

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 22 2020
DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1202

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

RECITALS

SUPPORT DATA
IN FILE # 17-2028

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 10, 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)
17-2028	7/30/1953	GROUND WATER	1.29	467.4	170.8
17-2030	3/4/1954	GROUND WATER	0.90	174.5	49.9
17-2045	7/24/1959	GROUND WATER	1.75	271.6	166.9
17-7007	8/24/1970	GROUND WATER	3.47	953	359.4
Combined Lease Totals			7.47	1866.5	533.3

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, 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.

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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.

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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 Gabe Onorato (GABRIELE ONORATO)
Title PARTNER
Date 6/10/2020

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 07/13/20

Lease approved by IDWR P. Thomas

Date 07/13/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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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	1.29 cfs	467.9 AF
17-2045	IRRIGATION	4/15	to	10/15	1.75 cfs	271.6 AF
17-2030	IRRIGATION	4/15	to	10/15	0.9 cfs	174.5 AF
17-7007	IRRIGATION	4/15	to	10/15	3.47 cfs	953 AF
Totals:					7.17 cfs	1,866.5 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	27.0	25.8	4.5	27.4	3.0 L1	5.6 L2	25.1	27.5	4.0 L3		2.9	3.4	29.4	3.8	5.2	196.2
15S	33E	8	25.9	34.5	40.0	36.2	8.1	3.7	5.3	15.0	3.9	4.3	33.1	34.0	6.6	12.5	0.6		263.7
15S	33E	17					33.9	33.4											67.3
15S	33E	18	2.4	1.7			2.0												6.1

Total Acres: 533.3

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1202

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.
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. 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.
13. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
14. The unleased portions of rights 17-2028, 17-2030, 17-2045 and 17-7007 when combined shall not exceed a total diversion rate of 9.36 cfs and the irrigation of 696.7 acres.
15. The unleased portions of rights 17-2028 and 17-2045 when combined shall not exceed the irrigation of 275.9 acres
16. The unleased portions of rights 17-2028 and 17-7007 when combined shall not exceed the irrigation of 578.9 acres.
17. The unleased portions of rights 17-2028, 17-2045 and 17-7007 when combined shall not exceed the irrigation of 631.6 acres.
18. The unleased portions of rights 17-2045 and 17-7007 when combined shall not exceed a diversion rate of 6.5 cfs.

Effective until December 31, 2020

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N



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 10 2020

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Holbrook Farm, LLC

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

Water Right No. 17-2028

(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 | <input 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 checked="" type="checkbox"/> | <input 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 type="checkbox"/> | <input checked="" 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 checked="" type="checkbox"/> | <input type="checkbox"/> | Written consent from irrigation district or water delivery company. |
| 4G | <input type="checkbox"/> | <input checked="" 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 \$ <u>500</u>	Received By: <u>KM</u>	Date Received: <u>3-10-2020</u>	Receipt # <u>C108433</u>
W-9 received? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Route W-9 to Fiscal)		Name on W-9:	

1265

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.

Yes ☐ No ☒

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

Printed Name

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

AMENDED

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)
17-2028	Irrigation	1.29	467.4	170.8
	Total Amounts:	1.29	467.4	170.8

