

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1214

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

LESSOR: MITCHELL D SORENSEN
ELAINE SORENSEN
3871 W 2500 N
MOORE, ID 83255-8722

RECEIVED

JUL 17 2020

DEPT OF WATER RESOURCES

SUPPORT DATA

IN FILE # 34-2428

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 May 15, 2020.
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)
34-2428	4/1/1979	GROUND WATER	0.15	Not Stated	7.6
34-7035B	4/12/1973	GROUND WATER	0.20	50.9	14.5
34-12416	5/1/1982	GROUND WATER	0.15	Not Stated	14.4
Combined Limit Totals			0.35	127.1	36.5
Combined Lease Totals			0.35	127.1	36.5

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
34-2428	0.15	26.6	7.6	0.02	1.8
34-7035B	0.20	50.9	14.5	0.01	3.5
34-12416	0.15	50.3	14.4	0.01	3.5
Combined Limit Total	0.35	127.1	36.5	0.01	3.5

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

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1214

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2020 to December 31, 2020. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1214

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

LESSOR: MITCHELL D SORENSEN
ELAINE SORENSEN
3871 W 2500 N
MOORE, ID 83255-8722

By Elaine R. Sorensen
Title owner
Date July 17, 2020

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

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 07/24/20

Lease approved by IDWR [Signature]

Date 07/24/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1214

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): 34-2428, 34-12416

GROUND WATER NWSENE Sec. 5 Twp 04N Rge 26E BUTTE County

Source and Location of Point(s) of Diversion for Water Right No(s): 34-7035B

GROUND WATER SESE Sec. 5 Twp 04N Rge 26E BUTTE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
34-2428	IRRIGATION	04/01	to	11/01	0.15 cfs	Not Stated
34-7035B	IRRIGATION	04/01	to	11/01	0.20 cfs	50.7 AF
34-12416	IRRIGATION	04/01	to	10/31	0.15 cfs	Not Stated
Totals:					0.50 cfs	Not Stated

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	25E	2							5.3	8.6									13.9
03N	25E	3		5.2															5.2
				L2															
04N	25E	34	6.5														5.4		11.5
04N	25E	35						5.5											5.5

Total Acres: 36.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1214

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 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.
13. Water is delivered through the Timberdome Canal.
14. WATER RIGHT 34-12416 IS SUBORDINATE TO ALL WATER RIGHTS WITH A PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.
15. The unleased extent of water rights 34-2428, 34-7035B, & 34-12416 is limited to a combined total diversion rate of 8.66 cfs and volume of 2,350.2 af for the irrigation 671.5 acres in a single season.
16. Pursuant to Idaho Code § 42-1412(6), these water rights are subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
17. These water rights, when combined with all other rights, shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
18. 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. 34.

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1214

34-2428, 37-7035B, & 34-12416
Effective until December 31, 2020

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



② Approved Lease Point of Diversion

Approved Lease Place of Use

Township/Range

Sections



0 8,000 16,000 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAY 15 2020

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Elaine R. Sorensen

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

Water Right No. 34-12416

(One water right per application)

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

Yes ☒ No ☐

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

MIMUMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | <input type="checkbox"/> | <input checked="" type="checkbox"/> | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 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 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank. |
| 3 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Written consent from irrigation district or water delivery company. |
| 4G | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ 500.00Received By: CADate Received: 5/8/2020

Receipt #

E 045885W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9:

Elaine R. Sorensen

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 Elaine R. Sorensen

Mailing Address 3871 W. 2500 N., Moore, ID 83213

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 Luke H. Marchant

Organization Holden, Kidwell, Hahn & Crapo, P.L.L.C

Professional Title Attorney

Email Address lmarchant@holdenlegal.com

Mailing Address PO Box 50130, Idaho Falls, ID 83405

Phone Number (208) 523-0620

☐ 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.

Well and pump with water delivered through the Timberdome 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. Water Right Nos. 34-496A, 34-692D, 34-2428, and 34-7035B are used in conjunction with this water right.

- 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. This water right has been fully utilized.

- 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 ☐

An application for transfer is being prepared for submission which, when approved, will take the place of the actions accomplished by this application.

