

WATER SUPPLY BANK LEASE CONTRACT

RECEIVED

MAY 12 2016

DEPARTMENT OF
WATER RESOURCES

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

LESSOR: ALGIS PABARCIUS
C/O TRAVIS THOMPSON
195 RIVER VISTA PL, SUITE 204
TWIN FALLS, ID 83301-3029
208-733-0700

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. On November 16, 2015, the Lessor filed an application to lease the water right described below into the Water Supply Bank.
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 the 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 RIGHT:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water right described as follows:

Summary of Water Right or Portion Leased to the Bank

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
37-22934	6/01/1886	BIG WOOD RIVER	MALAD RIVER	0.35 cfs	Not Stated	16.0 ac
37-22935	5/04/1889	BIG WOOD RIVER	MALAD RIVER	0.31 cfs	Not Stated	16.0 ac
37-22936	5/21/1890	BIG WOOD RIVER	MALAD RIVER	0.24 cfs	Not Stated	16.0 ac

Combined Lease Totals

0.90 cfs Not Stated

16.0 ac

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate	Diversion Volume	Acres (Limited)	Rate per Acre	Volume per Acre
37-22934	0.35 cfs	21.7 AF	6.2 AC	0.06 cfs/AC	3.5 AF/AC
37-22935	0.31 cfs	18.9 AF	5.4 AC	0.06 cfs/AC	3.5 AF/AC
37-22936	0.24 cfs	14.7 AF	4.2 AC	0.06 cfs/AC	3.5 AF/AC
Combined Total	0.89 cfs	55.3 AF	15.8 AC	0.06 cfs/AC	3.5 AF/AC

* The water right elements rentable have been reduced from the water right elements leased to account for an overlap with water right 37-2507B.

SUPPORT DATA

IN FILE # 37-22934

WATER SUPPLY BANK LEASE CONTRACT

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, 2016 to December 31, 2016. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

ALGIS PABARCUS
C/O TRAVIS THOMPSON
195 RIVER VISTA PL, SUITE 204
TWIN FALLS, ID 83301-3029

By *Algis Pabarcus* Date *5/11/16*
Printed Name *ALGIS PABARCUS by* Title *AGENT IN FACT*
Robert E. Williams, Agent
in fact

IDAHO WATER RESOURCE BOARD
322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

By *Brian Patton* Date *5/12/2016*
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR *by [signature]* Date *5-12-2016*

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NO. 37-22934, 37-22935 and 37-22936

The water right or portion thereof leased to the bank is described as follows:

Lessor: **ALGIS PABARCIUS**
 C/O TRAVIS THOMPSON
 195 RIVER VISTA PL, SUITE 204
 TWIN FALLS, ID 83301-3029

Location of Point(s) of Diversion for Water Right 37-22934, 37-22935 and 37-22936

BIG WOOD RIVER	SENW	Sec. 32, Twp 03N, Rge 18E, BLAINE County
BIG WOOD RIVER	NWNENE	Sec. 32, Twp 03N, Rge 18E, BLAINE County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
37-22934	IRRIGATION	04/15	to 10/31	0.35 cfs	21.78 af
37-22935	IRRIGATION	04/15	to 10/31	0.31 cfs	19.29 af
37-22936	IRRIGATION	04/15	to 10/31	0.24 cfs	14.93 af
Total:				0.90 cfs	56.0 af

Place of Use to be Idled Under This Lease: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	32					0.5				9.2	6.3							16.0

Total Acres: 16.0

Conditions Applicable to Leased Water Right

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

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the 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 after the following rental season.
11. The water right leased to the bank is 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. When combined with all other rights, the water rights on this lease shall not provide more than 0.02 cfs per acre, nor 3.5 af per acre for irrigation purposes.
13. Use of water under the rights on this lease is regulated by a Watermaster with responsibility for distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.

STATE OF IDAHO
WATER RESOURCE BOARD

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DEPARTMENT OF
WATER RESOURCES

RECEIVED

DEC 29 2015

DEPT. OF WATER RESOURCES
SOUTHERN REGIONAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Algis Pabarcus

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

Water Right No. 37-22936

(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 <i>all owners</i> 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 <u>www.idwr.idaho.gov</u>). |
| 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: <u>www.idwr.idaho.gov</u> . |
| 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 \$ 500-Received By: CH/DMDate Received: 12.29.15 Receipt # SD35179W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Algis Robert Pabarcus

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

RECEIVED

DEC 29 2015

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 Algis Pabarcus c/o Rob Williams

Mailing Address P.O. Box 168 Jerome, ID 83338

Street City State Zip Code
Email Address rewilliams@cableone.net Phone Number 208-324-2303

☒ 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 Zach Latham Organization Brockway Engineering PLLC

Professional Title Hydrologist Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington St. N Suite #4 Twin Falls, ID 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.
Big Wood River water is conveyed to property through the Purdum Slough.

