

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AMENDED WATER SUPPLY BANK LEASE CONTRACT NO. 789

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83338



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 March 16, 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)
43-13763	8/26/1957	GROUND WATER	0.05	16.0
Limit Totals			0.05	16.0
Lease Totals			0.05	16.0

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, 2018. 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.

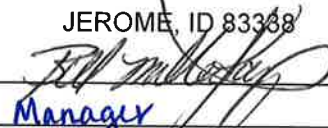
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AMENDED WATER SUPPLY BANK LEASE CONTRACT NO. 789

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
AMENDED WATER SUPPLY BANK LEASE CONTRACT NO. 789

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83388

By 
Title Manager
Date 7-5-18

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 7/13/2018

Lease approved by IDWR 

Date 7-13-2018

WATER SUPPLY BANK LEASE CONTRACT No. 789

The water rights or portions thereof leased to the bank are described as follows:

GROUND WATER	SESESE	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESESW	Sec. 26	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SWSESE	Sec. 26	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENW	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENW	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESWSE	Sec. 26	Twp 11S	Rge 27E	CASSIA County

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER

PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 789

4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. 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. Unleased portion of water right No. 43-13763, when combined with water rights 43-13449, 43-13451, 43-13453, 43-13455, 43-13457, 43-13459, 43-13461, 43-13463, 43-13491, 43-13493, 43-13495, 43-13497, 43-13499, 43-13501, 43-13503, 43-13505, 43-13507, 43-13509 and 43-13511 shall not exceed a total diversion rate of 4.56 cfs, and a total annual maximum diversion volume of 1,766.6 af.
13. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s). Measuring device(s) shall be installed so that irrigation diversions and stockwater and commercial diversions can be independently measured.
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. 143.



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

July 16, 2018

EAST VALLEY CATTLE LLC
471N 300 W
JEROME ID 83338

RE: WATER SUPPLY BANK AMENDED LEASE CONTRACT FOR WATER RIGHT 43-13763

Dear Lessor:

Water right **43-13763** was leased into the Water Supply Bank (Bank) as of March 16, 2018, in accordance with the enclosed executed amended lease contract. **Your water right, as described on the amended 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 amended lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2018**, 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,


for Water Supply Bank

Enclosure: Executed Lease Contract

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



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 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

June 28, 2018

EAST VALLEY CATTLE LLC
471 NORTH 300 WEST
JEROME ID 83338

RE: PROPOSED AMENDMENT TO LEASE CONTRACT 789 WATER RIGHT 43-13763 TO THE WATER SUPPLY BANK

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

Dear Lessor:

Per the letter sent to you in regards to rental of water right 43-13763 dated May 18, 2018. The Department of Water Resources has amended lease contract 789 for 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 Amended Lease Contract is not considered final until you and the Department have both signed. Once executed, it will supersede the original Lease contract 789 executed on May 15, 2018.

The Department is concerned that East Valley Cattle LLC's ("EVC") 2018 commercial dairy/feedlot water use may constitute an enlargement of water right 43-13763 if half of the right remains leased to the Bank. If EVC exceeds its water right volume limits at the dairy/feedlot facility in 2018, then water use at the facility would have to be shut off by the Water District 143 watermaster. Such an action may have a devastating effect on a large number of cattle at the facility and potentially create a crisis that is contrary to local public interests. It is unlikely EVC can find additional water rights or sources of water to cover any additional volume needs, given that the area is within the Raft River Critical Ground Water Area where the Department is already curtailing ground water expansion rights, including expansion rights owned by EVC.

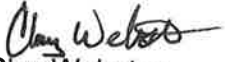
This action will reduce the amount of 43-13763 obligated for idling per *Additional Condition of Acceptance 3* to the amount of water already rented by EVC for industrial use, or 16.0 acre-feet. With the execution of this amendment, the remaining unrented portion of right 43-13763 will be released from the Bank and become available to EVC for the commercial and stockwater uses authorized at the dairy/feedlot facility.

The right will automatically be released from the Bank on **December 31, 2018**, 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.

Proposed Amendment to Lease Contract 789

If you have questions regarding this matter, please contact this office at 287-4910.

Sincerely,



Clay Webster
Water Rights Supervisor

Enclosure: Proposed Amended Lease Contracts

- c: Tim Luke – IDWR Water Compliance Bureau Chief
- Nathan Erickson – Water District 143 Watermaster
- Greg Sullivan – Brockway Engineering
- Michael Creamer – Givens Pursley LLP

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 789

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83338

RECEIVED

MAY 10 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION

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 March 16, 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)
43-13763	8/26/1957	GROUND WATER	0.88	318.6
Limit Totals			0.88	318.6
Lease Totals			0.88	318.6

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, 2018. 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.

RECEIVED

MAY 11 2018

DEPARTMENT OF
WATER RESOURCES

SCANNED
MAY 17 2018

Page 1 of 5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 789

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.

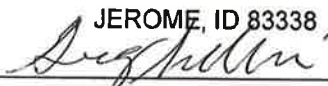
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 789

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W

JEROME, ID 83338

By 
Title Limited Power of Attorney
Date May 10, 2018

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 5/15/2018

Lease approved by IDWR 

Date 5-15-2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 789

ATTACHMENT A WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 43-13763

GROUND WATER	SESESE	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESESW	Sec. 26	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SWSESE	Sec. 26	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENW	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESENW	Sec. 35	Twp 11S	Rge 27E	CASSIA County
GROUND WATER	SESWSE	Sec. 26	Twp 11S	Rge 27E	CASSIA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
43-13763	STOCKWATER	1 / 1	to	12/31	0.88 cfs	318.6 AF
	COMMERCIAL	1 / 1	to	12/31	0.88 cfs	318.6 AF
Totals:					0.88 cfs	318.6 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	27E	35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

PLACES OF USE TO BE IDLED UNDER THIS LEASE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	27E	35	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 789

