

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 883

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

LESSOR: CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN, ID 83332

RECEIVED
DEC 28 2018
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on November 27, 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)
77-4208	7/12/1922	KNAPP CREEK, tributary to MARSH CREEK	5.27	387.0	129.0
Lease Totals			5.27	387.0	129.0

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: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2018 to December 31, 2022. 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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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: CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN, ID 83332

By Robert Sandy
Title Member
Date 12/26/2018

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 12/31/2018

Lease approved by IDWR Cheryl

Date 12-31-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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**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): 77-4208

KNAPP CREEK NESENW Sec. 18 Twp 12N Rge 12E CUSTER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
77-4208	IRRIGATION	05/01	to	10/31	5.27 cfs	387.0 AF
Totals:					5.27 cfs	387.0 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	
12N	11E	13															6.0	20.0	26.0
12N	11E	24	40.0	14.0	2.0	6.0													62.0
12N	12E	18										5.0	28.0	7.0					40.0
12N	12E	19						1.0											1.0

Total Acres: 129.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 883

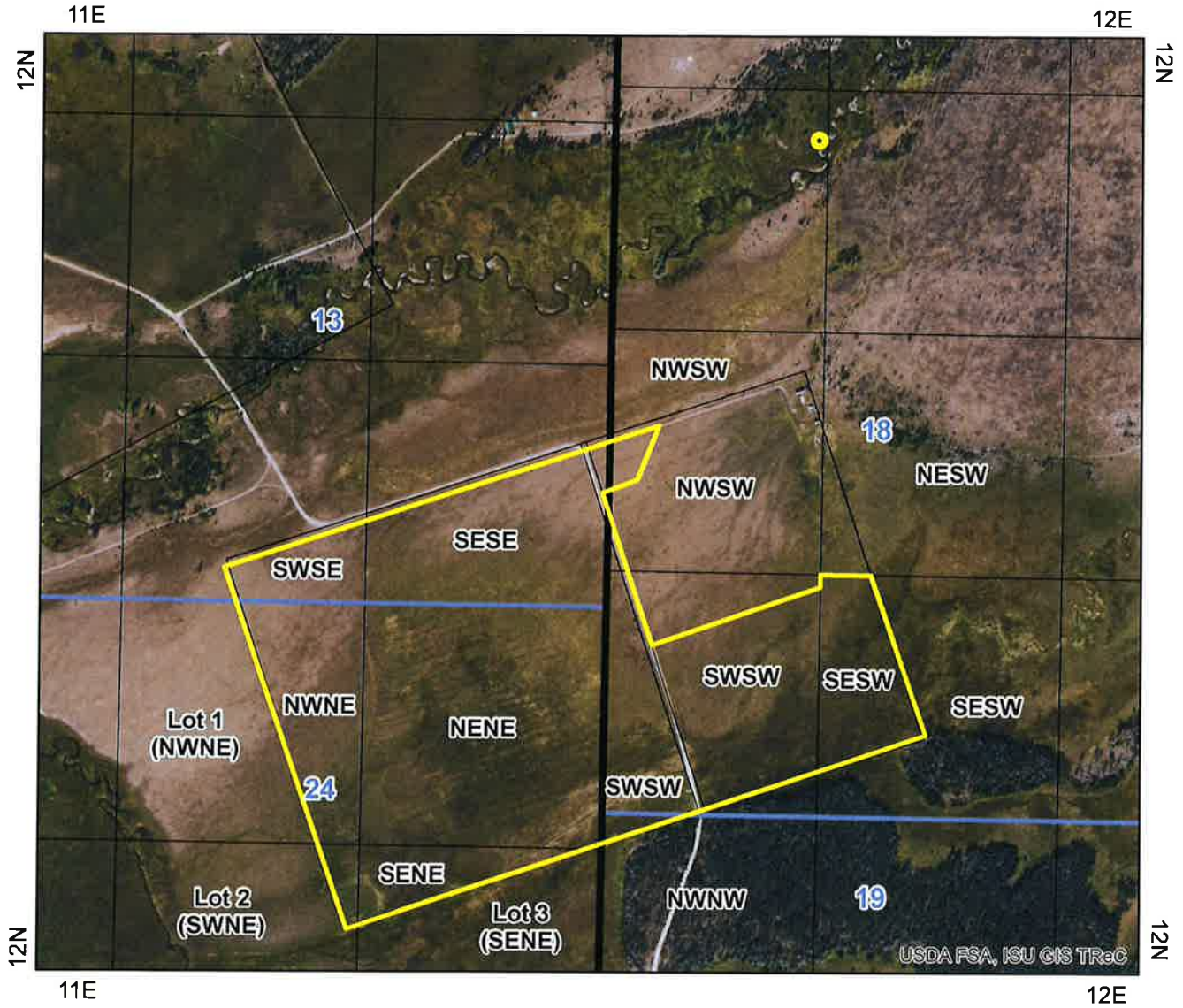
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other 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.

