

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 13 2020
DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1158

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

LESSOR: KBC FARMS LLC
3010 MC KINLEY ST
AMERICAN FALLS, ID 83211

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 27, 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)
35-14308	5/1/1973	GROUND WATER	1.02	253	63.3
Lease Totals			1.02	253	63.3

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

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

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WATER SUPPLY BANK LEASE CONTRACT No. 1158

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

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

LESSOR: KBC FARMS LLC

3010 MC KINLEY ST

AMERICAN FALLS, ID 83211

By

Title

Date

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

Lease approved by IDWR

Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1158

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): 35-14308

GROUND WATER	NWSESE	Sec. 21	Twp 08S	Rge 29E	POWER County
GROUND WATER	NWNWSW	Sec. 22	Twp 08S	Rge 29E	POWER County
GROUND WATER	SWSENE	Sec. 22	Twp 08S	Rge 29E	POWER County
GROUND WATER	NWNENW	Sec. 23	Twp 08S	Rge 29E	POWER County
GROUND WATER	SESESW	Sec. 13	Twp 08S	Rge 29E	POWER County
GROUND WATER	NWNENW	Sec. 19	Twp 08S	Rge 30E	POWER County
GROUND WATER	SWSENE	Sec. 22	Twp 08S	Rge 29E	POWER County
GROUND WATER	NWSENE	Sec. 24	Twp 08S	Rge 29E	POWER County
GROUND WATER	SWSWNE	Sec. 24	Twp 08S	Rge 29E	POWER County
GROUND WATER	NENWSW	Sec. 26	Twp 08S	Rge 29E	POWER County
GROUND WATER	SENE	Sec. 26	Twp 08S	Rge 29E	POWER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
35-14308	IRRIGATION	4/01	to	10/31	1.02 cfs	253 AF
Totals:					1.02 cfs	253 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	
08S	29E	13										4.9							4.9
08S	29E	14									0.4	9.9			17				27.3
08S	29E	22					5.0	26	0.1										31.1

Total Acres: 63.3

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
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.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1158

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. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
13. The unleased portion of this right is limited to the irrigation of 144.7 acres within the authorized place of use in a single irrigation season.
14. This right does not grant any right-of-way or easement across the land of another.
15. Diversion of water from the point(s) of diversion authorized by approved Transfer 81235 shall not exceed the total combined maximum diversion rates and total combined maximum diversion volumes as specified below:

Wells 1 – 4 are limited to 13.38 cfs and 3542.5 af.

Well no. 1: NWSESE Sec. 21, T08S, R29E, B.M.

Well no. 3: NWNWSW Sec. 22, T08S, R29E, B.M.

Well no. 2: SWSENW Sec. 22, T08S, R29E, B.M.

Well no. 4: SWSENW Sec. 22, T08S, R29E, B.M.

Wells 5 – 9 are limited to 34.26 cfs and 8831.2 af.

Well no. 5: NWNENW Sec. 23, T08S, R29E, B.M.

Well no. 6: SESESW Sec. 13, T08S, R29E, B.M.

Well no. 7: NWNENW Sec. 19, T08S, R30E, B.M.

Well no. 9: SWSWNE Sec. 24, T08S, R29E, B.M.

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WATER SUPPLY BANK LEASE CONTRACT No. 1158

Well no. 8: NWSENW Sec 24, T08S, R29E, B.M.

Wells 10 - 11 are limited to 8.05 cfs and 2079.4 af.

Well no. 10: NENWSW Sec. 26, T08S, R29E, B.M.

Well no. 11: SENW Sec. 26, T08S, R29E, B.M.

For the duration lease contract No. 1158, the diversion of water from the point(s) of diversion authorized by approved Transfer 81235 shall not exceed the total combined maximum diversion rate of 54.67 cfs and total combined maximum diversion volume of 14199.9 af.

