

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1793

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

LESSOR: DRY CREEK WATER COMPANY
LLC
923 S BRIDGEWAY PL
EAGLE, ID 83616-6098

SUPPORT DATA

IN FILE # 63-2535

RECEIVED

JAN 29 2024

DEPT. 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 August 08, 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)
63-4086B	7/20/1960	GROUND WATER	0.83	269	59.8
63-7123	7/11/1968	GROUND WATER	0.13	269	58.5
63-4023B	7/1/1927	GROUND WATER	0.50	135	30.0
63-2535	8/24/1937	GROUND WATER	0.12	26.2	5.8
63-17454	3/20/1938	DRY CREEK, tributary to BOISE RIVER	0.28	63.7	14.1
Combined Limit Totals			1.22	275	65.3
Leased Totals			1.22	275	65.3

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, 2024. 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.

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5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

LESSOR: DRY CREEK WATER COMPANY
LLC

923 S BRIDGEWAY PL

EAGLE, ID 83616-6098

By  _____

Title Manager _____

Date 1/26/2024 _____

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By  _____
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 1/30/24 _____

Lease approved by IDWR  _____

Date 1/30/24 _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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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): 63-2535, 63-17454, 63-4086B, 63-7123, 63-4023B

GROUND WATER NENE Sec. 36 Twp 05N Rge 01E ADA County

Source and Location of Point(s) of Diversion for Water Right No(s): 63-2535, 63-4086B, 63-7123, 63-4023B

GROUND WATER NENE Sec. 35 Twp 05N Rge 01E ADA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
63-2535	IRRIGATION	03/01	to	11/15	0.12 cfs	26.2 AF
63-17454	IRRIGATION	03/01	to	11/15	0.28 cfs	63.7 AF
63-4086B	IRRIGATION	03/01	to	11/15	0.83 cfs	269 AF
63-7123	IRRIGATION	04/01	to	10/31	0.13 cfs	269 AF
63-4023B	IRRIGATION	03/01	to	11/15	0.50 cfs	135 AF
Totals:					1.22 cfs	275 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	
05N	01E	35													35.0	18		12.3	65.3

Total Acres: 65.3

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).

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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.
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. 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.
13. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
14. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
15. Use of water under 63-17454 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. 63.
16. The unleased portion of rights 63-4086B and 63-7123 when combined shall not exceed a total annual maximum diversion volume of 507 af at the field headgate, and the irrigation of 112.6 acres in a single irrigation season.
17. The unleased portion of rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 2.31 cfs, a total annual maximum diversion volume of 518 af at the field headgate, and the irrigation of 123.0 acres in a single irrigation season.
18. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
19. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 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 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 4/11/2007.

STATE OF IDAHO
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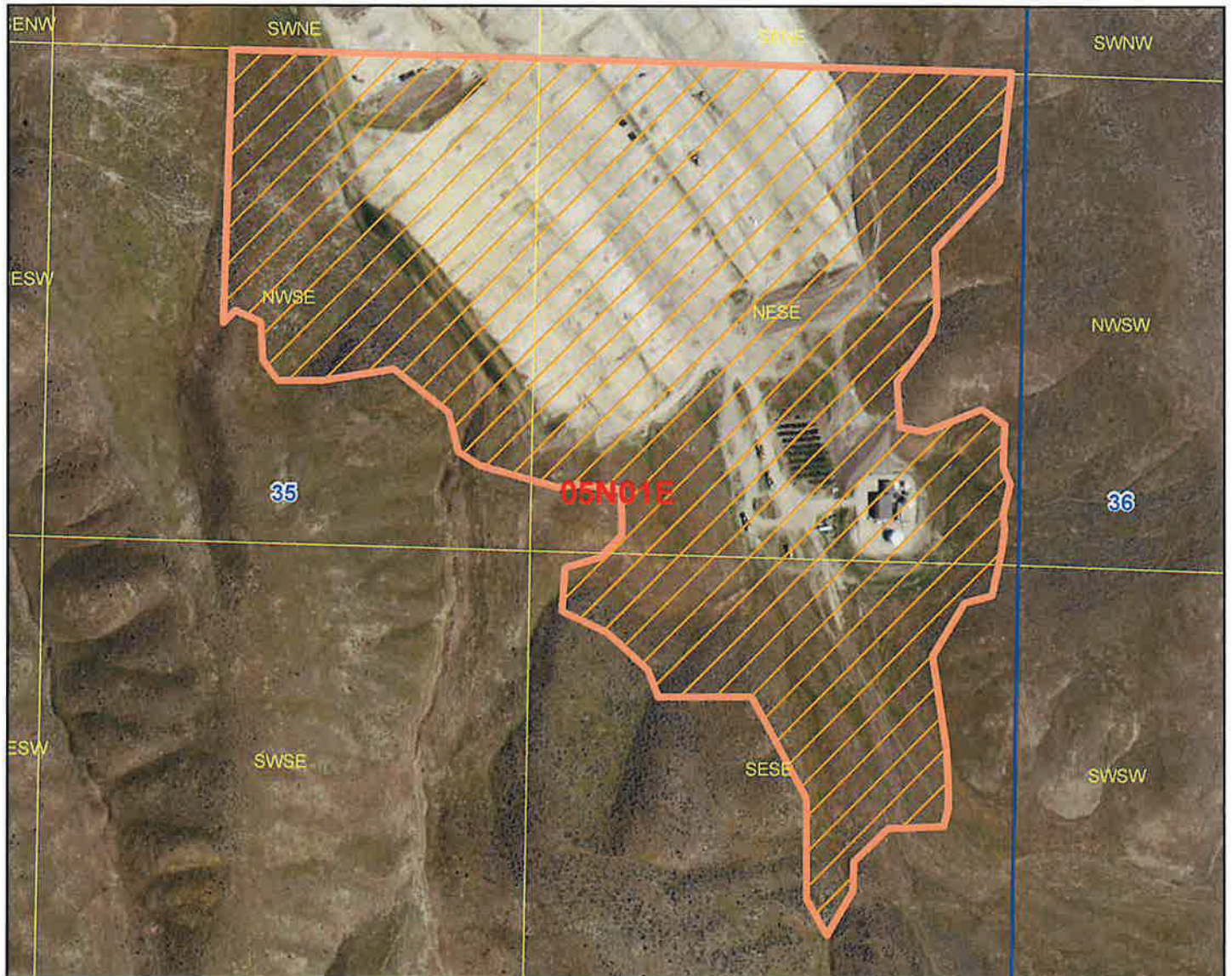
WATER SUPPLY BANK LEASE CONTRACT No. 1793

20. The unleased portion of right 63-2535 shall not exceed a total diversion rate of 0.22 cfs, a total annual maximum diversion volume of 49.4 af at the field headgate, and the irrigation of 11.0 acres.
21. The unleased portion of right 63-4023B shall not exceed a total diversion rate of 0.94 cfs, a total annual maximum diversion volume of 254 af at the field headgate, and the irrigation of 56.5 acres.
22. The unleased portion of right 63-4086B shall not exceed a total diversion rate of 1.57 cfs, a total annual maximum diversion volume of 507 af at the field headgate, and the irrigation of 112.7 acres.
23. The unleased portion of right 63-7123 shall not exceed a total diversion rate of 0.25 cfs, a total annual maximum diversion volume of 507 af at the field headgate, and the irrigation of 110.1 acres.
24. The unleased portion of right 63-17454 shall not exceed a total diversion rate of 0.53 cfs, a total annual maximum diversion volume of 120 af at the field headgate, and the irrigation of 26.7 acres.

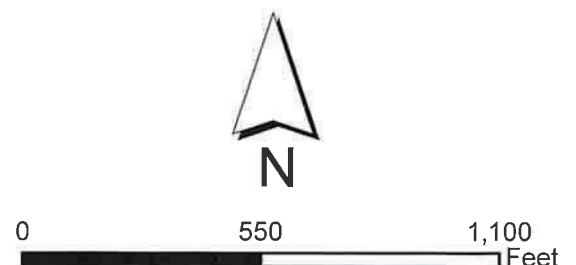
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1793

63-2535, 63-4023B, 63-4086B, 63-7123, 63-32266, and 63-17454
Effective until December 31, 2024

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



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



Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1793

63-2535, 63-4023B, 63-4086B, 63-7123, 63-32266, and 63-17454

Effective until December 31, 2024

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



○ Approved Lease Point of Diversion

▨ Approved Lease Place of Use

▭ Township/Range

▭ Sections

▭ QQ



0 1,300 2,600 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

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

Designated Applicant Dry Creek Water Company LLC

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

Water Right No. 63-17454

(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 <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☒ | ☐ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$	Received By:	Date Received:	Receipt #
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9:	

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 Dry Creek Water Company LLC

Mailing Address <u>923 S Bridgeway Pl</u>	<u>Eagle</u>	<u>ID</u>	<u>83616</u>
Street	City	State	Zip Code

Email Address adickey@boisehunterhomes.com Phone Number 208-618-2147

☒ 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 Lori Graves Organization HDR Inc

Professional Title Sr Water Rights Specialist Email Address lori.graves@hdrinc.com

Mailing Address 412 E Parkcenter, Ste 100, Boise, 83706 Phone Number 208-387-7000

☐ 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.

Integrated pressurized system utilizing ground water from three wells and surface water from Dry Creek.

- 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. Combined water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-32266 and 63-17454.

- 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. See Attachments 4E & 4G.

- 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. See Attachments 4E & 4G.

- 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. See Attachment 4G.

