

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1406

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

LESSOR: HOLBROOK FARM LLC
1291 US HIGHWAY 258 NORTH
KINSTON, NC 28504

SUPPORT DATA

IN FILE #

17-2028

RECEIVED

MAY 21 2021

DEPT OF WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on March 03, 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)
17-2028	7/30/1953	GROUND WATER	0.84	305	111.6
17-2030	3/4/1954	GROUND WATER	0.59	114	32.6
17-2045	7/24/1959	GROUND WATER	1.14	177	109
17-7007	8/24/1970	GROUND WATER	2.27	623	234.7
Combined Lease Totals			4.84	1,219	487.9
Combined Limit Totals			4.68	N/A	348.3

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. 1406

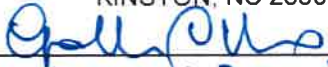
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right 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. 1406

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

LESSOR: HOLBROOK FARM LLC
1291 US HIGHWAY 258 NORTH
KINSTON, NC 28504

By 
Title AUTHORIZED PERSON
Date 5/21/2021

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 5/26/21

Lease approved by IDWR 

Date 5/26/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1406

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): 17-2028, 17-2045, 17-2030, 17-7007

GROUND WATER	NWNW	Sec. 18	Twp 15S	Rge 33E	ONEIDA County
GROUND WATER	SESW	Sec. 8	Twp 15S	Rge 33E	ONEIDA County
GROUND WATER	NWNE	Sec. 8	Twp 15S	Rge 33E	ONEIDA County
GROUND WATER	NENE	Sec. 8	Twp 15S	Rge 33E	ONEIDA County
GROUND WATER	SWSE	Sec. 7	Twp 15S	Rge 33E	ONEIDA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
17-2028	IRRIGATION	4/15	to	10/15	0.84 cfs	305 AF
17-2045	IRRIGATION	4/15	to	10/15	1.14 cfs	177 AF
17-2030	IRRIGATION	4/15	to	10/15	0.59 cfs	114 AF
17-7007	IRRIGATION	4/15	to	10/15	2.27 cfs	623 AF
Totals:					4.68 cfs	1,219 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	
15S	33E	7	1.6	3	6.8	4.5	3.5	3	5.6	5.5	2.7	4	34	25	3.4	6.4	3.6	5.2	117.8
								L1	L2			L3	L4						
15S	33E	8					25	30	28	21	24	23.2	1.9	2.3	2.5	2.6	0.8	2.2	163.5
15S	33E	17					1.3	0.8											2.1
15S	33E	18	2.3	1.6			25	36	L1										64.9

Total Acres: 348.3

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.
- 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.
- While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1406

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. The unleased portions of water right 17-2028 and 17-2045 are limited to the irrigation of 349 acres.
13. The unleased portions of water right 17-2028 and 17-7007 are limited to the irrigation of 732.6 acres.
14. The unleased portions of water right 17-2028, 17-2045 and 17-7007 are limited to the irrigation of 799.3 acres.
15. The unleased portions of water rights 17-2028, 17-2030, 17-2045 & 17-7007 are limited to a total annual diversion rate of 11.85 cfs and the irrigation of 881.7 acres in a single season.
16. The unleased portion of water right 17-2028 is limited to a total annual diversion rate of 2.97 cfs, a total annual maximum diversion volume of 773 af at the field headgate, and the irrigation of 282.4 acres.
17. The unleased portion of water right 17-2030 is limited to a total annual diversion rate of 1.49 cfs, a total annual maximum diversion volume of 289 af at the field headgate, and the irrigation of 82.4 acres.
18. The unleased portion of water right 17-2045 is limited to a total annual diversion rate of 2.89 cfs, a total annual maximum diversion volume of 449 af at the field headgate, and the irrigation of 276 acres.
19. The unleased portion of water right 17-7007 is limited to a total annual diversion rate of 5.73 cfs, a total annual maximum diversion volume of 1575 af at the field headgate, and the irrigation of 594.3 acres.
20. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
21. This rental agreement does not authorize the construction of a well.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