 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
WATER RESOURCE BOARD**

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

ATTACHMENT 2

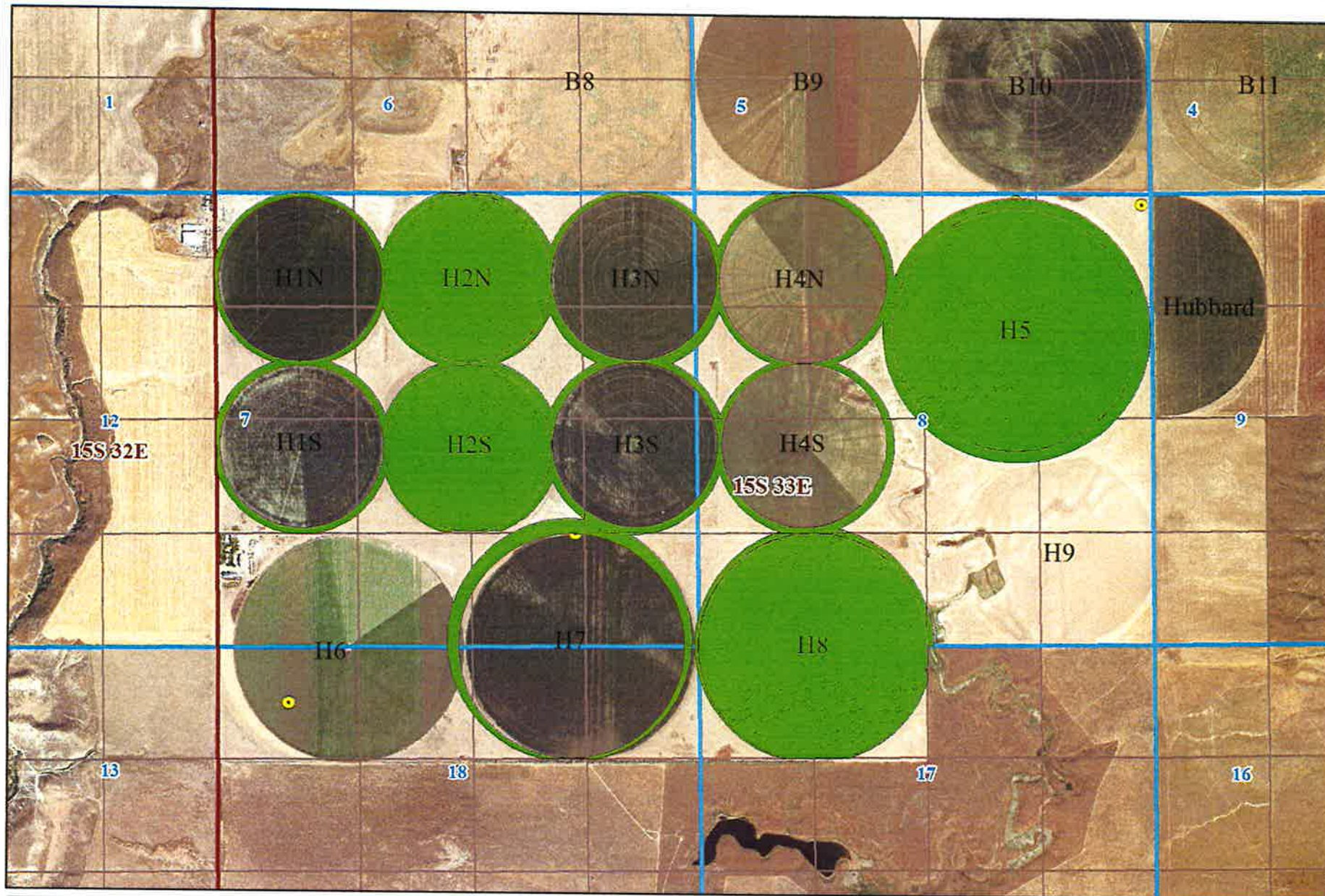
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

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)
17-2028	Irrigation	0.87	315.0	115.1
	Total Amounts:	0.87	315.0	115.1

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



CSS FARMS

2020 LEASE ACRES
NAIP 2017 AERIAL

Legend

- 2020_Lease_Acres
- WR POD





0003490185

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

Idaho Secretary of State

PO Box 83720

Boise, ID 83720-0080

(208) 334-2301

Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0003490185

Date Filed: 4/23/2019 2:27:36 PM

Entity Name and Mailing Address:

HOLBROOK FARM, LLC

The file number of this entity on the records of the Idaho Secretary of State is: 0000506870

Address

1291 US HIGHWAY 258N
KINSTON, NC 28504-7209

Entity Details:

Entity Status

Active-Existing

This entity is organized under the laws of:

DELAWARE

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: W167152

The registered agent on record is:

Registered Agent

PARACORP INCORPORATED
Commercial Registered Agent

Physical Address

921 S ORCHARD ST STE G
BOISE, ID 83705

Mailing Address

921 S ORCHARD ST STE G
NINH HO
BOISE, ID 83705

Agent or Address Change

☐ Select if you are appointing a new agent.

