

CONTRACT NOT TO DIVERT WATER FOR THE NRCS AWEF PROJECTS

This Contract, entered into between the STATE OF IDAHO, IDAHO WATER RESOURCE BOARD ("Board") and Harley Hill Farms Inc. ("Owner") is made in reference to the following facts:

Print Name

by Harley Hill

RECITALS

- A. The Board received a grant administered by the Natural Resource Conservation Service ("NRCS"), which implements the Agricultural Water Enhancement Program ("AWEF") for the purpose of conserving surface and ground water and improving water quality.
- B. Owner has entered into an agreement with the NRCS for the conversion of irrigated land to dry land farming by either removing the end gun or conversion to dry land of acreage not covered by an end gun.

IN CONSIDERATION OF THE PROMISES STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Statement of Purpose.

The purpose of this Contract is to document that the water associated with the end gun removal or with the conversion to dry land shall be restricted and not used to irrigate other lands under this water right.

2. Agreement.

- A. The Owner shall convert the irrigated lands described in NRCS contract attached hereto to dry lands.
- B. The Owner shall not irrigate the lands described in NRCS contract for: _____ 2 years, or X 3 years (select 2 or 3 year agreement).
- C. The Owner shall not transfer water appurtenant to the converted acres to other lands during the term of this contract.
- D. The Owner shall not lease water appurtenant to the converted acres into the Water Supply Bank for use on other lands during the term of this contract.
- E. The Board shall review the Owner's proposal to convert irrigated lands to dry lands and provide the required recommendation to NRCS in order for the Owner's proposal to be approved and funded.

3. Duplicate Original

This Contract 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.

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD

[Signature]
Signature Idaho Water Resource Board Representative

6/4/13
Date

OWNER

Harley Hill Farms Inc.
by Harley Hill
Signature Owner

4-26-13
Date

Idaho Water Resource Board, 322 E. Front St., Boise, ID 83720
Attn: Neeley Miller or Stuart Van Greuningen

PLANNING REVIEW MEMORANDUM

To: AWEP File

From: Neal Farmer

Date: May 22, 2013

RE: AWEP Proposal Review for Harley Hill Farms Inc.

BACKGROUND

In July, 2009, the Idaho Water Resource Board (Board) was awarded funding through the National Resource Conservation Service's Agricultural Water Enhancement Program (AWEP) to develop projects that support the goals of the Eastern Snake Plain Aquifer Comprehensive Aquifer Management Plan (ESPA CAMP). Part of that funding has been earmarked for financial and technical assistance to individuals or companies who are willing to convert lands currently irrigated with groundwater to surface water irrigation—informally referred to as 'conversion projects'.

To receive funding through the Board's AWEP program, project proposals must meet certain eligibility criteria to ensure the project conforms to the objectives of the ESPA CAMP and generally complies with state laws administered by the Idaho Department of Water Resources (Department). The AWEP applicant will be required to enter into an 'Agreement not to Divert' for the duration of their NRCS contract.

WATER RIGHT ANALYSIS

A query of water right records from the Department's Enterprise data base shows the following:

Summary of G.W. Water Rights from AWEP Proposal

Water Right No.	Record Type	Source	Diversion Rate (cfs)	Beneficial Use	Total Acres	Acre Limit	Volume (Ac-Ft)
22-197A	Decreed	Mahogany Crk	1.07	Irrigation	149	--	--
22-13241	Decreed	Mahogany Crk	1.6	Irrigation	77	--	--
22-13223	Decreed	Mahogany Crk	0.91	Irrigation	30.2	--	--
22-13229	Decreed	Mahogany Crk	1.42	Irrigation	126	--	--
22-13230	Decreed	Mahogany Crk	0.18	Irrigation	14.41	--	--
22-13234	Decreed	Mahogany Crk	0.08	Irrigation	combined		

Water rights are graphically delineated by actual place of use (POU)¹ in the Department's data base as depicted in the following maps and highlighted as a light blue lined polygon.

