

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1624

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

LESSOR: CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN, ID 83332

RECEIVED

DEC 23 2022

DEPARTMENT OF
WATER RESOURCES

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 November 10, 2022.
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)	Acres (AC)
77-4208	7/12/1922	KNAPP CREEK, tributary to MARSH CREEK	5.27	Not Stated	129.0
Combined Lease Totals			5.27	Not Stated	129.0

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
77-4208	5.27	387.0	129.0	0.041	3.0
Combined Limit Totals	5.27	387.0	129.0	0.041	3.0

**The water right elements rentable include a defined volume limit that is based on the regional field headgate irrigation standard of 3.0 afa/acre.*

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

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WATER SUPPLY BANK LEASE CONTRACT No. 1624

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2023 to December 31, 2028. 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. **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.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

LESSOR: CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN, ID 83332

By Robert Sandy
Title Manager
Date 12/21/22

IDAHO WATER RESOURCE BOARD

322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 12/23/22

Lease approved by IDWR Phumma

Date 12/23/22

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1624

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): 77-4208

KNAPP CREEK NESENW Sec. 18 Twp 12N Rge 12E CUSTER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
77-4208	IRRIGATION	05/01		10/31	5.27 cfs	Not Stated
Totals:					5.27 cfs	Not Stated

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	11E	13															6.0	20.0	26.0
12N	11E	24	40.0	14.0	2.0	6.0													62.0
12N	12E	18										5.0	28.0	7.0					40.0
12N	12E	19						1.0											1.0

Total Acres: 129.0

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.
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.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1624

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.

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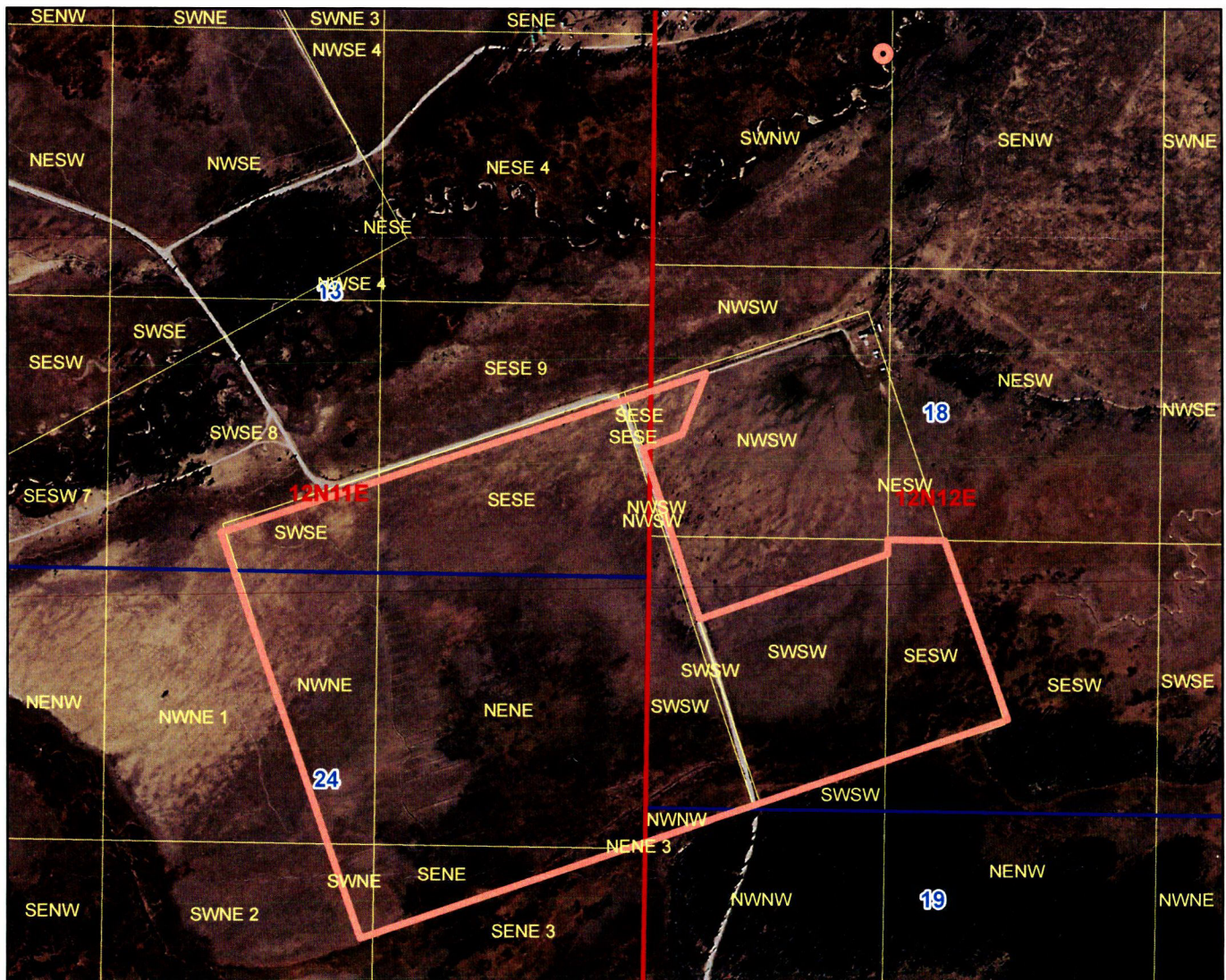
MAY 24 2023

