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OCT 18 2006

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

DEPARTMENT OF  
WATER RESOURCESPlease print or type. Attach pages with additional information. Instructions are included at the end of this form.  
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

| Water<br>Right No(s) | Adjudication<br>Claim No(s) | Split | Water<br>Right No(s) | Adjudication<br>Claim No(s) | Split |
|----------------------|-----------------------------|-------|----------------------|-----------------------------|-------|
| Lic 22-7493          |                             |       |                      |                             |       |
| Lic 22-7495          |                             |       |                      |                             |       |
|                      | AS 22-7090                  |       |                      |                             |       |
|                      | AS 22-2251                  |       |                      |                             |       |

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).  
**OR**

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) LeRoy Zollinger.
4. New Owner/Claimant(s) Kirt Sutton.  
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 864 E 7156 S
- City, State and ZIP Code Rexburg Idaho 83440
- New Telephone Number (208) 356-6356.
5. Date you acquired the property 1994.

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number _____                                                                      |                                                                            |                                                              |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                                                                                              | _____                                                                      | _____                                                        |
| Stock                                                                                                                   | _____                                                                      | _____                                                        |
| Domestic                                                                                                                | _____                                                                      | _____                                                        |
| Other _____                                                                                                             | _____                                                                      | _____                                                        |
| <b>Total</b>                                                                                                            | _____                                                                      | _____                                                        |

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right(s) will not be split, skip this area and proceed to item 7) |                                                                            |                                                              |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Right and/or Adjudication Claim Number _____                                                                      |                                                                            |                                                              |
| Water Use                                                                                                               | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| Irrigation                                                                                                              | _____                                                                      | _____                                                        |
| Stock                                                                                                                   | _____                                                                      | _____                                                        |
| Domestic                                                                                                                | _____                                                                      | _____                                                        |
| Other _____                                                                                                             | _____                                                                      | _____                                                        |
| <b>Total</b>                                                                                                            | _____                                                                      | _____                                                        |

7. Signature of New Owner(s) or Claimant(s) Kirt Sutter  
(include title if applicable) \_\_\_\_\_

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

#### For Office Use Only

Received by \_\_\_\_\_ Date \_\_\_\_\_ Fee \_\_\_\_\_  
 Received by \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Processed by \_\_\_\_\_ AJ Date \_\_\_\_\_ WR \_\_\_\_\_ Date \_\_\_\_\_

COPY

CONTRACT OF SALE

THIS AGREEMENT is made and entered into this 1st day of February, 1994, by and between H. LEROY ZOLLINGER and SHARON DALE ZOLLINGER, his wife, of 8611 Brynwood Drive, Boise, Ada County, Idaho; WANDA PERCIVAL and DONALD PERCIVAL, her husband, of 1180 Corrine Ave, Idaho Falls, Bonneville County, Idaho; LAVINA ZOLLINGER POWELL of 1304 Laurel, Idaho Falls, Bonneville County, Idaho; and ZOLLINGER FARMS PARTNERSHIP an Idaho partnership composed of H. LeRoy Zollinger and Wanda Percival and Lavina Zollinger Powell, of 8611 Brynwood Drive, Boise, Ada County, Idaho all of whom are collectively hereinafter referred to as SELLERS, and BRET SUTTON and FRANKIE SUE SUTTON, his wife, of 390 East 7000 South, Rexburg, County of Madison, Idaho, and KIRT SUTTON and LORI SUTTON, his wife, of 864 East 7156 South, Rexburg, County of Madison, Idaho, all of whom are collectively hereinafter referred to as PURCHASERS.

WITNESSETH:

1. CONSIDERATION AND PROPERTY DESCRIPTION: For and in consideration of the sum of One Million Two Hundred Twenty-eight Thousand Dollars (\$1,228,000.00), lawful money of the United States of America, to be paid by the PURCHASERS as is hereinafter provided; the SELLERS agree to sell and convey, and the PURCHASERS agree to purchase all that certain lot, piece and parcel of land, situate, lying and being in Madison County, Idaho, together with the irrigation equipment all described as follows, to wit:

A. The real property which is described on Exhibit "A" attached hereto and by this reference made a part hereof as though fully set forth herein.

