

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 853

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

LESSOR: JACK VERBREE JR
PO BOX 30
WENDELL, ID 83355

RECEIVED
NOV 08 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 December 27, 2017.
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)
36-16458	9/23/1965	GROUND WATER	0.18	47.5	12.1
36-16460	2/15/1974	GROUND WATER	0.70	180.4	45.1
Combined Limit Totals			0.56	227.9	57.2
Combined Lease Totals			0.56	227.9	57.2

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.

SUPPORT DATA

Minimum Payment Acceptable: Current Rental Rate

IN FILE # 36-16458

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 853

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 853

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

LESSOR: JACK VERBREE JR
PO BOX 30
WENDELL, ID 83355

By 
Title owner
Date 11/7/18

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 11/9/2018

Lease approved by IDWR 

Date 11-9-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED WATER SUPPLY BANK LEASE CONTRACT No. 853

**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): 36-16458, 36-16460

GROUND WATER	SENENW	Sec. 10	Twp 08S	Rge 22E	MINIDOKA County
GROUND WATER	NWSWSE	Sec. 10	Twp 08S	Rge 22E	MINIDOKA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
36-16458	IRRIGATION	04/01	to	10/15	0.18 cfs	47.5 AF
36-16460	IRRIGATION	03/15	to	11/15	0.70 cfs	180.4 AF
Totals:					0.56 cfs	227.9 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	22E	10		7.1	7.3	3.4	1.4			6.3	7.1		6.3	1.1	1.2	8.4	2.8		56.7
08S	22E	15				0.5													0.5

Total Acres: 57.2

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

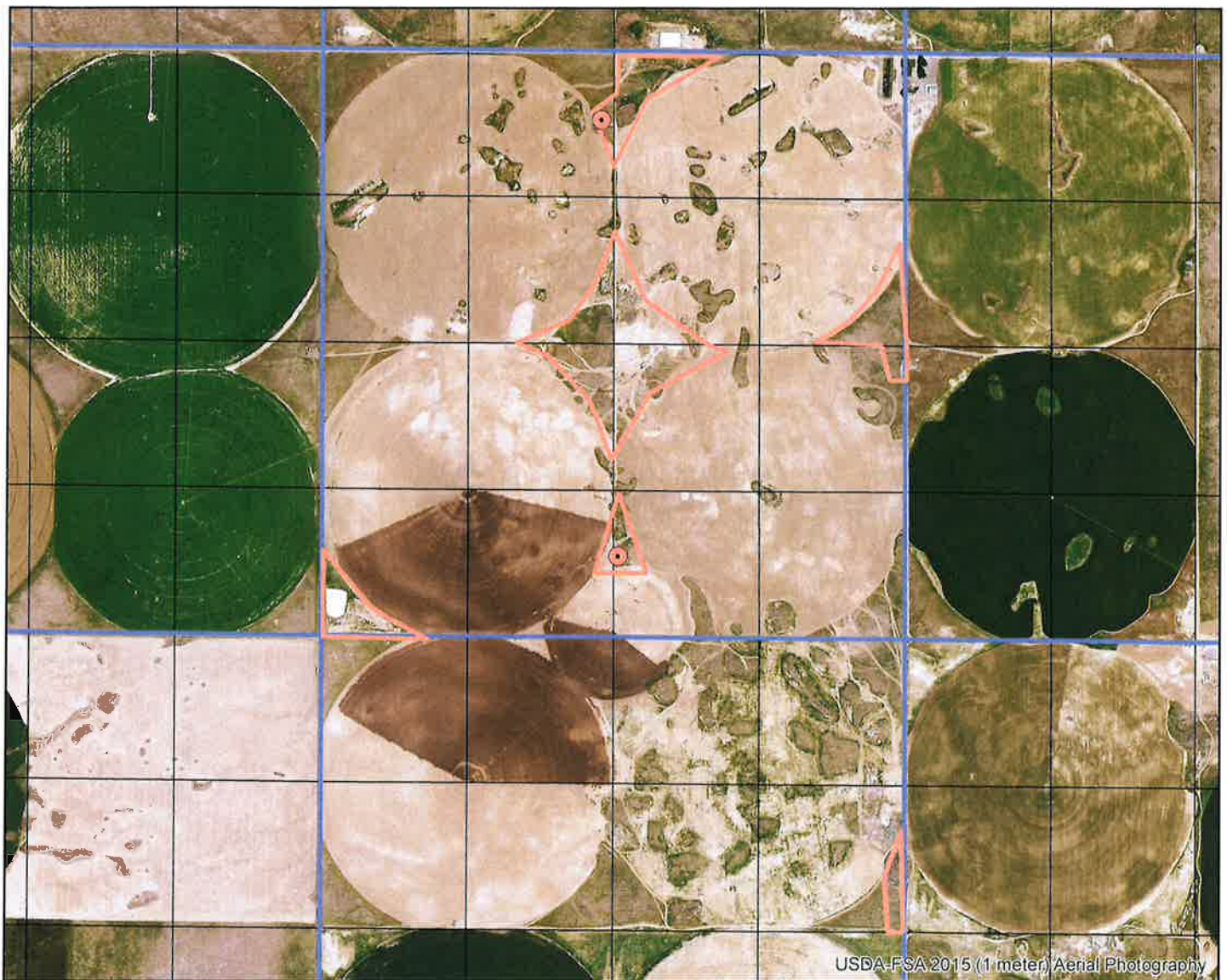
AMENDED WATER SUPPLY BANK LEASE CONTRACT No. 853