Water Supply Bank Lease Contract No.883

77-4208

Effective until December 31, 2022

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.



- Point of Diversion
- Townships
- PLS Sections
- Quarter Quarters

0 0.1 0.2 0.4 Miles



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

NOV 27 2018

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Cape Horn Ranch LLC

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

Water Right No. 77-4208

(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.**

MIMUMUM 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 \$ 250⁰⁰Received By: SMDate Received: 12/19/2018 Receipt # A 191655W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Cape Horn Ranch LLC

1257

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 Cape Horn Ranch LLC

Mailing Address <u>2724 Northview Dr</u>	Hagerman	ID	83332
Street	City	State	Zip Code

Email Address _____ Phone Number 208-280-0133

☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ 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.

Headgate is located on Knapp Creek in Section 18, Township 12 North, Range 12 East in Custer County.

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

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒

Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒

If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Applicant has diverted 6.52 cubic feet per second from Knapp Creek when available to irrigate the subject property.

- 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 2023 (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.

Robert J Sandy
Signature of Designated Applicant

Robert J Sandy

Printed Name

11/20/2018
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**

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). _____

	Designated Applicant	Applicant #2	Applicant #3
Name	Cape Horn Ranch LLC		
Mailing Address	2724 Northview Dr Hagerman ID 83332		
Phone Number	208-280-0133		
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 on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature	Robert Sandy		

	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			

No. W 31816		Due no later than Jul 31, 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. CAPE HORN RANCH, LLC ROBERT J SANDY 2724 N VIEW DR HAGERMAN ID 83332		ROBERT J SANDY 2724 N VIEW DR HAGERMAN ID 83332	
				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	ROBERT J SANDY	4555 EAST SAHARA AV #233	LAS VEGAS	NV	09104-6386
MEMBER	LORA SILVER	PO BOX 71	HAGERMAN	ID	83332
MEMBER	CHERYL SANDY	3614 SOUTH HERITAGE AVE	BOISE	ID	83709
5. Organized Under the Laws of: ID W 31816		6. Annual Report must be signed.* Signature: robert sandy Name (type or print): robert sandy			
Processed 06/28/2018		Date: 06/28/2018 Title: member			
* Electronically provided signatures are accepted as original signatures.					

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

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

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>77-4208</u>	<u>Irrigation</u>	<u>5.27</u>	<u>387</u>	<u>129</u>
	Total Amounts:	<u>5.27</u>	<u>387</u>	<u>129</u>