- 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 ☐

Portions of the rights listed in 4C above have been dedicated to mitigation for consumptive uses developed under permit 63-32423. The acres proposed for lease do not include mitigation acres. See Attachment 4G.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

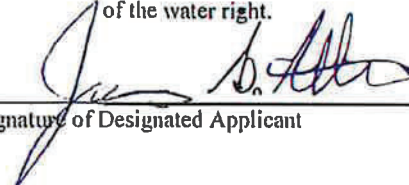
5. SALE/LEASE AGREEMENT

- 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 2024 (2 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	<u>James H. Hunter</u> _____ Printed Name	<u>12-27-2023</u> _____ Date
_____ Signature of Authorized Representative	_____ Printed Name	_____ Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
63-17454	Irrigation	0.17	not listed	8.4
	Total Amounts:	0.17	not listed	8.4

2. Source of water Dry Creek tributary to Boise River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
5N	1E	36			NE	NE	Ada



RECEIVED
DEC 28 2023
DEPARTMENT OF
WATER RESOURCES

December 28, 2023

Bob Howe
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

**Subject: Water Bank Lease Applications – 63-2535 (amended), 63-4023B (amended)
63-4086B, 63-7123, 63-17454**

Dear Bob,

Per your request, enclosed are water bank lease applications for the above water rights. Although not required, amended lease applications for 63-2535 and 63-40323B previously submitted are also included to insure consistency. The requested lease period is 2 years, including 2023. Attachments 4E and 4G that follow this cover letter are applicable to all five applications.

The lease amounts/right shown in attachment 4E were calculated based on the spreadsheet Phill Hummer used for determining the water rights' mitigation amounts. I will email you the excel spreadsheet so you can see how the lease amounts were calculated. As noted in your email, the fees and map have been previously provided. Please let me know if you have any questions. Thanks Bob.

Sincerely,

HDR Engineering, Inc.

Lori Graves

Lori Graves
Sr. Water Rights Specialist

Cc: Ann Dickey, Boise Hunter Homes

Enclosers: Attachments 4E & 4G, WB lease applications (5)

Project: 10372280

hdrinc.com

HDR, 412 E Parkcenter Blvd, Suite 100, Boise, ID 83706
(208) 387-7000

Water Bank Lease Attachment 4E

Table 7. Acres Used for Mitigation, 2023



Water Bank Lease Attachment 4G

Forfeiture Analysis

Dry Creek Water Company LLC Water Rights

The following is a forfeiture analysis concerning the Dry Creek Ranch (DCR) water rights owned and managed by Dry Creek Water Company LLC. The analysis was conducted using GIS tools and aerial imagery from 2016 through 2023 to quantify the number of water right acres irrigated each year from 2016 to date.

Background

The DCR irrigation water right portfolio consists of ground water rights 63-2535, 63-4023B, 63-4086B and 63-7123 that were decreed in the Snake River Basin Adjudication (SRBA) for 392 acres, along with “enlargement right” 63-32266 authorizing 12 additional irrigated acres but no additional water. The property also has a Dry Creek water right 63-17454 authorizing irrigation of 85 of the same 392 acres. Figure 1 is 1987 color infrared imagery used during the SRBA that shows the decreed acres place of use prior to development. When combined, the six irrigation rights authorize a total volume of 1,764 acre-feet of water and 7.84 cfs maximum pumping rate for irrigation of 404 acres. The rights were then combined in 2009 allowing irrigation of 404 acres from an integrated system anywhere within a 739-acre place of use.

Permit 63-32423 was approved in 2010 authorizing diversion of ground water for municipal purposes associated with the Dry Creek Ranch Planned Community currently being developed by Boise Hunter Homes (BHH) on lands formerly irrigated under the DCR water rights.

The permit conditions require that the number of acres irrigated under the DCR irrigation water rights be reduced each year based on the estimated domestic and non- domestic municipal water usage to be developed. The irrigated area for the listed rights must be reduced by one acre for every 2.7 acre-feet of estimated non- domestic municipal use and by one acre for every 4.5 acre-feet of estimated domestic municipal use. In compliance with the permit conditions, mitigation plans have been submitted to Idaho Department of Water Resources (IDWR) every year starting in 2019. Each plan describes the amount of authorized irrigation reduction required to mitigate the amount of municipal development anticipated for that given year. The mitigation acres required each year for municipal development under permit 63-32423 are accounted for in the analysis below and are not being offered for lease to the Idaho Water Supply Bank (IWSB).



Historical Irrigation

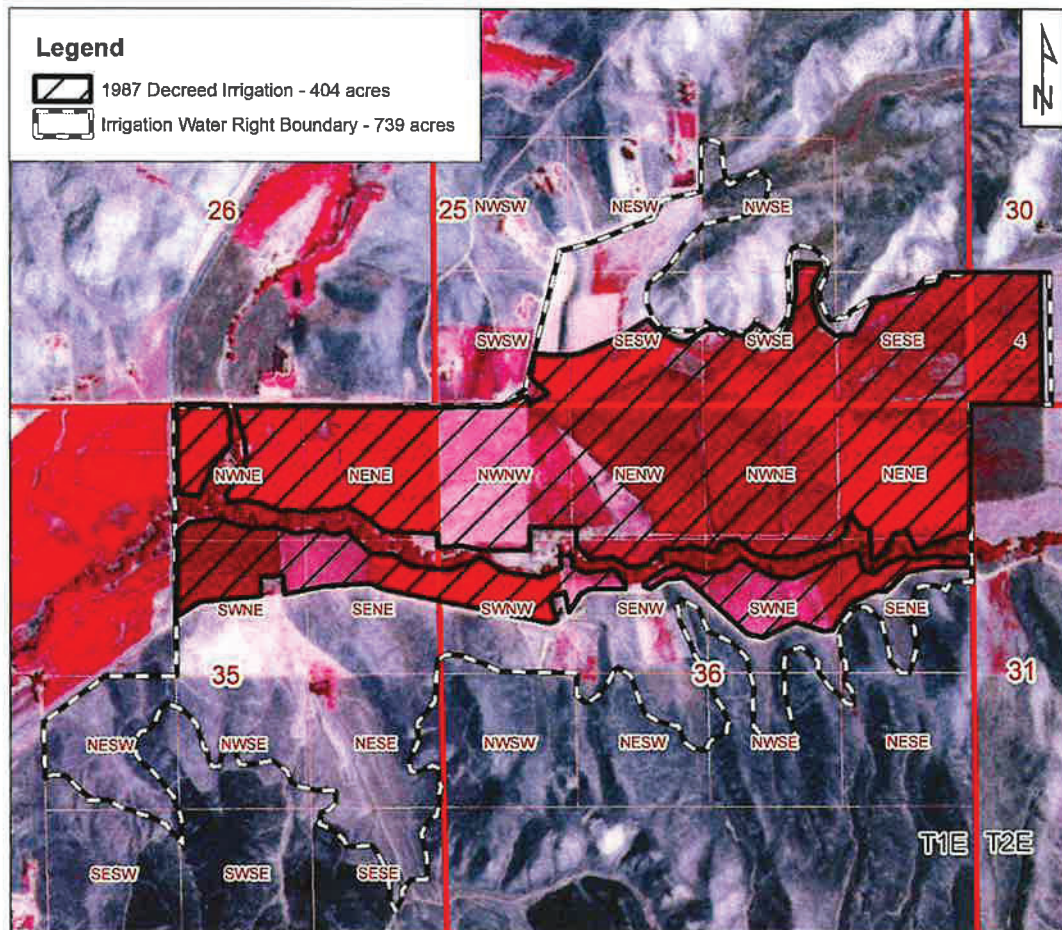


Figure 1: 1987 Color Infrared Imagery

2016 Irrigation

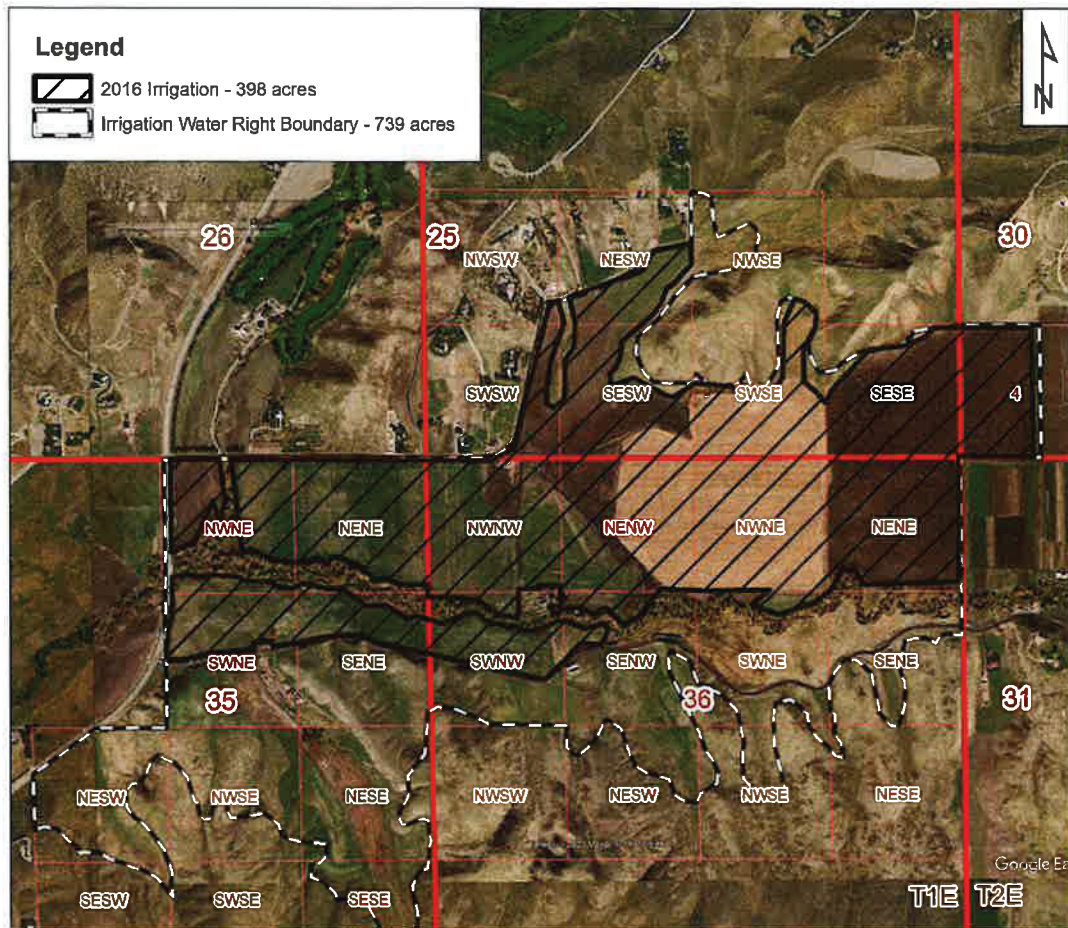


Figure 2: 2016 Aerial Imagery

The 2016 aerial imagery supports irrigation of 398 acres as shown in Figure 2, which is within 5% margin of error of the 404 authorized acres.