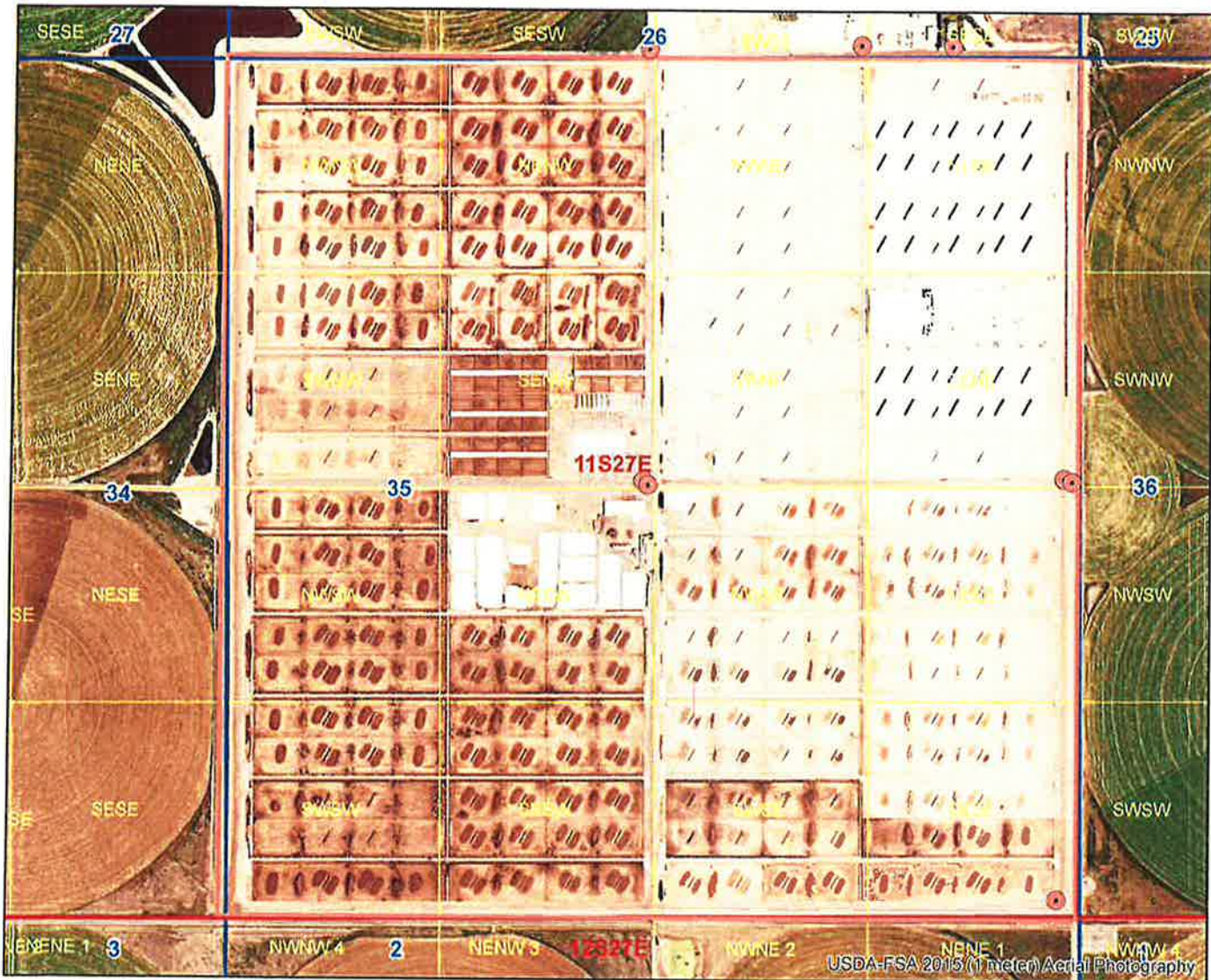
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. 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. Unleased portion of water right No. 43-13763, when combined with water rights 43-13449, 43-13451, 43-13453, 43-13455, 43-13457, 43-13459, 43-13461, 43-13463, 43-13491, 43-13493, 43-13495, 43-13497, 43-13499, 43-13501, 43-13503, 43-13505, 43-13507, 43-13509 and 43-13511 shall not exceed a total diversion rate of 3.74 cfs, and a total annual maximum diversion volume of 1,464.2 af.
13. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s). Measuring device(s) shall be installed so that irrigation diversions and stockwater and commercial diversions can be independently measured.
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. 143.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 789

43-13763

Effective until December 31, 2018

This map depicts the STOCKWATER 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



Township/Range



Sections

QQ



0 1,000 2,000 3,000 Feet

Effective until December 31, 2018

[illegible]

- 



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
MAR 16 2018
DEPARTMENT OF
WATER RESOURCES

Designated Applicant East Valley Cattle LLC

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

Water Right No. 43-13763

(One water right per application)

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

Yes ☒ No ☐

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

MINIMUM REQUIREMENT CHECKLIST

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

Yes

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

Attachment N/A Yes

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

Department Use Only

Fee Amount \$ 250.00Received By: RDDate Received: 3-16-2018 Receipt # C104801W-9 received? Yes ☒ No ☐

(Route W-9 to Fiscal)

Name on W-9: Millenkamp Cattle Inc

1058

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 East Valley Cattle LLC

Mailing Address 471 N 300 W Jerome, Idaho 83338

Street

City

State

Zip Code

Email Address _____

Phone Number 208-324-2350

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

OR

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

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

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

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

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

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

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

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

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

Phone Number 208-736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☒ The full water right is being offered to the Bank.

OR

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

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.
Existing wells, mainlines and delivery systems.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 43-13449 et al.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. 43-13449 et al.