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: 2020 to 2020 (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



Signature of Authorized Representative

Printed Name

Luke H. Marchant

Printed Name

Date

May 8, 2020

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>34-12416</u>	<u>Irrigation</u>	<u>0.15</u>	<u>49.1</u>	<u>14.4</u>
	Total Amounts:			

2. Source of water Ground water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
04N	26E	05		NW	SE	NE	Butte

ATTACHMENT 3

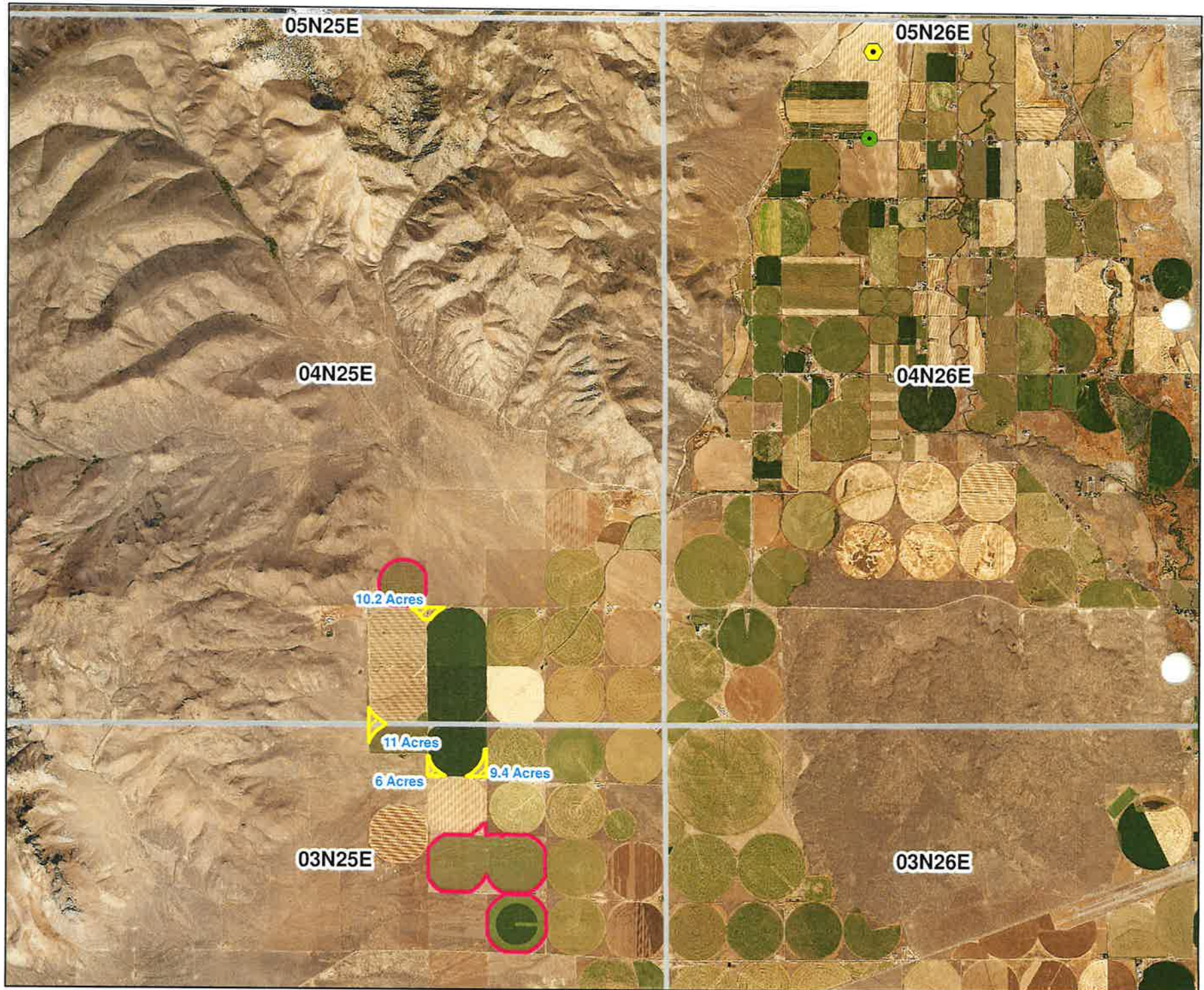
GIS Maps

SORENSEN WSB LEASE/RENTAL APPLICATION



Legend

- 34-2428 & 34-12416 POD
- 34-7035B POD
- Idled Acres
- Proposed POU
- TR Lines



2019 NAIP Photo



Prepared by:
Luke H. Marchant
05/08/2020

ATTACHMENT 4A
Consent from Water Delivery
Entity

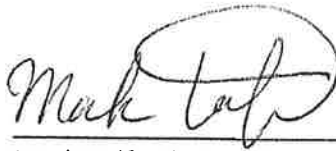
Timberdome Canal Co, Inc.
Mark Telford, President
P.O. Box 511
Arco, ID 83213