Limited Liability Company Managers and Members

Name	Title	Address
U.S. Farming Realty Trust II , LP	Member	1291 U.S. HIGHWAY 258 N. KINSTON, NC 28504

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

U.S. Farming Realty Trust II , LP

Sign Here

04/23/2019

Date

Signer's Title: MEMBER

B0237-8747 04/24/2019 11:57 AM Received by ID Secretary of State Lawrence Denney

**Designation of Agent and Grant of Authority
Holbrook Farm, LLC**

This Designation of Agent and Grant of Authority is made this the 26th day of January, 2017, by the Manager of International Farming Corporation GP2 LLC, a Delaware limited liability company ("IFC") to Brian Uken.

Whereas, IFC is the General Partner of U.S. Farming Realty Trust II, LP, the sole member of Holbrook Farm, LLC ("Holbrook"); and

Whereas, the undersigned is the Manager of IFC and has the power and authority to act on behalf of IFC, including without limitation acting on behalf of IFC in designating agents for Holbrook and granting authority to such agents, including Brian Uken.

Now Therefore, the Manager of IFC, on behalf of IFC and Holbrook, takes the following action and grants the authority expressly provided to Brian Uken.

The undersigned Manager of IFC does expressly designate Brian Uken as an Agent for Holbrook Farm, LLC and does expressly grant to Brian Uken the authority to execute documents on behalf of Holbrook Farm, LLC to be filed with, presented to, or otherwise utilized by the State of Idaho or any of its agencies or subdivisions, and to do such further acts and execute such further documents as may be required by the State of Idaho or any of its agencies or subdivisions in connection with the foregoing.

HOLBROOK FARM, LLC

By: U.S. Farming Realty Trust II, LP

By: International Farming Corporation GP2, LLC,
its general partner

By: _____

Charlie McNairy, Manager



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 14, 2020

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

**RE: WATER SUPPLY BANK LEASE CONTRACT 1202
FOR WATER RIGHTS 17-2028, 17-2030, 17-2045, 17-7007**

Dear Lessor:

Water rights **17-2028, 17-2030, 17-2045, 17-7007** 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
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 28, 2020

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

**RE: APPLICATION TO LEASE WATER RIGHT 17-2052, 17-7063, CONTRACT 1184
and WATER RIGHT 17-2028, 17-2030, 17-2045, 17-7007, CONTRACT 1202
TO THE WATER SUPPLY BANK**

******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 of each 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,

Jean Hersley
for Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108432

c. Greg Sullivan – Brockway Engineering

MEMORANDUM FOR LEASE CONTRACT # 1202 AND RENTAL AGREEMENT 452

To: Water Right(s) 17-7007, 17-2045, 17-2030, 17-2028

From: Alex Dalglish

Date: 5/18/2020

Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE: The Department received a lease/rental companion package on 3/10/2020. Holbrook Farm, LLC (Holbrook) proposed to lease a total of 359.4 acres from groundwater rights 17-7007, 17-2028, 17-2030 and 17-2045 for the 2020 year through application number 1665. CSS Potato Farms, LLC (CSS) requests to rent 310 acres from these leased rights through application number 1678.

Prior 1 year terms in 2016, 2017, 2018 and 2019 have been approved to lease in partial amounts of the 4 rights.

The lease applications originally proposed to offer 115.1 acres of right 17-2020, 33.6 acres from right 17-2030, 112.5 acres from 17-2045 and 242.2 acres from 17-7007. These acres are appurtenant to end-guns and pivots in multiple QQ's of Sections 7, 8, 17 and 18 in Twp. 15S Rge. 33E.

The rental proposes applying the leased rights to 120 acres in SE Q of Sec.6, 120 in the NW Q of Sec. 5 and 60 acres in the NENW and SENW QQ's of Sec. 9 all of which are in Twp. 15S Rge. 33E. The rental request is for a total of 4.17 cfs, 1085 AF and 310 acres.