2. Source of water Knapp Creek tributary to Marsh Creek

3. Point(s) of diversion:

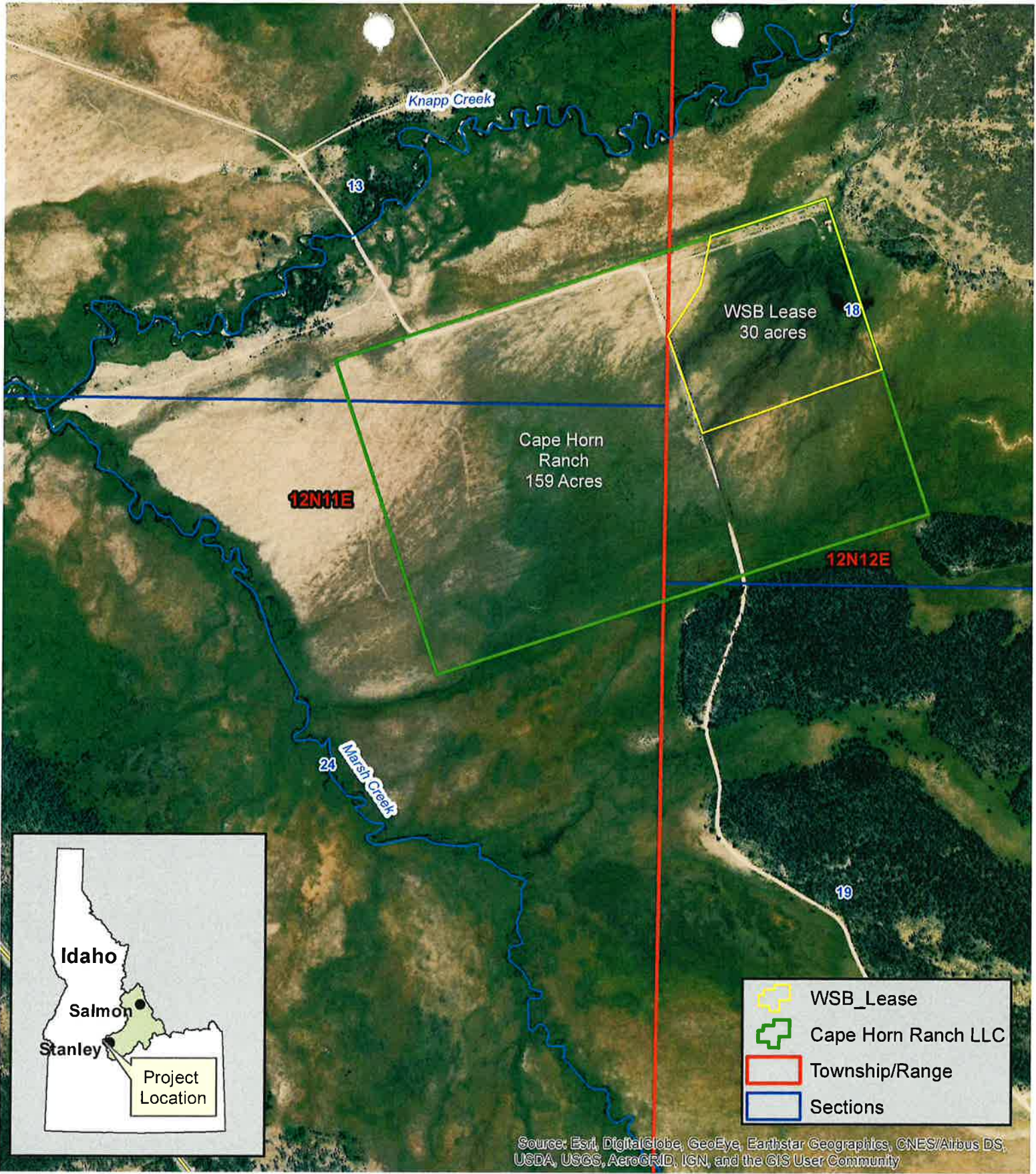
Twp	Rge	Sec	Lot	¼	¼	¼	County
12N	12E	18		NE	SE	NW	Custer

RECEIVED

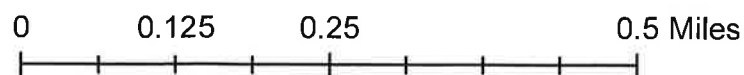
DEC 11 2018

DEPT OF WATER RESOURCES





Knapp Creek Lease: Attachment 3



Map Date: 11.15.2018

Imagery: NAIP 2015





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

December 31, 2018

CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN ID 83332

RE: WATER SUPPLY BANK LEASE CONTRACT 883 FOR WATER RIGHT 77-4208

Dear Lessor:

Water right **77-4208** was leased into the Water Supply Bank (Bank) as of November 27, 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, 2022**, 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,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Angie Grimm - IDWR Western Region
Amy Cassel - IDWR

Hersley, Jean

From: Grimm, Angie
Sent: Wednesday, December 26, 2018 11:32 AM
To: Hersley, Jean
Subject: RE: WSB Lease 77-4208 Cape Horn Ranch

Jean,

Good morning! No local area concerns come to mind for this lease application. Thank you for the opportunity to comment.

