DRY CREEK WATER COMPANY, LLC

February 15, 2024

RECEIVED
FEB 20 2024
DEPT. OF WATER RESOURCES

Ms. Ashley Ritter
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

**RE: Permit 63-32423 - Mitigation Planning Report, 2024**

Dear Ms. Ritter,

Pursuant to the conditions of water permit 63-32423, Dry Creek Water Company, LLC (DCWC) is submitting our proposed mitigation plan for 2024. This letter serves as the fourth annual mitigation plan and includes total recorded diversion volumes for 2023.

## Background

Water permit 63-32423 was originally issued to JMM Dry Creek (JMM) in March 2010, and subsequently assigned to BHH Investors 1414 LLC (BHH) on August 31, 2016. BHH then assigned the permit to Dry Creek Water Company, LLC (DCWC) on January 30, 2018.

Permit 63-32423 allows the diversion of up to 5 cfs of groundwater for municipal use within the Dry Creek Ranch community currently under development by Boise Hunter Homes (BHH) in northern Ada County, Idaho. Water is diverted under this permit from a pair of municipal production wells. Both wells used as diversion points under 63-32423 are equipped with flow meters and totalizers that were used for this report.

The permit application was protested by the Dry Creek Rural Neighborhood Association (DCRNA) and several conditions were added to the permit to resolve the protest. Condition 14 requires the submission of an annual mitigation plan to IDWR by February 15 of each calendar year in which water is diverted under the permit. The mitigation plan must demonstrate a reduction in the irrigated area under water rights 63-2535, 63-4023B, 63- 4086B, 63-7123, 63-17454, and 63-32266 correlating to the anticipated municipal use for the upcoming year. Specifically, Condition 14 requires the following steps be taken in preparing the annual mitigation plan:

a. Identify and estimate a diversion rate and volume for all uses under the right that will exceed the individual domestic use limits as defined by Idaho Code § 42-111(1)(a) and (b) during the year. Uses under this right that exceed the individual use limits of Idaho Code § 42-111(1)(a) and (b) are considered to be 100% consumptive. Such uses shall be mitigated through reduction of one acre of irrigation use under water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 for each 2.7 acre-feet of water diverted under this right.

b. Identify all uses under the right that will meet the individual domestic use limits as defined by Idaho Code § 42-111(1)(a) and (b) during the year and estimate an annual diversion volume for these uses. Such uses shall be mitigated through reduction of one acre of irrigation use under water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 for each 4.5 acre-feet of water diverted under this right.

c. Reduce the number of acres to be irrigated under Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 sufficiently to provide the required mitigation for items "a" and "b" above.

d. Report to the Department the volume of water to be used for municipal purposes in connection with this permit during the year.

e. Report the number of acres required to mitigate for the municipal use, along with the water right numbers, diversion rates, and annual diversion volumes associated with those acres.

f. Report the location of the lands that will be irrigated during the forthcoming irrigation season with water diverted under Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266. The location shall be reported in map, GIS shapefile, and PLS tabular forms.

## 2023 Estimated vs Measured Diversion Volumes

The 2023 Mitigation Planning Report provided estimates for domestic, municipal, and combined water usage. Table 1 presents a comparison of measured and estimated volumes by month for calendar year 2023. Actual usage was 299.2 ac-ft lower than estimated due to a reduction in alfalfa irrigation from the municipal system and a downturn in the housing market.

**Table 1. 2023 Estimated vs Actual Monthly Diversion Volumes**

| | Estimated 2023 Municipal Uses | | | Actual 2023 Municipal Use | | |
|---|---|---|---|---|---|---|
| Month | Domestic (ac-ft) | Non-Domestic (ac-ft) | Total (ac-ft) | Measured (MGal) | Measured (ac-ft) | Difference (ac-ft) |
| January | 4.0 | 2.10 | 6.10 | 1.9 | 5.9 | 0.2 |
| February | 3.7 | 2.10 | 5.77 | 2.0 | 6.2 | -0.4 |
| March | 4.6 | 2.25 | 6.82 | 2.2 | 6.6 | 0.2 |
| April | 6.8 | 9.70 | 16.54 | 3.5 | 10.7 | 5.8 |
| May | 26.9 | 31.70 | 58.63 | 17.0 | 52.2 | 6.4 |
| June | 32.8 | 55.70 | 88.55 | 21.3 | 65.4 | 23.1 |
| July | 96.4 | 96.80 | 193.17 | 31.0 | 95.1 | 98.0 |
| August | 93.4 | 88.90 | 182.34 | 25.2 | 77.3 | 105.1 |
| September | 46.8 | 42.80 | 89.61 | 21.2 | 65.2 | 24.5 |
| October | 48.8 | 20.00 | 68.79 | 9.9 | 30.4 | 38.4 |
| November | 4.5 | 3.60 | 8.13 | 2.7 | 8.4 | -0.3 |
| December | 5.2 | 2.40 | 7.62 | 3.1 | 9.5 | -1.9 |
| | **374.0** | **358.0** | **732.0** | **141.1** | **432.9** | **299.2** |

The reduction in alfalfa irrigation from the municipal system occurred because the agricultural irrigation system was modified in June 2023 to move the source of irrigation of approximately 50 acres of alfalfa from Municipal Wells #1 and #2 to the Big Pump Well (an authorized point of diversion for DCWC irrigation water rights water rights 63-2535, 63-4023B, 63- 4086B, 63-7123, and 63-32266). Land development of future housing phases was paused during the 2023 market downturn, so no water was used for dust control. As a result, only 12.4 ac-ft of municipal water was used for alfalfa irrigation and dust control during the year, compared to the estimate of 182 ac-ft. Domestic water usage was 78.1 ac-ft less than anticipated due to lower-than-expected home sales.