Greg Sullivan of Brockway Engineering PLCC is listed as the representative for Holbrook and CSS and he completed the lease and rental applications on behalf of the applicants.

A private agreement between the lessor and renter was included with the rental application clarifying that CSS has paid an annual farm contract for 2020 to Holbrook. There will be no fees paid to the Bank for the rental except for the 10% processing fee which will be paid by CSS upon signature of the rental agreement.

A discrepancy was encountered regarding the proposed lease amounts from the cover letter and the additive amounts from the applications. The cover letter submitted with the lease applications stated that Holbrook Farms wished to lease in a total of 359.4 acres from the 4 rights. However, the total amounts proposed for lease when added together from each application totaled 503.4 acres. An email was sent to Greg on 5/8/2020 requesting clarity on the leased amounts. He responded on 5/11 stating that Holbrook intends to lease an increased acreage of 533.3 acres for 2020. He emailed updated lease application pages representing the increased lease amounts for each right. The updated amounts on the applications totaled 747 acres which is still more than the updated 533.3 acres requested to be leased in. I believe this continued difference in requested leased acres verses the additive acres is due to the existing rate and acre combined limits of 16.53 cfs and 1230 acres (0.134 cfs/acre) on rights 17-2028, 17-2030, 17-2045 and 17-7007. The updated leased acres from the rights are 170.8 acres from 17-2028, 49.9 acres from 17-2030, 166.9 acres from 17-2045 and 359.4 acres from 17-7007. The additive amounts proposed from the 4 rights are 7.41cfs, 1866.5 AF and 747 acres which provides approximately 0.01 cfs/acre (7.41cfs/747acres). Reducing the leased acres to 533.3 would decrease the rate/acre to 0.138 which is higher than the existing limit of 0.134 cfs/acre. So in addition to reducing the acres from 747 to 533.3, the leased rate would also need to be reduced from 7.41 to 7.17 in order to remain consistent with the leased rights rate/acre limit of 0.134. The reduced rate of 7.17 divided by 533.3 acres equates to 0.134 cfs/acre.

AUTHORITY TO FILE: A Designation of Agent and Grant of Authority was included with the lease applications. This document designates Brian Uken as an agent for Holbrook Farm with

the authority to execute documents on their behalf. Furthermore, the lease application included an annual report from 4/23/2019 which listed Paracorp Incorporated as the commercial registered agent. All four lease applications were signed by Trent Munden on behalf of Holbrook. There appeared to be an issue with the signature authority for the lease applications as Mr. Munden was not listed as a registered agent or described in any agreement granting him authority to act on behalf of Holbrook.

The rental application was also signed by Trent Munden. However, the companion rental application from CSS Farms included a declaration signed by Reagan Gabner who is a managing partner for CSS. This declaration provided signing authority to Trent Munden for all documents relating to water right applications. A review of CSS Farms annual report with the Idaho Secretary of State shows Reagan Gabner listed as one of the managing partners. Also included with the rental application was a contract of agreement between CSS Potato Farms and Holbrook, which grants CSS Potato Farms the authority to use the property, water distribution system and all associated water rights owned by Holbrook at the proposed rental place of use (POU). Water rights 17-2028, 17-2030, 17-2045 and 17-7007 proposed for lease were specifically listed in the agreement. So, Holbrook appears to have granted CSS Potato Farms the authority regarding the leased rights and in return, CSS has granted Trent Munden the authority to sign water right applications on the company's behalf. This chain of documentation of authority should be sufficient to allow Mr. Munden to sign the lease applications on behalf of Holbrook.

According to Department records, Holbrook owns the land at the leased POU and points of diversion (POD's). There are no concerns with the authority to file the lease proposal. Department records indicate that CSS and Brad Wolstenhulme own the property at the requested rental POU and points of diversion (POD's). A farm lease was included with the rental application providing Mr. Wolstenhulme as landlord over tenant CSS. There are no concerns with the authority to file the rental request.

