



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

March 27, 2014

GREG SULLIVAN
BROCKWAY ENGINEERING
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

**RE: APPLICATIONS TO LEASE WATER RIGHT NO(S). 36-02254A, 36-02284 & 36-08401
TO THE WATER SUPPLY BANK**

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of your application(s) to lease water right(s) to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right(s) 36-02254A, 36-02284 & 36-08401 into the Bank.

This letter is notice that the attached application(s) to lease water to the Bank are **returned**. These rights are currently involved in a transfer application. Please resubmit when the transfer action is complete and you are ready to proceed with the lease of these rights.

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

If you have any questions, please contact me at (208) 287-4944.

Sincerely,

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: Horizon Organic Dairy



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If you have any questions, please contact me at (208) 287-4944.

Sincerely,

A handwritten signature in black ink, appearing to read "Cherie Palmer", is written over a horizontal line.

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: Horizon Organic Dairy

RECEIVED
NOV 29 2013
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

Water Supply Bank No. _____
(For Department Use Only)

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

Name of Seller/Lessor Horizon Organic Dairy Phone 208-438-8450

Mailing address 2577 East 500 South Paul, Idaho 83347 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, show "ALL" below and skip the remainder of part A. Attach a copy of the water right report.

<u>1. Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>36-2284</u>	<u>0.69/466.8</u>	<u>Irrigation</u>	<u>3/15</u> to <u>11/15</u>
			to _____
			to _____
Total Amount: <u>0.69/466.8</u>			

2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
09S	21E	28		SW	SW	SW	Jerome
09S	21E	28		SE	NW	SE	Jerome

4. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	21E	29														3.7	40	26.6	70.3
		32	12.6	33.7															46.3

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 116.6

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.

2. Is the water right appurtenant to land subject to any liens, deeds of trust, mortgages, or contracts? Yes ☐ No ☒
If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes and list name of entity: _____

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.
Existing wells, pumps, mainline pipes and pivots
2. Describe any other water rights used for the same purpose or at the same place of use as described above.
A total of 152.0 acres (2.37/608 cfs/afa) will be dried up under 36-2254A, 36-2248 and 36-8401.
3. Will the present place of use continue to receive water from any source? Yes ☐ No ☒
If yes, describe. _____
4. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____
5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes ☐ No ☒
If yes, describe. _____

D. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board for sale ☐ or lease ☒?
If Lease, for a period from 01/01/2012 to 12/31/2016 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)
2. Show the minimum payment acceptable to the Seller/Lessor. The minimum payment may be shown as the "current rental rate" as established by the Idaho Water Resource Board. 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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

[Signature]
Signature of Applicant

Robert E. Williams, AGENT
Printed Name and Title*
(SEE FOR ATTACHED)

11/22/13
Date

Signature of Applicant

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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

SPECIAL POWER OF ATTORNEY

HORIZON ORGANIC DAIRY, LLC, a Delaware limited liability company, qualified to do business in the state of Idaho, hereby appoints ROBERT E. WILLIAMS, 153 East Main, Jerome, Idaho 83338, to be its true and lawful attorney for it, in its name, place and stead, and on its behalf, to do any or all of the following acts, deeds and things:

1. SPECIFIC POWERS: To execute on behalf of HORIZON ORGANIC DAIRY, LLC, any or all of the following:
 - (a) Application for transfer of Water Rights Nos. 36-8402, 36-2430, 36-8008, 36-16045, 36-16047, 36-16049, 36-16051, 36-16053, 36-2254A, 36-2284 and 36-8401 for the purpose of creating a permissible place of use enlarged by 80.0 acres.
 - (b) Application for transfer of 148 acre feet of Water Rights Nos. 36-2254A, 36-2284 and 36-8401 to change the nature of the use from irrigation to stock water and commercial.
 - (c) Application for Amendment of Lease Agreement with the Idaho Water Supply Bank modifying the portions of Water Rights Nos. 36-2254A, 36-2284 and 36-8401, which will remain subject to the existing lease.
 - (d) Any other documents necessary or useful to carry the foregoing into effect.

IN WITNESS WHEREOF, I have hereunto set my hand in Denver, Colorado, on November 20, 2013.

