
1002622	312.05	1002832	0.00
1002637	0.00	1002833	876.13
1002650	286.43	1002834	0.00
1002652	90.75	1002835	484.56
1002654	751.36	1002836	0.00
1002680	1,017.68	1002837	0.00
sum		7,551.67	

Hummer, Phill

From: Buyer, Remington
Sent: Tuesday, August 24, 2021 4:05 PM
To: Hummer, Phill
Cc: Parker, Cody
Subject: RE: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994

My perspective is that we should process a lease (and/or) rental based on how it was requested by an applicant, whenever it is possible for us to do so.

In cases when water rights are combined limited and they cannot be pulled apart (they're stacked together) we should lease in portions of all water rights in the portfolio. In cases where water rights feature combined limits, and they can be pulled apart, and the applicant is requesting to lease in less than all the combined limited rights, we should lease what they have asked for (if possible) and avoid leasing in additional water rights. This makes data entry easier, and it makes administering the lease and subsequent rentals easier as well.

There shouldn't be an enlargement in water right 43-2489, based on the conditions of the contract. If they violate the terms of the contract, we can reject a future lease and refer the lease to Compliance for enforcement provisions.

From: Hummer, Phill
Sent: Tuesday, August 24, 2021 3:33 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Cc: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994

Remington,

I looked at lease application 1990 for 43-2489. Is the standard practice still to have people submit equal portions of stacked water rights for lease? So in this case we would normally ask them to submit lease applications for 196 acre portions of the rights in the combined limit. I know Alex worked on a similar lease last year and we decided it was probably ok to lease just the one water right if the applicant agreed to reduce the total number of acres. But in other situations, I think Dave had a similar situation lease, we have asked them to submit leases for the other rights. So it seems we are not consistent.

This is going to be one of those issues that will need further discussion regarding how we handle this type of lease application because I don't want to do every one differently. Especially in this instance where they did not propose to lease the most senior water right and it appears that eagle creek nw irrigated more than the number of acres they were authorized to irrigate last year. An additional consideration is the admission by Mr. Sullivan that the acres proposed for lease were irrigated and harvested earlier this year and are now idle which to me seems like an enlargement of the water right. But again it requires additional discussion. I hope that the water rights group will come to some decision and I or someone will write a guidance document detailing how to address these situation before next processing season.

For now I think we can proceed with the lease and probably the rentals (pending Cody review) given the fact we did something similar last year, do not have a standard for handling these yet, and the lateness of time of year. But I would feel a lot more comfortable signing the lease contract if this enlargement concern was addressed in more detail in the lease review memo. That would also provide some argument/reasoning that can be used in further discussions.

-Phill

Buyer, Remington

From: Buyer, Remington
Sent: Wednesday, July 7, 2021 3:46 PM
To: Skinner, Corey; Erickson, Nathan
Subject: RE: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994
Attachments: Map - Lease Contract 1421.pdf; Draft Lease Contract 1421.docx; Lease Review Memo for Application 1990.docx; Draft Lease Contract 1422.docx; Lease Map - Contract 1422.pdf; Lease Review Memo for Application 1991.docx; Draft Rental Agreement 558.docx; Draft Rental Agreement 559.docx; Rental Map - Rental Agreement 558.pdf; Rental Map - Rental Agreement 559.pdf; Rental Review Memo Application 1993.docx; Rental Review Memo Application 1994.docx

OK, trying this again...

Greg Sullivan today provided me with documents affirming that 196 acres of water right 43-2489 is to be leased into the Bank in 2021, to facilitate rental applications 1993 and 1994. So, lease application 1991 (for water rights 43-13645 and 13649) is no longer required, however we will still lease the rights into the Bank this year, even though they won't be rented on applications 1993 or 1994.

Attached to this email are lease review memos, maps and approval documents for water rights 43-2489 (contract 1421), and for water rights 43-13645 & 13649 (contract 1422). Also attached are review memos, maps and approval documents for a rental of water right 43-2489 through rental applications 1992 & 1994 (rental agreements 558 and 559).

