

DEC 23 2021

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT No. 1473**

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

LESSOR: GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON, CA 94583-5381

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 November 12, 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)
63-34334	1/26/2017	BOISE RIVER, tributary to SNAKE RIVER	13.1	1,923
Lease Totals			13.1	1,923

** The proposed volume for lease is the water that is available to rent during a portion of the water right's season of use. The season of use includes portions of the 2021 and 2022 calendar years.*

- **2021:** 1,195 AF
- **2022:** 728 AF
- **Total:** 1,923 AF

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.

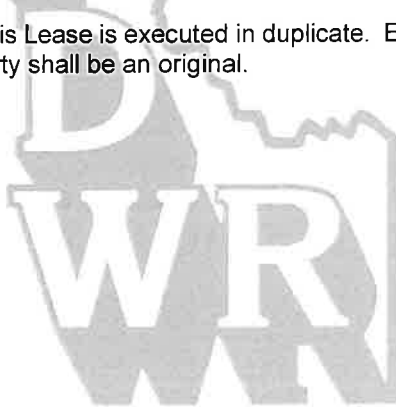
Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2022. This Lease shall bind the parties and take effect when both parties have signed it.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1473

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

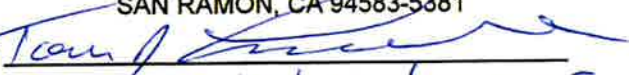


STATE OF IDAHO
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IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON, CA 94583-5381

By 
Title Managing Partner/owner
Date 12/23/21

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 12/27/21

Lease approved by IDWR



Date 12/27/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1473

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): 63-34334

BOISE RIVER SWSE Sec. 16 Twp 05N Rge 05W CANYON County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-34334	WILDLIFE	09/30	to	02/28	13.1 cfs	1,521 AF
	WILDLIFE STORAGE	09/30	to	02/28	13.1 cfs	402 AF
	RECREATION	09/30	to	02/28	13.1 cfs	1,521 AF
	RECREATION STORAGE	09/30	to	02/28	13.1 cfs	402 AF
	DIVERSION TO STORAGE	09/30	to	02/28	13.1 cfs	Not Stated
Totals:					13.1 cfs	1,923 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: WILDLIFE AND RECREATION

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
05N	05W	17					X	X	X	X								

PLACES OF USE TO BE IDLED UNDER THIS LEASE: WILDLIFE AND RECREATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
05N	05W	17					X	X	X	X								

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1473

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 this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
13. Water diverted under the wildlife and recreation flow components of this water right, minus evaporation and seepage losses, shall be returned to the Boise River.
14. Water right 63-34334 shall not exceed 13.1 cfs in combination with diversions of irrigation, wildlife, recreation, and diversion to storage water rights appurtenant to the place of use of 63-34334.
15. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
16. Wildlife and wildlife storage use is to create shallow water and moist soil wildlife habitats. These habitats are intended to provide resting, roosting, and refuge areas for waterfowl.
17. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
18. Recreation and recreation storage use is for waterfowl hunting and wildlife viewing. Recreation use under this right is for flow-through water and return-flow water associated with recreation storage.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1473
and Rental Agreement No. 593

63-34334

Effective until December 31, 2022

This map depicts the **place of use** pursuant to the lease contract and rental agreement and is attached to these document solely for illustrative purposes.



-  Rental POD
-  Proposed Lease Point of Diversion
-  Proposed Lease Place of Use
-  Township/Range
-  Sections



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

NOV 12 2021

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Green Head Ranch LLC

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

Water Right No. 63-34334

(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>KM</u>	Date Received: <u>11/12/21</u>	Receipt # <u>C111295</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Green Head Ranch LLC</u>	

2194

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 Green Head Ranch LLC, c/o

Mailing Address c/o T J Louderback, 2415 San Ramon Valley Blvd, Ste 4380, San Ramon CA 94583-5381

Street

City

State

Zip Code

Email Address _____

Phone Number (510) 965-6120

- ☒ 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 Terry Scanlan

Organization SPF Water Engineering

Professional Title PE, PG, Vice President

Email Address tscanlan@spfwater.com

Mailing Address 300 E Mallard Dr, Ste 350, Boise ID 83706

Phone Number (208)383-4140

- ☐ 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. See item 4.H. below
- B. Please provide a description of the current water diversion and delivery system.
Island Highline Ditch Co. headgate and canal
- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None
- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. Island Highline Ditch Co. water for irrigation during the irrigation season.
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. The water right was permitted in 2018 and licensed in 2019. Rates and volumes diverted 2018, 2019, and 2020 are approximately equal to licensed amounts.
- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☒ No ☐
Lease/Rental applications are being submitted as part of pending protest negotiations for Transfer No. 84986 in response to Island Highline's request to cease gravity diversions for the authorized uses.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