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1624

77-4208

Effective until December 31, 2028

This map depicts the **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



0 500 1,000 Feet

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MAY 24 2023

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

NOV 10 2022

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Cape Horn Ranch LLC

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

Water Right No. 77-4208

(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 Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* 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 Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$	Received By:	Date Received:	Receipt #
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Cape Horn Ranch</u>	

2492

MAY 24 2023

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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 Cape Horn Ranch LLC

Mailing Address <u>2724 Northview Dr</u>	Hagerman	ID	83332
Street	City	State	Zip Code

Email Address _____ Phone Number 208-280-0133

- ☒ 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 _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

- ☐ 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**.

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Page 2

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.
Headgate is located on Knapp Creek in Section 18, Township 12 North, Range 12 East in Custer County.
- 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. None.
- 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.
- 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 has had a portion of the water right leased into the bank under lease contract No. 883 since December 2018. This application is requesting a 6 year lease contract renewal - 2023 - 2028. See attached IWRB resolution approving a 6 year lease renewal.
- 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.

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APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

- 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: 2023 to 2028 (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.

<u>Robert J Sandy</u> Signature of Designated Applicant	<u>Robert J Sandy</u> Printed Name	<u>10/30/22</u> Date
<u> </u> Signature of Authorized Representative	<u> </u> Printed Name	<u> </u> Date

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

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MAY 24 2023

**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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>77-4208</u>	<u>Irrigation</u>	<u>5.27</u>	<u>387</u>	<u>129</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
	Total Amounts:	<u>5.27</u>	<u>387</u>	<u>129</u>

2. Source of water Knapp Creek tributary to Marsh Creek

3. Point(s) of diversion:

Twps	Rge	Sec	Lot	¼	¼	¼	County
12N	12E	18		NE	SE	NW	Custer

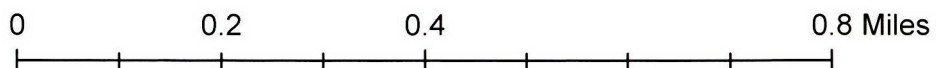
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MAY 24 2023

Attachment 2



Knapp Creek Lease: Attachment 3



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WSB Mailing Checklist for Leases

Instructions: Staple to outside of lowest numbered water right file during processing.

Key: Who Completes What?