IRRIGATION ANALYSIS

In the AWEF material prepared by the NRCS in 2011, air photos show irrigation within the POU of the pertinent water rights and the AWEF boundaries of this proposal. These water rights have no record of being in the Water Supply Bank (WSB) to determine if any irrigation was occurring under a rental agreement.

CONSERVATION ANALYSIS

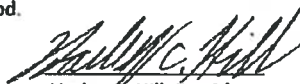
The analysis of aerial imagery of the proposal revealed approximately 249 acres of irrigated ground. The above analysis quantifies a potential annual savings in diverted water from Mahogany Creek. In this sense, the proposal represents a potential "conservation action" to the surface water that will result in a decrease in diversion from Mahogany Creek. A review of aerial imagery indicates the current water right place of use (POU) descriptions are consistent with current irrigation practices and the AWEF proposal areas. Based on the NRCS' description of the project, it is clear that all lands to be irrigated by the proposal are described in the AWEF material that has been provided. It is unlikely this proposal will allow for the irrigation of land not currently irrigated with a valid water right or surface water shares. This review indicates that approval of the project will result in a savings of surface water historically diverted from Mahogany Creek. The AWEF applicant will be required to enter into an 'Agreement not to Divert' for the duration of their NRCS contract.

Harley Hill Farms, Inc. AWEF Application
April 24, 2013

Harley Hill Farms, Inc. AWEF applications were done as four separate applications because each parcel has separate ownership and separate water rights (some parcels have multiple water rights for one parcel). All parcels are leased and operated by Harley Hill Farms, Inc. and all receive irrigation water from Mahogany Creek. Part of the land is leased from Harley Hill and part is leased from other individuals/entities. All tracts have leases in place through the end of 2015 or longer.

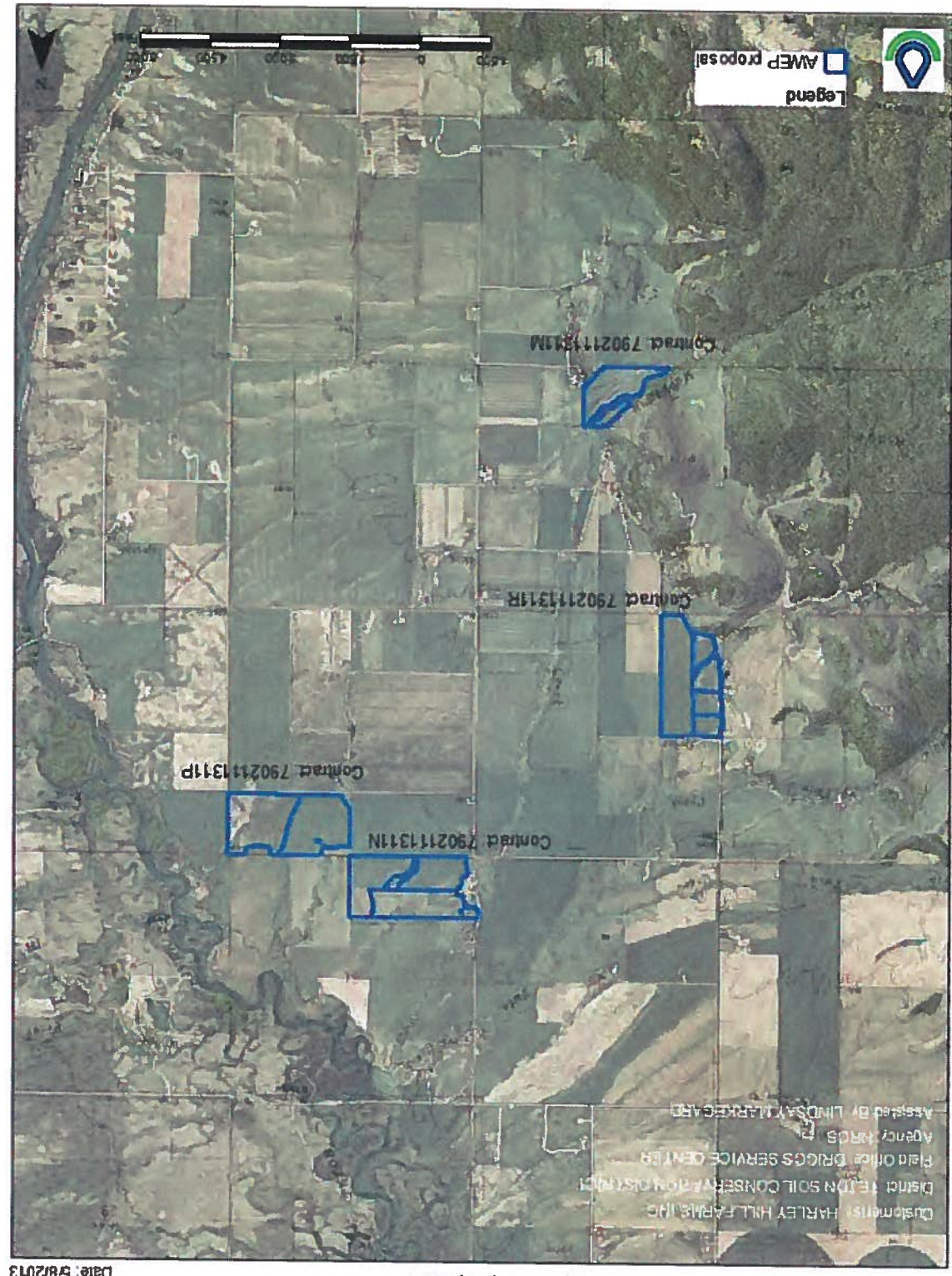
I have been asked to explain the method of water diversion for these parcels. To the best of my knowledge, there are a total of four diversion points on Mahogany Creek. I refer to these diversion points as (in order from highest elevation to lowest elevation) the Buxton Farm gravity system, the Wood Farm gravity system, the upper Mahogany headgate, and the lower Mahogany headgate.