HORIZON ORGANIC DAIRY, LLC

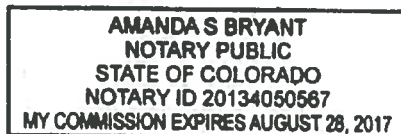
By: _____

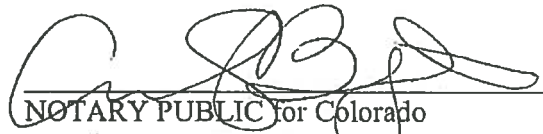
Roger E. Theodoredis, its sole manager

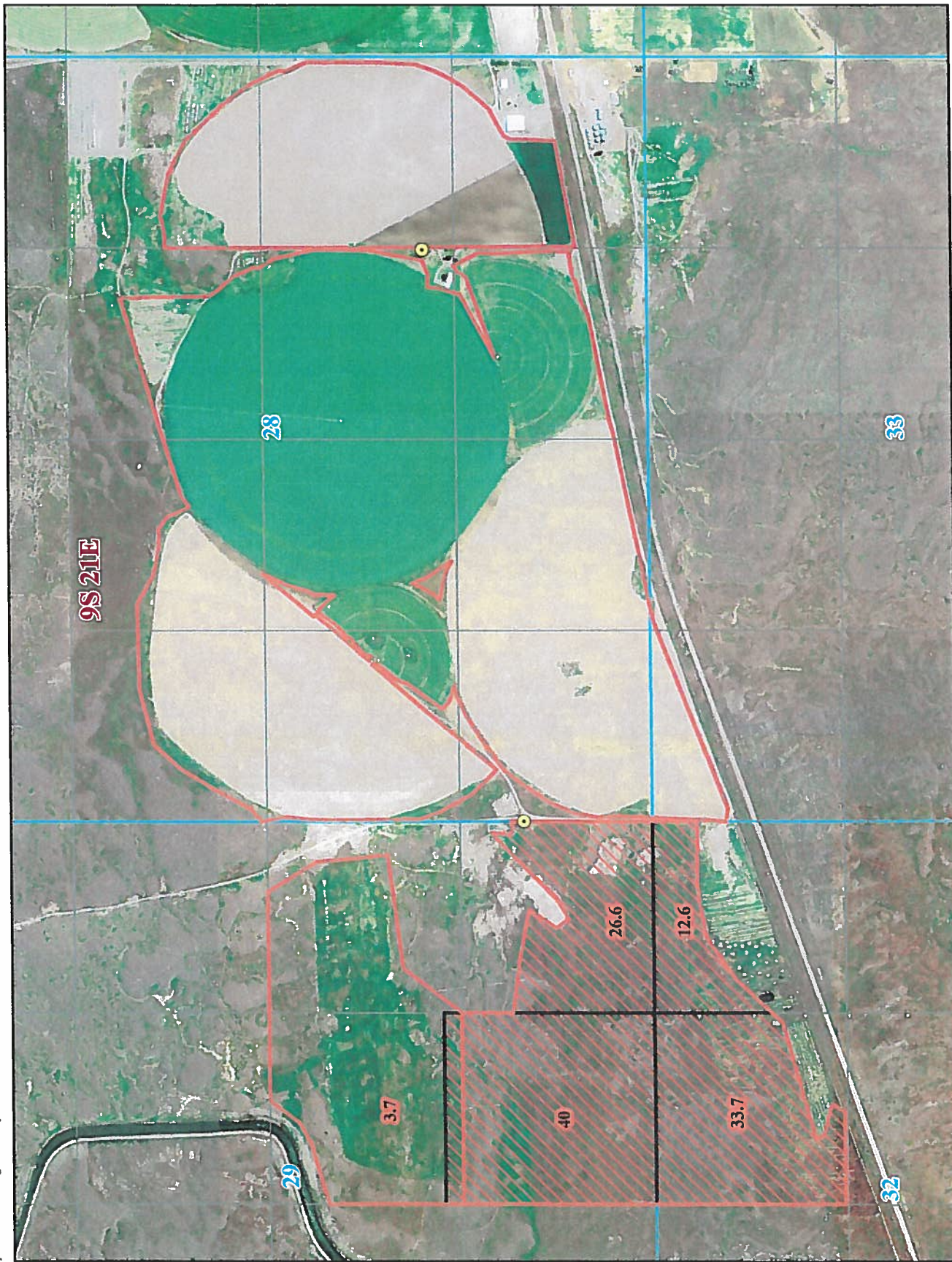
STATE OF COLORADO)
 :ss
COUNTY OF DENVER)

On November 20, 2013, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ROGER E. THEODOREDIS, the sole manager of HORIZON ORGANIC DAIRY, LLC, and the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same in such capacity on behalf of Horizon Organic Dairy, LLC.

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




NOTARY PUBLIC for Colorado
Residing at: 16691 Jasmine Street
Brighton, CO 80602
Commission Expires: 8/28/17



0 800 1,600 Feet

**HORIZON ORGANIC - 36-2254A, 36-2284, & 36-8401
WSB LEASE AREAS - POST 2013 TRANSFERS
NAIP 2011 AERIAL**

Legend

	Points_of_Diversion
	WSB ACRES 116.6 AC
	WSB ACRES 116.6 AC
	WSB ACRES 116.6 AC
	Sections
	WSB ACRES 116.6 AC



RECEIVED
NOV 29 2013
DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____
(For Department Use Only)

STATE OF IDAHO
WATER RESOURCE BOARD

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

Name of Seller/Lessor Horizon Organic Dairy Phone 208-438-8450

Mailing address 2577 East 500 South Paul, Idaho 83347 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, show "ALL" below and skip the remainder of part A. Attach a copy of the water right report.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>36-2254A</u>	<u>0.98/466.8</u>	<u>Irrigation</u>	<u>3/15</u> to <u>11/15</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
Total Amount: <u>0.98/466.8</u>			

2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
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4. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
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If the right is for irrigation, show total number of acres offered to the bank. **Total Acres** 116.6

B. OWNERSHIP

- Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
- Is the water right appurtenant to land subject to any liens, deeds of trust, mortgages, or contracts? Yes ☐ No ☒
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C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Existing wells, pumps, mainline pipes and pivots

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

A total of 152.0 acres (2.37/608 cfs/afa) will be dried up under 36-2254A, 36-2248 and 36-8401.