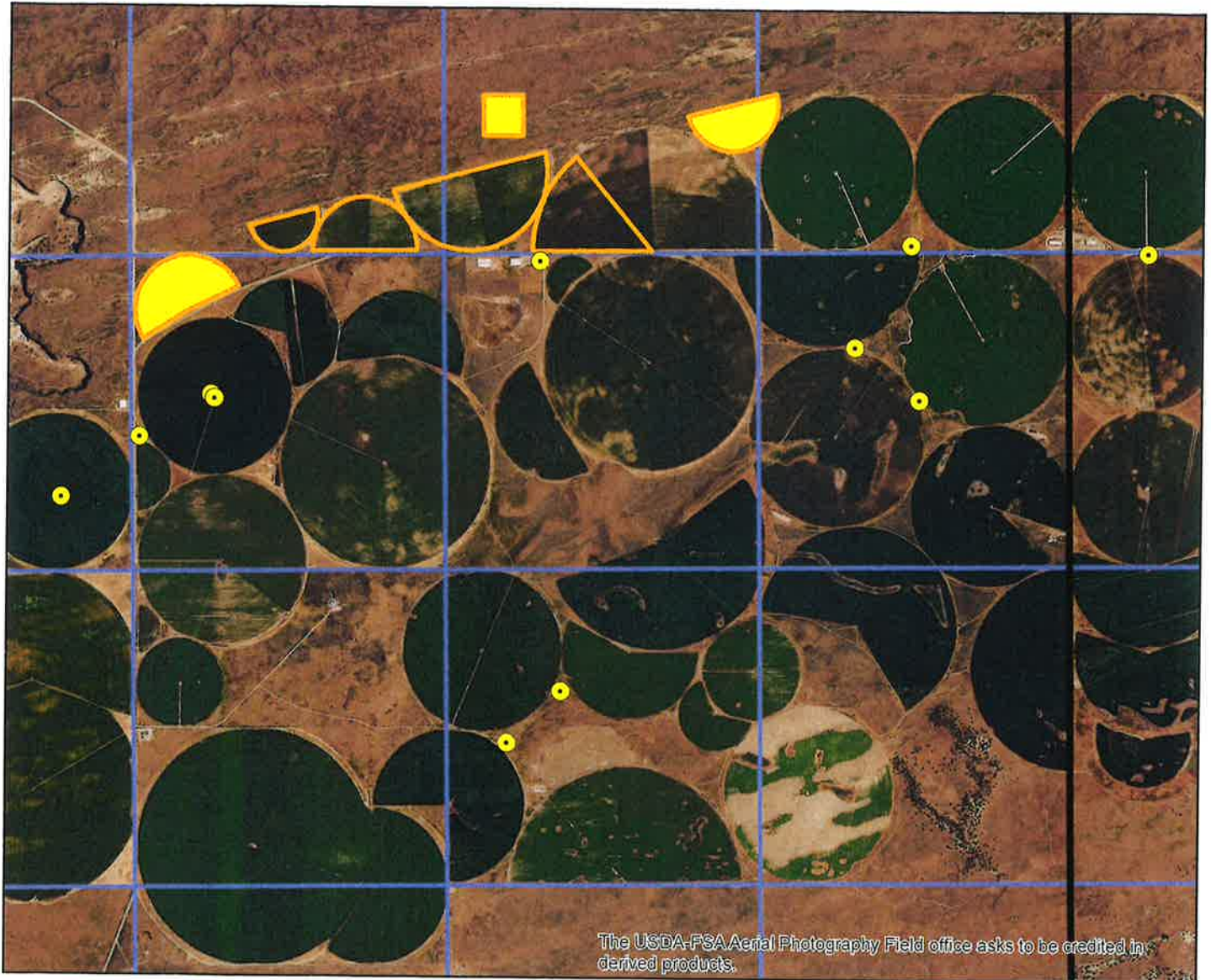
16. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
17. The unleased portion of right 35-14308 is limited to the irrigation of a specific 144.7 acres within the 6154 acre place of use authorized by this right in a single irrigation season. The specific 144.7 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 144.7 acres to be irrigated within the 6154 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
18. Prior to the diversion and use of water under Transfer approval 81235, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
19. 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 place of use.
20. 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. 120.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1158

35-14308

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 Points of Diversion

35-14308 POU

Leased Portion of 35-14308

Sections



0 1 2 Miles

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 KBC Farms LLC

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

Water Right No. 35-14308

(One water right per application)

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

Yes ☐ No ☐

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☐ | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | ☒ | ☐ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☐ | ☒ | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>[Signature]</u>	Date Received: <u>11/27/19</u>	Receipt # <u>C10708</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>KBC Farms</u>	

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 KBC Farms LLC

Mailing Address 3010 McKinley American Falls, Idaho 83211

Street

City

State

Zip Code

Email Address _____

Phone Number _____

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

OR

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

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☒ No ☐

If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐

If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐

If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

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

Phone Number 208-736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.
- B. Please provide a description of the current water diversion and delivery system.
Existing well, 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. 35-7275 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. This water right has been under lease contract for several years with the Idaho Water Supply Bank.

