

Cefalo, James

From: Rob Harris <rharris@holdenlegal.com>
Sent: Monday, December 16, 2024 9:51 PM
To: Cefalo, James
Cc: 'jasoncivil@alumni.nd.edu'; Travis Thompson (tthompson@martenlaw.com); Abby R. Bitzenburg; Norm Semanko (nsemanko@parsonsbehle.com); tj@racineolson.com; Pugrud, Scott; John K. Simpson; blair@dbscpa.net
Subject: RE: Applications for Transfer 82434, 84488 and 84490 (LCSC Enterprises)
Attachments: Executed WSB Lease Contract 1864, Borah Capital LTD.pdf; CREP 35-14041.pdf; RE: ASCC Boundary Adjustments; Applications for Transfer 82434, 84488 and 84490 (LCSC Enterprises)

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Categories: ASAP

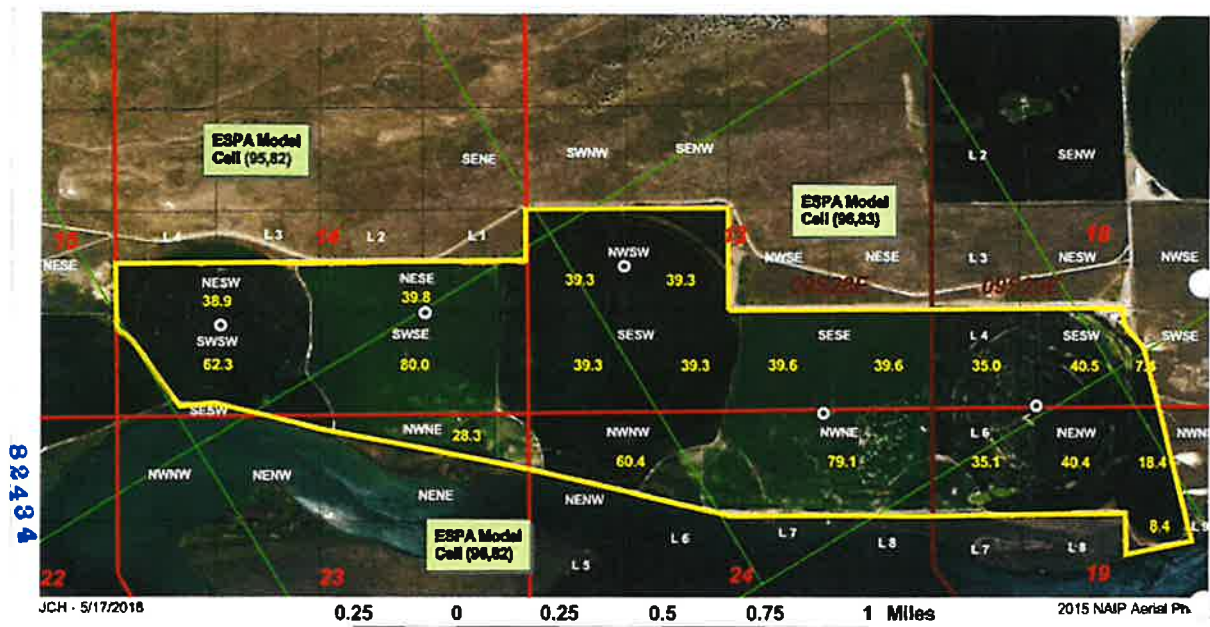
CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

James:

This email is in response to your email below. It has been some time since all the parties have touched base on these transfers because of the delay on our end associated with getting the monitoring wells drilled for the pump test that was recently completed. For that reason, I thought it would be helpful to provide background and status information for each application.

Transfer No. 82434

This transfer proposed to move the full 93 acres of WR 35-7274 to be combined with existing water rights for the following properties depicted below—the main purpose of this transfer was to cover the pivot corners on the easternmost (right) side of the map below:

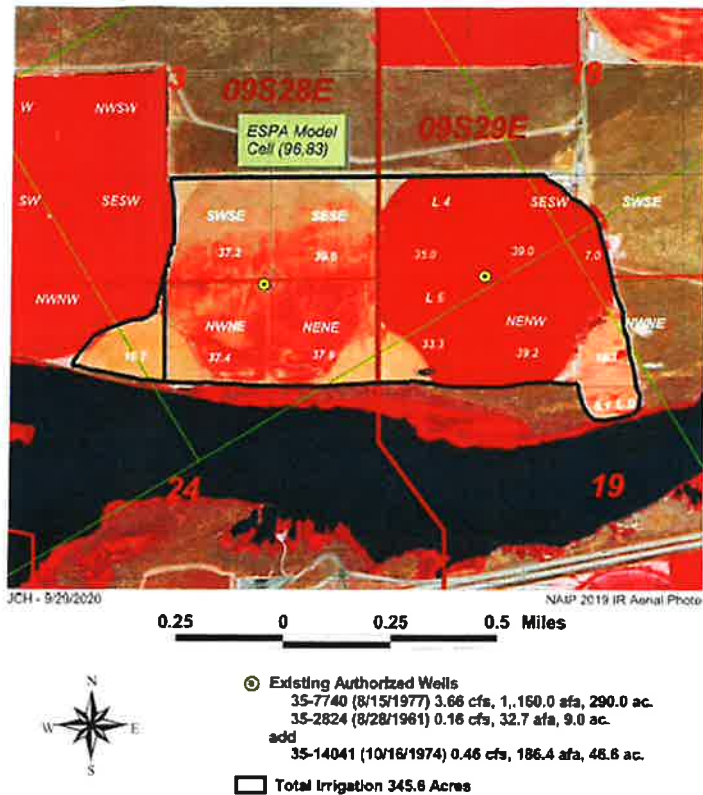


In a prior email from you (attached), you correctly noted that in a status conference, LCSC had decided to amend Transfer No. 82434 and move 35-7274 to a different location. We did not do that until we completed the pump test, but with that information, LCSC has decided to file an amended transfer which we intend to have filed by the end of this week. Transfer No. 84488 (discussed below) will cover the pivot corners that T82434 will cover.

The questions you have concerning WR 35-7274 are addressed further below. Because WR 35-7274 is not involved in Transfer Nos. 84488 and 84490, we propose splitting out this transfer (82434) to be on its own contested case track. The amended transfer will propose a place of use that is not in the vicinity of where T84488 and T84490 are proposed to go.

Transfer No. 84488

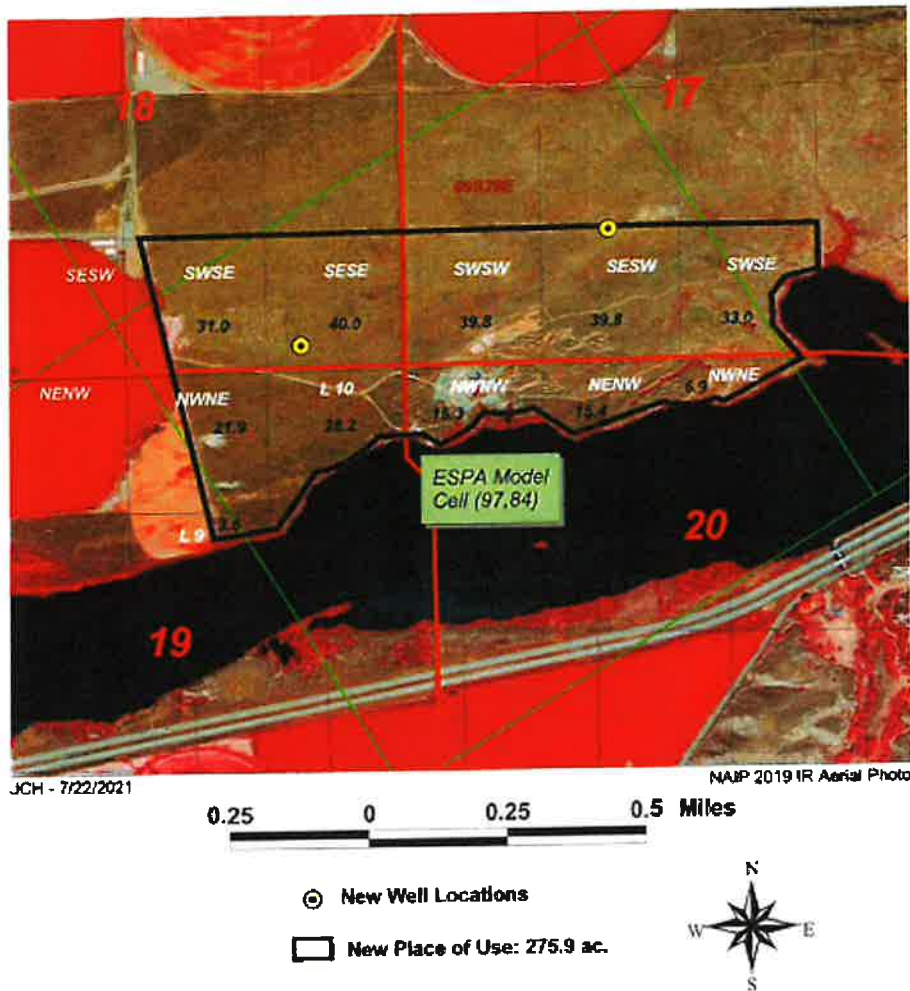
Transfer No. 84488 effectively replaces the need for the current T82434, as it proposes to move 46.6 acres of a primary ground water right (35-14041, previously owned by Bonanza Bar) to cover the pivot corners that need to be covered as shown on this map:



The pump test analysis addresses movement of the 46.6 acres of WR 35-14041 under this transfer and Transfer 84490 (discussed below).

Transfer No. 84490

Transfer No. 84490 proposes to move 275.9 acres (the entire remaining amount of WR 35-14041) to the land directly east of the area associated with Transfer No. 84488 as depicted on this map (and the pump test analysis also addresses movement of these acres):

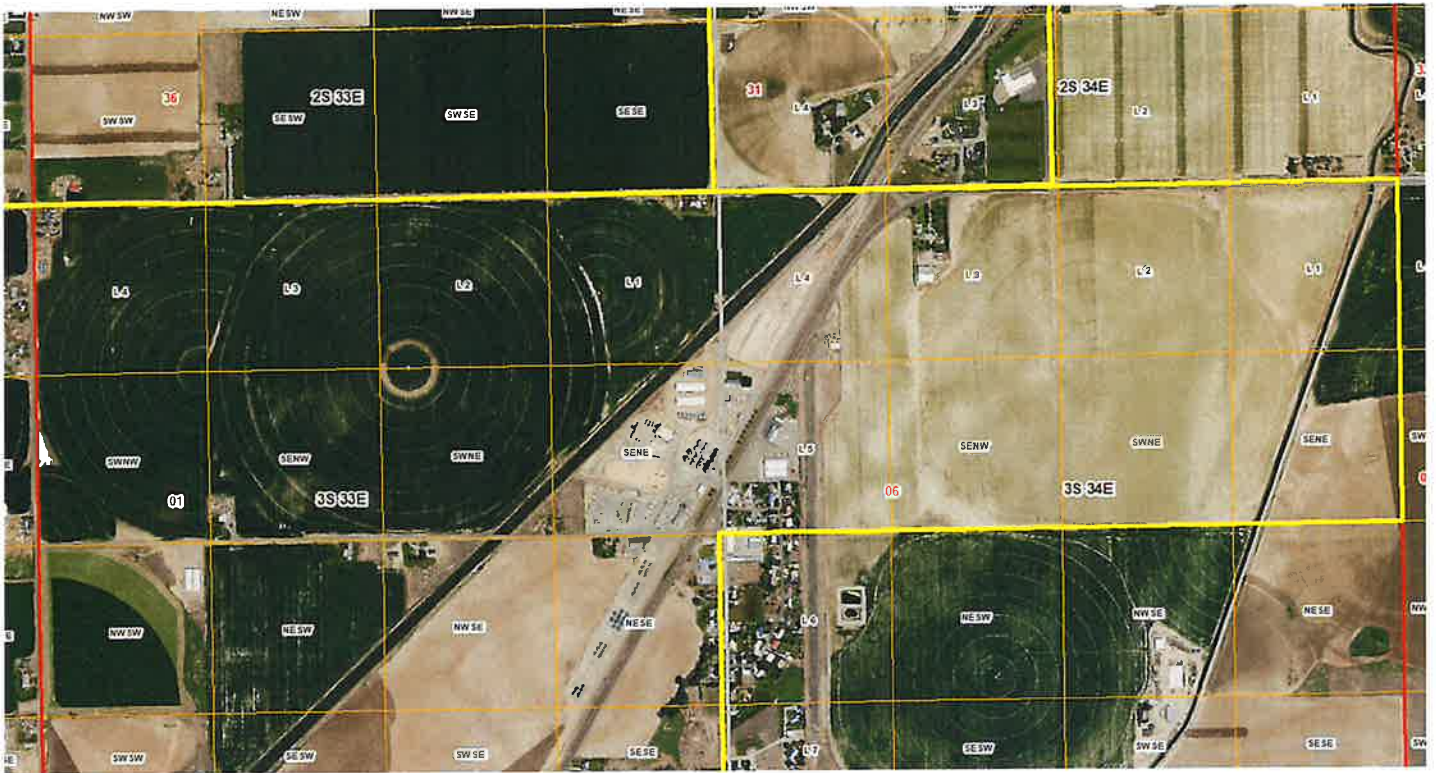


CREP Contract for 35-14041

As requested, attached is the CREP contract for 35-14041.