Nathan, Corey, please advise if you have any questions, comments or concerns about these WSB transactions for 2021.

Thank you,

Remington

From: Buyer, Remington
Sent: Friday, July 2, 2021 4:35 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>
Subject: FW: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994

It figures.

Right after I sent this email, it comes to my attention that water rights 43-13645 and 13649 are located outside the RR CGWA and are therefore ineligible for rental to both agreements. In speaking with Greg Sullivan at Brockway, it sounds like the parties will increase the amount being leased under 43-2489, to so that it can be rented instead of 43-13645 and 13649. Once we amend the lease, we can amend the rentals, and I'll reach out to you for comments again.

Sorry for the confusion.

From: Buyer, Remington
Sent: Friday, July 2, 2021 1:15 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: WSB Lease and Rental Applications 1990, 1991, 1993 and 1994

Corey, Nathan,

I hope you're staying cool in this heatwave we're having.

Attached to this email are a lot of files associated with 2021 Water Supply Bank lease/rental transaction in the Raft River area.

Effectively, two ground water users have proposed to lease into the Bank portions of some of their water rights, so that the leased extent of the water rights might be rented by ADT Farms and ADTD Farms. The applications are as follows:

WSB	Application	Water Rights Involved	Water User
Application	Type		
1990	Lease	43-2489	Eagle Creek Northwest LLC
1991	Lease	43-13645 & 43-13649	Jones & Widerburg Farms
1993	Rental	43-2489, 43-13645 & 43-13649	ADTD Farms LLC
1994	Rental	43-13645 & 43-13649	ADT Farms LLC

Because these lease and rental applications were submitted at the same time, I processed them concurrently and even did a joint review of the lease applications. Hopefully my review memos seem logical to you and you can follow along.

If you would provide any questions, comments or concerns that you foresee with these lease/rentals, that'd be greatly appreciated.

Thank you, and may you have an enjoyable 4th of July!

-Remington

Buyer, Remington

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Wednesday, July 7, 2021 1:33 PM
To: Buyer, Remington
Cc: Bank
Subject: RE: ADT, ADTD and Eagle Creek Northwest
Attachments: ADT Agreement 2 Eagle Creek signature.pdf; ADTD Agreement 2 Eagle Creek signature.pdf; Contract Agreement ADT Signed.pdf; Contract Agreement ADTD Signed.pdf; Re-signed Lease Application for Eagle Creek.pdf

Remington,

See the attached documents.
Let me know if you need anything else.

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Buyer, Remington [mailto:Remington.Buyer@idwr.idaho.gov]
Sent: Tuesday, July 06, 2021 9:13 AM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Cc: Bank <Bank@idwr.idaho.gov>
Subject: RE: ADT, ADTD and Eagle Creek Northwest

Morning Greg,

I will investigate what may have happened to the documents you dropped off at the State Office. I have no record of them. That said, if you can map out for me which 196 acres are intended to be leased, I should have what I need to move the lease contract to finalization.

As I informed you in my last email, the "Agreement of Contract" between Eagle Creek Northwest LLC and ADTD does not reference water right 43-2489. Please provide an update copy of this form that acknowledge the private agreement between ADTD and Eagle Creek is specific to 43-2489.

Thanks,

Remington

From: Greg Sullivan [<mailto:greg.sullivan@brockwayeng.com>]
Sent: Tuesday, July 6, 2021 9:02 AM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: RE: ADT, ADTD and Eagle Creek Northwest

Remington,

The intent is to lease 196 acres from 43-2489.

I do not have a copy of the 196 acre lease application because I dropped the original off to the State office on April 26, 2021. I was up in the Boise area doing field work and had the representative from Eagle Creek Northwest sign it when I was up there. I dropped it off at the State office in an effort to speed up the lease and rental processing.

I have attached the agreements that I have prepared and have been signed in regard to payments to Eagle Creek Northwest.

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.

