

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1168

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

LESSOR: EAGLE CREEK NORTHWEST LLC
C/O UBS FARMLAND INVESTORS LLC
PO BOX 53
NAMPA, ID 83653-0053

RECEIVED
MAY 06 2020
DEPARTMENT 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 January 16, 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) |
|---------------------|---------------|--------------|----------------------|-----------------------|------------|
| 43-2489 | 2/11/1960 | GROUND WATER | 3.46 | 724 | 181 |
| Lease Totals | | | 3.46 | 724 | 181 |

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) |
|---------------------|----------------------|-----------------------|----------------------|------------------------|-------------------------|
| 43-2489 | 3.46 | 724 | 181 | 0.02 | 4.0 |
| Limit Totals | 3.39 | 720 | 181 | 0.02 | 4.0 |

** The water right elements rentable have been reduced from the water right elements leased to account for the combined rate and volume per acre limits of water rights shared with the rentals.*

WATER SUPPLY BANK LEASE CONTRACT No. 1168

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

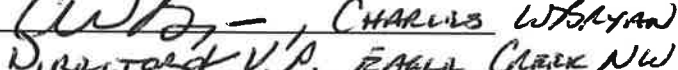
3. **TERM OF LEASE:** The term of this lease shall be January 1, 2020 to December 31, 2020. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
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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DEPARTMENT OF WATER RESOURCES

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

LESSOR: EAGLE CREEK NORTHWEST LLC
C/O UBS FARMLAND INVESTORS
LLC
JAMES MC CANDLESS
PO BOX 53
NAMPA, ID 83653-0053

By  CHARLES WHELAN
Title DIRECTOR V.P. EAGLE CREEK NW LLC
Date 5/4/20

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 06/16/20

Lease approved by IDWR 

Date 06/16/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1168

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 43-2489

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

| Water Right | Beneficial Use | Season of Use | | | Diversion Rate (CFS) | Volume (AF) |
|----------------|----------------|---------------|----|-------|----------------------|-------------|
| | | From | | To | | |
| 43-2489 | IRRIGATION | 03/15 | to | 11/15 | 3.46 cfs | 724 AF |
| Totals: | | | | | 3.46 cfs | 724 AF |

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

| Twp | Rng | Sec | NE | | | | NW | | | | SW | | | | SE | | | | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 10S | 27E | 31 | | | | | | | | | | | | | | 18 | 31 | 7 | 56 |
| 11S | 27E | 8 | | | | | | | | | 32 | 31 | 30 | 32 | | | | | 125 |

Total Acres: 181

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.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1168

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 4.0 afa per acre at the field headgate for irrigation of the lands above.
13. Use of water under this right will 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. 143.
14. The unleased portion of right 43-2489 is limited to the irrigation of 5.44 cfs, 1,136 af and 284 acres.
15. Rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2489, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, and 43-13603 when combined shall not exceed a total diversion rate of 67.9 cfs, a total annual maximum diversion volume of 15,700 af at the field headgate, and the irrigation of 3947.8 acres.
16. Rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2489, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, 43-13578, 43-13603, and 43-13604 when combined shall not exceed a total diversion rate of 69.8 cfs, a total annual maximum diversion volume of 16,300 af at the field headgate, and the irrigation of 4,111.8 acres.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

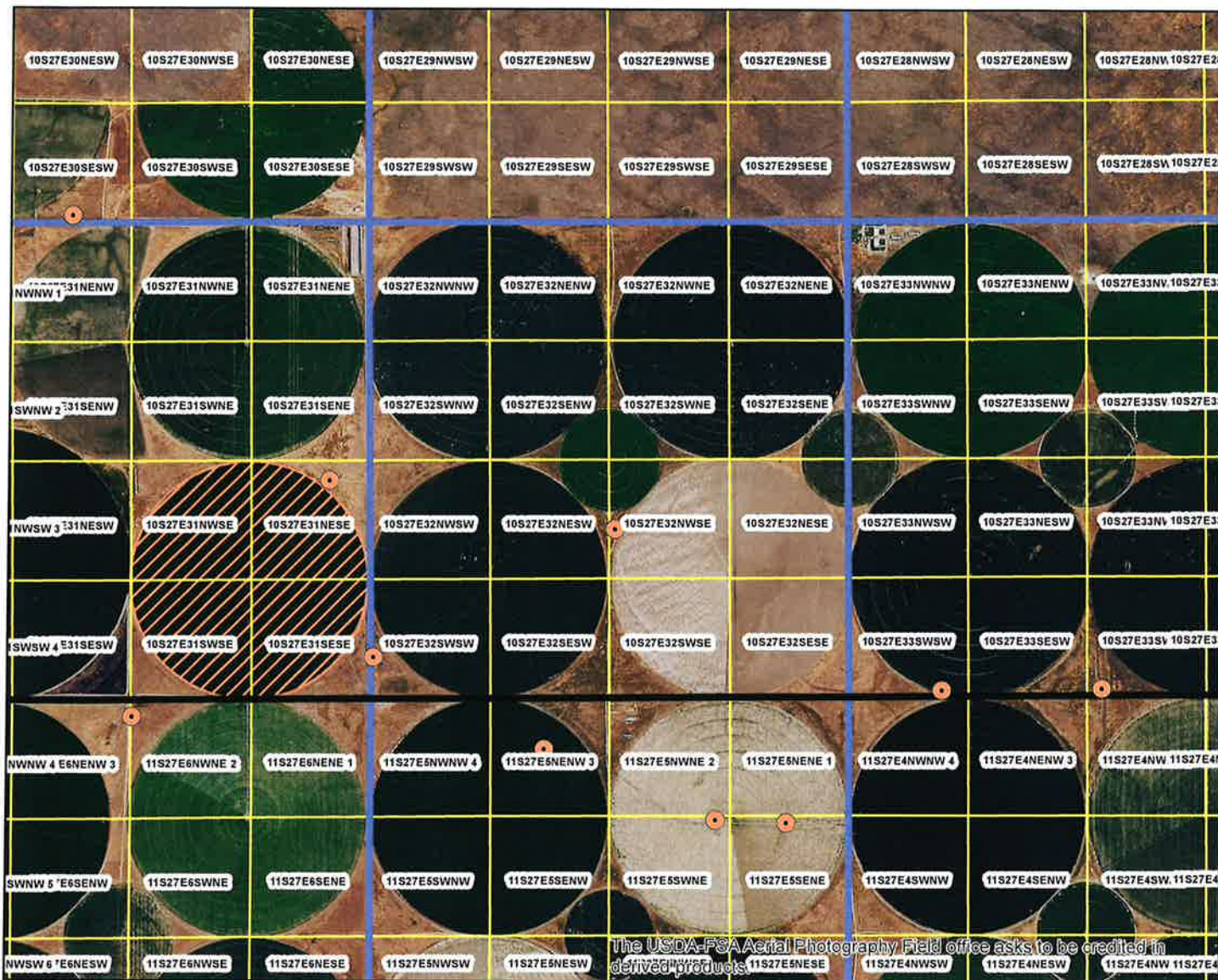
WATER SUPPLY BANK LEASE CONTRACT No. 1168

17. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
18. 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.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1168

43-2489
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.



● Approved Lease Point of Diversion

▨ Approved Lease Place of Use

▭ Township/Range

▭ Sections

▭ QQ



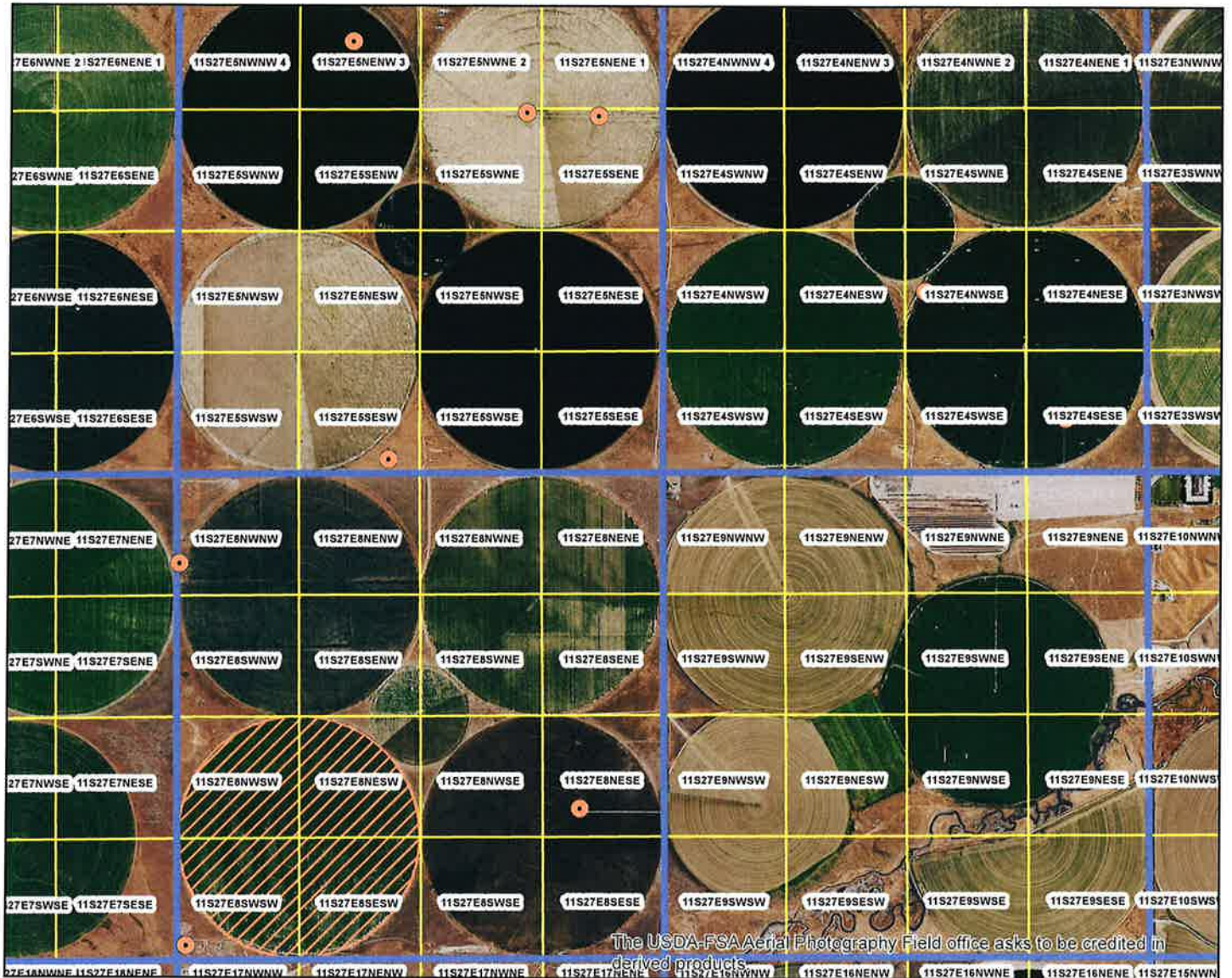
0 0.2 0.4 0.8 Miles






Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1168

43-2489

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.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ



0 0.2 0.4 0.8 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 16 2020

DEPARTMENT OF
WATER RESOURCES

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

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

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

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

Yes ☒ No ☐

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | <input type="checkbox"/> | <input checked="" 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>250.00</u> | Received By: <u>KM</u> | Date Received: <u>1-16-2020</u> | Receipt # <u>C108234</u> |
| W-9 received? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | (Route W-9 to Fiscal) | Name on W-9: <u>Agrivest Farmland Fund Inc</u> | |

1618

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Eagle Creek Northwest LLC C/O UBS Agrivest LLC

Mailing Address PO BOX 53 NAMPA, ID 83653

Street

City

State

Zip Code

Email Address _____

Phone Number 2084660419

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

OR

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

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

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

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

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

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

Phone Number 208-736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.
Existing wells, mainlines and delivery system.

