

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1065

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

LESSOR: FARM DEVELOPMENT CORP
PO BOX 1201
BOISE, ID 83701-1201

RECEIVED
APR 09 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 November 13, 2019.
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)
2-10579	12/6/1963	SNAKE RIVER, tributary to COLUMBIA RIVER	3.31	984	246
Combined Lease Totals			3.31	984	246

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, 2024. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1065

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1065

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

LESSOR: FARM DEVELOPMENT CORP
PO BOX 1201
BOISE, ID 83701-1201

By Allen Noble
Title President
Date 3/31/2020

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 5/21/2020

Lease approved by IDWR Angela M. Ginn

Date 5/21/2020

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1065

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): 2-10579

SNAKE RIVER L 4NWSW Sec. 34 Twp 05S Rge 09E ELMORE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
2-10579	IRRIGATION	03/15	to	11/15	3.31 cfs	984 AF
Totals:					3.31 cfs	984 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	
07S	09E	11				0.5									40			37	77.5
07S	09E	12							0.7	0.7	40	39	39	40		0.5	8.6		168.5

Total Acres: 246.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

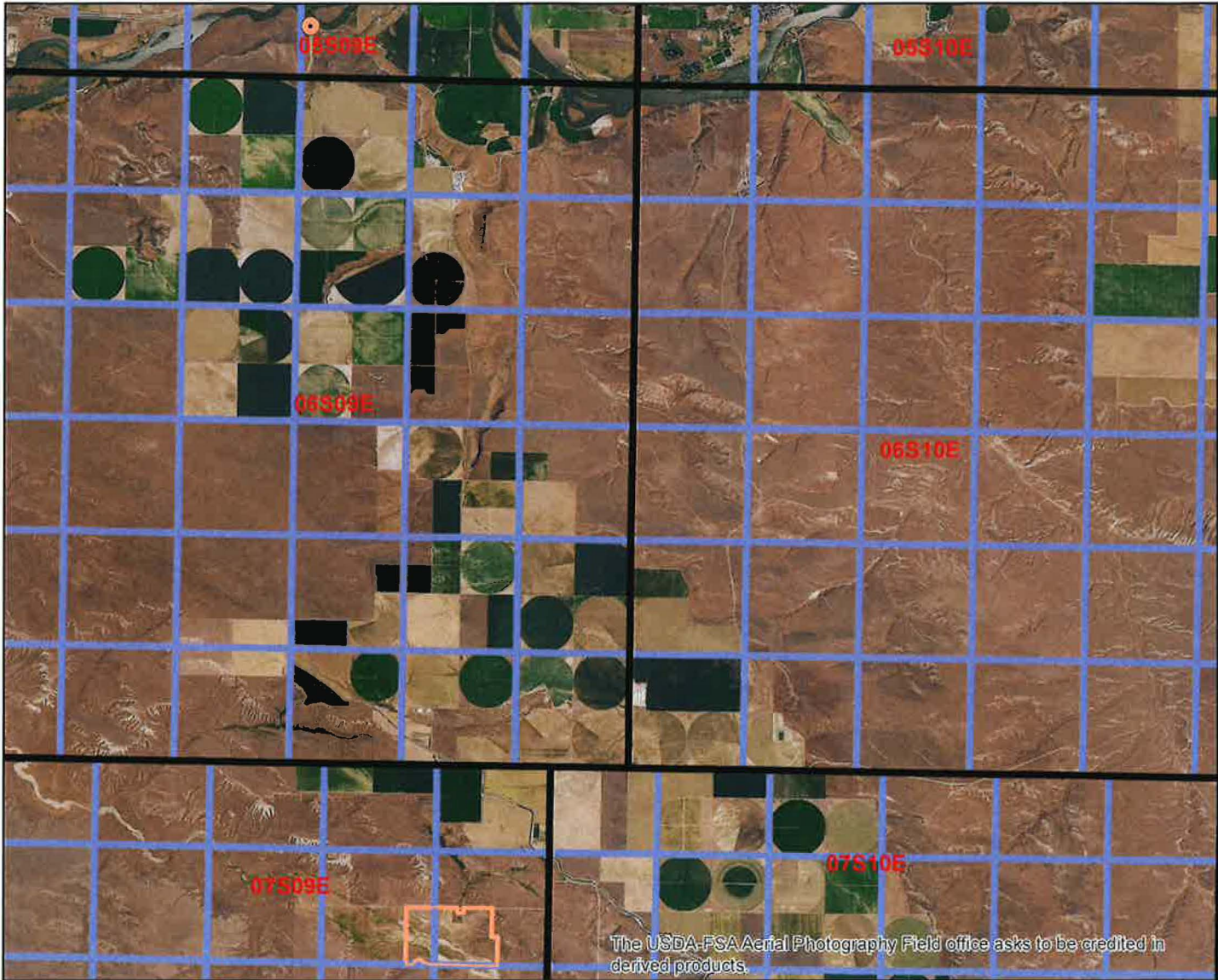
WATER SUPPLY BANK LEASE CONTRACT No. 1065

