

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 940

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

LESSOR: EAGLE CREEK NORTHWEST
LLC
C/O UBS AGRIVEST LLC PO BOX
53
NAMPA, ID 83653

RECEIVED

APR 23 2019

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 December 11, 2018.
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, tributary to	4.78	1,000.0	250.0
Combined Limit Totals			4.78	1,000.0	250.0

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	4.780	1,000.00	250.0	0.02	4.0
Combined Limit Totals	4.780	1,000.00	250.0	0.02	4.0

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: Private Agreement

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 940

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2019. 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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IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: EAGLE CREEK NORTHWEST LLC
C/O UBS AGRIVEST LLC PO BOX
53
NAMPA, ID 83653

By 
Title Vice President
Date 04/22/19

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 4/25/2019

Lease approved by IDWR 

Date 4-25-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 940

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 2NWNE	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	4.78 cfs	1,000.0 AF
Totals:					4.78 cfs	1,000.0 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	
11S	27E	6													30.5	32.5	31.5	30.5	125.0
11S	27E	8	31.0	31.5	32.0	30.5													125.0

Total Acres: 250.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 940

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.
9. 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.
10. 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.
11. 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.
12. 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.
13. The unleased portion of right 43-2489 is limited to the irrigation of 4.12 cfs, 860.0 af and 215 acres.
14. The unleased portion of this right when combined with rights 43-2471, 43-2472, 43-2475, 43-2488, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-13577, and 43-13603 shall not exceed a total diversion rate of 66.6 cfs, a total annual maximum diversion volume of 15419.6 af at the field headgate, and the irrigation of 3878.8 acres.
15. The unleased portion of this right when combined with rights 43-2471, 43-2472, 43-2475, 43-2488, 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 shall not exceed a total diversion rate of 68.51 cfs, a total annual maximum diversion volume of 15997.7 af at the field headgate, and the irrigation of 4042.8 acres.

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16. The unleased portion of this right when combined with rights 43-2471, 43-2472, 43-2475, 43-2488, 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 are limited to the irrigation of a specific 4042.8 acres within the 5456.5 acre place of use authorized by this right in a single irrigation season.

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

DEC 11 2018

DEPARTMENT OF
WATER RESOURCESDesignated 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 ☐ ☐ Signatures and contact information for **all owners** of the water right to be leased or sold on this application.1B ☒ ☐ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.1C ☒ ☐ *Notice of Change in Water Right Ownership* 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 Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ 250Received By: AWDate Received: 12-11-18Receipt # C105965W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: UBS Agrivest Farmland Fund Inc.

1267

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 ☒?

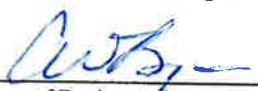
If lease, specify the years when the use of water will be suspended: 2019 to 2019 (maximum lease period 5 calendar years).
(Year) (Year)

- 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.
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.


Signature of Designated Applicant

Charles W. Bryant Jr.
Printed Name

11/30/18
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)

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 ☒

No. W 51753		Due no later than Jun 30, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. EAGLE CREEK NORTHWEST LLC PATRICIA REIDY UBS REALTY INVESTORS LLC 10 STATE HOUSE SQUARE 15TH FLOOR HARTFORD CT 06103-3604		CORPORATION SERVICE COMPANY 12550 W EXPLORER DR STE 100 BOISE ID 83713			
				3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.							
Office Held	Name	Street or PO Address	City	State	Country	Postal Code	
MEMBER	AGRIVEST FARMLAND FUND LP	10 STATE HOUSE SQUARE 15TH FLOOR	HARTFORD	CT		06103-3604	
5. Organized Under the Laws of: DE W 51753		6. Annual Report must be signed.* Signature: James B. McCandless Name (type or print): James B. McCandless Date: 04/24/2018 Title: President of GP of Member					
Processed 04/24/2018		* Electronically provided signatures are accepted as original signatures.					

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
James B. McCandless
President

UBS Asset Management - Real Estate & Private Markets (REPM) (US - Farmland)

Our company

Global Real Estate - US - Farmland

About Global Real Estate - (US - farmland)

Key people

Office locations

Strategies

Client login

Contact us

Key People

Name	Title and Current Responsibilities
Senior Management	
James B. McCandless	Managing Director
J. Scott Haffner	Executive Director
Regional Officers	
Brian Duke	Director, Acquisitions and Asset Management
Charles W. Bryan	Director, Acquisitions and Asset Management
Cullum Jefferies	Director, Acquisitions and Asset Management
Erik Roget	Director, Acquisitions and Asset Management
Scott Bozzo	Associate Director, Acquisitions and Asset Management

Last modified on 08 Aug 2017, 14:33



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**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). 43-2471, et al.