- 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. See Transfer 80639

- 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 ☐

See Transfer 81940

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 2018 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
The lease will be rented back to the applicant. Only the 10% processing fee will be paid to IDWR based on the 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

Bill Miller Kamp
Printed Name

5/14/18
Date

Signature of Authorized Representative

Printed Name

Date

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

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

3/15/2018

WATER RIGHT NO. 43-13763

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	EAST VALLEY CATTLE LLC 471 N 300 W JEROME, ID 83338 2083242350
Original Owner	HUNSAKER FAMILY PARTNERSHIP 561 TERRACE DR BURLEY, ID 83318 2086542640
Security Interest	RABO AGRIFINANCE LLC 14767 N OUTER 40 RD STE 400 CHESTERFIELD, MO 63017

Priority Date: 08/26/1957

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	1 / 1	12/31	1.75 CFS	637.2 AFA
COMMERCIAL	1 / 1	12/31	1.75 CFS	637.2 AFA
Total Diversion			1.75 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SESESW	Sec. 26	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESWSW	Sec. 26	Township 11S	Range 27E	CASSIA County
GROUND WATER	SWSESE	Sec. 26	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Township 11S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 35	Township 11S	Range 27E	CASSIA County

STOCKWATER Use:

Number of stock: 1

Place(s) of use:

Place of Use Legal Description: STOCKWATER CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
11S	27E	35		NENE			NWNE			SWNE			SENE	
				NENW			NWNW			SWNW			SENW	
				NESW			NWSW			SWSW			SESW	
				NESE			NWSE			SWSE			SESE	

Place of Use Legal Description: COMMERCIAL CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
11S	27E	35		NENE			NWNE			SWNE			SENE	
				NENW			NWNW			SWNW			SENW	
				NESW			NWSW			SWSW			SESW	
				NESE			NWSE			SWSE			SESE	

Conditions of Approval:

1. Rights 43-13449, 43-13451, 43-13453, 43-13455, 43-13457, 43-13459, 43-13461, 43-13463, 43-13491, 43-13493, 43-13495, 43-13497, 43-13499, 43-13501, 43-13503, 43-13505, 43-13507, 43-13509, 43-13511, and 43-13763 when combined shall not exceed a total diversion rate of 4.61 cfs, and a total annual maximum diversion volume of 1,782.8 af.
2. R05 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. 143.
3. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s). Measuring device(s) shall be installed so that irrigation diversions and stockwater and commercial diversions can be independently measured.
4. 082 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
5. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
6. T07 The right holder shall accomplish the change authorized by this transfer within five (5) years of the date of this approval.
7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 06/28/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 143

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit:

Combined Volume Limit: 1782.8

Combined Rate Limit: 4.61

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

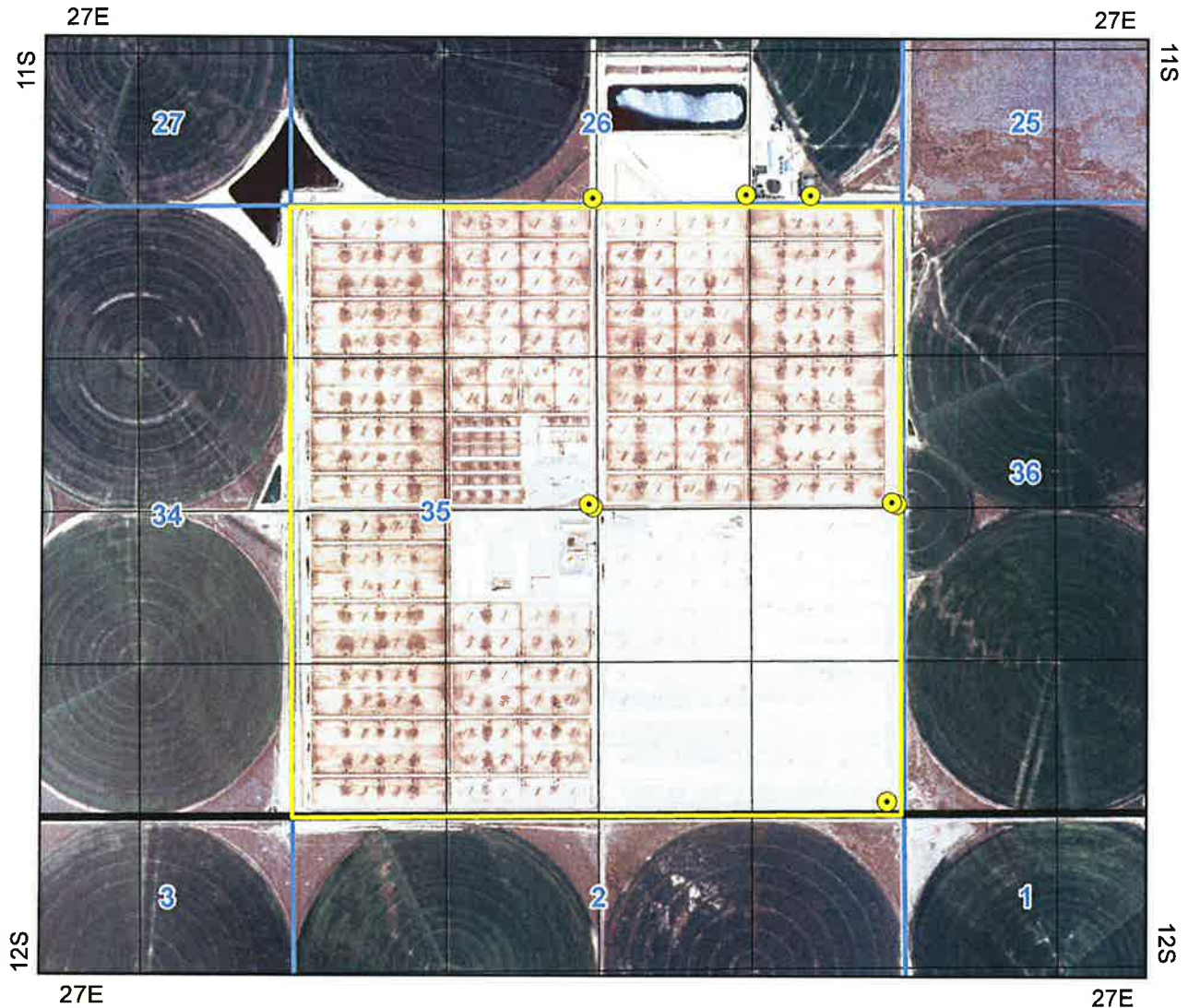
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State of Idaho
Department of Water Resources