To Whom It May Concern:

I am the president of the Timberdome Canal Company. Elaine Sorensen owns 800 shares in the Timberdome Canal Company. Under the direction of the water master, any water legally obtained by a member and then diverted to the Timberdome Canal is delivered to that allotted member. The Timberdome Canal Company gives consent to convey water obtained by means of Water Supply Bank, to the end that the water delivered does not exceed the allotted shares.

Dated: _____

4/14/2020

A handwritten signature in black ink, appearing to read "Mark Telford", written over a horizontal line.

Mark Telford, President
Timberdome Canal Company



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 27, 2020

MITCHELL D SORENSEN
ELAINE SORENSEN
3871 W 2500 N
MOORE, ID 83255-8722

**RE: WATER SUPPLY BANK LEASE CONTRACT 1214 & 1224
FOR WATER RIGHTS 34-2428, 34-7035B, 34-12416, 34-7052**

Dear Lessor:

Water rights **34-2428, 34-7035B, 34-12416, 34-7052** were leased into the Water Supply Bank (Bank) as of January 1, 2020, 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, 2020**, 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,

Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR – Eastern Region
Water District No. 34
Luke Merchant – Holden, Kidwell, Hahn & Crapo PLLC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 17, 2020

MITCHELL D SORENSEN
ELAINE SORENSEN
3871 W 2500 N
MOORE, ID 83255-8722

**RE: APPLICATION TO LEASE WATER RIGHT 34-2428, 34-7035B, 34-12416, 34-7052 TO THE
WATER SUPPLY BANK
CONTRACTS 1214 & 1224**

******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, 2020**, 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,


Stephanie Schuss-Vehel
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108824, E045885

Memorandum

To: Water Rights 34-2428, 34-7035B & 34-12416
From: Justin Ferguson
Date: June 25, 2020
Re: Water Supply Bank Lease Application 1728

Purpose/Narrative: A lease/rental package was received by the Department May 15, 2020 offering a portion of water rights 34-2428, 34-7035B & 34-12416 to the Bank for a single year. The package was submitted as part of an agreement with IDWR's Enforcement Section to resolve a notice of violation (NOV) for the unauthorized irrigation of 508 acres.

The lease applications propose to idle acreage historically covered by water rights held by Mr. and Ms. Sorensen for a single season while the applicant pursues a transfer application for a permanent approval to irrigate the acres that are the subject of the NOV.

Authority to File: The applications were signed and submitted by Mr. Luke Marchant of Holden, Kidwell, Hahn, & Crapo as a designated representative for Mr. and Ms. Sorensen. IDWR records indicate they are the current water right holders. Review of Butte County parcel data indicates they are also the current land owners as well. No concerns at this time about authority to file.

Water Right Validity/Forfeiture Evaluation:

The lease application package is comprised of portions of water rights 34-2428, 34-7035B, & 34-12416.

Water rights 34-2428 and 34-12416 were decreed through the SRBA to Mr. Sorensen in 2000 and 2001 respectively, and leased to the Bank through the end of 2011. Water right 34-7035B was decreed to Mr. Sorensen in 2002 and leased to the Bank beginning in 2014 through the end of 2018.

A review of sentinel satellite imagery indicates that in the period of 2014-2019, 913.2 out of a possible 995.4 irrigable acres, may have been irrigated, leaving a balance of 82.2 acres of the water right subject to partial forfeiture. However, two additional factors may be relevant for disputing forfeiture on the 82.2 acres.

