

Skaggs, Pam

From: Skaggs, Pam
Sent: Thursday, April 18, 2013 3:03 PM
To: 'lance@funkfarms.net'
Cc: 'Greg Sullivan'
Subject: Toevs Agreement Insufficient

Lance,

As we discussed, the 04-11-2013 document signed by the Toevs is not sufficient for us to proceed with the rentals including their rights. The fees you paid for 2013 did not include the owner share for these rights. You noted that a new agreement would be returned for these rights. These rentals are for the 2013 season only.

We have accepted the 04-17-2013 Contract of Agreement between you and Northern Agriculture as sufficient to conclude no owner share is necessary for the specific rights listed **for the 2013 season**. Rentals identified as NPVR Grain, Burgermeister Grain and Huse 2 Potatoes will be approved later today. Two of the rental agreements are also for years **2013-2015**. If a similar document is not submitted for the 2014 and 2015 season, the full amount listed on the face of the agreement will be required.

I will hold the remaining rentals until an acceptable document or the remaining fees are paid for the Toevs rights.

Thank you for your timely attention to this matter.

Pam

Pam Skaggs
WR Supervisor
287-4951

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APR 18 2013

DEPARTMENT OF
WATER RESOURCES

April 11, 2013

To whom it may concern:

William R Toevs and Joanne L Toevs acknowledge that at time of purchase of real estate described below

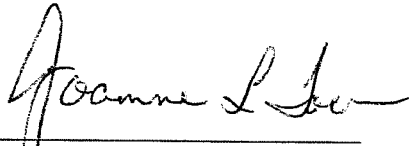
4S 31E Sec 16 S ½

there was a lease agreement in effect between Superior LLC and Lance Funk Farms.

William R and Joanne L Toevs purchased property November 28, 2012 and acknowledge that lease between Lance Funk and Superior LLC is still in effect.

Lease is for 264 irrigated acres and 305 total acres.

Lease between Superior LLC and Lance Funk Farms was valid from November 2008 and will expire October of 2018.



Joanne L. Toevs



William R. Toevs

Real Estate Lease

This Lease agreement (this "Lease") is dated October 21, 2008 by and between Superior LLC ("Landlord"), and Lance Funk Farms ("Tenant"). The parties agree as follows:

Premises: Landlord in consideration of the lease payments provided in this Lease leases to Tenant 305 acres of farmland (the "Premises") The Premises is located in Bingham County.

Legal Description: The legal description for the Premises is:

T4S R31E S1/2 S16

Term: The lease term will begin on October 1, 2008 and will terminate November 15, 2019.

Lease Payments: The grand total for the lease is [REDACTED] If Lance Funk Farms uses the pump and motor Lance Funk Farms agrees to pay Superior LLC an additional [REDACTED] per acre per year on the 264 irrigated acres. Lance Funk Farms will rent any additional water for [REDACTED] per acre per year. This total is to be paid in installments as described in Schedule A.

Possession: Tenant shall be entitled to possession on the first day of the term of the lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed to by both parties in writing. At expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

Use of Premises: Tenant may use the Premises only for the production of wheat, peas, corn, potatoes, sugar beets and barley. The Premises may be used for any other purpose only with prior written consent of Landlord which may not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises no later than the first day of the extended absence.

Property Insurance: Landlord and Tenant shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. Landlord shall be named as and additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

Liability Insurance: Tenant shall maintain liability insurance on the Premises in total aggregate sum of at least [REDACTED] Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from insurer prior to any termination of such insurance policies.

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Maintenance:

Landlord's obligations for maintenance shall include:

- Landlord is responsible for pump, bowls, panel, and motor repairs under this lease

Tenant's obligations for maintenance shall include:

- the Tenant will repair or replace equipment or property that is damaged or destroyed by himself, his employees, invitees, guests, or agents
- the repair and upkeep of the sprinkler system
- all items of maintenance not specifically delegated to the Landlord under this lease
- Monitor and maintain the dripper oil on the irrigation system

Utilities and Services: Lessee shall be responsible for all utilities and services incurred in connection with the Premises.

Taxes: Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

Real Estate Taxes: Landlord shall pay all real estate taxes and assessments for the Premises.

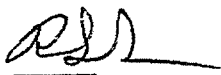
Defaults: Tenant shall be in default of this lease if Tenant fails to fulfill any obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may immediately take possession of the Premises without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or no such sums or charges are designated as "additional rent." The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

Late Payments: Payments not paid within 3 days of its due date shall bear interest at 18% per annum until paid beginning with the day after the due date.

Cumulative Rights: The rights of the parties under this lease are cumulative, and shall not be constructed as exclusive unless otherwise required by law.

Non-sufficient Funds: Tenant shall be charged [REDACTED] for each check that is returned to Landlord for lack of sufficient funds.

Access by Landlord to Premises: Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the Premises to prospective buyers, mortgagees, tenant, or workers. However, Landlord does not assume any liability for the care or supervision of Premises. As provided by law, in case of an emergency, Landlord may enter the Premises without Tenant's

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consent. During the last three months of the Lease, or any extension of the Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

Indemnity Regarding Use of Premises: To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses' claims, liabilities, and expenses, including reasonable attorney fees if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

Compliance with Regulations: Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters.

Arbitration: Any controversy or claim relating to this Lease, including the construction or application of this Lease, will be settled by binding arbitration under the rules of the American Arbitration Association, and any judgment granted by the arbitrator(s) may be enforced in any court of proper jurisdiction.

Notice: Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

Landlord:

Tenants:

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

Governing Law: This Lease shall be construed in accordance with the laws of the State of Idaho.

Entire Agreement/Amendment: This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

Severability: If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provisions, it

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Schedule A

3 years up front
10 year lease

264 wet
41.1 corners

Month/Day	Year	Amount Due	Crop Year
November 15	2008		2009, 2010, 2011
October 15	2009		2012
October 15	2010		2013
October 15	2011		2014
October 15	2012		2015
October 15	2013		2016
October 15	2014		2017
October 15	2015		2018
October 15	2016	No payment - Prepaid November 2008	
October 15	2017	No payment - Prepaid November 2008	
October 15	2018	No payment - Prepaid November 2008	
Total			

+ \$280 for pump.

If Lance uses the pump and motor he agrees to pay Reid an additional [redacted] per acre per year on the 264 irrigated acres. Lance will rent any additional water for [redacted] per acre per year. If due the additional payment will be paid October 15 of the year it was used.

+ assessments CF

If property taxes increase, Funk Farms agrees to pay the difference between the current rate and the new rate.

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