Regards,
Angie

Angela M. Grimm, P.G.
Water Rights Supervisor
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

From: Hersley, Jean
Sent: Wednesday, December 19, 2018 7:56 AM
To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>
Subject: WSB Lease 77-4208 Cape Horn Ranch

Please let me know within 7 days if you have any comments or concerns with this lease. Thank you.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942

Hersley, Jean

From: Marston, Sascha
Sent: Thursday, December 20, 2018 10:07 AM
To: Cassel, Amy; Hersley, Jean
Cc: Buyer, Remington; Condon, Mary
Subject: RE: WSB Lease for Cape Horn Ranch LLC

Jean,

This payment was transferred to the WSB Lease Applications account yesterday. The document # is A191655.

Sascha

From: Marston, Sascha
Sent: Tuesday, December 18, 2018 3:43 PM
To: Cassel, Amy <Amy.Cassel@idwr.idaho.gov>
Cc: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: WSB Lease for Cape Horn Ranch LLC

Thanks Amy. I will use this email and get this fee paid. I know we talked about paying for Robert Sandy's fee I just didn't realize he was affiliated with Cape Horn.

Sorry for the delay in payment.

Sascha

From: Cassel, Amy
Sent: Tuesday, December 18, 2018 3:14 PM
To: Marston, Sascha <Sascha.Marston@idwr.idaho.gov>
Cc: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: WSB Lease for Cape Horn Ranch LLC

Hi Sascha,

This is the lease we discussed when I was in Boise for the IWRB meeting. This is the landowner that initially you couldn't get the W9 information to rectify – Robert Sandy. Do you need a formal letter from me requesting the fee be paid (with reimbursement to come from BPA next fall when we invoice for the transaction)? I can pull something together if need be.

Thanks,
Amy

From: Hersley, Jean
Sent: Tuesday, December 18, 2018 3:10 PM
To: Cassel, Amy <Amy.Cassel@idwr.idaho.gov>
Subject: FW: WSB Lease for Cape Horn Ranch LLC

Sascha hasn't received a request to pay the lease filing fee for Cape Horn Ranch, LLC. Could you check into this, please?

Jean Hersley

*Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

From: Marston, Sascha
Sent: Tuesday, December 18, 2018 3:07 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: RE: WSB Lease for Cape Horn Ranch LLC

I haven't received a request to pay this fee. Once I do I will let you know.

From: Hersley, Jean
Sent: Tuesday, December 18, 2018 1:22 PM
To: Marston, Sascha <Sascha.Marston@idwr.idaho.gov>
Subject: WSB Lease for Cape Horn Ranch LLC

I am processing a WSB Lease for Cape Horn Ranch LLC. The cover letter that came with the application stated the filing fee of \$250 will be paid by the IWRB. I was wondering if this has been submitted? Can you let me know when it has been paid?

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



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

December 19, 2018

CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN ID 83332

RE: APPLICATION TO LEASE WATER RIGHT 77-4208 TO THE WATER SUPPLY BANK
CONTRACT 883

****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, 2022**, 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,

for Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Amy Cassel

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, December 19, 2018 7:56 AM
To: Grimm, Angie
Subject: WSB Lease 77-4208 Cape Horn Ranch
Attachments: Idled Acres.pdf; Lease Application Review.xls; Report - Lease Contract - 883.docx

Please let me know within 7 days if you have any comments or concerns with this lease. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Cape Horn Ranch LLC

Memo Date: December 11, 2018

Water Right Number(s): 77-4208

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases (Front of File)	x	
2 Reason for lease of water rights (Brief description of lease proposal in narrative)		
Portion of right	x	
All of right		
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)		
	Yes No	
4 Rentable? (If no explain in comments or narrative)	x	
5 Authority to file		
Current owner or designated applicant	x	
SOS Web site checked for business entity	x	
Other (explain in comments)		
6 Water Right validity		
Decreed/Licensed/Statutory claim date (write in comments section)		2006
Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		
Has this right previously been leased to the bank or in CREP?	x	1995-2017
7 Injury to other water rights		
If the POD is through a delivery entity, was consent provided?		na
If the POD is through a delivery entity, was holdback required? (percentage in comments)	x	%
Any other concerns	x	
8 Enlargement concerns	Check box	
Complete a POU comparison overlap analysis	x	
Complete a combined limits review	x	
Complete POD overlap analysis (if there is an overlap add condition to lease)	x	
	Yes No	
Are there overlapping rights that need to be placed in the bank also?		x
Will the place of use continue to receive water? (if yes explain in comments)		x
9 Local Public Interest		
Does the processor know of any problems this action will cause for the local public?		x
10 Have you contacted regional office and watermaster for comment/concerns?	x	
Send the watermaster comment request form or e-mail request		na
11 Area Headgate requirement (write in Comments)		3
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x