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. Place of use is within the service area of Grindstone Butte Mutual Canal Company as provided for under Idaho law. The place of use is generally located within T6S, R9E; T6S, R10E; T7S, R9E; and T7S, R10E, B.M.
13. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
14. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 02.
15. The unleased portions of this right are limited to 15.98 cfs and 4,744 af for the irrigation of 1,186 acres
16. 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.
17. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

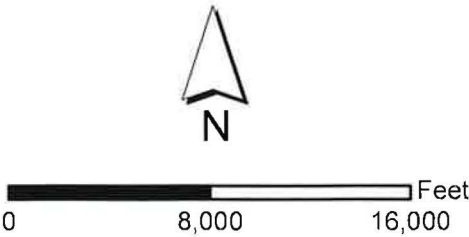
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1065

2-10579
Effective until December 31, 2024

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



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

NOV 27 2019

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Farm Development Corporation

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

Water Right No. 2-10579

(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 checked="" type="checkbox"/> | <input type="checkbox"/> | Signatures and contact information for <i>all owners</i> 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 \$ 250Received By: AWDate Received: 11/27/19Receipt # C108026W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Farm Development Corporation

1504

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 Farm Development Corporation

Mailing Address PO Box 1201 Boise ID 83701
Street City State Zip Code

Email Address john@jmarshalllaw.com Phone Number 208-991-2701

☒ 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 Allen Noble Organization Farm Development Corporation

Professional Title President Email Address john@jmarshalllaw.com

Mailing Address 575 W Bannock St, Boise, ID 83702 Phone Number 208-991-2701

☒ 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.
Pumps at river, penstocks and an open canal that feeds mainlines.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. None

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

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

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. This right was decreed in the SRBA in 2008. Since that time the 13,432 acres authorized by the right have been irrigated or placed in the water bank. The acres identified in this application receive the proportional share of the water diverted under right 2-2262.

- 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: 2019 to 2019 (maximum lease period 5 calendar years).
(Year) (Year)

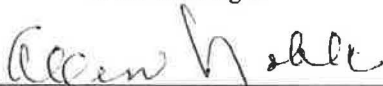
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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

Allen Noble

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**

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)
<u>2-10579</u>	<u>Irrigation</u>		<u>4,700</u>	<u>1,175</u>
	Total Amounts:	<u>15.82</u>	<u>4,700</u>	<u>1,175</u>

2. Source of water Snake River tributary to Columbia River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5S	9E	34	4		NW	SW	Elmore