*11/16/2021 through 1/28/2022 (remaining duck season)

5. SALE/LEASE AGREEMENT

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

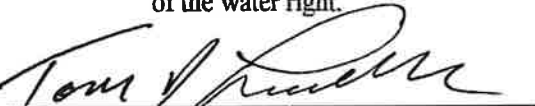
If lease, specify the years when the use of water will be suspended: * to * (maximum lease period 5 calendar years).
(Year) (Year)

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.
Applicants have set rental rate at \$0.50/ac-ft to be subject to administrative costs only

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

The Designated Applicant acknowledges the following:

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


Signature of Designated Applicant

Tom J Loderback
Printed Name

11/5/21
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)
<u>63-34334</u>	<u>Wildlife/Recreation</u>	<u>13.1</u>	<u>1520.9</u>	<u>n/a</u>
	<u>Wildlife/Rec Storage</u>		<u>401.9</u>	<u>n/a</u>
	<u>Div to Storage</u>	<u>13.1</u>		<u>n/a</u>
	<u>Total Amounts:</u>	<u>13.1</u>	<u>*1922.8</u>	

2. Source of water Boise River tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5N	5W	16			SW	SE	Canyon

Water to Rent:

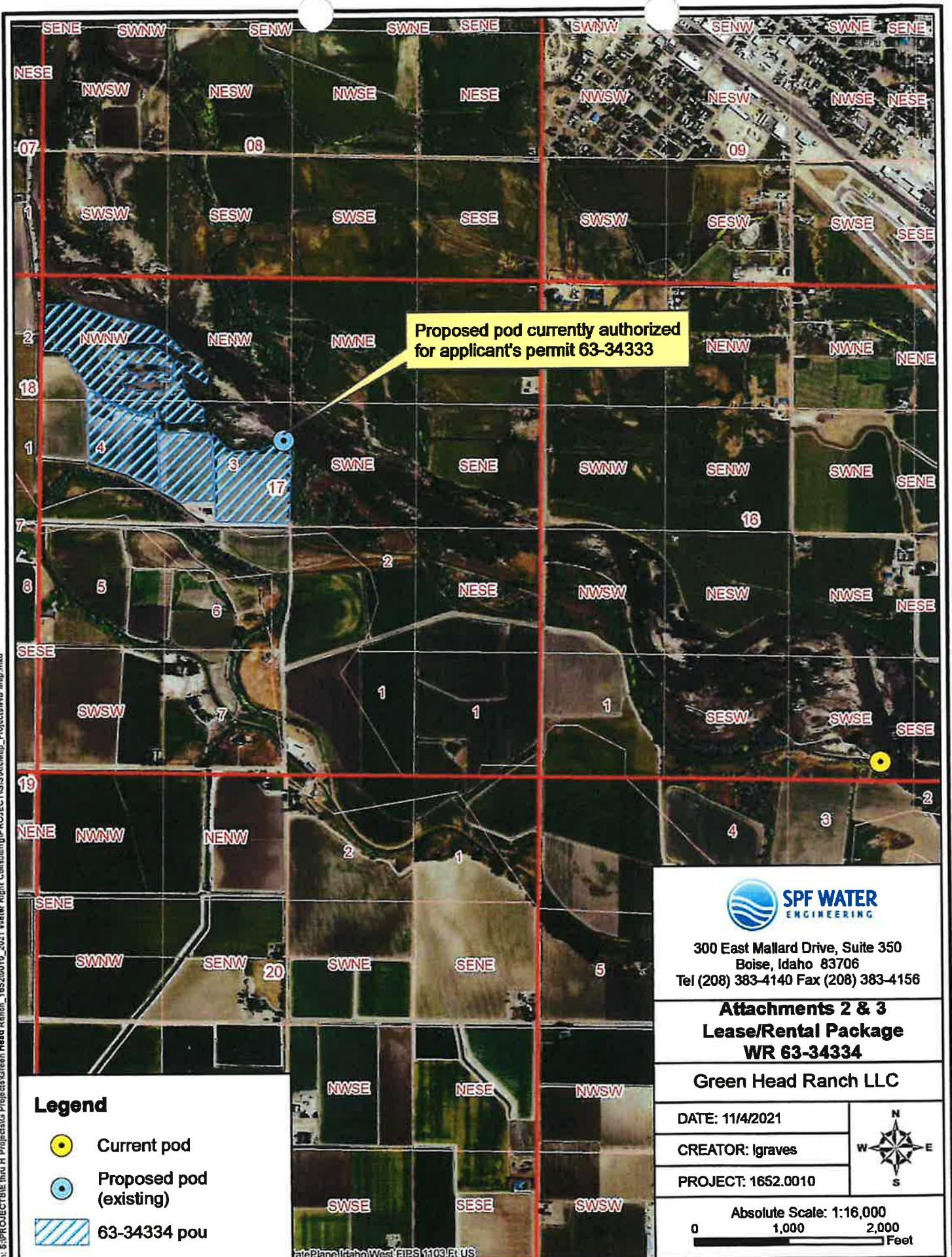
$$13.1 \text{ cfs} \times 1.9835 \times 74 \text{ days (11/16 - 1/28)} = 1922.8 \text{ afa}$$