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

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. A full volume of water right has been diverted to these pivot to grow a productive crop for the last 5 years.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?

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.
The current water right owner and the proposed renter have entered into an annual payment agreement. The 10% processing fee will be paid to IDWR. No payment will be made to the water right owner through IDWR.

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

The Designated Applicant acknowledges the following:

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

 VP
Signature of Designated Applicant

Charles W. Bryan
Printed Name

1/9/20
Date

Signature of Authorized Representative

Printed Name

Date

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

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MAR 10 2020

Form 42-1761-1 10/15

DEPT OF WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

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

ATTACHMENT 2

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

| 1. <u>Water Right Number</u> | <u>Nature of Use</u> | <u>Leased Rate</u> (cfs) | <u>Leased Volume</u> (af) | <u>Leased Acres</u> (ac) |
|------------------------------|----------------------|-----------------------------|------------------------------|-----------------------------|
| 43-2489 | Irrigation | 3.46 | 724.0 | 181.0 |
| | | | | |
| | | | | |
| | | | | |
| Total Amounts: | | 3.46 | 724.0 | 181.0 |

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

| Twp | Rge | Sec | Lot | ¼ | ¼ | ¼ | County |
|---------------|-----|-----|-----|---|---|---|--------|
| See Exhibit A | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
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AMENDED

**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> | Nature of Use | Leased Rate (cfs) | Leased Volume (af) | Leased Acres (ac) |
|------------------------------|----------------|----------------------|-----------------------|----------------------|
| 43-2489 | Irrigation | 4.78 | 1000 | 250.0 |
| | | | | |
| | | | | |
| | | | | |
| | Total Amounts: | 4.78 | 1000 | 250.0 |

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

| Twp | Rge | Sec | Lot | ¼ | ¼ | ¼ | County |
|---------------|-----|-----|-----|---|---|---|--------|
| See Exhibit A | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Exhibit A

Cassia Creek Farm

| | | |
|--------|-------------------------|---------------|
| POD 1 | 10S 27E Sec.30 SESW | Cassia County |
| POD 2 | 10S 27E Sec.31 NESE | Cassia County |
| POD 3 | 10S 27E Sec.32 SWSW | Cassia County |
| POD 4 | 10S 27E Sec. 32 NWSE | Cassia County |
| POD 5 | 10S 27E Sec.33 SWSW | Cassia County |
| POD 6 | 10S 27E Sec.33 SWSE | Cassia County |
| POD 7 | 11S 26E Sec. 1 SENE | Cassia County |
| POD 8 | 11S 26E Sec. 1 NWSW | Cassia County |
| POD 9 | 11S 26E Sec. 1 SESW | Cassia County |
| POD 10 | 11S 26E Sec. 1 NESE | Cassia County |
| POD 11 | 11S 26E Sec. 12 SENW | Cassia County |
| POD 12 | 11S 27E Sec. 04 NWSE | Cassia County |
| POD 13 | 11S 27E Sec.04 SESE | Cassia County |
| POD 14 | 11S 27E Sec. 05 SWNE | Cassia County |
| POD 15 | 11S 27E Sec. 05 SENE | Cassia County |
| POD 16 | 11S 27E Sec. 5 NENW Lt3 | Cassia County |
| POD 17 | 11S 27E Sec. 5 SESW | Cassia County |
| POD 18 | 11S 27E Sec. 6 NWNE Lt2 | Cassia County |
| POD 19 | 11S 27E Sec. 8 NWNW | Cassia County |
| POD 20 | 11S 27E Sec. 8 SWSW | Cassia County |
| POD 21 | 11S 27E Sec. 8 NESE | Cassia County |

Eagle Creek Northwest LLC

Resolution

January 2, 2018

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

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

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

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

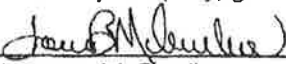
RESOLVED: Pursuant to Article III of the Company's Operating Agreement, any of the above officers shall be an "Authorized Person" to execute, deliver and file any documents or certificates on behalf of the Company.

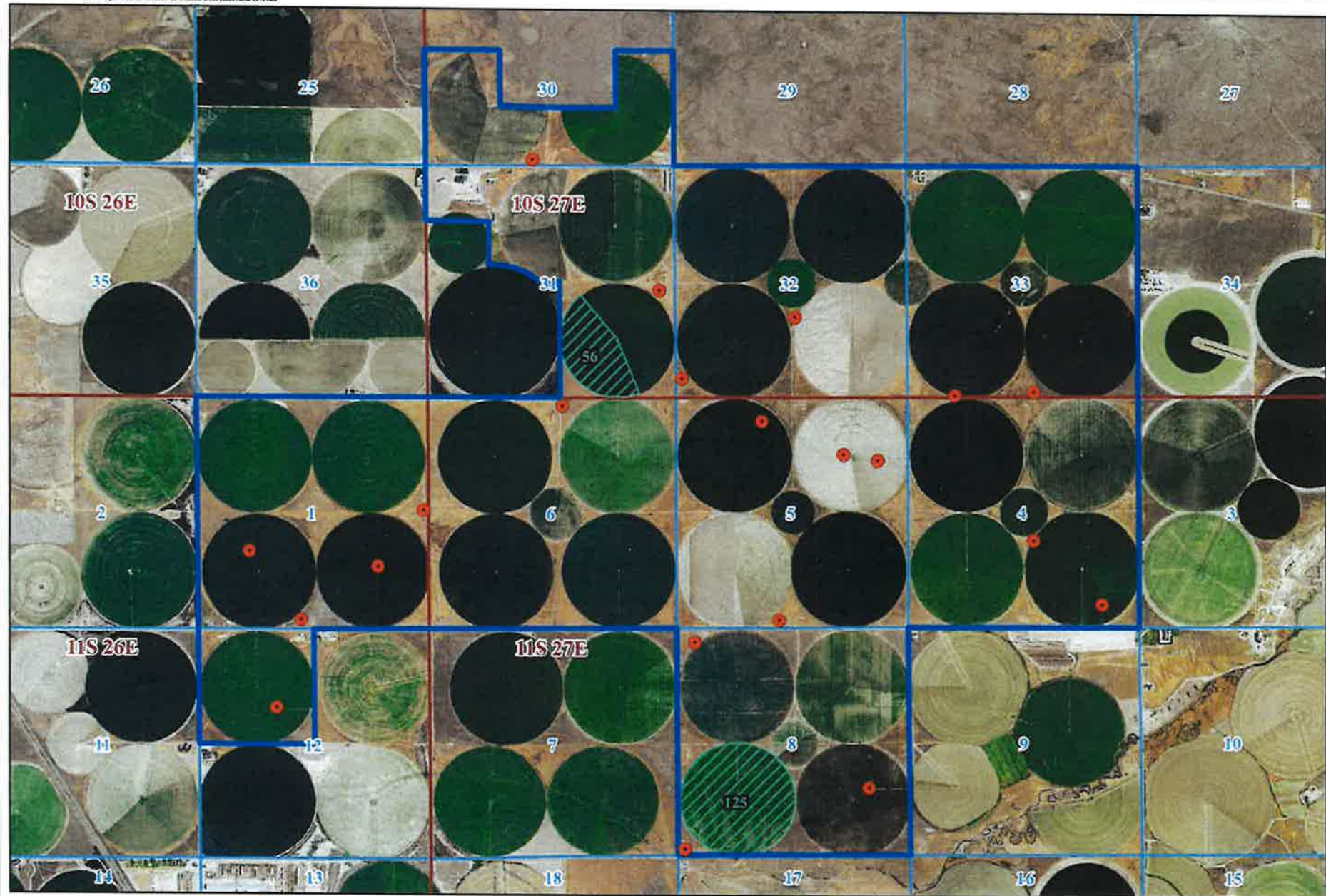
RESOLVED: To direct that this Resolution be filed with the records of meetings of the Company.