- 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. This water right has been under lease contract for several years with the Idaho Water Supply Bank.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2020 to 2020 (maximum lease period 5 calendar years).
(Year) (Year)

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

Current Rental Rate _____

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

The Designated Applicant acknowledges the following:

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

WBC + am LHC by
Naren Joseph
Signature of Designated Applicant

Naren Joseph
Printed Name

Nov 11 - 2019
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

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2020 to 2020 (maximum lease period 5 calendar years).
(Year) (Year)

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

Current Rental Rate

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

The Designated Applicant acknowledges the following:

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

Signature of Designated Applicant

Printed Name

Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

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>35-14308</u>	<u>Irrigation</u>	<u>1.02</u>	<u>253.2</u>	<u>63.3</u>
	Total Amounts:	<u>1.02</u>	<u>253.2</u>	<u>63.3</u>

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
KBCP LLC and KBC Farms LLC
Points of Diversion

New	Lot	1/4	1/4	1/4	Sec.	Twp	Range	County	Source	Local name or tag#
		NW	SE	SE	21	08S	29E	Power	Ground Water	Well #1
		NW	NW	SW	22	08S	29E	Power	Ground Water	Well #3
		SW	SE	NW	22	08S	29E	Power	Ground Water	Well #2
		SW	SE	NW	22	08S	29E	Power	Ground Water	Well #4
		NW	NE	NW	23	08S	29E	Power	Ground Water	Well #5
		SE	SE	SW	13	08S	29E	Power	Ground Water	Well #6
		NW	NE	NW	19	08S	30E	Power	Ground Water	Well #7
		NW	SE	NW	24	08S	29E	Power	Ground Water	Well #8
		SW	SW	NE	24	08S	29E	Power	Ground Water	Well #9
		NE	NW	SW	26	08S	29E	Power	Ground Water	Well #10
			SE	NW	26	08S	29E	Power	Ground Water	Well #11



0 0.25 0.5 1 Miles
BROCKWAY ENGINEERING, PLLC.
GWS - Date: 11/6/2019

KOOMPIN, KLARIN
WATER BANK LEASE 63.3 ACRES
NAIP 2017 AERIAL PHOTO

Legend
 2020_WSB_Lease
 Points of Diversion





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 18, 2020

KBC FARMS LLC
3010 MC KINLEY ST
AMERICAN FALLS, ID 83211

**RE: WATER SUPPLY BANK LEASE CONTRACT 1105,1158
FOR WATER RIGHTS 35-14040, 34-14308**

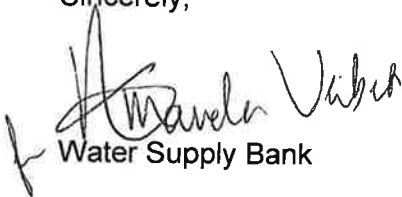
Dear Lessor:

Water rights **35-14040, 34-14308** were leased into the Water Supply Bank (Bank) as of January 1, 2020, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2020**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,



Amanda Visher
Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo – IDWR Eastern Region
Greg Sullivan – Brockway Engineering
Blake Jordan – Water District 120



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 4, 2020

KBC FARMS LLC
3010 MC KINLEY ST
AMERICAN FALLS, ID 83211

RE: APPLICATION TO LEASE WATER RIGHT 35-14308, 34-14040 TO THE WATER SUPPLY BANK

CONTRACT 1105, 1158

******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.

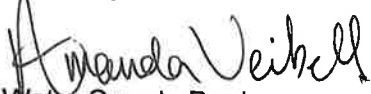
The right will automatically be released from the Bank on **December 31, 2020**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form.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


Amanda Veihell
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C108018

c. Greg Sullivan – Brockway Engineering

MEMORANDUM FOR APPLICATION # 1501

To: Water Right 35-14308

From: Scott Storms

Date: February 20, 2020

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

PURPOSE/NARRATIVE: Application to lease a portion of water right 35-14308 to the Water Supply Bank (Bank) was received by the Department of Water Resources (Department) on November 27, 2019. The application proposes to lease 63.3 acres of the water right to the Bank for the year 2020.

This right includes condition 206, requiring the right holder to provide a shapefile or map representing the specific 208 acres that are dedicated to this right within the permissible place of use (PPU). The initial map associated with the lease application included acres that were outside of the boundaries last declared 208 acres for the right, received in 2017. I contacted Greg Sullivan, representative for KBC Farms, about this issue, and he submitted a new shapefile and map to represent the 208 acres within the PPU, as required by condition 206. This new shape did include those acres that were outlined on the lease application.

The right includes 11 wells as points of diversion (POD) and those 11 wells are also shared PODs with 38 other rights. A condition on all these rights groups these 11 wells into three separate groups, and each group has a rate a rate and annual volume limit associated with it. The total rate and volume restriction for all these wells was the same as is authorized by all 39 rights. It was indeterminable to decipher which specific well or wells supplied WR 35-14308, so the lease will include language which restrict the total flow rate and annual volume diverted from this well to the total of all the wells, minus the rate and volume associated with this lease.