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The unleased use of water for irrigation under this right may begin as early as March 15 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
13. The total combined rate of diversion of the unleased portions of rights 36-16458 and 36-16460 is limited to 8.70 cfs.
14. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 853

36-16458 & 36-16460
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.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters

0 500 1,000 Feet



STATE OF IDAHO
WATER RESOURCE BOARDRECEIVED
JAN 03 2018APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKRECEIVED
DEC 27 2017
DEPT OF WATER RESOURCES
SOUTHERN REGIONDEPARTMENT OF
WATER RESOURCES
Designated ApplicantVerbree Land Holdings LLC
(Select one owner - see item 1A on the application)Water Right No. 36-16460
(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 \$ 250-Received By: AMDate Received: 12-27-17Receipt # 5036514W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Jack Verbree Jr.

970

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

RECEIVED

DEC 27 2017

DEPT OF WATER RESOURCES
SOUTHERN REGION

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 Verbree Land Holdings LLC
Mailing Address P.O. Box 30 Wendell ID. 83355
Street City State Zip Code
Email Address Verbreedaines@msn.com Phone Number 208-536-5608

☒ 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 GARY FUNDERBURG Organization TSK Enterprises
Professional Title _____ Email Address _____
Mailing Address 255 Blue Lacos Blvd N PMB 617 Phone Number 208-320-0897

☐ 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.
Well, Motor, Pump
- 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. 36-116460
- 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. Water right leased to Water Bank
- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe.

**STATE OF IDAHO
WATER RESOURCE BOARD**

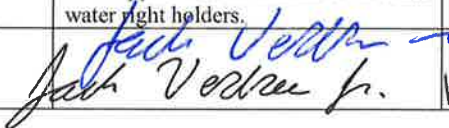
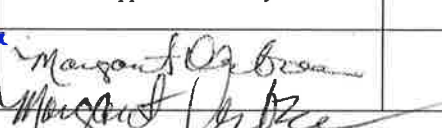
ATTACHMENT 1A

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). 36 - 16460

	Designated Applicant	Applicant #2	Applicant #3
Name	Jack Verbree Jr	Margaret Verbree	
Mailing Address	P.O. Box 30 Wendell, Id. 83355	P.O. Box 30 Wendell, Id. 83355	
Phone Number	208-536-5608	208-536-5608	
Email Address	Verbreedairies@msn.com	Verbreedairies@msn.com	
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			

	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

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: 2017 to 2022 (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.

Jack Verbree Jr.
Signature of Designated Applicant

JACK Verbree Jr
Printed Name

12-22-17
Date

Gary Funderburg
Signature of Authorized Representative

GARY Funderburg
Printed Name

12-22-17
Date

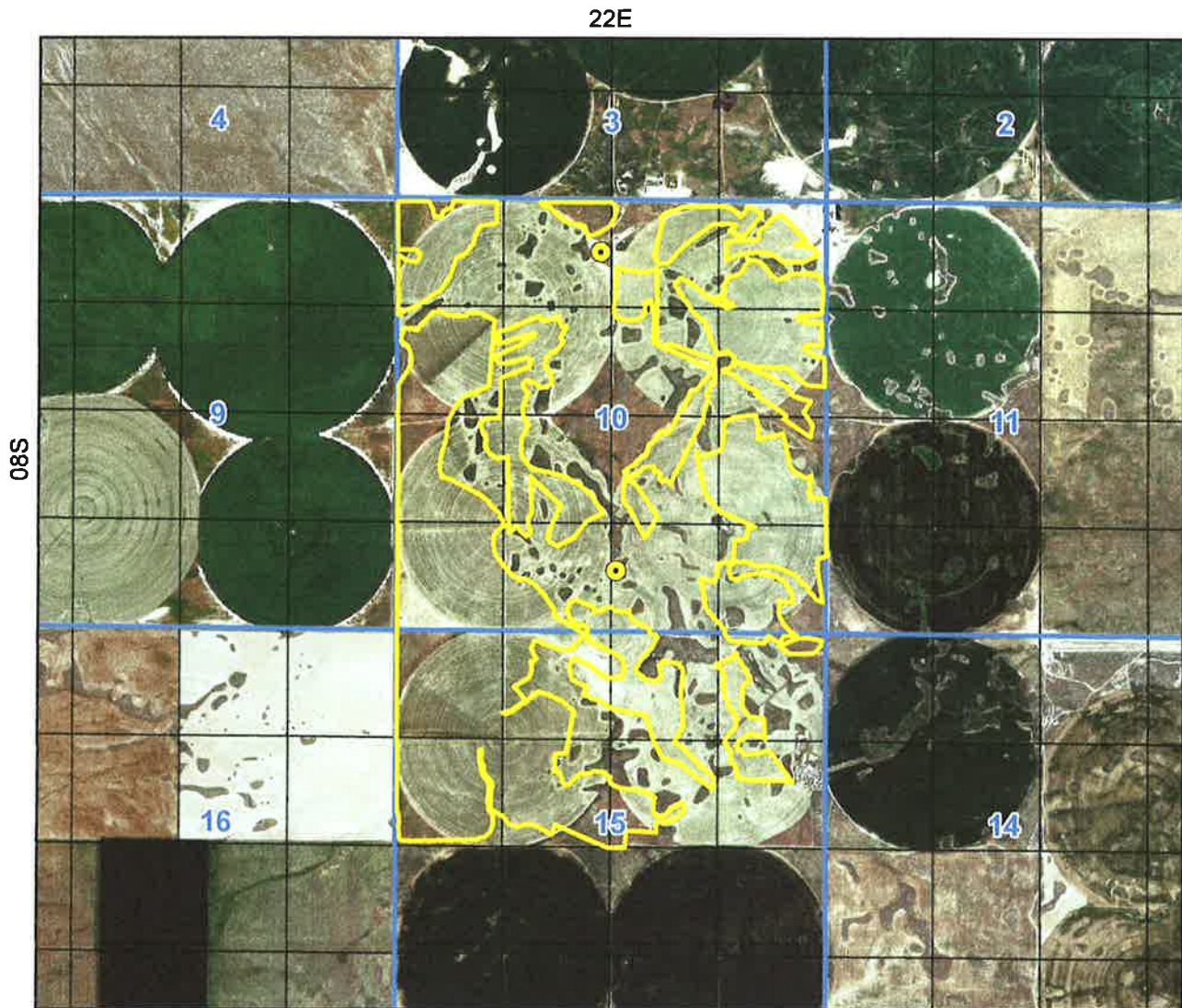
Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