EXECUTED as of this date set forth above.

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

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

By: 
James B. McCandless
President



0 0.25 0.5 1 Miles

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 3/6/2020

AMENDED

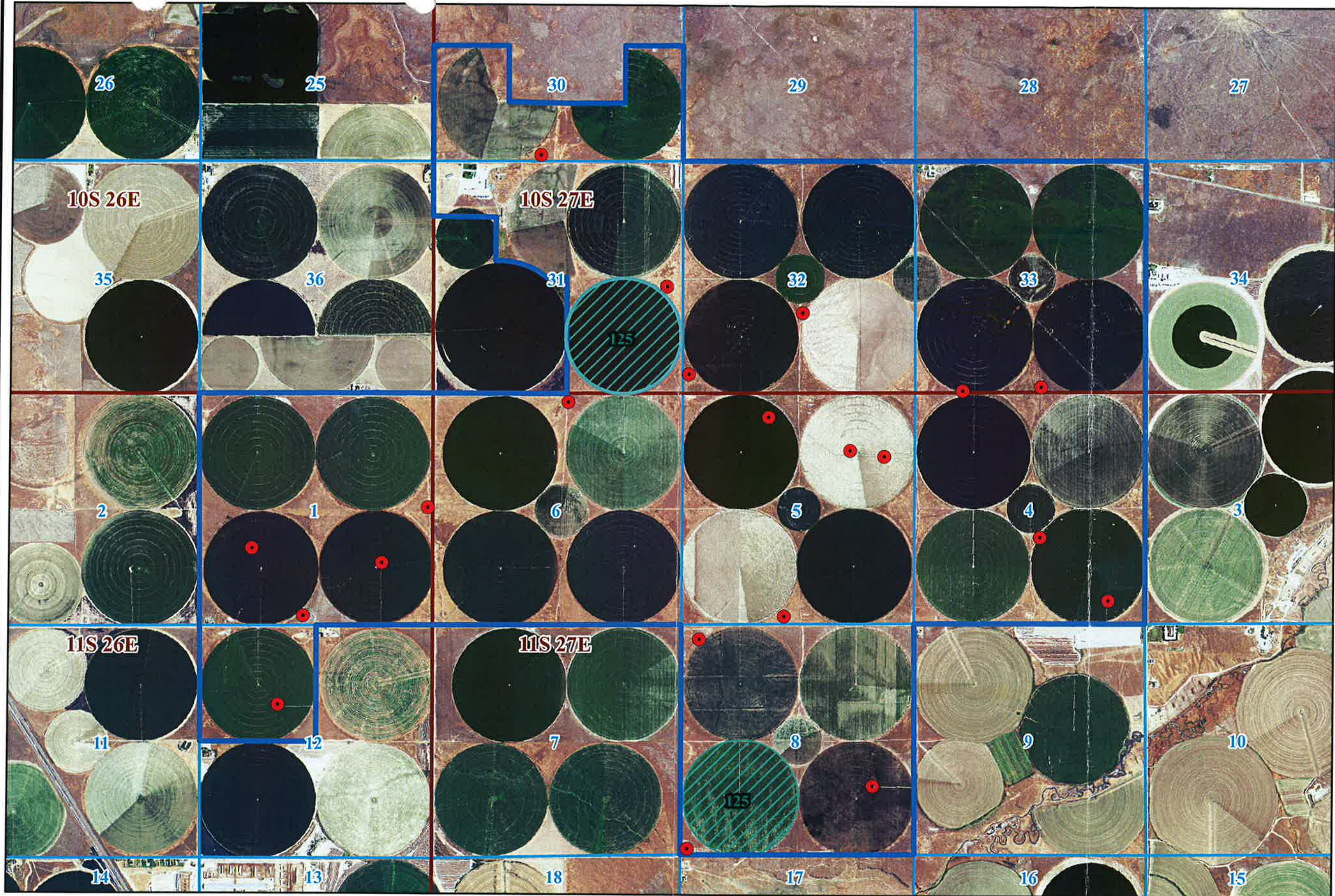
**Eagle Creek Northwest LLC
C/O UBS Agrivest LLC**