## Estimated Annual Diversion Volume for Municipal Uses in 2024

"Domestic municipal use" is defined as water use from the municipal water system that meets the individual domestic use limits as defined by Idaho Code § 42-111(1)(a) and (b). As of December 31, 2023 there were 525 service connections to the municipal system including occupied homes, homes under construction, mow strips, common areas, and the wastewater treatment plant. Meter data for the full 2022 calendar year from 275 connections was used to estimate average usage by service meter type. Data from these meters was separated into three groups:

- Large lots consisting of one-acre and half-acre parcels
- Medium/Small Lots consisting of 8,500 and 6,500 square-foot parcels
- Common areas and parks consisting of landscaped areas

Table 2 lists the 2022 average daily usage for each of the meter groups. Data from the table was used to estimate 2024 usage based on the forecasted home sales.

**Table 2. Daily Water Demands by Service Meter Type based on 2022 Meter Data**

| **2023 Metered Usage** | |
|---|---|
| **Land Use** | **Average Daily Water Use (gal/day/unit) or (gal/day/acre)** |
| Large Lots (1 to 1/2 acre) | 1030 |
| Medium to Small Lots (85, 65) | 530 |
| Common Areas (Parks/Streetscape) | 3550 |

"Non-domestic municipal use" is defined as water use from the municipal water system that exceeds the individual domestic use limits as defined by Idaho Code § 42-111(1)(a) and (b). DCWC utilizes the two municipal wells to irrigate approximately 29 acres of landscaped common areas, for dust control during land development, and wastewater treatment plant operations. See Table 3 for 2024 estimated domestic and non-domestic municipal use.

Four homes on large lots have irrigated landscape areas that are larger than ½-acre in size and exceed the individual domestic use limits. These homes are located at the following addresses:

14200 N Lofton Way
14300 N Lofton Way

8310 W. Mirror Pond
8232 W. Mirror Pond

The landscaped area in excess of 0.5 acres for each of these four homes was added to the total area of the common lots to account for the excess usage as non-domestic municipal use.

**Table 3. 2024 Estimated Municipal Water Use**

| Month | Small/ Medium Lots | Large Lots | Estimated Domestic Use (ac-ft) | Common Lots (ac-ft) | Sewer (ac-ft) | Dust Control | Est. Non-Domestic Use (ac-ft) | Estimated Municipal Use (ac-ft) |
|---|---|---|---|---|---|---|---|---|
| January | 508 | 38 | 51 | 0 | 3.1 | 0 | 3 | 54 |
| February | 515 | 40 | 48 | 0 | 3.1 | 0 | 3 | 52 |
| March | 530 | 43 | 53 | 0 | 3.1 | 0 | 3 | 56 |
| April | 542 | 46 | 53 | 2 | 3.2 | 0.5 | 6 | 59 |
| May | 550 | 48 | 56 | 8 | 3.2 | 0.5 | 12 | 67 |
| June | 561 | 50 | 55 | 19 | 3.3 | 2 | 24 | 79 |
| July | 565 | 54 | 57 | 30 | 3.3 | 2 | 35 | 93 |
| August | 567 | 58 | 58 | 26 | 3.4 | 3 | 32 | 90 |
| September | 571 | 60 | 56 | 11 | 3.4 | 3 | 17 | 74 |
| October | 581 | 62 | 59 | 3 | 3.5 | 2 | 9 | 68 |
| November | 598 | 64 | 59 | 1 | 3.5 | 0 | 5 | 64 |
| December | 605 | 65 | 62 | 0 | 3.5 | 0 | 4 | 65 |
| | | | **667** | **100** | **40** | **13** | **153** | **820** |

The estimated diversion volumes for the 2024 mitigation plan will be compared with the actual diversions at the end of the year. If the estimates are significantly different from the actual diversions, the per day domestic usage will be reevaluated for the 2025 mitigation plan.

## Estimated Combined Annual Diversion Volume for 2024

Based on the analysis presented above, total use from the municipal water system during 2024 is projected to be 820 acre-feet with 667 acre-feet attributed to domestic water uses and 153 acre-feet for non-domestic uses.

## Mitigation Area

To satisfy the permit conditions for 63-32423, the number of acres irrigated under DCWC's irrigation water rights (63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266) must

be reduced for a given year based on the estimated domestic and non-domestic municipal water usage under 63-32423. 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. To mitigate for the 2024 estimated non-domestic municipal diversion volume of 182 acre-feet, the irrigated area must be reduced by 56.5 acres. An additional 148.3 acres must be removed from the irrigated area to mitigate the estimated domestic municipal diversion volume of 667 acre-feet. This brings the total mitigation acreage to 204.8 acres (Table 4).

**Table 4. 2024 Mitigation Summary**

| Water Use | Diversion Estimate | Reduction Unit | Mitigation Acres |
|---|---|---|---|
| Municipal | 153 | 2.7 | 56.5 |
| Domestic | 667 | 4.5 | 148.3 |
| | | **Total** | **204.8** |

The 2024 estimate is 10.9 acres less than the 215.7 acres estimated in the 2023 mitigation report. In November 2023, IDWR updated water rights 63- 2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 to remove the 215.7 acres dedicated to mitigation by non-use. DCWC will continue to use the 2023 mitigation estimate of 215.7 acres rather than request a small change to each of the irrigation rights. DCWC anticipates that the rate, volume, and acre of each water right that is permanently dedicated to mitigation will be adjusted at time of 63-32423 licensing in March 2025 to accurately reflect the appropriate mitigation requirement.

DCWC's irrigation rights authorize irrigation on a combined total of 404 acres in a single irrigation season within a 739-acre permissible place of use, as tabulated in Table 5. After accounting for 215.7 acres of mitigation, the allowable irrigation area for 2024 is 188.3 acres. The forecasted irrigated area is approximately 105.1 acres, as tabulated in Table 6. A 65.3-acre portion of the water rights portfolio was placed in the Idaho Water Supply Bank for forfeiture protection, as tabulated in Table 7. The combined 170.4 acres of proposed irrigation and water bank lease areas is less than the 188.3 acres remaining, indicating that sufficient acreage has been removed from irrigated use.