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

MAR 03 2021

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Holbrook Farm, LLCWater Right No. 17-7007

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

(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 Internal Revenue Service (IRS) Form W-9 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 Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>250⁰⁰</u>	Received By: <u>[Signature]</u>	Date Received: <u>3-3-21</u>	Receipt # <u>C109992</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 Holbrook Farm, LLC

Mailing Address 1291 US Highway 258 North Kinston, NC 28504

Street

City

State

Zip Code

Email Address _____

Phone Number _____

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

OR

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

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

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

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

Name of Representative 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 well, motor, pump 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. 17-7007, 17-2028, 17-2045, 17-2030

- 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. Portions of this water right have been leased into the Idaho Water Supply Bank annually for the past several years. Portions of this water right not leased into the Water Supply Bank have been used for irrigation annually.

- 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.

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)

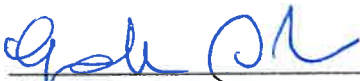
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate.

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

The Designated Applicant acknowledges the following:

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


Signature of Designated Applicant

GABRIELE ONORATO
Printed Name

2/25/2021
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>17-7007</u>	<u>Irrigation</u>	<u>2.27</u>	<u>622.4</u>	<u>234.7</u>
	Total Amounts:	<u>2.27</u>	<u>622.4</u>	<u>234.7</u>

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

TwP	Rge	Sec	Lot	¼	¼	¼	County
15S	33E	7			SW	SE	Oneida
15S	33E	8			NE	NE	Oneida
15S	33E	8			NW	NE	Oneida
15S	33E	8			NW	NE	Oneida
15S	33E	18			NW	NW	Oneida





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

May 28, 2021

HOLBROOK FARM LLC
1291 US HIGHWAY 258 NORTH
KINSTON, NC 28504

**RE: WATER SUPPLY BANK LEASE CONTRACTS 1405 & 1406
FOR WATER RIGHTS 17-2052, 17-7063, 17-2028, 17-2030, 17-2045 & 17-7007**

Dear Lessor:

Water rights **17-2052, 17-7063, 17-2028, 17-2030, 17-2045 & 17-7007** were 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, 2025**, 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
Greg Sullivan – Brockway Engineering



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

May 18, 2021

HOLBROOK FARM LLC
1291 US HIGHWAY 258 NORTH
KINSTON, NC 28504

RE: APPLICATION TO LEASE WATER RIGHTS 17-2052, 17-7063, 17-2028, 17-2030, 17-2045 & 17-7007 TO THE WATER SUPPLY BANK CONTRACTS 1405 & 1406

******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 Rights 17-7007, 17-2028, 17-2030, 17-2045, 17-2052 & 17-7063
From: Justin Ferguson
Date: May 3, 2021
Re: Water Supply Bank Lease Applications 1998 & 2000

Purpose/Narrative: Two applications were received March 3, 2021 from Brockway Engineering PLLC on behalf their client, Holbrook Farms as part of a lease rental package using water rights 17-7007, 17-2028, 17-2030, 17-2045, 17-2052 & 17-7063 to facilitate a rental for CSS Potato Farms.

The applications are effectively a renewal of prior agreements enabling CSS Potato the use of portions of these rights that Holbrook Farms does not intend to use. It was found that, during the review of these two applications, more acreage was observed as vegetated using satellite imagery than was authorized under the Holbrook Farms water right portfolio. Per Appendix A, the possible overage was across the land covered by water rights 17-2052 & 17-7063 by, on average, 150 acres.

The applicant's representative was contacted and an information request submitted to the applicant for further information regarding the additional acreage. Per an email provided April 12, 2021: there are not end guns on the pivot systems, there are no hand lines in use throughout the farm, and only a single wheel line is used. Further, it was stated that when a field has been harvested and the pivots moved to another location, grain is planted and the area dryland farmed or are left fallow.