2017 Irrigation

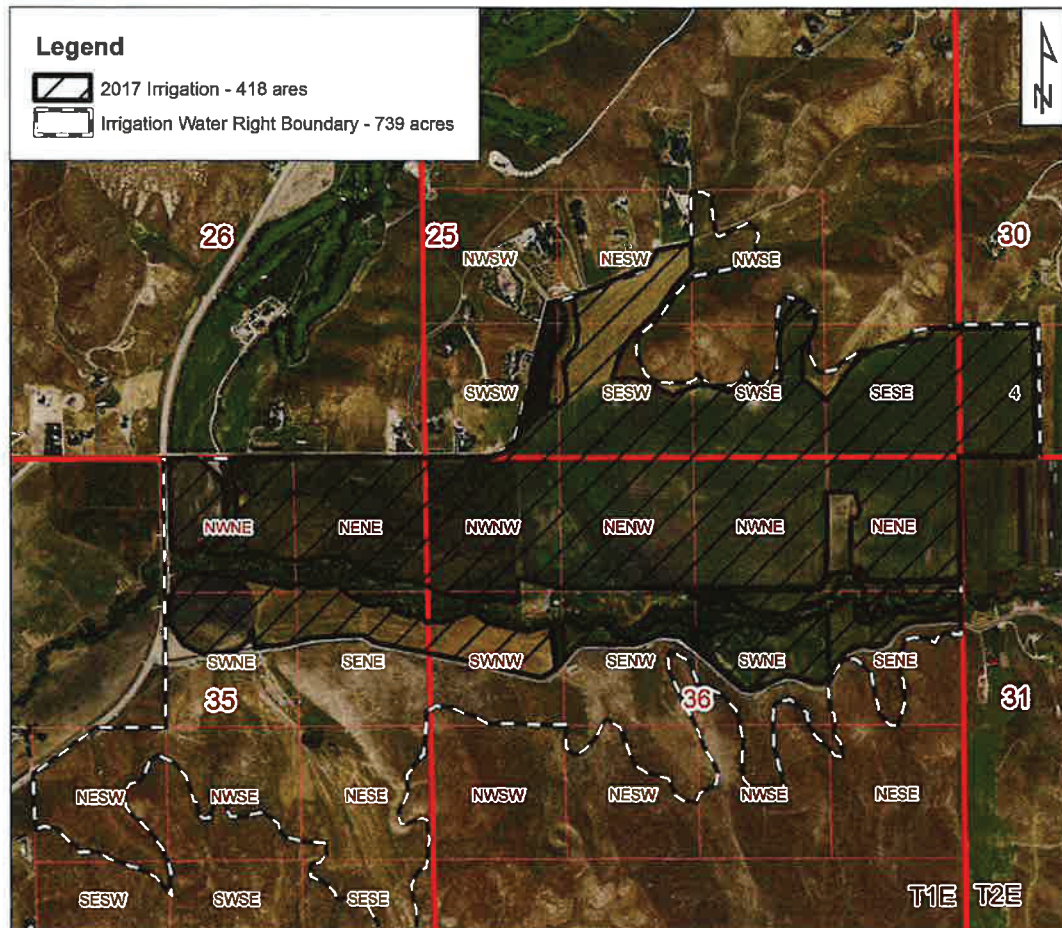


Figure 3: 2017 Aerial Imagery

The 2017 aerial imagery supports irrigation of at least 404 acres as shown in Figure 3.



2018 Irrigation

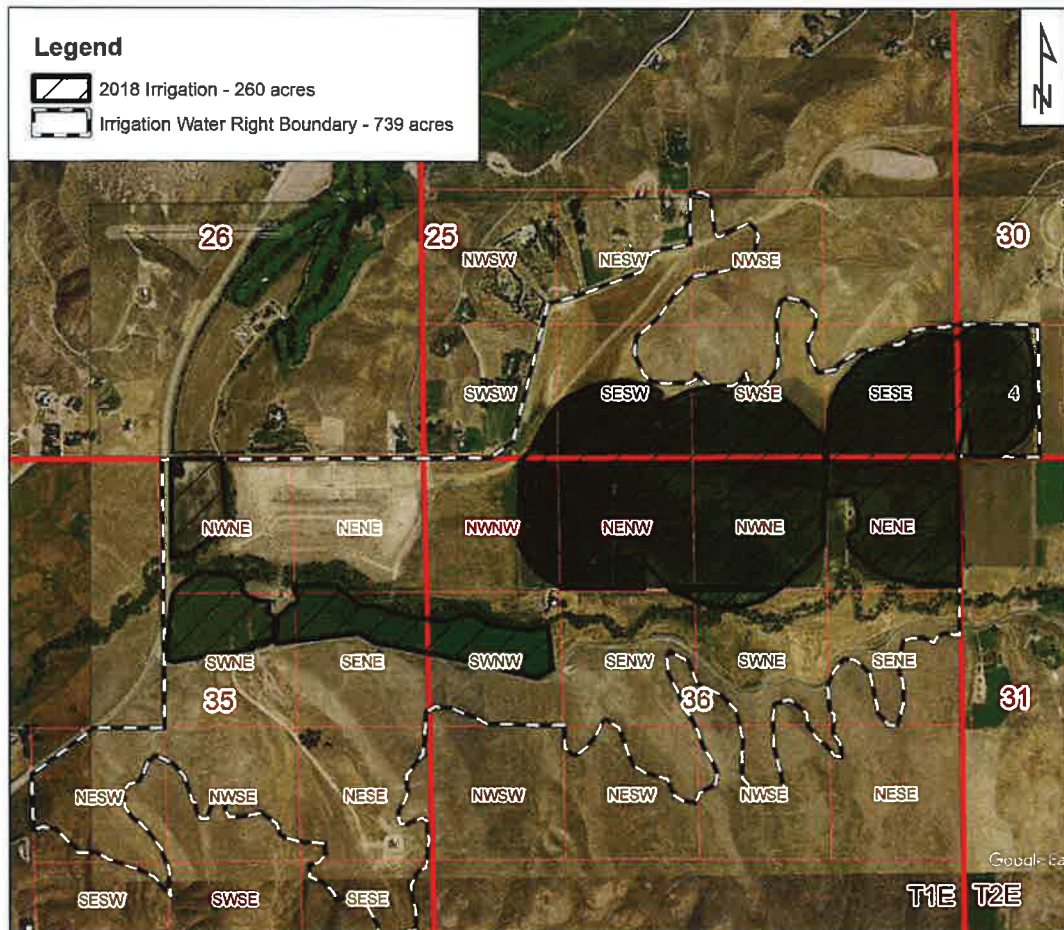


Figure 4: 2018 Aerial Imagery

The 2018 aerial imagery supports irrigation of 260 acres as shown in Figure 4. Boise Hunter Homes staff remember that surface water from Dry Creek was used to support irrigation, but the area irrigated was not documented.

The 144 authorized acres not irrigated in 2018 could be leased to the Idaho Water Supply Bank for protection from forfeiture. Per IDWR's Administrative Multiple Programs Memo No. 2, acres are not considered forfeited until the end of the sixth calendar year, which in this case is December 31, 2023 since aerial imagery supports full irrigation beneficial use in 2017.

404	water right acres
<u>-260</u>	<u>acres irrigated with irrigation water rights</u>
144	non-use acres

2019 Irrigation

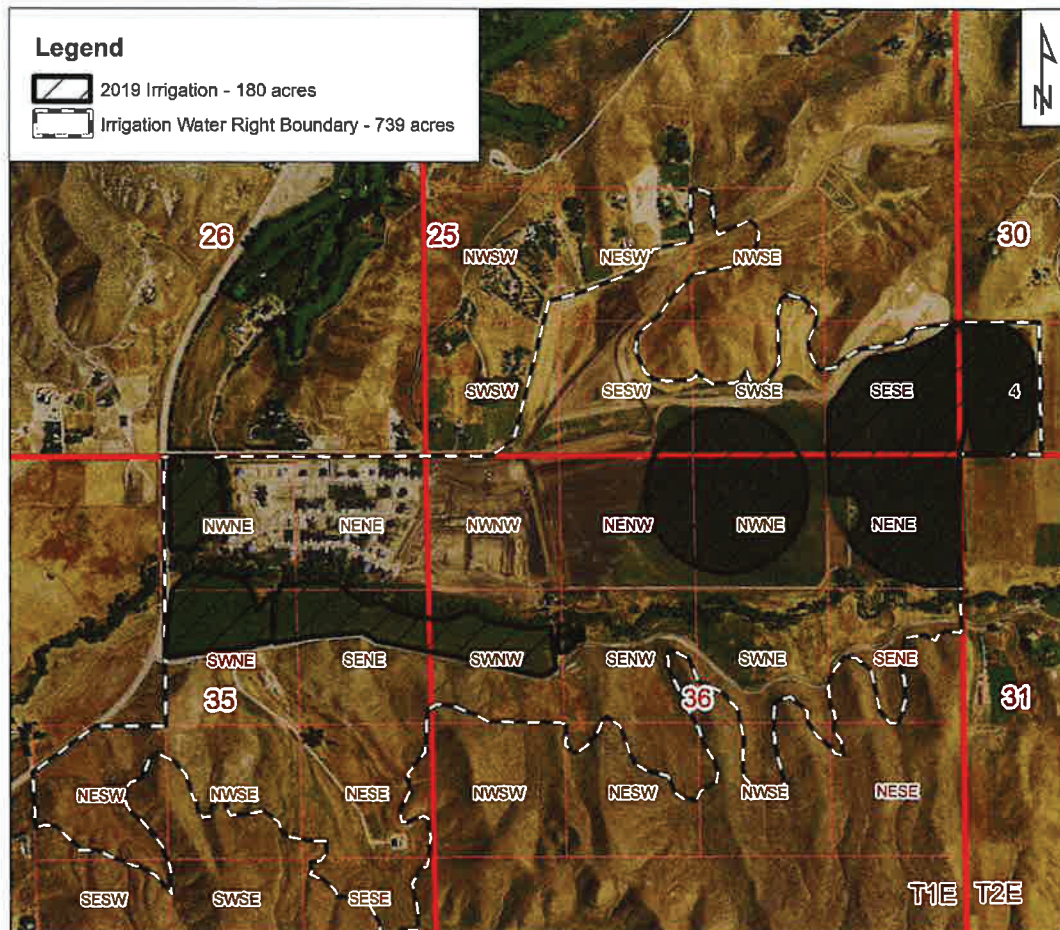


Figure 5: 2019 Aerial Imagery

The 2019 aerial imagery supports irrigation of 180 agricultural acres as shown in Figure 5. Boise Hunter Homes staff remember that surface water from Dry Creek was used to support irrigation, but the area irrigated was not documented.