**Table 5. Place of Use for Irrigation at Dry Creek Ranch**

| TWP | RGE | SEC | NE | | | | NW | | | | SW | | | | SE | | | | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | |
| 5N | 1E | 25 | | | | | | | | | 14.4 | 0.4 | 9 | 35.7 | | 10.9 | 29.7 | 32.8 | 132.9 |
| | | 35 | 40.3 | 37 | 39.2 | 40.3 | | | | | 27.9 | | | 1.9 | 36.4 | 25.7 | 0.4 | 15.8 | 264.9 |
| | | 36 | 40.5 | 40.5 | 34.9 | 20.2 | 40.5 | 40.5 | 38.9 | 37.9 | 13 | | | | 1.2 | 8.9 | | | 317 |
| 5N | 2E | 30 | | | | | | | | | | | 24.2 | | | | | | 24.2 |
| | | | | | | | | | | | | | | | | | | | 739 |

**Table 6. Acres to be Irrigated with Decreed Irrigation Rights, 2024**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| T | R | S | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Total |
| 5N | 1E | 25 | | | | | | | | | | | | | | | | 17.3 | 17.3 |
| | | 35 | | 12.0 | 9.9 | 2.3 | | | | | | | | | | | | | 24.2 |
| | | 36 | | 5.9 | 15.7 | 5.0 | | | 11.5 | 3.4 | | | | | | | | | 41.5 |
| 5N | 2E | 30 | | | | | | | | | | | 22.1 | | | | | | 22.1 |
| | | | | | | | | | | | | | | | | | | | 105.1 |

**Table 7. Water Bank Lease #1793**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| T | R | S | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Total |
| 5N | 1E | 35 | | | | | | | | | | | | | 35.0 | 18.0 | | 12.3 | 65.3 |
| | | | | | | | | | | | | | | | | | | | 65.3 |

Table 8 tabulates the 215.7 acres to be used for mitigation in 2024. Attachment A depicts the licensed place of use under DCWC's irrigation rights, the area being irrigated under the decreed irrigation rights in 2024, the area assigned to Water Bank Lease No. 1793, and the acres proposed to be used for mitigation in 2024. An aerial image from 2023 is used as the background for the figure.

**Table 8. Acres Used for Mitigation, 2024**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| T | R | S | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Total |
| 5N | 1E | 25 | | | | | | | | | 14.4 | 0.4 | 9.0 | 35.7 | | | 7.2 | | 66.7 |
| | | 35 | 34.6 | 14.9 | | | | | | | | | | | | | | | 49.5 |
| | | 36 | | 12.4 | | | 40.5 | 40.5 | 3.2 | 2.9 | | | | | | | | | 99.5 |
| 5N | 2E | 30 | | | | | | | | | | | | | | | | | 0 |
| | | | | | | | | | | | | | | | | | | | 215.7 |

## Water Right Mitigation

The combined diversion volume for domestic and non-domestic municipal uses of water under permit 63-32423 in 2024 is projected to be 820 acre-feet. This volume of water is mitigated by the required reduction of 215.7 irrigated acres from combined water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266. Substantially more than 215.7 acres have already been removed from the irrigation system, and additional acreage will be removed from irrigation in future years as water use in the subdivision continues to increase.

The combined diversion rate for DCWC's water rights portfolio is 7.48 cfs with a combined annual volume limit of 1,764 acre-feet on a maximum of 404 irrigated acres. After reducing acres and diversion rates for mitigation by non-use, updated documents for water rights 63-

2535, 63-4023B, 63-4086B, 63-7123, 63- 17454, and 63-32266 show combined limits of 793.0 ac-ft on 188.3 acres at a diversion rate of 3.530 cfs.

## Summary

1. Municipal diversion volume for 2024 is projected to be 820 acre-feet with 667 acre-feet attributed to domestic water uses and 358 acre-feet for non-domestic uses.
2. To mitigate for the 2024 estimated municipal diversion volume of 820 acre-feet, the irrigated area from combined water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-3226 has been reduced by 215.7 acres. Substantially more than 215.7 acres have already been removed from irrigation, so the mitigation requirement is being met.
3. Due to the 215.7-acre mitigation reduction and Water Bank Lease #1793, the allowable diversion rate and volume from 2024 combined irrigation water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 will be 2.31 cfs and 518 acre-feet for irrigation of 123 acres.
4. The 2024 mitigation acres are illustrated on the exhibit in Attachment A. Copies of Permit 63-32423, Water Bank Lease #1793 and updated water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 are included in Attachment B.
5. DCWC anticipates that the rate, volume, and acres of each water right that is permanently dedicated to mitigation will be adjusted at time of 63-32423 licensing in March 2025 to accurately reflect the appropriate mitigation requirement.

Please call me at 208-297-9808 with any questions or concerns.

Ann Dickey

Ann Dickey, PE
Water and Sewer Manager

# Attachment A
# 2024 Mitigation Planning Map

Dry Creek Water Company
2024 Mitigation Planning Map
Legend
Irrigated Acres, 2024
Acres Used for Mitigation, 2024
Irrigation Water Right Boundary
Water Bank Lease #1793
Google Earth
Image © 2024 Airbus
4000 ft
N

# Attachment B
# Permit #63-32423
# Updated Water Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266
# Water Bank Lease #1793

State of Idaho
Department of Water Resources

# Permit to Appropriate Water

NO. 63-32423

Priority: August 22, 2006

Maximum Diversion Rate: 5.00 CFS
Maximum Diversion Volume: 1,764.0 AF

This is to certify, that JMM DRY CREEK LLC
C/O LAND BARON INVESTMENTS
5275 S DURANGO DR
LAS VEGAS NV 89113

has applied for a permit to appropriate water from:

**Source:** GROUND WATER

and a permit is APPROVED for development of water as follows:

| BENEFICIAL USE | PERIOD OF USE | RATE OF DIVERSION | ANNUAL VOLUME |
|---|---|---|---|
| MUNICIPAL | 01/01 to 12/31 | 5.00 CFS | 1,764.0 AF |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER NE¼NE¼ Sec. 36, Twp 05N, Rge 01E, B.M. ADA County
GROUND WATER NE¼NE¼ Sec. 36, Twp 05N, Rge 01E, B.M. ADA County

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2015.**
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Place of use is within the area served by the public water supply system of JMM Dry Creek LLC. The place of use is generally located within Sections 1 and 2, Township 4 North, Range 1 East; Sections 25, 35, and 36, Township 5 North, Range 1 East; and Section 30, Township 5 North, Range 2 East; B.M.
6. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustrative purposes.
7. Water bearing zone to be appropriated is 100 ft. to 300 ft. below ground surface.
8. The right holder shall maintain a totalizing measuring device of a type approved by the Department as a part of the diverting works.
9. After specific notification by the Department, the right holder shall report to the Department the amount of water diverted annually in connection with this right.
10. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
11. Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, 63-32266, and 63-32423 when combined shall not exceed a total diversion rate of 7.84 cfs and a total annual maximum diversion volume of 1764.0 af at the field headgate.
12. The right holder shall carry out the "Dry Creek Ranch Aquifer Monitoring Plan: April 2008." See Exhibit E of the January 14, 2009, Water Rights Agreement between Dry Creek Rural Neighborhood Association and JMM Dry Creek LLC.

