

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1684

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

LESSOR: BRISBIE LLC
C/O MICHAEL P LAWRENCE GIVENS PURLSEY LLP
601 W BANNOCK ST
BOISE, ID 83702-5919

RECEIVED

JUN 07 2023

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 January 03, 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)
63-3362	7/11/1963	GROUND WATER	2.27	741.8	157.8
63-10383	9/23/1986	GROUND WATER	2.56	602.3	128.1
63-11347	7/8/1992	GROUND WATER	0.60	157.5	33.5
63-34795	7/8/1992	GROUND WATER	1.28	329.1	70.0
Combined Lease Totals			3.08	1,830.7	389.4

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)
63-3362	2.04	639	142.0	0.014	4.5
63-10383	2.30	519	115.3	0.020	4.5
63-11347	0.54	136	30.2	0.018	4.5
63-34795	1.15	284	63.0	0.018	4.5
Combined Limit Totals	2.77	1,570	350.5	0.008	4.5

** The water right elements rentable have been reduced from the water right elements leased to account for combined limits with unleased portions and 10% reduction of historic use extent with surface water*

SUPPORT DATA

IN FILE # 63-3362

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1684

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, 2023. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1684

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

LESSOR: BRISBIE LLC
C/O MICHAEL P LAWRENCE GIVENS PURLSEY LLP
601 W BANNOCK ST
BOISE, ID 83702-5919

By Kathy Lushmore
Title Authorized Representative
Date 6/5/2023

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 6/7/23

Lease approved by IDWR FTP

Date 6/7/23

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1684

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): 63-10383, 63-11347, 63-34795, 63-3362

GROUND WATER	SWSE	Sec. 31	Twp 02N	Rge 02E	ADA County
GROUND WATER	L 2NWNE	Sec. 6	Twp 01N	Rge 02E	ADA County
GROUND WATER	L 3NENW	Sec. 6	Twp 01N	Rge 02E	ADA County
GROUND WATER	SESW	Sec. 18	Twp 01N	Rge 02E	ADA County
GROUND WATER	L 4SWSW	Sec. 18	Twp 01N	Rge 02E	ADA County
GROUND WATER	L 3NWSW	Sec. 7	Twp 01N	Rge 02E	ADA County
GROUND WATER	L 3NWSW	Sec. 7	Twp 01N	Rge 02E	ADA County
GROUND WATER	L 3NWSW	Sec. 7	Twp 01N	Rge 02E	ADA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-10383	IRRIGATION	03/15	to	11/15	2.56 cfs	602.3 AF
63-11347	IRRIGATION	03/15	to	11/15	0.60 cfs	157.5 AF
63-34795	IRRIGATION	03/15	to	11/15	1.28 cfs	329.1 AF
63-3362	IRRIGATION	04/01	to	10/31	2.27 cfs	741.8 AF
Totals:					3.08 cfs	1830.7 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	
01N	02E	6	30.5 L1	40.5 L2	40.5	40	40.1 L3			40									231.6
02N	02E	31									30.5	31.2 L3	31.2 L4	35.4			29.5		157.8

Total Acres: 389.4

ADDITIONAL CONDITIONS OF ACCEPTANCE

- The water rights referenced above will be rented from the bank at the current rental rate.
- 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.
- 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.
- 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.
- While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
- Rental of water under this right is subject to the limitations and conditions of approval of the water right.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1684

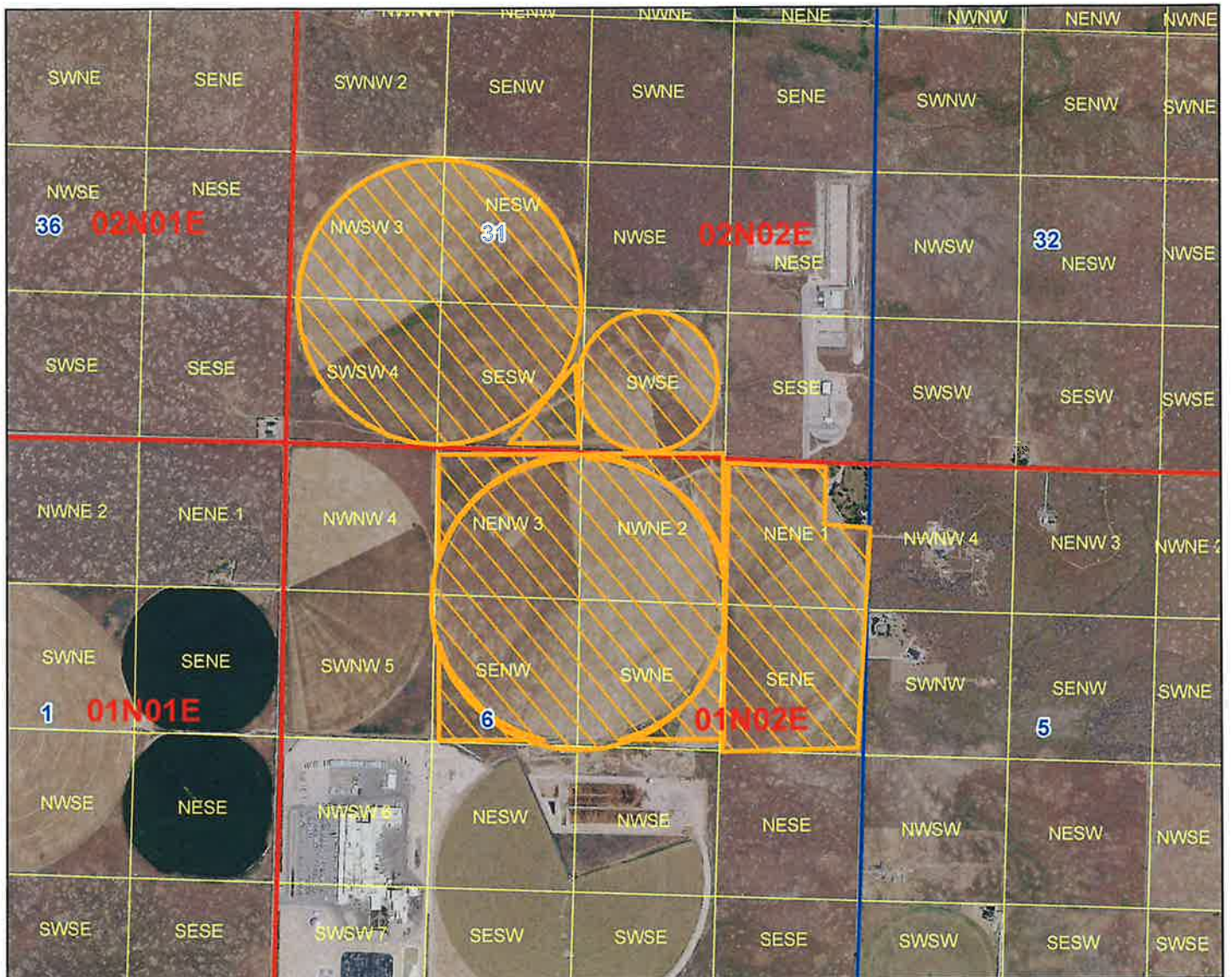
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right 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.
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. Leased rights 63-3362, 63-11347, 63-34795 and the irrigation portion of 63-10383 when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation.
13. The leased extent of right 63-3362 is appurtenant to the irrigation of 157.8 acres within the authorized place of use in a single irrigation season.
14. The period of use for the irrigation described for right 63-3362 may be extended to a beginning date of 03/01 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 04/01 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 02/16/2007.
15. The leased extent of right 63-10383 is appurtenant to the irrigation of 128.1 acres within the authorized place of use in a single irrigation season.
16. The unleased portion of right 63-10383 for when combined with the unleased portion of right 63-7531 shall not exceed a total diversion rate of 5.87 cfs for industrial use.
17. The period of use for the irrigation described for right 63-10383 may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 03/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 03/13/2000.
18. The leased extent of right 63-11347 is appurtenant to the irrigation of 33.5 acres within the authorized place of use in a single irrigation season.
19. The leased extent of right 63-34795 is appurtenant to the irrigation of 70 acres within the authorized place of use in a single irrigation season.
20. The period of use for the irrigation described for right 63-34795 may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 03/13/2000.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1684

