



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

January 11, 2019

COMORE DEVELOPMENT INC
3920 E SUNNYSIDE RD
IDAHO FALLS ID 83406

RE: RETURNED APPLICATION(S) TO LEASE WATER RIGHT NO(S). 25-14240 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources (Department) has completed its review of your application(s) to lease water right(s) to the Water Supply Bank (Bank). Based on that review, the Department cannot accept water right(s) 25-14240 into the Bank. This letter is notice that the attached application(s) to lease water to the Bank are being returned.

To be eligible for lease to the Bank, Idaho Code 42-1762 requires that a use of water authorized under a water right must be reduced equivalent to the portion of the water right leased to the Bank and Water Supply Bank rule 25.06.d (IDAPA 37.02.03.25.06.d) allows the Board to consider the probability of renting a water right from the Bank, when evaluating the proposed lease of a water right to the Bank. The map submitted with your lease application differed from the Department's shapefile, which resulted in confusion as to which idled irrigable acres were being proposed for lease. Furthermore, the place of use authorized to be irrigated under water right 25-14240 overlaps with numerous additional irrigation water rights which were not offered to the Bank. As such, it was not clear from your lease application the extent of irrigation use that would be idled under water right 25-14240 if water right 25-14240 were accepted for lease to the Bank. Furthermore, it was not possible to distinguish between irrigated and non-irrigated lands within the authorized place of use for water right 25-14240 and our review of satellite imagery indicated that many of the subdivision lots within the authorized place of use were being irrigated in excess of authorized amounts. As such, we were unable to determine the extent of irrigation use that would be idled if water right 25-14240 were accepted for lease to the Bank, and the Department was concerned that an enlargement in water use might occur if irrigation of the place of use for water right 25-14240 were to continue as the water right was leased to the Bank.

To address the above concerns, the Department issued you a letter through your representative, Luke Marchant, on November 30, 2018, requesting additional information necessary for us to continue reviewing your lease application. That letter provided a 30 day deadline for a response.

COMORE DEVELOPMENT, INC
RETURNED LEASE APPLICATION

An email reminding your consultant of the impending deadline was sent on December 28, 2018, granting an additional 10 days to respond. Luke Marchant responded via email on January 4, 2019 that he would provide the requested shapefile for the leased area by the next week. A proper map of the acres offered to the Bank has not been received. As such, your application is being denied.

You may re-file your lease application(s) within fourteen (14) days with the requested information without having to submit new application filing fee(s). Department resources were expended in order to provide a full review of your applications. Therefore, the lease application filing fees will not be refunded if an acceptable application with all the required information isn't submitted within fourteen (14) days.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

If you have questions regarding this matter, please contact me at (208) 287-4936.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Condon", with a stylized flourish at the end.

Mary Condon
Water Supply Bank Specialist

Enclosure: Lease Application

c: Luke Marchant – Holden, Kidwell, Hahn & Crapo, PLLC

STATE OF IDAHO
WATER RESOURCE BOARDRECEIVED *DL*

SEP 28 2018

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Comore Development, Inc.

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

Water Right No. 25-14240

(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: *DL*Date Received: 9.28.18Receipt # C105717W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

1104

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 Comore Development, Inc.

Mailing Address <u>3920 E. Sunnyside Rd.</u>	Idaho Falls	ID	83406
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 Luke H. Marchant Organization Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Professional Title Attorney Email Address lmarchant@holdenlegal.com

Mailing Address PO Box 50130, Idaho Falls, ID 83405 Phone Number (208) 523-0620

☐ 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.
Water is diverted from 8 wells into a pressurized pipeline for irrigation within a subdivision.
- 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. _____
- 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. Approximately 1.31 cfs and 326 acre-feet of water have been diverted annually for the irrigation of approximately 81.5 acres.
- 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: 2018 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

Printed Name

Date


Signature of Authorized Representative

Luke H. Marchant, Attorney

9/24/2018

Printed Name

Date

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

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:

- ☐ Individual/sole proprietor or single-member LLC
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____
- ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

☐ Other (see instructions)

5 Address (no

6 City, state,

7 List account

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

accounts maintained outside the U.S.)

s (optional)

We have contacted our client about getting this document and will provide it as soon as we get it from the client.