From: Buyer, Remington [<mailto:Remington.Buyer@idwr.idaho.gov>]
Sent: Friday, July 02, 2021 3:59 PM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: RE: ADT, ADTD and Eagle Creek Northwest

Hi Greg,

I've been reviewing the lease and rental applications for water rights 43-2489, 13645 and 13649 this week. As you mentioned, lease application 1990 was for 125 acres associated with water right 43-2489. I don't have a record of IDWR receiving an amended lease for 196 acres, however if you email it to me, I can get the lease processed for 196 acres. And yes, since the PODs for 43-13645 and 13649 are outside the boundaries of the RR CGWA, we can't allow for them to be rented within the boundaries of the CGWA.

With respect to the rentals, we can replace water rights 43-13645 and 13649 with the additional amount being leased under 43-2489. That is what you're requesting, correct? Also, the "Agreement of Contract" between Eagle Creek Northwest LLC and ADTD does not reference water right 43-2489. Please provide an update copy of this form that acknowledge the private agreement between ADTD and Eagle Creek is specific to 43-2489.

Thanks, and have a nice 4th.

-Remington

From: Greg Sullivan [<mailto:greg.sullivan@brockwayeng.com>]
Sent: Friday, July 2, 2021 2:26 PM
To: Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: ADT, ADTD and Eagle Creek Northwest

Remington,

I talked with Zach this morning and he indicated that you wanted to talk with me about the ADT, ADTD and Eagle Creek water right leases and rentals.

I was working with Justin on these but I am not sure what has happened lately on them.

Todd Gerratt owns both the ADT and ADTD entities. Todd also has a long term rental on the Eagle Creek Northwest farm. When we originally submitted the lease and rental applications in February we identified water rights 43-13645 and 43-13649 to be leased into the Water Bank and then to be rented out. I later realized that these two water rights are located outside of the critical ground water area and I do not think the Water Supply Bank would allow us to rent them to the farm owned by ADT and ADTD. I prepared a new lease application for water right 43-2489 owned by Eagle Creek Northwest for 196.0 acres. The original lease application for 43-2489 was submitted in February for 125.0 acres. So the new lease application would superseded the February application.

We have rented a portion of 43-2489 for several years to ADT and ADTD. My last correspondence that I have had with the Water Bank regarding these lease and rental applications was back in April. I hand delivered the new lease application for 196.0 acres to the State office of IDWR.

My last correspondence with Justin is that these lease and rentals were almost complete and were going to be mailed out for signatures soon. However, that has been 2 months ago. I am not sure if the documents were sent and I was not copied on them or what?

Can you give me an update on them?
Have they been sent out to Todd for signature?
Has Todd signed them and returned them to IDWR?
Are you missing something that I need to provide?

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

FEB 22 2021

DEPARTMENT OF
WATER RESOURCES

February 18, 2021

Remington Buyer
Idaho Water Supply Bank
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Eagle Creek Northwest LLC C/O UBS Agrivest

Dear Mr. Buyer:

Eagle Creek Northwest LLC desires to lease 125.0 acres from water right 43-2489 into the Idaho Water Supply Bank for the 2021 irrigation season. Water right 43-2489 is one of 18 water rights that are utilized to irrigate over 4,000 acres of farm ground.

Irrigation at the 125.0 acres to be dried up for 2021 has occurred over the past several years and can be document by aerial photography. The current farm manager has planted and irrigated the 125.0 acres late in the 2020 irrigation season. The 125.0 acres will be dry farmed in 2021 and a crop will be harvested from the 125.0 acres.

An agreement has been signed between Eagle Creek Northwest LLC, ADT Farms LLC and ADTD Farm LLC regarding a rental payment. Only the 10% processing fee will be paid to the Idaho Water Supply Bank. No rental payment will be paid to Eagle Creek Northwest LLC by the Idaho Water Supply Bank at the end of 2021.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Todd Gerratt, Charles Bryan

Enc: Lease Application, Attachment 1A, Aerial Map, Annual Report, Eagle Creek Northwest Resolution, Brockway Engineering Check # 162916 will include \$250.00

CHARLES E.
BROCKWAY,
Ph.D., P.E.

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

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