Twn	Rng	Sec	Tract	Acres	Tract	Acres	Tract	Acres	Tract	Acres	Totals	
06S	09E	22	NENE		SENE						0	
			NESE		SESE					0		
		23	SENE								0	
			NENW	8	NWNW	8	SWNW	3	SENE	8	27	
			NESW		SESW						0	
		24	NESE		NWSE		SWSE		SESE		0	
			SWNW								0	
			NESW	37	NWSW	8	SWSW	5	SESW	8	58	
		25	NENE		NWNE	8	SWNE	8	SENE	8	24	
			NENW	8	NWNW	8	SWNW	8	SENE	8	32	
			NESW	8	NWSW	8	SWSW	8	SESW	8	32	
			NESE		NWSE		SWSE		SESE		0	
		26	NENE		NWNE		SWNE		SENE		0	
			NENW		SWNW		SENE				0	
NESW			NWSW		SWSW		SESW		0			
NESE			SESE						0			
		27	SENE	8						8		
			SWSW	8	SESW	8				16		
		NESE		SWSE		SESE			0			
		28	SWSW		SESW					0		
			SWSE		SESE					0		
		33	NENE		NWNE					0		
			NENW		NWNW					0		
		34	NENE		NWNE		SWNE		SENE	0		
			NENW		NWNW		SWNW		SENE	0		
		NESE	13						13			
		35	NENE	8	NWNE	8	SWNE	8	SENE	8	32	
			NENW		NWNW		SWNW		SENE		0	
			NWSW	18	SWSW	7					25	
			SWSE	8	SESE	8				16		
		36	NENE	8	NWNE	8	SWNE	8	SENE	8	32	
			NENW		NWNW		SWNW		SENE		0	
			NESW		NWSW		SWSW		SESW		0	
			NESE		NWSE		SWSE		SESE		0	
		10E	30	SWNW	8	SENE	6				14	
				NESW		NWSW	8	SWSW	8	SESW		16
				SWSE		SESE					0	
		31	NENE	8	NWNE		SWNE		SENE	8	16	
				10	SESE	38						38
					SWNE	39	SENE	38				77
	NESW			40	SWSW	30	SESW	32		102		
	NESE				NWSE	40	SWSE	37	SESE		77	
12	NESW				NWSW		SWSW		SESW		0	
	SWSE			18							18	
13	NENE			40	NWNE	40	SWNE	40	SENE	40	160	
	NENW			40	SENE	33					73	
	NESE			36	NWSE	33					69	
14	NWNW			40						40		
15	NENE			40						40		
18	SWNW			40						40		
	NESW			40	NWSW	40				80		