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number

				-					
--	--	--	--	---	--	--	--	--	--

or

Employer identification number

				-					
--	--	--	--	---	--	--	--	--	--

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign
Here

Signature of
U.S. person ▶

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**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

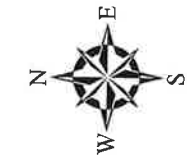
<u>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>25-14240</u>	<u>Irrigation</u>	<u>2.52</u>	<u>627.6</u>	<u>156.9</u>
	Total Amounts:	<u>2.52</u>	<u>627.6</u>	<u>156.9</u>

2. Source of water Ground water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
01N	38E	01	1		NE	NE	Bonneville
					NE	SE	
					NE	SE	
					NE	SE	
					NW	SE	
		12			NW	NE	
	39E	06	4		NW	NW	
					SE	SE	

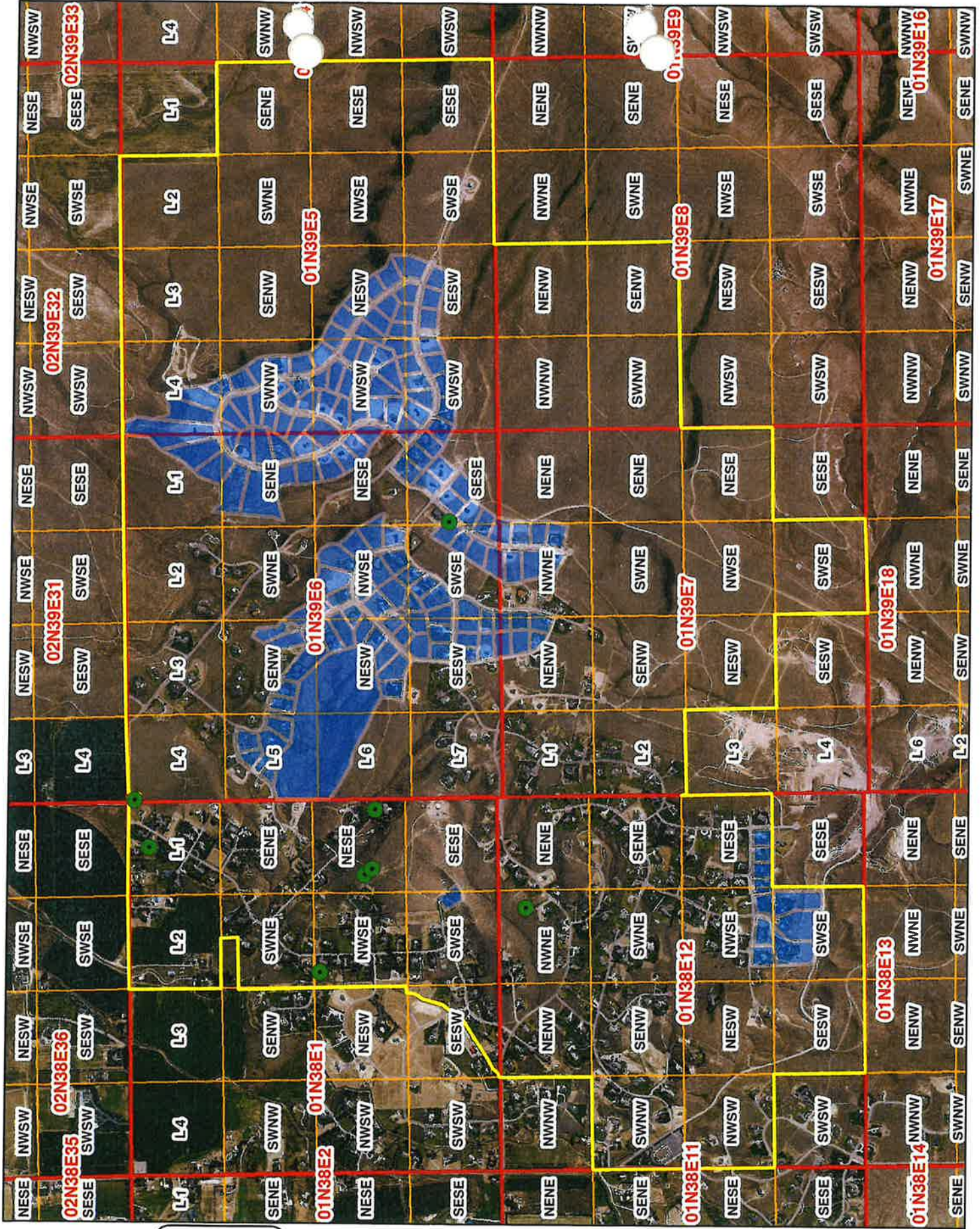
ATTACHMENT 3



Legend

- PODs
- Approximate PPOU
- Irrigated Parcels*
- Section Lines
- Quarter Quarters

*1/2 acre of irrigation is allowed per parcel.