In 2019, however, a reduction of 95 acres irrigation was required to mitigate DCR's municipal uses developed under permit 63-32423. These municipal uses included approximately 54 acres of irrigation along Highway 55 and south of Dry Creek. Therefore, 126 acres (i.e., 180 – 54) were irrigated using the irrigation water rights in 2019.

404	water right acres
-126	acres irrigated with irrigation water rights
-95	acres dedicated to mitigation
183	non-use acres

2020 Irrigation

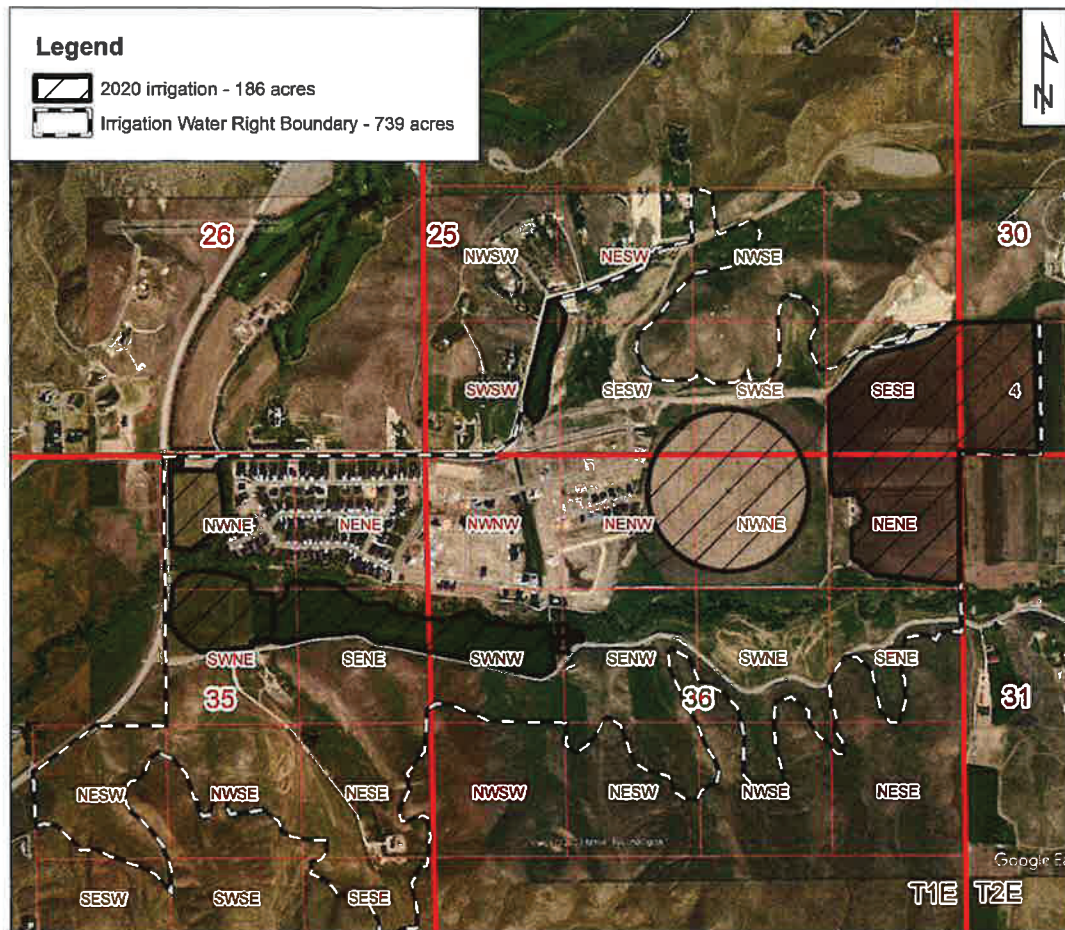


Figure 6: 2020 Aerial Imagery

The 2020 aerial imagery supports irrigation of 186 agricultural acres as shown in Figure 6. As with 2019, approximately 51 of these acres were irrigated from the municipal system resulting in 135 acres irrigated using irrigation water rights. In 2020, a reduction of 128.5 acres irrigation was required to mitigate DCR's municipal uses developed under permit 63-32423.

404	water right acres
-135	acres irrigated with irrigation water rights
<u>-128.5</u>	<u>acres dedicated to mitigation</u>
140.5	non-use acres

2021 Irrigation

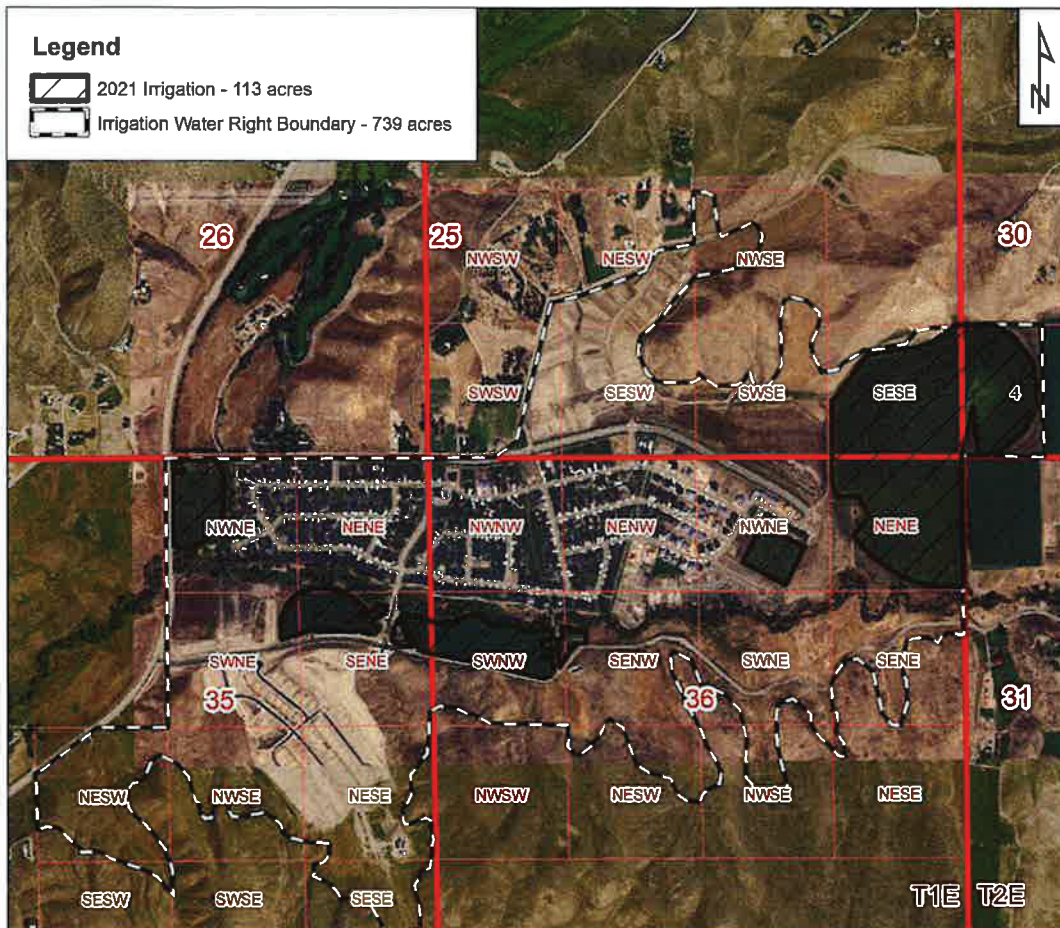


Figure 7: 2021 Aerial Imagery

The 2021 aerial imagery supports irrigation of 113 acres as shown in Figure 7. The field at the corner of Dry Creek Road and Highway 55 does not appear to be irrigated on 2021 imagery, resulting in 31 acres of agricultural fields irrigated from the municipal system. Therefore, area irrigated using irrigation water rights was 82 acres. In 2021, a reduction of 178.46 acres irrigation was required to mitigate DCR's municipal uses developed under permit 63-32423.

404	water right acres
-82	acres irrigated with irrigation water rights
-178.46	acres dedicated to mitigation
143.54	non-use acres

2022 Irrigation



Figure 8: 2022 Aerial Imagery

2022 Aerial imagery supports irrigation of 82 acres as shown in Figure 8, with approximately 43 agricultural acres irrigated from the municipal system, leaving 39 acres irrigated using irrigation water rights. In 2022, a reduction of 177.1 acres irrigation was required to mitigate DCR's municipal uses developed under permit 63-32423.