2020 LEASE ACRES
NAIP 2017 AERIAL

Legend

- CASSIA CRK PPU
- Cassia Creek Lease

N
↑





0 0.225 0.45 0.9 Miles

Eagle Creek Northwest LLC
C/O UBS Agrivest LLC

2020 LEASE ACRES
NAIP 2017 AERIAL

Legend

-  CASSIA CRK PPU
-  Cassia Creek Lease





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

June 17, 2020

EAGLE CREEK NORTHWEST
C/O USB FARMLAND INVESTORS LLC
PO BOX 53
NAMPA, ID 83653-0053

**RE: WATER SUPPLY BANK LEASE CONTRACT 1168
FOR WATER RIGHTS 43-2489**

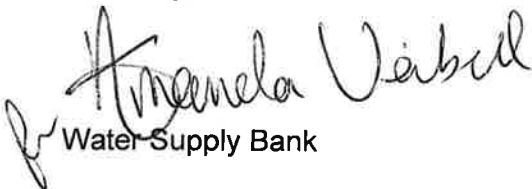
Dear Lessor:

Water rights **43-2489** was 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,



Amanda Verbeil
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- SOUTHERN REGION
WATER DISTRICT NO. 143
GREG SULLIVAN – BROCKWAY ENGINEERING



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 23, 2020

EAGLE CREEK NORTHWEST LLC
C/O USB FARMLAND INVESTORS LLC
PO BOX 53
NAMPA ID 83653-0053

RECEIVED
MAY 06 2020
DEPARTMENT OF
WATER RESOURCES

**RE: APPLICATION TO LEASE WATER RIGHT 43-2489 TO THE WATER SUPPLY BANK
CONTRACT 1168**

******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,



for Water Supply Bank

Enclosures: Proposed Lease Contracts



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

April 23, 2020

EAGLE CREEK NORTHWEST LLC
C/O USB FARMLAND INVESTORS LLC
PO BOX 53
NAMPA ID 83653-0053

**RE: APPLICATION TO LEASE WATER RIGHT 43-2489 TO THE WATER SUPPLY BANK
CONTRACT 1168**

******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.

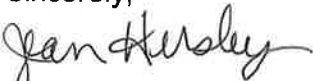
The right will automatically be released from the Bank on **December 31, 2020**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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,



for Water Supply Bank

Enclosures: Proposed Lease Contracts

c. Greg Sullivan- Brockway Engineering PLLC

MEMORANDUM FOR APPLICATION # 1618, 1621, 1622

To: Water Right(s) 43-2489

From: Alex Dalglish

Date: 4/13/2020

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

PURPOSE/NARRATIVE: On January 16, 2020, the Department received a companion lease/rental package. The lease application was submitted by Eagle Creek Northwest LLC C/O UBS Agrivest LLC (ECNW). A portion of water right 43-2489 is proposed to be leased into the Water Supply Bank (Bank) for the 2020 irrigation season. The lease application originally requested to lease in 4.78 acres, 1000 af and 250.0 acres into the Bank. On 3/10/20, an amendment was received to decrease the lease amounts to 3.46 cfs, 724.0 AF and 181.0 acres. It is unclear why ECNW decided to lease a smaller portion of their water right to the Bank.

Two rental applications were submitted with the lease application. Rental application # 1621, from ADT Farms LLC (ADT), originally requested to rent 2.39 cfs, 500 af and 125.0 acres. Rental application # 1622, from ADTD Farms LLC (ADTD), requested to rent the remaining and equal amount of 2.39 cfs, 500 af and 125.0 acres. Amendments to the rental applications were also received with the lease amendment on 3/10/20. ADT updated their request to rent 0.21 cfs, 44 AF and 11.0 acres and ADTD changed their rental request to use 3.25 cfs, 680 AF and 170 acres from 43-2489. Each rental application is for the 2020 year, with a desired start date of April 1, 2020 and latest start of July 1, 2020.

This lease/rental package between ECNW, ADT and ADTD is a renewal from 2019. However, this lease proposes to lease in acres from different pivot locations. The rental places of use (POU's) are also at different locations. The lease/rental requests propose to use the same wells as in 2019.

The locations of the rental points of diversion (POD's) were not included with the ADTD rental application. I requested the POD descriptions from Mr. Sullivan on 2/21/2020 via email. He did not respond, so I called him on 3/5/20. He informed me that that rental POD's are the same as in 2019. I printed off the list of 19 proposed rentals from ADTD's 2019 rental application and will attach it to their 2020 application.

The address on the rental application from ADTD does not match the address on record with the Department. I contacted Todd Gerratt on 3/19/20 to check that the address on file at 2500 Overland Ave Burley, ID 83318 was correct. He confirmed that the address on file with the Department is correct, not the one listed on the rental application.

A contract of agreement was included with the rental applications stipulating that ADTD farms and ADT Farms have a farm lease agreement with ECNW pertaining to the property, water rights and distribution systems pertaining to right 43-2471. This right shares the POD and POU with leased right 43-2489. Part of the agreement states that ADTD and ADT will only pay the 10% processing rental fee and the other 90% of rental fees for 2020 have been paid in full

AUTHORITY TO FILE: Greg Sullivan of Brockway Engineering is listed as the consultant for the lease and rental applicants. The lease application was signed by Charles Bryan. A resolution was included with the lease application approving of various persons to execute or deliver documents on behalf of ECNW. On the resolution, Charles Bryan is listed as the Vice President

of ECNW. A search of the ISOS website shows the ECNW is an active business in the State of Idaho. ECNW is also the current owner of water right 43-2489.