Water Right
43-13763

Stock and Commercial

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 0.175 0.35 0.7 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

May 16, 2018

EAST VALLEY CATTLE LLC
471 N 300 W
JEROME ID 83338

RE: WATER SUPPLY BANK LEASE CONTRACT FOR WATER RIGHT 43-13763

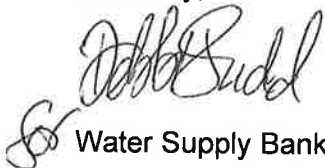
Dear Lessor:

Water right **43-13763** was leased into the Water Supply Bank (Bank) as of March 16, 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, 2018**, 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: Corey Skinner - IDWR Southern Region
Nathan Erickson - Water District 143
Greg Sullivan - Brockway Engineering



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

May 10, 2018

EAST VALLEY CATTLE LLC
471 N 300 W
JEROME ID 83338

RE: APPLICATION TO LEASE WATER RIGHT 43-13763 TO THE WATER SUPPLY BANK

****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, 2018**, 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,

Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C104801

c: Greg Sullivan – Brockway Engineering

MEMORANDUM FOR CONTRACT # 789

To: Water Right 43-13763
From: Mary Condon and Clay Webster
Date: May 4, 2018
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE: Amended application to lease 318.5 af (50%) of stock/commercial water right 43-13763 for 2018. See RE_EVC Commercial Stock Water Use pdf dated May 4, 2018.

Originally submitted as a full lease/rental companion application March 16, 2018 for irrigation equal to volume and rate before transfer. The water right has an approved transfer from April 2017 from irrigation to stock and commercial use. Amendment to the application to lease has been made several times, the last on May 4, 2018, for which this review and analysis is for. Other interested IDWR staff are Compliance, due to last NOV E2017-1267, and should be kept fully informed.

Water meter readings have been captured by Watermaster, Nathan Erickson for Raft River CGWMA, WD#143, see East Valley Commercial Use spreadsheet for calculations.

AUTHORITY TO FILE: Application is signed by Bill Millenkamp, the authorized president of East Valley Cattle (EVC) Inc., and represented by Greg Sullivan, Brockway Engineering. 2018 Annual Report on Idaho Secretary of State confirms Bill is the president of EVC. Property taxlot information within ArcMap of leased POU and POD's are in the name of EVC as well. There is no concern with authority to file.

WATER RIGHT VALIDITY: Grandparent right is 43-2462 decreed in 2002. Parent right no. 43-13452 was irrigation for 2.7 cfs, 1292.8 af, and 329.4 acres. Transfer 86039 in April 2017 split a portion of the right into 43-13763 to stock and commercial for 1.75 cfs, 637.2 af and acres not stated, for future Jersey cattle dairy operation. This transferred water right is now combined with 19 prior stock and commercial water rights for the place of use. The transfer also added five irrigation POD's to the stock and commercial POU. See POD_POU Analysis spreadsheet.

A portion of the transfer has been completed to stock and commercial through an analysis of water meter readings between January and April of 2018. (See East Valley Commercial Use, by Watermaster Nathan Erickson April 2018.) Combined limits prior to transfer 80639, of the 19 other stock and commercial rights was for 1145.6 af. Of eight allowable wells for stock and commercial, only three are currently in use for the commercial stock POU. Well totalizer readings over 110 days was between 2.7 and 3.7 af/day and closer to 360 af over the 110 days. Estimation for 2018 use is 1,315 af, and therefore includes 25% of the transferred water right.

Prior irrigation with parent water right 43-13452 has been accomplished since 2014 SRBA final decree. Analysis of transfers and combined limits, see WR Thru Transfer Comparison spreadsheet. There are no concerns of validity at this time; however, be it noted here there is a protested transfer No. 81940, on the commercial element of this water right to land apply water collected on CAFO to acres licensed or decreed within irrigation PPU, but to leave stockwater as is. Due to the nature of the protest, the transfer will likely not be resolved in the applicants favor during 2018. Proper rental review of the elements of this water right should include pending transfer investigation for completion or near completion.

MEMORANDUM FOR CONTRACT # 789

INJURY TO OTHER WATER RIGHTS: Extensive review and analysis of data of the overlapping water rights associated with the POD's and POU by Watermaster and other IDWR staff have been involved to prevent injury to other water rights. Owner has agreed they will need no more than 50% of 43-13452 to use with the other 19 stock and commercial water rights on the CAFO, and that the 50% proposed for the lease equal to 318.6 af worth, will not be diverted during 2018.

Proper review of any rental of this water right should include review of combined limits and measurements to prevent injury to other water users.

ENLARGEMENT OF USE: POU will continue to receive water at reduced combined limits of the other 19 water rights and the unleased portion of 43-13763 left for for commercial and stockwater use. Lease of the 50% portion of this water right as stock and commercial would not cause an enlargement of use since it will be idled and is not projected for diversion for commercial and stockwater during the 2018 year. The commercial and Stockwater rights have an existing combined limit of 4.61 cfs and 1,782.8 af. A review of the combined limits of 43-13449, 43-13451, 43-13453, 43-13455, 43-13457, 43-13459, 43-13461, 43-13463, 43-13491, 43-13493, 43-13495, 43-13497, 43-13499, 43-13501, 43-13503, 43-13505, 43-13507, 43-13509 and 43-13511 reveals that the rate and volume of 43-13763 is additive to prior combined limits. The unleased portion of this right along with the remaining rights will be calculated as follows:
4.61 cfs (existing limit) – 0.88 cfs (lease) = 3.73 cfs (unleased portion limit)
1,782.8 af (existing limit) – 318.6 af (lease) = 1,464.2 af (unleased portion limit)

Proper review of any rental of this water right should include review of combined limits and measurements to prevent enlargement of use.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest since it is for the idling of unused portion of stock and commercial water use in CGWMA.