- 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. All of water rights 37-22934, 37-22935 and 37-22936 owned by Mr. Pabarcus are proposed to be leased to the water supply bank.

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

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

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Applicant is filing this WSB lease within 5 years post partial decree.

- 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. N/A.

- 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 ☐
IDWR application no. 79895.

**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 ☒.

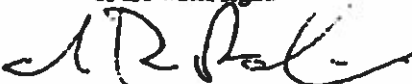
If lease, specify the years when the use of water will be suspended: 2016 to 2016 (maximum lease period 5 calendar years)
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.
Current rental rate. _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.


Signature of Designated Applicant

ALGIS R. PABARCUS
Printed Name

27 DEC 2015
Date

Signature of Authorized Representative

Printed Name

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

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

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

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

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

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
	Total Amounts:			

2. Source of water _____ **tributary to** _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

Instrument # 575116

HAILEY, BLAINE, IDAHO

2-16-2010 05:06:59 No. of Pages: 1

Recorded for: WILLIAMS MESERVY LOTH SPEECH LLP

JOLYNN DRAGE

Fee: 3.00

Ex-Officio Recorder Deputy

Index to: WTYGICCOMP DEED

Exhibit #2A

PAGE 03

QUITCLAIM DEED

FOR VALUE RECEIVED, RIVERVIEW-CLOVERLY IRRIGATION, INC., an Idaho corporation, hereinafter called the "Grantor", hereby remises, releases, and forever quitclaims unto the HARRY S. RINKER TRUST, Harry S. Rinker, Trustee, of P.O. Box 7250, Newport Beach, CA 92658, hereinafter called the "Grantee", all its right, title and interest in a pro rata portion of Water Rights Nos. 37-20417, 37-20421 and 37-20425 as authorized by the Idaho Department of Water Resources that are not stacked with groundwater for irrigation of twenty-three (23) acres within the permissible place of use created by the Idaho Department of Water Resources Transfer No. 69269 and described therein, reserving unto the Grantor any of the portions of the water rights which are not being conveyed herein. Provided, however, that 10.2% of the diversion rate of the water rights that would otherwise be deeded to Grantee shall be retained by the Grantor for the purpose of providing for conveyance loss. Deducting the percentage of conveyance loss, the amounts of the above referenced water rights being conveyed hereunder are as follows:

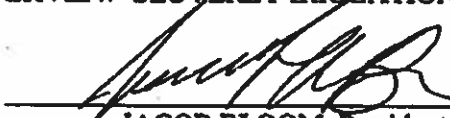
37-20417 (Part)	.50 cfs for the irrigation of 23.0 acres
37-20421 (Part)	.44 cfs for the irrigation of 23.0 acres
37-20425 (Part)	.34 cfs for the irrigation of 23.0 acres.

TO HAVE AND TO HOLD the premises, with its appurtenances unto said Grantee, and the Grantee's heirs, successors and assigns forever.

DATED this 4 day of February, 2009.

"GRANTOR"

RIVERVIEW-CLOVERLY IRRIGATION COMPANY

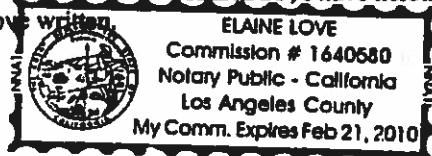

 JACOB BLOOM, President

CALIFORNIA
STATE OF ~~IDAHO~~)

SS:
County of Los Angeles)

On this 4 day of February, 2009, before me, the undersigned, a Notary Public in and for said County and State, personally appeared JACOB BLOOM, President of the RIVERVIEW-CLOVERLY IRRIGATION COMPANY, known to me to be such officer and the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same on behalf of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.




 NOTARY PUBLIC for ~~Idaho~~ CALIFORNIA
 Residing at: 150 So. Rodeo Dr. #100, Brea, CA 92622
 Commission Expires: Feb. 21, 2010

QUITCLAIM DEED - 1

\\SERVER\SHARE\DATA\PARABOLUS\RINKER WR\QUITCLAIM DEED.DOC

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

ORANGE

On

12/9/2010

before me,

Georgianna Thulman

Here Insert Name and Title of the Officer

personally appeared

Harry J. Rinker

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Georgianna Thulman

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name:

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



PABARCIUS, ALGIS
WSB LEASE 2015 37-22934, 22935 & 22936
NAIP 2013 AERIAL

0 250 500 1,000 Feet

Legend

- Points_of_Diversion
- WSB LEASE 37-22934, 35, 36
- 37-22934, 35 & 36
- townshp
- Sections
- ladesec



BROCKWAY ENGINEERING, PLLC.
ALR - Date: 12/29/2015

NOTE: "Rights 37-22934, 37-22935, and 37-22936 allow 16 acres within the indicated PPU, and are not overlapping with any groundwater right (see deeds). These 16 acres will be placed in the WSB and not irrigated. The delineated area shown on this map is arbitrary."