404	water right acres
-39	acres irrigated with irrigation water rights
<u>-177.1</u>	<u>acres dedicated to mitigation</u>
187.9	non-use acres

2023 Irrigation

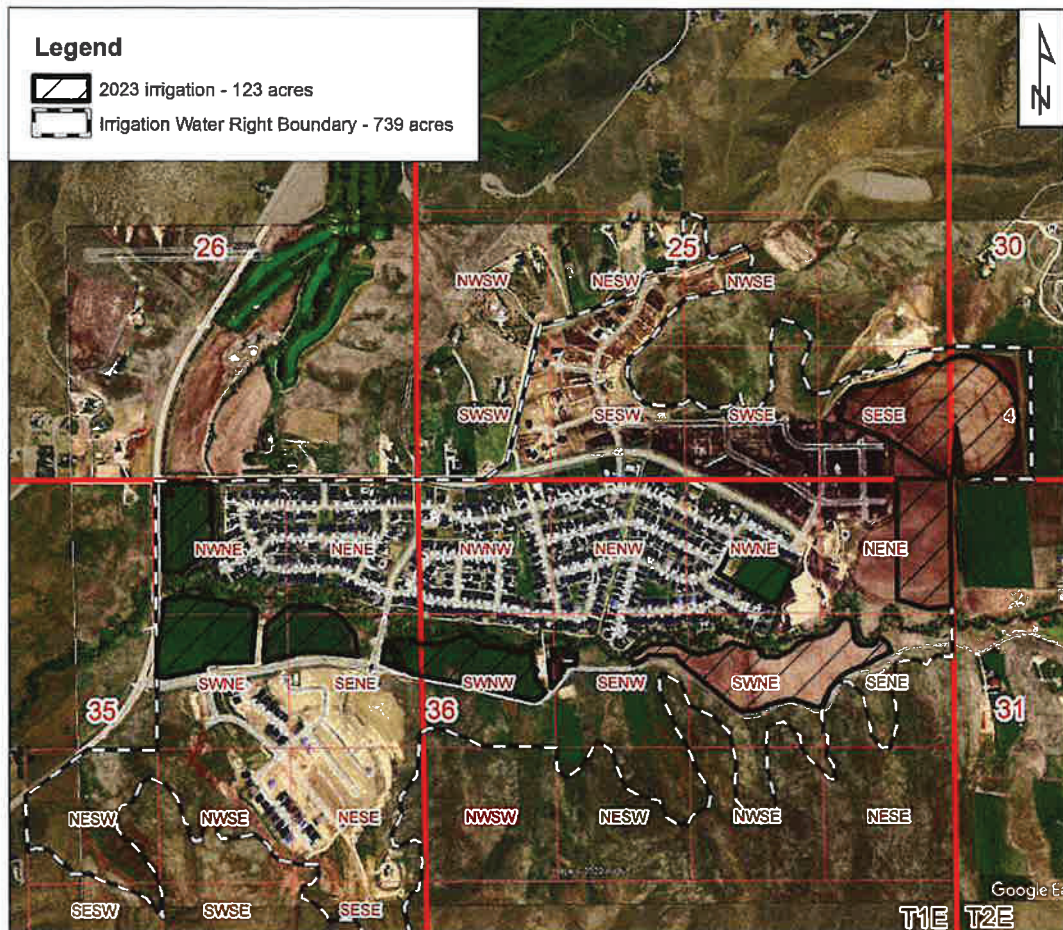


Figure 9: 2023 Aerial Imagery

In Spring, 2023, Dry Creek Water Company upgraded and expanded the irrigation system to resume the use of water from Dry Creek (63-17454), resume irrigation of an additional 41 acres, and include the 43 agricultural acres previously irrigated with the municipal system. Approximately 85 acres was irrigated using rights under 63-17454. 2023 aerial imagery supports irrigation of 123 acres using irrigation water rights as shown in Figure 9. In 2023, a reduction of 215.7 acres irrigation will be required to mitigate DCR's municipal uses developed under permit 63-32423.

404	water right acres
-123	acres irrigated with irrigation water rights
-215.7	acres dedicated to mitigation
65.3	non-use acres



Summary

Aerial imagery indicates DCR development started replacing irrigation beginning in 2018. The 5-year forfeiture clock for irrigation retired in 2018 expires December 31, 2023 based on IDWR forfeiture policy. Use of surface water under water right 63-17454 was resumed in 2023 and will continue to be used, thereby protected from forfeiture. As a result, all other non-use irrigation acres from 2018 to date are within the 5-year window and can be leased to the Idaho Water Supply Bank prior to December 31, 2023 for forfeiture protection and mitigation availability for permit 63-32423. Table 1 provides a summary of water use on a yearly basis including mitigation plan acres.

Table 1: Decreed Acre Distribution Summary

Year	Agricultural Irrigation	Irrigation with Irrigation Water Rights	Acres in Mitigation Plan	Non-Use Acres	5-Year Forfeiture Risk Acres
2016	398	398	0	6	0
2017	418	418	0	-14	0
2018	260	260	0	144	0
2019	180	126	95	183	0
2020	186	135	128.5	140.5	0
2021	113	82	178.5	143.5	0
2022	82	39	177.1	187.9	0
2023	123	123	215.7	65.3	65.3

The “5-Year Forfeiture Risk Acres” column describes the portion of the 404-acre irrigation water right portfolio that has had five consecutive years of non-use through irrigation or being dedicated to mitigation.

For protection from forfeiture, Dry Creek Water Company seeks to lease 65.3 (rounded to 65) acres to the Water Supply Bank authorized under overlapping water rights 63-2535, 63-4023B, 63-4086B, 63-7123 and 63-17454. IDWR’s mitigation review spreadsheet (included as Attachment 4E) was used to calculate the water right portions offered for lease. Right 63-32266 was not included since it has been fully dedicated to mitigation.

As development of DCR progresses, the number of irrigated, mitigated, leased and non-use acres will be determined annually, with new non-use acres considered for lease to the Water Supply Bank as appropriate.

2018 Irrigation

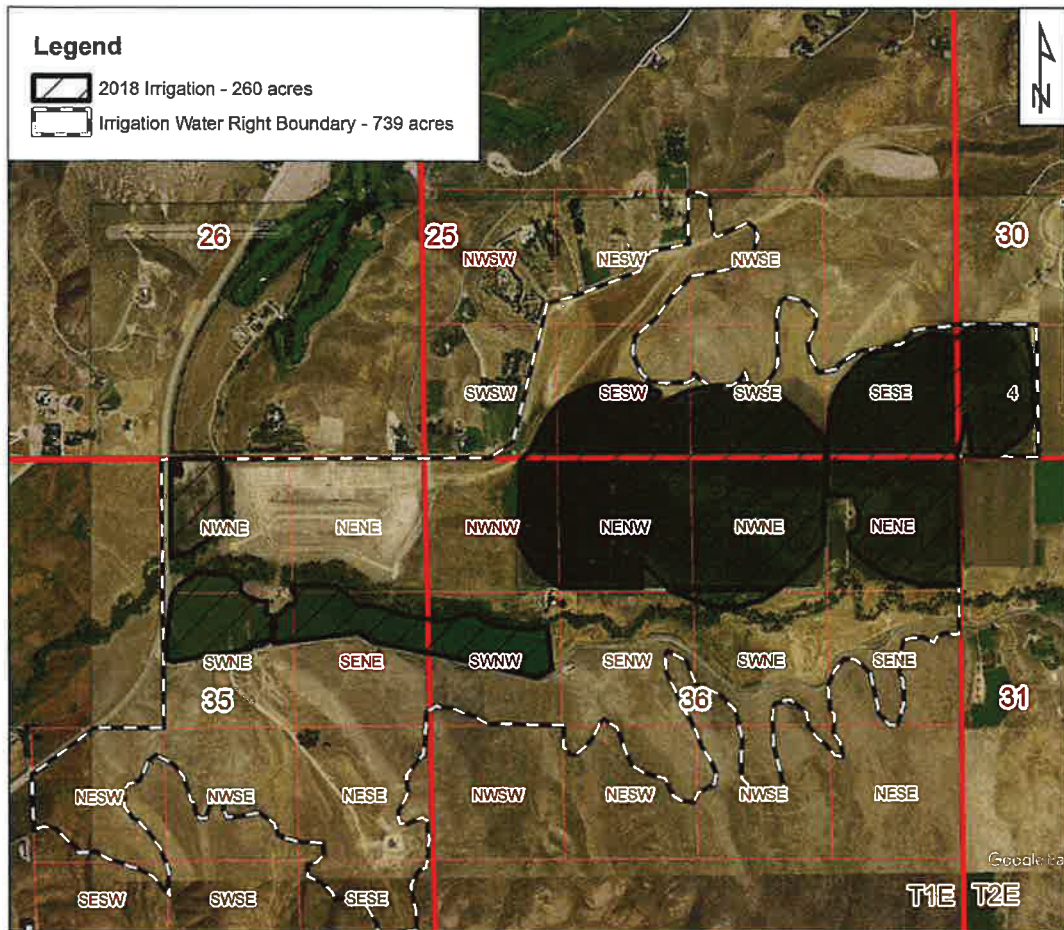


Figure 4: 2018 Aerial Imagery

The 2018 aerial imagery supports irrigation of 260 acres as shown in Figure 4. Boise Hunter Homes staff remember that surface water from Dry Creek was used to support irrigation, but the area irrigated was not documented.

The 144 authorized acres not irrigated in 2018 could be leased to the Idaho Water Supply Bank for protection from forfeiture. Per IDWR's Administrative Multiple Programs Memo No. 2, acres are not considered forfeited until the end of the sixth calendar year, which in this case is December 31, 2023 since aerial imagery supports full irrigation beneficial use in 2017.