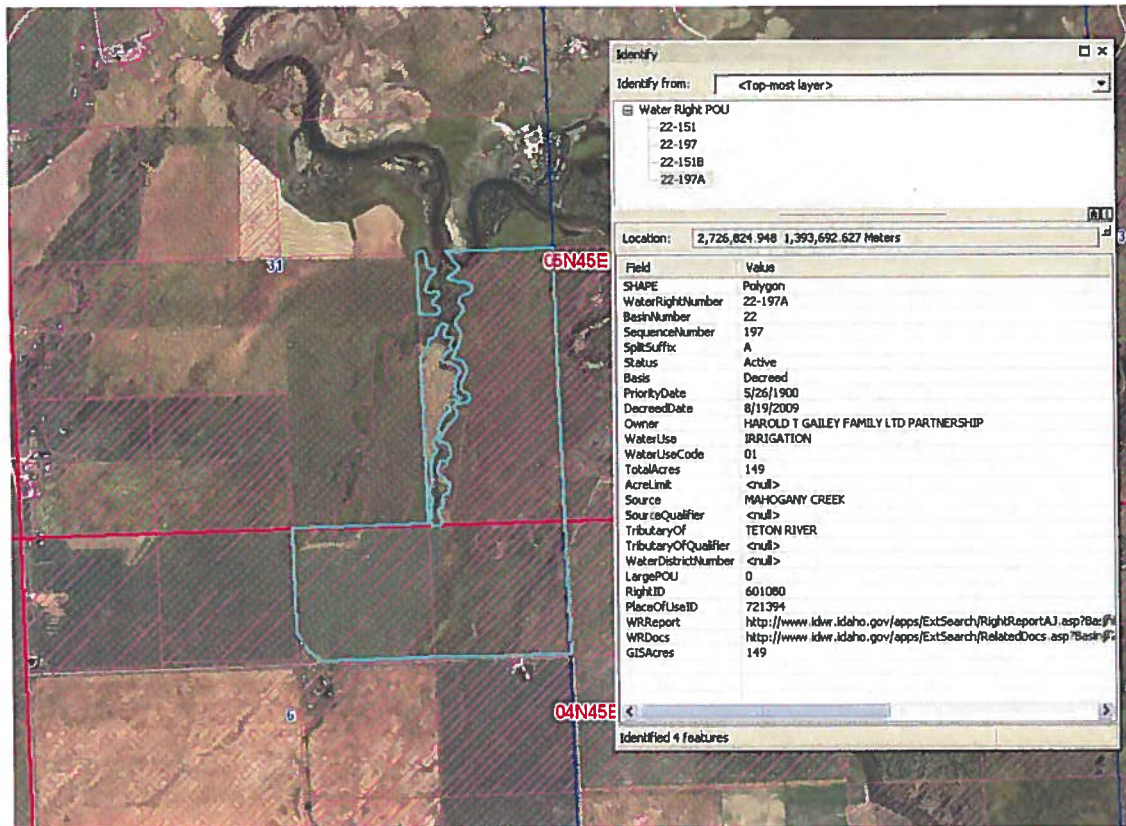
Application #790211311M is diverted at the Buxton farm gravity system. Application #790211311R is diverted at the upper Mahogany headgate. The other two applications (#790211311N - #790211311P) are diverted at the lower Mahogany headgate. There is no canal company for the Buxton farm gravity system, or the Mahogany Creek headgates, so each individual user regulates the headgate to deliver his own water. The majority of the acres Harley Hill Farms, Inc. irrigates, from the Buxton farm gravity system, are on a separate main line, which will be turned off. Harley Hill Farms, Inc. and Tom Hill Farms, Inc. (which has also applied for AWEF) are the major water users at the two Mahogany headgates. If the AWEF applications are approved, there will still be some water diverted at these two headgates. However it will be much less because there will be many less acres being irrigated from these two lower diversions. If all AWEF applications for these two entities are approved, I am estimating that about 65% - 70% of the land currently being irrigated from these two headgates will be dried up for the three year contract period.