WATER RIGHT VALIDITY:

All four leased rights are owned solely by Holbrook Farm, LLC. Rights 17-2028 and 17-2030 were decreed on 4/11/1979 while right 17-2045 was licensed on 2/26/1982 and 17-7007 was licensed on 6/20/1983. A transfer (# 78281) in 2013 placed the four rights proposed for lease in a 1230 acre PPU. Using 2019 sentinel imagery, it is evident that the leased acres in 2019 have not been irrigated and thus Holbrook has complied with their prior lease contract. According to the lease applications, portions of the water rights not leased to the Bank have been used for irrigation annually. Aerial imagery from 2015, 2017 and 2019 confirms that the other pivot acres authorized by the leased rights have been irrigated. There are no concerns with the validity of the leased rights.

INJURY TO OTHER WATER RIGHTS: No injury is anticipated through the lease and rental of rights 17-2028, 17-2030, 17-2045 and 17-7007. The rental proposes to move the water from Sections 7, 8, 17 and 18 to Sections 5, 6 and 9, all of which are in T15S R 33E. The leased rights authorize the diversion of water through 5 wells and the rental proposes to use two of these 5 wells. The rented water will be applied over two 120 acre pivots and one 60 acre half-pivot. The lease and rental areas are within the Curlew Valley Critical Ground Water Area. Injury to other water rights is not expected through this companion lease and rental proposal.

ENLARGEMENT OF USE: As discussed at the beginning of the memo, together the four leased rights are limited to the combined irrigation of 1230 acres and 16.53 cfs (0.13 cfs/acre and 3.5 AF/acre). To avoid enlargement, the leased rate and acre amounts will be limited to 7.17 cfs and 533.3 acres in order to maintain the existing rate and volume per acre restrictions on the 4 rights. Additionally, the leased volume/acre equates to 3.5 AF/acre. The rental request of 4.17 cfs, 1085 AF and 310.0 acres remains consistent with the 0.13 rate/acre and 3.5 volume/acre limits of the leased rights. The unleased portions of each right will have remaining

limits in order to avoid enlargement. The combined unleased portions of the 4 rights will be limited to 9.36 cfs, and 696.7 acres (combined leased rights limit of 16.53 cfs – total lease of 7.17 cfs= 9.36 and combined leased rights limit of 1230 acres- leased acres of 533.3= 696.7 acres).

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the lease and rental are not currently within a Water District. Comments were requested from James Cefalo at the Eastern Region on 5/15/2020 and he responded 5/18 with no concerns of the lease and rental proposals.

Hersley, Jean

From: Cefalo, James
Sent: Monday, May 18, 2020 8:09 AM
To: Dagleish, Alex
Subject: RE: Holbrook Farms Lease/CSS Potato Farms Rental

Alex,

I don't have any concerns with the proposed WSB lease/rental.

James

From: Dagleish, Alex
Sent: Friday, May 15, 2020 4:09 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Holbrook Farms Lease/CSS Potato Farms Rental

James,

Relevant documents are attached pertaining to a lease/rental package for water rights 17-2028, 17-2030, 17-2045 and 17-7007. Please let me know within 7 days, by 5/22 if you have concerns. If no response is received by the 22nd, I will assume you have no comments.

Thanks,

Alex Dagleish
Water Resource Agent
IDWR State Office
208-287-4913

Hersley, Jean

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Monday, May 11, 2020 9:57 AM
To: Dalglish, Alex
Subject: RE: Holbrook Farm LLC Lease/CSS Potato Rental
Attachments: Page 4 Rental Application.pdf

Alex,

I will be sending you several emails this morning with a new Attachment 2 page, aerial map and shape files for water rights 17-7007, 17-2028, 17-2045 and 17-2030. The intent is to lease 533.3 acres into the Idaho Water Supply Bank for 2020. It is the intent to rent 310.0 acres of those water rights out of the Idaho Water Supply Bank for 2020. These water rights allowed acres are overlapping and are not additive.

I am attaching to this email an amended Rental Application page 4.