State of Idaho
Department of Water Resources

Water Right 36-16458

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.275 0.55 1.1 Miles





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 13, 2018

JACK VERBREE JR
PO BOX 30
WENDELL ID 83355

**RE: WATER SUPPLY BANK LEASE CONTRACT 853
FOR WATER RIGHTS 36-16458 and 36-16460**

Dear Lessor:

Water rights **36-16458 and 36-16460** were leased into the Water Supply Bank (Bank) as of December 27, 2017, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2022**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Nathan Erickson - Water District 130
TSK Enterprises
Magic Valley GWD



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

October 29, 2018

VERBREE LAND HOLDINGS LLC
C/O JACK VERBREE JR
PO BOX 30
WENDELL ID 83355

RE: APPLICATIONS TO LEASE WATER RIGHT 36-16458 & 36-16460 TO THE WATER SUPPLY BANK CONTRACT 853.

TIME SENSITIVE RESPONSE REQUIRED

Dear Applicant:

Please disregard the lease contracts sent on October 19, 2018 for 33.1 acres. The Department of Water Resources has revised the lease contracts to reflect a reduced number of CREP acres as being placed into the bank. The Department has completed its review of your application to lease the above-mentioned water rights 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 rights may not be available for immediate release if they have 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,

David E. Gidd

Water Supply Bank

Enclosures: Proposed Lease Contracts

c: TSK Enterprises

MEMORANDUM

To: Water Right File No(s). 36-16458 & 36-16460

From: Mary Condon

Date: October 26, 2018

Re: AMENDMENT to Lease Contract 853

Nick Treasure with FSA and Chuck Pentzer with Soil and Water Conservation provided a new shape file to the department for Verbree Land Holdings 2018 CREP contract (now tract 4101) on October 23, 2018, in which approximately 28 acres were removed from CREP and are available for lease into the bank. Using Sentinel 2AB2018 imagery for July and August, I verified these additional areas brought into the bank were not irrigated during 2018.

The combined limits for these two leased rights and their shape file have been modified to include these additional 28 acres into the bank, which in total come to 60.1 acres.



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

October 19, 2018

VERBREE LAND HOLDINGS LLC
C/O JACK VERBREE JR
PO BOX 30
WENDELL ID 83355

**RE: APPLICATIONS TO LEASE WATER RIGHT 36-16458 & 36-16460 TO THE WATER SUPPLY
BANK CONTRACT 853**

******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 rights may not be available for immediate release if they have 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: TSK Enterprises

Webster, Clay

From: Condon, Mary
Sent: Tuesday, October 16, 2018 10:14 AM
To: Webster, Clay
Subject: FW: Lease for Verbree Land Holdings 2018-2022 review

FYI--

From: Skinner, Corey
Sent: Tuesday, October 16, 2018 10:09 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Cc: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>
Subject: RE: Lease for Verbree Land Holdings 2018-2022 review

Nathan and I had a chance to visit about this and we are OK (no concerns).

From: Condon, Mary
Sent: Monday, October 15, 2018 4:10 PM
To: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Lease for Verbree Land Holdings 2018-2022 review

Good afternoon!

This lease application renewal from an indefinite for another 5 years was received in December 2017 , but there were suggestions the CREP contract was going to change this spring and possibly reduced. Seems the shape has stayed the same, and after several attempts I was unable to get an update from FSA via help from Soil and Water Conservation on any change.

Please see the attached lease review memo and map, and kindly respond with comments or concerns within 7 days.