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

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location is subject to Water District # 143, Raft River CGWMA, and Southern Region.

Lease of water right 43-13763 at the requested value for 318.6 af should be accepted into the bank and made available for rental. There are no other concerns by reviewer.

Request for comments and concerns to Watermaster, Southern Region, Compliance and other directly involved IDWR staff on May 4, 2018, with response deadline of May 14, 2018.

Condon, Mary

From: Luke, Tim
Sent: Friday, May 04, 2018 11:43 AM
To: Greg Sullivan; 'Michael C Creamer'; 'Bill Millenkamp'
Cc: Erickson, Nathan; Palmer, Cherie; Buyer, Remington; Condon, Mary; Skinner, Corey; Edl, Michele; Keen, Shelley
Subject: RE: EVC Commercial/Stock Water Use

Thanks Greg. I think this is very helpful and it is an acceptable reply to my email request from last Friday. Mary, Michelle and/or other WSB staff have my okay to proceed with the lease and rental applications in accordance with the request from your most recent email. Department staff continue to struggle with questions about the amount of a right, if any, that can be leased to the WSB where the right is subject to a transfer development period and some portion of it has been accomplished. I anticipate staff will work to clarify policy and procedures related to this scenario and implement those going forward once adopted.

Regards,
Tim

From: Greg Sullivan [mailto:greg.sullivan@brockwayeng.com]
Sent: Friday, May 04, 2018 10:39 AM
To: Luke, Tim <Tim.Luke@idwr.idaho.gov>; 'Michael C Creamer' <mcc@givenspursley.com>; 'Bill Millenkamp' <Bill@Millenkamp.com>
Cc: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Condon, Mary <Mary.Condon@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Edl, Michele <Michele.Edl@idwr.idaho.gov>
Subject: RE: EVC Commercial/Stock Water Use

Everyone,

Mike Creamer, Tim Luke and myself had a phone conversation yesterday afternoon regarding the lease and rental of water right 43-13763.

Based on the meter readings obtained by Nathan Erickson at the three wells that supply water to the feedlot/dairy facility owned by East Valley Cattle the estimated annual volume requirement for 2018 is 1315 acre feet. We recognize that this is an estimate which may be high or low. Regardless, the estimate indicates that a portion of 43-13763 (allowed 637.2 af) will be required for stock and commercial water use at the facility during 2018.

The 19 historical stock and commercial water rights for the facility allow 1145.6 acre feet annually. With all 20 stock and commercial water rights a total of 1782.6 acre feet annually is allowed to be diverted.

East Valley Cattle would like to reduce the proposed leased volume from 637.2 acre feet to 318.6 acre feet. This will allow 1464.2 acre feet of stock and commercial water to be diverted during 2018. East Valley Cattle will be responsible for monitoring their water use and managing their water use to prevent pumping over the 1464.2 acre feet.

The 318.6 acre feet and 0.875 cfs of 43-13763 would be leased for the 2018 irrigation season.

From the 318.6 acre feet there would be 16.9 acre feet and 0.05 cfs rented to the gravel washing facility. Which would leave 301.7 acre feet from 43-13763 available for irrigation use. The gravel washing facility rental breakdown is as follows:

Rental Amounts	43-4-13	0.03	6.3	1.57
43-2413	Consumptive Use Volume for Washing	0.03	3.1	1.57
43-13763	Consumptive Use Volume for Washing	0.05	11.9	
43-13763	Consumptive Use Volume for Pond		5.0	

Rental Limits	0.08	20.0
----------------------	-------------	-------------

The remaining 301.7 acre feet of 43-13763 divided by 4.0 af/acre = 75.4 acres. However, the diversion rate for the 75.4 acres would be 0.83 cfs or 0.011 cfs/acre. In an earlier email correspondence with Mary Condon she had indicated that the East Farm as a combined water system has a 0.016 cfs/acre application rate. In order for the 0.83 cfs of 43-13763 to be used for irrigation, only 52.5 acres can be irrigated to achieve the 0.016 cfs/acre. The rental will be limited to 0.83 cfs, 210.0 acre feet and the irrigation of 52.5 acres. See the attached jpg map and shape files for the 52.5 acres.

Irrigation from 43-13763				
	Water Right	CFS	AFA	ACRES
Original Water Right	43-13763	1.75	637.2	159.3
Rental Amounts		0.83	301.6	75.4
	Rental Limits	0.83	210	52.5

0.011 cfs/acre
0.016 cfs/acre

In order to reduce the irrigation on P84 (the full pivot in the attached map) the end gun, outer nozzles past the last tire track and the inside 100 feet from the last tire track of nozzles will be turned off or plugged. I called and talked with Nathan Erickson this morning about this proposed management and he indicated that he would be fine with this approach. I also called Bill Millenkamp and discussed this reduction with him. Bill gave his approval for it.

In an additional effort to manage all of the current pending applications Bill, Nathan, Corey and I have agreed to meet together as the rental applications are approved to confirm what can be irrigated and what cannot be irrigated. Similarly, correspondence or a meeting will occur when the Raft River water is no longer available for irrigation purposes.

If there are any other issues that East Valley Cattle needs to address to allow these applications to be processed please let us know and we will respond as quickly as possible. I will be in Boise later this afternoon and could sign any contract or agreement on behalf of East Valley Cattle that is ready for signature. Please let me know.