Based on a review of both satellite and aerial data, it appears an initial crop is harvested at some point during the late spring/early summer on the acreage where the possible enlargement is occurring. Because there are no end guns installed, the irrigation observed at the corners of the pivot systems could possibly amount to overspray and unintentional irrigation and the vegetation observed as pasture grass. Taking into account the size of the observed pivot and the additional irrigated acreage, a total of approximately 192 acres is observed as intentionally irrigated.

Authority to File: The applications were prepared at Brockway Engineering PLLC and signed by Ms. Gabriele Onorato. Provided in the application packages is an Action of Managers and Directors outlining the scope of Ms. Onorato's authority as related to her authority to sign. No concerns at this time.

Water Right Validity/Forfeiture Evaluation: Historically, water right 17-2052 was developed in 1973 while water rights 17-2028 & 17-2030 were decreed in 1979. Right 17-2045 followed with a decree in 1982 and 17-7007, 17-2063 in 1983. During prior reviews of the water rights it was found that vegetation was observed using both aerial imagery and Climate Engine MAX NDVI data in 2015, 2016 & 2017. These conclusions were affirmed during this review and, with the additional information provided in the email from the applicant's representative, further confirm that the portions offered for lease remain valid and can be considered for lease to the Bank.

Injury Evaluation: Based on both the lease proposal and the accompanying rental, there do not appear to be any concerns of injury. The lessor has elected to idle portions of their land that they are not planning to irrigate within the Curlew Valley Critical Ground Water Area (CVCGWA) while the proposed renter's place of use also falls within the CVCGWA.

Enlargement of Use: No enlargement is evident leasing water rights 17-2028, 17-2030, 17-2045 & 17-7007 and making them available for rent to CSS Potato Farms. Figure 1 below outlines the decreed rates, volumes, and acreage for each right and the associated amounts offered for lease to the Bank:

	Decreed Values				
	Rate	Volume	Acres	Rt/Ac	Vol/Ac
17-7007	8.00	2198.0	829.0	0.010	2.65
17-2028	2.97	1078.1	394.0	0.008	2.74
17-2030	2.08	402.5	115.0	0.018	3.50
17-2045	4.03	626.4	385.0	0.010	1.63
Additive	17.08	4305.0	1723.0	0.010	2.50
Limit	16.53	4305.0	1230.0	0.013	3.50
Difference	-0.55		-493.0	0.001	

	Offered for Lease				
	Rate	Volume	Acres	Rt/Ac	Vol/Ac
17-7007	2.27	622.4	234.7	0.010	2.65
17-2028	0.84	305.3	111.6	0.008	2.74
17-2030	0.59	114.0	32.6	0.018	3.50
17-2045	1.14	177.4	109.0	0.010	1.63
TTL	4.68	1219.1	348.3	0.013	3.50

Figure 1. Amounts proposed for lease under application number 2000

From a review of the amounts proposed for lease under water rights 17-2058 & 17-7063, further information was necessary such that the rights could be leased without causing enlargement. Based on lease contracts from 2017, 2019 & 2020 it appears the acreage has continually been listed incorrectly on the application. In line with the prior applications and approvals, the acreage has been adjusted to more correctly match the intent of the application:

	Decreed Values				
	Rate	Volume	Acres	Rt/Ac	Vol/Ac
17-2052	0.49	208.0	145.0	0.003	1.43
17-7063	1.62	443.4	316.0	0.005	1.40
Additive	2.11	651.4	461.0	0.005	1.41
Limit	6.32	1106.0	316.0	0.020	3.50
Difference			-145.0		

	Offered for Lease				
	Rate	Volume	Acres	Rt/Ac	Vol/Ac
17-2052	0.25	107.8	75.1	0.003	1.44
17-7063	0.84	229.7	88.6	0.009	2.59
TTL	1.09	337.5	88.6	0.012	3.81
Updated to Match Prior Applications (Act. Need 163.7 ac)					
17-2052	0.25	107.8	75.1	0.003	1.44
17-7063	0.84	229.7	163.7	0.005	1.40
TTL	1.09	337.5	163.7	0.007	2.06