Best,
Mary

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

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: VERBREE LAND HOLDINGS, LLC

Memo Date: JANUARY 12, 2018 (October 15, 2018)

Water Right Number(s): 36-16458 & 36-13460

Reviewers Name: MARY CONDON

Check Tools

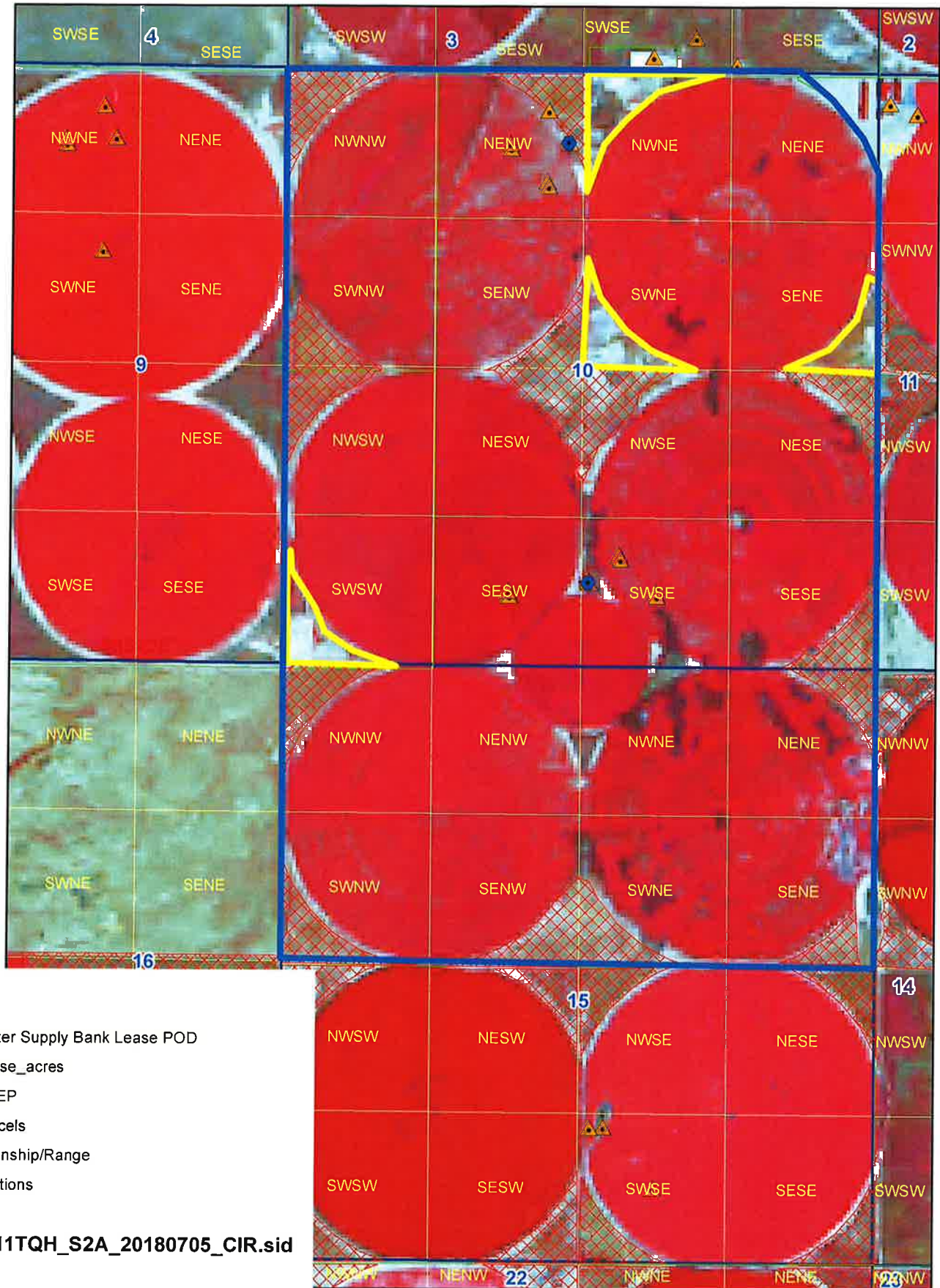
Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box		COMMENTS/CONCERNS:
1	☒	Fill out WSB Data Entry Checklist for Leases (Front of File)	
2	☒	Reason for lease of water rights (Brief description of lease proposal in narrative)	
	☒	Portion of right	
	☒	All of right	
3	☒	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	WD 130 - THOUSAND SPRINGS
4	☒	Rentable? (If no explain in comments or narrative)	ESPA
5	☒	Authority to file	
	☒	Current owner or designated applicant	
	☒	SOS Web site checked for business entity	
	☒	Other (explain in comments)	
6	☒	Water Right validity	
	☒	Decreed/Licensed/Statutory claim date (write in comments section)	2002
	☒	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?	CREP & WSB
7	☒	Injury to other water rights	
	☒	If the POD is through a delivery entity, was consent provided?	
	☒	If the POD is through a delivery entity, was holdback required? (percentage in comments)	%
	☒	Any other concerns	
8	☒	Enlargement concerns	
	☒	Complete a POU comparison overlap analysis	
	☒	Complete a combined limits review	
	☒	Complete POD overlap analysis (if there is an overlap add condition to lease)	
	☒	Are there overlapping rights that need to be placed in the bank also?	
	☒	Will the place of use continue to receive water? (if yes explain in comments)	
9	☒	Local Public Interest	
	☒	Does the processor know of any problems this action will cause for the local public?	
10	☒	Have you contacted regional office and watermaster for comment/concerns?	
	☒	Send the watermaster comment request form or e-mail request	10/15/2018
11	☒	Area Headgate requirement (write in Comments)	4
12	☒	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments	