Water to Lease:

$$\text{Flow through water: } 2528 \text{ afa} / 3196 \text{ afa} = 79\% \times 1922.8 = 1520.9 \text{ afa}$$

$$\text{Storage water: } 668 \text{ afa} / 3196 \text{ afa} = 20.9\% \times 1922.8 = 401.9 \text{ afa}$$

Path: S:\PROJECTS\IE Inv H Projects\Green Head Ranch_16520019_2021 Water Right Consulting\PROJECT\GIS\AveMap_Projects\WB Map.mxd



300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

**Attachments 2 & 3
Lease/Rental Package
WR 63-34334**

Green Head Ranch LLC

DATE: 11/4/2021

CREATOR: lgraves

PROJECT: 1652.0010



Absolute Scale: 1:16,000

0 1,000 2,000 Feet

Legend

- Current pod
- Proposed pod (existing)
- 63-34334 pou

State Plane Idaho West FIPS 1103 Feet US



IDAHO DEPARTMENT OF
WATER RESOURCES

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

Governor Brad Little

Director Gary Spackman

December 27, 2021

GREEN HEAD RANCH LLC
C/O T J LOUDERBACK
2415 SAN RAMON VALLEY BLVD STE 4380
SAN RAMON, CA 94583-5381

**RE: WATER SUPPLY BANK LEASE CONTRACT 1473
FOR WATER RIGHTS 63-34334**

Dear Lessor:

Water right **63-34334** 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, 2022**, 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- Eastern Region
Water District No. 63
Terry Scanlan



RECEIVED

DEC 23 2021

DEPARTMENT OF
WATER RESOURCES

December 23, 2021

Mary Condon
Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise, ID 83720-0098

Subject: WB Lease/Rental Package – 63-34334 Green Head Ranch LLC

Dear Mary,

Enclosed on behalf of Green Head Ranch LLC are signed water bank lease and rental contracts Nos. 1473 and 593.

Included is a \$1456 check for the 2022 rental fee. Green Head Ranch LLC determined that they do not want to rent water for the few remaining days of 2021 after learning that they would be charged the full season amount of \$2390 for just a few days of rental.

Thank you for your assistance with this matter. Please contact me with any questions.

Sincerely,

Terry M. Scanlan
Terry M. Scanlan, P.E., P.G.

Enclosures: Signed contracts and check No. 6828 for 2022 Rental Fee

Cc: TJ Louderback

SPF file number: 1652.0010

Veibell, Amanda

From: Veibell, Amanda
Sent: Thursday, December 23, 2021 1:07 PM
To: tscanlan@spfwater.com
Cc: Bank
Subject: Green Head Ranch Lease/Rental Package
Attachments: Green Head Ranch Lease.pdf; Green Head Ranch Rental.pdf

Good Afternoon,

Please see the attached Lease/Rental documents for your signature. If you have questions regarding the documents themselves, please contact a representative in the bank at bank@idwr.idaho.gov.

Thank you.