2017 NAIP Photo



Prepared by:
Luke H. Marchant
09/24/2018

MEMORANDUM FOR APPLICATION # 1184

To: Water Right(s) 25-14240
Associated water rights: 25-12706, 25-14242, 25-14243 and 25-14340

From: Mary Condon

Date: October 18, 2018 (November 29, 2018)

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

PURPOSE/NARRATIVE: An application to lease a portion of water right 25-14240, Comore Development, Inc, was received on September 28, 2018, for a two year term, beginning January 1, 2018 until December 31, 2019. An extension of time to avoid forfeiture was received by the department and approved on November 29, 2013 for five years until September 27, 2018. See memo Re: Extension of Time to Avoid Forfeiture Applications, dated 11-29-2013 to the file.

AUTHORITY TO FILE: Application was in the name of the water right holder, Comore Development Inc., and signed by Luke Marchant, acting attorney. No concerns of authority to file.

WATER RIGHT VALIDITY: Parent right 35-7622 was licensed in 1994 for 318 acres and in CRP until an ownership change for 248 acres in 2007 split 35-7622 into 35-13624; transfer 74088 to move the 238.4 acres split 35-13624 into water right 35-13645, renumbered to current water right 25-14240 in 2009, for limit. Resumption of water use required by September 27, 2018, this lease would cover back to January 1, 2018 thru December 31, 2019 to protect the right from forfeiture. No concerns with validity of the water right and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Lease of this water right may cause injury to other water rights, as it is partially being used in excess of the allowable limits.

ENLARGEMENT OF USE: The proposed shape file for the leased acres does not fully correspond to the water right shape file and overlaps with other irrigation rights for the subdivision.

Overlap analysis of the water right POU for this irrigation right for up to ½ acre on developed lots within the shape file shows very little irrigation has occurred, and does not exceed the difference between the 156.9 acres to be placed in the bank, and the 238.4 acre limit; however, the lots irrigated measure 0.8 to 2.0 acres worth of green space each, which exceeds the 0.5 acre per developed lot limit. The application states there are 163 lots supplied by this water right, allowing 0.5 acres per lot to find 81.5 acres in use and 156.9 acres not in use.

The Other water rights on this POU with 25-7578 shape file is for indoor use only. This water right now shares POD's as part of a transfer, with rights 25-14242, 25-14243, 25-14340 for irrigation of outside lots. However, there are no listed combined limits with these other water rights.

The application for Extension of Time to Avoid Forfeiture in 2013 included attachment 3 which listed the associated domestic indoor water rights as 25-14183, 25-14166 and 25-14167.

A further review of the place of use and the excessive irrigation is in Memo dated October 22, 2018 (November 29, 2018). Request for additional information was sent regarding the lease POU and overlap. Additional time was given, but additional information was not received. This application has therefore been returned without a refund, on January 11, 2019.

LOCAL PUBLIC INTEREST: The locals are concerned with water use from groundwater in this location. The irrigation water rights for the subdivision were purchased and transferred in to mitigate and settle protest for increased water use. Reduced use of water would be in the public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: A reduction in use would be consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the leased is within the ESPA and Eastern Region.