AUTHORITY TO FILE: **Right:** KBC Farms, LLC is listed as the owner of this right. The application was signed by Klaren Koopin. The Idaho Secretary of State 2019 annual report for KBC Farms, LLC lists Klaren Koopin as a registered manager for the company. According to Department parcel data, the land at the place of use (POU) for 35-14308 is owed by KBC Farms, LLC. No concerns with authority to file.

WATER RIGHT VALIDITY: Right 35-14308 is a child right of 29-7122, which was decreed in 2004. WR 29-7122 was in the Bank when it was decreed, and the lease was renewed in 2006 indefinitely. WR 35-14308 was the result of a transfer and split of 29-7122 in 2013, and 35-14308 remained under rental agreement through 2014 as part of the lease contract for 29-7122.

In 2015, 48.1 acres of 35-14308 were leased into the Bank through December of 2016, and in 2017, 51.4 acres were leased to the bank through 2019. A review of satellite imagery of the leased and unleased portions of this water right, from 2017 to 2019, showed there was no irrigation in the leased portions, and there was irrigation in the unleased portions. No concerns of water right validity.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: Right 35-14308 shares 11 well PODs with 38 other rights. A condition on all these rights groups these wells into three different groups, and each group has a total flow rate and volume restriction that is allowed to be diverted from that group. The total

allowable diversion rate and volume from these wells is 55.69 cfs and 14453.1 afa. This is also the total rate and volume that is authorized for diversion under all 39 of these rights. There was no information available documenting which well/wells WR 35-14308 has historically been diverted from. As such, conditioning will be added to the final contract which restricts the allowable diversion from all wells to the total minus the leased rate and volume associated with the contract. This will restrict the flow to $55.69 - 1.02 = 54.67$ cfs and volume to $14453.1 - 253.2 = 14199.9$ afa. Proper rental review should ensure no other enlargement issues occurs.

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

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location of the lease PODs are subject to water district #120. This review and supporting map will be sent out to watermaster Blake Jordan and IDWR eastern regional contact James Cefalo for comment.

MEMORANDUM

January 10, 2020

Water Right: 35-14308

Author: SStorms

Subject: Updated 206 Map

The right holder submitted an updated condition 206 map on 1/09/2020. Shape was updated on 1/10/2020.

Storms, Scott

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Thursday, January 9, 2020 1:51 PM
To: Storms, Scott
Subject: RE: Water Supply Bank Lease/Rental for KBC Farms and Lance Funk
Attachments: Koompin 2020 WSB LEASE.jpg; 35-14308 POU.cpg; 35-14308 POU.dbf; 35-14308 POU.prj; 35-14308 POU.sbn; 35-14308 POU.sbx; 35-14308 POU.shp; 35-14308 POU.shx; 2020_WSB_Lease.cpg; 2020_WSB_Lease.dbf; 2020_WSB_Lease.prj; 2020_WSB_Lease.sbn; 2020_WSB_Lease.sbx; 2020_WSB_Lease.shp; 2020_WSB_Lease.shp.xml; 2020_WSB_Lease.shx

Scott,

See the attached files. KBC Farm is updated the location of water right 37-14308. Let me know if you need anything else.

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: Storms, Scott [mailto:Scott.Storms@idwr.idaho.gov]
Sent: Thursday, January 09, 2020 9:10 AM
To: greg.sullivan@brockwayeng.com
Subject: Water Supply Bank Lease/Rental for KBC Farms and Lance Funk

Hello Greg,

I am currently reviewing the leases you submitted for KBC Farm as part of the lease/rental package for Lance Funk and I've come across a small issue with the KBC Farms lease for WR 35-14308. This right is for a specific 208 acres within a 6,154 acre permissible place of use (PPU). The specific 208 acres are represented by a GIS shapefile that falls within the PPU, and if the right holder wishes to change those acres, they must submit a new land list and electronic shapefile to the Department before those acres can be changed (I've inserted the entire condition below for your review). The map submitted with the lease application includes several acres that do not fall within the current shape maintained by the Department that represents those 208 acres. Has your client decided to change the acres they wish to declare for these 208 acres (either for actual irrigation or for submittal to the Bank)? If so, I will need a new shapefile and land list that describes the entire 208 acres they wish to declare for this right before I can move forward with processing this lease. I am attaching a map showing the current shape representing that 208 acres, along with a copy of the map provided with the application, for your reference.