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

From: Luke, Tim [<mailto:Tim.Luke@idwr.idaho.gov>]

Sent: Thursday, May 03, 2018 11:46 AM

To: Michael C Creamer <mcc@givenspursley.com>; Greg Sullivan <greg.sullivan@brockwayeng.com>; Bill Millenkamp

<Bill@Millenkamp.com>

Cc: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>; Condon, Mary <Mary.Condon@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Edl, Michele <Michele.Edl@idwr.idaho.gov>

Subject: RE: EVC Commercial/Stock Water Use

Mike, Greg, Bill

I have not received a response from you regarding my last email of April 26 (see below) regarding the lease/rental application package for water right 43-13763. However, I understand that Greg has been in communication with IDWR Water Supply Bank staffer Mary Condon about a lease/rental of 50% of water right 43-13763. I believe they have discussed that 50% of the right could be leased into the Bank then be rented from the Bank for new and supplemental water use needs by East Valley Cattle ("EVC"), and the other 50% of the right would remain available to EVC for commercial and stock water purposes at the CAFO/dairy. It appears this communication has occurred without my full participation and knowledge, as well as others at IDWR, until late yesterday.

Mike and Bill, it is not entirely clear to me that either of you may be fully aware of the 50% proposal. The intent of my email last Friday was to obtain a clear, documented response from EVC regarding its intent with respect to the lease/rental of water right 43-13763. I don't feel we are quite there yet. Although IDWR is certain that some portion of the transferred water right 43-13763 has been accomplished (i.e., water use has been converted from the former irrigation use to stock/commercial use), we are still very uncertain as to the amount of water that has been converted to commercial/stock over the past year, and what amount may still be developed for commercial/stock use this year. Despite some communication from staff earlier this week, it is not appropriate for IDWR to suggest that the lease/rental amount should be 50% of the right, or any other percentage for that matter. I want to minimize or avoid the chance of any additional NOV's. Additionally, the water right owner must accept all risks associated with the water rights, including the possibility that water use may exceed the authorized limits of the rights. I remain concerned that EVC could exceed the volume of use authorized for right 43-13763 after some lease/rental approval for the right. Accordingly, I think it is imperative that IDWR have some assurance from the water right owner as to the amount of water sought for lease/rental. Therefore, I request Mr. Millenkamp submit a signed, written statement to IDWR that clearly requests the amount of water under right 43-13763 that he wishes to lease to, and rent from the Water Supply Bank. IDWR will delay any further action on the lease/rental of water right 43-13763 pending receipt of this communication from Mr. Millenkamp.

Also, please know IDWR cannot not approve a rental agreement where a use of rental water would cause an enlargement in existing water rights. Water Supply Bank acceptance of a lease proposal by East Valley Cattle should not be considered a guarantee that the Water Supply Bank can and will approve East Valley Cattle's rental requests, as submitted. To approve a Water Supply Bank rental request, IDWR must be satisfied that the diversion rates and volumes associated with rental water uses do not exceed the water use elements leased to the Bank under the water rights being rented, nor can a rental use of water enable water use authorizations to be exceeded under existing water rights associated with the use of rental water.

Please forward all further correspondence regarding this matter to my attention.

Respectfully,

Tim Luke
Water Compliance Bureau Chief
Idaho Department of Water Resources
322 E Front St, PO Box 83720
Boise, ID 83720-0098
208-287-4959 (office)
208-287-6700 (fax)

From: Luke, Tim

Sent: Thursday, April 26, 2018 11:49 AM

To: 'Michael C Creamer' <mcc@givenspursley.com>; Greg Sullivan <greg.sullivan@brockwayeng.com>

Cc: Erickson, Nathan <Nathan.Erickson@idwr.idaho.gov>; Palmer, Cherie <Cherie.Palmer@idwr.idaho.gov>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>

Subject: EVC Commercial/Stock Water Use

Mike, Greg,

Please find attached a spreadsheet that includes flow meter readings and analysis by Nathan Erickson for the current estimated annual water use at the East Valley Cattle feedlot/dairy from the three wells that we understand are used and dedicated to the facility. Nathan's data and analysis indicates that Transfer 80639 (transfer of 212 acre irrigation use to commercial/stock use) has been partially accomplished. He estimates that current annual use may be just over 1,300 AF and could be closer to 1,400 AF. Based on this information and having no additional data or evidence from EVC, the Department considers the transfer to have been partially accomplished. I believe there is some question as to the actual extent of accomplishment and the potential amount of additional development that may occur this year. EVC may want to consider its potential commercial/stock water use for this year before making any further decisions about a WSB lease-rental that involves any of the commercial/stockwater rights.

Given our determination of partial transfer accomplishment and uncertainty regarding actual commercial/stock use, IDWR will hold the current lease-rental application package for water right 43-13763 pending further communication from you. I believe our WSB staff are moving ahead with the other WSB applications consistent with our discussion on Monday. I have not checked on the actual status of these other applications or transactions.

I did not have an email address for Bill – I trust you will communicate with him.

Regards,

Tim Luke

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East Valley Cattle Commercial/Stockwater Use Estimates and Flow Meter Readings

All well meter readings and analysis provided by Nathan Erickson, IDWR and WD143 Watermaser, April 24-25, 2018.

West Well - 1002821

Date	Totalizer	units	Difference (AF)	# of days	AF/day	1 year estimate
1/5/2018	219,950	kG	5.7	110	0.051	18.8
4/24/2018	221,792	kG				

Big Well - 1002799

Date	Totalizer	units	Difference (af)	# of days	AF/day	1 year estimate
7/11/2017	2,968	AF	463.4	179	2.589	944.9
1/5/2018	3,431	AF				
4/24/2018	3,791	AF	360.46	110	3.277	1,196.1

East Well - 1002820

Date	Totalizer	units
1/5/2018	wrong totalizer read	
4/24/2018	136,654	kG

Meter manufacture date was 2011, new pressure tank was installed in pit at end of 2011. It is likely the meter was installed at that time.

Meter totalizer = 419.4 AF

Assuming the meter measured full years from 2012 through 2017, estimate 6 years of use.