CLERICAL STAFF: mk

REVIEWER: Jan

Received Date 11/10/2022

Desired Lease Duration 2023-2028 * see Board Resolution

Lease / Rental Package Y (N)

If yes, Renter Name: _____

Application # 2492 Contract # 1624

WR#s		#
		<u>77-4208</u>
#		#
#		#
#		#
#		#
#		#
#		#

Applicant Authorized?	<u>(Y)</u> / N
Multiple owners, Attach 1A included?	Y / N <u>(NA)</u>
If portion is offered, Attach 2 included?	<u>(Y)</u> N NA
Map of POU and POD?	<u>(Y)</u> N NA
POD Consent (if required)?	Y / N <u>(NA)</u>
Application Complete?	<u>(Y)</u> N
Minimum checklist in data base?	☐
Request for additional information letter sent:	Y NA
WSB Action Request for deficiencies	☐

Stacked Water Rights Need to be Leased? ☐

If checked, list water rights: _____

If the WR owner provided a different address on the application than what's in our database, update address in workflow.

Mailings (per lease application)	CC	Original	
Designated Applicant: <u>Cape Horn Ranch LLC</u>	☐	☐	EMAIL: _____
Attorney: _____	☐	☐	EMAIL: _____
Consultants Name: _____	☐		Comments: <u>check w/ mk if fee has been paid before completing</u>
Watermaster: <u>N/A</u>	☐		<u>↳ paid 11/18/2022</u>
Delivery Entity: _____	☐		
Water District: _____	☐		
Ground Water District: _____	☐		
Region: <u>Western</u>	☐		<u>HG-3</u>
Other: <u>IWRB attn Amy Cassel</u>	☐	☐	
Address: _____			

Call up Date: 1-3-23

DO NOT SCAN



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 27, 2022

CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN ID 83332-5891

**RE: WATER SUPPLY BANK LEASE CONTRACT 1624
FOR WATER RIGHTS 77-4208**

Dear Lessor:

Water right **77-4208** will be leased into the Water Supply Bank (Bank) as of January 1, 2023, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2028**, unless the rights are 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 rights 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 rights may not be available for immediate release if they have been rented or are 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 bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IWRB

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MAY 24 2023



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 16, 2022

CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN ID 83332

**RE: APPLICATION TO LEASE WATER RIGHTS 77-4208 TO THE WATER SUPPLY BANK
CONTRACT 1624**

******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, 2028**, 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 right may not be available for immediate release if it has 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 bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Jean Hersley

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

C: Amy Cassell

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MAY 24 2023

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: Cape Horn Ranch LLC

Memo Date: December 15, 2022

Water Right Number(s): 77-4208

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

		Check box		COMMENTS/CONCERNS:
1	Fill out WSB Data Entry Checklist for Leases (Front of File)	x		
2	Reason for lease of water rights (Brief description of lease proposal in narrative)			
	Portion of right	x		
	All of right			
3	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
		Yes	No	
4	Rentable? (If no explain in comments or narrative)			
5	Authority to file			
	Current owner or designated applicant	x		
	SOS Web site checked for business entity	x		Robert Sandy
	Other (explain in comments)			
6	Water Right validity			2006
	Decreed/Licensed/Statutory claim date (write in comments section)			
	Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)			
	Has this right previously been leased to the bank or in CREP?	x		all-1995 to 2018, portion 18-22
7	Injury to other water rights			
	If the POD is through a delivery entity, was consent provided?		na	
	If the POD is through a delivery entity, was holdback required? (percentage in comments)			%
	Any other concerns		x	
8	Enlargement concerns	Check box		
	Complete a POU comparison overlap analysis	x		
	Complete a combined limits review	x		
	Complete POD overlap analysis (if there is an overlap add condition to lease)	x		
		Yes	No	
	Are there overlapping rights that need to be placed in the bank also?		x	
	Will the place of use continue to receive water? (if yes explain in comments)		x	
9	Local Public Interest			
	Does the processor know of any problems this action will cause for the local public?		x	
10	Have you contacted regional office and watermaster for comment/concerns?		x	
	Send the watermaster comment request form or e-mail request		NA	
11	Area Headgate requirement (write in Comments)			3
12	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments		x	

Narrative: The Department received this application on November 10, 2022. Payment was received on November 18, 2022. The application was signed by Robert Sandy, member, and he wishes to place 129 acres of this right in the Bank. This right was decreed in 2006 and the entire right was placed in the Bank in 1995 indefinitely by resolution of the Board. The water right was released in 2017 and In 2018-2022, a 129 acre portion was placed in the Bank. This contract will be for a 6 year term by IWRB resolution. The Board has a contract with Cape Horn for salmon spawning and rearing. This right is the last remaining irrigation diversion in the headwater tributaries of the Middle Fork Salmon Basin.

