

RECEIVED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No.

85687

JAN 04 2022

MINIMUM REQUIREMENTS CHECKLIST  
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

Department of Water Resources

An Application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov).

Name of Applicant(s) Ronald J. Miller and Marybeth MillerCheck whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A \* Means the item is always required and must be included with the application.

- ☒ \* Completed Application for Transfer of Water Right form, Part 1.
- ☒ \* Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ \* Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☒ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ \* Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ \* Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. \*\*
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). \*\*  
\*\* Additional fee(s) required for water right ownership changes; see fee schedule.
- ☒ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☒ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at [idwr.idaho.gov/water-rights/transfers/resources.html](http://idwr.idaho.gov/water-rights/transfers/resources.html).
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ \* #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☒ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Ronald J. Miller and Marybeth Miller Phone 801-201-8520  
Mailing address PO Box 150, Swan Valley, Idaho 83449 Email mmiller346@aol.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☒ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Rocky Mountain Water Environmental Associates, Inc. Phone 208-524-2353  
Mailing address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Email kristin.rmea@gmail.com

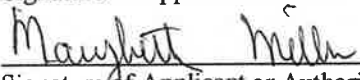
- ☐ Send all correspondence for this application to the representative and not to the applicant.  
OR  
☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.  
OR  
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

  
Signature of Applicant or Authorized Representative

Ronald J. Miller  
Print Name and Title if applicable

1/4/2022  
Date

  
Signature of Applicant or Authorized Representative

Marybeth Miller  
Print Name and Title if applicable

1/4/2022  
Date

### A. PURPOSE OF TRANSFER

- ☒ Change point of diversion  
☒ Change nature of use
 ☐ Add diversion point(s)  
☐ Change period of use
 ☒ Change place of use  
☐ Other \_\_\_\_\_
- Is this a transfer for changes pursuant to [Idaho Code § 42-221.0.8?](#)  
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.
- Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.  
Applicant is contracted to purchase 3.0 acres of water right for maintenance of a proposed pond and irrigation of surrounding areas. The 3.0 acres associated with Surface Water Right #1-7017 will be abandoned. See Part 1A3.

## **Narrative to Support Application**

*Ron Miller*

Water rights 35-7720 and 1-7017 are currently appurtenant to 27.1 acres of the PT Elliot LLC property. Rights 35-7720 from ground water and 1-7017 from the Snake River were developed as fully overlapping at the described place of use. The ground water right 35-7720 is diverted from a well and a pond. Water right 1-7017 is diverted directly from the Snake River at the Tomchak B #1 pump, then conveyed through mainline for delivery into the sprinkler system.

Right 1-7017, having a junior priority date of 1978, is seldom available for diversion during the irrigation season. The ground water right 35-7720 has been used as a primary water right historically due to curtailment of 1-7017. It is proposed that the overlapping portion of 1-7017, in amounts described below, be abandoned upon approval of this transfer:

1-7017 for 3.0 acres and 0.05 cfs

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## APPLICATION FOR TRANSFER OF WATER RIGHT

### PART 1 Continued

**B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

| 1.                                                                          | Right Number | Amount<br>(cfs/ac-ft) | Nature of Use        | Period of Use | Source & Tributary |
|-----------------------------------------------------------------------------|--------------|-----------------------|----------------------|---------------|--------------------|
| All or Part<br><input type="checkbox"/> <input checked="" type="checkbox"/> | 35-7720      | 0.02                  | Irrigation           | 4/01 to 10/31 | Groundwater        |
| <input type="checkbox"/> <input type="checkbox"/>                           |              | 0.04                  | Diversion to Storage | 4/01 to 10/31 | Groundwater        |
| <input type="checkbox"/> <input type="checkbox"/>                           |              | 3.8                   | Aesthetic Storage    | 1/01 to 12/31 | Groundwater        |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                      | to            |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                      | to            |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                      | to            |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                      | to            |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                      | to            |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                      | to            |                    |

Total authorized under rights 0.06 cfs and/or 3.8 acre-feet.