404	water right acres
<u>-260</u>	<u>acres irrigated with irrigation water rights</u>
144	non-use acres

2019 Irrigation

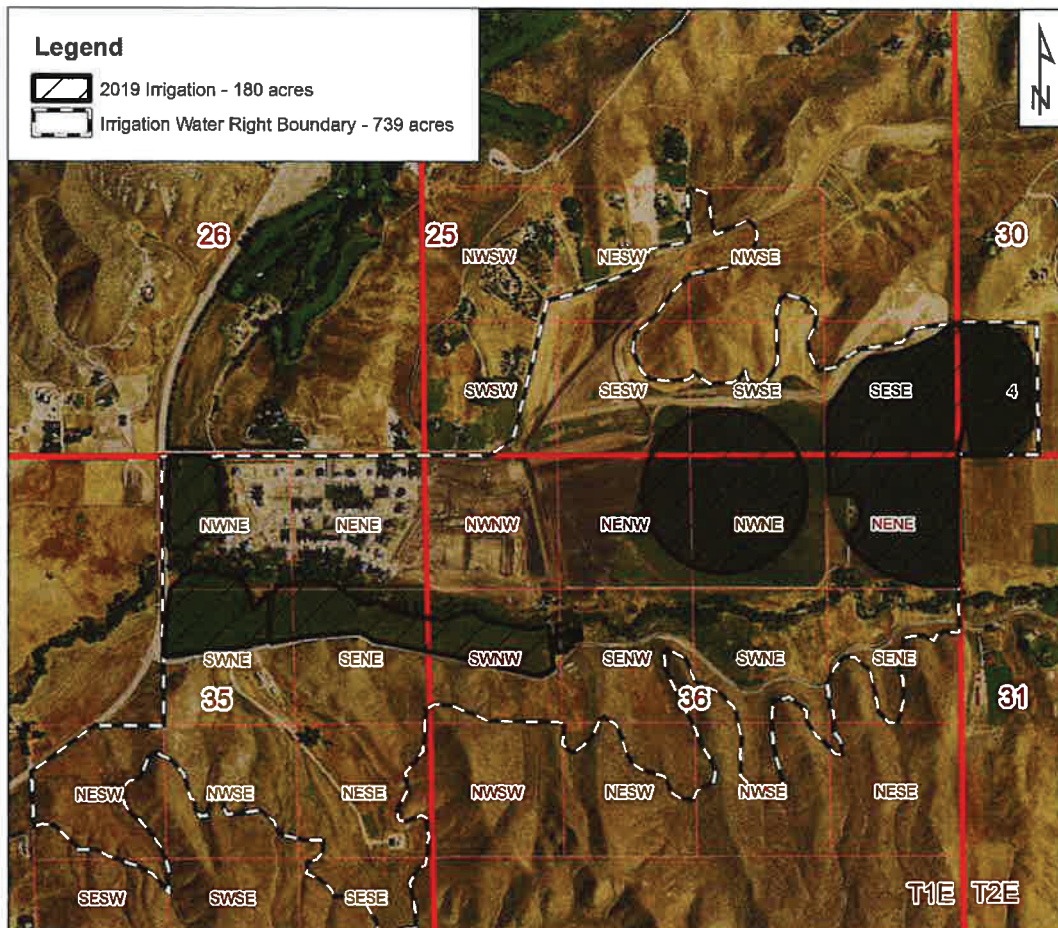


Figure 5: 2019 Aerial Imagery

The 2019 aerial imagery supports irrigation of 180 agricultural acres as shown in Figure 5. Boise Hunter Homes staff remember that surface water from Dry Creek was used to support irrigation, but the area irrigated was not documented.

In 2019, however, a reduction of 95 acres irrigation was required to mitigate DCR's municipal uses developed under permit 63-32423. These municipal uses included approximately 54 acres of irrigation along Highway 55 and south of Dry Creek. Therefore, 126 acres (i.e., 180 – 54) were irrigated using the irrigation water rights in 2019.

404	water right acres
-126	acres irrigated with irrigation water rights
-95	acres dedicated to mitigation
183	non-use acres

2022 Irrigation

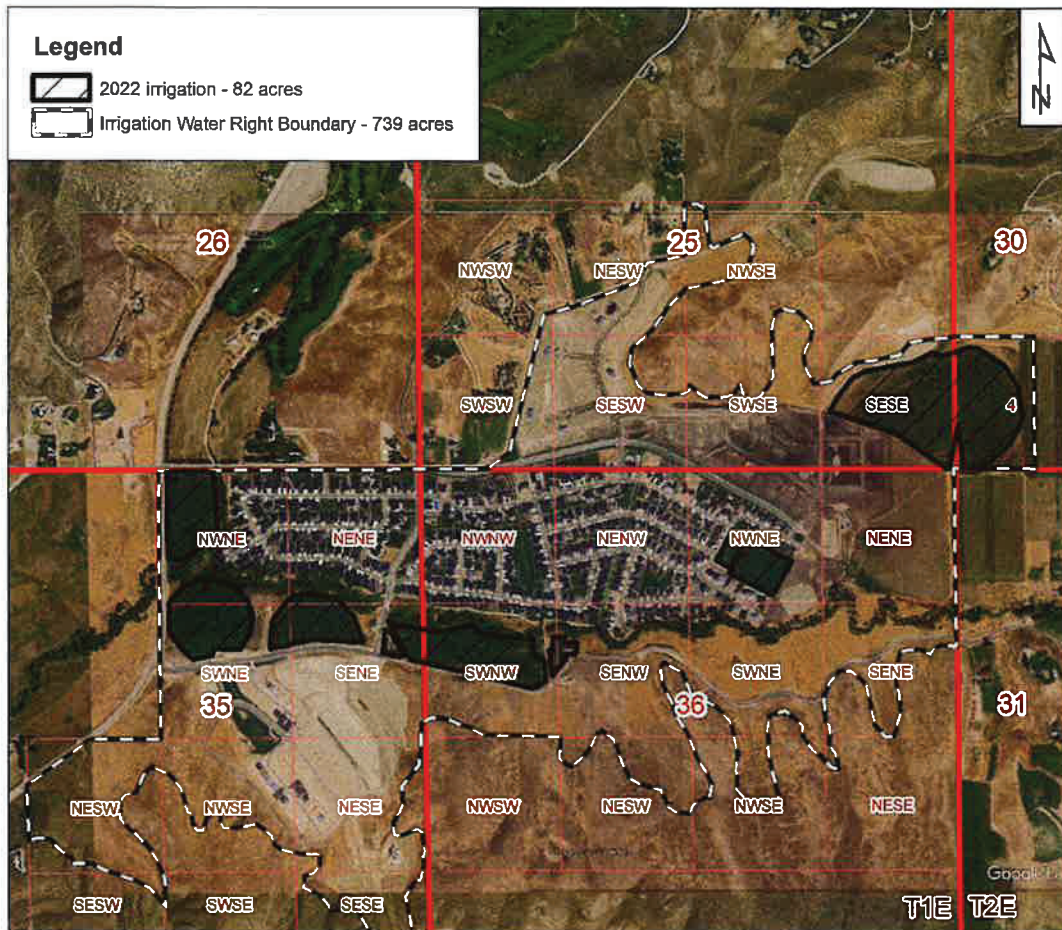


Figure 8: 2022 Aerial Imagery

2022 Aerial imagery supports irrigation of 82 acres as shown in Figure 8, with approximately 43 agricultural acres irrigated from the municipal system, leaving 39 acres irrigated using irrigation water rights. In 2022, a reduction of 177.1 acres irrigation was required to mitigate DCR's municipal uses developed under permit 63-32423.

404	water right acres
-39	acres irrigated with irrigation water rights
<u>-177.1</u>	<u>acres dedicated to mitigation</u>
187.9	non-use acres

2023 Irrigation

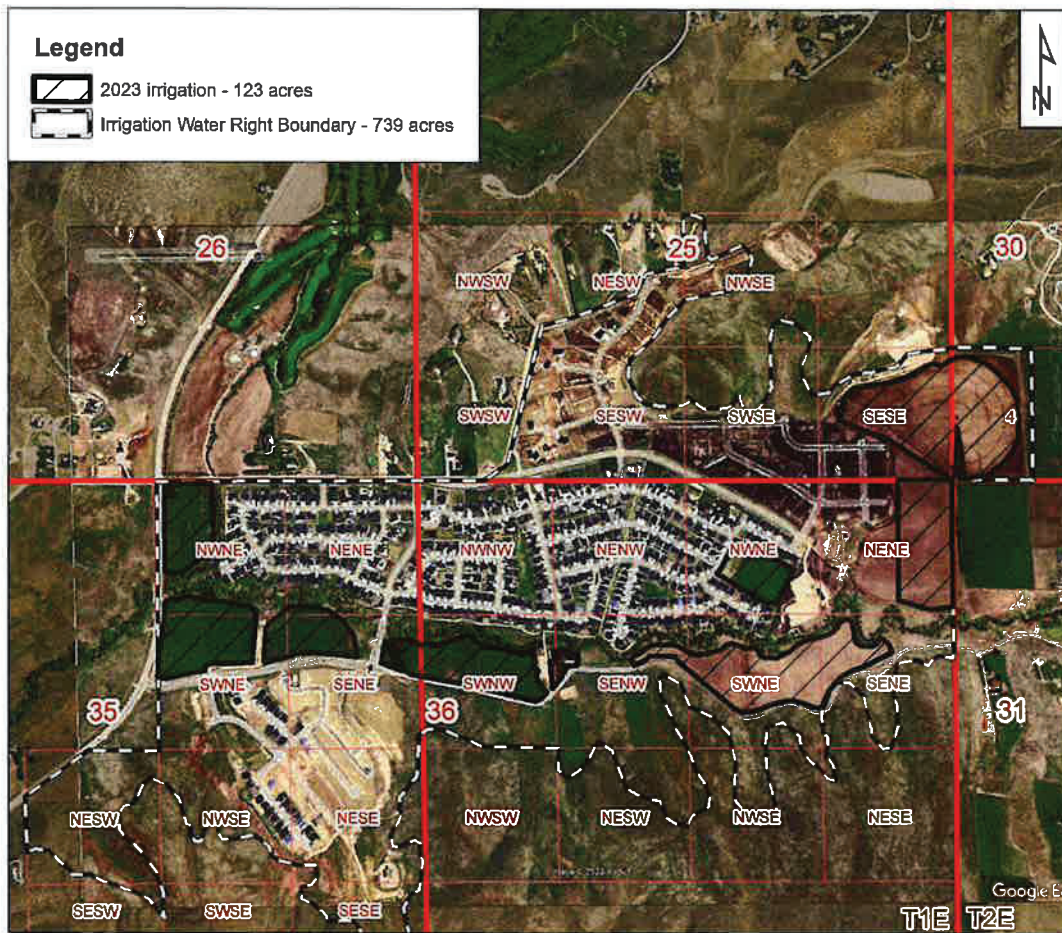


Figure 9: 2023 Aerial Imagery

In Spring, 2023, Dry Creek Water Company upgraded and expanded the irrigation system to resume the use of water from Dry Creek (63-17454), resume irrigation of an additional 41 acres, and include the 43 agricultural acres previously irrigated with the municipal system. Approximately 85 acres was irrigated using rights under 63-17454. 2023 aerial imagery supports irrigation of 123 acres using irrigation water rights as shown in Figure 9. In 2023, a reduction of 215.7 acres irrigation will be required to mitigate DCR's municipal uses developed under permit 63-32423.