63-3362, 63-10383, 63-11347, & 63-34795

Effective until December 31, 2023

This map depicts the IRRIGATION place of use to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



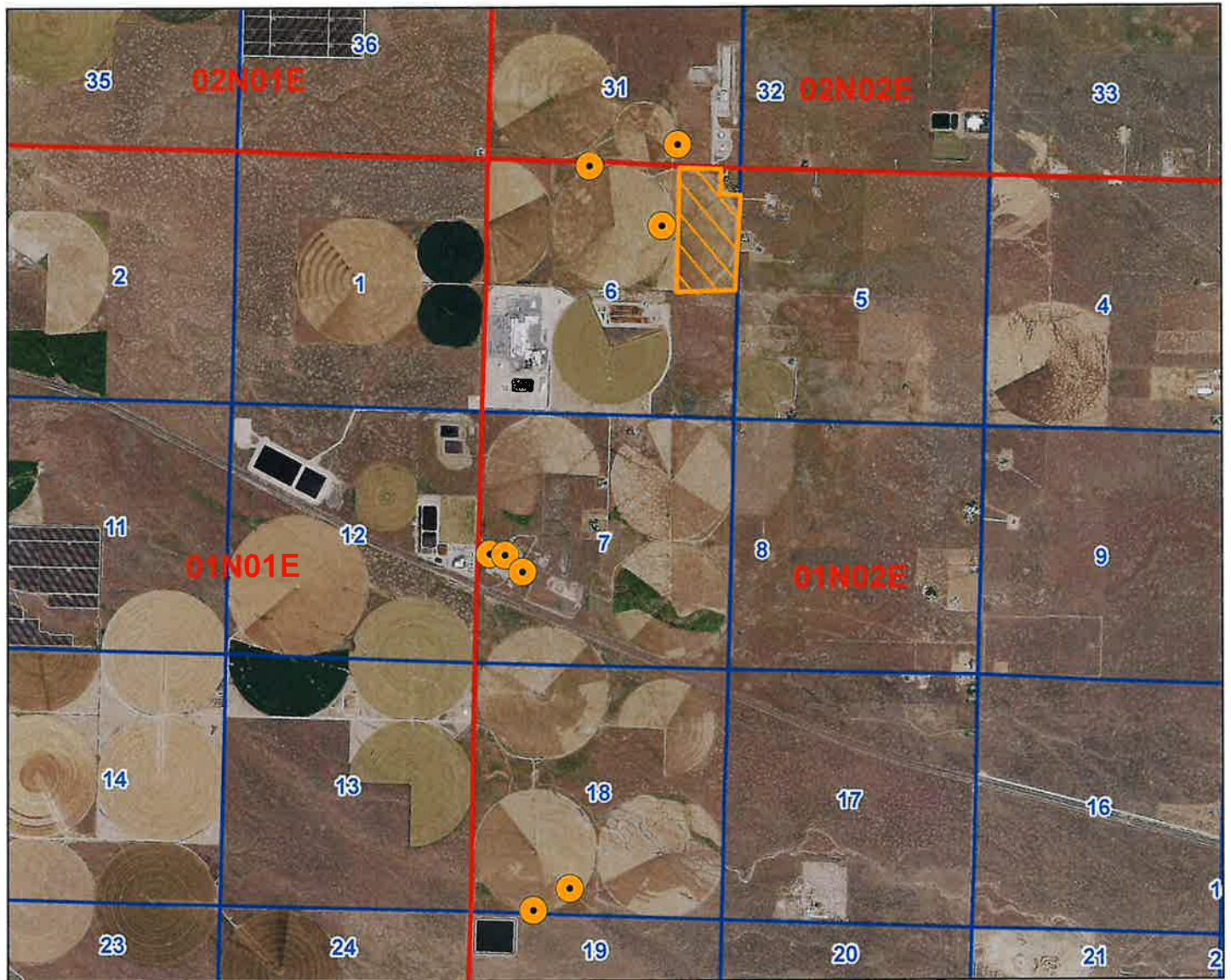
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ



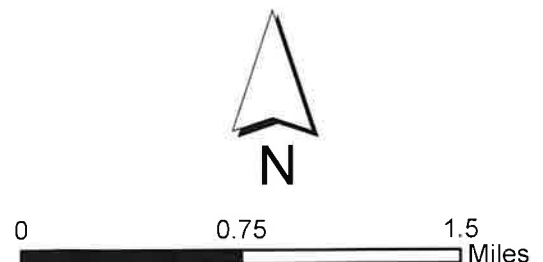
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1684

63-34795
Effective until December 31, 2023

This map depicts the IRRIGATION 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