2. Total amount of water proposed to be transferred or changed 0.06 cubic feet per second and/or 3.8 acre-feet per year.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☒ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.  
Label it **Attachment #5**.

| New ? | Lot | ¼ | ¼  | ¼  | Sec | Twp | Rge | County     | Source      | Local name or tag # |
|-------|-----|---|----|----|-----|-----|-----|------------|-------------|---------------------|
| Yes   | L3  |   | NE | NW | 2   | 1N  | 43E | Bonneville | Groundwater |                     |
| No    | L3  |   | NE | NW | 2   | 1N  | 43E | Bonneville | Groundwater |                     |
| No    | L2  |   | NW | NE | 2   | 1N  | 43E | Bonneville | Groundwater |                     |
| No    | L2  |   | NW | NE | 2   | 1N  | 43E | Bonneville | Groundwater |                     |
| No    | L2  |   | NW | NE | 2   | 1N  | 43E | Bonneville | Groundwater |                     |

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

| Twp                              | Rge | Sec | NE ¼ |    |    |    | NW ¼ |    |    |    | SW ¼ |    |    |    | SE ¼ |    |    |    | Acre Totals |
|----------------------------------|-----|-----|------|----|----|----|------|----|----|----|------|----|----|----|------|----|----|----|-------------|
|                                  |     |     | NE   | NW | SW | SE | NE   | NW | SW | SE | NE   | NW | SW | SE | NE   | NW | SW | SE |             |
| 1N                               | 43E | 2   |      | J  |    |    | 1.2  |    |    |    |      |    |    |    |      |    |    |    | 1.2         |
|                                  |     |     |      | L2 |    |    | J    |    |    |    |      |    |    |    |      |    |    |    |             |
|                                  |     |     |      |    |    |    | L3   |    |    |    |      |    |    |    |      |    |    |    |             |
|                                  |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|                                  |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|                                  |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|                                  |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
| Total Acres (for irrigation use) |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    | 1.2         |

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## APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

The four ponds will act as POD as they will fill naturally due to the presence of shallow groundwater. A new well will also be drilled and will be located to the east of the north-pond. A measuring device can be installed when the well is drilled.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: \_\_\_\_\_

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:  
The land now irrigated will be retired from irrigation. The 3.0-acre overlapping portion of 1-7017 will be abandoned upon approval of the transfer.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:  
Water right 35-7720 shares a place of use with 1-7017, which is diverted from the Snake River. Existing POD includes 35-13644, 35-14649, 35-14650, 35-7744. Proposed POU/POD will be overlapped by existing water right 23-88B.

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- |                                     |                                     |                                                                                               |
|-------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | undergone a period of five or more consecutive years of non-use,                              |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | currently leased to the Water Supply Bank,                                                    |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | currently used in a mitigation plan limiting the use of water under the right, or             |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe:

Currently leased to the WSB but it will be released December 31, 2021.



# IDAHO DEPARTMENT OF WATER RESOURCES

## WATER RIGHT REPORT

12/14/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-7720

| <u>Owner Type</u>      | <u>Name and Address</u>                                               |
|------------------------|-----------------------------------------------------------------------|
| Current Owner          | PT ELLIOTT LLC<br>392 N 4500 E<br>RIGBY, ID 83442-5596<br>2085897140  |
| Directors Report Owner | BURLEIGH TOMCHAK<br>202 BASSETT RD<br>ROBERTS, ID 83444<br>2082286871 |
| Directors Report Owner | MABEL TOMCHAK<br>458 BASSETT RD<br>ROBERTS, ID 83444<br>2082286871    |

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| GROUND WATER  |                  |

| <u>Beneficial Use</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/01       | 10/31     | 0.54 CFS              | 108.4 AFA     |
| Total Diversion       |             |           | 0.54 CFS              | 108.4 AFA     |

Location of Point(s) of Diversion:

|              |           |         |              |           |                  |
|--------------|-----------|---------|--------------|-----------|------------------|
| GROUND WATER | NESW Lt 6 | Sec. 03 | Township 04N | Range 37E | JEFFERSON County |
| GROUND WATER | SWSW Lt 5 | Sec. 03 | Township 04N | Range 37E | JEFFERSON County |

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

| Township | Range | Section | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres |
|----------|-------|---------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|
| 04N      | 37E   | 3       | 7   | SWNE  | 5.7   | 12  | SWNE  | 4.6   |     |       |       |     |       |       |
|          |       |         |     | NWSW  | 16.8  |     |       |       |     |       |       |     |       |       |

Total Acres: 27.1

Conditions of Approval:

1. X35 Rights 35-7720 and 01-7017 when combined shall not exceed the irrigation of 27.1 acres.
2. E53 Use of this right with all other rights is limited to a total combined annual diversion volume of 108.4 acre-feet at the field headgate for the lands below.
3. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Dates:

Licensed Date:

Decreed Date: 01/12/2004

Permit Proof Due Date: 7/1/1982

Permit Proof Made Date: 5/20/1982

Permit Approved Date: 7/25/1977

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 05/20/1977

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

**A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)**

- If any part of the irrigation water right is leased to the Water Supply Bank, you must also specify the location and number of acres that will remain idled for the duration of the lease contract at the new, proposed place of use.

Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

Check all that apply: Attachment WSB ☐ (copy sent to state office) Lessor Designation form ☐ &/or W-9 ☐ (originals to state office)

**ROCKY MOUNTAIN WATER EXCHANGE LLC**  
**482 CONSTITUTION WAY, SUITE 303**  
**IDAHO FALLS, IDAHO 83402**  
 208-589-7301 208-390-3521

E-mails: [rgnord@ida.net](mailto:rgnord@ida.net), [rog.rmca@gmail.com](mailto:rog.rmca@gmail.com)

NET WATER LISTING CONTRACT WITH EXCLUSIVE RIGHT TO SELL

This contract made this 19 day of February 2021 between the following parties:  
PT ELLIOT LLC, hereinafter called "Seller" of that certain real property, more particularly described in **Exhibit 1** attached hereto and incorporated herein by reference, and ROCKY MOUNTAIN WATER EXCHANGE, LLC, hereinafter called "Exchange," 482 Constitution Way Suite 303, Idaho Falls, Idaho 83402, and KELLER WILLIAMS REALTY EAST IDAHO, an Idaho limited liability partnership acting on behalf of Exchange, whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with Michael James Johnston as Broker and Reed D. Nord acting as Agent for the Broker, hereinafter called "Broker."

1. STATEMENT OF EMPLOYMENT:

Seller hereby employs Exchange to sell the real property/Water Right upon the terms and conditions set forth in this contract and grant to Exchange the exclusive right to sell the real property/Water Right during the term of this contract. Seller agrees to conduct all negotiations to sell the Water Right through Exchange, and to refer to Exchange all inquiries or leads received in any form from real estate brokers, salespersons, prospective buyers, or any other source, during the time this Net Listing Agreement is in effect. This contract shall commence when Exchange and Seller have signed this contract and shall continue through and include sale date.

2. REAL PROPERTY/WATER RIGHT:

Seller owns Water Right No. 35-7720 & 01-7017, (the "Water Right") which was decreed on 1/12/2004 & 9/14/2007 [DECREE DATE] in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with a priority date of 4/22/1979 & 3/14/1978 [PRIORITY DATE]. The current description of the Water Right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**. Seller desires to sell the [ ☒ ] entire water right or [ ☐ ] a 2.7-acre portion of the water right (whether the entire Water Right or a portion thereof is designated, either is referred to hereinafter simply as the "Water Right").

## 3. TERM OF AGREEMENT:

The term of this Agreement shall commence on February 15, 2021 and shall expire at 11:59 p.m. on February 15, 2022 unless renewed or extended. This Agreement shall be automatically extended pending an active sale and transfer of the Water Right or portion thereof.

## 4. COMPENSATION OF EXCHANGE OF FEES:

Seller is to receive \$                      from the sale of this Water Right. The Exchange and Seller shall determine the sales price of said property. The Exchange will bear all costs associated with marketing and deliver to SELLER the net proceeds (as stated above) at the time of closing. Seller understands that the difference between the actual sales price and the net proceeds amount received will be retained by the Exchange as a compensation fee.

5. Seller agrees to sell once a price of              per acre has been obtained. If for any reason Seller chooses not to accept the offer in excess of the reserve, Seller will pay to Exchange: compensation on the offer obtained.

## 6. SELLER WARRANTIES:

- (a) Seller warrants title to said Water Right, subject only to: IDWR and the liens and encumbrances as follows (list each lien holder's name, address and account number, if known: *(write NONE if None and initial on right side of contract)* None

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- (b) Seller authorizes Exchange who shall request the above lien holder(s) to release information to Exchange concerning the above lien(s). Seller agrees to indemnify and hold Exchange harmless in the event of any legal action as a result of any undisclosed liens, encumbrances or title defects.
- (c) Seller agrees to obtain an authorization letter from lien holder(s), which will allow transfer of Water Right through IDWR.
- (d) Seller agrees and warrants the he has the ability to satisfy any and/or all mortgages, liens, judgments and any other encumbrances. Seller agrees to obtain a partial release of mortgage from lien holder(s) prior to closing. Seller further agrees to convey to the Exchange a good merchantable fee simple title by Special Warranty Deed, free and clear of all liens and encumbrances. Seller agrees to hold Exchange harmless in the event of Seller's inability to perform.

- (e) If Seller is a corporation, Limited Liability Company, partnership, or other form of entity other than an individual, the undersigned as agents of the Seller hereby warrant and guarantee that they are authorized and empowered by the above-named Seller to execute this contract on behalf of the Seller.