$419.4/6 = 69.9 \text{ AF/yr}$

This likely represents a **low estimate** since the facility has grown since 2012.

Flow rate on 1/5/2018 was 170 gpm

Estimating the well pumps for 10 hours a day at 170 gpm, approximately 114 AF/yr

10 hour daily pumping period based on conversation with farm manager on 4/24/18

It is recommend the use from this well for 2018 be 100 AF

Follow up to East well estimate:

Date	Time	Elapsed time	Totalizer	units	Difference (gal)	Difference/Elapsed time (gal/hour)	Daily equivalent use (AF/day)	1 year estimate
4/24/2018	10:21	29:50	136654.3	kG	186710	6258.4	0.46	168.2
4/25/2018	15:11		136841.01	kG				

This is likely over estimating the use per day since the elapsed time includes water use during peak use on both days.

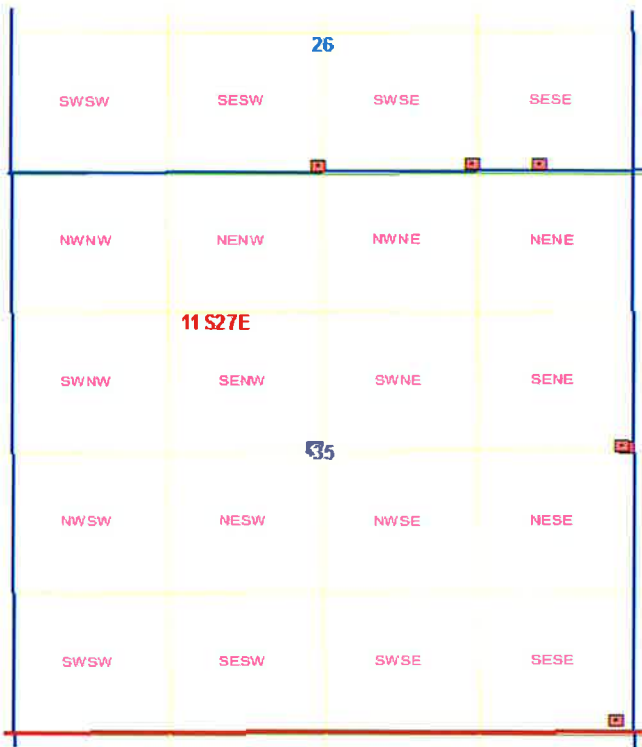
2018 Estimated Use

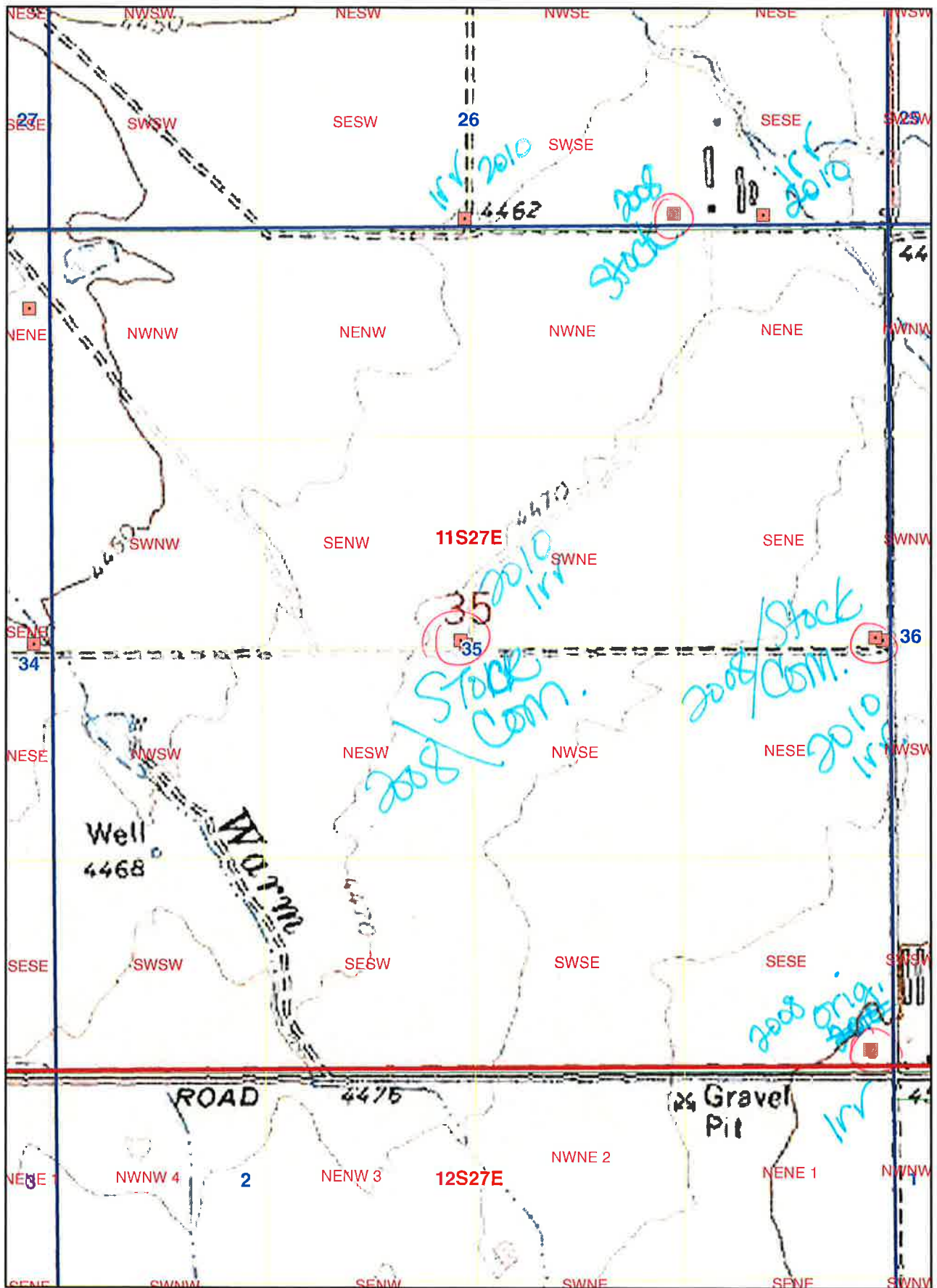
	AF
West well	19
Big well	1,196
East well	100
total	1,315