Harley C. Hill, President

AWEF proposal owner's statement.

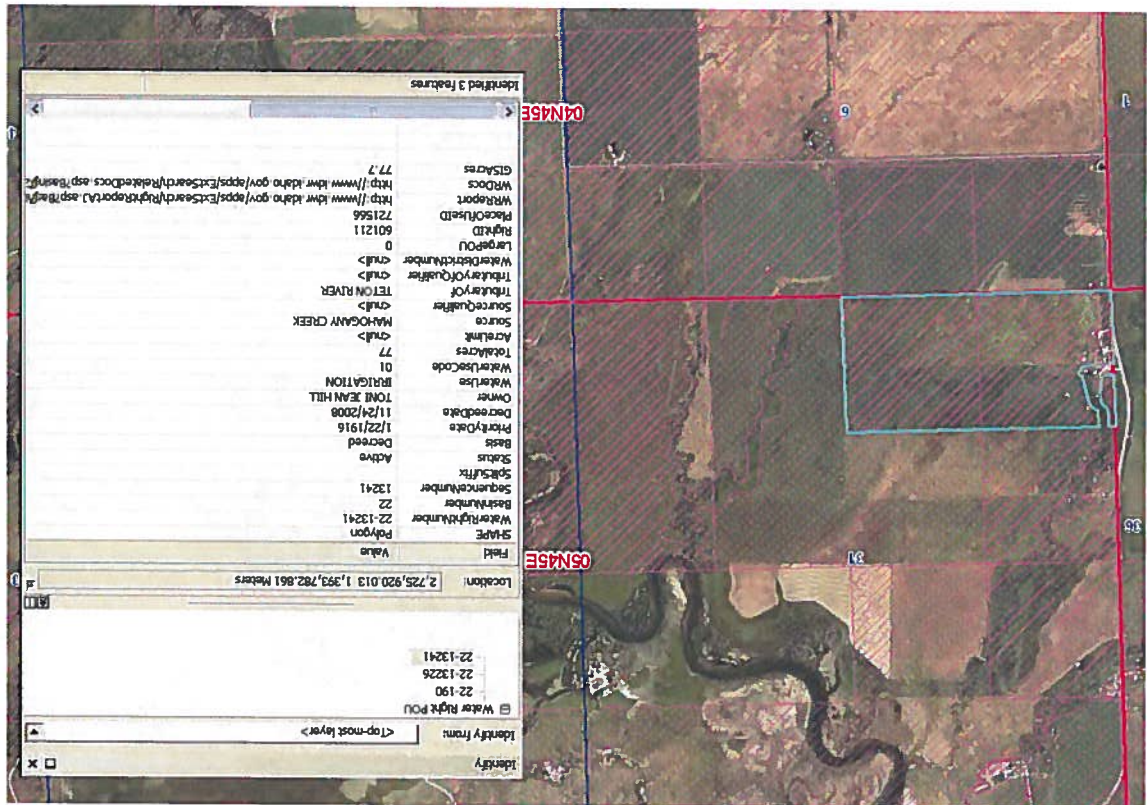
AWEP proposal map for Harley Hills Farms Inc.