Figure 2. Amounts proposed for lease under application number 1998

As the full allocations of these rights have not been offered for lease to the Bank, conditions will be added to each approval document outlining the unleased extent of the water rights as shown in figure 3:

	Portions Remaining Unleased				
	Rate	Volume	Acres	Rt/Ac	Vol/Ac
17-7007	5.73	1575.60	594.30	0.010	2.65
17-2028	2.13	772.80	282.40	0.008	2.74
17-2030	1.49	288.50	82.40	0.018	3.50
17-2045	2.89	449.00	276.00	0.010	1.63
TTL	11.85	3085.90	881.70	0.013	3.50

	Portions Remaining Unleased				
	Rate	Volume	Acres	Rt/Ac	Vol/Ac
17-2052	0.24	100.20	69.90	0.003	1.43
17-7063	0.78	213.70	152.30	0.005	1.40
TTL	1.02	313.90	152.30	0.007	2.06

Figure 3. Unleased extent of water rights 17-7007, 17-2028, 17-2030, 17-2045, 17-2052 & 17-7063

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: While the area has been designated as a Critical Ground Water Area, there has not been a Watermaster established. Comments have been requested from IDWR's Eastern Regional office on May 3, 2021. No concerns were received.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for Holbrook Farms as a lease/rental package through the end of 2021.

Appendix A. Calculations of both authorized and observed irrigation for 2018, 2019 & 2020

Observed Irrigation Under Water Right 17-2028, 17-2030, 17-2045 & 17-7007 For 2018																				
T	R	S	NE				NW				SW				SE				Sub Total	Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
15S	33E	6														0.1	0.1	1075		
15S	33E	7	37	36	33	34	33	41	37	31	35	43	0.1	0.2	37	36	32		39	504.3
15S	33E	8	31	40	40	38	16	4.7	1.8	21	17	4.5	39	40	31	40	40		37	441
15S	33E	9										0.1	0.1							0.2
15S	33E	17			0.1		33	31												64.1
15S	33E	18	32	33			0.3													65.3

*Contract 778	Rate	Volume	Acres
17-2028	0.3	109.4	40
17-2030	0.41	63.6	39.1
17-2045	0.21	41	11.7
17-7007	0.81	223.2	84.2
Lease Total	1.68	437.2	125
Total Acreage Irrigable	1230	Acres	
Total Irrigation Observed	1075	Acres	
Total Leased to the Bank	125	Acres	
Difference	30.0	Acres	

Observed Irrigation Under Water Right 17-2052 & 17-7063 For 2018																					
T	R	S	NE				NW				SW				SE				Sub Total	Total	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
14S	32E	25	2.1				1.3				40	40	40	41	41	0.7	40	40	0.5	286.6	366.9
14S	32E	26														40			40	80	
14S	32E	36	0.2				0.1													0.3	

*Contract 779	Rate	Volume	Acres
17-2052	0.18	77.7	54.2
17-7063	0.61	165.7	63.9
Lease Total	0.79	243.4	118.1
Total Acreage Irrigable	316	Acres	
Total Irrigation Observed	366.9	Acres	
Total Leased to the Bank	118.1	Acres	
Difference	(169.0)	Acres	

Observed Irrigation Under Water Right 17-2028, 17-2030, 17-2045 & 17-7007 For 2019																				
T	R	S	NE				NW				SW				SE				Sub Total	Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
15S	33E	5											0.2	0.1				0.3	775	
15S	33E	7		24	20			25			20	25	0.4	37	30		24	0.1		205.5
15S	33E	8	26	34	40	37	29	27	22	31	22	26	33	33	26	22	7.2	33		448.2
15S	33E	17			0.2			32	32	0.1	0.1									64.4
15S	33E	18			0.1			29	27	0.4	0.1									56.6