Specific to the parts of the irrigable place of use (POU) situated in Township 03N, Range

25E, it appears to be physically impossible to irrigate 29.1 acres, due to discrepancies between the number of acres legally authorized to be irrigated by the Snake River Basin Adjudication (SRBA) Court water right decrees, and the number of acres that actually appear to exist within government lots/quarter-quarters in Sections 2 and 3. Table 1 summarizes the differences between actual and authorized irrigable acres within

Total Irrigable Acreage As Measured						
Township	Range	Section	Quarter-Quarter	Gov. Lot	Legal Acres	Measured Acres
03N	25E	2	NENW	3	38.94	35.1
03N	25E	2	NWNW	4	38.82	34.6
03N	25E	2	SENW	0	40	36.1
03N	25E	2	SWNW	0	40	35.7
03N	25E	3	NENE	1	38.81	34.5
03N	25E	3	NWNE	2	38.85	34.8
04N	25E	5	NESE	0	40	39.7
04N	25E	5	SENE	0	40	39.5
04N	25E	5	SESE	0	40	39.8
04N	25E	34	NENE	0	40	39.8
04N	25E	34	NESE	0	40	39.8
04N	25E	34	NWNE	0	40	39.7
04N	25E	34	NWSE	0	40	39.7
04N	25E	34	SENE	0	40	39.8
04N	25E	34	SESE	0	40	39.7
04N	25E	34	SWNE	0	40	39.7
04N	25E	34	SWSE	0	40	39.7
04N	25E	35	NENW	0	40	39.9
04N	25E	35	NESW	0	40	39.8
04N	25E	35	NWNW	0	40	39.9
04N	25E	35	NWSW	0	40	39.8
04N	25E	35	SENNW	0	40	39.8
04N	25E	35	SESW	0	40	39.8
04N	25E	35	SWNW	0	40	39.8
04N	25E	35	SWSW	0	40	39.8
Total					995.42	966.3
Difference						29.12

the water right POUs, by government lot/quarter-quarter. The missing 29.1 acres are equivalent to 2.9% of the water right place of use.

Additionally, during the period of 2014 through 2018, it is possible that as many 100.4 acres of the applicant's property may have been irrigated with ground water, beyond the maximum authorizations of the applicant's decreed water rights and approved Water Supply Bank rental agreements. Further, after discounting the rental agreement that expired at the end of 2018, it appears as many 576.5 acres of the applicant's property may have been irrigated without a water right in 2019. The land belonging to the applicant in Township 03N, Range 25E, on which vegetation was observed, attributable irrigation practices, are summarized in Table 2 below. Irrigated acreage amounts are further broken down between authorized irrigation (under the applicant's water rights), Water Supply Bank rental authorized irrigation, and additional, unauthorized irrigation.

Authorized & Unauthorized Water Right Places of Use Irrigated 2019																				
Township	Range	Section	NE				NW				SW				SE				Sub Totals	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
			GL	GL	GL	GL	GL	GL	GL	GL	GL	GL	GL	GL	GL	GL	GL	GL		
03N	25E	2		0.2			34.3	35	36	36	1.3	1.5	0.2	6			2.4	1.4	141.3	1489.7
			2				3	4											13	
03N	25E	3	34.5	34.7	4.9	5.2	0.8			0.1									69.2	
			1	2			3												11	
03N	25E	10	1.4			1.9													3.3	
03N	25E	11	35.7	40.1	34.1	32.1	40	34.4	36.4	31.1	0.6	1		0.5	34	32.5	34.6	33.3	420.4	
03N	25E	12					0.6	0.3			0.4	0.3							1.6	
03N	25E	14	0.4	0.6															1	
03N	25E	26									0.1								0.1	
03N	25E	27										0.6			19.2	11.1	27	39	96.9	
04N	25E	34	39.8	39.5	39.7	39.8	12.2			3.4	3.3			1.4	39.8	39.7	35.6	39.7	311.3	
																			22.6	
04N	25E	35		0.6	0.6		38	39.7	39.8	39.8	21.5	39.8	39.8	21.4					274.4	
																			6.6	
04N	26E	5				39									39			39	117	

Maximum Irrigation Observed 2019

Authorized Irrigation

913.2

Unauthorized Irrigation

576.5

Total Irrigation

1489.7

Irrigation Observed in T03N R25E

Authorized Irrigation

796.2

Unauthorized Irrigation

576.5

Total Irrigation

1372.7

Irrigation Observed w/ WSB Rental

Authorized Irrigation

796.2

Unauthorized Irrigation

100.4

WSB Rental Irrigation

476.1

Total Irrigation

1372.7

Maximum Irrigation Observed 2019	
Authorized Irrigation	913.2
Unauthorized Irrigation	576.5
Total Irrigation	1489.7

Irrigation Observed in T03N R25E	
Authorized Irrigation	796.2
Unauthorized Irrigation	576.5
Total Irrigation	1372.7

Irrigation Observed w/ WSB Rental	
Authorized Irrigation	796.2
Unauthorized Irrigation	100.4
WSB Rental Irrigation	476.1
Total Irrigation	1372.7

Table 2 – Acres Observed Vegetated

During the period of a WSB rental, the sum of unauthorized irrigated acres (100.4) exceeded the sum of acres within the POU that were not observed as irrigated (82.2). In light of this fact, it is a possible defense against forfeiture for the applicant to present that their unauthorized irrigation was partially accomplished with the 82.2 acres of the applicant's water rights which were not used in the authorized irrigable POU. As such, at this time, it is accepted that the 82.2 acres not observed as irrigated within the POU are in fact still viable and acceptable for lease to the Bank.