Status of WR 35-7274

WR 35-7274 has been accepted into the Water Supply Bank (see attached). This water right has a unique history in that the place of use for this right is not currently in the service area of ASCC and is not stacked. This water right has been in the WSB for many years. Attached is email correspondence with ASCC's attorney concerning a service area change that ASCC submitted several years ago, but has still not been finalized (as far as we know). The change would allow the the same 93 acres to covered with ASCC shares. LCSC is water banking WR 35-7274 to keep it as a primary water right (because it is not stacked with ASCC water) but has decided to file a transfer and move it to a new location (subject to the WSB lease). The goal is to do a hard conversion for these 93 acres. A headgate has been installed that will divert ASCC water from its canal to the People's Canal pursuant to a carrying agreement and that water will then be delivered to the place of use. The 93 acres were irrigated with excess People's shares because, as LCSC understands it, ASCC did not want to release water for irrigation of the 93 acres without the POU amendment approved. (I checked IDWR's water rights finder tool, and it does not show the 93 acres within the ASCC service area, so I presume from that tool that the ASCC POU amendment has not been approved). We are unsure what the delay of the POU amendment approval is (perhaps you may know or someone in your office that could provide an update). Below is a map of what ASCC submitted to IDWR and it includes the 93 acres:



If you need any additional information, please let me know.

Thanks,



Robert L. Harris
 HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
 1000 Riverwalk Drive, Suite 200
 P.O. Box 50130
 Idaho Falls, ID 83405-0130
 Phone: (208) 523-0620
 Fax: (208) 523-9518
 E-Mail: rharris@holdenlegal.com

Confidentiality Notice: The information contained in this electronic e-mail and any accompanying attachments, all of which may be confidential and/or privileged, is intended only for the intended recipient. If you are not the intended recipient, any unauthorized use, disclosure or copying of this e-mail and its contents is strictly prohibited and may be unlawful. If you are not the intended recipient, please delete the original message and all copies from your system. Thank you.

From: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Sent: Monday, December 2, 2024 10:04 AM
To: Rob Harris <rharris@holdenlegal.com>

Cc: 'jasoncivil@alumni.nd.edu' <jasoncivil@alumni.nd.edu>; Travis Thompson (tthompson@martenlaw.com) <tthompson@martenlaw.com>; Abby R. Bitzenburg <abitzenburg@martenlaw.com>; Norm Semanko (nsemanko@parsonsbehle.com) <nsemanko@parsonsbehle.com>; tj@racineolson.com; Pugrud, Scott <SPugrud2@idahopower.com>; John K. Simpson <jsimpson@martenlaw.com>
Subject: Applications for Transfer 82434, 84488 and 84490 (LCSC Enterprises)

Rob,

The Department has scheduled a pre-hearing conference for these contested cases for December 19th at 2:00 pm. In preparation for that conference, I've spent some time reviewing my notes from the previous conferences held for these contested cases. If you could answer the following questions prior to the pre-hearing conference or come prepared to answer the questions, I think it could streamline the conference.

Application 82434 proposes to change the point of diversion and place of use for ground water right 35-7274. The existing place of use for this right is sandwiched between the service boundaries for Aberdeen Springfield Canal Company (ASCC) and Peoples Canal & Irrigation Company but is not covered by either service boundary. According to the application, if the ground water right is moved off the property, the land would be irrigated with ASCC shares delivered through the Peoples Canal. According to delivery records from Water District 120, the point of diversion (ground water well) for water right 35-7274 has not been used since 2018. However, the existing place of use (subject property) has been consistently irrigated since 2018. What source of water has been used to irrigate the subject property over the last five years? If the irrigation water is delivered under ASCC shares or Peoples shares, what property were those shares moved from? If the subject property has been irrigated with water delivered under canal company shares, please provide a copy of the certificate from the ASCC or Peoples Canal confirming that the shares have officially been moved to the subject property. Finally, if the subject property has been irrigated with water delivered under canal company shares, do you know why the canal company has not updated its service boundary to include the subject property?

Applications 84488 and 84490 propose to move portions of ground water right 35-14041. The applications state that the existing place of use for water right 35-14041 was enrolled in CRP from 2007 to 2021. I could not find a copy of the CRP contract in the application files. Please provide a copy of the CRP contract, with any sensitive information redacted, to confirm that the entire water right place of use was enrolled in CRP.