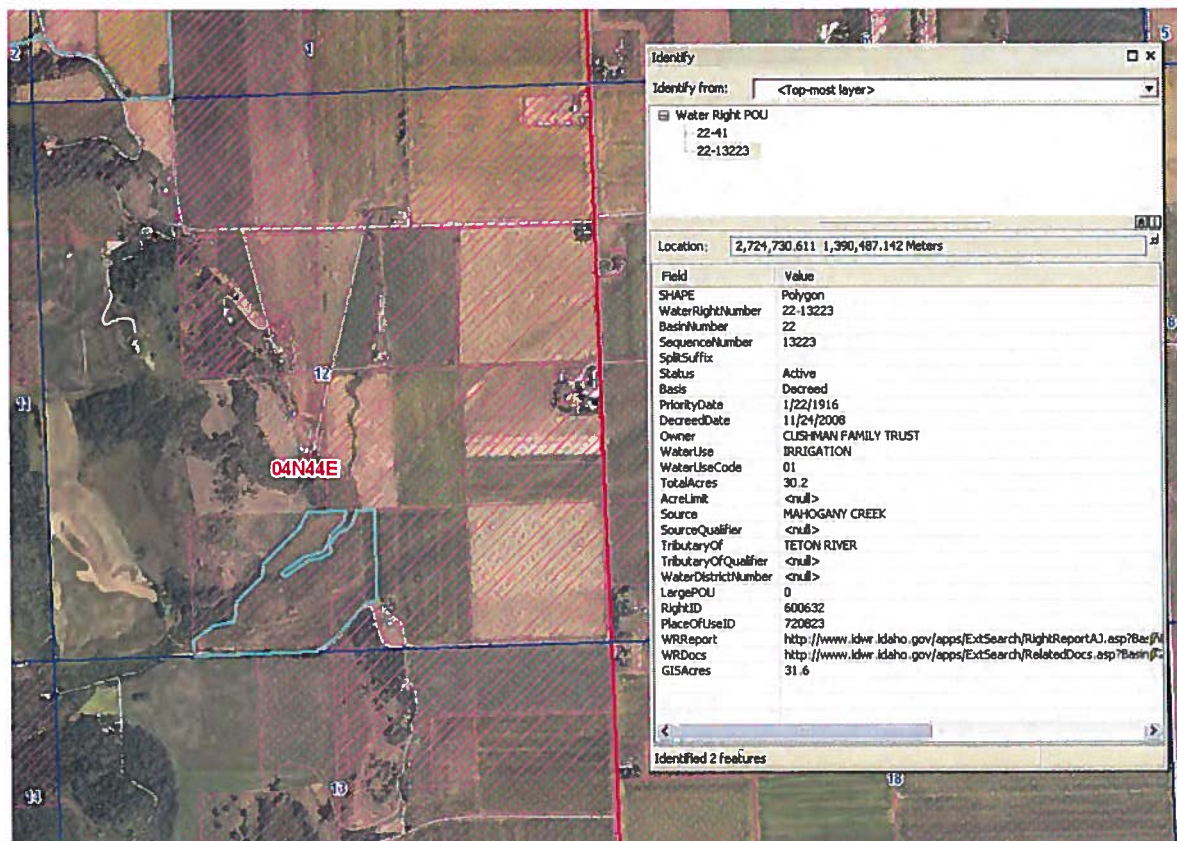




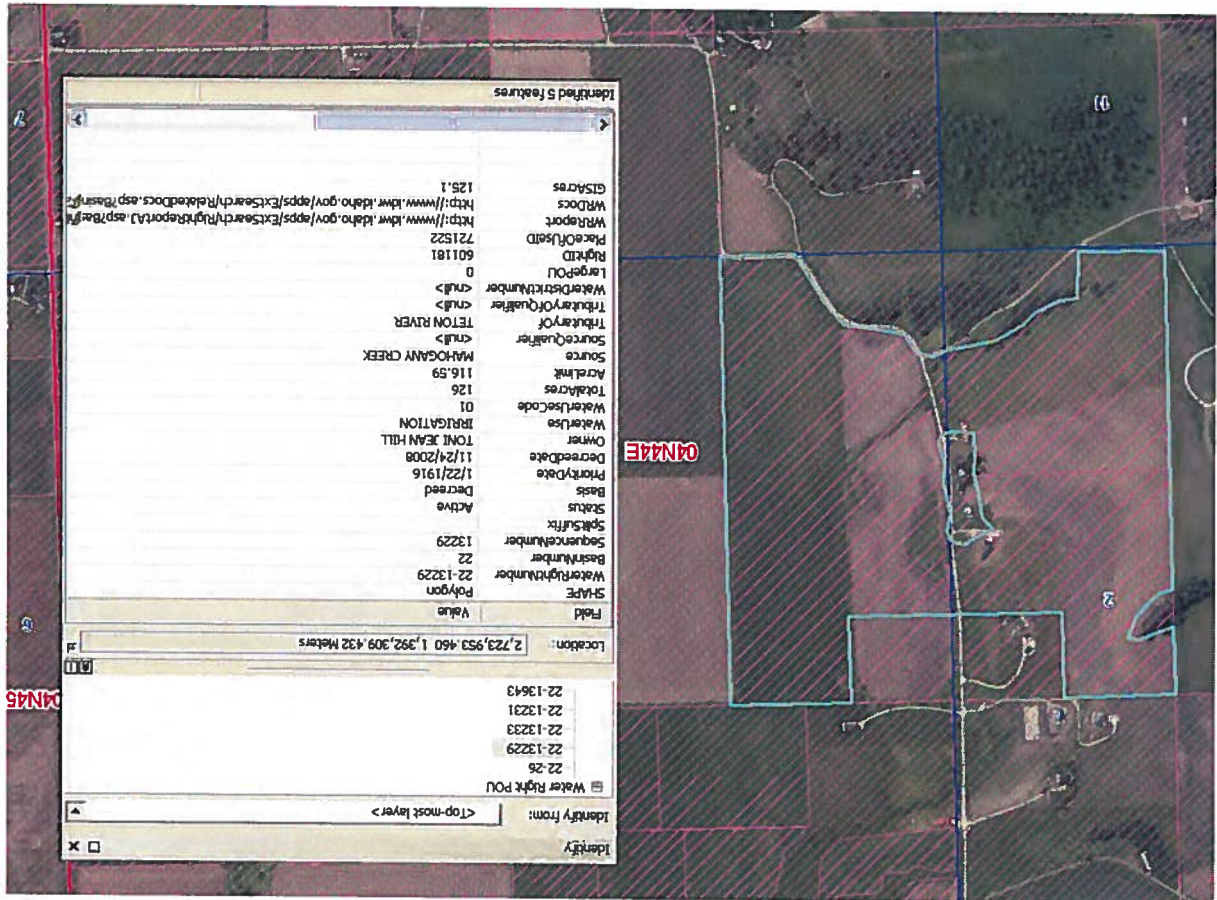
Legal location and water right 22-197A boundary as light blue for contract 7902111311P. The AWEP proposal acreage is approximately 73.6 acres.

Legal location and water right 22-13241 boundary as light blue for contract 790211311N. AWEP proposal acreage is approximately 72.5 acres.