13 **Narrative:** The Department received this application on November 27, 2018. The applicant wishes to place a portion of the right in the Bank. Application was signed by Robert Sandy, member. The entirety of this right was placed in the Bank in 1995, (159 acres). In 2005, Robert Sandy requested that 60 acres be released from the Bank. Request was granted. There are no overlapping rights. At the time of this lease, this right is not within a WD.

Hersley, Jean

From: Cassel, Amy
Sent: Tuesday, December 11, 2018 1:57 PM
To: Hersley, Jean
Subject: RE: WSB lease for Cape Horn Ranch
Attachments: WR 77-4208 Lease App Map 11.30.18.pdf

Hi Jean,

Remington called me about that last week and it was an error – so I made a quick updated map but maybe that didn't get routed to you. See attached.

Amy

From: Hersley, Jean
Sent: Tuesday, December 11, 2018 12:14 PM
To: Cassel, Amy <Amy.Cassel@idwr.idaho.gov>
Subject: WSB lease for Cape Horn Ranch

Amy,
Attachment 2 of the WSB Lease application states Cape Horn would like to place 129 acres in the Bank. However, the map that was sent with the application only has 30 acres for lease. Can you please let me know which is correct? If it is 129 acres, I will need a new map. Thanks.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

Condon, Mary

From: Condon, Mary
Sent: Thursday, November 29, 2018 10:46 AM
To: Cassel, Amy
Subject: RE: Cape Horn Lease Application

Amy,

I will change the requested lease application dates to 2018-2022. Yes, any rentals have to be in the future.

Thank you so much,
Mary

From: Cassel, Amy
Sent: Thursday, November 29, 2018 10:39 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: Re: Cape Horn Lease Application

Hi Mary,

Yes, good catch. It should be 2018 - 2022. I forgot they pulled it out the end of 2017. And Sascha can transfer the \$250 app fee. She is aware of it.

So I guess the rental should be 2019-2022 since we are at the end of 2018?
Amy

Sent from my iPhone

On Nov 29, 2018, at 10:29 AM, Condon, Mary <Mary.Condon@idwr.idaho.gov> wrote:

Good morning, Amy,

I am doing the initial intake on this lease application, and the previous lease expired at the end of 2017. This one requested start date of 2019-2023. Should this be started in 2018 instead?

Best,
Mary

Mary Condon
Water Supply Bank Specialist
Planning & Projects Bureau
Idaho Department of Water Resources
Main: (208) 287-4936
Fax: (208) 287-6700



IDAHO WATER RESOURCE BOARD

RECEIVED

NOV 27 2018

DEPARTMENT OF
WATER RESOURCES

C.L. "Butch" Otter
Governor

Roger W. Chase
Chairman
Pocatello
District 4

November 15, 2018

Jeff Raybould
Vice-Chairman
St. Anthony
At Large

RE: Application to Lease WR No. 77-4208 in the Idaho Water Supply Bank

Vince Alberdi
Secretary
Kimberly
At Large

Enclosed please find an application to lease WR No. 77-4208 into the Idaho Water Supply Bank. The applicant is working with the Idaho Water Resource Board (IWRB) to lease this water to benefit ESA-listed Chinook salmon, steelhead, and bull trout. The lease application fee of \$250 will be covered by the IWRB. Please contact me upon receipt of the application to discuss the processing of the lease application fee.

Peter Van Der Meulen
Hailey
At Large

Albert Barker
Boise
District 2

Sincerely,

John "Bert" Stevenson
Rupert
District 3

Amy Cassel

Program Manager, Idaho Water Transaction Program

Dale Van Stone
Hope
District 1

Enclosure

Jo Ann Cole-Hansen
Lewiston
At Large