James

 IDAHO DEPARTMENT OF
WATER RESOURCES
James Cefalo | Regional Manager
900 N Skyline Drive, Idaho Falls, ID 83402
(208) 525-7161 | www.idwr.idaho.gov

Cefalo, James

From: Norman M. Semanko <NSemanko@parsonsbehle.com>
Sent: Tuesday, March 28, 2023 9:03 AM
To: Rob Harris
Subject: RE: ASCC Boundary Adjustments

Rob,

Good morning.

I don't know where you got your information, but it is inaccurate. ASCC has not changed its boundaries from what I sent to you previously.

Thank you.

Norm



Norman M. Semanko
Attorney at Law
Direct +1 208.562.4909

CONFIDENTIALITY NOTICE: This electronic mail message and any attachment(s) are confidential and may also contain privileged attorney-client information or work product. The message is intended only for the use of the addressee. If you are not the intended recipient, or the person responsible to deliver it to the intended recipient, you may not use, distribute, or copy this communication. If you have received the message in error, please immediately notify us by reply electronic mail or by telephone at +1 801.532.1234, and delete this original message.

From: Rob Harris <rharris@holdenlegal.com>
Sent: Friday, March 17, 2023 3:08 PM
To: Norman M. Semanko <NSemanko@parsonsbehle.com>
Cc: Blair Dance <blair@dbcocpa.net>; 'jasoncivil@alumni.nd.edu' <jasoncivil@alumni.nd.edu>
Subject: RE: ASCC Boundary Adjustments

Norm:

I am following up on the ASCC boundary adjustment matter. Can you provide an update? The main concern is that we have heard that the property depicted below east of the highway is now not going to be included, when the property was included in the new boundary shapefile you previously emailed to me. Please let me know if ASCC has unilaterally decided to not include this property, or if there has been some misunderstanding.

Thanks,



From: Norman M. Semanko <NSemanko@parsonsbehle.com>
Sent: Thursday, December 9, 2021 3:46 PM
To: Rob Harris <rharris@holdenlegal.com>
Subject: RE: ASCC Boundary Adjustments

IDWR has asked for additional information and we are in the process of providing that. Our new manager just started and I will be meeting with him for the first time on Monday at the annual stockholders meeting in Aberdeen. This will be among our discussion items.

From: Rob Harris <rharris@holdenlegal.com>
Sent: Thursday, December 9, 2021 3:28 PM
To: Norman M. Semanko <NSemanko@parsonsbehle.com>
Subject: RE: ASCC Boundary Adjustments

Norm:

Any update on the ASCC Boundary Adjustment matter?

Rob Harris

From: Norman M. Semanko <NSemanko@parsonsbehle.com>
Sent: Monday, October 4, 2021 9:48 AM
To: Rob Harris <rharris@holdenlegal.com>
Subject: FW: ASCC Boundary Adjustments

Just FYI. Not a surprise that IDWR wants more information. We'll start working on it.

From: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Sent: Monday, October 4, 2021 9:24 AM
To: Norman M. Semanko <NSemanko@parsonsbehle.com>
Subject: RE: ASCC Boundary Adjustments

Good morning,

I am gathering the information needed to update the Aberdeen-Springfield Canal Company boundary. The Department needs some additional information so that we may begin processing the request.

Idaho Code § 42-222B (copy of statute attached) authorizes an irrigation corporation to change its water right(s) generally described place of use boundary by submitting a map or digital geographic information system (GIS) file to the Idaho Department of Water Resources (IDWR) provided the change will not; (1) increase the water right diversion rate, (2) increase the number of acres irrigated, (3) enlarge the water right(s), or (4) injury other water rights. In order to comply with § 42-222B, please provide the following:

1. List all water rights (licensed and/or decreed) to be changed.
 - a. Include each water right number and include the nature of use, diversion rate (cfs), and annual volume (acre-feet) for each right.
 - b. List the total diversion rate (cfs) and annual volume (acre-feet).
 - i. Please account for any combined volume and/or diversion rate limits in the approval conditions of each right listed.
2. Describe how the generally described place of use boundary change will not result in an increase in the diversion flow rate or the total number of acres irrigated as authorized by the water right(s).
3. Describe how the generally described place of use boundary change will not result in an enlargement of other water rights within the place of use of the irrigation corporation's water right(s).
4. Describe how the generally described place of use boundary change will not cause injury to other water rights.
5. The printed name, signature, and title from someone on the Board of Directors authorizing the requested change.
6. Provide ONE of the following REQUIRED items:
 - a. Digital file, with a defined projection, of a map that shows the entire generally described place of use boundary delimited at a minimum scale of 1:24,000 in a standard geographic system software format. (Preferred)
 - b. Map portraying the changes to the generally described place of use on a 7.5 quadrangle map with a minimum scale of 1:24,000 to include each quarter-quarter section within which irrigation occurs.