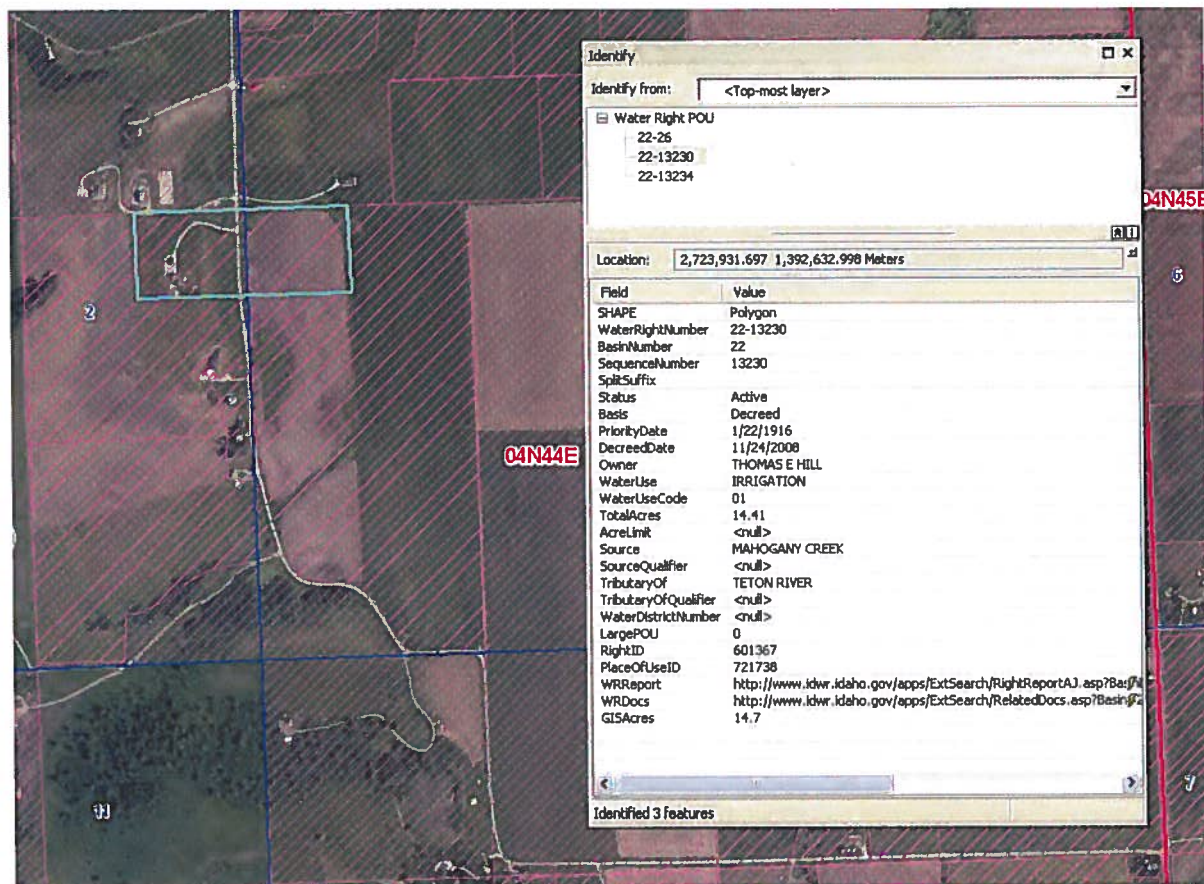




Legal location and water right 22-13223 boundary as light blue for contract 7902111311M. The AWEPP proposal acreage is approximately 32.8 acres.



Legal location and water right 22-13229 boundary as light blue for contract 790211311R. The AWEP proposal area is approximately 70.2 acres.



Legal location and water right 22-13230 boundary as light blue for the remaining land under contract 7902111311R and not covered by WR 22-13229.

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OWNER

Harley Hill Farms, Inc.
Signature Owner

Signature Idaho Water Resource Board Representative

Date

Date

Idaho Water Resource Board, 322 E. Front St., Boise, ID 83720
Attn: Neely Miller or Stuart Van Curenlingen

Nearly complete contract Not to Divert Water for the Harley Hill Farms, Inc. submitted with applications materials.