State of Idaho
Department of Water Resources

# Permit to Appropriate Water

NO. 63-32423

CONDITIONS OF APPROVAL CONTINUED

13. To prevent injury to senior water right holders:
    a. Diversion under this right shall be initially limited to 1,234.8 af (70% of 1764.0 af) for a minimum period of three years and until such time that the right holder can demonstrate to the Director that the aquifer can sustain greater diversions under the right. Demonstration shall require (1) a minimum of two years with recorded annual diversions under the right in excess of 1,000 afa, (2) water levels at a well in the NENE, Sec. 36, T05N, R01E, B.M., also known as the Jeker Big Pump well and as USGS well no. 05N01E36AAB1, (or an acceptable replacement well) that recover on an annual basis to at least 60 feet below ground surface, and (3) water-level monitoring for other wells monitored by the right holder in accordance with condition no. 12 does not show water level declines that would injure senior water rights owners.
    b. Upon successful demonstration to the Director of sustainable aquifer capacity to support diversions under this right in excess of 1,234.8 afa, the right holder may increase the annual volume diverted under the right up to a maximum of 1764 afa.
    c. The Director shall have the authority to reduce the annual diversion volume limits under this right at any time upon (1) a showing that diversions under the right are injuring senior water rights and (2) failure of the right holder to adequately mitigate injury to senior water rights to the satisfaction of the Director.
    d. The diversion volume limits under right 63-32423 shall not be reduced or limited due to water-level declines or injury to senior rights resulting from diversions under water rights with priority dates junior to right 63-32423.
    e. This condition is not intended to establish a reasonable pumping level pursuant to Idaho Code § 42-226.
14. For this condition, the term "use" shall be defined as the water delivered to and used on a single parcel of land identified in the county records and served water under this right. No later than February 15 of each calendar year during the authorized development period for this permit, the right holder shall:
    a. Identify and estimate a diversion rate and volume for all uses under the right that will exceed the individual domestic use limits as defined by Idaho Code § 42-111(1)(a) and (b) during the year. Uses under this right that exceed the individual use limits of Idaho Code § 42-111(1)(a) and (b) are to be considered 100% consumptive. Such uses shall be mitigated through reduction of one acre of irrigation use under water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 for each 2.7 acre feet of water diverted under this right.
    b. Identify all uses under the right that will meet the individual domestic use limits as defined by Idaho Code § 42-111(1)(a) and (b) during the year and estimate an annual diversion volume for these uses. Such uses shall be mitigated through reduction of one acre of irrigation use under water rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 for each 4.5 acre feet of water diverted under this right.
    c. Reduce the number of acres to be irrigated under Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266, sufficiently to provide the required mitigation for items "a" and "b" above.
    d. Report to the Department the volume of water to be used for municipal purposes in connection with this permit during the year.
    e. Report the number of acres required to mitigate for the municipal use, along with the water right numbers, diversion rates, and annual diversion volumes associated with those acres.
    f. Report the location of the lands that will be irrigated during the forthcoming irrigation season with water diverted under Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266. The location shall be reported in map, GIS shapefile, and PLS tabular forms.

State of Idaho
Department of Water Resources

# Permit to Appropriate Water

NO. 63-32423

**CONDITIONS OF APPROVAL CONTINUED**

15. Once designated in an annual report as mitigation for the use of water for municipal purposes under this right, irrigation of designated lands under Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 shall not be resumed unless this right is reduced through the appropriate administrative or legal process, as determined by the Department.
16. Upon receiving the right holder's annual report, the Department will change the official records for Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266 to show where diversion and use of water is not authorized because the rights, or portions thereof, are being dedicated to mitigation purposes.
17. The owner of Right 63-32423 shall maintain ownership of the mitigation portions of Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454, and 63-32266.
18. The diversion and use of water described in Right 63-32423 may be subject to additional limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
19. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 3rd day of March, 20 10.