13 This right is not currently within a WD.

SCANNED
MAY 24 2023



0004787686

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State

PO Box 83720

Boise, ID 83720-0080

(208) 334-2301

Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0004787686

Date Filed: 6/20/2022 8:30:56 PM

Entity Name and Mailing Address:

Entity Name: CAPE HORN RANCH, LLC
The file number of this entity on the records of the Idaho Secretary of State is: 0000108338
Address: 2724 NORTHVIEW DR
HAGERMAN, ID 83332-5891

Entity Details:

Entity Status: Active-Existing
This entity is organized under the laws of: IDAHO
If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: W31816

The registered agent on record is:

Registered Agent: ROBERT J SANDY
Registered Agent
Physical Address
2724 N VIEW DR
HAGERMAN, ID 83332
Mailing Address

Limited Liability Company Managers and Members

Name	Title	Business Address
Robert J Sandy	Member	4555 EAST SAHARA AVE. NO 233 LAS VEGAS, NV 89104-6386
Lora S Silver	Member	PO BOX 71 HAGERMAN, ID 83332
Cheryl Sandy	Member	3614 S HERITAGE AVE BOISE, ID 83709

The annual report must be signed by an authorized signer of the entity.

Job Title: Manager

*Robert J Sandy**06/20/2022*

Sign Here

Date

SCANNED
MAY 24 2023

BU118-6826 06/20/2022 8:31PM RECEIVED BY ID SECRETARY OF STATE LAWRENCE DENNEY



Governor Brad Little

Director Gary Spackman

November 17th, 2022

CAPE HORN RANCH LLC
2724 NORTHVIEW DR
HAGERMAN ID 83332

**RE: APPLICATION(S) TO LEASE WATER RIGHT NO(S). 77-4208 TO THE WATER
SUPPLY BANK**

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to lease the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow. If the application(s) is not processed prior to the end of the proposed lease period, it will be returned to the applicant. The Department regrets any inconvenience caused by the delay.

If the right(s) is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted if additional information is required.

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) 287-4822.

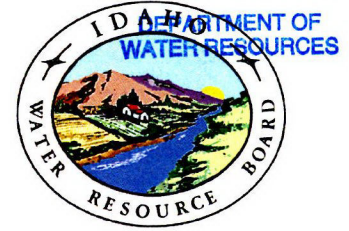
Sincerely,

Mackenzie Kienholz
Water Supply Bank Specialist

SCANNED
MAY 24 2023

RECEIVED

NOV 10 2022



Memorandum

To: Idaho Water Resource Board
From: Amy Cassel
Date: October 20, 2022
Re: Water Transactions Program – Knapp Creek 6-year Lease Renewal

REQUIRED ACTION: Consideration of the attached funding resolution for a 6-year water supply bank lease application.