This application has been returned as denied.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 30, 2018

COMORE DEVELOPMENT, INC
3920 E SUNNYSIDE RD
IDAHO FALLS ID 83406

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO
LEASE WATER RIGHT NO 25-14240 TO THE WATER SUPPLY BANK**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

The proposed map of acres to be idled for lease compared to the water right shape file for 25-14240 is not consistent and overlap exists with other water rights not offered to the bank. Water use on 269 lots within the entire Comore Loma Subdivision are in excess of the ½ per developed lot limitation, and no other irrigation source has been identified for the additional use.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will not be refunded:

- Updated land list and shape files for water rights 25-12706, 25-14240, 25-14242, 25-14243 and 25-14340, per the condition to provide the Department with a new land list and shapefile upon request
- A map of acres to be idled according to this lease within the water right legal description and shape file
- Proof of authorized additional irrigation water rights or shares which provide above the approved ½ acre limitation per developed lot within the Comore Loma Subdivision

November 30, 2018

Comore Development Inc

The department will continue processing your application once you have submitted the requested information. In consideration for preparing and delivering the new land list and shape files, please note the 2013 land list and shape files provided to the department for previously approved transfer to add PODs and used in conjunction to decipher this lease request, it has been noted some of these water rights listed are not marked as their legal description according to how they were licensed or permitted. To clarify, domestic water rights 25-7040, 25-7578 and 25-7652 are for specific lots and must stay to the legal description on the water right as licensed, unless a transfer has been approved to change the place of use. Additionally, water right 25-7042 was developed and licensed in the NESE, Sec 1, 01N 38E. Water right 25-7161 and permit 25-14183 also have specific POU descriptions not consistent with the land list on file.

Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have questions regarding this matter, please contact me at (208) 287-4936.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Condon", with a stylized flourish at the end.

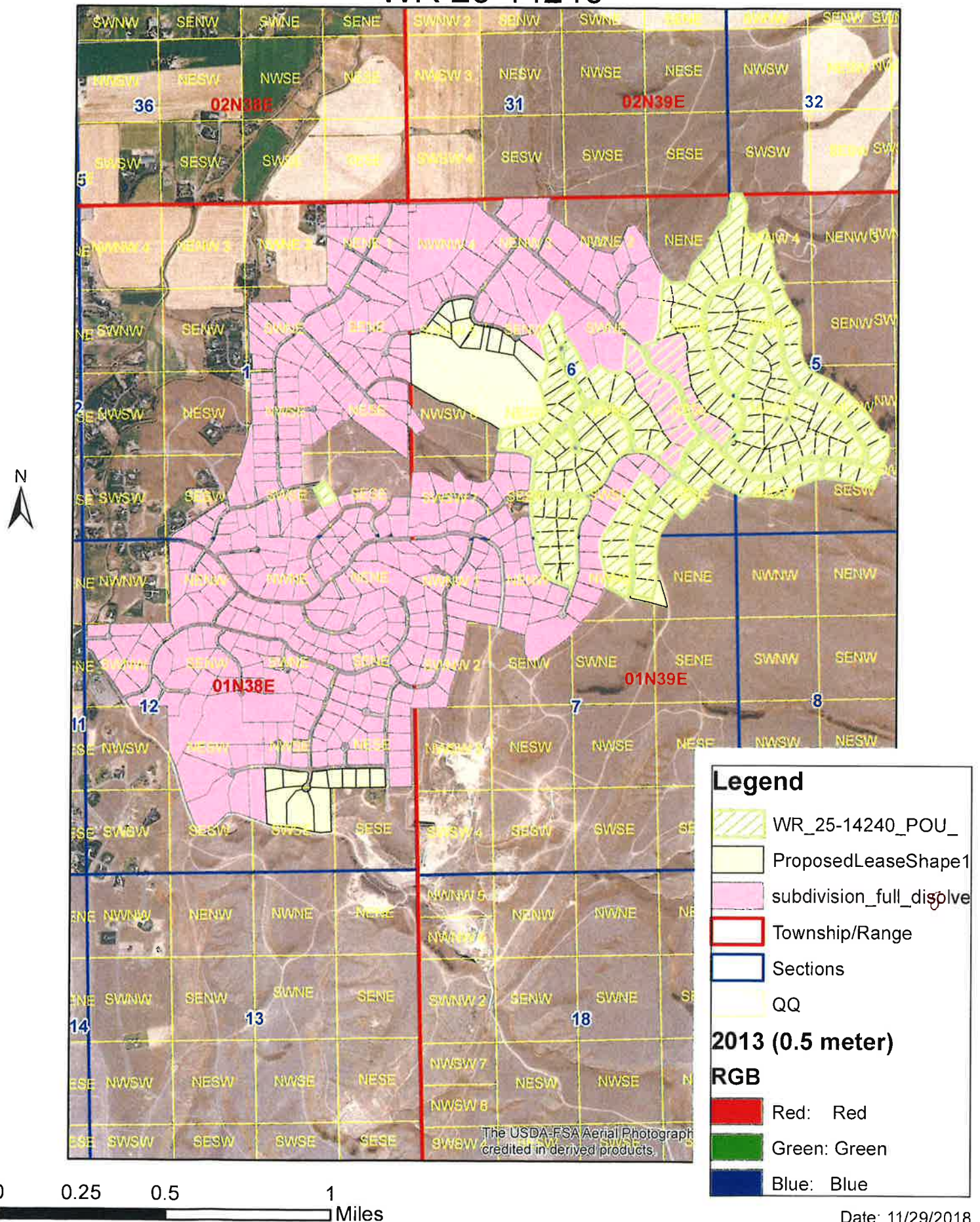
Mary Condon
Water Supply Bank Specialist