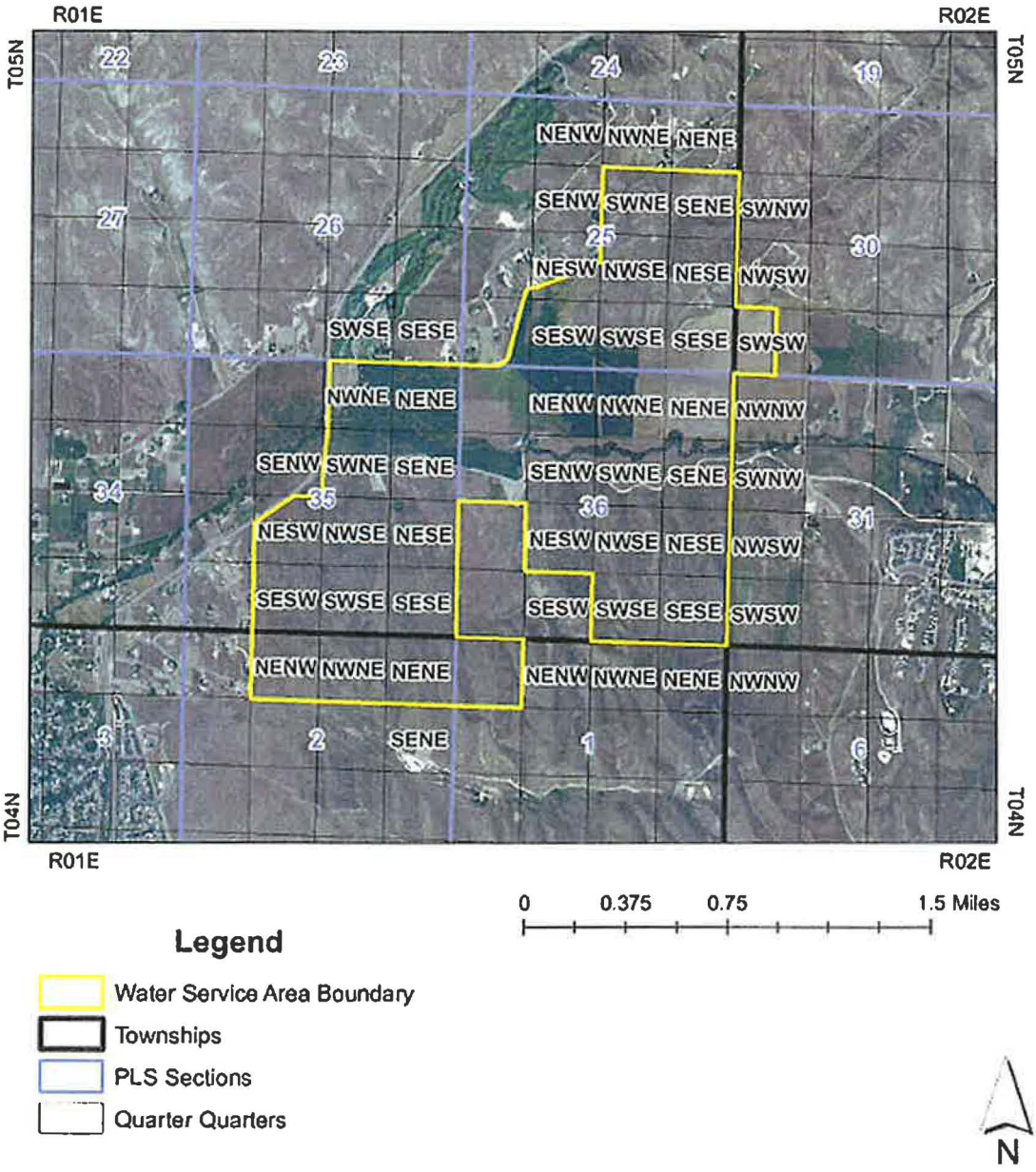
Shelley W. Keen
for GARY SPACKMAN, Interim Director

State of Idaho
Department of Water Resources

# Permit to Appropriate Water

63-32423

Water Service Area Boundary for Jmm Dry Creek Llc



**IDAHO DEPARTMENT OF WATER RESOURCES** **11/2/2023**
**Proof Report**

**Water Right 63-2535**

| **Owner Type** | **Name and Address** |
|---|---|
| Current Owner | DRY CREEK WATER COMPANY LLC<br>923 S BRIDGEWAY PL<br>EAGLE, ID 83616-6098<br>(208) 577-5501 |

**Priority Date:** 8/24/1937
**Basis:** Decreed
**Status:** Active

| **Source** | **Tributary** |
|---|---|
| GROUND WATER | |

| **Beneficial Use** | **From** | **To** | **Diversion Rate** | **Volume** |
|---|---|---|---|---|
| IRRIGATION | 03/01 | 11/15 | 0.340 CFS | 75.7 AF |
| DOMESTIC | 01/01 | 12/31 | 0.020 CFS | |
| MITIGATION BY NON-USE | 03/01 | 11/15 | 0.360 CFS | 81.8 AF |
| | **Total Diversion** | | 0.700 CFS | 157.5 AF |

**Source and Point(s) of Diversion:**

| | | |
|---|---|---|
| GROUND WATER | NENE | Sec. 35, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |

**Place Of Use:**

MITIGATION BY NON-USE within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | X | X | X | X | | | X | | |
| 05N | 01E | 35 | X | X | | | | | | | | | | | | | | | |
| 05N | 01E | 36 | | X | | | X | X | X | X | | | | | | | | | |

DOMESTIC within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 35 | X | X | X | | | | | | | | | | | | | | |

IRRIGATION within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | | | | | | 11.0 | 23.0 | 33.0 | 67.0 |
| 05N | 01E | 35 | 6.2 | 22.0 | 39.0 | 40.0 | | | | | 28.0 | | | 1.9 | 36.0 | 26.0 | 0.4 | 16.0 | 215.5 |
| 05N | 01E | 36 | 40.0 | 28.0 | 35.0 | 20.0 | | | 36.0 | 35.0 | 13.0 | | | | 1.2 | 8.9 | | | 217.1 |
| 05N | 02E | 30 | | | | | | | | | | | 24.0 | | | | | | 24.0 |

Right Acre Limit: 16.80
POU Total Acres: 523.6

**Conditions of Approval:**

| | | |
|---|---|---|
| 1. | T07 | The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval. |
| 2. | T08 | Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer. |
| 3. | T19 | Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree. |
| 4. | 046 | Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department. |
| 5. | 01M | 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. |
| 6. | X27 | This right is limited to the irrigation of 16.8 acres within the place of use described above in a single irrigation season. |
| 7. | X35 | Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 3.53 cfs, a total annual maximum diversion volume of 793 af at the field headgate, and the irrigation of 188.3 acres in a single irrigation season. |

**Combined Use Limits:**

| Rate | Volume | Acres | Water Rights |
|---|---|---|---|
| 3.530 | 793.0 | 188.3 | 63-17454 ,63-2535 ,63-4086B ,63-7123 ,63-4023B |

**IDAHO DEPARTMENT OF WATER RESOURCES** **11/2/2023**
**Proof Report**

**Water Right 63-4023B**

| **Owner Type** | **Name and Address** |
|---|---|
| Current Owner | DRY CREEK WATER COMPANY LLC<br>923 S BRIDGEWAY PL<br>EAGLE, ID 83616-6098<br>(208) 577-5501 |