Injury Evaluation: No injury is apparent through a lease of a portion of water rights 34-2428, 34-7035B, & 34-12416 to the Bank for a single year. However, injury may occur if the applicant continues to irrigate beyond his authorized limits using ground water. The ground water authorized to be diverted by the applicant contributes to the Eastern Snake River Plain Aquifer (ESPA) which is a managed ground water resource. The lease place of use is immediately just on the other side of the designated boundary for the ESPA ground water management area (GWMA). As, to guard against injury to prior appropriated water rights that rely on sustainable management of ESPA ground water, the lease of these water rights will be

conditioned to affirm that a maximum of 891 acres will remain authorized to be irrigated from ground water under the applicants water rights for the duration of the lease.

Upon receipt of the applications, the Department was contacted by local water users to who desired to provide comments on the lease/rental proposal. While the Bank does not open applications to the public for protest, public comment is allowed. These comments may fall within IDAPA 37.02.03.25 Section6 (i) as "...other factors as determined to be appropriate by the Board" and, should specific data be provided, may be taken under advisement.

After a phone conversation with the water users it was determined that they would like to contact their council to prepare a statement and, upon official receipt by the Department, their statement will be taken under advisement during the review of the rental applications.

Further, should any party be injured, they are afforded the right to petition the Board or Director for reconsideration of this lease, per Idaho Code 42-1766.

Enlargement of Use: Because the place of use proposed to be idled from ground water might still be irrigated from surface water under 34-34496A and 34-692D, enlargement is a concern. Taking into consideration the 117 acres that can be irrigated in T04N, R26E, Section 5 only, a remaining balance of 828 acres can be irrigated from ground water on the land owned by the applicant in Townships 03 and 04 North. Additionally, of the 828 acres, a total of 120 acres can also be irrigated with the applicant's Big Lost River surface water rights. By removing the surface water rights from the total 828 acres, a final 708 acres can be irrigated exclusively from ground water only. Based on the amounts proposed below, a total of 671.5 acres will remain after leasing to the Bank 36.5 acres .Because the proposed lease of ground water (36.5 acres) is less than the acres that could be exclusively irrigated from ground water (708 acres), enlargement is not a concern.

No enlargement is evident through the lease proposal as the acreage will be protected and unused. To account for both volume and acreage limits, conditions will be added in line with table 4.

Decree Combined Limits						
34	2428	3.85	772.0	193.0	945.0	0.02 4.0
34	7035B	4.98	1293.3	369.50	828.00	0.01 3.5
34	12416	3.85	1460.0	365.00	945.00	0.01 4.0
	Limit	8.83	3229.9			
	Additive	12.68	3525.30		Percent Dif.	Percent Dif.
	Difference	-3.85	-295.40		70%	92%
Lease Proposal						
Basin	Sequence	Rate	Volume	Acres	Rt/Ac	Vol/Ac
34	2428	0.15	26.0	7.6	0.020	3.42
34	7035B	0.2	50.9	14.5	0.014	3.51
34	12416	0.15	49.1	14.4	0.010	3.41
	Total	0.35	115.4	36.5	0.010	3.16
Remaining Unleased						
Basin	Sequence	Rate	Volume	Acres	Rt/Ac	Vol/Ac
34	2428	3.70	746.0	185.4	0.020	4.02
34	7035B	4.78	1242.4	355.0	0.013	3.50
34	12416	3.70	1410.9	350.6	0.011	4.02
	Total	8.48	3114.5	891.0	0.010	3.50

Table 4 – Combined Rate and Volume Limits For
Water Rights 34-2428, 34-7035B, 34-12416 & 34-13841

As water right 34-12416 is an enlargement of water right 34-2824, the two are rate limited together and again when used with water right 34-7035B.