Please send a letter with the requested information to me at the following mailing address:

IDAHO DEPARTMENT OF WATER RESOURCES
ATTN: SHILYNN NOVAK
PO BOX 83720

I have already received the shapefile of the updated boundary, so I just need items 1-5 from above. Please let me know if you have any questions.

Sincerely,

Shilynn Novak

Water Resource Agent, Sr. | Water Rights
Idaho Dept. of Water Resources
322 E Front St Ste 648 | Boise ID 83702-7371
Phone: (208) 287-4915

From: Hansen, Angela <Angela.Hansen@idwr.idaho.gov>
Sent: Monday, October 4, 2021 8:20 AM
To: Novak, Shilynn <Shilynn.Novak@idwr.idaho.gov>
Cc: Parker, Cody <Cody.Parker@idwr.idaho.gov>; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: Fw: ASCC Boundary Adjustments

Shilynn,

Good morning! Is this the boundary change you are working on?

Thanks,
Angie

From: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Sent: Saturday, October 2, 2021 8:58 AM
To: Hansen, Angela <Angela.Hansen@idwr.idaho.gov>
Cc: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>
Subject: FW: ASCC Boundary Adjustments

Angie,

I received this request from Norm Semanko relating to a proposed canal company boundary change for the Aberdeen-Springfield Canal Company (Eastern Region). I believe that you indicated in your 9/15 e-mail that the State Office will process these requests.

Corey

From: Norman M. Semanko <NSemanko@parsonsbehle.com>
Sent: Friday, October 1, 2021 4:47 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Baxter, Garrick <Garrick.Baxter@idwr.idaho.gov>
Subject: ASCC Boundary Adjustments

Corey,

As instructed by Garrick Baxter in response to my phone message earlier today, pursuant to I.C. Sec. 42-222B(1) and consistent with the criteria of I.C. Sec. 42-222B(2), please find attached for filing with the Department a map portraying the changes to the generally described place of use for the water rights of Aberdeen-Springfield Canal Company.

Thank you for your assistance.

Regards,

Norman M. Semanko



A Professional
Law Corporation

Norman M. Semanko • Attorney at Law
Parsons Behle & Latimer

800 West Main Street, Suite 1300 • Boise, Idaho 83702
Main +1 208.562.4900 • Direct +1 208.562.4909 • Fax +1 208.562.4901

parsonsbehle.com • NSemanko@parsonsbehle.com • [vCard](#)

CONFIDENTIALITY NOTICE: This electronic mail message and any attachment(s) are confidential and may also contain privileged attorney-client information or work product. The message is intended only for the use of the addressee. If you are not the intended recipient, or the person responsible to deliver it to the intended recipient, you may not use, distribute, or copy this communication. If you have received the message in error, please immediately notify us by reply electronic mail or by telephone at 801.532.1234, and delete this original message.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/7/2020

Water Right 35-14041

Owner Type **Name and Address**
Current Owner BONANZA BAR RANCH LLC
 PO BOX 724
 IDAHO CITY, ID 83631
 (208) 392-2277

Priority Date: 10/16/1974

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	3.180 CFS	1,290.0 AF
	<u>Total Diversion</u>		3.180 CFS	1,290.0 AF

Source and Point(s) of Diversion

GROUND WATER NWSE Sec. 12, Twp 01S, Rge 32E, BINGHAM County

Place Of Use

IRRIGATION within BINGHAM County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	32E	12		29.0	31.1	25.0	39.0	35.0	35.1	39.9			39.0	26.4	23.0				322.5

POU Total Acres: 322.5

Conditions of Approval:

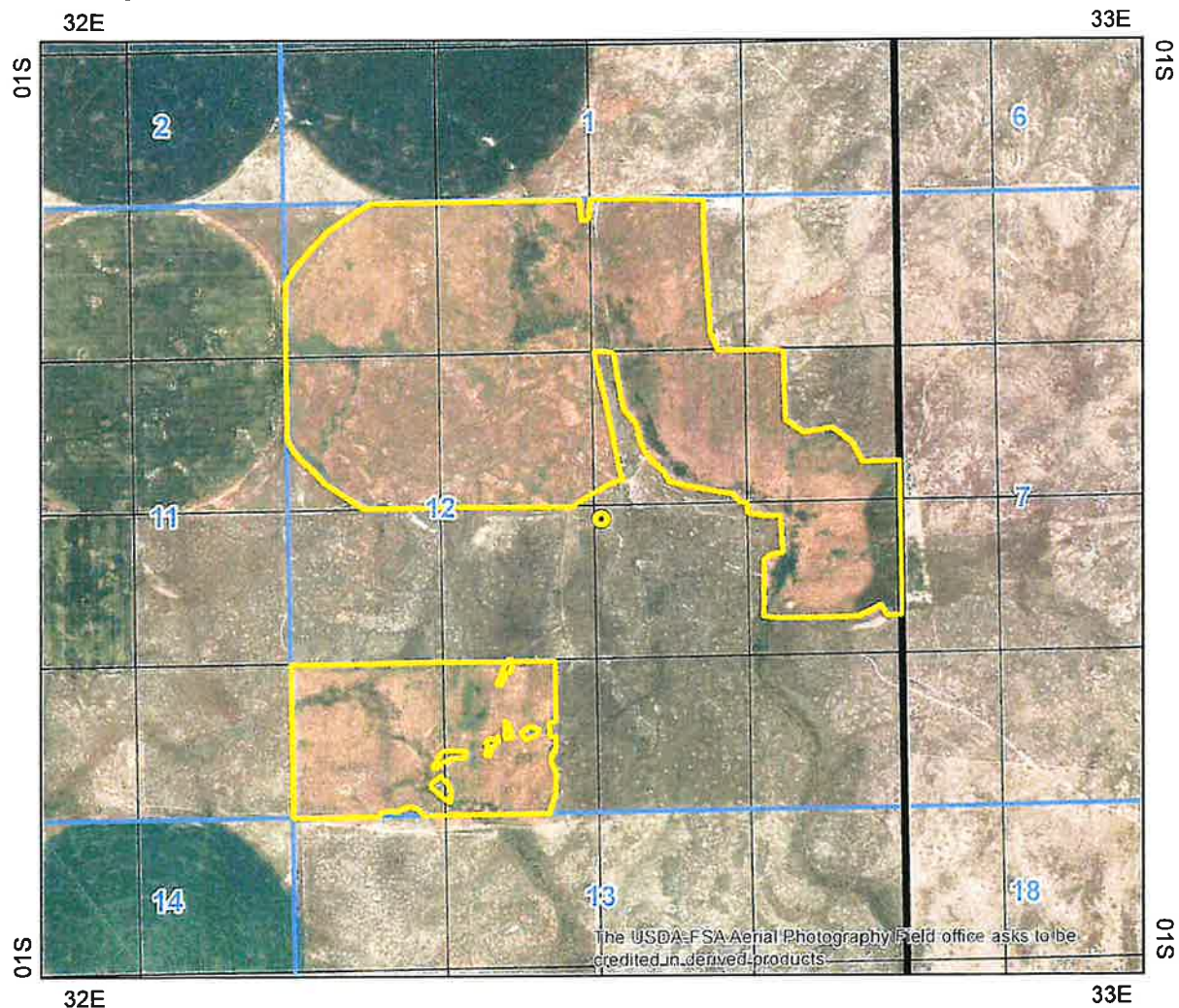
1. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

State of Idaho
Department of Water Resources

Water Right 35-14041

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.175 0.35 0.7 Miles



This form is available electronically.

CRP-1 U.S. DEPARTMENT OF AGRICULTURE
(03-26-04) Commodity Credit Corporation

CONSERVATION RESERVE PROGRAM CONTRACT

NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

7. COUNTY OFFICE ADDRESS (Include Zip Code)

POWER COUNTY FSA OFFICE
2769 FAIRGROUNDS RD, STE B
AMERICAN FALLS, ID 83211-5418

8. TELEPHONE NUMBER (Include Area Code): 208-226-5139

1. ST. & CO CODE & ADMIN.
LOCATION
16-077

2. SIGN-UP NUMBER
35CREP

3. CONTRACT NUMBER

68A

4. ACRES FOR ENROLLMENT

322.5

5. FARM NUMBER

2936

6. TRACT NUMBER(S)

3412

8. OFFER (Select one)

GENERAL



ENVIRONMENTAL PRIORITY



9. CONTRACT PERIOD

FROM:
(MM-DD-YYYY)

2/1/2007

TO:
(MM-DD-YYYY)

9/30/2021

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (who may be referred to as "the Participant"). The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") or other use set by CCC for the stipulated contract period from the date the Contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with the terms and conditions contained in this Contract, including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant withdraws prior to CCC acceptance or rejection. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1; CRP-1 Appendix and any addendum thereto; CRP-2 or CRP-2C, if applicable; and, if applicable, CRP-15.