Map 1

Map 2

Map 3

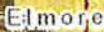
Map 2

Map 4

Solosobal Map

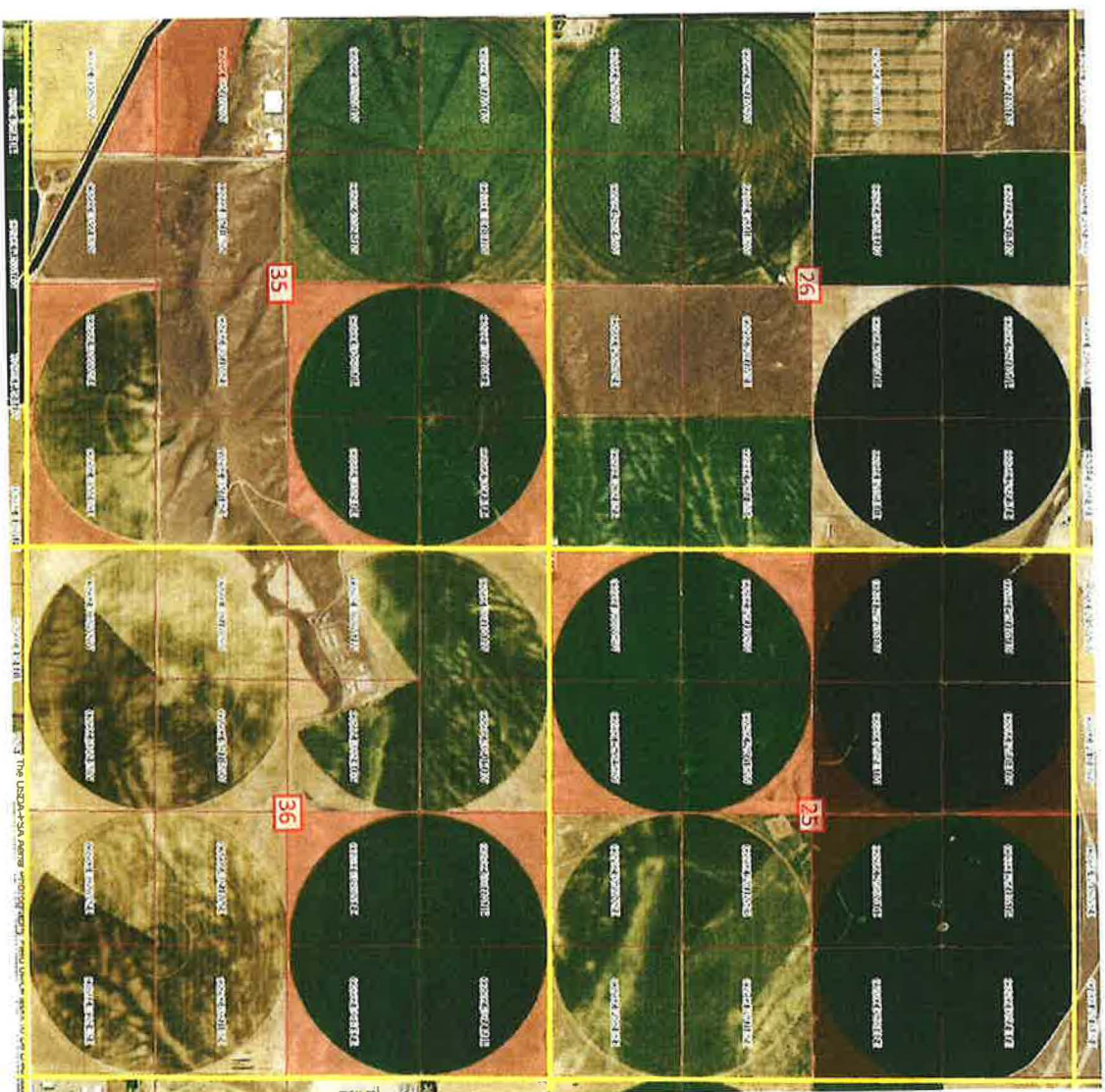
Solosobal Map

Total: 1175

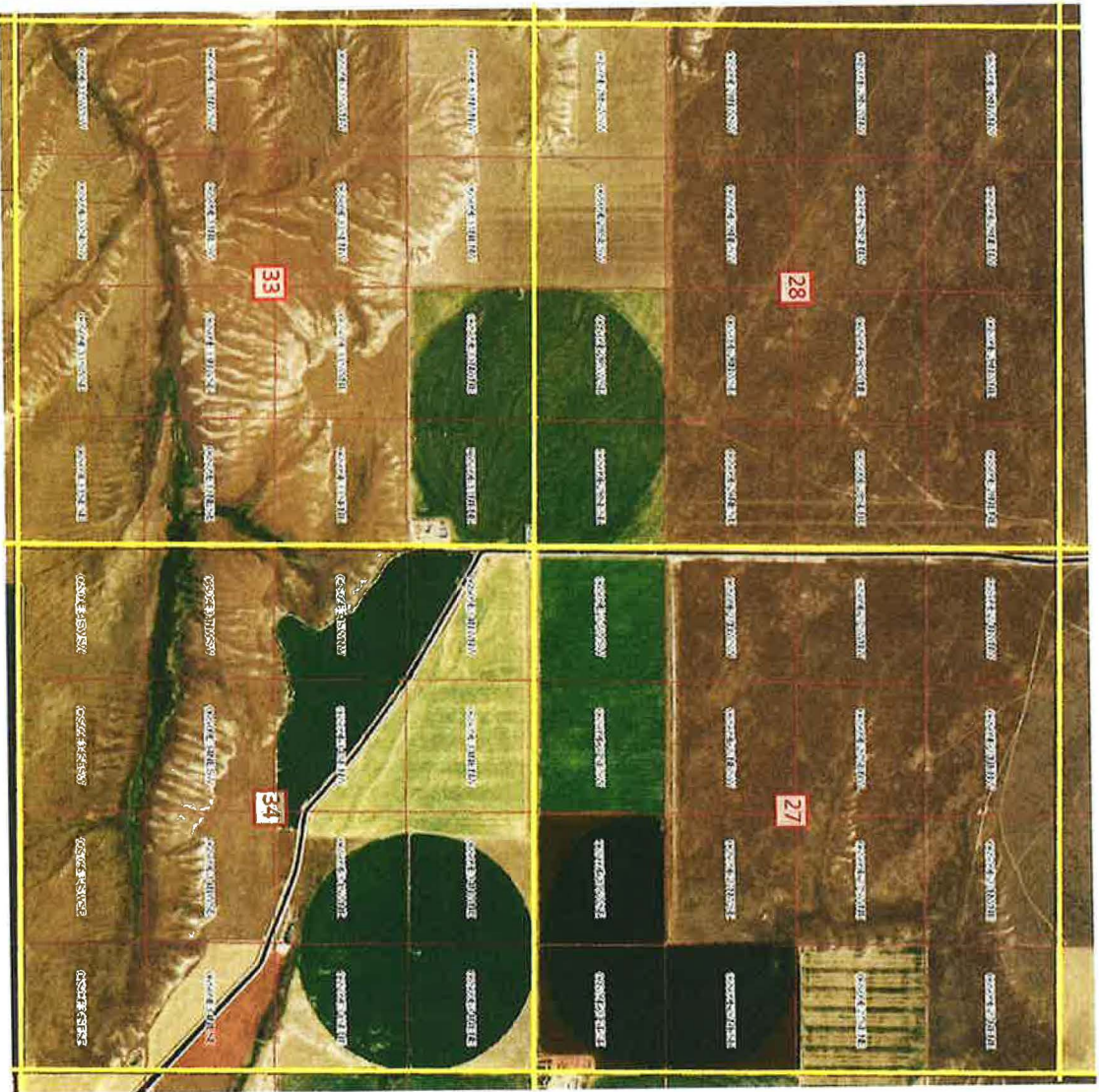




MAP 1



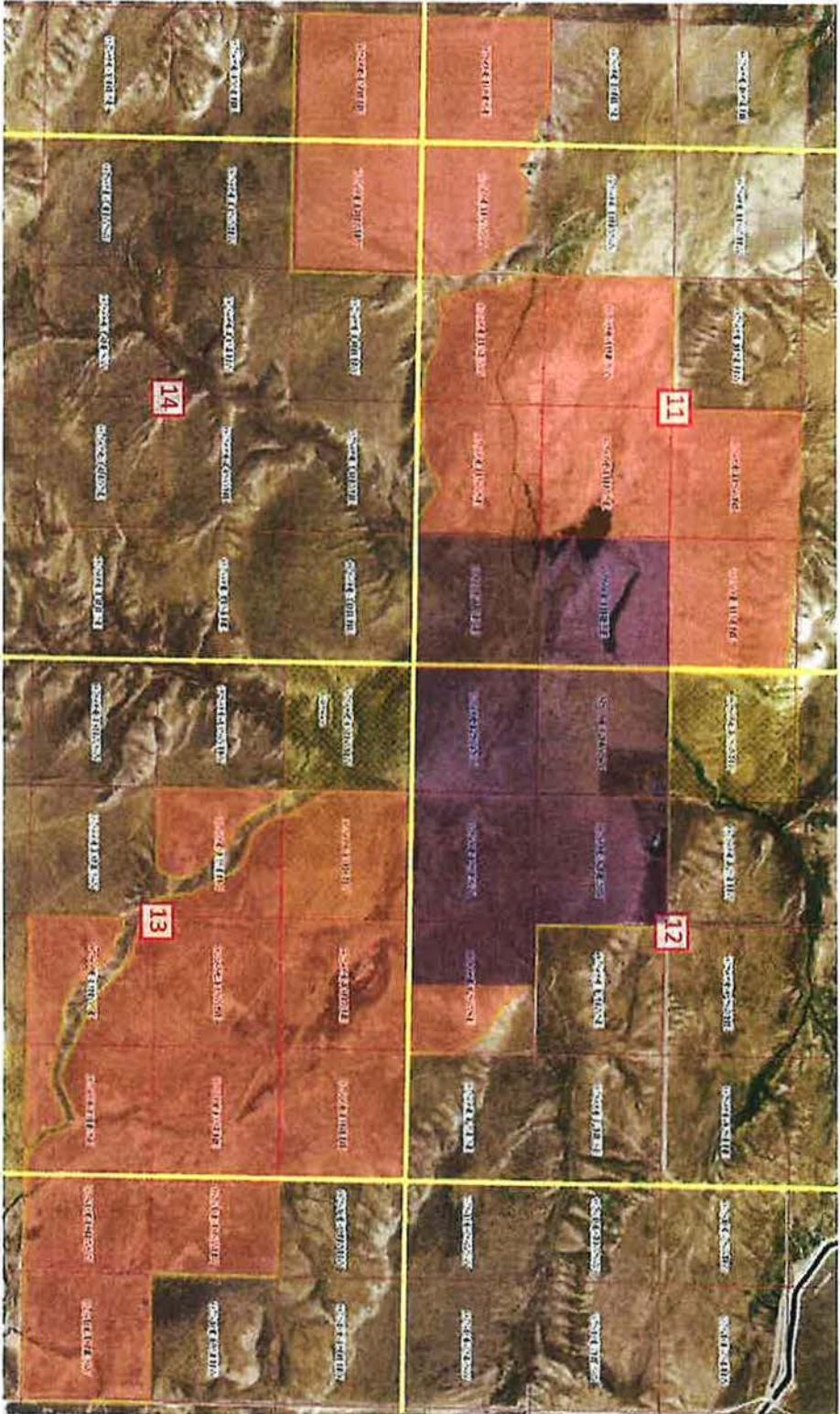
MAP 2



MAP 3



MAP 4



SOLOSABOL MAP



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 26, 2020

FARM DEVELOPMENT CORP
PO BOX 1201
BOISE ID 83701-1201

RE: **WATER SUPPLY BANK LEASE CONTRACT 1065 & 1086
FOR WATER RIGHTS 2-10579**

Dear Lessor:

Water rights **2-10579** was leased into the Water Supply Bank (Bank) as of January 1, 2019, (Contract 1086) and January 1, 2020 (Contract 1065) 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, 2024**, 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,

for Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Western Region
Water District No. 02