13 Narrative

Both water rights were decreed in 2002 and have been leased as portions into the bank since then. This is a renewal for 2018-2022 contract. Application states entire water rights, however, portions of these rights are enrolled in CREP and pivots are irrigated. Email requesting clarification sent to owner on 1/16/2018. Delia Williamson, acting office manager, replied with current CREP contract. Gary Funderburg for TSK enterprises is listed as a representative on the application. Multiple emails to Soil and Water Conservation, Chuck Pentzer, for coordination with FSA current CREP review of Verbree Land indicated there would be a reduction in the CREP acres. However, 2018 contract and shape file is for just under 96 acres, still no change as of August 2018. Used current WR shape files, less CREP acres and current irrigation to find 33.1 acres available to come into the bank. Lease acres and shape will be provided to FSA incase there is overlap, or reduced CREP to bring in additional acres to prevent forfeiture. No other concerns.

Verbree Land Holdings - 3616458 & 36-16460



Legend

- Water Supply Bank Lease POD
- Lease_acres
- CREP
- Parcels
- Township/Range
- Sections
- QQ

Filter_T11TQH_S2A_20180705_CIR.sid

RGB

- Red: Band_1
- Green: Band_2
- Blue: Band_3

Condon, Mary

From: Chuck Pentzer <Chuck.Pentzer@swc.idaho.gov>
Sent: Friday, August 03, 2018 11:03 AM
To: Condon, Mary
Subject: RE: Verbree contract 28b 067_T 3141

Hi Mary;

Still no word from the Rupert fsa.

I did leave a message for Sarah and Nick but they may have taken a long weekend.

Chuck

Chuck Pentzer
Idaho Soil & Water Conservation Commission
Office [208-332-1794](tel:208-332-1794)
Mobile [208-810-0765](tel:208-810-0765)
chuck.pentzer@swc.idaho.gov



chuck.pentzer@id.usda.gov
322 E Front st. Suite 560
Boise, Id. 83702

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Friday, August 03, 2018 10:05 AM
To: Chuck Pentzer <Chuck.Pentzer@swc.idaho.gov>
Cc: Rob Sharpnack <Rob.Sharpnack@swc.idaho.gov>; 'Lindauer, Sarah - FSA, Rupert, ID (Sarah.Lindauer@id.usda.gov)' <Sarah.Lindauer@id.usda.gov>; 'Treasure, Nicholas - FSA, Rupert, ID (Nicholas.Treasure@id.usda.gov)' <Nicholas.Treasure@id.usda.gov>
Subject: RE: Verbree contract 28b 067_T 3141

Good morning,

Has there been an update on this CREP contract yet?

Thank you,
Mary

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

From: Chuck Pentzer [<mailto:Chuck.Pentzer@swc.idaho.gov>]
Sent: Tuesday, April 10, 2018 2:29 PM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Cc: Rob Sharpnack <Rob.Sharpnack@swc.idaho.gov>; 'Lindauer, Sarah - FSA, Rupert, ID (Sarah.Lindauer@id.usda.gov)' <Sarah.Lindauer@id.usda.gov>; 'Treasure, Nicholas - FSA, Rupert, ID (Nicholas.Treasure@id.usda.gov)' <Nicholas.Treasure@id.usda.gov>
Subject: RE: Verbree contract 28b 067_T 3141

Hi Mary;

We know this contract is in some form of update. However, the folks at FSA are still working on this. I will get this one over to you when we receive the updated shapefile and contract information.

Thanks!

Chuck

Chuck Pentzer
Idaho Soil & Water Conservation Commission
Office [208-332-1794](tel:208-332-1794)
Mobile [208-810-0765](tel:208-810-0765)
chuck.pentzer@swc.idaho.gov



322 E Front st. Suite 560
Boise, Id. 83702

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Tuesday, April 10, 2018 1:33 PM
To: Chuck Pentzer <Chuck.Pentzer@swc.idaho.gov>
Subject: FW: Verbree contract 28b 067_T 3141

Good afternoon, Chuck,

Sandy had inquired about Verbree's CREP contract in January from you for a water supply bank lease contract I am working on. Do you know if these acres have been updated yet and if you could provide me with the POC for the updated contracted amount?

Best,
Mary

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

From: Thiel, Sandra
Sent: Friday, January 26, 2018 10:05 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Subject: FW: Verbree contract 28b 067_T 3141

This is the current CREP status. Sounds like it will change.
Verbree can lease the rights into the bank now (less the 96 currently in CREP) and submit a second lease later for the remaining acres
Or they could wait until the new CREP acres are determined

Sandra Beer Thiel

Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

From: Chuck Pentzer [<mailto:Chuck.Pentzer@swc.idaho.gov>]
Sent: Friday, January 26, 2018 10:02 AM
To: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>
Subject: Verbree contract 28b 067_T 3141

Hi Sandy;

I left a voice mail too, but wanted to send an email that Sarah over at FSA, Rupert, says that the final acreage that will be left is undetermined until later this spring. A lot of it has been reseeded, and we know at least of some areas that will be dropped, but unsure of how much will be left.

So for now, all of those 95.9 acres are still active in CREP.

Thanks!