Amanda Johnson-Veibell

Technical Records Specialist I



PO Box 83720 Boise ID 83720-0098
208-287-4945

To: Water Right no. 63-34334

From: Dave Betts

Date: December 23, 2021

Re: Review & Analysis of Applications to Lease Water to and Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: On November 12, 2021, Terry Scanlan of SPF Engineering submitted a lease-rental package to the Water Supply Bank ("Bank") on behalf of Green Head Ranch LLC ("applicant"). The applications to lease and to rent are for a portion of water right 63-34334. The proposed quantity was the maximum diversion rate of 13.1 cubic feet per second ("cfs") for 74 days of use for a sum total of 1922.8 acre-feet ("AF"). Approval of the lease-rental package would result in a change in POD for the 2021-2022 season of use for water right no. 63-34334. The proposed rental would be for the same wildlife and recreational uses at the same place of use ("POU") as authorized by the water right proposed for lease.

The applicant previously filed application for transfer no. 84986 proposing the addition of a POD to water right no. 63-34334. The POD proposed by transfer no. 84986 is the same POD requested for use by rental application no. 2196. This new POD is being developed as authorized by permit no. 63-34333, which is also owned by the applicant. Permit no. 63-34333 has an overlapping water use with the water right to be leased (no. 63-34334).

The applicant submitted this lease-rental package in order to secure water for the 2021-2022 season of use while a protest against their application for transfer (no. 84986) is being resolved. The owners of the authorized diverting works for water right 63-34334, Island High Line Ditch Co. ("Island Highline"), protested the application for transfer. Island Highline is petitioning for the removal of the existing POD for right no. 63-34334. The protest may not be resolved until after the end of the 2021-2022 season of use.

The season of use of the water right proposed for lease and rental includes portions of two calendar years which conflicts with the Bank's standard management by calendar year. This review addresses Bank requirements as outlined by Idaho Code and Water Supply Bank Rules, but some adjustments had to be made to the processing of the applications to assist with administration and billing. Because of the unusual characteristics of these applications, the methods used to resolve the proposed use should not be considered standard policy for the Bank.

To address potential concerns with the proposed lease and rental, I requested comments from Western Region staff, the watermaster of Water District 63, and from Island Highline as part of my review.

AUTHORITY TO FILE: The applications were signed by Tom J. Louderback. The Department's contact information for the current owner of record, Green Head Ranch LLC, identifies T J Louderback as the point of contact. Authority to file is not a concern.

WATER RIGHT VALIDITY: Licensing for water right no. 63-34334 was completed in October 2019. No concerns with validity of the water right and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Risk of injury to other water right does not appear to be a concern based on the following information.

The lease and rental applications propose to change the POD for the water use to a new location approximately 1.7 river miles downstream from the existing POD. The water rights with PODs within that 1.7 mile reach of the Boise River are irrigation rights whose seasons of use do not overlap with the proposed rental period. The authorized quantity for use during the lease-rental period would not change, limiting the risk of injury to surrounding water rights.

Mike Myers, on behalf of WD 63, replied by phone to the request for comments on Dec. 13. WD 63 does not oppose the lease and rental of the right. Mr. Myers stated that the proposed change in POD would not conflict with the district's ability to manage the water rights in this area.

Replying by phone, Western Region staff said that they did not see a risk of injury to other rights. Western Region staff also said that the proposed lease and rental do not share the same concerns as the protest against transfer no. 84986. The protest is concerned with the removal of the existing POD from water right 63-34334 and not with the use of the new POD proposed for use by the rental.

I requested comments from Island High Line Ditch Company, to address potential concerns of the other rights that use the same diverting works as the existing POD for water right 63-34334. Changing the point of diversion from the ditch to the proposed pump location would mean the diversion rate of the right would no longer contribute to the conveyance of water to all users of the ditch. In their response to my request for comments the representative for Island Highline said that they do not have concerns with the change in use of the points of diversion. According to IDWR records, there are no other water rights relying on water conveyed through the Island Highline ditch during the months November through February. The loss of water right 63-34334 from the delivery system should not injure other users of the ditch.

Island Highline expressed concerns about the potential for injury to the ditches due to the field flooding. In consideration of these concerns, the proposed rental will only change the point of diversion with all other elements of the water use remaining the same. The concern identified by Island Highline is not within the scope of this review. This review finds that use of the proposed rental would not limit the amount of water that would otherwise be available to other water rights. Injury is not concern.

ENLARGEMENT OF USE: The proposed lease and rental would change the point of diversion for the existing water use. The remaining elements of the use of the water right are expected to remain the same. Water was diverted at the point of diversion listed on the water right in 2021 from January 1 through January 28. The amount of water idled in each calendar year represents the volume of water not diverted during that time and still available for use. Although the rental agreement authorizes the use of the full rate of the right from the proposed POD in 2021, it is understood that the entire volume will not be diverted in 2021. On 12/9/21 Terry Scanlan provided diversion data for the time period Jan 1 through Jan 24, 2021. The historic use of the right is diversion at the full extent of the authorized rate and according to Mr. Scanlan diversion had ceased after the 24th. Based on that, 623.61 af was diverted and used Jan 1 – Jan 24 leaving 2572.39 af unused.