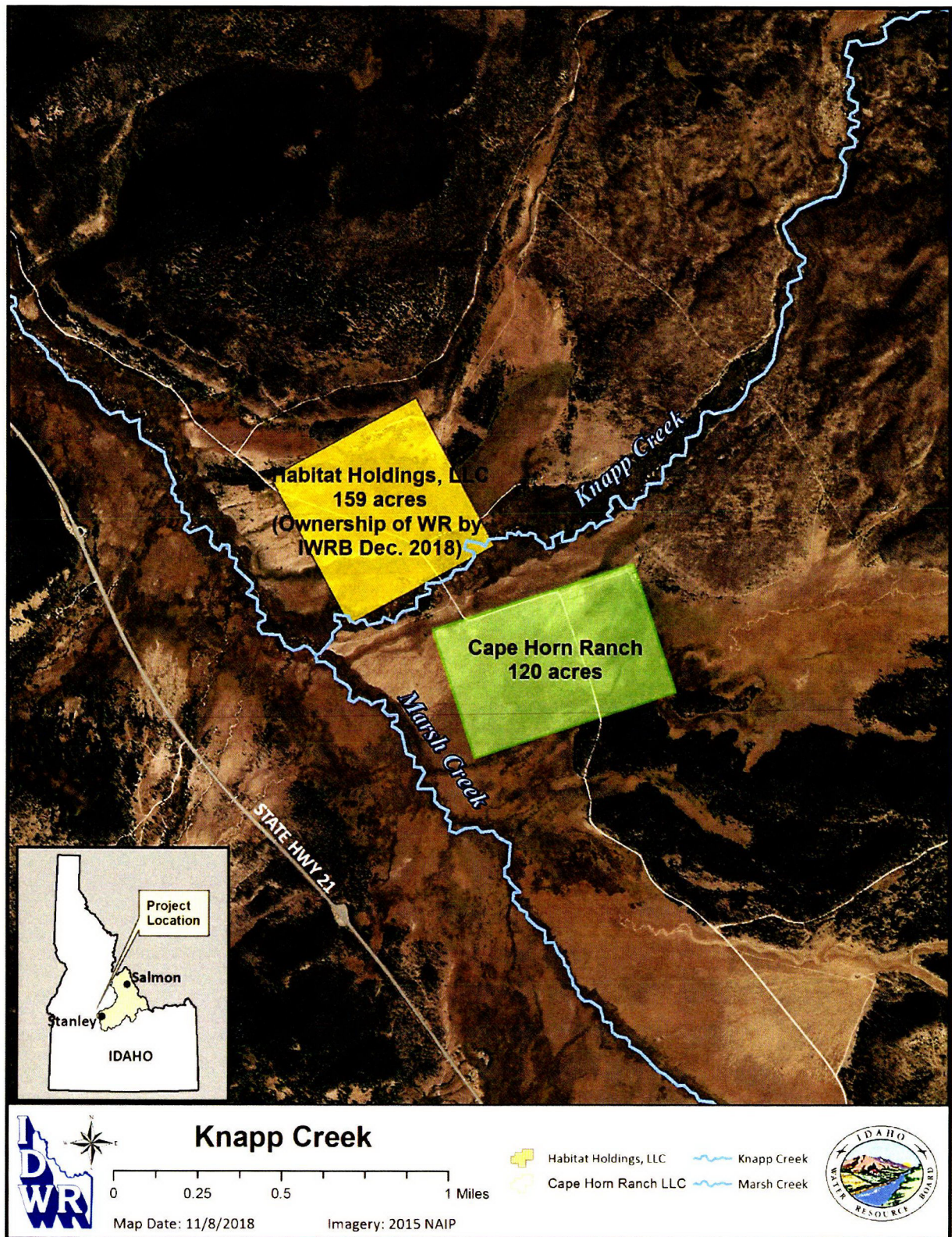
Background:

Knapp Creek, located in the Upper Middle Fork Salmon Basin, is tributary to Marsh Creek. Marsh Creek and Bear Valley Creek form the Middle Fork Salmon River. ESA-listed Chinook salmon, steelhead, and bull trout currently utilize Knapp Creek for spawning and rearing. The Middle Fork Salmon basin has not been supplemented with hatchery fish and therefore, other than occasional strays, the population is of natural origin. Furthermore, the Middle Fork Salmon River contains the highest elevation spawning grounds in the world for spring/summer Chinook salmon.

Located in Custer County approximately 20 miles from Stanley, Idaho, Cape Horn Ranch, LLC (CHR, LLC) holds WR No. 77-4208 in the amount of 6.5 cfs for irrigation of 159 acres from Knapp Creek. The Board's purchase of Knapp Creek WR No. 77-4207 was completed in September 2019. As a result, CHR, LLC is the only remaining irrigation diversion on Knapp Creek and there are no irrigation diversions on Marsh Creek or Bear Valley Creek. Hence, WR No. 77-4208 is the last remaining irrigation diversion in the headwater tributaries of the Middle Fork Salmon Basin.