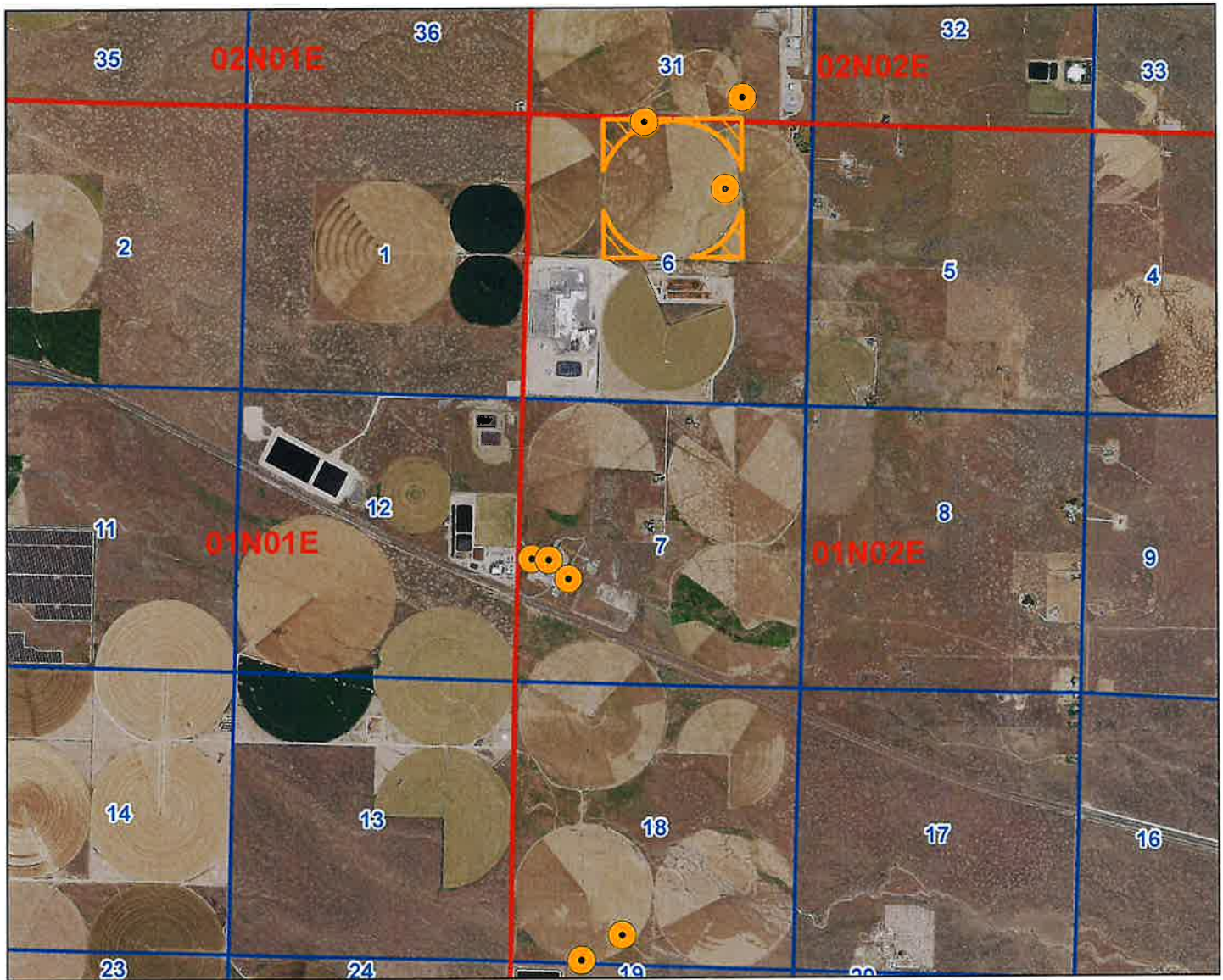


Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1684

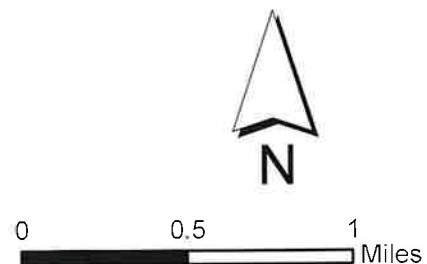
63-11347

Effective until December 31, 2023

This map depicts the IRRIGATION place of use to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



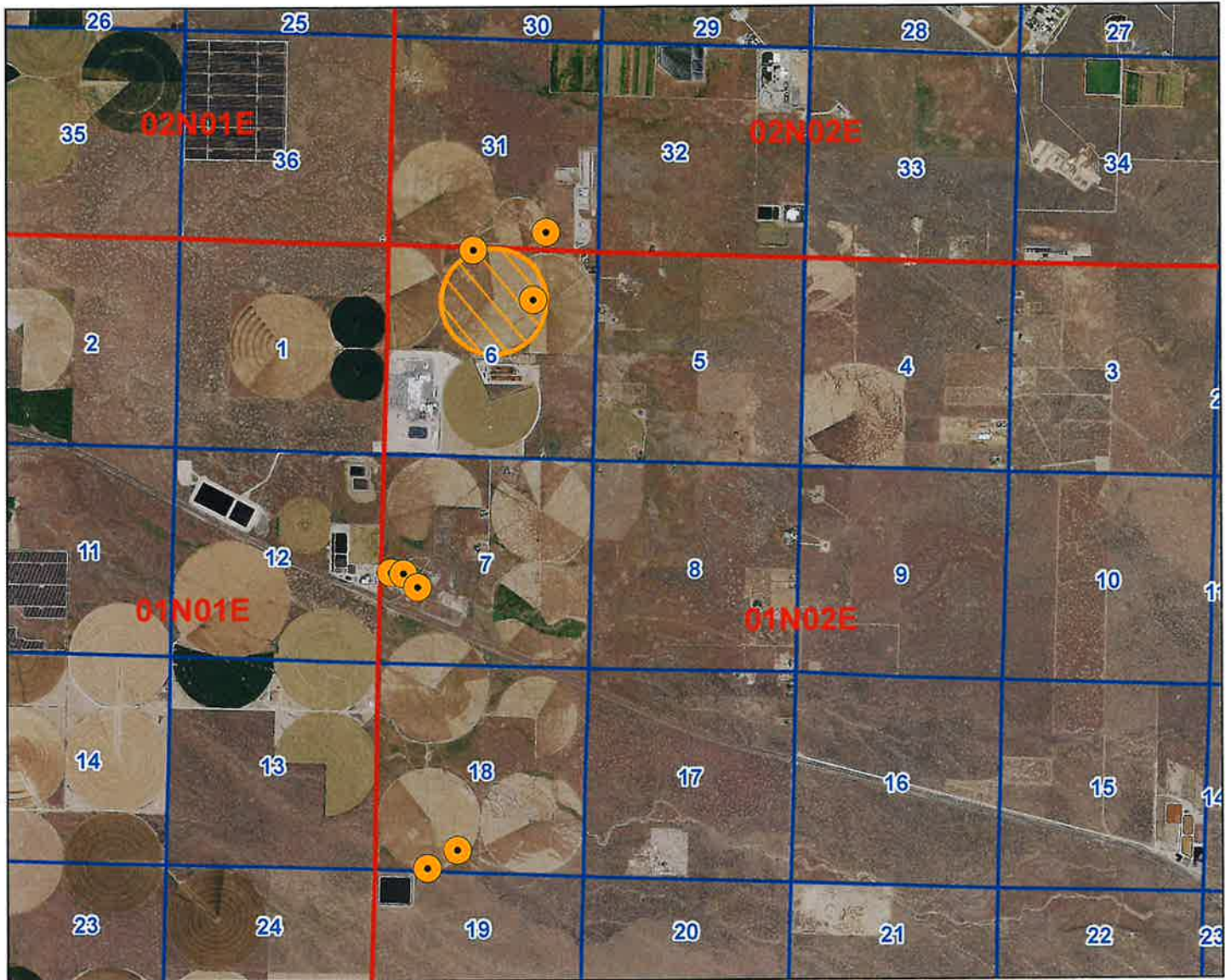
-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections



Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1684

63-10383
Effective until December 31, 2023

This map depicts the IRRIGATION place of use to be idled pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



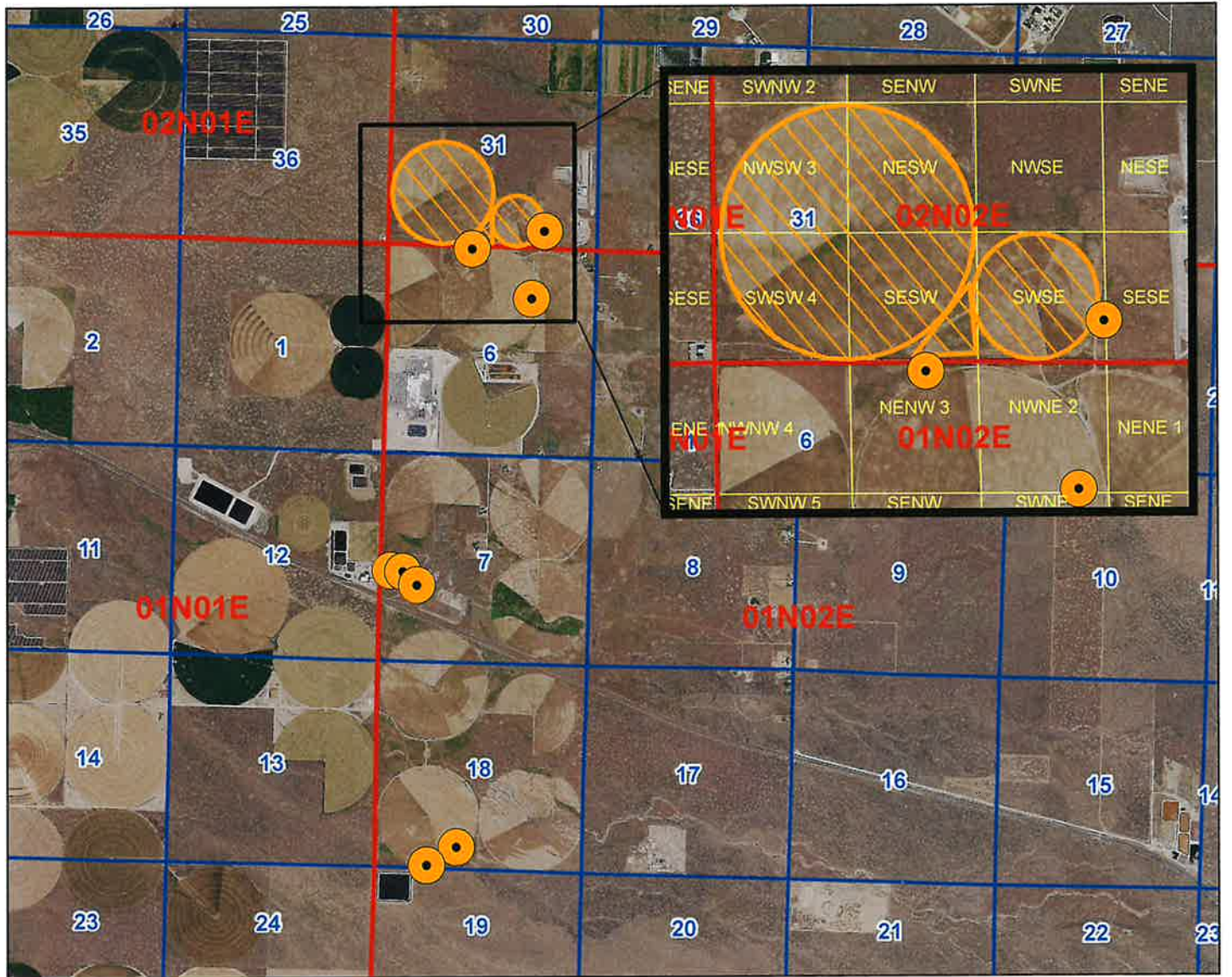
-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections



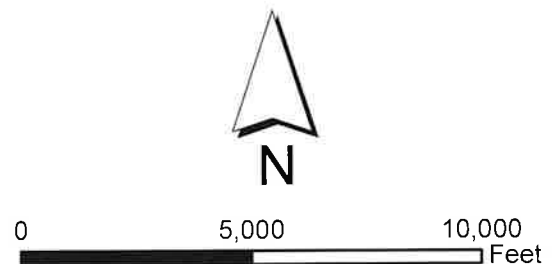
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1684

63-3362
Effective until December 31, 2023

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



STATE OF IDAHO
WATER RESOURCE BOARDRECEIVED
JAN 03 2023
DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Brisbie LLC

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

Water Right No. 63-34795

(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 \$ 250Received By: KuDate Received: 1.3.23Receipt # C115020W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

2550

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 Brisbie LLC c/o Givens Pursley LLP, Attn: Michael P. Lawrence
Mailing Address 601 West Bannock Street Boise Idaho 83702
Street City State Zip Code
Email Address mpl@givenspursley.com Phone Number 208-388-1200

☒ 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 Terry Scanlan Organization HDR Engineering Inc
Professional Title Consultant to Brisbie Email Address tscanlan@hdrinc.com
Mailing Address 412 E Parkcenter Blvd, Suite 100, Boise, ID 83706 Phone Number 208-872-9530

☐ 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.**

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.
Wells pump ground water through buried mainlines to pivot irrigation systems

- 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. These lands are within the place of use for Pleasant Valley Irrigation Co. (PVIC) but Brisbie does not hold any PVIC shares. Rights 63-11347, 63-10383, 63-3362 (all owned by Brisbie) and the irrigation portion of 63-7531 (owned by CS Property Development) share a PPU and a 525.5-acre combined limit.

- 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. The maximum diversion rates authorized under the right divert water for irrigation use. USDA reports describe a historical BU of field corn. According to ET Idaho Kuna NWS, field corn has a precipitation deficit of 2.32 af/ac annually for a total of 162.4 af for the 70 acres authorized under 63-34795

- 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. Yes ☒ No ☐
A transfer application is pending that seeks to change the nature of use of 63-34795 from irrigation to industrial use and modify the place of use and points of diversion.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

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 2023 (maximum lease period 5 calendar years).
(Year) (Year)

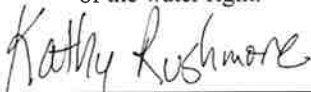
B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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.



Signature of Designated Applicant

Kathy Rushmore

Printed Name

1/3/2023

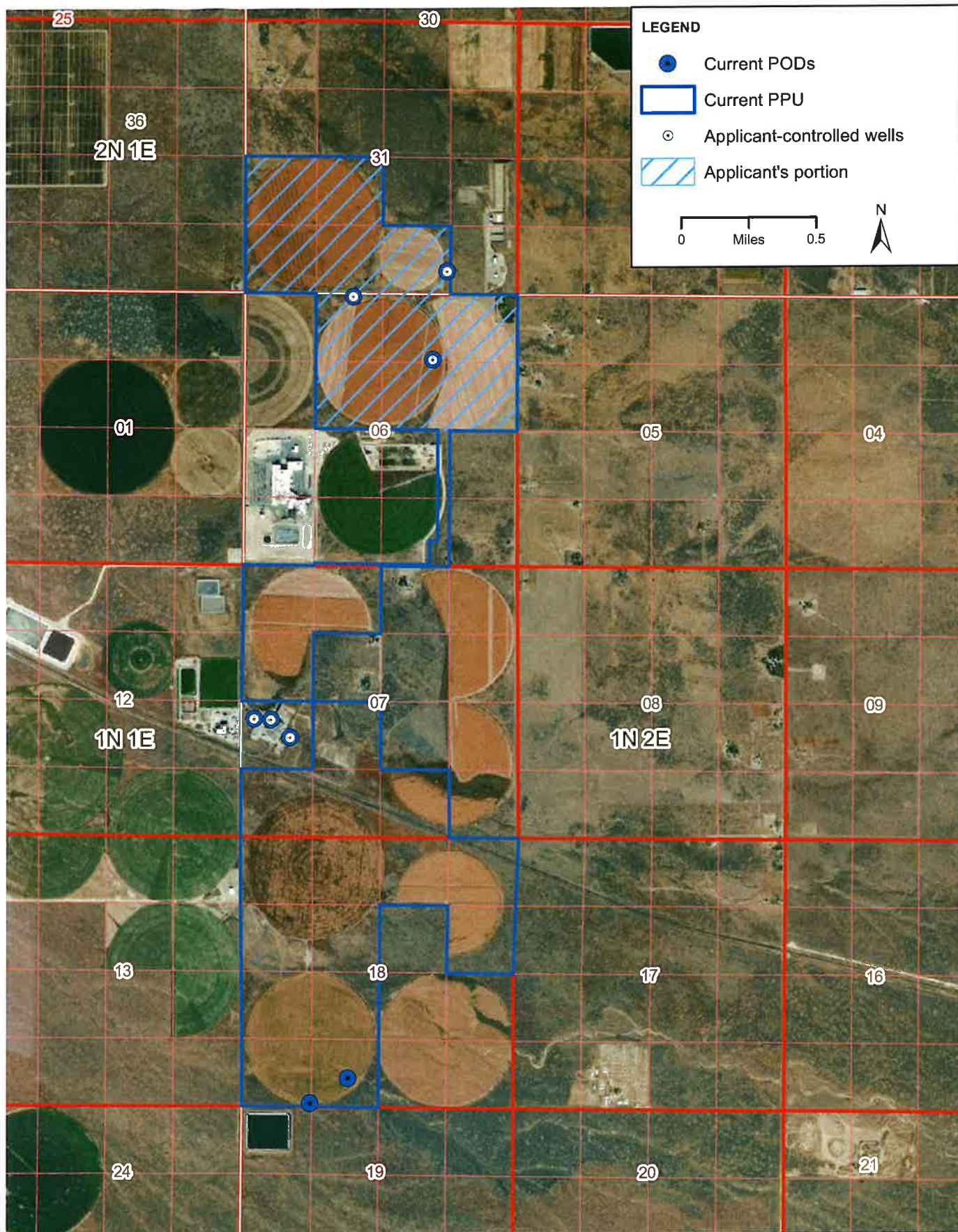
Date

Signature of Authorized Representative

Printed Name

Date

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



DATA SOURCE: NAIP 2021

WATER SUPPLY BANK LEASE APPLICATION ATTACHMENTS #3 AND #4G

BRISBIE LLC

Hummer, Phill

From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Wednesday, June 7, 2023 8:54 AM
To: Hummer, Phill; tscanlan@hdrinc.com
Cc: Condon, Mary; Kienholz, Mackenzie
Subject: RE: Brisbie LLC Rental Application 2551 [IWOV-GPDMS.FID904703]
Attachments: Lease Map - all rights.pdf; 16786833_1_WSB Lease Contract - 1684 - EXECUTED BY BRISBIE.PDF

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.