The applicant proposed use from the new point of diversion starting on November 16, 2021, which would be 46 days of use in 2021. This is equivalent to 1195.26 af diverted at a constant rate, which is less than the volume remaining from use during the Jan 1 – Jan 24 period. If the rate is not exceeded the volume diverted and used in 2021 under the rental combined with the use earlier in the year will not exceed the total authorized in one calendar year under the water right. The rental also authorizes use from the proposed POD in 2022 equal to 13.1 cfs diverted

continuously from Jan 1 to Jan 28 (28 days). This is equivalent to 727.55 af, for a total rental volume of 1923 af (rounded).

Since the policy in the WSB is to issue rental agreements for the entire calendar year, the rental term will be 2021-2022 with a season of use of 11/16 to 1/28. This technically authorizes the use of water from the proposed POD for the period 11/16 to 12/31 in 2022. However, the volume authorized for use on the agreement is restricted to a constant diversion rate during the time period 11/16 2021 to 1/28 2022. If Green Head Ranch LLC diverts at a constant rate during the season of use on the rental the volume authorized will not be exceed and any remain volume can be diverted under the right. It is anticipated the transfer 84986 will be resolved and the applicant utilize water under the right following the transfer. The agreement should be conditioned so that the use of water under the rental and under the right can not exceed the volume on the right.

The proposed rental subdivides the total quantity by calendar year. Outside of the proposed rental NO ADDITIONAL WATER is available for rent from 63-34334 in 2021 or 2022, even if Bank software reports available water.

Start	End	Requested Days of Use	Total Vol.	Storage:	
				Recreation / Wildlife	Recreation / Wildlife
11/16/2021	1/28/2022	74	1923	1521	402
11/16/2021	12/31/2021	46	1195	945	250
1/1/2022	1/28/2022	28	728	575	152

Formulas:

Requested days of use = End - Start + 1 (to include first day of use)

Total volume = maximum diversion rate (13.1 cfs) *
Requested days of use * 1.9835 af/cfs-day

Recreation / Wildlife = Total vol. * 79.1%
79.1% = fraction of Recreation / Wildlife volume of total
diversion volume of the leased WR
= 2528 AF / 3196 AF

Storage: Recreation / Wildlife = Total vol. * 20.9%
20.9% = fraction of Recreation / Wildlife Storage volume
of the total diversion volume of the leased WR
= 668 AF / 3196 AF

Figure 1. Volume calculations based on the number of days.

LOCAL PUBLIC INTEREST: The applicants are not changing the nature of use or the quantity of water to be diverted by an authorized water right. The proposed lease and rental are only seeking to change the point of diversion. Comments from parties of interest have been taken into consideration in this review. It my understanding the protest to transfer no. 84986 filed by Island Highline is related to Green Head Ranch leaving the ditch point of diversion on the water right, and they are not opposed to Green Head removing the right from the ditch. The continued use of Boise River water for wildlife and recreation purposes in the fall and winter months is within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease and rental appear consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental POD is subject to Water District 63. Comments were requested and received from the watermaster (WD 63) and Western Region staff (IDWR). Neither opposed the lease and rental of this right.

Betts, David

From: Norman M. Semanko <NSemanko@parsonsbehle.com>
Sent: Monday, December 20, 2021 3:07 PM
To: Betts, David
Cc: Electronic Case File
Subject: Re: Proposed lease-rental of water right no. 63-34334 (Green Head Ranch LLC)

I was simply referring to the potential inability of Island Highline Ditch Co. to use the ditch during the irrigation season to deliver water to its landowners (most of whom are downstream of this location) if the ditch is damaged during the non-irrigation season. At a minimum, my client will be saddled with fixing the damage. Why should the ditch company and its landowners be stuck with paying for that?