#### 7. AUTHORITY OF EXCHANGE:

- (a) Exchange is authorized to sign any memorandum of sale on behalf of and in the name of Seller, or in Exchange's own name, in connection with the sale of Seller's Water Right.
- (b) Exchange is authorized to accept, give receipt for, and hold all moneys paid or deposited. Deposits will be held in the escrow account of Pioneer Title. In the event of any escrow deposit dispute, and the Exchange is in doubt as to the disbursement of escrow funds, the Exchange shall have the right to release the money to a Court of competent jurisdiction, which shall determine the rights of the parties involved in the dispute, but in no case will the action waive the Seller's responsibility of the payment of the Exchange's compensation to the Exchange. Said compensation is limited to the amount in excess of the [REDACTED]

#### 8. DEFAULT:

If for any reason Seller defaults under the terms of this contract or any memorandum of sale, sales contract or listing contract executed hereunder, the Exchange's compensation as defined above and all unpaid advertising and promotional expenses advanced by Exchange will be due and payable to Exchange on demand calculated at either the minimum listed price, sales memorandum price, or the sales contract price, whichever is applicable.

#### 9. INQUIRIES:

Seller agrees to refer to the Exchange all inquiries from Brokers or others interested in Seller's Water Right. Seller gives Exchange the sole and exclusive control of the sale of the Water Right from this date and further binds himself not to interfere in the sale of the Water Right during the term of this contract, and any extensions hereof.

#### 10. CONDITION OF THE PREMISES:

The Water Right is to be sold "as is, where is", with the Seller and Exchange making no guarantees as to the condition of the Water Right. Seller shall completely disclose the true state of affairs with respect to the condition of the property and Seller authorizes Exchange to disclose this condition to prospective purchasers.

#### 11. LIMITATION OF LIABILITY:

Exchange does not guarantee the sale of the Water Right, Exchange will make a sincere, honest effort to procure a sale for the Sellers described Water Right as to sever the Water Right from the underlying land(s).

The Water Right has historically been beneficially and continuously used and not left idle for any period exceeding five years, unless it has been protected through an acceptable method by IDWR standards.

The Seller wishes to forever sever the Water Right from the underlying land(s) and convey to a prospective buyer, subject to the terms of this contract.

12. CLOSING COSTS:

The Exchange shall pay the following costs at closing:

**Deed Preparation**

**Closing Fee (50% by the Exchange and 50% by prospective buyer)**

13. MISCELLANEOUS:

- (a) The parties to this contract expressly agree that the law of the State of Idaho shall govern the validity, construction, interpretation, and effect of this contract.
- (b) This writing constitutes the entire agreement between the parties and no modification or change in this contract shall be valid or binding upon the parties involved, unless it is in writing and executed by the parties.

14. REPRESENTATION CONFIRMATION:

Check one (1) box in Section 1 and one (1) box in Section 2 below to confirm that in this transaction, the Broker/Exchange involved had the following relationship(s) with the BUYER(S) and SELLER(S).

Section 1:

- A. The brokerage working with the BUYER(S) is acting as an AGENT for the BUYER(S).
- B. The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S), without an ASSIGNED AGENT.
- C. The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S) and has an ASSIGNED AGENT acting solely on behalf of the BUYER(S).
- ☒ D. The brokerage working with the BUYER(S) is acting as a NONAGENT for the BUYER(S).

Section 2:

- A. The brokerage working with the SELLER(S) is acting as an AGENT for the SELLER(S).
- B. The brokerage working with the SELLER (S) is acting as a LIMITED DUAL AGENT for the SELLER (s), without an ASSIGNED AGENT.
- C. The brokerage working with the SELLER (S) is acting as a LIMITED DUAL AGENT for the SELLER (S) and has an ASSIGNED AGENT acting solely on behalf of the SELLER (S).
- ☒ D. The brokerage working with the SELLER (S) is acting as a NONAGENT for the SELLER (S).

Each party signing this document confirms that he has received, read and understood the Agency Disclosure Brochure adopted or approved by the Idaho real estate commission and has consented

to the relationship confirmed above. In addition, each party confirms that the brokerage's agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKERAGE UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

15. If you do not understand any statement in this contract, do not sign. \_\_\_\_\_.

IN WITNESS WHEREOF, the parties have executed this contract this day and year first above written.