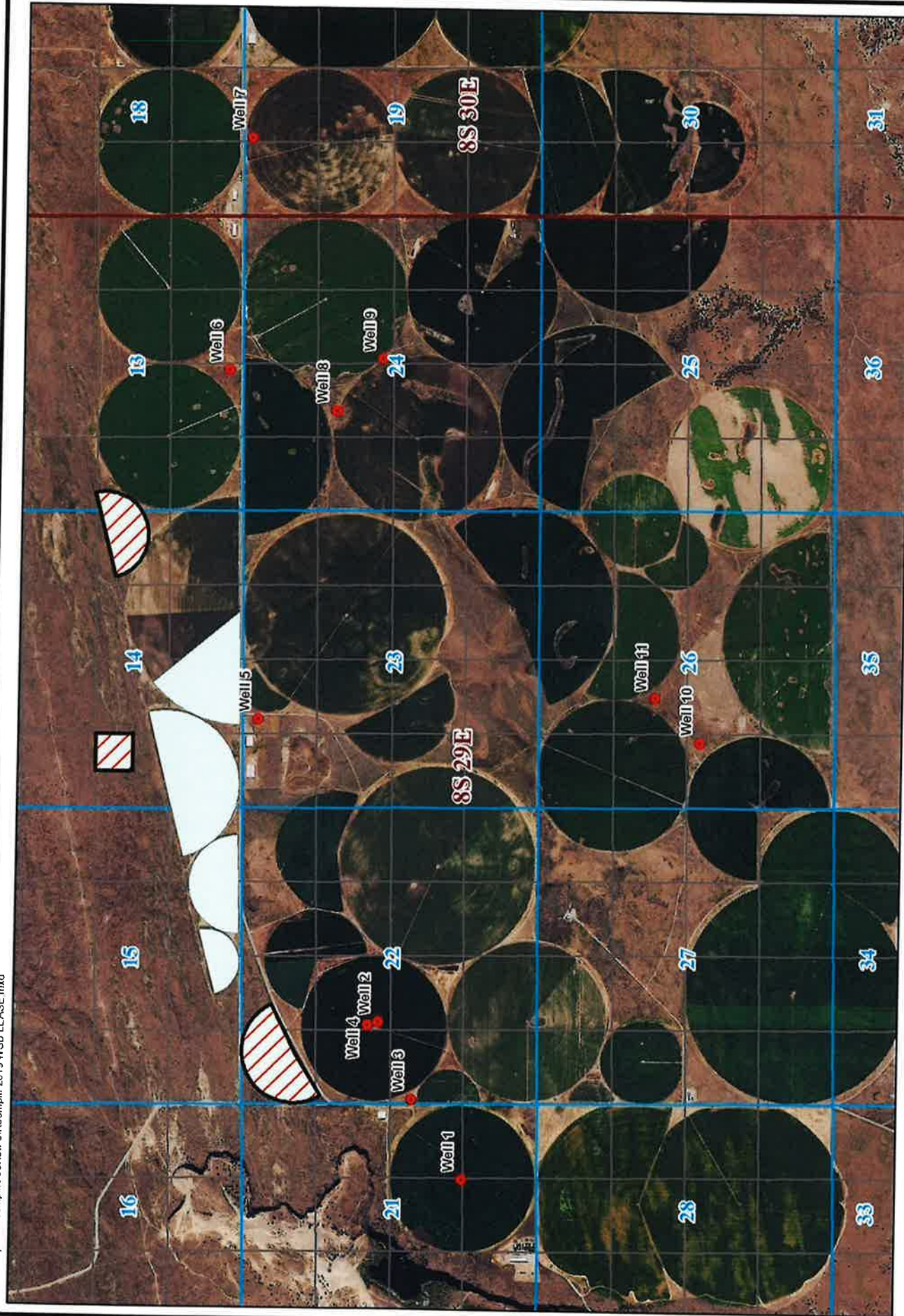
Thank you,

Scott Storms

Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

Condition #2 on WR 35-14308:

2. 206 Right 35-14308 is limited to the irrigation of a specific 208 acres within the 6154 acre place of use authorized by this right in a single irrigation season. The specific 208 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 208 acres to be irrigated within the 6154 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.



0 0.25 0.5 1 Miles
BROCKWAY ENGINEERING, PLLC.
GWS - Date: 1/9/2020

**KOOMPIN, KLAREN
WATER BANK LEASE 63.3 ACRES
NAIP 2017 AERIAL PHOTO**

Legend
2020_WSB_Lease
35-14308 POU
Points of Diversion