Subject to all existing easements or claims of easements, patent reservations, rights-of-way, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises.

B. The two wells located thereon, license nos., 22-7090 and 22-2251.

C. One 300 horsepower pump, serial number HC1029564, together with any additions, substitutions, and/or replacements thereof. PURCHASERS agree to execute a Security Agreement on said pump together with the substitutions and/or replacements thereof in favor of SELLERS.

D. Two circles: Pivot #6 - Valley Model No. 5971  
Serial No. 28511

Pivot #7 - Valley Model No. 2071  
Serial No. 13062

PURCHASERS agree to execute a Security Agreement on said circles, but not on any replacements or substitutions thereof in favor of SELLERS.

E. An old disk and old deep furrow drills together with any other old miscellaneous machinery located on the premises and old buildings or other improvements thereon.

2. PURCHASE PRICE - INTEREST - ACCELERATION: The PURCHASERS agree to pay the purchase price of One Million Two Hundred Twenty-eight Thousand Dollars (\$1,228,000.00), as follows:

(a) Two Hundred Twenty-eight Thousand Dollars (\$228,000.00) down, the receipt of which is hereby acknowledged.

(b) The balance of One Million Dollars (\$1,000,000.00) One Hundred Nine Thousand Eight Hundred Dollars (\$109,800.00) per year with the first such payment due February 1, 1995, and a like payment each succeeding year thereafter for a total of fifteen (15) such equal annual payments. The unpaid balance shall earn interest at seven percent (7%) per annum from February 1, 1994, and each payment shall be applied first to interest due and the balance to principal.

(c) The last payment may need to be larger or smaller because of interest accumulation, but whatever the amount, the Contract balance shall be paid in full with the fifteenth payment.

(d) PURCHASERS may not prepay all or any portion of this purchase price without prior written consent of SELLERS.

(e) If payments are not paid in the manner and at the time or times as above stated, the entire unpaid balance, both principal and interest, will become immediately due and collectible at the option of SELLERS. Failure of the SELLERS to accelerate upon default shall not constitute a waiver of such right in the event of a subsequent default.

3. DIVISION OF PURCHASE PRICE: SELLERS herein agree to divide the purchase price as follows:

A. LAVINA ZOLLINGER POWELL shall receive 2.5% of the down payment and each annual payment.

B. LEROY ZOLLINGER and WANDA PERCIVAL shall divide equally between them 13.5%, 6.75% each, of the down payment and each annual payment.

C. The balance of 84% of the down payment and each annual payment shall be divided as follows:

|                             |     |
|-----------------------------|-----|
| (a) H. LEROY ZOLLINGER      | 40% |
| (b) WANDA PERCIVAL          | 40% |
| (c) LAVINA ZOLLINGER POWELL | 20% |

4. FALSE REPRESENTATIONS AND WARRANTIES: It is mutually understood and agreed that the property being sold under the terms of this Contract has been inspected by the PURCHASERS and that the same is being purchased by them wholly as the result of said inspection and not upon any representation made by the SELLERS, their agents, and/or attorneys, and the PURCHASERS hereby waive any and all claims for damages by reason of any cancellation or foreclosure of this agreement, or otherwise, because of any representation made by any person, whomsoever, other than as is contained in this agreement.

Said property is purchased in its "AS IS" condition.

5. TRUTH-IN-LENDING -- UNIFORM CONSUMER CREDIT CODE: It is hereby disclosed by the SELLERS on this date, and acknowledged by the PURCHASERS, that the SELLERS are not persons who, in the ordinary course of business regularly extend, or arrange for the extension of consumer credit of this kind, or offer to extend or

extension of consumer credit of this kind, or offer to extend or arrange for the extension of such credit, and said SELLERS are not regularly engage as SELLERS in credit transactions of the kind included within this agreement, and are, consequently, exempt from the provisions of the Federal Truth-in-Lending Act and/or the Uniform Consumer Credit Code of the State of Idaho.