**"SELLER"**

  
\_\_\_\_\_

**"BUYER"**

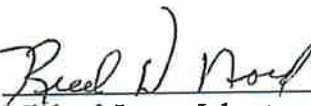
**ROCKY MOUNTAIN WATER EXCHANGE,  
LLC**

  
\_\_\_\_\_

By: W. Roger Warner  
Its: Partner

**"BROKER"**

**KELLER WILLIAMS EAST IDAHO**

  
\_\_\_\_\_

Michael James Johnston  
By: Reed D. Nord, Agent for Broker

## ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT, is made and entered into as of January 4, 2022, by and between the following entities:

1. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Seller"); and
2. Acting on behalf of Seller, **Keller Williams Realty East Idaho**, an Idaho limited liability limited partnership whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with **Michael James Johnston** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").
3. **Ronald J. Miller and Marybeth Miller, Co-trustees**, U/D/T dated December 29, 2014, creating **The Ronald and Marybeth Miller Trust**, whose address is PO Box 150, Swan Valley, Idaho 83449, (hereinafter "Buyer");

(Buyer, Seller, and Broker are individually a "Party" and together the "Parties".)

This Addendum supplements and forms a part of the Agreement to Purchase and Sale of Water Rights dated December 7, 2021 between the Parties, who agree to modify the original Agreement as follows:

1. Property Purchased. Seller hereby agrees to sell to Buyer, and Buyer agrees to buy from Seller, on the terms and conditions herein specified, the following-described portion of the Water Right 35-7720:

|                            |                                                                          |
|----------------------------|--------------------------------------------------------------------------|
| Purpose:                   | Irrigation                                                               |
| Priority:                  | April 22, 1977                                                           |
| Quantity (Diversion Rate): | 0.06 cfs of the total authorized 0.58 cfs                                |
| Quantity (Volume):         | 12.0 acre-feet per annum                                                 |
| Place of Use (Acreage):    | 3.0 acres of the 29.1 authorized acres identified on <b>Exhibit 2A</b> . |

The above-described portion of the Water Right is referred to hereafter as the "Purchased Water Right."

2. Purchase Price. The purchase price for the Purchased Water Right is [REDACTED] (the "Purchase Price") plus a brokerage fee of [REDACTED] Item 12a).
3. Earnest Money Deposit. Contemporaneous with the execution of this Agreement, Buyer shall deliver to Seller earnest money in the amount of [REDACTED]

ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: AM / MM / LR DATE: 1/4/22 PAGE 1 OF 3

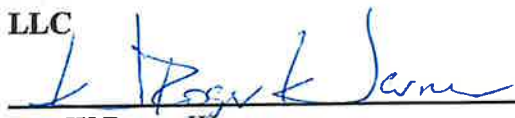
85687

(the "Earnest Money"). The Earnest Money shall be applied towards the Purchase Price at closing, or otherwise disposed of as provided herein. A check for earnest money should be made to "Pioneer Title" who will hold said monies until closing.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