Phill,

Attached is the lease contract executed by Brisbie.

Please let me know if you need anything else to complete the lease/rental package.

Thanks,
Mike

MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP
601 West Bannock Street, Boise, ID 83702
main 208-388-1200
direct 208-388-1294
fax 208-388-1300
mpl@givenspursley.com
www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Hummer, Phill <Phill.Hummer@idwr.idaho.gov>
Sent: Monday, May 22, 2023 12:10 PM
To: Michael P. Lawrence <mpl@givenspursley.com>; tscanlan@hdrinc.com
Cc: Condon, Mary <Mary.Condon@idwr.idaho.gov>; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Brisbie LLC Rental Application 2551 [IWOV-GPDMS.FID904703]

EXTERNAL

Mike,

MEMORANDUM FOR APPLICATION # 2550, CONTRACT # 1684

To: Water Right(s) 63-3362, 63-10383, 63-11347, 63-34795

From: Mary Condon

Date: January 27 – February 6, 2023

Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE: Companion lease and rental applications of rights 63-3362, 63-11347, 63-34795 and irrigation portion of 63-10383 for a change in nature of use, received on January 4, 2023, for 2023 only. These rights owned by Brisbie share a PPU and wells with rights 63-7531 and 63-35356 for irrigation which are not owned by Brisbie.

The PPU for these rights extends over lands which were not included in the sale, but did list rights 63-3362, 63-10383, 63-11347 and 63-34795 for their entire portions in the sale, severing some of these rights from the lands they were developed upon.

Permanent transfer application 87042 to change the nature of use, POU and PODs of rights 63-3362, 63-11347 and 63-34795 was filed on October 6, 2022. The irrigation portion of right 63-10383 was not listed in the transfer application. The protest period ended January 23, 2023, and was protested by City of Boise for lacking 'sufficient information to determine whether it meets the requirements of Idaho Code 42-222(1).' Considerations listed in IC § 42-222(1) will be addressed within the rental review. As part of transfer application 87042, the applicants also seek to correct a miscalculation on combined limits for rights 63-10383 with 63-11347 from a previous transfer.

Previous lease application for right 63-3362 was received during 2022 and originally requested a lease for years 2022-2023, along with companion rental to change the use from irrigation to industrial (see Lease Contract 610 for 2022 of right 63-3362). Email correspondence with representatives for Brisbie on January 26, 2023, confirmed to change the lease application for 63-3362 to 2022, add 63-3362 to the additional lease application of rights 63-10383, 63-11347 and 63-34795 for 2023, and move both rental applications for all four rights to 2023 only. Lease application fees required for both lease terms have been received. This review memo is for the lease of rights 63-3362, 63-10383, 63-11347 and 63-34795 during 2023. A separate review memo will evaluate the rental request of these rights for 2023.

AUTHORITY TO FILE: Brisbie LLC is named as the applicant for both the lease and rental applications and submitted change of ownership records at the same time. The applications are signed by Kathy Rushmore, and lists Terry Scanlan of HDR as the representative. Terry later submitted proof of authority for Kathy Rushmore to sign, which was signed by Katherine Kelly, who is listed as an authorized agent for Brisbie in the annual report to the Idaho Secretary of State. Parcel ownership for lands identified as lease location is in the name of Brisbie LLC, as the north half of Section 6 and the south half of Section 31. Brisbie also included an easement land agreement for use of some of the offered lease wells which are not on their lands. No concerns with authority to file.

WATER RIGHT VALIDITY: Rights and portions offered for lease are as follows:

Right 63-3362 was decreed in 2008, Right 63-10383 was decreed in 1993, and Right 63-11347 with child right 63-34795 was decreed in 1999, all for a total of 389.4 acres of irrigation within a 1139 acre PPU.

Rights 63-11347 and 63-34795 are conditioned to use ground water as supplemental to surface water. All offered rights are within the Pleasant Valley Irrigation Co., (PVIC) boundary. A review of the permitting through licensing of right 63-11347 included the beneficial use exam dated September 1996 on page 157 of the Water right backfile for right 63-11347, which stated that use of the available surface water shares were last used in 1987 before the right(s) were in CRP/Federal set-aside years '88-95, but the water right owner would make use of shares when they are available in future. A transfer filed by PVIC to expand their boundary included proof that Tyson Food (previous owner of these rights offered for lease on same lands) had 495 shares of PVIC, which at the time were worth 0.77 acres per share (see pg 45 of the 2012 application for transfer under water right 63-329B). In 2013, Tyson sold the water to Montierth, who then in 2021 sold a portion of the land and all of the ground water rights offered for this lease to Brisbie. Additional documents in the water right Adjudication Claim backfile for PVIC under right 63-329 B state the irrigation company water is unreliable and often does not fill their storage in Blacks Creek Reservoir, and many users within their boundary were forced to develop ground water rights in order to irrigate in many years. No other irrigation rights found overlapping the PPU. An email to the water district 63 watermaster was sent on November 1, 2022, requesting diversion records or recent history for PVIC providing storage out of Blacks Creek Reservoir, of which he replied the reservoir is usually dry on the first day of allocation, he does not have knowledge of them providing surface water within their boundaries since he has been with the district, and that he is quite certain most of the farms within the PVIC boundary rely on ground water. He will be investigating the use of PVIC's storage water in the spring of 2023.

Review of available 2019 aerial imagery shows about 756 acres irrigated within the 1139 acre PPU shapefile of these rights, with the 389.4 acres worth offered for lease accounted for as irrigated. The current parcels owned by Brisbie is equal to 435 acres, but the pivots historically irrigated within these same parcels only sum to 340 acres worth since the PPU is twice as large as the total number of allowable irrigable acres under all of the rights and Brisbie did not acquire much of the land under the entire PPU. The 2023 Lease POU shapefile should not be considered representative of the historic use, since the lands to be idled need to be placed within the parcels owned by Brisbie, LLC. Specifically, the pivots on lands now owned by Brisbie were seen to be irrigated in 2019 satellite imagery but are slightly shy of the total 389.4 acres irrigated since other pivots in the PPU were irrigated to total 525.2 acres. Lease shapes outside pivots but still within the parcels owned by Brisbie may or may not have been irrigated previously, but will be idled during the lease term.

Additional irrigation rights within the PPU are 63-7531/63-35356 for 135.8 acres, which is limited with the four offered for lease for a total of 525.2 acres from ground water within the 1139 acre PPU, and conditions of the acre limit for these rights within the PPU does not limit the acreage upon which wastewater from the industrial and commercial uses under the rights may also be land applied for wastewater treatment purposes to satisfy water quality requirements. The irrigation in excess of the discussed 525.2 acres above is about 230.8 acres during 2019 which could have been provided for with PVIC irrigation shares or the application of affluent waste on the lands. No other irrigation rights overlap the PPU of these rights offered for lease. Rights 63-3362, 63-11347 and 63-34795 and irrigation portion of 63-10383 offered appear valid and available for lease during 2023.

INJURY TO OTHER WATER RIGHTS: The lease of water rights 63-3362, 63-11347, 63-34795, and the irrigation portion of right 63-10383 is not expected to cause injury to other water rights.