Chuck

Chuck Pentzer
Idaho Soil & Water Conservation Commission
Office [208-332-1794](tel:208-332-1794)
Mobile [208-810-0765](tel:208-810-0765)
chuck.pentzer@swc.idaho.gov



322 E Front st. Suite 560
Boise, Id. 83702

Condon, Mary

From: DELIA WILLIAMSON <deliaandboys@gmail.com>
Sent: Friday, February 09, 2018 8:29 AM
To: Condon, Mary
Subject: Re: Verbree Water right 36-16458 & 36-16460

Mary,

I agree with you hold off until spring when they re-evaluate. I will wait to hear from you this spring.

Thank you
Delia

On Fri, Jan 26, 2018 at 2:41 PM, Condon, Mary <Mary.Condon@idwr.idaho.gov> wrote:

Delia,

The FSA (US Dept of Ag Farm Service Agency), is currently re-evaluating the Verbree place of use under CREP (Conservation Reserve Enhancement Program) and they will propose an amended or new contract this year, most likely by this spring.

Since the acres under CREP will be changing this spring, I would like to put a hold on the Lease Applications, to avoid unnecessary costs and changes. We will process the lease applications, less the adjusted CREP acres, after the new CREP contract is signed. This will not negatively affect the water rights and they will still be considered protected from forfeiture, even during the Water Supply Bank processing.

IF you would prefer I do not put a hold on the applications and continue processing them, less the current 96 acres in CREP, I can do this; however, when a portion of the 96 acres is released from CREP, new lease applications and fees would be required should you want to add the acres to the Bank.

Please let me know how you would like me to proceed.

Mary

Mary Condon

Water Supply Bank Specialist

Planning & Projects Bureau

Idaho Department of Water Resources

Main: [\(208\) 287-4936](tel:(208)287-4936)

Fax: [\(208\) 287-6700](tel:(208)287-6700)

From: Delia [mailto:deliaandboys@gmail.com]

Sent: Thursday, January 25, 2018 4:17 PM

To: Condon, Mary <Mary.Condon@idwr.idaho.gov>

Subject: Re: Verbree Water right 36-16458 & 36-16460

Mary sounds good I'll just wait to hear from you.

Sent from my iPhone

On Jan 25, 2018, at 3:01 PM, Condon, Mary <Mary.Condon@idwr.idaho.gov> wrote:

Delia,

Thank you for sending this to me. I will review this additional information and likely, all we will need to do is reduce the amount of water for lease into the bank by how much is under CREP. They cannot overlap.

Best,

Mary

Mary Condon

Water Supply Bank Specialist

Planning & Projects Bureau

Idaho Department of Water Resources

Main: [\(208\) 287-4936](tel:(208)287-4936)

Fax: [\(208\) 287-6700](tel:(208)287-6700)

From: DELIA WILLAMSON [<mailto:deliaandboys@gmail.com>]

Sent: Thursday, January 25, 2018 2:29 PM

To: Condon, Mary <Mary.Condon@idwr.idaho.gov>

Subject: Verbree Water right 36-16458 & 36-16460

Hi Mary

Here is the information Jeremy brought me on that property. Let me know what we need to do. Jeremy Vorwaller runs the farm his number [208-260-0365](tel:208-260-0365) if you need to ask him anything if not just let me know.