**"SELLER"**

**ROCKY MOUNTAIN WATER EXCHANGE,  
LLC**

  
By: W Roger Warner

Its: Manager

**"BROKER"**

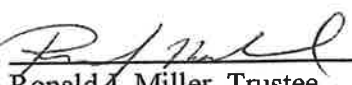
**KELLER WILLIAMS EAST IDAHO**

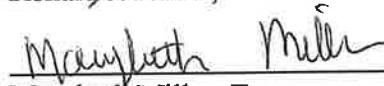
  
Michael James Johnston

By: Reed D. Nord, Agent for Broker

**"BUYER"**

**THE RONALD AND MARYBETH MILLER  
TRUST**

  
Ronald J. Miller, Trustee

  
Marybeth Miller, Trustee

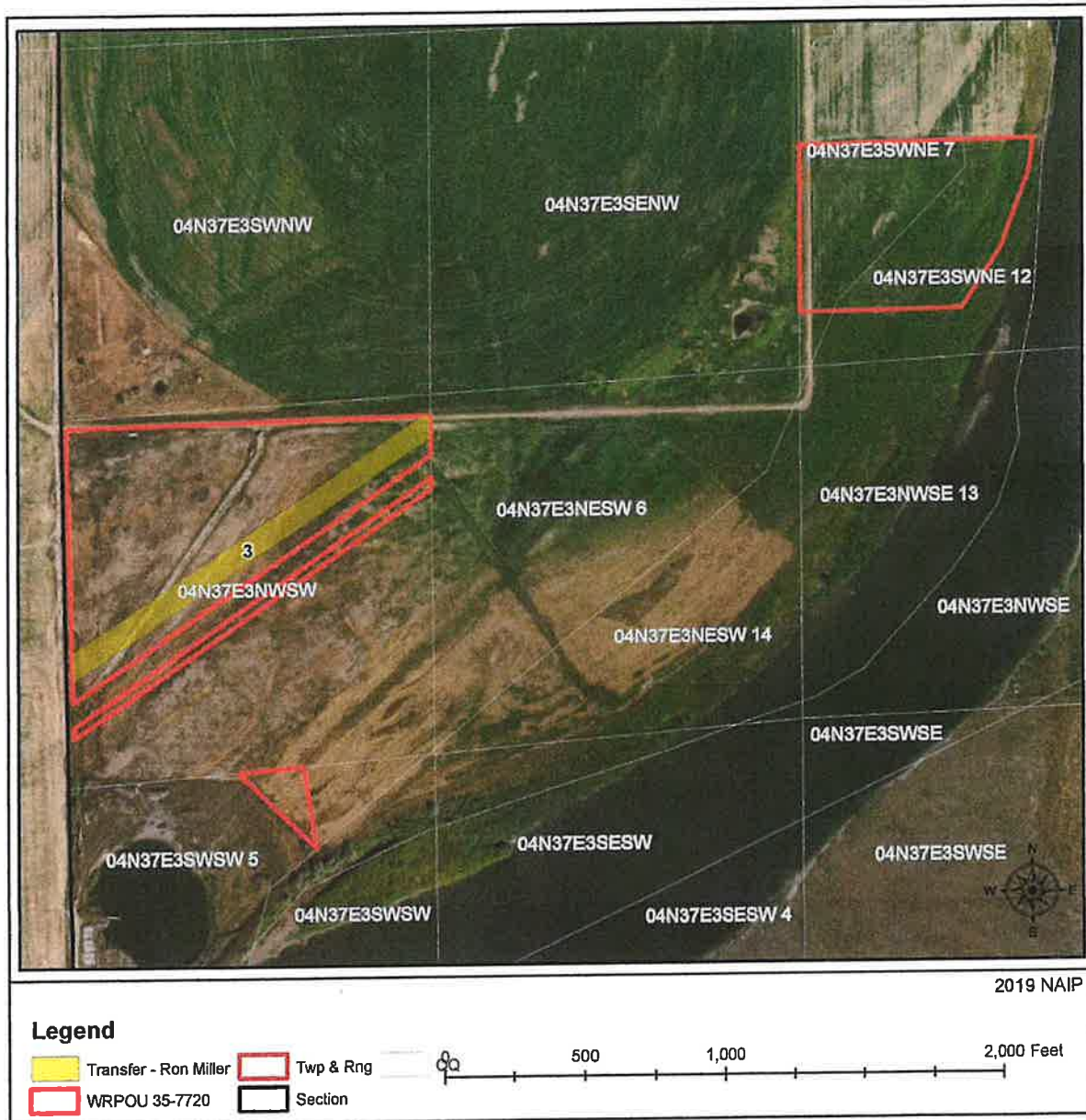
\\RMEASERVER\Projects\2017\17-0142\_WR\_WaterRightSales\Water Right Buyer\Ron Miller

**ADDENDUM TO AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

BUYER AND SELLER'S INITIALS:  DATE: 1/4/22 PAGE 2 OF 3

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## Exhibit 2A

Map of 3.0 Acres—the “Purchased Water Right”

## AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

---

THIS AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT (this "Agreement") is made and entered to be effective as of the \_\_\_\_\_ day of December, 2021 (the "Effective Date"), by and between the following entities:

1. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Seller"); and
2. Acting on behalf of Seller, **Keller Williams Realty, Inc. Idaho**, an Idaho limited liability partnership whose address is 3525 \_\_\_\_\_ Dr., Idaho Falls, Idaho 83404, with **Michael James Johnston** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").
3. **Ronald J. Miller and Marybeth Miller, Co-trustees**, U/D/T dated December 29, 2014, creating **The Ronald and Marybeth Miller Trust**, whose address is PO Box 150, Swan Valley, Idaho 83449, (hereinafter "Buyer");

Buyer, Seller, and Broker are individually a "Party" and together the "Parties".

### RECITALS:

- A. Seller currently has the legal right and option to a portion of Water Right No. 35-7720 (the "Water Right"), which was decreed on January 12, 2004 in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with priority dates of April 22, 1977. The current description of the Water Right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Seller desires to sell, and Buyer desires to buy 2.0 acres of the Water Right. Buyer has agreed to purchase 2.0 acres of the Water Right from Seller as set forth in the terms and provisions of this Agreement.