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

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

From: Dalglish, Alex [mailto:Alex.Dalglish@idwr.idaho.gov]
Sent: Friday, May 08, 2020 4:15 PM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: RE: Holbrook Farm LLC Lease/CSS Potato Rental

Greg,

I believe this is the same shapefile you sent to me and Scott a number of weeks ago. He processed a separate lease from Holbrook Farms LLC for 125 acres from rights 17-2052 and 17-7063.

As the shapefile is now, it totals roughly 657.5 acres. If I subtract the 125 acres leased in by rights 17-2052 and 17-7063, I'm left with approximately 532 acres under rights 17-2028, 17-2030, 17-2045 and 17-7007. Regardless if the leased acres are 359.4 or 503.4, I'd prefer that the following be provided; an accurate shapefile of 503.4/359.4 acres depending on the decided amount and/or a list of the QQ's representing which acres will be leased in from rights 17-2028, 17-2030, 17-2045 and 17-7007. Lease applications are required to include a map that clearly defines the acres to be idled under each right. The map attached to lease application 17-2030 does not plainly define the leased acres in each QQ.

Alex Dalglish
Water Resource Agent
Phone (208) 287-4913
alex.dalglish@idwr.idaho.gov

From: Greg Sullivan [<mailto:greg.sullivan@brockwayeng.com>]
Sent: Friday, May 8, 2020 3:31 PM
To: Dalgleish, Alex <Alex.Dalgleish@idwr.idaho.gov>
Subject: RE: Holbrook Farm LLC Lease/CSS Potato Rental

Alex,

See the attached 2020 Lease Acres shape file. I am looking into the other issues.

Greg

From: Dalgleish, Alex [<mailto:Alex.Dalgleish@idwr.idaho.gov>]
Sent: Friday, May 08, 2020 2:53 PM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: Holbrook Farm LLC Lease/CSS Potato Rental

Greg,

I have run into a discrepancy with the lease applications from Holbrook Farm, LLC. The cover letter for the applications states that Holbrook desires to lease in 359.4 acres from rights 17-7007, 17-2028, 17-2030 and 17-2045. However, the individual amounts proposed for lease on the applications add up to 503.4 acres. I've attached the cover letter and lease applications for reference.

The table below summarizes the amounts to be leased in as proposed from the individual lease applications:

Right	Rate	Volume	Acres
17-2028	0.87	315	115.1
17-2030	0.61	117.6	33.6
17-2045	1.18	183	112.5
17-7007	2.34	642.2	242.2
Totals	5	1257.8	503.4

Can you please clarify the amounts to be leased into the Bank for 2020 for each right? Also, can you provide an accurate shapefile that represents the leased acres, or provide a list of the acreages in each QQ that will remain unused for each right. The shapefile you previously sent for the leased acres of rights 17-2028, 17-2030, 17-2045 and 17-7007 totaled approximately 530.9 acres, not the potential 503.4 acres or 359.4 acres. I've attached a screen shot for reference showing the selected leased POU and total acres by QQ.

Thank you,

Alex Dalgleish
Water Resource Agent
Phone (208) 287-4913
alex.dalgleish@idwr.idaho.gov



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED
MAR 10 2020
DEPARTMENT OF
WATER RESOURCES

March 4, 2020

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

Re: Holbrook Farm, LLC Lease Application

Dear Mr. Buyer:

Holbrook Farm, LLC desires to lease 359.4 acres of 17-7007, 17-2028, 17-2030 and 17-2045 in 2020 into the Idaho Water Supply Bank.

The 359.4 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 2020 irrigation season.

Please copy our office on all correspondence regarding this applications.

Sincerely,

Greg Sullivan, M.S., Engineer

CHARLES E.
BROCKWAY,
PH.D., P.E.

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

Cc: Trent Munden, Mark Grassel

Enc: Aerial Maps, Grant of Authority, Annual Report, Brockway Engineering Check
15796 for \$500.00

2016 NORTH
WASHINGTON
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IDAHO 83301

208•736•8543

FAX: 736•8506

1665