6. POSSESSION: Possession shall be delivered to the PURCHASERS on execution hereof and PURCHASERS shall be entitled to remain in possession so long as they are not in default under the terms of this agreement.

7. TAXES AND ASSESSMENTS: SELLERS agree to assume and pay all taxes and assessments for 1993 and theretofore; PURCHASERS shall assume and pay all taxes and assessments for the year 1994 and thereafter.

8. ESCROW: It is mutually understood and agreed that the following documents shall be placed in escrow with the West One Bank, at Rigby, Idaho:

1. Executed Original Contract of Sale.
2. Three Executed Original Warranty Deeds.
3. Three Executed Original Quitclaim Deeds.

All payments shall be made directly to the escrow holder commencing with the payment due February 1, 1995. The escrow fee shall be shared equally between the SELLERS and the PURCHASERS.

9. WARRANTY DEED AND TITLE INSURANCE: It is mutually understood and agreed by and between the parties hereto that upon full payment of the purchase price, the SELLERS shall furnish a Warranty Deed, and shall convey a good and marketable title, free and clear of any and all liens, encumbrances, taxes or assessments of whatsoever nature, except those liens, encumbrances, taxes or assessments which, by the terms of this contract the PURCHASERS do specifically agreed to assume and pay, or which they create. Also subject to easements and rights-of-way for highways, roads, ditches, canals, pole, power and transmission lines as they may exist, and any other easements or claims of easements, protective covenants, zoning ordinances and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises, and subject to the usual printed exceptions contained in the title policies currently being issued.

PURCHASERS understand there is a first mortgage lien on the premises in favor of the Production Credit Association having an unpaid balance of \$29,000.00 which will be paid off in two more years. PURCHASERS do not assume that obligation. SELLERS agree they will make the two annual payments so that said obligation is discharged and paid in full according to the terms and conditions thereof.

10. WASTE: It is hereby agreed that during the term of this Contract, the PURCHASERS shall maintain the property in as good a condition as the property is at the date of this Contract of Sale, keep said property clean and free from noxious weeds, care for and keep said property in a good and neat appearance, and protect the collateral position of the SELLERS herein.

11. INDEMNIFICATION: PURCHASERS shall indemnify and save harmless the SELLERS against any and all claims and liabilities for claims arising from the conduct, use of, or management of, or from any work or thing whatsoever done in or about the demised premises, or any building or structure thereon, or arising from any accident, injury or damage whatsoever, however caused, to any person or persons or to the property of any person or persons, corporation or corporations, occurring during the existence of this Contract, on, in or about the same premises, and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claims or any action or proceeding being brought against the SELLERS by reason of any such claims. PURCHASERS, upon notice from SELLERS, shall resist or defend any such action or proceeding.

12. DEFAULT: This agreement is made upon the express condition that time and punctuality of payment are of the essence and a material part of this Contract. In the event PURCHASERS shall default in the performance of the terms of this agreement, SELLERS may cause notice in writing to be given to PURCHASERS specifying the matters in which such default occurred. The notice shall be served upon PURCHASERS by depositing the same in a United States Post Office, addressed to the PURCHASERS at 390 East 7000 South, Rexburg, Idaho 83440. Said notice shall be sent by certified and/or registered mail, return receipt requested, postage prepaid, and such notice shall be deemed served upon its deposit in the post office as aforesaid. If PURCHASERS shall fail to cure such default within sixty (60) days after the service of such notice as aforesaid, then SELLERS may elect to do any one or more of the following:

(a) Declare the entire unpaid balance on the Contract, including principal, interest, taxes, assessments, attorney's fees, and any other sums owing SELLERS to be immediately due and owing.