Local Public Interest: Review staff are aware that there may be some local public interests that are averse to the lease. Additionally, in light of the applicant's excess, unauthorized water uses in recent years, it would be contrary to local public interest if water use violations continue during the term of the lease. Moreover, the ground water source for water the water rights proposed for lease is tributary to the ESPA GWMA and it is relevant to consider how this lease might impact management of ESPA ground water resources. At this time, staff findings are that the lease is not sufficiently contrary to local public interests, and it should not be denied based on local public interest criteria.

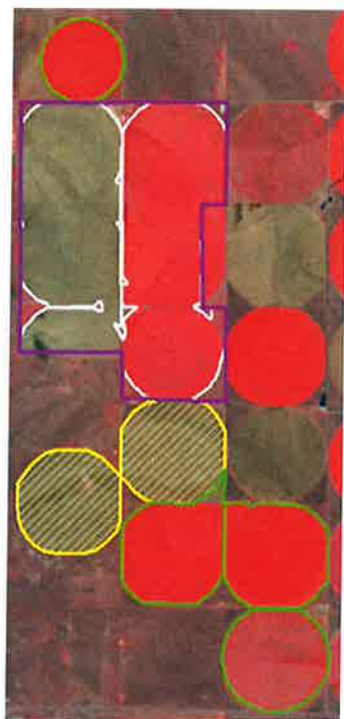
Beneficial Use/Conservation of Water Resources: Irrigation is a beneficial use of water. Because the irrigation beneficial use authorized under the water rights proposed for lease is not fully accomplishable based on the actual calculated acreages for the irrigation place of use, it is advisable that the applicant should submit a transfer, to change the place of use acreages, so that the authorized beneficial use may reflect the actual irrigation beneficial use that is possible.

Because this lease is intended to authorize a new ground water rental, it is not apparent that water resources will be conserved, specific to this lease.

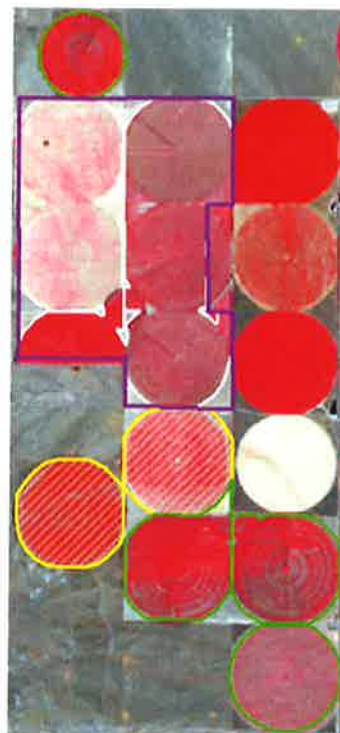
Department/Watermaster Comments: Watermaster and IDWR Eastern Region comments were requested on June 25, 2020

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the application be approved for a single year.

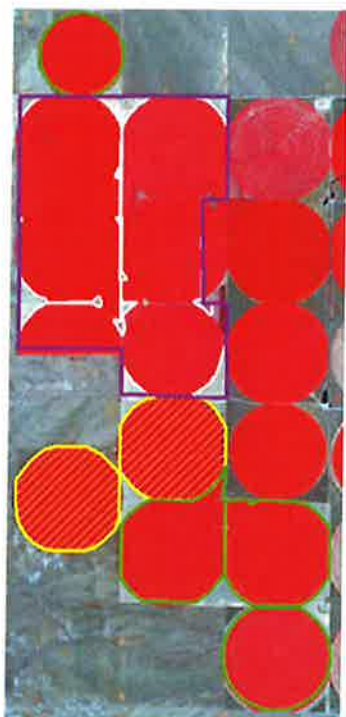
Appendix A. Observed 2019 Irrigation – PPU outlined in purple with the observed irrigation delineated in white. Yellow areas are adjacent water rights also held by Sorensen at the authorized place of use. Unauthorized irrigation during 2019 is delineated in green