John Marshall- John Marshall Law PLLC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 23, 2020

FARM DEVELOPMENT CORP
PO BOX 1201
BOISE, ID 83701-1201

**RE: APPLICATION TO LEASE WATER RIGHT 2-10579 TO THE WATER SUPPLY BANK
CONTRACTS 1065 AND 1086**

******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.

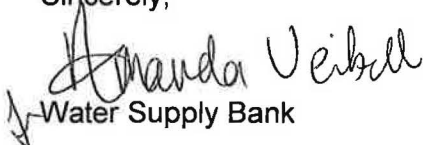
The right will automatically be released from the Bank on **December 31, 2024**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,


Amanda Veibel
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108026, C107928

c. John Marshall – Marshall Law

Memorandum

To: Water Right 2-10579

From: Justin Ferguson

Date: December 26, 2019

Re: Water Supply Bank Lease Application 1484 & 1504

Purpose/Narrative: Two applications to lease portions of water right 2-10579 to the Water Supply Bank were received November 8th and 27th, 2019. The parent right, 2-2262 was decreed through the SRBA to Grindstone Butte Canal Company in 2008 and portions offered to the Bank beginning in 2012 through the end of the current contract in 2018.

Since the right is being offered again for lease without a span of time between contracts there is a reasonable defense against forfeiture. Should the right not continue to be offered at the expiration of this contract a review of the use prior to the initial lease in 2012 may be warranted to determine how many, if any, years elapsed without the right being put to beneficial use. While being leased to the Bank does toll the forfeiture period, it does not reset it to another five years. Review of the initial review memo for this right for the 2015 lease application indicates that there was evidence of irrigation but does not outline the extent or duration.