10A. Rental Rate Per Acre \$ 134.00

B. Annual Contract Payment \$ 43,215.00

C. First Year Payment \$

(Item 10C applicable only to continuous signup when the first year payment is prorated.)

11. Identification of CRP Land (See Page 2 for additional space)

	A. Tract No.	B. Field No.	C. Practice No.	D. Acres	E. Total Estimated Cost-Share
	3412	2	CP4D	143.3	N/A
	3412	3	CP4D	6.2	N/A
	3412	5	CP4D	8.4	N/A

12. PARTICIPANTS

A(1) PARTICIPANT'S NAME AND ADDRESS (Zip Code):

BONANZA BAR RANCH, LLC
P.O. BOX 724
IDAHO CITY, ID 83631

(2) SHARE

61.23

%

(3) SOCIAL SECURITY NUMBER: ***-**-0314

(4) SIGNATURE

DATE (MM-DD-YYYY)

Bonanza Bar Ranch
Llc by Fannie Beebe

08-12-09

(If more than three individuals are signing, continue on attachment.)

B(1) PARTICIPANT'S NAME AND ADDRESS (Zip Code):

KOOMPIN FARMS
3062 S. FRONTAGE RD.
AMERICAN FALLS, ID 83211-5439

(2) SHARE

38.77

%

(3) SOCIAL SECURITY NUMBER: ***-**-9335

(4) SIGNATURE

DATE (MM-DD-YYYY)

(If more than three individuals are signing, continue on attachment.)

C(1) PARTICIPANT'S NAME AND ADDRESS (Zip Code):

(2) SHARE

%

(3) SOCIAL SECURITY NUMBER:

(4) SIGNATURE

DATE (MM-DD-YYYY)

(If more than three individuals are signing, continue on attachment.)

A. SIGNATURE OF CCC REPRESENTATIVE

B. DATE (MM-DD-YYYY)

13. CCC USE ONLY - Payments according to the shares are approved.

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L. 99-198), as amended and the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) and regulations promulgated at 7 CFR Part 1410 and the Internal Revenue Code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program Contract, to assist in determining eligibility, and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

☐ Original - County Office Copy

☐ Owner's Copy

☐ Operator's Copy



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 Mathew Weaver

December 16, 2024

BORAH CAPITAL LTD
C/O BLAIR DANCE
433 LAS COLINAS BLVD E STE 1290
IRVING TX 75039-5058

**RE: WATER SUPPLY BANK LEASE CONTRACT 1864
FOR WATER RIGHT 35-7274**

Dear Lessor:

Water right **35-7274** is leased into the Water Supply Bank (Bank) as of January **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 right(s) will automatically be released from the Bank on **December 31, 2027**, unless the rights are released earlier by the Water Resource Board (Board). 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 are rented.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Technical Records Specialist I

Enclosure: Executed Lease Contract

c: IDWR Eastern Region Office
Representative
Water District No. 120

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1864

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

LESSOR: BORAH CAPITAL LTD
C/O BLAIR DANCE
433 LAS COLINAS BLVD E STE 1290
IRVING, TX 75039-5058

RECEIVED
DEC 12 2024
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 February 23, 2023.
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)
35-7274	1/22/1973	GROUND WATER	1.22	372	93.0
Lease Totals			1.22	372	93.0

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, 2023 to December 31, 2027. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1864

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1864

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

LESSOR: BORAH CAPITAL LTD
C/O BLAIR DANCE 433 LAS COLINAS BLVD E STE 1290
IRVING, TX 75039-5058

By Blair Dance
Title President
Date 12-10-24

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By Brian Patton
Brian Patton, Executive Manager
Idaho Water Resource Board

Date 12/16/24

Lease approved by IDWR [Signature]

Date 12/16/24

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1864

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): 35-7274

GROUND WATER NESENE Sec. 6 Twp 03S Rge 34E BINGHAM County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
35-7274	IRRIGATION	4/01	to	11/01	1.22 cfs	372 AF
Totals:					1.22 cfs	372 AF

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	
03S	34E	6					34	5.0	14	40									93.0

Total Acres: 93.0

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.
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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1864

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.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
13. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.