	Designated Applicant	Applicant #2	Applicant #3
Name	EAGLE CREEK NORTHWEST LLC		
Mailing Address	PO BOX 53 NAMPA, ID 83653		
Phone Number	2084660419		
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**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

<u>1. 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	4.78	1000	250.0
	Total Amounts:	4.78	1000	250.0

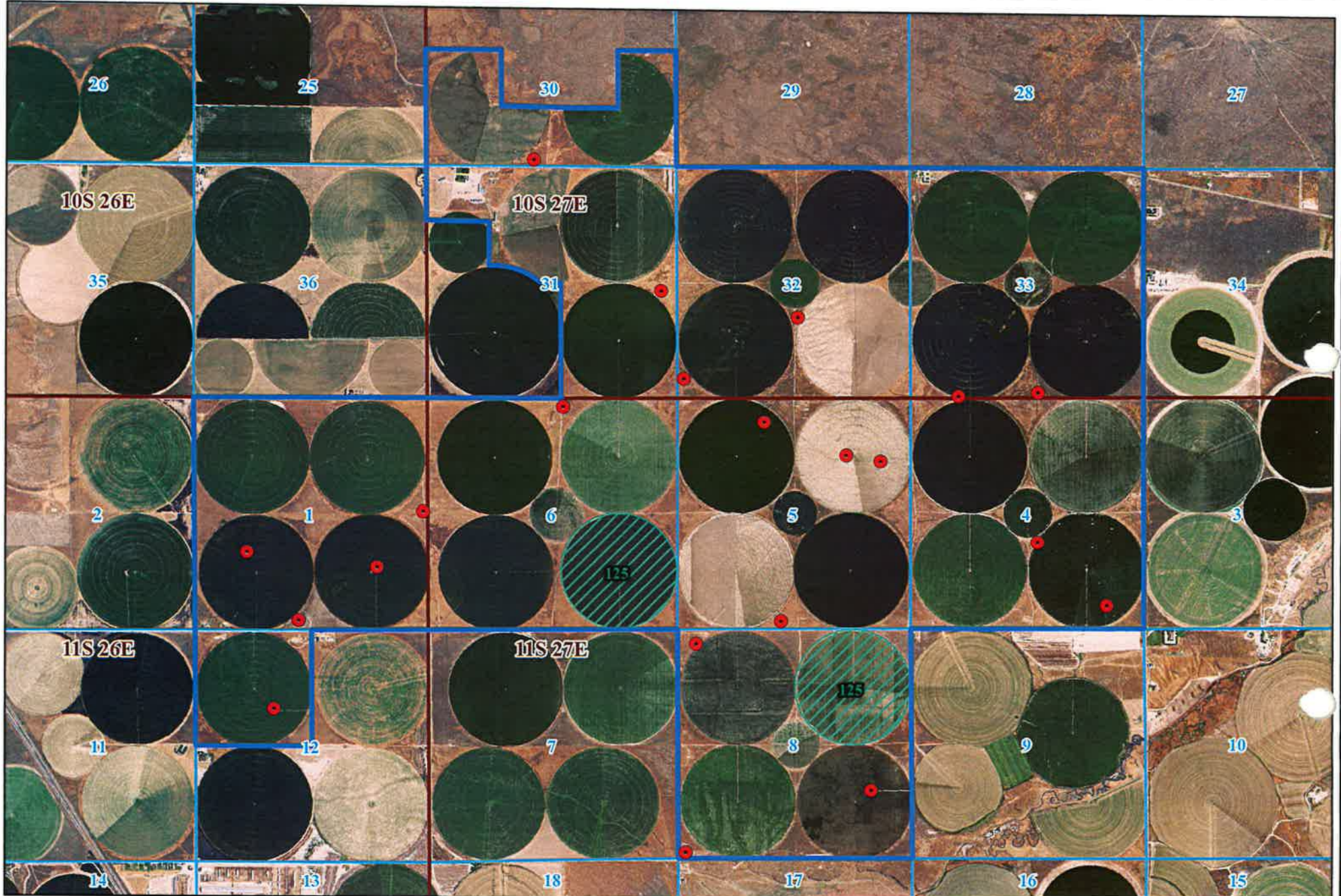
2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twsp	Rge	Sec	Lot	¼	¼	¼	County
See Exhibit A							

