

Farmland Reserve Annual Water Right Report for 35-14240, 35-14655, 35-14241, 35-14242 and 35-14243

Prepared for: Farmland Reserve Inc.

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Permits for Water Right Nos. 35-14240, 35-14241, 35-14242 and 35-14243 were approved by the Idaho Department of Water Resources (“IDWR” or “Department”) on March 3, 2015. These permits were eventually licensed by IDWR. Water Right Transfer Nos. 83782 and 83781 were approved by IDWR on April 16, 2020. The transfer shifted 46.7 acres of the allowed irrigated acres around with some of the more senior water rights on the farm. No additional acres were transferred into the farm, and no acres were transferred off of the farm. Water Right 35-14655 is a split portion of Water Right No. 35-14240 that is associated with these referenced transfers.

A condition contained in all of the permits, which carried over into the licenses, requires that “By December 1st of each year, the right holder shall provide a written report to the Department describing the number and location of acres irrigated that year, the volume of water diverted under this right, the source of mitigation for the next irrigation season, and the number and location of acres proposed to be irrigated in the following year.” This reporting requirement was included in the licenses for the developed permits. Accordingly, this report satisfies the condition set forth by IDWR for Water Right Nos. 35-14240, 35-14655, 35-14241, 35-14242 and 35-14243 (hereafter the “FRI Rights”). The FRI Rights are summarized here:

Water Right No.	Name on Water Right	Basis	Priority Date	Source	Beneficial Use	Individual Diversion Rate Limitation (cfs)	Combined Diversion Limitation	Listed Volume Limitation (AFA)	Combined Volume Limitation (AF)	Acres	Point of Diversion
35-14240	Farmland Reserve Inc.	License	Feb. 8, 2012	Ground water	Irrigation	2.44	None	448	None	122	7S 28E Sec. 1 SWSWSE Huse Farm #1
35-14655 (split off portion of 35-14240)						0.15		63.7		46.7	7S 29E Sec. 6 SWSE 7S 29E Sec. 7 NWNE Huse Farm #2
35-14241						5.9		1476.4		369.1	7S 29E Sec. 7 NWNWNE Huse Farm #2
35-14242						2.39		478		119.5	7S 29E Sec. 8 SWNESW Huse Farm #3
35-14243						7.88		2636		659	7S 29E Sec. 5 NENWNE NP/R Farm
TOTALS						18.76				5102.1	

Additionally, a condition included in the FRI Rights provided for an annual site inspection of the system and water use. The condition states, “As resources allow, the Department will conduct at least one in-person field examination of

the authorized place of use of this right each year to verify the required mitigation and authorized irrigation under this right prior to June 15th of each year. It shall be the responsibility of the right holder to follow up with the Department by June 15th of each year to determine if the field examination was performed. If the Department is unable to conduct the field examination for any reason, the right holder or its consultant shall perform the field examination and report findings from the field examination to the Department and the protestants to this right by July 15th of each year.”

The FRI Rights were purchased by FRI in conjunction with the purchase of the underlying farm ground on December 20, 2021. The ownership of the FRI Water Rights have been updated on the IDWR water right database.

Greg Sullivan of Brockway Engineering performed a site visit of the farm in 2023 and verified that water right licenses 35-14240, 35-14655, 35-14241, 35-14242 and 35-14243 were being fully utilized. Irrigation was occurring within the authorized POU's and the water was only being provided by the approved PODs.

All flow meters have been installed. Two meters have been installed at the POD for 35-14243 because there is a 15 inch and an 18 inch mainline delivering water from the well. Data from the flow meters is available on the Water Management Information System (WMIS) data system managed by IDWR regarding annual volumes pumped from ground water wells.

Full irrigation occurred under the FRI Water Rights for 2023. No changes in the authorized POU, PODs, or ownership changes to the FRI Rights are expected during the calendar year of 2024.

Historically, the source of mitigation to the above-referenced water rights is provided by non-use of Water Rights Nos. 29-2284 and 29-2301, which are owned by Power County (the “Power County Rights”). For 2019 through 2023, the Power County Rights were leased to the Aberdeen American Falls

Ground Water District (“AAFGWD”) to be used by the AAFGWD as a mitigation source of 6,153.8 acre-feet associated with the AAFGWD’s obligations under the *Settlement Agreement Entered into June 30, 2015 Between Participating Members of the Surface Water Coalition and Participating Members of the Idaho Ground Water Appropriators, Inc.*, and its addenda. AAFGWD entered into a contract in April of 2022 to sublease 6,073.8 acre-feet of the Power County Rights to FRI, which was renewed in 2023.