ENLARGEMENT OF USE: Overlapping PVIC shares have been regarded as insufficient and often unavailable, as noted in the electronic adjudication backfile for PVIC right 63-329B, page 46 of 161, and required development of ground water wells to irrigate certain lands within the PPU. However, the last documented time the PVIC shares were claimed to have been made available on the same lands as the ground water rights offered for lease was during 2012, as 495 shares, worth 0.77 acres per share, or 381.2 acres worth, discussed under Water Right Validity, above. Information from the lease applicants representative about the overlapping storage shares from PVIC was included with the rental application, as part of the historical use calculations for a rental of these rights with a change in nature of use. In summary of the historic use provided by the applicant, while the PVIC shares may have been provided during short periods of time occasionally over the last 10 years, they were likely insufficient to be considered the primary water rights used for irrigation, and the applicant requests the PVIC shares only represent at most 10% of the coverage for the 389.4 acres of irrigation. The previously discussed correspondence with the district watermaster supports the suppositions of the applicant that surface water was likely unavailable in most years and especially during dry years for the first day of allocation, and the watermaster does not have knowledge of the PVIC shares being made available to shareholders in the recent past. WMIS measurement data is not available on the diversions appurtenant to these offered rights.

The current parcels owned by Brisbie is equal to 435 acres, and sum acres of rights for irrigation held by Brisbie equals 389.4 acres. Right 63-7531 (and 63-35356 as of December 2022) is for 135.8 acres and was not included in the sale to Brisbie. $(525.2 - 135.8 = 389.4)$ Review through Google Earth Pro for June 2022 shows irrigation systems removed from the fields owned by Brisbie, and visible vegetation was due to spring rains and sprouts from previous seasons harvest rather than cultivation and irrigation.

Combined limits of rights 63-3362, 63-7531(63-35356), 63-10383, 63-11347 and 63-34795 are limited to max well capacity at 8.88 CFS, while their additive amounts are 10.02 CFS (Table 1). Since rights 63-7531 & 63-35356 were not acquired by Brisbie, their full diversion allowable amounts will be subtracted from the overall combined limits of the overlapping six rights total rentable amounts to avoid enlargement. An additional reduction of the industrial portion of 63-10383 from the combined limits available for lease and subsequent rental is necessary to prevent enlargement. Finally, the overall allowable will be further reduced by the 10% to account for surface shares from PVIC which may have been used in the last 10 years (Table 2).

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the lease PD is located in Western Region and is not subject to a Water District. Request for comment, and continued coordination for the lease, rental and transfer, sent to Western Region on March 28, 2023.

Current Owner	Water Right	Priority Date	Rate	Volume	Total Acres	Acre Limit	cfs/acre	af/a	Water Use List
H. RAY; MONTIER	63-7531	12/10/1971	3.60	744.6	1,139.0				STOCK/COMM/DOM
	split		0.20	13.4	0.0	0.0			STOCKWATER
			3.20	720.0	0.0	0.0	720		COMMERCIAL
CS Development	63-35356	12/10/1971	0.20	11.2	0.0	0.0			DOMESTIC
			2.51	360.0		135.8	0.018	2.651	IRRIGATION
		Combined limit 1	3.60	744.6		135.8			
BRISBIE	63-10383	9/23/1986	Additive	6.11	1,104.6	135.8			
			4.76	2,195.3	1,139.0	128.1	0.037		INDUSTRIAL, IRRIGATION
			2.56	602.3		128.1		4.702	4.5 limited IRRIGATION
			2.20	1,593.0					INDUSTRIAL
		Combined Limit 2	5.87						
		Additive	8.36						
BRISBIE	63-3362	7/11/1963	2.27	741.8	1,139.0	157.8	0.014	4.701	4.5 limited IRRIGATION
BRISBIE	63-11347	7/8/1992	0.60	157.5	1,064.0	33.5	0.018	4.701	4.5 limited IRRIGATION
BRISBIE	split								
	63-34795	7/8/1992	1.28	329.1	75.0	70.0	0.018	4.701	4.5 limited IRRIGATION
		Combined limit 3	1.88	486.60	1,139.00	103.50			
	Total	Combined Limit	8.88		1,139.0	525.2			
		Total Additive	10.02	4,168.3		525.2			

34795 was split from 11347, lost 0.01 cfs
POUs 63-34795 + 63-11347 = entire PPU.

Table 1, Combined limits of rights, including non-offered 63-7531 & 63-35356

	Water Right/CL set	Rate	Volume	Acre limit	
non-offered	63-7531	3.60	744.60		stock/comm/dom
	63-10383	2.20	1,593.00		industrial portion
	total in use	5.80	2,337.60		
2023 lease	available CL 1	0.00	0.00	135.8	no rate or volume, limited to other uses at original POD
	available CL 2	0.07	602.30	263.9	only volume and acres
	available CL total	3.08	1,175.85	525.2	
2023 Rentable - 10% reductions	available CL 1	0.00	0.00	122.22	no rate or volume, limited to other uses at original POD
	available CL 2	0.06	542.07	237.51	only volume and acres
	available CL total	2.77	1,058.27	472.7	

Table 2, Combined limits of rights and reduced rentable amounts

Stephanie White

From: Michael P. Lawrence
Sent: Thursday, January 26, 2023 3:24 PM
To: Condon, Mary; Scanlan, Terry
Cc: Stephanie White
Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

RECEIVED

JAN 26 2023

DEPARTMENT OF
WATER RESOURCES

Mary,

I've discussed your email with Terry and Brisbie.

Brisbie wants to proceed with its Water Supply Bank lease and rental applications described in your email below. Brisbie needs to use the rented water as soon as possible rather than wait until approval of the transfer.

I am arranging for the delivery to you today of a \$250 check for the remaining filing fee you say is required.

Thanks for all your help and attention to this matter. Please feel free to call me with any questions.

-Mike

MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP
601 West Bannock Street, Boise, ID 83702
main 208-388-1200
direct 208-388-1294
fax 208-388-1300
mpl@givenspursley.com
www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Friday, January 20, 2023 8:40 AM
To: Michael P. Lawrence <mpl@givenspursley.com>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>
Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

EXTERNAL

Hello Mike,

I met with two of the water right supervisors yesterday to examine a path forward for the Brisbie, LLC lease and rental applications, in consideration of the transfer application for all but one of the same rights.

To summarize the Brisbie, LLC applications received relevant to this discussion:

Lease application for 63-3362 for years 2022 thru 2023;

Rental application for 63-3362 for year 2023 only to change the nature of use to industrial;

Lease applications for 63-10383 (irrigation only), 63-11347, and 63-34795 for year 2023;

Rental applications for 63-10383 (irrigation only), 63-11347, and 63-34795 for year 2023 to change the nature of use to industrial; and

Application for transfer to change irrigation rights 63-3362, 63-11347, and 63-34795 to industrial, but does not include irrigation portion of right 63-10383 request in transfer.

Two different paths forward:

If the transfer can be approved/processed timely in place of the requested lease and rentals, would Brisbie still need the irrigation portion of 63-10383 leased and rented for a change in nature of use to industrial since this right was not included in the transfer application, or is there a separate transfer application for this use in the works to be submitted in 2023? Would Brisbie want 63-3362 under lease for 2022 only, to allow the permanent transfer during 2023?

If the transfer cannot be approved/processed before a lease and rental, does Brisbie still want 63-3362 leased for years 2022-2023 but separate from the other rights (63-10383 (irrigation only), 63-11347, and 63-34795) which are requested for 2023 only? When we spoke on December 9, 2022 about the filing fee for leasing in the other three rights, I was under the impression that the applications would also be for 2022-2023 and be submitted prior to the cutoff date of 12/31/2022. Since they were filed for only 2023 after the cutoff for 2022, the three rights offered for lease require the full \$500 filing fee to stand on their own contract, of which \$250 is still due. An option would be to move the lease application for 63-3362 to 2023 only with the other three rights and combine the filing fees received, with no additional balance due.

Moving forward with the leases, either split or together, the offered rights in total should still provide the rate and volume necessary for the rental request for the change in nature of use. Starting with the overall combined limit of 8.88 cfs, and removing the max allowable under right 63-7531 (63-35356) and the industrial portion of right 63-10383 leaves 3.08 CFS and 1175.9 AFA available to divert, more than the amount requested for the two rental applications combined.