**Priority Date:** 7/1/1927
**Basis:** Decreed
**Status:** Active

| **Source** | **Tributary** |
|---|---|
| GROUND WATER | |

| **Beneficial Use** | **From** | **To** | **Diversion Rate** | **Volume** |
|---|---|---|---|---|
| IRRIGATION | 03/01 | 11/15 | 1.440 CFS | 389.0 AF |
| STOCKWATER | 01/01 | 12/31 | 0.040 CFS | |
| MITIGATION BY NON-USE | 03/01 | 11/15 | 1.560 CFS | 421.0 AF |
| | **Total Diversion** | | 3.000 CFS | 810.0 AF |

**Source and Point(s) of Diversion:**

| | | |
|---|---|---|
| GROUND WATER | NENE | Sec. 35, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |

**Place Of Use:**

MITIGATION BY NON-USE within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | X | X | X | X | | | X | | |
| 05N | 01E | 35 | X | X | | | | | | | | | | | | | | | |
| 05N | 01E | 36 | | X | | | X | X | X | X | | | | | | | | | |

STOCKWATER within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 26 | | | | | | | | | | | | | | | X | X | |
| 05N | 01E | 35 | X | X | X | X | | | | | | | | | | | | | |
| 05N | 01E | 36 | | | | | X | X | X | X | | | | | | | | | |

IRRIGATION within ADA County

**IDAHO DEPARTMENT OF WATER RESOURCES** **11/2/2023**

**Proof Report**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | | | | | | 11.0 | 23.0 | 33.0 | 67.0 |
| 05N | 01E | 35 | 6.2 | 22.0 | 39.0 | 40.0 | | | | | 28.0 | | | 1.9 | 36.0 | 26.0 | 0.4 | 16.0 | 215.5 |
| 05N | 01E | 36 | 40.0 | 28.0 | 35.0 | 20.0 | | | 36.0 | 35.0 | 13.0 | | | | 1.2 | 8.9 | | | 217.1 |
| 05N | 02E | 30 | | | | | | | | | | | 24.0 | | | | | | 24.0 |

Right Acre Limit: 86.50
POU Total Acres: 523.6

**Conditions of Approval:**

| | | |
|---|---|---|
| 1. | T07 | The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval. |
| 2. | T08 | Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer. |
| 3. | T19 | Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree. |
| 4. | 046 | Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department. |
| 5. | 01M | 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. |
| 6. | X27 | This right is limited to the irrigation of 86.5 acres within the place of use described above in a single irrigation season. |
| 7. | N08 | The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use. |
| 8. | N05 | The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day. |
| 9. | X35 | Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 3.53 cfs, a total annual maximum diversion volume of 793 af at the field headgate, and the irrigation of 188.3 acres in a single irrigation season. |

**Combined Use Limits:**

| Rate | Volume | Acres | Water Rights |
|---|---|---|---|
| 3.530 | 793.0 | 188.3 | 63-17454 ,63-2535 ,63-4086B ,63-7123 ,63-4023B |

**IDAHO DEPARTMENT OF WATER RESOURCES** **11/2/2023**
**Proof Report**

**Water Right 63-4086B**

| **Owner Type** | **Name and Address** |
|---|---|
| Current Owner | DRY CREEK WATER COMPANY LLC<br>923 S BRIDGEWAY PL<br>EAGLE, ID 83616-6098<br>(208) 577-5501 |

**Priority Date:** 7/20/1960
**Basis:** Decreed
**Status:** Active

| **Source** | **Tributary** |
|---|---|
| GROUND WATER | |

| **Beneficial Use** | **From** | **To** | **Diversion Rate** | **Volume** |
|---|---|---|---|---|
| IRRIGATION | 03/01 | 11/15 | 2.400 CFS | 776.0 AF |
| MITIGATION BY NON-USE | 03/01 | 11/15 | 2.600 CFS | 840.0 AF |
| | **Total Diversion** | | 5.000 CFS | 1,615.5 AF |

**Source and Point(s) of Diversion:**

| | | |
|---|---|---|
| GROUND WATER | NENE | Sec. 35, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |

**Place Of Use:**

MITIGATION BY NON-USE within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | X | X | X | X | | | X | | |
| 05N | 01E | 35 | X | X | | | | | | | | | | | | | | | |
| 05N | 01E | 36 | | X | | | X | X | X | X | | | | | | | | | |

IRRIGATION within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | | | | | | 11.0 | 23.0 | 33.0 | 67.0 |
| 05N | 01E | 35 | 6.2 | 22.0 | 39.0 | 40.0 | | | | | 28.0 | | | 1.9 | 36.0 | 26.0 | 0.4 | 16.0 | 215.5 |
| 05N | 01E | 36 | 40.0 | 28.0 | 35.0 | 20.0 | | | 36.0 | 35.0 | 13.0 | | | | 1.2 | 8.9 | | | 217.1 |
| 05N | 02E | 30 | | | | | | | | | | | 24.0 | | | | | | 24.0 |

Right Acre Limit: 172.50
POU Total Acres: 523.6

**Conditions of Approval:**

| | | |
|---|---|---|
| 1. | T07 | The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval. |
| 2. | T08 | Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer. |
| 3. | T19 | Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree. |
| 4. | 046 | Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department. |
| 5. | 01M | 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. |
| 6. | X27 | This right is limited to the irrigation of 172.5 acres within the place of use described above in a single irrigation season. |
| 7. | X35 | Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 3.53 cfs, a total annual maximum diversion volume of 793 af at the field headgate, and the irrigation of 188.3 acres in a single irrigation season. |
| 8. | | Rights 63-4086B and 63-7123 when combined shall not exceed a total annual maximum diversion volume of 776 af at the field headgate, and the irrigation of 172.5 acres in a single irrigation season. |

**Combined Use Limits:**

| Rate | Volume | Acres | Water Rights |
|---|---|---|---|
| 3.530 | 793.0 | 188.3 | 63-17454 ,63-2535 ,63-4086B ,63-7123 ,63-4023B |
| | 776.0 | 172.5 | 63-4086B ,63-7123 |