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-215.7	acres dedicated to mitigation
65.3	non-use acres



Historical Irrigation

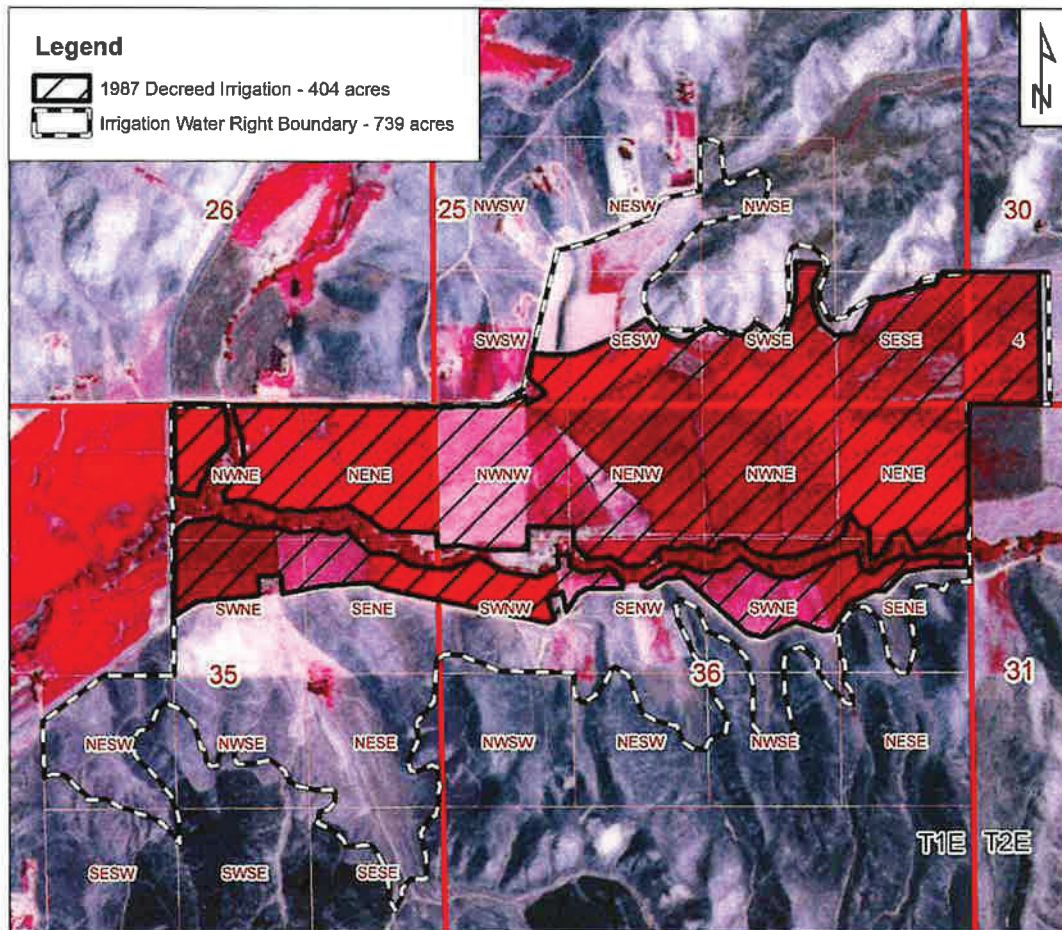


Figure 1: 1987 Color Infrared Imagery



Water Bank Lease Attachment 4G

Forfeiture Analysis

Dry Creek Water Company LLC Water Rights

The following is a forfeiture analysis concerning the Dry Creek Ranch (DCR) water rights owned and managed by Dry Creek Water Company LLC. The analysis was conducted using GIS tools and aerial imagery from 2016 through 2023 to quantify the number of water right acres irrigated each year from 2016 to date.

Background

The DCR irrigation water right portfolio consists of ground water rights 63-2535, 63-4023B, 63-4086B and 63-7123 that were decreed in the Snake River Basin Adjudication (SRBA) for 392 acres, along with “enlargement right” 63-32266 authorizing 12 additional irrigated acres but no additional water. The property also has a Dry Creek water right 63-17454 authorizing irrigation of 85 of the same 392 acres. Figure 1 is 1987 color infrared imagery used during the SRBA that shows the decreed acres place of use prior to development. When combined, the six irrigation rights authorize a total volume of 1,764 acre-feet of water and 7.84 cfs maximum pumping rate for irrigation of 404 acres. The rights were then combined in 2009 allowing irrigation of 404 acres from an integrated system anywhere within a 739-acre place of use.

Permit 63-32423 was approved in 2010 authorizing diversion of ground water for municipal purposes associated with the Dry Creek Ranch Planned Community currently being developed by Boise Hunter Homes (BHH) on lands formerly irrigated under the DCR water rights.

The permit conditions require that the number of acres irrigated under the DCR irrigation water rights be reduced each year based on the estimated domestic and non- domestic municipal water usage to be developed. The irrigated area for the listed rights must be reduced by one acre for every 2.7 acre-feet of estimated non- domestic municipal use and by one acre for every 4.5 acre-feet of estimated domestic municipal use. In compliance with the permit conditions, mitigation plans have been submitted to Idaho Department of Water Resources (IDWR) every year starting in 2019. Each plan describes the amount of authorized irrigation reduction required to mitigate the amount of municipal development anticipated for that given year. The mitigation acres required each year for municipal development under permit 63-32423 are accounted for in the analysis below and are not being offered for lease to the Idaho Water Supply Bank (IWSB).

2016 Irrigation

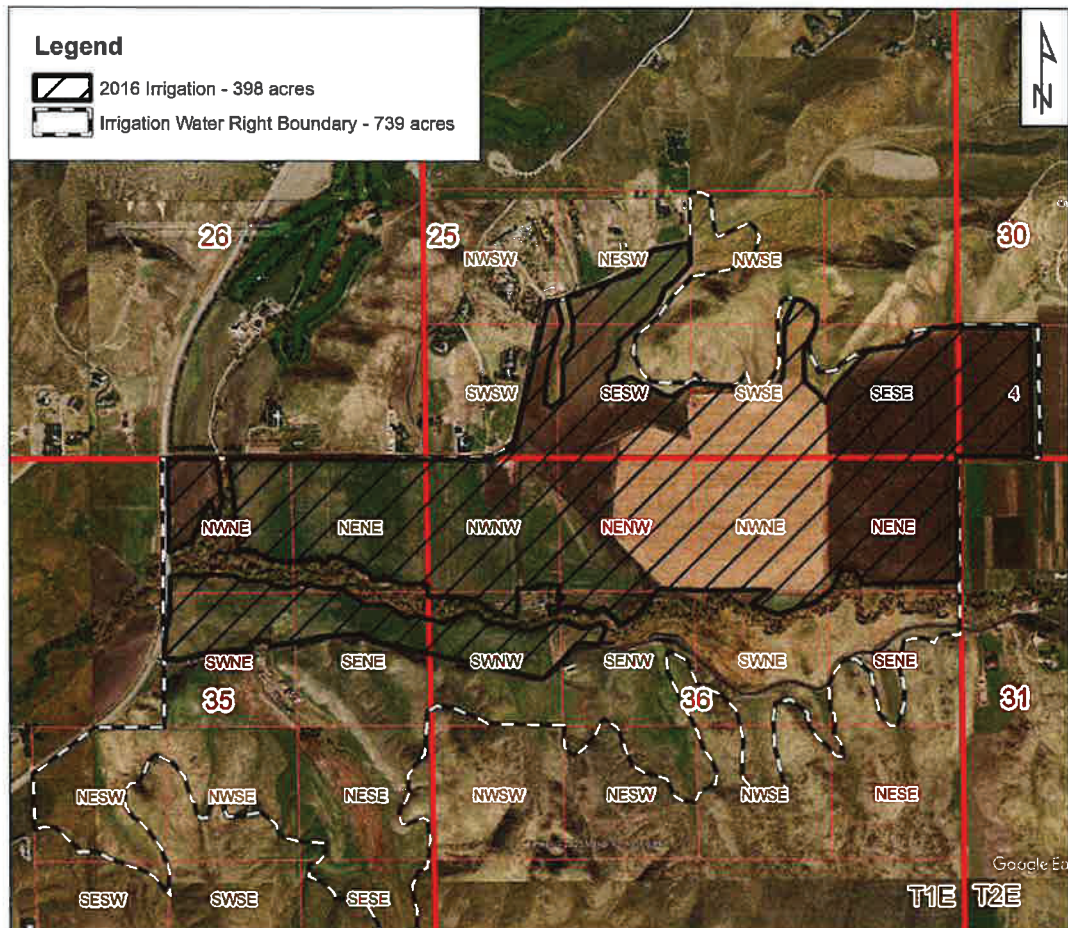


Figure 2: 2016 Aerial Imagery

The 2016 aerial imagery supports irrigation of 398 acres as shown in Figure 2, which is within 5% margin of error of the 404 authorized acres.