*Contract 956	Rate	Volume	Acres
17-2028	0.46	166.5	60.9
17-2030	0.32	62.2	12.7
17-2045	0.62	96.8	42.5
17-7007	1.24	339.5	91.4
Lease Total	2.55	665	190
Total Acreage Irrigable	1230	Acres	
Total Irrigation Observed	775	Acres	
Total Leased to the Bank	190	Acres	
Difference	265.0	Acres	

Observed Irrigation Under Water Right 17-2052 & 17-7063 For 2019																						
T	R	S	NE				NW				SW				SE				Sub Total	Total		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
14S	32E	25			1.2				1	34		40	40	40	41		0.9	39	40	0.8	277.9	
14S	32E	26				0.2											40			40	80.2	358.2
14S	32E	35				0.1															0.1	

*Contract 951	Rate	Volume	Acres
17-2052	0.18	77.7	54.2
17-7063	0.61	165.7	118.1
Lease Total	0.79	243.4	118.1
Total Acreage Irrigable	316	Acres	
Total Irrigation Observed	358.2	Acres	
Total Leased to the Bank	118.1	Acres	
Difference	(160.3)	Acres	

Observed Irrigation Under Water Right 17-2028, 17-2030, 17-2045 & 17-7007 For 2020																				
T	R	S	NE				NW				SW				SE				Sub Total	Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
15S	33E	5												0.2	0.1			0.3		
15S	33E	7	37	7.3	3.8	34	6.4	41	37	33	6.7	44	37	30	37	7.6	35	32	399.1	680.9
15S	33E	8					24	32	24	19	22	30							151	
15S	33E	18			30	33		30	37	0.4	0.1								130.5	

*Contract 1202	Rate	Volume	Acres
17-2028	1.29	467.4	170.8
17-2030	0.9	174.5	49.9
17-2045	1.75	271.6	166.9
17-7007	3.47	953	359.4
Lease Total	7.47	1966.5	533.3
Total Acreage Irrigable	1230	Acres	
Total Irrigation Observed	680.9	Acres	
Total Leased to the Bank	533.3	Acres	
Difference	15.8	Acres	

Observed Irrigation Under Water Right 17-2052 & 17-7063 For 2020																						
T	R	S	NE				NW				SW				SE				Sub Total	Total		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE								
14S	32E	25	0.1				1.2				33	39	40	31	32 31				240.3	320.8		
14S	32E	26													40	0.1 40					80.1	
14S	32E	36					0.4														0.4	
															Sub Total		Total					
																	320.8					

*Contract 1184	Rate	Volume	Acres
17-2052	0.18	77.7	54.2
17-7063	0.61	165.7	118.1
Lease Total	0.79	243.4	118.1
Total Acreage Irrigable	316	Acres	
Total Irrigation Observed	320.8	Acres	
Total Leased to the Bank	118.1	Acres	
Difference	(122.9)	Acres	



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

March 1, 2021

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

RECEIVED

MAR 03 2021

DEPARTMENT OF
WATER RESOURCES

Re: Holbrook Farm, LLC Lease Application

Dear Mr. Buyer:

Holbrook Farm, LLC desires to lease 348.3 acres of 17-7007, 17-2028, 17-2030 and 17-2045 in 2021 into the Idaho Water Supply Bank.

The 348.3 acres to be leased are comprised of acres that were previously irrigated by end guns and a pivot systems.

The lease applications propose to lease the water for only the 2021 irrigation season.

Please copy our office on all correspondence regarding this applications.

Sincerely,

Greg Sullivan, M.S., Engineer

CHARLES E.
BROCKWAY,
P.H.D., P.E.

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

Cc: Toby McKay

Enc: Lease Applications, Aerial Maps, Contract of Agreement, Designation of Agent, CSS
Farms Letter, Action of Managers and of Directors, Brockway Engineering Check
#16218 for \$500.00

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