Thank you

Delia Williamson

Minidoka County, Idaho

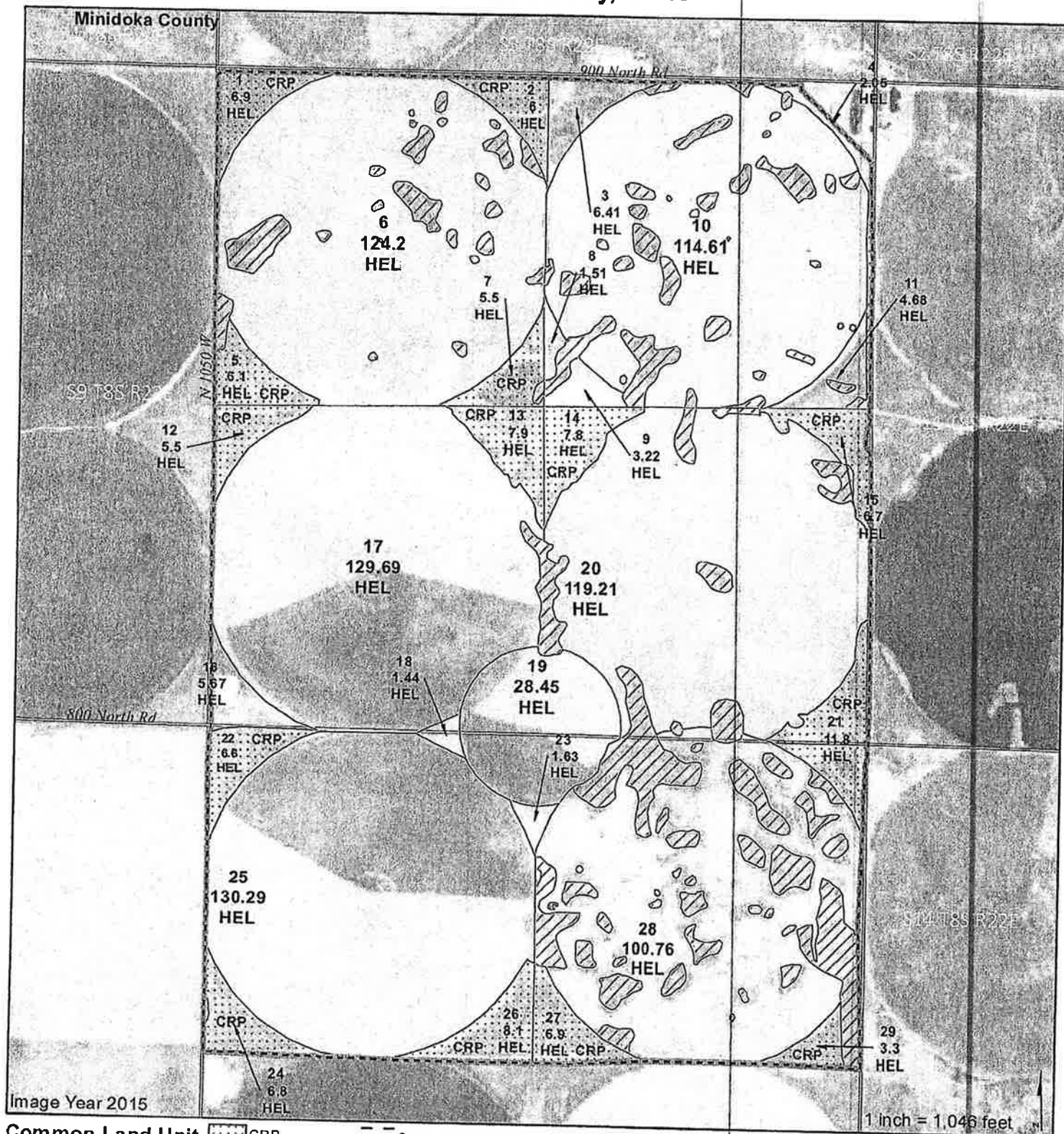


Image Year 2015

Common Land Unit
 Non-Cropland
 Cropland
 CRP
 Tract Boundary
 PLSS
 County Boundary

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Tract Cropland Total: 869.72 acres