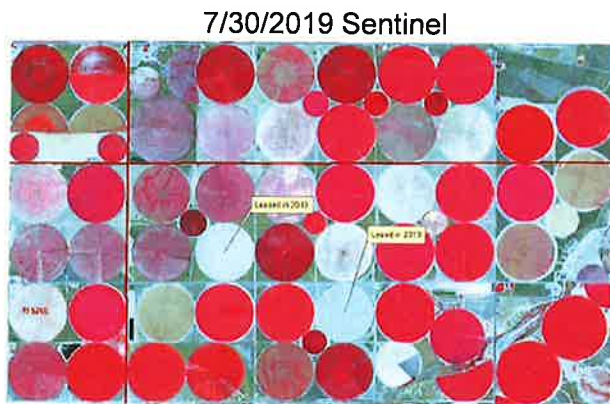
According to Department records, the 181.0 acres proposed for lease are owned by ECNW. 125 of the 181.0 acres are located in the SW Q of Sec. 8, T10S, R27E. The other 56 acres are in the NWSE, SWSE and SESE QQ's of Sec. 31, T11S, R27E.

Both rental applications submitted from ADT and ADTD were signed by Todd Gerratt. On the ISOS website, he is listed as a member and is also a registered agent for both LLC's. Department records show that ADT does not own the land at the requested rental POU. Rather, John B. Spratling owns the land. An agreement between ADT and Mr. Spratling was included with the application authorizing ADT to fully manage the wells and irrigation system associated with the pivot at the rental POU. There are no concerns with the authority to file.

WATER RIGHT VALIDITY: Water right 43-2489 was decreed in the SRBA on 5/4/2004.

Transfer # 74518 was approved in early 2009 to change the POU and add POD's. Then in May of 2014, transfer # 79229 was approved to change the POU in order to include 640 acres from Section 5 Range 27E Township 11S and exclude 455 acres from Section 6 and 640 acres from Section 8, same Township and Range.

250.0 acres of right 34-2489 were leased into the Bank in 2019. 125.0 of the acres were in the SE Q of Sec. 6, T11S, R27E and the other 125.0 acres were in the NE Q of Sec. 8, T11S, R27E. Looking at 2019 sentinel imagery, the leased acres were not irrigated.



According to the lease application, the original 250.0 acres proposed for lease in 2020 have been dried up over the past several years. Additionally, the farm manager has planted and irrigated the 250.0 acres late in the 2019 irrigation season. The acres are intended to be dry land farmed in 2020 and a crop will be harvested from those 250.0 acres. There are no issues with the validity of water right 43-2489.

INJURY TO OTHER WATER RIGHTS: Right 43-2489 is used for irrigation and the rentals from ADT and ADTD propose to continue the irrigation use. The location of the proposed leased acres and rental locations are outside the Southern boundary of the ESPA. Both the lease and rental locations are within the Raft River Groundwater District and subject to Water District 143 (Raft River Basin).

The lease and rental POD's are all within close proximity to one another. Additionally, there are no records or documentation that injury occurred in 2019 through a similar lease/rental request. No injury is apparent through the lease or rental.

ENLARGEMENT OF USE:

Lease

Leased water right 43-2489 has separate combined limits with 16 water rights and 18 water rights that share the POU/POD's. In order to avoid enlargement of the unleased water rights and the remaining unleased portions of right 43-2489, conditions will be added to the lease contract such that the combined limits of the associated rights are preserved. The tables below also summarize the remaining combined limits of the 16 and 18 stacked water rights after the proposed lease amounts of right 43-2489 are withheld.

| Basin | Sequence | Priority | Date | Diversion | F Total Acres | Acres Limit | Volume | rate/ acre | volume/ acr |
|------------------|----------|-------------|------|-----------|---------------|-------------|----------|------------|-------------|
| 43 | 2471 | 7/7/ 1959 | | 6.000 | 5,456.5 | 360.0 | 1,440.0 | 0.02 | 4 |
| 43 | 2472 | 7/7/ 1959 | | 7.000 | 5,456.5 | 360.0 | 1,440.0 | 0.02 | 4 |
| 43 | 2475 | 7/7/ 1959 | | 8.500 | 5,456.5 | 455.0 | 1,820.0 | 0.02 | 4 |
| 43 | 2488 | 2/11/ 1960 | | 5.600 | 5,456.5 | 300.0 | 1,200.0 | 0.02 | 4 |
| 43 | 2489 | 2/11/ 1960 | | 8.900 | 5,456.5 | 465.0 | 1,860.0 | 0.02 | 4 |
| 43 | 2504 | 10/24/ 1961 | | 6.400 | 5,456.5 | 380.0 | 1,520.0 | 0.02 | 4 |
| 43 | 2505 | 10/24/ 1961 | | 6.400 | 5,456.5 | 370.0 | 1,480.0 | 0.02 | 4 |
| 43 | 2516 | 3/21/ 1961 | | 0.600 | 5,456.5 | 30.0 | 120.0 | 0.02 | 4 |
| 43 | 2517 | 3/21/ 1961 | | 3.000 | 5,456.5 | 150.0 | 525.0 | 0.02 | 3.5 |
| 43 | 2519 | 3/28/ 1961 | | 4.200 | 5,456.5 | 304.0 | 1,216.0 | 0.01 | 4 |
| 43 | 2575 | 5/20/ 1964 | | 6.080 | 5,456.5 | 612.0 | 2,448.0 | 0.01 | 4 |
| 43 | 4199 | 3/15/ 1962 | | 2.160 | 5,456.5 | 108.0 | 432.0 | 0.02 | 4 |
| 43 | 13351 | 3/10/ 1975 | | 0.390 | 5,456.5 | 19.5 | 67.4 | 0.02 | 3.5 |
| 43 | 13352 | 3/10/ 1975 | | 0.370 | 5,456.5 | 18.3 | 63.2 | 0.02 | 3.5 |
| 43 | 13577 | 9/4/ 1963 | | 4.080 | 5,456.5 | 968.0 | 1,987.9 | 0.00 | 2.1 |
| 43 | 13578 | 9/4/ 1963 | | 0.170 | 5,456.5 | 40.0 | 82.1 | 0.00 | 2.1 |
| 43 | 13603 | 7/7/ 1959 | | 3.860 | 5,456.5 | 276.0 | 1,104.0 | 0.01 | 4 |
| 43 | 13604 | 7/7/ 1959 | | 1.740 | 5,456.5 | 124.0 | 496.0 | 0.01 | 4 |
| Totals | | | | 75.450 | 5,456.5 | 5,339.8 | 19,301.6 | 0.01 | 3.6 |
| Combined Limits | | | | 73.290 | | 4,292.8 | 16,997.7 | 0.02 | 4.0 |
| leased | | | | 3.46 | 181.0 | | 724.0 | 0.02 | 4.0 |
| Remaining limits | | | | 69.8 | 4,111.8 | | 16,273.7 | 0.02 | 4.0 |