The owner of CHR, LLC has leased a portion of WR No. 77-4208 into the water supply bank since 2018. The water supply bank lease contract for WR No. 77-4208 is dated December 31, 2018 and expires December 31, 2022. The contract between the IWRB and the owner of CHR, LLC has a contract term that spans May 1, 2019 to October 31, 2023. In order to sync the renewals of the lease contract and the IWRB's contract, staff is requesting a 6-year water supply bank lease renewal that will terminate in December 2028. A renewal for the IWRB's contract will be executed in 2024 and have a contract end date of October 2028.

At this time, staff is requesting authorization for the lease application fee of \$250.00. The renewal for the contract between IWRB and CHR, LLC will come before the IWRB in late 2023 or early 2024. Funding for the lease application fee will come from the Columbia Basin Water Transaction Program Fund.



BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE
THE IWRB LEASE OF WATER RIGHT NO. 77-
4208 ON KNAPP CREEK

RESOLUTION TO MAKE A FUNDING
COMMITMENT

1 WHEREAS, natural-origin Chinook salmon, steelhead, and bull trout habitat in the Middle
2 Fork Salmon River Basin is impacted by flow-limited tributaries; and
3

4 WHEREAS, Knapp Creek, tributary to Marsh Creek, has been identified as a high priority
5 stream for flow restoration efforts, to provide high quality spawning and rearing habitat for
6 natural-origin anadromous Chinook salmon, steelhead, and resident bull trout, and
7

8 WHEREAS, it is in the interest of the State of Idaho to increase flow in Knapp Creek to
9 promote recovery of ESA-listed Chinook salmon, steelhead, and bull trout fish; and
10

11 WHEREAS, Water Right No. 77-4208 has been historically diverted from Knapp Creek for
12 irrigation purposes; and
13

14 WHEREAS, the Idaho Water Resource Board (IWRB), pursuant to Section 42-1734, Idaho
15 Code, has the authority to acquire, purchase, lease, or exchange land, rights, water rights,
16 easements, franchises, and other property deemed necessary or proper for the construction,
17 operation, and maintenance of water projects; and
18

19 WHEREAS, the Water Right owner has leased a portion of the water right to the Water
20 Supply Bank (WSB) since 2018 and is compensated through a Columbia Basin Water Transactions
21 Program (CBWTP) payment contract with the IWRB; and
22

23 WHEREAS, the Water Right owner desires to continue to lease to the IWRB a portion of
24 Water Right No. 77-4208 so that the water may remain in Knapp Creek to enhance fish habitat;
25 and
26

27 WHEREAS, the current WSB lease contract expires December 31, 2022, and the CBWTP
28 payment contract expires October 31, 2023; and
29

30 WHEREAS, a 6-year WSB lease contract, with a term of 2023 to 2028, will be developed
31 to leave water in Knapp Creek and improve stream flow for anadromous and resident fish; and
32

33
34 WHEREAS, a new CBWTP payment contract with a term of 2024 to 2028 will be presented
35 for IWRB approval during the 2024 program fiscal year; and
36

37 WHEREAS, the Idaho WSB lease application fee for Water Right No. 77-4208 is \$250; and

38
39 NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman or designee to
40 lease Water Right No. 77-4208 to the WSB for a period of 6 years, from 2023 to 2028; and

41
42 NOW THEREFORE BE IT RESOLVED that the IWRB will pay up to \$250 in lease application
43 fees to facilitate this transaction; and

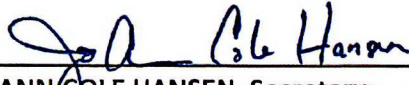
44
45 NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition
46 that the IWRB receives the requested funding from the Bonneville Power Administration
47 Columbia Basin Water Transaction Fund in the amount of \$250.

DATED this 26th day of October 2022.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST



JO ANN COLE HANSEN, Secretary