Exhibit A

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
C/O UBS Agrivest LLC**

2019 LEASE ACRES
NAIP 2017 AERIAL

Legend

- CASSIA CRK PPU
- Cassia Creek Lease

0 0.25 0.5 1 Miles



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 25, 2019

EAGLE CREEK NORTHWEST LLC
C/O UBS AGRIVEST LLC
PO BOX 53
NAMPA ID 83653

RE: WATER SUPPLY BANK LEASE CONTRACT 940 FOR WATER RIGHT 43-2489

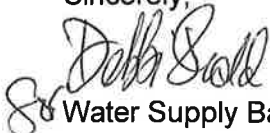
Dear Lessor:

Water right **43-2489** was leased into the Water Supply Bank (Bank) as of December 11, 2018, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2019**, unless the right is 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 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. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is 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 287-4800.

Sincerely,


David S. Smith
Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Nathan Erickson - Water District 143
Raft River GWD
Greg Sullivan - Brockway Engineering



State of Idaho

DEPARTMENT OF WATER RESOURCES

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BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 16, 2019

EAGLE CREEK NORTHWEST LLC
C/O UBS AGRIVEST LLC
PO BOX 53
NAMPA ID 83653

**RE: APPLICATION TO LEASE WATER RIGHT 43-2489 TO THE WATER SUPPLY BANK
CONTRACT 940**

******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.

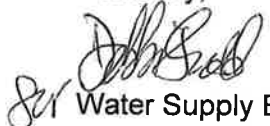
The right will automatically be released from the Bank on **December 31, 2019**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. 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 287-4800.

Sincerely,


Greg Sullivan
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C105965

c: Greg Sullivan – Brockway Engineering

MEMORANDUM FOR APPLICATION

To: Water Right(s) 43-2489

From: Alex Dalgleish

Date: 3/26/19

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

PURPOSE/NARRATIVE: On December 11, 2018, the department received a companion package from Eagle Creek Northwest LLC C/O UBS Agrivest LLC. The application proposes to lease a portion of WR 43-2489 into the WSB for the 2019 calendar year. Included with the lease were two rentals applications from ADT Farms LLC and ADTD Farms LLC. Each rental application is for the 2019 year, with a desired start date of April 1, 2019 and latest start of July 1, 2019.

AUTHORITY TO FILE: An authorized representative, Greg Sullivan of Brockway Engineering completed the lease application on behalf of Charles W. Bryan Jr. A search of the Idaho Secretary of State website shows James B. McCandless as the president of Eagle Creek Northwest LLC, #W51753. A document between James B. McCandless and Mr. Bryan, a Vice President, was included with the lease application. Department records confirms that Eagle Creek Northwest LLC is the owner of Water Right 43-2489.

Both rental applications were filed by Brockway Engineering via Mr. Sullivan on behalf of ADT and ADTD Farms LLC. He is listed as a consultant for the rental applicants. Todd Gerratt signed both rental applications. Mr. Gerratt is listed as a member of both LLC's according to 2018 annual reports from the Idaho Secretary of State, #W15455 and #W15455. From Department records, both rental parties own their respective POD's. ADTD owns the land at the respective rental POU, except for the Eastern portion of the pivot in the NWNW and SWNW of T11S R27E Section 18. That portion of the parcel is owned by ADT and I don't see an issue there. ADT Farms LLC does not own the land at their requested rental POU according to taxlot data. I emailed Mr. Sullivan on 2/19/19, requesting an agreement between the Cassia County tax lot owner, John B. Spratling, and ADT Farms LLC. Agreement between Mr. Spratling and ADT Farms LLC was received on 2/27/19.

WATER RIGHT VALIDITY: Right 43-2489 was decreed in 2004 under the SRBA. In 2009, it was then transferred under #74518 to change the POU and add a POD. Since 2011, the right changed ownership from Cassia Creek Farms LLC to Murphy Land Company LLC to Lance and Lisa Funk to Eagle Creek Northwest LLC presently. In 2014, under transfer #79229, the POU changed 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. Water right 43-2489 has never been leased into the WSB.

From aerial photography in ArcMap, the proposed 250.0 acres to be leased shows use in 2017. In a letter included with the application, Mr. Sullivan indicated that 250.0 acres will be dry farmed in 2019. In late 2018, the acres were planted and irrigated, according to the lease application.