approved 11/2006 grandparent	trans 72837 irrigation	WR 43-2462	cfs	af 3.2	ac 1648	tot ac 412	1712
split	irrigation	43-13452		2.72	1292.8	329.4	2692
change of use	comm/stock	43-13453		0.48	136.6	n/a	n/a
if split scenerio	irrigation			0.48	355.2	82.6	
approved 5/2017 parent	trans 80639 irrigation	WR 43-13452	cfs	af 2.7	ac 1292.8	tot ac 329.4	9204
split	irrigation	43-13452		0.97	459.2	117	9204
change of use	comm/stock	43-13763		1.75	637.2	n/a	n/a
"if" split scenerio	irrigation	43-13763		1.73	833.6	212.4	9204
protested 3/2018 current	trans 81940 comm/stock	WR 43-13763	cfs	af 1.75	ac 637.2	tot ac n/a	n/a
add pou	comm portion	43-13763		1.75	637.2	n/a	n/a
"if" change of use scenerio	irrigation	43-13763		1.73	833.6	212.4	9204

SOUcomm/stock	WR	comm cfs	comm af	stock cfs	stock af	combined			
5-10and1-12	43-13449	0.69	93.9	0.69	93.9			0.69	
1-12and1-12	43-13451	0.64	75.9	0.64	75.9			0.55	
1-12and1-12	43-13453	0.48	136.7	0.48	136.7			0	
1-12and1-12	43-13455	0.19	49.8	0.19	49.8			0	
1-12and1-12	43-13457	0.72	55.4	0.72	55.4			0	
1-12and1-12	43-13459	0.3	39.5	0.3	39.5			0	
1-12and1-12	43-13461	0.76	93.5	0.76	93.5			0.76	
1-12and1-12	43-13463	0.53	15.5	0.53	15.5			0	
5-10and1-12	43-13491	0.02	7.3	0.02	13.2			2	560.2
5-10and1-12	43-13493	0.06	21.9	0.06	41.5	0.86	585.4	0.86	585.4
5-10and1-12	43-13495	0.27	98.5	0.27	190.5			2.86	1145.6
5-10and1-12	43-13497	0.1	36.5	0.1	66				
5-10and1-12	43-13499	0.02	7.3	0.02	11				
5-10and1-12	43-13501	0.04	14.6	0.04	25.9				
5-10and1-12	43-13503	0.08	29.2	0.08	54.9				
5-10and1-12	43-13505	0.1	36.5	0.1	66				
5-10and1-12	43-13507	0.02	7.3	0.02	13.3				
5-10and1-12	43-13509	0.04	14.6	0.04	25.9				
5-10and1-12	43-13511	0.11	40.1	0.11	77.2	2.86	1145.6		
1-12and1-12	43-13763	1.75	637.2	1.75	637.2	4.61	1782.8	4.61	1782.8
		0.88	318.6	0.88	318.6	3.74	1464.2		

QQQ	SEC	TWP	RGE	PRE 2008 SPLIT	2008 SPLIT	2010 ADD POD'S	2017 SPLIT ADD POD'S
SESWE		26 11S	27E	IRRIGATION	STOCK/COMM	STOCK/COMM	STOCK/COMM/IRRIGATION
SESESW		26		IRRIGATION	IRRIGATION	IRRIGATION	IRRIGATION / STOCK/COMM
SWSESE		26		IRRIGATION	IRRIGATION	IRRIGATION	IRRIGATION/ STOCK/COMM
	SESENE	35		IRRIGATION	STOCK/COMM	STOCK/COMM	STOCK/COMM
				IRRIGATION	STOCK/COMM	STOCK/COMM	STOCK/COMM/IRRIGATION
	SESENW	35		IRRIGATION	STOCK/COMM	STOCK/COMM	STOCK/COMM
SESESE		35		IRRIGATION	IRRIGATION	IRRIGATION	STOCK/COMM/IRRIGATION
						IRRIGATION	IRRIGATION / STOCK/COMM





No. C 174211	Due no later than Jul 31, 2017 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. MILLENKAMP CATTLE, INC. SUSAN MILLENKAMP 471 N 300 W JEROME ID 83338		SUSAN J MILLENKAMP 471 N 300 W JEROME ID 83338	
			3. <u>New</u> Registered Agent Signature:*	
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).				
Office Held	Name	Street or PO Address	City	State Country Postal Code
SECRETARY	SUSAN J MILLENKAMP	471 N 300 W	JEROME	ID USA 83338
PRESIDENT	WILLIAM J MILLENKAMP	471 N 300 W	JEROME	ID USA 83338
5. Organized Under the Laws of: ID C 174211		6. Annual Report must be signed.* Signature: Susan Name (type or print): Susan Date: 08/22/2017 Title: Millenkamp		
Processed 08/22/2017		* Electronically provided signatures are accepted as original signatures.		

No. W 41668	Due no later than Aug 31, 2017 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. EAST VALLEY CATTLE, LLC BILL OR SUSIE MILLENKAMP 471 N 300 W JEROME ID 83338		WILLIAM J MILLENKAMP 471 N 300 W JEROME ID 83338			
			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
MANAGER	WILLIAM J MILLENKAMP	471 NORTH 300 WEST	JEROME	ID	USA	83338
5. Organized Under the Laws of: ID W 41668		6. Annual Report must be signed.* Signature: William Millenkamp Name (type or print): William Millenkamp Date: 10/03/2017 Title: Manager				
Processed 10/03/2017		* Electronically provided signatures are accepted as original signatures.				