2017 Irrigation

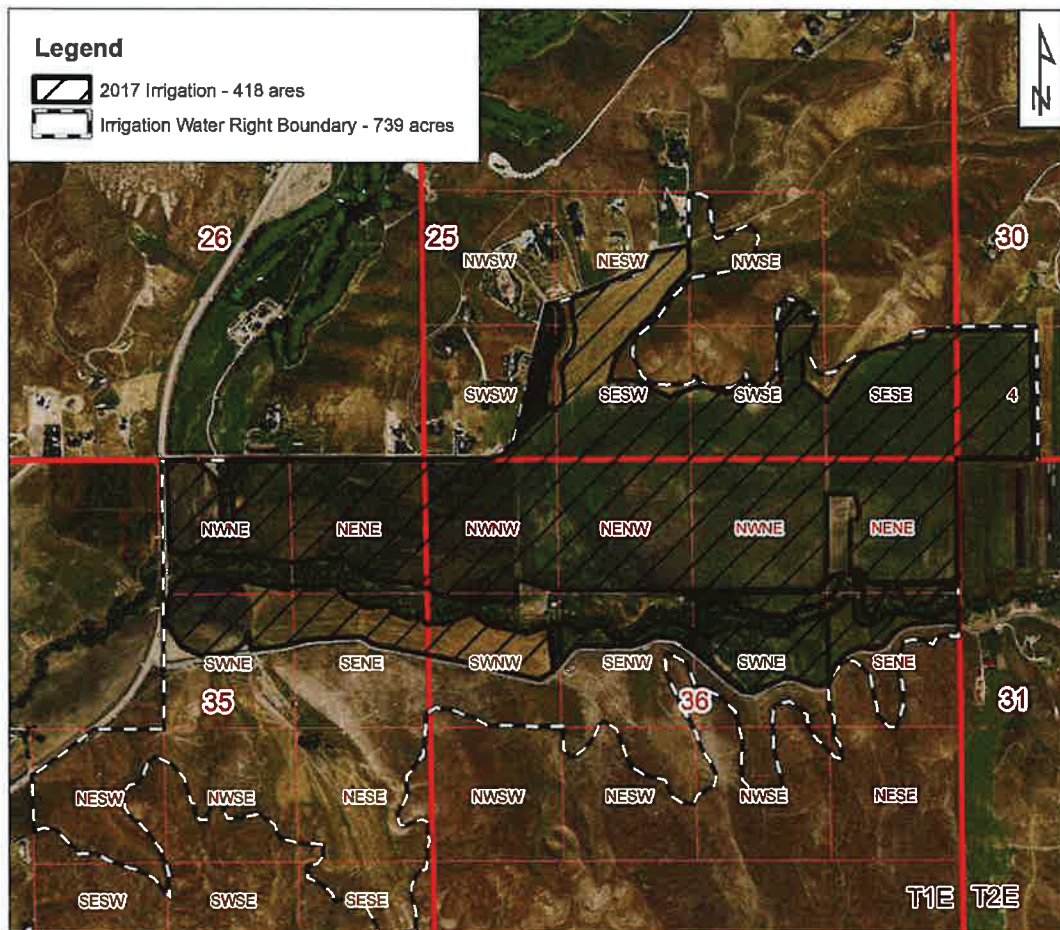


Figure 3: 2017 Aerial Imagery

The 2017 aerial imagery supports irrigation of at least 404 acres as shown in Figure 3.



Summary

Aerial imagery indicates DCR development started replacing irrigation beginning in 2018. The 5-year forfeiture clock for irrigation retired in 2018 expires December 31, 2023 based on IDWR forfeiture policy. Use of surface water under water right 63-17454 was resumed in 2023 and will continue to be used, thereby protected from forfeiture. As a result, all other non-use irrigation acres from 2018 to date are within the 5-year window and can be leased to the Idaho Water Supply Bank prior to December 31, 2023 for forfeiture protection and mitigation availability for permit 63-32423. Table 1 provides a summary of water use on a yearly basis including mitigation plan acres.

Table 1: Decreed Acre Distribution Summary

Year	Agricultural Irrigation	Irrigation with Irrigation Water Rights	Acres in Mitigation Plan	Non-Use Acres	5-Year Forfeiture Risk Acres
2016	398	398	0	6	0
2017	418	418	0	-14	0
2018	260	260	0	144	0
2019	180	126	95	183	0
2020	186	135	128.5	140.5	0
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2022	82	39	177.1	187.9	0
2023	123	123	215.7	65.3	65.3

The “5-Year Forfeiture Risk Acres” column describes the portion of the 404-acre irrigation water right portfolio that has had five consecutive years of non-use through irrigation or being dedicated to mitigation.

For protection from forfeiture, Dry Creek Water Company seeks to lease 65.3 (rounded to 65) acres to the Water Supply Bank authorized under overlapping water rights 63-2535, 63-4023B, 63-4086B, 63-7123 and 63-17454. IDWR’s mitigation review spreadsheet (included as Attachment 4E) was used to calculate the water right portions offered for lease. Right 63-32266 was not included since it has been fully dedicated to mitigation.

As development of DCR progresses, the number of irrigated, mitigated, leased and non-use acres will be determined annually, with new non-use acres considered for lease to the Water Supply Bank as appropriate.



RECEIVED
DEC 28 2023
DEPARTMENT OF
WATER RESOURCES

December 28, 2023

Bob Howe
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

**Subject: Water Bank Lease Applications – 63-2535 (amended), 63-4023B (amended)
63-4086B, 63-7123, 63-17454**

Dear Bob,

Per your request, enclosed are water bank lease applications for the above water rights. Although not required, amended lease applications for 63-2535 and 63-40323B previously submitted are also included to insure consistency. The requested lease period is 2 years, including 2023. Attachments 4E and 4G that follow this cover letter are applicable to all five applications.

The lease amounts/right shown in attachment 4E were calculated based on the spreadsheet Phill Hummer used for determining the water rights' mitigation amounts. I will email you the excel spreadsheet so you can see how the lease amounts were calculated. As noted in your email, the fees and map have been previously provided. Please let me know if you have any questions. Thanks Bob.

Sincerely,

HDR Engineering, Inc.

Lori Graves

Lori Graves
Sr. Water Rights Specialist

Cc: Ann Dickey, Boise Hunter Homes

Enclosers: Attachments 4E & 4G, WB lease applications (5)

Project: 10372280

hdrinc.com

HDR, 412 E Parkcenter Blvd, Suite 100, Boise, ID 83706
(208) 387-7000

MEMORANDUM FOR APPLICATION # 2713

To: Water Right(s) 63-2535, 63-4023B
From: Bob Howe
Date: 09/01/2023
Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

PURPOSE/NARRATIVE:

The complete 2023 application for lease and fee for the full water right 63-2535 and a portion of water right 63-4023B, leasing a total of 65.3 acres. was received on August 8th, 2023. The purposed lease is for a term of 2 years. As these rights are a part of a combined limit for Water rights (WR) 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, & 63-32266 have a combined limit on each decree of 7.84cfs and 1764 AF for the irrigation of 404 acres. Additionally, WR 63-32266 is an enlargement of all the rights within the combined limit. Therefore, it is necessary for Dry Creek Water Company LLC (DCWC) to lease portions of all rights within the PPU. As a \$500 fee was already submitted by the applicant no further payment is necessary (receipt C116858). I emailed the applicant's representative on September 5th, 2023, requesting that they submit lease applications for all 6 rights of the combined limit, with the request I attached a map of the purposed lease area (idled acres). The map was included in response to the representative's previous request that we select 65.3 idled acres for the lease from the idled areas outlined on the maps submitted for irrigation and mitigation in 2023. The mitigation documentation for permit 63-32423 did not include a map detailing the mitigation area within the PPU; documentation only stated that there were 215.7 acres of mitigation within the PPU. After the portions mitigated of each right were clarified a calculation was made to determine the proportionate amounts of each right to be idled for the lease.

AUTHORITY TO FILE:

The lease application was signed by James H. Hunter, manager of Dry Creek Water Company LLC. As no ownership documentation was included in the application, I ran a business search via the IDSOS (Idaho Secretary of State) website to confirm James H. Hunter has authority to sign on behalf of Dry Creek Water Company. According to Ada County parcel records the parcels the purposed lease acres are located within are owned by BHH Investors 1414, LLC. A business search on the IDSOS website located 2023, annual report listing James H. Hunter as the manager of BHH Investors 1414, LLC. There no signing authority concerns for the purposed lease.

WATER RIGHT VALIDITY:

This application is for a purposed full lease of WR 63-2535 and partial lease of WR 63-4023B, to lease a combined 1.2cfs and 292.5AF by idling 65.3 acres within the PPU shared by these rights. Historical aerial imagery submitted by the applicant indicated irrigation at the acres purposed to be idled from 2016-2022. I was able to confirm the areas with GIS imagery. No concerns with validity of the water right and portion offered to the bank.

ENLARGEMENT OF USE:

WR 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, & 63-32266 have a combined limit of 3.53 cfs and 793.4 AF for the irrigation of 188.3 acres after mitigation was brought up to date on the decreed rights. Right 63-32266 is an enlargement right which is now fully mitigated, and all other rights of the combined limit are within a PPU. A portion of each right will be leased into the water supply bank to account for the overlap of each right on the 65.3 acres to be idle. The lease is only needed for 2 years as a mitigation plan is currently being processed via permit 63-32423 to allow for the continued development of municipal use for Dry Creek Ranch.

LOCAL PUBLIC INTEREST:

Review staff have 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 purposed lease PODs are within Water District #63 and the Basin 63 Ground Water Restricted Area upstream of the Star bridge tributary to the Boise River. A copy of the purposed lease contract, map and application were attached to a comment request emailed to the watermaster, Mike Myers.



DRY CREEK WATER COMPANY, LLC

RECEIVED

JAN 29 2024

DEPT. OF WATER RESOURCES

January 26, 2024

Mr. Bob Howe
Idaho Department of Water Resources
Water Supply Bank
PO Box 83720
Boise ID 83720-0098

Attached please find two executed originals of the Water Supply Bank Lease Contract No. 1793. Please sign and return an executed original to the address on file.

Please let me know if there are any questions or concerns.

All the best,

Ann Dickey
Water and Sewer Manager



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

February 1, 2024

DRY CREEK WATER COMPANY LLC
923S BRIDGEWAY PL
EAGLE, ID 836161-6098

**RE: WATER SUPPLY BANK LEASE CONTRACT 1793
FOR WATER RIGHT 63-4086B,63-7123,63-17454,63-32266,63-2535**

Dear Lessor:

Water right **63-4086B,63-7123,63-17454,63-32266,63-2535** 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, 2023**, 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,
Signature

Technical Records Specialist I
Enclosure: Executed Lease Contract

c: IDWR- Western Region Office
Water District No. 63

Water Bank Lease Attachment 4E

IDWR Calc Sheet for Mitigation Allocation (HDR WB Additions in Red)

[illegible]

Table 7. Acres Used for Mitigation, 2023

[illegible]