### AGREEMENT:

IN CONSIDERATION of the mutual representations, warranties, and covenants contained herein, the Parties, intending to be legally bound hereby, agree as follows:

1. Property Purchased. Seller hereby agrees to sell to Buyer, and Buyer agrees to buy from Seller, on the terms and conditions herein specified, the following-described portion of the Water Right:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

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|                            |                                                                 |
|----------------------------|-----------------------------------------------------------------|
| Purpose:                   | Irrigation                                                      |
| Priority:                  | April 22, 1977                                                  |
| Quantity (Diversion Rate): | 0.04 cfs of the total authorized 0.58 cfs                       |
| Quantity (Volume):         | 8.0 acre-feet per annum                                         |
| Place of Use (Acreage):    | 2.0 acres of the 29.1 authorized acres identified on Exhibit 2. |

The above-described portion of the Water Right is referred to hereafter as the "Purchased Water Right."

2. Property Retained. Other than the Purchased Water Right, Seller reserves and retains unto Seller any other water rights that may be appurtenant to the authorized place of use for the Water Right. No land, easements, or other property interests, other than the Purchased Water Right, are included in this Agreement.
3. Purchase Price. The purchase price for the Purchased Water Right is [REDACTED] (the "Purchase Price") plus a brokerage fee of [REDACTED] (Item 12a).
4. Earnest Money Deposit. Contemporaneous with the execution of this Agreement, Buyer shall deliver to Seller earnest money in the amount of [REDACTED] (the "Earnest Money"). The Earnest Money shall be applied towards the Purchase Price at closing, or otherwise disposed of as provided herein. A check for earnest money should be made to "Pioneer Title" who will hold said monies until closing.
5. Transfer Application. Within 30 days after both Parties sign this Agreement, Buyer will file with IDWR an *Application for Transfer of Water Right* (the "Transfer") to amend and move the Purchased Water Right to Buyer's desired location(s) for use in a pond and/or for small irrigation. The Parties will cooperate in obtaining IDWR approval of the Transfer and will provide and execute any necessary documents requested by IDWR. Buyer will be responsible for the costs to file the Transfer, including all attorney fees, consultant fees, and filing fees associated with preparation of the Transfer and/or defending against a protest to the Transfer. In the event this Agreement is terminated pursuant to paragraph 6 of this Agreement, Buyer shall at its sole expense take such action as may be required to void or reverse the Transfer in order to return the Purchased Water Right to the condition it existed on the Effective Date, upon completion of which the Earnest Money will be returned by Buyer within 14 days of such completion.
6. Transfer Contingencies.
  - (a) Unstacking of Water Rights. While Water Right No. 1-7017 is stacked with the Purchased Water Right and the historical use should allow IDWR to "unstack" these water rights, this Agreement shall be null and void and of no further effect if IDWR does not unstack the Purchased Water Right from Water Right No. 1-7017.

#### AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS

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- (b) No Protests. If no protests or other objections to the Transfer are filed with IDWR, but the Transfer is (i) denied, (ii) approved by IDWR for less than 2.0 acres or the converted portion for the pond as proposed in the application, or (iii) approved by IDWR with conditions that materially devalue the Purchased Water Right for Buyer's intended use thereof, then Buyer may terminate this Agreement within 14 days after the date of the IDWR approval notice by providing written notice of termination to Seller. Within 14 days of receipt of the notice of termination, Seller shall refund the Earnest Money to Buyer. If Buyer does not terminate this Agreement as provided herein, the Parties shall proceed to Closing as set forth in paragraph 7.
- (c) Protest Filed. If a protest or other objection to the Transfer is filed with IDWR, then Buyer may terminate this Agreement within 180 days after the protest is filed with IDWR. If Buyer does elect to terminate this Agreement, Seller shall refund the Earnest Money to Buyer within 14 days of receipt of the notice of termination.
- (d) Option Agreement. If Seller is unable to obtain title to the Water Right through the exercise of Seller's option to purchase the Water Right because of a breach by the other party to the Option Agreement, Seller may elect to terminate this Agreement within 180 days of the breach. In such event, Closing on this Agreement shall be stayed for said 180 days pending resolution of the dispute over the Option Agreement or termination by Seller.