**IDAHO DEPARTMENT OF WATER RESOURCES** **11/2/2023**
**Proof Report**

**Water Right 63-7123**

| **Owner Type** | **Name and Address** |
|---|---|
| Current Owner | DRY CREEK WATER COMPANY LLC<br>923 S BRIDGEWAY PL<br>EAGLE, ID 83616-6098<br>(208) 577-5501 |

**Priority Date:** 7/11/1968
**Basis:** Decreed
**Status:** Active

| **Source** | **Tributary** |
|---|---|
| GROUND WATER | |

| **Beneficial Use** | **From** | **To** | **Diversion Rate** | **Volume** |
|---|---|---|---|---|
| IRRIGATION | 04/01 | 10/31 | 0.380 CFS | 776.0 AF |
| MITIGATION BY NON-USE | 04/01 | 10/31 | 0.410 CFS | 840.0 AF |
| | **Total Diversion** | | 0.790 CFS | 1,615.5 AF |

**Source and Point(s) of Diversion:**

| | | |
|---|---|---|
| GROUND WATER | NENE | Sec. 35, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |

**Place Of Use:**

MITIGATION BY NON-USE within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | X | X | X | X | | | X | | |
| 05N | 01E | 35 | X | X | | | | | | | | | | | | | | | |
| 05N | 01E | 36 | | X | | | X | X | X | X | | | | | | | | | |

IRRIGATION within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | | | | | | 11.0 | 23.0 | 33.0 | 67.0 |
| 05N | 01E | 35 | 6.2 | 22.0 | 39.0 | 40.0 | | | | | 28.0 | | | 1.9 | 36.0 | 26.0 | 0.4 | 16.0 | 215.5 |
| 05N | 01E | 36 | 40.0 | 28.0 | 35.0 | 20.0 | | | 36.0 | 35.0 | 13.0 | | | | 1.2 | 8.9 | | | 217.1 |
| 05N | 02E | 30 | | | | | | | | | | | 24.0 | | | | | | 24.0 |

Right Acre Limit: 168.60
POU Total Acres: 523.6

**Conditions of Approval:**

| | | |
|---|---|---|
| 1. | T07 | The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval. |
| 2. | T08 | Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer. |
| 3. | T19 | Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree. |
| 4. | 046 | Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department. |
| 5. | 01M | 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. |
| 6. | X27 | This right is limited to the irrigation of 168.6 acres within the place of use described above in a single irrigation season. |
| 7. | X35 | Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 3.53 cfs, a total annual maximum diversion volume of 793 af at the field headgate, and the irrigation of 188.3 acres in a single irrigation season. |
| 8. | | Rights 63-4086B and 63-7123 when combined shall not exceed a total annual maximum diversion volume of 776 af at the field headgate, and the irrigation of 172.5 acres in a single irrigation season. |
| 9. | X61 | 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. |

**Combined Use Limits:**

| Rate | Volume | Acres | Water Rights |
|---|---|---|---|
| 3.530 | 793.0 | 188.3 | 63-17454 ,63-2535 ,63-4086B ,63-7123 ,63-4023B |
| | 776.0 | 172.5 | 63-4086B ,63-7123 |

**IDAHO DEPARTMENT OF WATER RESOURCES** **11/2/2023**

**Proof Report**

**Water Right 63-17454**

| **Owner Type** | **Name and Address** |
|---|---|
| Current Owner | DRY CREEK WATER COMPANY LLC<br>923 S BRIDGEWAY PL<br>EAGLE, ID 83616-6098<br>(208) 577-5501 |

**Priority Date:** 3/20/1938
**Basis:** Decreed
**Status:** Active

| **Source** | **Tributary** |
|---|---|
| DRY CREEK | BOISE RIVER |

| **Beneficial Use** | **From** | **To** | **Diversion Rate** | **Volume** |
|---|---|---|---|---|
| IRRIGATION | 03/01 | 11/15 | 0.820 CFS | |
| MITIGATION BY NON-USE | 03/01 | 11/15 | 0.880 CFS | 199.0 AF |
| | **Total Diversion** | | 1.700 CFS | |

**Source and Point(s) of Diversion:**

| | | |
|---|---|---|
| DRY CREEK | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |

**Place Of Use:**

MITIGATION BY NON-USE within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | X | X | X | X | | | X | | |
| 05N | 01E | 35 | X | X | | | | | | | | | | | | | | | |
| 05N | 01E | 36 | | X | | | X | X | X | X | | | | | | | | | |

IRRIGATION within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | | | | | | 11.0 | 23.0 | 33.0 | 67.0 |
| 05N | 01E | 35 | 6.2 | 22.0 | 39.0 | 40.0 | | | | | 28.0 | | | 1.9 | 36.0 | 26.0 | 0.4 | 16.0 | 215.5 |
| 05N | 01E | 36 | 40.0 | 28.0 | 35.0 | 20.0 | | | 36.0 | 35.0 | 13.0 | | | | 1.2 | 8.9 | | | 217.1 |
| 05N | 02E | 30 | | | | | | | | | | | 24.0 | | | | | | 24.0 |

Right Acre Limit: 40.80
POU Total Acres: 523.6

**Conditions of Approval:**

| | | |
|---|---|---|
| 1. | T07 | The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval. |
| 2. | T08 | Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer. |

| | | |
|---|---|---|
| 3. | T19 | Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree. |
| 4. | R05 | Use of water under this right will 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. |
| 5. | R43 | 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). |
| 6. | X27 | This right is limited to the irrigation of 40.8 acres within the place of use described above in a single irrigation season. |
| 7. | X35 | Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 3.53 cfs, a total annual maximum diversion volume of 793 af at the field headgate, and the irrigation of 188.3 acres in a single irrigation season. |

**Combined Use Limits:**

| Rate | Volume | Acres | Water Rights |
|---|---|---|---|
| 3.530 | 793.0 | 188.3 | 63-17454 ,63-2535 ,63-4086B ,63-7123 ,63-4023B |

**Proof Report**

**Water Right 63-32266**

| Owner Type | Name and Address |
|---|---|
| Current Owner | DRY CREEK WATER COMPANY LLC<br>923 S BRIDGEWAY PL<br>EAGLE, ID 83616-6098<br>(208) 577-5501 |