From: Betts, David <David.Betts@idwr.idaho.gov>
Sent: Monday, December 20, 2021, 3:02 PM
To: Norman M. Semanko
Cc: Electronic Case File
Subject: RE: Proposed lease-rental of water right no. 63-34334 (Green Head Ranch LLC)

--
Dave Betts - *Water Resource Agent*

Water Rights Section | Idaho Department of Water Resources

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

Betts, David

From: Betts, David
Sent: Monday, December 20, 2021 3:03 PM
To: Norman M. Semanko
Cc: Electronic Case File
Subject: RE: Proposed lease-rental of water right no. 63-34334 (Green Head Ranch LLC)

Norman Semanko,

Could you elaborate on your concern about injury? The proposed change in the use of water right 63-34334 is for a change in the point of diversion with the other elements of the water use remaining the same. The rental's proposed season of use are during the winter months, when the ditch is not being used to deliver water to irrigators. I'm not sure how flood water entering the ditch from the rental, if it enters the ditch, would interfere with delivery of irrigation water by Island High Line Ditch Co.

Thank you for your response to my request for comments. Your concerns will be included in my evaluation of the proposed rental.

--
Dave Betts - *Water Resource Agent*
Water Rights Section | Idaho Department of Water Resources
322 East Front St | P.O. Box 83720 | Boise, ID 83720
Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

From: Norman M. Semanko <NSemanko@parsonsbehle.com>
Sent: Friday, December 17, 2021 5:27 PM
To: Betts, David <David.Betts@idwr.idaho.gov>
Cc: Electronic Case File <ECF@parsonsbehle.com>
Subject: RE: Proposed lease-rental of water right no. 63-34334 (Green Head Ranch LLC)

Dave Betts,

Island Highline Ditch Co. has no concerns with the planned point of diversion from the river under the proposed lease-rental of this water right. In fact, they would like to see the current point of diversion for the water right eliminated. Our client does, however, have the following concerns with the proposed use of the rental water:

1. Encroachment. Two weeks ago, dams/levees were placed in the Island Highline Ditch without permission or advance discussion, presumably in preparation for the delivery of water and flooding/seepage into the ditch. This is an unauthorized encroachment.
2. Injury. The use will flood the Island Highline Ditch causing damage to the ditch, potentially interfering with delivery of Island Highline Ditch Co's water right; the ponds would need to be lined or some other way required to avoid this adverse impact to the ditch and delivery of my client's water right to its landowners downstream of the subject property. Again, this is an unauthorized encroachment, as well as injury to the ditch and water right.
3. Enlargement. The rental would enlarge the existing use to flood more surface area than previously occurred under the water right.

Thank you.

Regards,

Norman Semanko



A Professional
Law Corporation

Norman M. Semanko • Attorney at Law
Parsons Behle & Latimer

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From: Betts, David <David.Betts@idwr.idaho.gov>

Sent: Friday, December 10, 2021 2:00 PM

To: Norman M. Semanko <NSemanko@parsonsbehle.com>

Cc: Electronic Case File <ECF@parsonsbehle.com>

Subject: Proposed lease-rental of water right no. 63-34334 (Green Head Ranch LLC)

Dear Island High Line Ditch Company,

The Water Supply Bank ("Bank") has received applications to lease and rent water right 63-34334. Green Head Ranch submitted applications in order to change the point of diversion for a portion of their 2021-2022 season of use. The other elements of the authorized water use will remain the same.

An assessment of the risk of injury to other rights is part of the required review for rights proposed for lease to the Bank. I have attached a draft of my review memo and a map of the proposed lease/rental for your review.

Please let me know if you have any concerns with the proposed lease/rental of 63-34334 to divert water from a different point of diversion for the season. If I do not receive any comments from you in the next 14 days, I will assume that Island High Line Ditch Company has no concerns with the proposed lease and rental.

Thank you for your attention to this application,

--

Dave Betts - *Water Resource Agent*

Water Rights Section | Idaho Department of Water Resources

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

Betts, David

From: Terry Scanlan <TScanlan@spfwater.com>
Sent: Tuesday, December 14, 2021 7:34 PM
To: Betts, David
Cc: Lori Graves; TJ Louderback; Michael P. Lawrence
Subject: RE: Timeline for lease-rental applications (63-34334 Green Head Ranch LLC)

Dave,

To answer your question, Green Head Ranch would like the term to run until January 28, 2022 (as noted on both the lease and rental application). For the 2022 calendar year, the lease and rental amount would be 13.1 cfs x 28 days x 1.9835 af/cfs-day for a total of 728 acre feet.