(b) Bring an action for specific performance of the terms, covenants and conditions of this agreement, and to require and enforce full and complete performance by PURCHASERS of said terms, covenants and conditions.

(c) Rescind this Contract and recover full and complete restitution from PURCHASERS.

(d) Affirm this Contract and bring an action for breach of contract against PURCHASERS for the collection of all obligations of PURCHASERS under the terms of this Contract and all other damages suffered by SELLERS as a result of the default and breach by PURCHASERS.

(e) Bring suit to establish the balance owing hereunder as a debt due by PURCHASERS to SELLERS and to foreclose this Contract as a real estate mortgage securing said debt, in accordance with the laws of the State of Idaho relating to the foreclosure of real estate mortgages, including the right to a deficiency judgment. No notice to PURCHASERS of the election to pursue this remedy is required prior to suit.

(f) Declare this Contract to be terminated due to said default. In that event, this Contract shall be immediately terminated and PURCHASERS shall forfeit all rights to said premises, and all payments made hereon shall be retained by SELLERS as liquidated damages for breach of this Contract. In that event, PURCHASERS agree to immediately surrender possession of the premises, and any improvements made thereon shall attach to and become a part of the real property and shall be retained as liquidated damages.

(g) To pursue any other remedy in law or equity to enforce the performance of this Contract, or to recover damages for the breach thereof.

(h) Bring an action against PURCHASERS for strict foreclosure of this Contract of Sale.

RELIEF UNDER ANY AND ALL REMEDIES:

(i) No matter which one or more of the above remedies SELLERS pursue, they shall be entitled in addition to the relief described, attorney's fees and all costs including costs of title search which right shall survive forfeiture and/or termination of this Contract.

(j) To reclaim from the escrow holder all papers placed therein, including a Quitclaim Deed, from PURCHASERS to SELLERS, which the parties agree shall be made a part of the escrow.

(k) The default period in this Contract and in the escrow agreement shall run concurrently.

13. COST TO PREPARE NOTICES: In the event it is necessary for SELLER to cause any notice in writing to be given under the preceding paragraph, and following said notice the default is cured, PURCHASERS nevertheless agree to pay all attorney's fees incurred by SELLERS leading to the sending of the notice, and the preparation thereof, in an amount of not less than \$100.00. It is agreed the default will not be fully cured until said fees are paid.

14. LIENS: It is understood and agreed that the PURCHASERS shall not, or will not, suffer or permit any mechanic's liens or other liens to attach to or be against the above described premises which shall or may be superior to the rights of the SELLERS herein.

15. ASSIGNMENT OR SALE OF CONTRACT: PURCHASERS may assign or sale all or any portion of their interest herein or in the property described herein but such assignment or sale shall not relieve PURCHASERS from their obligations hereunder.

16. HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL REPRESENTATIVES: All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors,

administrators, personal representatives, successors and assigns of the respective parties hereto.

17. FULL AGREEMENT: This agreement represents the complete and entire agreement between the parties. There are no oral agreements or representations.

18. ATTORNEY'S FEES: In the event it is necessary for either party to commence an action to enforce or defend any covenant contained herein, or to terminate any rights hereunder, or to institute suit hereunder, the unsuccessful party agrees to pay all reasonable attorney's fees of the successful party, together with all costs, including searching records to determine condition of title, which sum shall be included in any judgment or decree entered in such suit.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year in the acknowledgements hereinafter set forth.