Enclosure(s): Map – Lease application to WR 25-14240 comparison
Map – Comore Loma Water Rights, 2013

c: Luke Marchant – Attorney for applicant

Comore Irma Lease Application Proposal

WR 25-14240



MEMORANDUM

To: Water Right 25-14240

From: Mary Condon

Date: October 22, 2018 (November 29, 2018)

Re: Water Supply Bank Application POU shape and Irrigation

The POU for water right 25-14240 submitted by Luke Merchant on behalf of Comore Development for lease to the water supply bank does not align with the current shape file on record for this POU. Condition 206 on the water right requires an updated shape file each year and upon request for current irrigation application. This water right is restricted to up to ½ acre per developed lot, not to exceed 238.4 acres for this one water right. The shape file for this water right encompasses 355.6 acres, with less than a third of the lots developed.

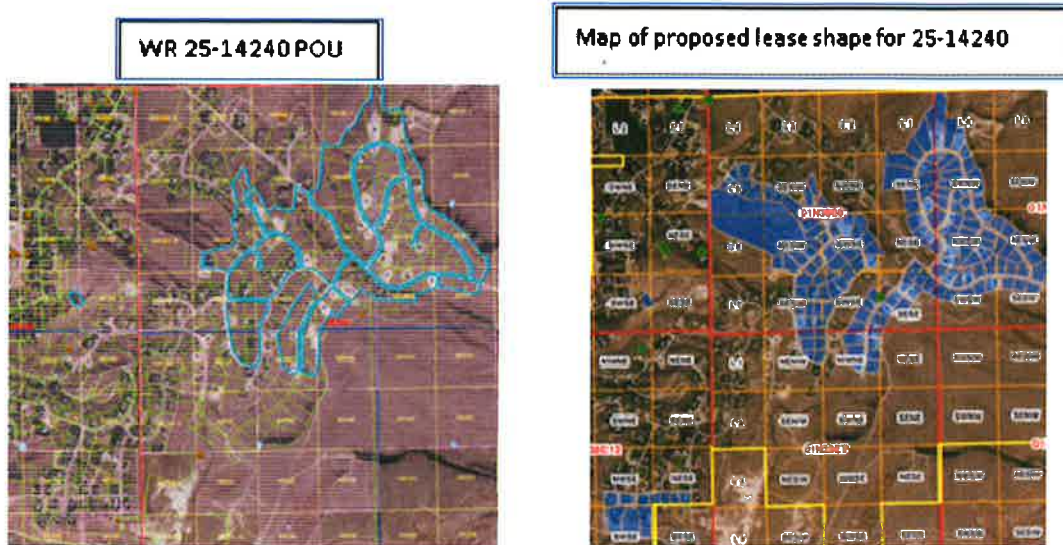
There is another section of the subdivision included in the lease map shape which is actually part of the POU for water rights 25-14242, 25-14243 & 25-14340 with 25-12706 each for irrigation up to ½ acre per developed lot. The entire combined limits for these other rights is only 98.6 acres. The POU shape file for these stacked water rights encompasses 582.7 acres, of which at least 90% of the lots are developed.

Below is a table listing the water rights and uses, along with their conditions.