| Basin | Sequence | Priority | Date | Rate | Total Acres | Acres Limit | Volume | rate/ acre | volume/ acr |
|------------------|----------|-------------|------|--------|-------------|-------------|----------|------------|-------------|
| 43 | 2471 | 7/7/ 1959 | | 6.00 | 1440.00 | 360.00 | 5456.5 | 0.0011 | 4.00 |
| 43 | 2472 | 7/7/ 1959 | | 7.00 | 1440.00 | 360.00 | 5456.5 | 0.0013 | 4.00 |
| 43 | 2475 | 7/7/ 1959 | | 8.50 | 1820.00 | 455.00 | 5456.5 | 0.0016 | 4.00 |
| 43 | 2488 | 2/11/ 1960 | | 5.60 | 1200.00 | 300.00 | 5456.5 | 0.0010 | 4.00 |
| 43 | 2489 | 2/11/ 1960 | | 8.90 | 1860.00 | 465.00 | 5456.5 | 0.0016 | 4.00 |
| 43 | 2504 | 10/24/ 1961 | | 6.40 | 1520.00 | 380.00 | 5456.5 | 0.0012 | 4.00 |
| 43 | 2505 | 10/24/ 1961 | | 6.40 | 1480.00 | 370.00 | 5456.5 | 0.0012 | 4.00 |
| 43 | 2516 | 3/21/ 1961 | | 0.60 | 120.00 | 30.00 | 5456.5 | 0.0001 | 4.00 |
| 43 | 2517 | 3/21/ 1961 | | 3.00 | 525.00 | 150.00 | 5456.5 | 0.0005 | 3.50 |
| 43 | 2519 | 3/28/ 1961 | | 4.20 | 1216.00 | 304.00 | 5456.5 | 0.0008 | 4.00 |
| 43 | 2575 | 5/20/ 1964 | | 6.08 | 2448.00 | 612.00 | 5456.5 | 0.0011 | 4.00 |
| 43 | 4199 | 3/15/ 1962 | | 2.16 | 432.00 | 108.00 | 5456.5 | 0.0004 | 4.00 |
| 43 | 13351 | 3/10/ 1975 | | 0.39 | 67.40 | 19.50 | 5456.5 | 0.0001 | 3.46 |
| 43 | 13352 | 3/10/ 1975 | | 0.37 | 63.20 | 18.30 | 5456.5 | 0.0001 | 3.45 |
| 43 | 13577 | 9/4/ 1963 | | 4.08 | 1987.90 | 968.00 | 5456.5 | 0.0007 | 2.05 |
| 43 | 13603 | 7/7/ 1959 | | 3.86 | 1104.00 | 276.00 | 5456.5 | 0.0007 | 4.00 |
| Totals | | | | 73.540 | | 5,175.800 | 5,456.5 | | |
| Limits | | | | 71.380 | 4,128.8 | | 16,419.6 | | |
| Leased | | | | 3.460 | 181.0 | 724.0 | | 0.02 | 4.0 |
| Remaining Limits | | | | 67.9 | 3,947.8 | | 15,695.6 | 0.02 | 4.0 |

Since the combined limit for all rights is an actual limit and not additive, ECNW must reduce the use of the remaining water rights. ECNW proposes to lease 181 acres into the bank. In order for these acres to be rentable without an enlargement of the other rights the combined limits must be reduced by 3.46 cfs, 724 af, and 181 acres. As long as water used under 43-2489 and the other water rights in the condition is reduced enlargement should be avoided. Adding conditions to the lease, clarifying the remaining limits of the unleased portions of 43-2489 as well as the remaining water rights, should help prevent enlargement. Since all the rights in the limiting

condition are owned by the same company we can be reasonably assured they will not divert and use more water than the reduced maximum amounts listed in the conditions of the lease.

Rentals

ADT Farms LLC requests to divert 0.21 cfs and 44.0 AF for use on 11 acres. To avoid enlargement and remain consistent with the rate and volume per acre limitations of the water rights that authorize irrigation at the requested rental POU (43-13714, 43-13715, 43-13716, 43-13717, 43-13718, and 43-13719), the rental rate and volume authorized for use will be reduced to 0.14 cfs and 40 AF. The limitations are necessary to remain consistent with the limitations of the water rights that exist at the POU.

Another consideration for the ADT rental is that requested 11 acres to be irrigated at the pivot can be fully covered by rights 43-13715, 43-13716, 43-13718 and 43-13719. The rental application states that the rented water will be used to irrigate acres that would not be irrigated otherwise. Rights 43-13718 and 43-13719 are expansion water rights that were curtailed in 2019. Furthermore, the 4 water rights at the rental POU are limited to a total of 1,306 acres of irrigation. Reviewing 2019 sentinel imagery, it is evident that not all the authorized acres were irrigated. It is reasonable for ADT to request the rental of water on the pivot.

ADTD Farms LLC requests to rent 3.25 cfs and 680 AF for use on 170.0 acres. There are 36 water rights that overlap at the proposed rental POU, those rights are limited to 47.14 cfs, 10,527.2 AF and 3000.7 acres which equates to 0.02 cfs/acre and 4.0 AF/acre. The requested rate and volume for the ADTD rental also equate to the same rate and volume per acre. The rental request proposes to use the leased water on a majority of acres that are irrigated by other water rights. Based on 2019 Sentinel imagery, not all the acres at the POU were irrigated last year and some of those rights are expansion acres that were curtailed in 2019. Therefore, it is practical for ADTD to request additional water to irrigate acres where water rights already provide irrigation. There are no concerns of enlargement.