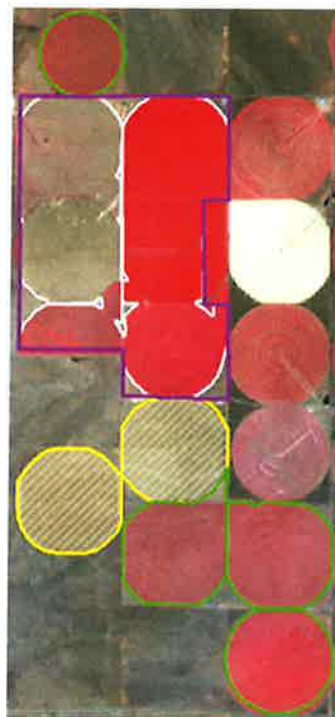
May 11, 2019



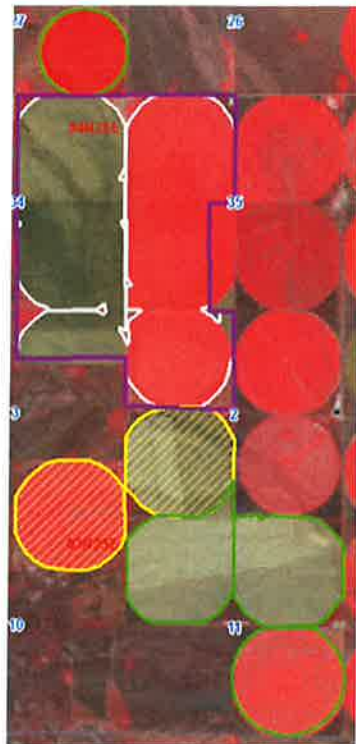
August 19, 2019



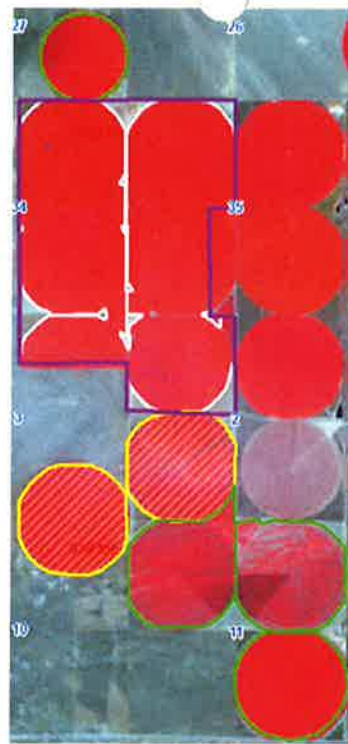
July 20, 2019



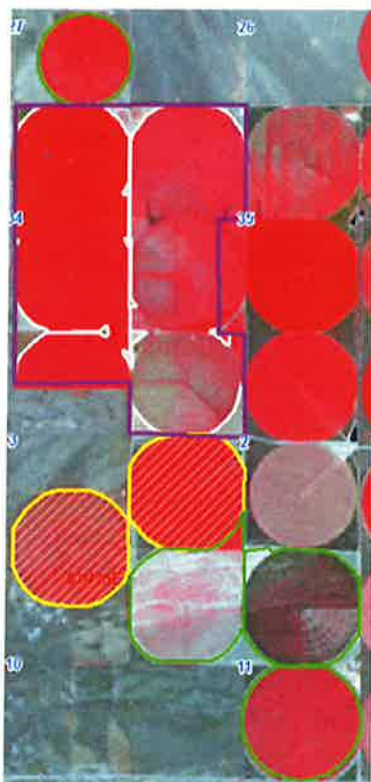
October 8, 2019



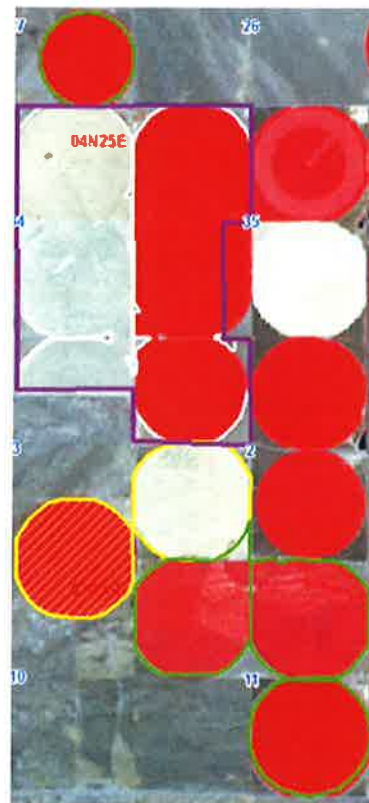
May 6, 2018



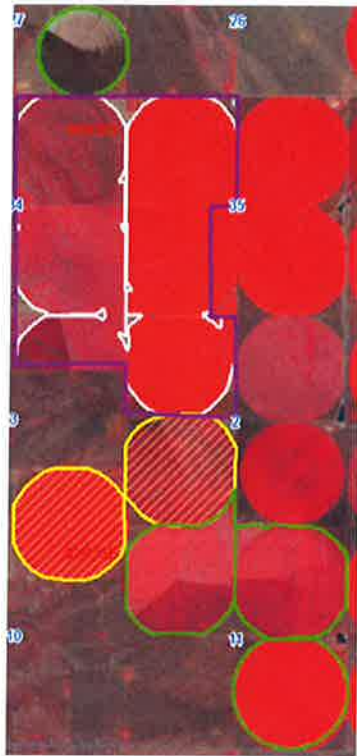
July 15, 2018



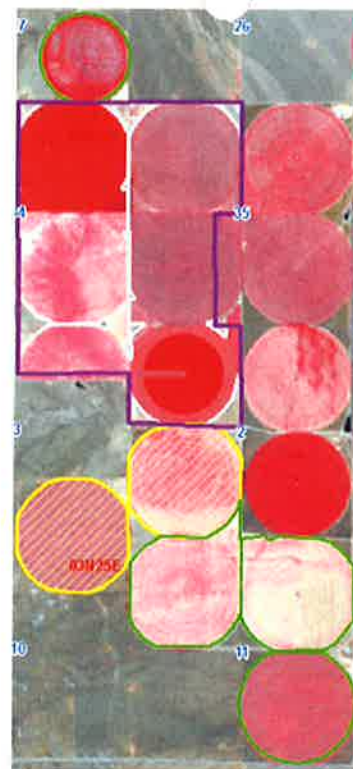
July 5, 2018



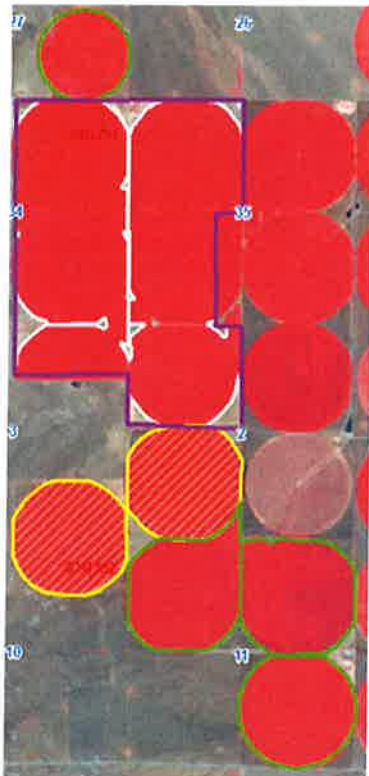
September 3, 2018



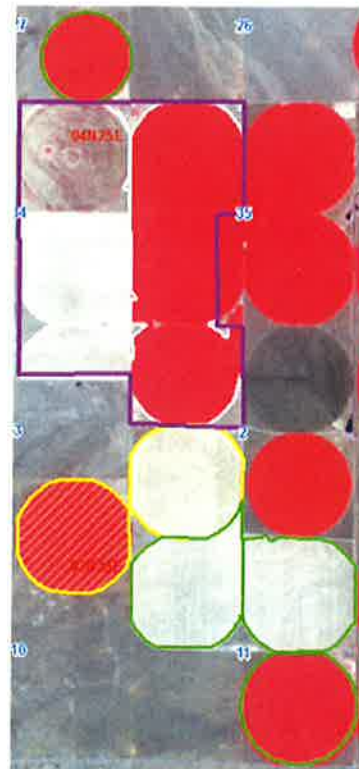
June 3, 2017



August 2, 2017



July 10, 2017



September 1, 2017

Parker, Cody

From: Ferguson, Justin
Sent: Thursday, June 25, 2020 3:45 PM
To: Cefalo, James; 'watermaster34@atcnet.net'
Subject: WSB Lease - Elaine Sorensen
Attachments: Draft Lease - Sorensen.docx; Lease Review Memo - Final.docx; Lease Map - Elaine Sorensen.pdf

James, Lucas,

Attached is the draft lease map, memo, and contract for Elaine Sorensen. The lease is part of a lease/rental package to cover the acreage identified by Enforcement to resolve an NOV. Please let me know if you have any comments or concerns, as soon as I have the rental ready I can send over a copy

Thank you!
Justin