INJURY TO OTHER WATER RIGHTS: Leased water right is for irrigation and rentals propose to use water for irrigation. The leased right is outside the Southern boundary of the ESPA. The POU for the ground water to be leased (43-2489) is located approximately two miles NE of the

ADTD rental POU and approx. 5.5 miles from ADT rental POU. The farthest distance from a lease POD and rental POD is approximately 6 miles for ADTD Farms LLC and approx. 8.5 miles for ADT Farms LLC. No injury is apparent under this rental.

ENLARGEMENT OF USE: The leased WR POU overlaps with water rights 43-13578, 43-13577, 43-2427, 43-2475, 43-2488, 43-2504, 43-2505, 43-2516, 43-2517, 43-2519, 43-2575, 43-4199, 43-13351, 43-13352, 43-2471, 43-13603 and 43-13604 which are all owned by Eagle Creek Northwest LLC. The lease PODs overlap with all before mentioned rights as well as 43-2569, 43-43-2473, 43-13575 and 43-13576 which are owned by Cassia Creek Farms LLC. According to the water right report for 43-2489, when all POU overlapping rights are combined, the total diversion rate shall not exceed 73.29 cfs, a total annual maximum diversion volume of 16997.7 af at the field headgate and the irrigation of 4292.8 acres. Each rental requests 2.39 cfs, 500 Acre Feet, and 125.0 Acres.

To avoid enlargement, combined limits were considered for right 43-2489 to be leased into the bank. Right 43-2489 is additive and can be pulled out of the respective group of rights with combined limits. See the table below.

Basin	Sequence	Suffix	Priority Date	Diversion Rate	Volume	Acre Limit	Total Acres	CFS/ Acre	AF/ Acre
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		10/24/1960	6.40	1520.00	380.00	5456.5	0.0012	4.00
43	2505		10/24/1960	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	13578		9/4/1963	0.17	82.10	40.00	5456.5	0.0000	2.05
43	13603		7/7/1959	3.86	1104.00	276.00	5456.5	0.0007	4.00
43	13604		7/7/1959	1.74	496.00	124.00	5456.5	0.0003	4.00
totals				75.45	19301.60	5339.80	5456.5	0.0138	3.61
limits				73.29	16997.70	4292.80	5456.5	0.0134	3.96
difference				2.16	2303.90	1047.00			

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 lease and rental are subject to Water District #143 and the Raft River Groundwater District. Comments will be requested from Water District #143 watermaster Nathan Erickson and IDWR Southern Regional staff. Watermaster responded 3/6/19 and Southern responded 3/7/19 with no concerns.

Dalgleish, Alex

From: Skinner, Corey
Sent: Thursday, March 7, 2019 2:57 PM
To: Dalgleish, Alex
Cc: Erickson, Nathan
Subject: RE: WSB Lease/Rental Package

No issues from me, as long as Nathan is on board.

From: Dalgleish, Alex
Sent: Friday, March 01, 2019 4:55 PM
To: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: WSB Lease/Rental Package

Gentlemen,

I have a lease/rental package. Please respond with comments/recommendations within 7 days. Also, Nathan could you please provide a list of the GW rights in the Raft River area that are curtailed for 2019 if possible?

Thank you,

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

Dalglish, Alex

From: Erickson, Nathan
Sent: Wednesday, March 6, 2019 8:29 AM
To: Dalglish, Alex
Subject: RE: WSB Lease/Rental Package
Attachments: Expansion WRs WD 143.xls

Alex,
The rental applications look good. The pivots identified to be irrigated with the rental water are part of the expansion acres curtailed in 2019.

The water rights that are curtailed in WD 143 are expansion water rights. The easy way to pick those out is by the priority date, they were all given a priority date of 6/30/1985. I have attached a spreadsheet with all of the expansion acres. If you ever are working with a set of water rights in basin 43 that include an expansion water rights let me know and I can provide you with the acres the owner has curtailed.

Thanks,
Nathan

From: Dalglish, Alex
Sent: Friday, March 01, 2019 4:55 PM
To: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: WSB Lease/Rental Package

Gentlemen,

I have a lease/rental package. Please respond with comments/recommendations within 7 days. Also, Nathan could you please provide a list of the GW rights in the Raft River area that are curtailed for 2019 if possible?

Thank you,

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

RECEIVED

DEC 11 2018

DEPARTMENT OF
WATER RESOURCES



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

December 10, 2018

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 2019 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 2019 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 2018 irrigation season. The 250.0 acres will be dry farmed in 2019 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 2019.

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 # 150471 for \$250.00

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

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

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