I have to say I am disappointed. The applicant proposed a simple lease-rental of his own water right to save his investment in this property and infrastructure for the year. The lease was initiated at the suggestion of the protestant's attorney at a pre-hearing conference on October 25, and the application was submitted on November 9. We were hoping that this process could be accomplished in a couple of weeks, as the need for water is primarily mid-November to mid-January. Five weeks later we are told "if the lease and rental can be approved" and "I don't think there is enough value in the 2021 portion of the proposed rental for the Bank to approve use prior to 2022". Were we naïve to think the process could move quickly? I suppose so. In any event, we would appreciate it if you could send us the forms for signature ASAP so that we can see an approval with a January 1 start date. Thanks.

Terry

From: Betts, David <David.Betts@idwr.idaho.gov>
Sent: Tuesday, December 14, 2021 3:40 PM
To: Terry Scanlan <TScanlan@spfwater.com>
Cc: Lori Graves <LGraves@spfwater.com>; TJ Louderback <tj@bayareabev.com>; Michael P. Lawrence <mpl@givenspursley.com>
Subject: Timeline for lease-rental applications (63-34334 Green Head Ranch LLC)

Hello Terry,

I am still waiting for some additional comments about the proposed lease-rental. Because of the need for signatures, if the lease and rental can be approved, they may not be able to go into effect until 2022. Even if signatures could be submitted before the end of the year, it may not make sense for the Bank to approve use within 2021.

The Water Supply Bank manages leases and rentals by calendar year. Use of the rental in 2021 and 2022 would initiate billing cycles for both years. The Bank may be required to prepare two different rental agreements in order to authorize use within each year. For the fraction of the water use that might be available, I don't think there is enough value in the 2021 portion of the proposed rental for the Bank to approve use prior to 2022.

If the applications can be approved, the next question to answer is what quantity of water to authorize for 2022. There are two primary options that I can think of:

1. The Bank could authorize a portion of the authorized diversion volume for the remaining portion of the season of use between January 01 and February 28, or

2. The Bank could authorize the entire authorized diversion volume of right no. 63-34334 for use within 2022 to be used between January 01 through February 28, and September 30 through December 31.

Either of these scenarios should be manageable by the Bank and the water district. The second option could give Green Head Ranch some flexibility in how they use the rental by extending the authorized use into the fall. If the applicants expect to resolve the protest against their application for transfer before the fall, they may not need the extra flexibility and they could go with the first option.

For either option, the Bank will need to know the total quantity of water that the applicants hope to use during 2022. Please let me know what quantity of water I should consider for the proposed lease-rental.

Thanks,

--

Dave Betts - Water Resource Agent

Water Rights Section | Idaho Department of Water Resources

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

Betts, David

From: Betts, David
Sent: Friday, December 10, 2021 12:10 PM
To: rex@wd63.org
Cc: daniel@wd63.org
Subject: Management of proposed lease-rental to Water Supply Bank (63-34334 - Green Head Ranch)
Attachments: LeaseRentalReview_63-3434_GreenHeadRanch.docx; LeaseRental_LayoutMap.pdf

Dear Water District 63,

The Water Supply Bank wants to provide you with the opportunity to comment on whether a proposed lease and rental of water right no. 63-34334 can be managed by your district before we make a decision on what we can offer to the applicants. Water right no. 63-34334 has an authorized season of use includes portions of two calendar years. The Department does not have information on how this season of use affects your ability to manage the water right, or what impact a temporary change in POD would have on your district.

Green Head Ranch submitted an application to lease and rent their water right in order to change the point of diversion for a portion of their 2021-2022 season of use. The standard season of use of this right is from 09/30 through 02/28. The place of use and nature of use of the water will remain the same. The applicants have requested use beginning in 2021, but the Bank may not be able to complete the processing of this application before the end of the year.

The Bank is considering only offering use of the proposed rental within 2022. The Bank may offer up to the full diversion volume of the right within the entire 2022 calendar year. The use would be limited to the season of use dates from 01/01 through 02/28 and 9/30 through 12/31 for 2022. It would be up to the applicants to determine when to divert the authorized volume within the calendar year and their season of use dates.

I have attached a draft of my review memo and a map of the proposed lease/rental for your review. Please let me know if you have any concerns with the proposed lease/rental of 63-34334. If I do not receive any comments from you, I will resume my review in 14 days.

Thank you for your attention to this application,

--

Dave Betts - *Water Resource Agent*

Water Rights Section | Idaho Department of Water Resources

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

Betts, David

From: Betts, David
Sent: Friday, December 10, 2021 12:41 PM
To: Storms, Scott
Subject: Application to lease/rent water right no. 63-34334 (Green Head Ranch LLC)
Attachments: LeaseRental_LayoutMap.pdf; LeaseRentalReview_63-3434_GreenHeadRanch.docx

Hello Scott,

I have attached review documents for a proposed lease-rental to the Water Supply Bank for your review.