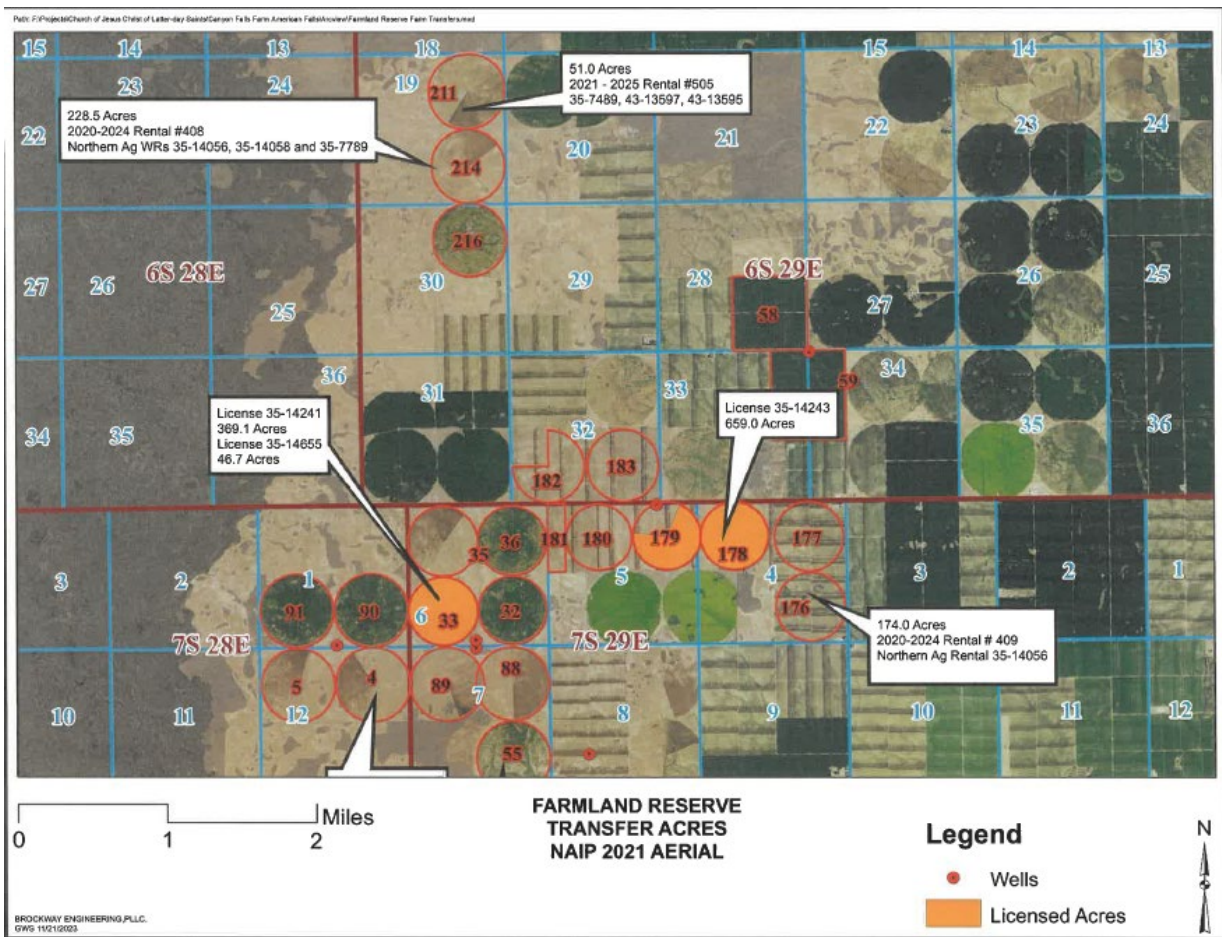
Commencing in 2024, FRI has been informed by Power County that it has elected to now lease a majority of the volume associated with the Power County Rights to Lamb Weston to be utilized with its American Falls facility expansion. As of the time of filing of this annual report, it is unclear precisely how much of the 6,153.8 acre-feet authorized for diversion under the Power County Rights will be leased to Lamb Weston for 2024. FRI continues to communicate with AAFGWD and Power County concerning a lease for 2024 with FRI to lease any remaining volume of the 6,153.8 acre-feet under the Power County Rights.

Because of Power County’s stated intent to lease a majority of the volume associated with the Power County Rights beginning in 2024 to Lamb Weston, in 2023, FRI pursued and received approval for a transfer to move existing water rights to cover a portion of the place of use of the FRI Rights under T88535 (for 58 acres). Further, FRI has received approval for several water supply bank rentals to cover portions of the places of use of the FRI Rights and intends to submit additional rental applications and additional transfer applications to cover other portions of the place of use of the FRI Rights.

The original permits for the FRI Rights authorized, in the aggregate, the irrigation of 1,316.3 acres which was mitigated with the non-diversion of 6,073.8 acre-feet under the Power County Rights, for a calculated amount of 4.614 acre-feet per acre. To the extent Power County agrees to lease a

portion of the Power County Rights to FRI, the volume leased will be divided by 4.614 to calculate the maximum number of acres that will be irrigated in 2024 under the FRI Rights that will be mitigated with the Power County Rights.

After totaling the approved transfers described above, along with the associated water supply bank rentals, FRI only intends to irrigate 283 acres under the FRI Rights for 2024. The location of these acres is depicted in orange here:



FRI has a pending offer to lease from Power County any residual amount of the Power County Rights available in 2024. FRI anticipates a lease of at least 1,305.9 acre-feet to mitigate for the irrigation of the 283 depicted acres (283 acres X 4.614 acre-feet per acre = 1,305.9 acre-feet).

Because there are acres under the FRI Rights that are not mitigated or covered with existing transferred water rights, FRI will not irrigate the remaining acres authorized under the FRI Rights, which is consistent with the conditions contained in these rights: “If the specified mitigation rights, or portion thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water, a priority call, or a termination in lease contract then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.”

Additionally, it does not appear that the Power County Rights will continue to be a reliable source of mitigation for exercise of all the FRI Rights. While FRI appears to have sufficient mitigation to cover its planned acres in 2024, FRI will submit a *Petition for Approval of Substitute Mitigation Plan* to add the ability to utilize recharged leased storage water to mitigate for diversion of water under the FRI Rights.