Best,
Mary

Mary Condon
Water Supply Bank Coordinator



From: Michael P. Lawrence <mpl@givenspursley.com>

Sent: Thursday, December 22, 2022 12:54 PM

To: Condon, Mary <Mary.Condon@idwr.idaho.gov>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>

Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>

Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

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.

Mary,

The rental application for 63-3362 will be for 2023 and for one year only.

On the new applications, we are trying to get them signed but the authorized signer has been on vacation. We will get them to you as soon as we can, and we appreciate any review of them you can do in the meantime.

Thanks,
Mike

MICHAEL P. LAWRENCE

GIVENS PURSLEY LLP

601 West Bannock Street, Boise, ID 83702

main 208-388-1200

direct 208-388-1294

fax 208-388-1300

mpl@givenspursley.com

www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>

Sent: Thursday, December 22, 2022 10:07 AM

To: Michael P. Lawrence <mpl@givenspursley.com>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>

Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>

Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

EXTERNAL

Mike,

Please confirm if the rental application for 63-3362 will be for 2023, instead of 2022, and for one year only. We spoke about this on the phone during our last meeting, but I want to make sure I have documentation before I make any changes.

Also, I have not seen the new applications, from below, delivered to our office yet.

Best,
Mary

Mary Condon
Water Supply Bank Coordinator



From: Michael P. Lawrence <mpl@givenspursley.com>

Sent: Thursday, December 15, 2022 4:16 PM

To: Condon, Mary <Mary.Condon@idwr.idaho.gov>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>

Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>

Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

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.

Mary,

Attached are 3 lease applications for 63-10383 (irrigation portion only), 63-11347, and 63-34795. These are intended to address the combined limit issue you raise below and that you, Terry, and I discussed further last week.

Also attached is a rental application for these rights. We did not discuss this, but on further reflection Terry and I realized that Brisbie may need additional rental water and that some would be available under the three leases without exceeding the combined limit.

We are working on getting the signatures for all of these, but wanted you to have them sooner rather than later in case you saw any issues or modifications we need to make. We'll deliver the additional \$250 with the signatures.

Please let us know if you have any questions.

Thanks for all your help.

-Mike

MICHAEL P. LAWRENCE

GIVENS PURSLEY LLP

601 West Bannock Street, Boise, ID 83702

main 208-388-1200

direct 208-388-1294

fax 208-388-1300

mpl@givenspursley.com

www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>

Sent: Monday, November 28, 2022 10:57 AM

To: Michael P. Lawrence <mpl@givenspursley.com>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>

Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>

Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

Michael and Terry,

I've been working through the lease and rental, and I'm wondering if it wouldn't be in Brisbie's best interest to lease in the irrigation portion of 63-10383, since they're not going to use the irrigation anyway. If this right comes in, the combined limits would be less of an issue with the combined limit error on this one with 63-7531 until it's (hopefully) corrected through the transfers.

Hope you had a nice Thanksgiving weekend,
Mary

Mary Condon
Water Supply Bank Coordinator



From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Thursday, November 10, 2022 9:14 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>
Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information [IWOV-GPDMS.FID904703]

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.

Mary,

I spoke to Terry about your questions below. Here are our responses:

1. See attached transfer application. Brisbie rights 63-3362, 63-11347, and 63-34795 (and also 63-7864 which is not part of the PPU) are being transferred to industrial use. We met on Monday with Nick Miller and Scott Storms at IDWR Western Region to discuss the transfer, so they are up-to-speed if you have questions. Right 63-10383 (which authorizes irrigation and industrial use within the PPU) is not proposed for transfer. There are no plans to use 63-10383 for irrigation within the PPU in 2023, although irrigation is authorized under the water right.
2. The two pivots (120 and 30 acres) in the S ½ of Section 31, T2N, R2E, along with the full pivot (120 acres) and the partial pivot (about 70 acres) in the N ½ Section 6, are idled. See attached map. We believe that all of these pivots have been (or in the process of being) removed. These four pivots total approximately 320 acres that are idled. No irrigation occurred within the Brisbie-owned portions of the PPU in 2022, and no irrigation is planned in 2023.

3. Attached is the Temporary Construction Easement Agreement authorizing any activity consistent with the construction of Brisbie's project on the GC Kuna lands in Section 7.
4. Our understanding is that there was no irrigation water applied during calendar year 2022. Google imagery dated June, July, and September is attached. The June imagery shows some of the lands in the pivot areas as green, but not vigorous, compared to irrigated lands to the south. We believe that the extensive rain that occurred in the May-June 2022 period (about 160% of normal—see attached) caused weeds and grasses to grow on the disturbed pivot lands. These lands have been fertilized in the past, and appear to better support vegetation than the surrounding rangeland. The vegetation was drying out by July and dry or disturbed by September.

Please let us know if you need any additional information to approve Brisbie's lease/rental package.

Thanks,
Mike

MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP

601 West Bannock Street, Boise, ID 83702
main 208-388-1200
direct 208-388-1294
fax 208-388-1300
mpl@givenspursley.com
www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Sent: Tuesday, November 8, 2022 12:10 PM
To: Michael P. Lawrence <mpl@givenspursley.com>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>
Cc: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Brisbie LLC Water Supply Bank Request for Additional Information

EXTERNAL

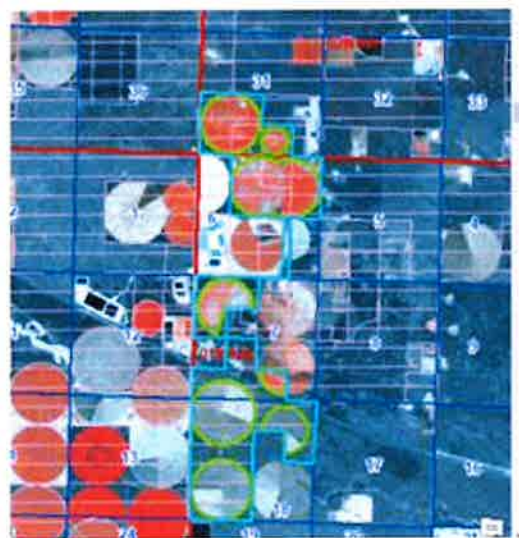
Michael and Terry,

I am in the process of reviewing the lease and rental for Brisbie, and I have a few questions.

- The PPU for the water rights Brisbie, LLC purchased (with 63-7531) is equal to 1139 acres and extends farther than lands owned by Brisbie equal to about 435 acres. The rights now held by Brisbie can only irrigate up to 389.7 acres (less 63-7531).

- Are the lands not held by Brisbie going to continue to be irrigated with any of Brisbie's rights, within the PPU of 1139 acres, or is there going to be a transfer filed to move all of these rights into the parcels held by Brisbie?
- The PPU is larger than the amount that can be irrigated by all of the rights owned by Brisbie, and the parcels held by Brisbie are only about 435 acres
 - I need a map identifying where the 157.8 acres offered for lease will be idled.
- The rental map identifies a portion of a parcel in Section 7, which is currently held by GC Kuna, described as PIN: S2007111102, Legal 1- Par 41102 Por of Sec 7 in 2 E; Legal 2- Por in TCA 04-2; Legal 3- Par 1 ROS 12419 in TCA 04-2
 - Please provide authorization for Brisbie to use a rental on these lands not owned by them.

Additionally, a review of sentinel imagery for 2022 shows all of the pivots in the PPU were irrigated in 2022, including lands now owned by Brisbie, so a lease during 2022 cannot be accomplished and would have to instead begin in 2023. The pictures below are from 2022 sentinel review, with the irrigated fields (green outline) within the PPU (highlighted blue outline) and is consistent with the irrigation from 2021 and 2019.



June 22, 2022



July

Please submit the additional information requested and lease map and let me know if you have any questions.