**Priority Date:** 3/1/1987
**Basis:** Decreed
**Status:** Active

| Source | Tributary |
|---|---|
| GROUND WATER | |

| Beneficial Use | From | To | Diversion Rate | Volume |
|---|---|---|---|---|
| MITIGATION BY NON-USE | 03/01 | 11/15 | 0.230 CFS | 54.0 AF |
| | **Total Diversion** | | 0.230 CFS | 54.0 AF |

**Source and Point(s) of Diversion:**

| | | |
|---|---|---|
| GROUND WATER | NENE | Sec. 35, Twp 05N, Rge 01E, ADA County |
| GROUND WATER | NENE | Sec. 36, Twp 05N, Rge 01E, ADA County |

**Place Of Use:**
MITIGATION BY NON-USE within ADA County

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 05N | 01E | 25 | | | | | | | | | | | | X | | | | | |

**Conditions of Approval:**

| | | |
|---|---|---|
| 1. | C18 | This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code. |
| 2. | K02 | This right is based upon an enlargement of Right Nos. 63-2535, 63-4023B, 63-4086B and 63-7123 pursuant to Section 42-1426, Idaho Code. |
| 3. | K09 | This right is for an enlargement of 12 acres within the place of use described for this right. |
| 4. | C11 | This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right. |
| 5. | | Rights 63-2535, 63-4023B, 63-4086B, 63-7123, 63-17454 and 63-32266 when combined shall not exceed a total diversion rate of 3.53 cfs, a total annual maximum diversion volume of 793 af at the field headgate, and the irrigation of 188.3 acres in a single irrigation season. |

**Combined Use Limits:**
N/A

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

RECEIVED
JAN 29 2024
DEPT OF WATER RESOURCES

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

## 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.

# WATER SUPPLY BANK LEASE CONTRACT No. 1793

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. 1793

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 _____ Date 1/30/24
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 1/30/24

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1793

## 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).

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1793

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
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1793

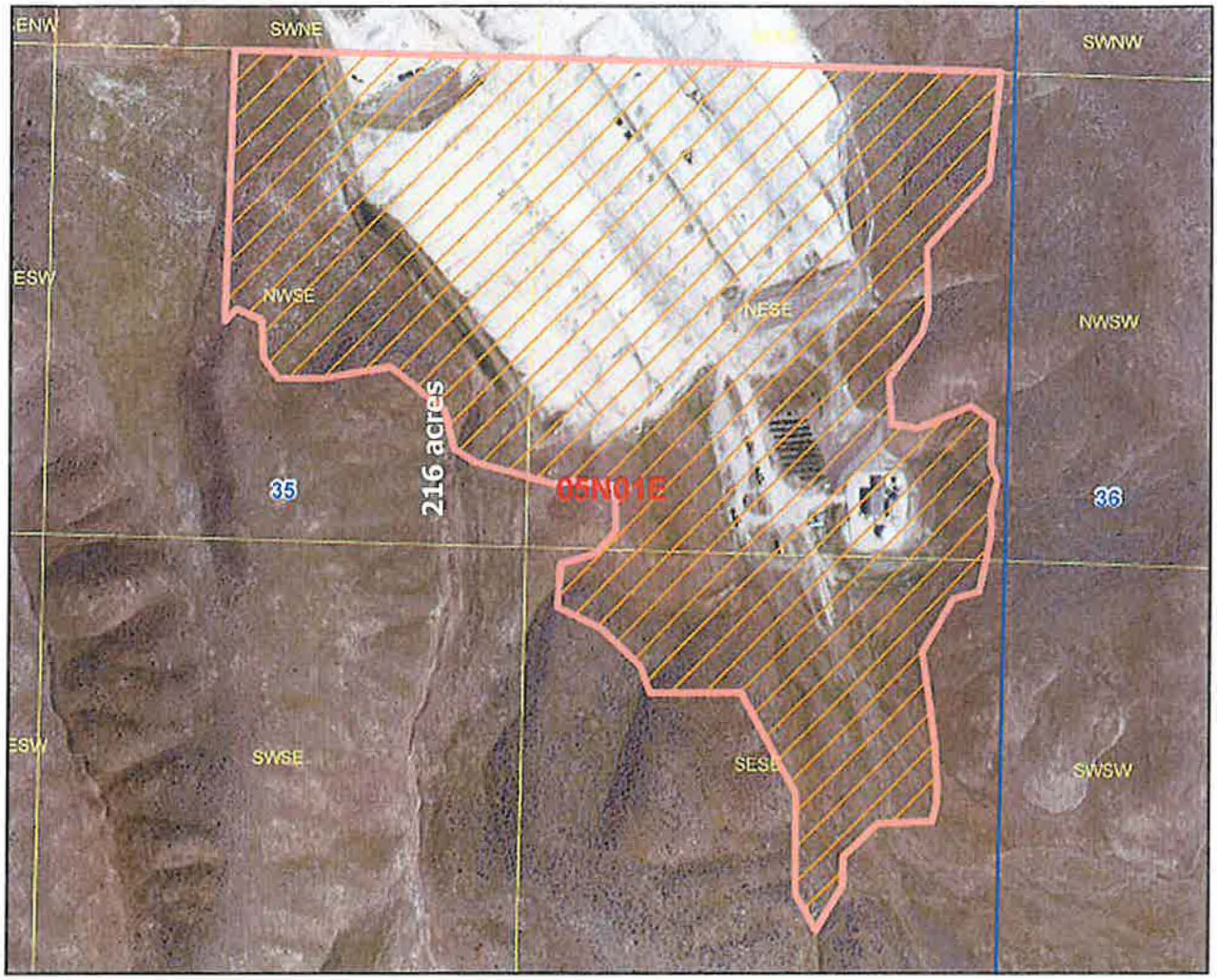
20. The unleased portion of right 63-2535 shall not exceed a total diversion rate of 0.22 cfs, a total annual maximum diversion volume of 49.4 af at the field headgate, and the irrigation of 11.0 acres.
21. The unleased portion of right 63-4023B shall not exceed a total diversion rate of 0.94 cfs, a 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

N

0 550 1,100 Feet