It is of note that, in this case, the water right is not appurtenant to the land that the place of use covers. Developed from Desert Land Entries converted for irrigation use, the water right application was initially submitted by the Sailor Creek Water Company in 1963 which was then re-assigned to the Grindstone Butte Canal Co in 1973. The water right was then developed under Grindstone Butte's ownership until the recent ownership split and transfer to Farm Development Corporation. Since the right had been developed under the Desert Land Entry program the land was never owned by Sailor Creek or Grindstone, rather it was held by the individuals to which the acres were transferred to from the BLM.

At the time of this review it appears that Global Ag II is the current owner of the acreage and has no claim to the water right itself. Through the approval process of this and any future leases IDWR may need affirmation from Farm Development Corp that, should Global Ag intend to use water on these acres, they will need to use a different water right.

Authority to File: The application was submitted on behalf of Farm Development Corp by John Marshall of John Marshall Law. The applications were signed on behalf of Farm Development Corp by Mr. Allen Noble, review of the Idaho Secretary of State information indicates Mr. Noble is an authorized agent. No concerns of applicant's authority to file.

Water Right Validity/Forfeiture Evaluation: The parent right was decreed in 2009 and placed into the Bank in 2012. Review of satellite imagery does indicate that there may have been some irrigation at this place of use but the extent is not clear. While a review of the imagery could not confirm validity, the right remains valid as there has not been a full five year period of non-use elapsed.

Injury Evaluation: No injury is apparent as the acres are intended to be idled under the lease contract.

Enlargement of Use: No concerns about enlargement. Affirmation may be required such that Global Ag, the current land owner, will have to use water under a different water right should they wish to irrigate.

Further, if the right is requested for rent, the decreed rate per acre and volume per acre ratios will need to be maintained in the amount allocated to rent such that enlargement does not occur as the ratio of the amounts offered for lease to the Bank feature a different ratio than the decree.

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

Beneficial Use/Conservation of Water Resources: The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Watermaster and IDWR Western Region comments were requested and as of the date of this memo no response has been received.

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

John Marshall Law PLLC

575 W Bannock, Suite B
Boise, ID 83702

phone 208-991-2701
fax 208-906-8043
john@jmarshalllaw.com

November 27, 2019

Remington Buyer
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED

NOV 27 2019

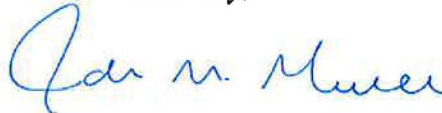
**DEPARTMENT OF
WATER RESOURCES**

Re: 2-2262 Water Bank Applications

Dear Mr. Buyer,

On behalf of Farm Development Corporation, I enclose an executed Water Bank Lease Application for water right 2-10579 along with a check for \$250.00 to cover the required fee. This application was delayed because of difficulty assessing the acreage that would not be irrigated this season due to a purchase transaction and then uncertainty over the allocation of the parent water right. Now that all of this is sorted out, we request processing of the attached application.

Sincerely,



John M. Marshall

John Marshall Law PLLC

575 W Bannock, Suite B
Boise, ID 83702

phone 208-991-2701
fax 208-906-8043
john@jmarshalllaw.com

November 27, 2019

Remington Buyer
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

RECEIVED

NOV 27 2019

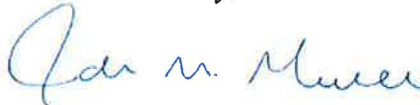
DEPARTMENT OF
WATER RESOURCES

Re: 2-2262 Water Bank Applications

Dear Mr. Buyer,

On behalf of Farm Development Corporation, I enclose an executed Water Bank Lease Application for water right 2-10579 along with a check for \$250.00 to cover the required fee. This application was delayed because of difficulty assessing the acreage that would not be irrigated this season due to a purchase transaction and then uncertainty over the allocation of the parent water right. Now that all of this is sorted out, we request processing of the attached application.

Sincerely,

A handwritten signature in blue ink, appearing to read "John M. Marshall".

John M. Marshall