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

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Robert E. Williams, Agent
Signature of Applicant

Robert E. Williams, Agent
Printed Name and Title*
(Post a Notice)

11/22/13
Date

Signature of Applicant

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*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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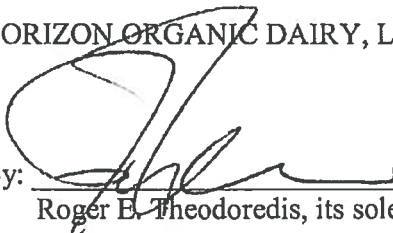
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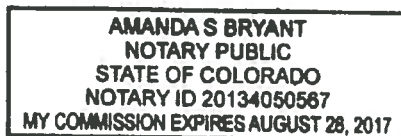
By: 

Roger E. Theodoredis, its sole manager

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<u>36-8401</u>	<u>0.15/323.3</u>	<u>Irrigation</u>	<u>4/01</u> to <u>10/31</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____

Total Amount: 0.15/323.3

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Robert E. Williams, Agent
Signature of Applicant
for Hays Organizing, LLC

Robert E. Williams, Agent
Printed Name and Title*
(See Add Attached)

11/22/13
Date

Signature of Applicant

Printed Name and Title*

Date

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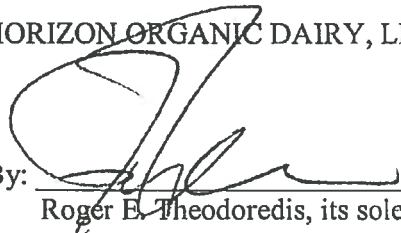
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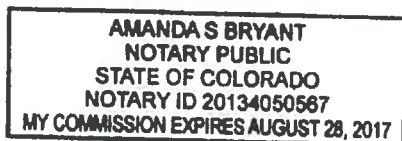
By: 

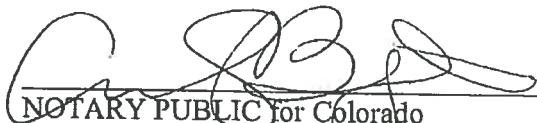
Roger E. Theodore, its sole manager

STATE OF COLORADO)
 :SS
COUNTY OF DENVER)

On November 20, 2013, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ROGER E. THEODOREDIS, the sole manager of HORIZON ORGANIC DAIRY, LLC, and the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same in such capacity on behalf of Horizon Organic Dairy, LLC.

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NOTARY PUBLIC for Colorado
Residing at: 16691 Jasmine Street
Brighton, CO 80602
Commission Expires: 8/28/17



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

NOV 29 2013

DEPARTMENT OF
WATER RESOURCES

November 27, 2013

Pam Skaggs
Idaho Water Supply Bank
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Horizon Organic Dairy

Dear Mrs. Skaggs:

There are two water right transfer applications submitted to the Idaho Department of Water Resources in the Twin Falls office relating to water rights 36-8401, 36-2254A and 36-2284.

One transfer proposes to move 33.8 acres of irrigation water under 36-8401, 36-2254A and 36-2284 to an existing permissible place of use owned by Horizon Organic Dairy.

The second transfer proposes to move 47.8 acre or 148.0 afa of water from 36-8401, 36-2254A and 36-2284 to an existing dairy facility owned by Horizon Organic Dairy.

Because of these changes in 36-8401, 36-2254A and 36-2284 it is necessary to update the accepted lease applications for these water rights. It is requested that the leased acre amount under 36-8401, 36-2254A and 36-2284 be reduced to 116.6 acres. A map identifying where the 116.6 acres are located is attached to this letter. The lease terms for the approved leases for 36-8401, 36-2254A and 36-2284 will not be changing.

It is requested that the proposed changes to 36-8401, 36-2254A and 36-2284 do not take affect until after the two transfers are approved by IDWR.

Please work with the Southern IDWR office regarding the proposed changes to water rights 36-8401, 36-2254A and 36-2284. It is vital that no rental applications be approved by the water supply bank for a total acre amount greater than 116.6 acres for the 2014 irrigation season.

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Hydrology

Water Resources

Please copy our office on all correspondence regarding this application.
Thank you for your assistance and if you have questions or comments, please don't hesitate to call.

Sincerely,

Greg Sullivan, M.S.

Cc: Rob Williams, Matt McWilliams

Enc: Update Lease Applications, Special Power of Attorney, Aerial Map

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