SELLERS:

PURCHASERS:

H. LeRoy Zollinger  
H. LEROY ZOLLINGER

Bret Sutton  
BRET SUTTON

Sharon Dale Zollinger  
SHARON DALE ZOLLINGER

Frankie Sue Sutton  
FRANKIE SUE SUTTON

Wanda Percival  
WANDA PERCIVAL

Kirt Sutton  
KIRT SUTTON

Donald Percival  
DONALD PERCIVAL

Lori Sutton  
LORI SUTTON

Lavina Zollinger Powell  
LAVINA ZOLLINGER POWELL

H. LeRoy Zollinger  
ZOLLINGER FARMS PARTNERSHIP  
by H. LeRoy Zollinger

STATE OF IDAHO )  
 ) ss  
County of Jefferson )

On this 4<sup>th</sup> day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared H. LEROY ZOLLINGER and SHARON DALE ZOLLINGER, husband and wife, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

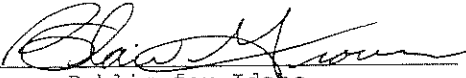
(seal)

[Signature]  
Notary Public for Idaho  
Residing at: 11964, Id  
Commission Expires: 10/24/97

STATE OF IDAHO )  
County of Jefferson ) ss

On this 4<sup>th</sup> day of Febuary, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared WANDA PERCIVAL and DONALD PERCIVAL, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

  
Notary Public for Idaho  
Residing at: Rigby, Id.  
Commission Expires: 10/24/97

(seal)

STATE OF IDAHO )  
County of Jefferson ) ss

On this 4<sup>th</sup> day of Febuary, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared LAVINA ZOLLINGER POWELL, known to me to be the person whose name is subscribed to the foregoing, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

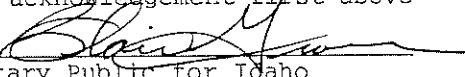
  
Notary Public for Idaho  
Residing at: Rigby, Id.  
Commission Expires: 10/24/97

(seal)

STATE OF IDAHO )  
County of Jefferson ) ss

On this 4 day of Febuary, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared H. LEROY ZOLLINGER, ZOLLINGER FARMS PARTNERSHIP, known to me to be the person whose name is subscribed to the foregoing, and acknowledged to me that he executed the same on behalf of ZOLLINGER FARMS PARTNERSHIP.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

  
Notary Public for Idaho  
Residing at Rigby, Idaho  
Commission Expires: 10/24/97

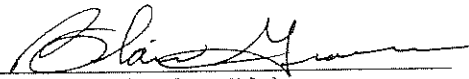
(seal)

STATE OF IDAHO )  
 ) ss  
County of Jefferson )

On this 4<sup>th</sup> day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared BRET SUTTON and FRANKIE SUE SUTTON, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

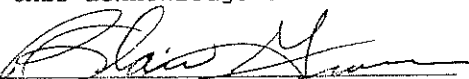
  
Notary Public for Idaho  
Residing at: Bigsby, Id.  
Commission Expires: 10/24/97

STATE OF IDAHO )  
 ) ss  
County of Jefferson )

On this 4<sup>th</sup> day of February, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared KIRT SUTTON and LORI SUTTON, known to me to be the persons whose names are subscribed to the foregoing, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgement first above written.

(seal)

  
Notary Public for Idaho  
Residing at: Bigsby, Id.  
Commission Expires: 10/24/97

TRACT 1:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho  
Section 27: SE $\frac{1}{4}$

TRACT 2:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho

Section 27: SW $\frac{1}{4}$

Section 28: E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 33: NE $\frac{1}{4}$ , less right of way for railroad; E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; the West 2 rods of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  and commencing at a point 522 feet North of the Southeast Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , and running thence West 50 feet; thence South 60 feet; thence East 50 feet; thence North 60 feet to the point of beginning.

Also an undivided one-third interest in and to the following easement:

Easement for ingress and egress to the above described property 20 feet wide, the center line described as follows: commencing at a point 494 feet North of the Southwest Corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  and running thence East 1320 feet.

Section 34: All

TRACT 3:

Township 5 North, Range 40 East, Boise Meridian, Madison County, Idaho

Section 28: W $\frac{1}{2}$ SE $\frac{1}{4}$ , lying and being East of the Railroad right of way.

Exhibit A