Please let me know if Western Region has any comments or concerns with the proposed lease and rental. I will resume my review if I don't hear back from you in the next two weeks.

Thanks,

--

Dave Betts
Senior Water Resource Agent
Idaho Department of Water Resources
(208) 287-4826

Betts, David

From: Betts, David
Sent: Friday, December 10, 2021 2:00 PM
To: NSemanko@parsonsbehle.com
Cc: ecf@parsonsbehle.com
Subject: Proposed lease-rental of water right no. 63-34334 (Green Head Ranch LLC)
Attachments: LeaseRental_LayoutMap.pdf; LeaseRentalReview_63-3434_GreenHeadRanch.docx

Dear Island High Line Ditch Company,

The Water Supply Bank ("Bank") has received applications to lease and rent water right 63-34334. Green Head Ranch submitted applications in order to change the point of diversion for a portion of their 2021-2022 season of use. The other elements of the authorized water use will remain the same.

An assessment of the risk of injury to other rights is part of the required review for rights proposed for lease to the Bank. I have attached a draft of my review memo and a map of the proposed lease/rental for your review.

Please let me know if you have any concerns with the proposed lease/rental of 63-34334 to divert water from a different point of diversion for the season. If I do not receive any comments from you in the next 14 days, I will assume that Island High Line Ditch Company has no concerns with the proposed lease and rental.

Thank you for your attention to this application,

--

Dave Betts - Water Resource Agent

Water Rights Section | Idaho Department of Water Resources

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov

Betts, David

From: Terry Scanlan <TScanlan@spfwater.com>
Sent: Thursday, December 09, 2021 4:28 PM
To: Betts, David
Cc: Lori Graves; TJ Louderback; Michael P. Lawrence
Subject: RE: Written permission for application to lease no. 2196 (63-34334 Green Head Ranch LLC)

Hi Dave,

Regarding Item 4.A., the lease form says written consent is needed pursuant to IDAPA 37.02.03.25.02e and Idaho Code 42-108. These sections are provided below for reference purposes.

- IDAPA 37.02.03.25.02e
"The written consent of such company, corporation or irrigation district to the proposed sale or lease must accompany the application if the right to the use of the water, or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district."
- Idaho Code 42-108
"...if the right to the use of such water, or the use of the diversion works or irrigation system is represented by shares of stock in a corporation or if such works or system is owned and/or managed by an irrigation district, no change in the point of diversion, place of use, period of use, or nature of use of such water shall be made or allowed without the consent of such corporation or irrigation district..."

The rule and code sections are not applicable to lease of private water right 63-34334 because the water right, and use of Island Highline Ditch diversion works to convey the water right, is not represented by shares of stock in the Island Highline Ditch Company. Additionally, the system is not owned or managed by an irrigation district. Therefore, we assume that written consent from Island Highline Ditch Company is not needed for this lease.

With regard to 2021 water use, to my knowledge, water right 63-34334 was diverted from January 1 through approximately January 24, 2021 at the full 13.1 cfs rate, and it has not been diverted since that time.

Hope this helps. Give me a call if you would like to discuss. 208-861-4758 (cell) is best.

Terry

From: Betts, David <David.Betts@idwr.idaho.gov>
Sent: Thursday, December 9, 2021 2:25 PM
To: Terry Scanlan <TScanlan@spfwater.com>
Cc: Lori Graves <LGraves@spfwater.com>
Subject: Written permission for application to lease no. 2196 (63-34334 Green Head Ranch LLC)

Hello Terry and Lori,

Item 4.A of the Application to Sell or Lease a Water Right to the Water Supply Bank asks for written permission from the delivery entity for removal of water from its system, pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

In order for me to finish processing the lease-rental package for Green Head Ranch, the Bank requires that this written permission be submitted as a part of the application to lease.

In addition, if you have any information that you could give to me on how the water right has been used so far this year, it would help with my assessment of the proposed use. The Bank and other water rights accounting by the Department are administered by calendar year. With a season of use split over two calendar years, typical assumptions regarding management may not apply.

Thank you for your help,

--

Dave Betts - *Water Resource Agent*

Water Rights Section | Idaho Department of Water Resources

322 East Front St | P.O. Box 83720 | Boise, ID 83720

Phone: (208) 287-4826 | email: david.betts@idwr.idaho.gov