LOCAL PUBLIC INTEREST: There are no current protested applications in the lease or rental area. Review staff has no information to suggest this application is inconsistent with the local public interest.

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The lease and rental are subject to Water District #143. Lease comments were requested from Water District #143 watermaster Nathan Erickson and IDWR Southern Regional staff on 3/4/2020. No response was received within 7 days so it was presumed there were no concerns with the lease. Comments were requested regarding the rentals on 3/19/20. Both the watermaster and region responded with no concerns of the rentals.

Dalgleish, Alex

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Tuesday, March 10, 2020 4:25 PM
To: Dalgleish, Alex
Cc: tgidagoldfarms@gmail.com; Erickson, Nathan
Subject: RE: ADT FARMS LLC 2020 Rental
Attachments: PPU Rental Acres 2020.jpg

Alex,

I apologize but I found an error in the lease map that I sent you earlier today for the 170.0 acre rental. The small portion of the rental in Section 31 needed to be 8.0 acres. I have the right numbers on the amended pages I gave you earlier today for the rental but somehow I got my acres on the map mixed up.

ADTD FARMS LLC is renting the entire farm which is documented by the Contract of Agreement that was submitted with the Lease/Rental package. Is the Contract of Agreement sufficient to allow ADTD to pump rented water out of their wells and irrigate ground on Eagle Creek's property?

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: Greg Sullivan [mailto:greg.sullivan@brockwayeng.com]
Sent: Tuesday, March 10, 2020 11:26 AM
To: 'Dalgleish, Alex' <Alex.Dalgleish@idwr.idaho.gov>
Cc: 'tgidagoldfarms@gmail.com' <tgidagoldfarms@gmail.com>
Subject: RE: ADT FARMS LLC 2020 Rental

Alex,

See the attached documents.

We would like to reduce the lease amount to 181.0 acres for 2020.

Change the 1st rental amount to 170.0 acres.

Change the 2nd rental amount to 11.0 acres.

When you are ready and if you want them, I can send you the shape files for the lease and rentals.

Thank you for your patients on this one.

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: Dagleish, Alex [<mailto:Alex.Dagleish@idwr.idaho.gov>]
Sent: Monday, March 09, 2020 4:19 PM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: RE: ADT FARMS LLC 2020 Rental

Ok I'll wait until further notice to continue processing the applications.

From: Greg Sullivan [<mailto:greg.sullivan@brockwayeng.com>]
Sent: Monday, March 9, 2020 2:30 PM
To: Dagleish, Alex <Alex.Dagleish@idwr.idaho.gov>
Subject: RE: ADT FARMS LLC 2020 Rental

Alex,

I have made the updated changes to the lease and rentals applications but I am waiting for final approval from the Client.

I will send it to you before the end of the day.

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: Dagleish, Alex [<mailto:Alex.Dagleish@idwr.idaho.gov>]
Sent: Friday, February 21, 2020 9:52 AM
To: Greg Sullivan <greg.sullivan@brockwayeng.com>
Subject: ADT FARMS LLC 2020 Rental

Good Morning Greg,

I am processing the 2020 lease and rental packages between Eagle Creek Northwest LLC/ ADT and ADTD Farms LLC. Additional information is needed to fully process the rental requests.

I processed a similar lease/rental for the 2019 irrigation season. During the 2019 review, I came across a discrepancy in the ownership of the land at the requested rental place of use (POU) for the ADT rental. I have found the same issue with the lease/rental proposal for 2020. According to Department records, the rental POU for ADT is owned by John B. Spratling. No agreement was included with the 2020 rental between ADT and Mr. Spratling.

Can you please provide an agreement or easement that authorizes ADT to irrigate with the rented acres on Mr. Spratling's property.

Also, more information is needed regarding the rental application from ADTD Farms LLC. The point of diversion (POD) description on the application lists "See Exhibit A" but no "Exhibit A" attachment was included with the rental application. Please provide the POD descriptions/locations for the ADTD rental.

Thank you,

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

Dalgleish, Alex

From: Dalgleish, Alex
Sent: Wednesday, March 4, 2020 2:02 PM
To: Erickson, Nathan; Skinner, Corey
Subject: 2020 Partial Lease of 43-2489
Attachments: Lease Map.pdf; Lease Application # 1618 WR 43-2489.pdf; Companion Package Review Memo ECNW 43-2489.docx; CL Overlap Analysis.xls

Nathan and Corey,

Please provide any comments/concerns you may have with the proposed lease within 7 days. This lease application was submitted as a companion package with two rental requests. I am currently waiting on additional information necessary to process the rentals.

Thanks,

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



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Hydraulics

Hydrology

Water Resources

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JAN 16 2020

DEPARTMENT OF
WATER RESOURCES

January 14, 2020

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

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

Dear Mr. Buyer:

Eagle Creek Northwest LLC desires to lease 250.0 acres from water right 43-2489 into the Idaho Water Supply Bank for the 2020 irrigation season. Water right 43-2489 is one of 18 water rights that are utilized to irrigate over 4,000 acres of farm ground.

Irrigation at the 250.0 acres to be dried up for 2020 has occurred over the past several years and can be document by aerial photography. The current farm manager has planted and irrigated the 250.0 acres late in the 2019 irrigation season. The 250.0 acres will be dry farmed in 2020 and a crop will be harvested from these 250.0 acres. The local Watermaster is encouraged to monitor and inspect these two pivots as frequently has needed.

An agreement has been signed between Eagle Creek Northwest LLC, ADT Farms LLC and ADTD Farm LLC regarding a rental payment. Only the 10% processing fee will be paid to the Idaho Water Supply Bank. No rental payment will be paid to Eagle Creek Northwest LLC by the Idaho Water Supply Bank at the end of 2020.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Todd Gerratt, Charles Bryan

Enc: Lease Application, Attachment 1A, W-9 Form, Aerial Map, Annual Report, Eagle Creek Northwest Resolution, Brockway Engineering Check # 15709 for \$250.00

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

CHARLES G.
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