Water Right / Use conditions	Homes Served	Irrigation Acres
25-7040 Domestic w/ ½ acre each	7	3.5
25-7042 Domestic w/ ½ acre each	2	1.0
25-7161 Domestic w/ ½ acre each	53	26.5
25-7578 Domestic w/ ½ acre each	31	15.5
25-7652 Domestic w/ ½ acre each	88	44.0
25-12706 Domestic indoor only, 25-12706 Irrigation limited to 0.4 acres per season	7	0.4
25-14166 Domestic indoor only	200	0.0
25-14167 Domestic indoor only	22+	0.0
25-14183 Domestic indoor only	130	0.0
Total	540 (182 to irrigate)	90.9
Permits / Use conditions	Acres allowable	Homes to Irrigate
25-14240 Irrigation ½ acre per developed lot	81.5 (limited to 238.4)	163
25-14242 Irrigation ½ acre per developed lot	29.2 (limited to 29.2)	58
25-14243 Irrigation ½ acre per developed lot	40.1 (limited to 40.1)	80
25-14340 Irrigation ½ acre per developed lot	28.7 (limited to 28.7)	57
Total	179.5 acres	358
Total Irrigation Authorized		270.4 acres

Table 1

The request for lease cover letter states the limitations and mathematically, by the table above, the request is reasonable for Water Right 25-14240. It states 238.4 acres allowable, and the development of 163 lots at ½ acre each would be using a total of 81.5 acres and would leave 156.9 acres to place into the bank.



However, because the requested lease shape did not match the Water Right POU shape and overlapped with these other rights, as well as a noticeable trend in lots likely over the ½ acre of irrigation, further analysis of the current irrigation within the Comore Loma Subdivision was performed to prevent enlargement of any water rights brought into the bank.

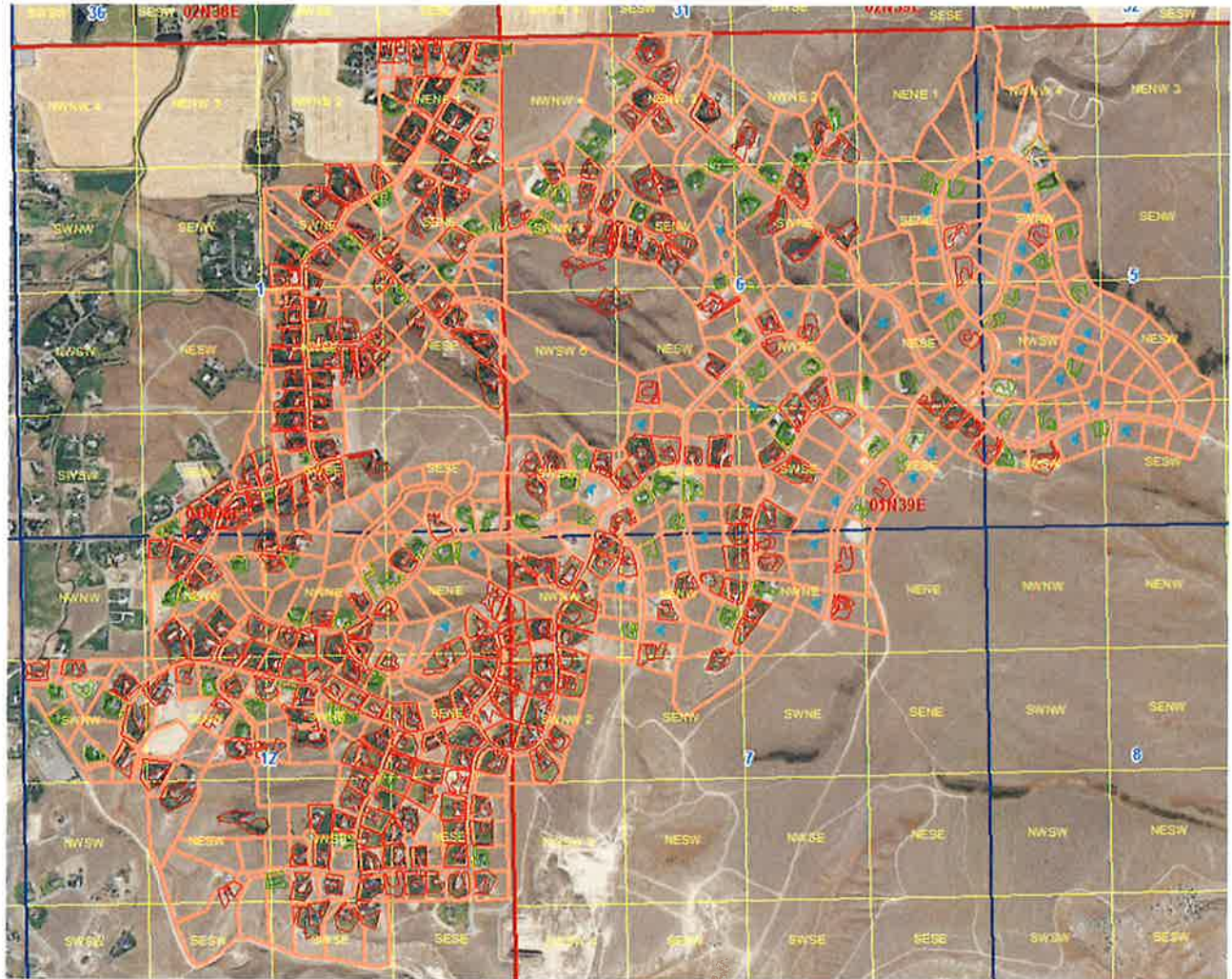
I began by creating shape files for each lawn around a home within the subdivision and “markers” for developed homes as late as August 19, 2018. Using these shapes and the attribute table I was able to show the following:

ArcMap Review Total Irrigation Occurring within the subdivision	314.5 acres
ArcMap Review Total Lots with homes	407
# of irrigated lawns	369
# of lawns in excess of 0.99 acre	122
Acres worth of Irrigation	162.4 acres
Allowable irrigation	61.0 acres
Irrigation in excess of allowable	101.4 acres
# of lawns in excess of the ½ acre, with leniency up to 0.59	269
Acres worth of Irrigation	273.0 acres
Allowable irrigation	134.5 acres
Irrigation in excess of allowable	138.5 acres

Table 2

Actual # of developed Homes = 407 and 369 irrigated lawns, with 314.5 acres irrigated;
 # of lawns over half acre = 269 with a total of 273 acres of irrigation, equal to 138.5 acres over irrigated; # of lawns over one acre = 122 with a total of 162.4 acres irrigated, equal to 101.4 acres over irrigated.

Below is a picture of the subdivision, in orange, and shape files for lawns and newly built homes. The blue selected are “markers” for homes recently developed as seen on Sentinel Imagery, 20180819. The reason for this was to find exactly how many homes are built. The red shape files are all lawns over 0.5 acres. All the green shape files are lawns under 0.5 acres, although some may be actually 0.51 to 0.59 since there was no rounding past the tenths place.



In order to proceed with any lease application, the applicant will need to provide the updated shape files for each irrigation water right covering the subdivision for 25-14240, 25-14242, 25-14243 & 25-14340 with 25-12706, per the 206 conditions. Additionally, an authorization to exceed $\frac{1}{2}$ acre per lot will be requested from the applicant or a plan must be made by the applicant to immediately stop excess irrigation and apply for rental to cover the excess irrigation.



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

RECEIVED
SEP 28 2018
DEPARTMENT OF
WATER RESOURCES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: lmarchant@holdenlegal.com

September 25, 2018

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

Re: *Water Supply Bank Lease Application for Water Right No. 25-14240.*

Dear Remington:

Enclosed for processing is an application to lease a water right to the Water Supply Bank. I have spoken with you on the phone about this application several times. This application is for Water Right No. 25-14240 which provides irrigation water for a development east of Ammon, Idaho. A portion of the water right has been put to use within the development. This application proposes to put the remaining unused portion into the Water Bank.

Because the water right has a 238.4-acre limit within a 2,634-acre permissible place of use, it is difficult to identify the acres that will be idled. As we discussed on the phone, rather than identifying the acres that have been idled, we have prepared and attached a map which shows the parcels within the development where the water right is currently being used. Each parcel is limited to half an acre of irrigation. This water right is currently being used on 163 parcels. That means that 81.5 acres of the water right are currently being used and 156.9 acres are not being used. These unused acres are the acres that this application proposes to lease to the Water Bank.

If you have any questions or need any additional information, do not hesitate to contact me.

Best regards,

Luke H. Marchant
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

g:\wpdata\rlh\12559 comore\25-14240 wsb application\buyer ltr 2018-09-25.docx