2018 Program Year
 Map Created May 11, 2017

Farm 5232
Tract 4101

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

Minidoka County, Idaho

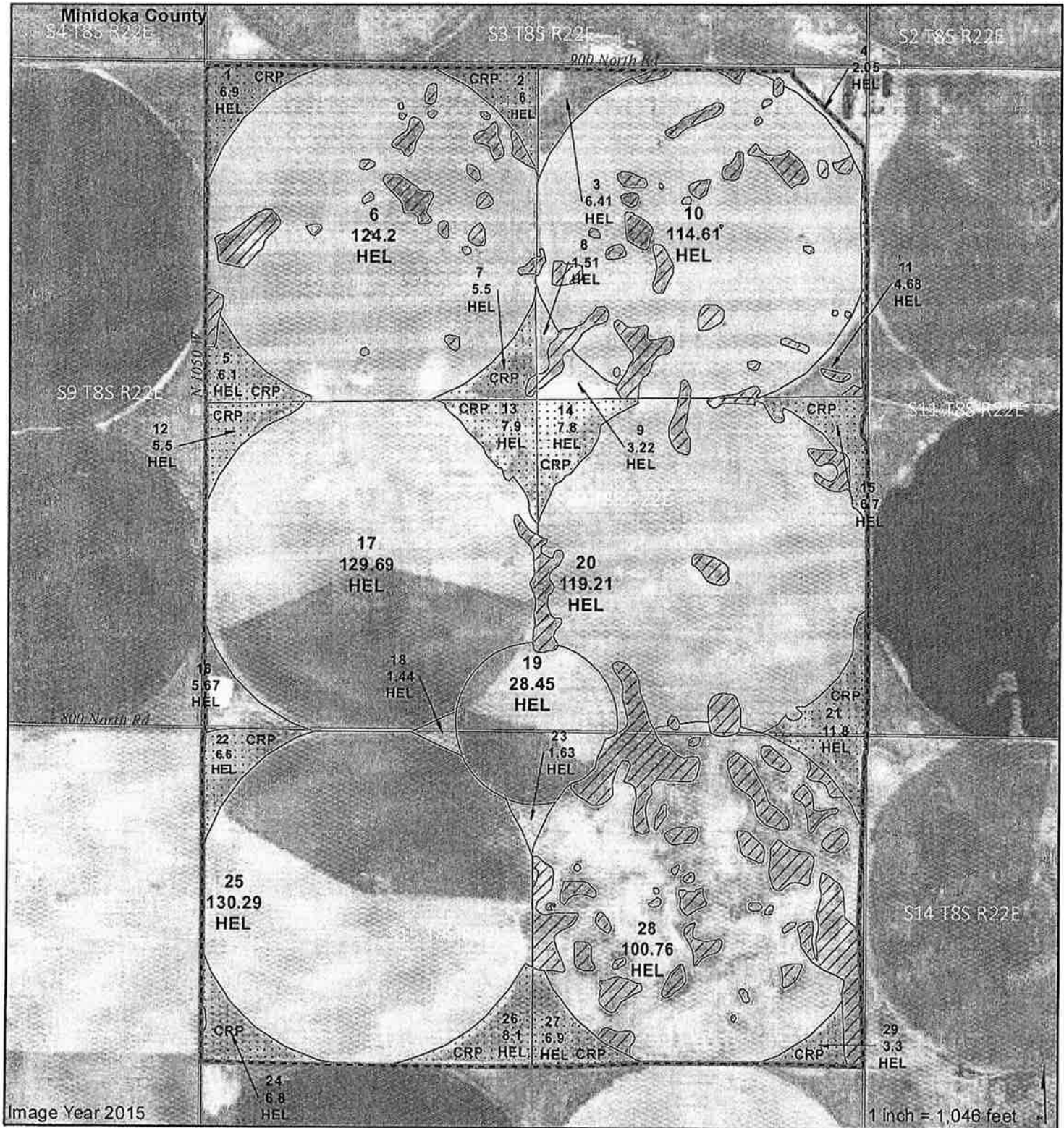


Image Year 2015

Common Land Unit

- Non-Cropland
- Cropland
- CRP
- Tract Boundary
- PLSS
- County Boundary

Wetland Determination Identifiers

● Restricted Use ▽ Limited Restrictions

☐ Exempt from Conservation Compliance Provisions

Tract Cropland Total: 869.72 acres

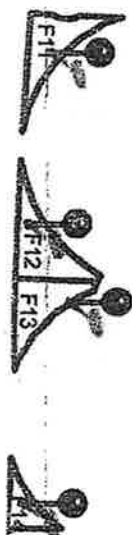
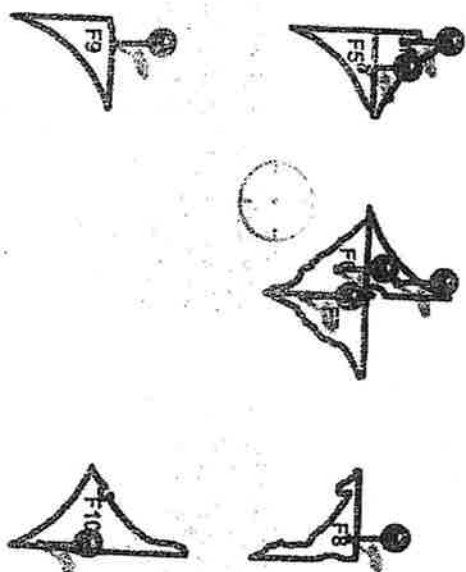
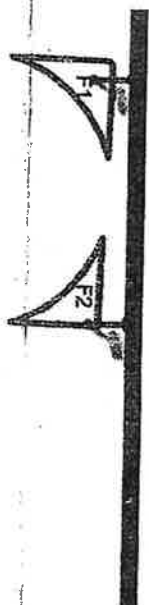
2018 Program Year

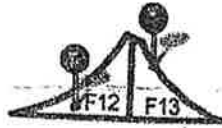
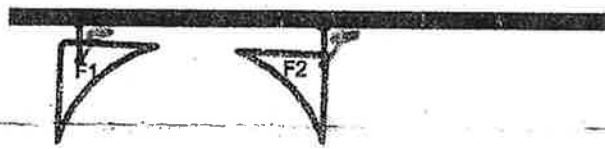
Map Created May 11, 2017

Farm 5232

Tract 4101

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).





From: [Thiel, Sandra](#)
To: [Condon, Mary](#)
Subject: FW: Verbree contract 28b 067_T 3141
Date: Friday, January 26, 2018 10:09:17 AM
Attachments: [VoiceMessage.wav](#)

This is the current CREP status. Sounds like it will change.

Verbree can lease the rights into the bank now (less the 96 currently in CREP) and submit a second lease later for the remaining acres

Or they could wait until the new CREP acres are dermined

Sandra Beer Thiel

Idaho Department of Water Resources

322 East Front Street

Boise, Idaho 83720-0098

(208)287-4881

sandra.thiel@idwr.idaho.gov

From: Chuck Pentzer [mailto:Chuck.Pentzer@swc.idaho.gov]
Sent: Friday, January 26, 2018 10:02 AM
To: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>
Subject: Verbree contract 28b 067_T 3141

Hi Sandy;

I left a voice mail too, but wanted to send an email that Sarah over at FSA, Rupert, says that the final acreage that will be left is undetermined until later this spring. A lot of it has been reseeded, and we know at least of some areas that will be dropped, but unsure of how much will be left.

So for now, all of those 95.9 acres are still active in CREP.

Thanks!

Chuck

Chuck Pentzer

Idaho Soil & Water Conservation Commission

Office 208-332-1794

Mobile 208-810-0765

chuck.pentzer@swc.idaho.gov



**SOIL & WATER
CONSERVATION COMMISSION**

322 E Front st. Suite 560

Boise, Id. 83702



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

January 16, 2018

**VERBREE LAND HOLDINGS LLC
PO BOX 30
WENDELL ID 83355**

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NOS 36-16458 AND 36-16460 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.

In the past, only a portion of each of the rights have been placed in the Bank. The current applications request the full water rights of both be placed in the Bank; however, portions of the total acres authorized to be irrigated under these water rights are also apparently enrolled in an Agreement Not to Divert (ANTD) as part of the Eastern Snake Plain Aquifer (ESPA) Conservation Reserve Enhancement Program (CREP) and thus may be encumbered and ineligible for lease to the Bank.

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:

- **A map of acres not presently enrolled in CREP that are proposed to be idled according to this lease application;**
- **Attachment 2 for each lease application, describing the water right portions offered to the Bank, and which are not associated with any CREP agreements**

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4936.

Sincerely,

Mary Condon
Water Supply Bank Specialist

c: TSK Enterprises – Gary Funderburg