Best,
Mary

Mary Condon
Water Supply Bank Coordinator



From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Monday, October 24, 2022 10:55 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>; tscanlan@hdrinc.com; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Brisbie LLC Water Supply Bank Acknowledgement Letters and Request for Additional Information [IWOV-GPDMS.FID904703]

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.

Mary,

Please see the attached memo addressing the use of surface water on the Brisbie lands as you requested at the 9/15 meeting.

Let me know if anything else is needed to complete processing of Brisbie's Water Supply Bank lease and rental applications.

Thanks,
Mike

MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP
601 West Bannock Street, Boise, ID 83702
main 208-388-1200
direct 208-388-1294
fax 208-388-1300
mpl@givenspursley.com
www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Sent: Monday, September 26, 2022 1:32 PM
To: Michael P. Lawrence <mpl@givenspursley.com>; Condon, Mary <Mary.Condon@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>; tscanlan@hdrinc.com
Subject: RE: Brisbie LLC Water Supply Bank Acknowledgement Letters and Request for Additional Information [IWOV-GPDMS.FID904703]

EXTERNAL

Hello Mike,

I have added the documents to the Brisbie LLC application file. Thank you for keeping us updated and for forwarding this information.

Have a great day,

Mackenzie Kienholz
Water Supply Bank Specialist



Planning & Projects
Mackenzie.kienholz@idwr.idaho.gov
Phone: (208) 287-4822

From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Monday, September 26, 2022 11:47 AM
To: Condon, Mary <Mary.Condon@idwr.idaho.gov>
Cc: Bank <Bank@idwr.idaho.gov>; tscanlan@hdrinc.com; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
Subject: RE: Brisbie LLC Water Supply Bank Acknowledgement Letters and Request for Additional Information [IWOV-GPDMS.FID904703]

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.

Mary,

Thank you for meeting with me and Jaime Martinez from Brisbie LLC on 9/15 concerning Brisbie's Water Supply Bank Lease/Rental package. We are working on obtaining additional information you requested at the meeting.

In the meantime, I am responding to the two questions presented in Mackenzie Kienholz's 9/9 letter (copy attached for reference):

1. **Authorization for Kathy Rushmore to sign on behalf of Brisbie LLC.** Please see (a) the attached Secretary's Certificate executed by Katherine R. Kelly certifying that Kathy Rushmore has authorization to sign for Brisbie LLC, and (b) Brisbie's LLC 2022 Annual Report filed with the Idaho Secretary of State executed by Katherine Reynolds Kelly as President of Brisbie LLC.
2. **Confirmation of lease dates 2022-2023 instead of 2021-2023.** Yes, Brisbie requests lease dates from 2022-2023.

Please let me know if you need further information or have additional questions.

Thanks,
Mike

MICHAEL P. LAWRENCE

GIVENS PURSLEY LLP

601 West Bannock Street, Boise, ID 83702

main 208-388-1200

direct 208-388-1294

fax 208-388-1300

mpl@givenspursley.com

www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

From: Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>

Sent: Friday, September 9, 2022 2:22 PM

To: Michael P. Lawrence <mpl@givenspursley.com>

Cc: Bank <Bank@idwr.idaho.gov>; tscanlan@hdrinc.com

Subject: Brisbie LLC Water Supply Bank Acknowledgement Letters and Request for Additional Information

EXTERNAL

Hello,

Please see the attached acknowledgement and additional information request letters regarding Water Supply Bank Lease Application #2435 and Water Supply Bank Rental Application #2436 for Brisbie LLC. The ownership change has not yet been processed, but at this point there is not any additional information that needs to be submitted for proof of ownership. A meeting invitation between IDWR Water Supply Bank Staff and Mr. Lawrence will be scheduled for next Thursday, September 15th. Please feel free to contact me by phone or email with any questions.

Thank you,

Mackenzie Kienholz
Water Supply Bank Specialist



IDAHO DEPARTMENT OF
WATER RESOURCES

Planning & Projects

Mackenzie.kienholz@idwr.idaho.gov

Phone: (208) 287-4822

From: [Condon, Mary](#)
To: [Storms, Scott](#)
Subject: Brisbie and CS Property Development
Date: Tuesday, November 15, 2022 2:46:00 PM
Attachments: [image001.png](#)

Hi Scott,

We have a couple bank applications that also have applications for transfer and ownership changes in Western. Mike Lawrence said they spoke with you and Nick last week about these.

Rights 63-3362, 63-10383, 63-11347 and 63-34795 for Brisbie have a transfer application for part of the same purpose as their lease rental package for right 63-3362.

Right 63-7531, which has combined limits with above rights, for CS Property Development have a change in ownership filed in March (per bank cover letter).

Brisbie did not get 63-7531 which was sold to CS, and the current combined limits from previous transfer 81871 are posing a problem. The new transfer application for Brisbie also seeks to remedy the combined limit errors. Basically, by not reducing the combined limits on rights 63-7531 and 63-10383 post-transfer, rights 63-3362 and 63-11347 are no longer additive to the overall combined limit for all four rights. Also, 63-7531 was not reduced by its split portion post-transfer, so now more can be diverted between right 63-7531 and 63-34224.

I put a combined limits table highlighting the errors under my signature block but I'm hoping we can work to get this straight and coordinate these Bank and permanent applications. The lease rental for 63-3362 requests a 2022 start date.

Hope all is well,
Mary

Mary Condon
Water Supply Bank Coordinator



IDAHO DEPARTMENT OF
WATER RESOURCES

Planning & Projects

mary.condon@idwr.idaho.gov

Direct: (208) 287-4936

xfer 81871							
		CFS		Vol	Acres	cfs/ac	vol/ac
pre	7531	1971		3.6	744.6	160	0.0225
	10383	1986		5.2	2272.5	151	0.034437
		CL		5.87			
	3362	1963		2.67	837	186	0.014355
	11347	1992		2.23	549	122	0.018279
		CL + two		10.77	4403.1	619	
		Total CL		10.77	4403.1	619	
split	34224	1971	0.69	81.9	24.2	0.028512	3.38
	34225	1986	0.46	77.2	22.9	0.020087	3.37
		additive, no CL	1.15				
	34223	1963	0.4	95.2	28.2	0.014184	3.38

	34226	1992	0.34	62.4	18.5	0.018378	3.37
		additive	1.89				
		Total CL	1.89	316.7	93.8	0.020149	3.38
split	7531	1971	3.6	744.6	135.8	0.02651	5.48
	10383	1986	4.76	2195.3	128.1	0.037158	17.14
		CL	5.87				
	3362	1963	2.27	741.8	157.8	0.014385	4.70
	11347	1992	1.89	486.6	103.5	0.018261	4.70
		CL + two	10.03				
		Total CL	8.88		525.2		

Possible fix							
			CFS	Vol	Acres	cfs/ac	vol/ac
pre	7531	1971	3.6	744.6	160	0.0225	4.65
	10383	1986	5.2	2272.5	151	0.0344	15.05
		CL	5.87			0.0189	
	3362	1963	2.67	837	186	0.0144	4.50
	11347	1992	2.23	549	122	0.0183	4.50
		CL + two	10.77	4403.1	619		
		Total CL	10.77	4403.1	619		
split	34224	1971	0.69	81.9	24.2	0.0285	3.38
	34225	1986	0.46	77.2	22.9	0.0201	3.37
		additive, no CL	1.15				
	34223	1963	0.4	95.2	28.2	0.0142	3.38
	34226	1992	0.34	62.4	18.5	0.0184	3.37
		additive	1.89				
		Total CL	1.89	316.7	93.8	0.0201	3.38
split	7531	1971	2.91	744.6	135.8	0.0214	5.48
	10383	1986	4.76	2195.3	128.1	0.0372	17.14
		CL	4.72			0.0179	
	3362	1963	2.27	741.8	157.8	0.0144	4.70
	11347	1992	1.89	486.6	103.5	0.0183	4.70
		CL + two	8.88				
		Total CL	8.88		525.2		