7. Closing.

- (a) Closing Date. If (1) the Water Right is unstacked as provided in paragraph 6(a); and (2) no protest to the Transfer is filed with IDWR; or (3) IDWR issues a transfer approval acceptable to Buyer without the conditions of paragraph 6(c) present, then Closing on the Purchased Water Right shall occur within 30 days after the date all the above items are satisfied. If a protest or other objection to the Transfer is filed with IDWR, or there is a dispute over the Option Agreement, and Buyer does not elect to terminate the Agreement as set forth in paragraph 6(d) of this Agreement, the Closing shall occur within 14 days after the 180-day termination period expires. Notwithstanding the above, the Parties may mutually agree to another date for the Closing.
- (b) Closing Location. The Closing shall occur at the offices of Pioneer Title Company, 1655 Elk Creek Drive Suite 100, Idaho Falls, ID 83404, or at another location mutually agreed by the Parties.
- (c) Documents to be Delivered at Closing.
  - (1) At Closing, Buyer shall deliver the Purchase Price less the Earnest Money plus brokerage fee ( $\$20,000 - \$2,000 + \$2,000 = \$20,000$ ).
  - (2) At Closing, Seller shall deliver to Buyer the Special Warranty Deed (the "Deed") substantially in the form attached to this Agreement as **Exhibit 3** for the Purchased Water Right, and any

lien release or other documents reasonably requested to confirm the conveyance of the Purchased Water Right free and clear of encumbrances.

- (d) Fees and Costs of Closing. The cost of recording the Deed after Closing shall be paid by Buyer. All other expenses not specifically referenced in this Agreement but related to the Transfer and incurred by Seller or Buyer with respect to this transaction shall be borne and paid exclusively by the Party incurring the same, without reimbursement.
8. Default. In addition to either Party's failure to perform any material term or condition of this Agreement or a Party's breach of any of such Party's representations or warranties (in which event the non-defaulting party may pursue any available remedy, including equitable relief), Buyer shall be deemed in default hereof if Buyer files a petition in bankruptcy or is adjudicated bankrupt or insolvent, Buyer makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of its property, or institutes proceedings for its reorganization, in which case, in addition to any other remedies or rights Seller might have, Seller shall have the power and authority to notify the Department that the Application for Transfer has been withdrawn.
9. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the Effective Date and again as of the Closing as follows:
- (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Agreement, and will obtain good marketable title to the Purchased Water Right in fee simple, and Seller (at its expense) shall remove, or shall exercise commercially reasonable efforts to cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Purchased Water Right on or before Closing. If, after exercising commercially reasonable efforts, the liens, claims, or encumbrances are not removed by Closing, Seller may terminate this Agreement.
- (b) Conveyance. Seller shall then convey the Purchased Water Right free and clear of all liens, encumbrances and restrictions, except such restrictions on the use of water as may appear on the Water Right Report contained at **Exhibit 1**.
- (c) Appurtenance. The Purchased Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
- (d) Not Forfeited. No portion of the Purchased Water Right has been forfeited or abandoned in whole or in part.
- (e) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.

#### AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: W/M

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10. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as of the Effective Date and again as of the Closing for the Purchased Water Right, as follows:
- (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.
  - (b) Buyer's Due Diligence. Buyer and Buyer's consultants and counsel have had a full opportunity to review all documents, records and other information made available to Buyer by Seller and/or otherwise reasonably available to Buyer through public or other sources, related to the nature and extent of the Purchased Water Right, the laws and rules affecting their transfer and use by Buyer, and the suitability or fitness of the Purchased Water Right for Buyer's intended purposes.
11. Warranties to Survive Closing. All representations and warranties made by the Parties herein are also covenants, and each Party shall take all such actions as may be required to satisfy said covenants and to cause the representations and warranties to be true on and as of the Closing. The Parties' respective obligations to close and consummate the transaction contemplated herein are contingent upon the representations, warranties and covenants contained in this Agreement being true, valid and satisfied on and as of the Closing. All such representations and warranties shall survive the Closing.
12. Broker.
- (a) The Broker represents Buyer under this Agreement and Buyer shall pay Broker a fee of                     .
  - (b) Consent To Limited Dual Representation And Assigned Agency. The undersigned Buyer has received, read and understand the Agency Disclosure Brochure (prepared by the Idaho Real Estate Commission). The undersigned Buyer understands that the brokerage involved in this transaction may be providing agency representation to both the Buyer and the Seller. The undersigned Buyer understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and cannot legally disclose to either client certain confidential client information concerning price negotiations, terms, or factors motivating the Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations, and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by § 54-2085, Idaho Code. The undersigned Buyer understands that a limited dual agent does not have a duty of undivided loyalty to either client. The undersigned Buyer further acknowledges that, to the extent the brokerage firm offers assigned agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in § 54-2087, Idaho Code. In an assigned agency situation, the designated Broker (the broker who

supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.

- (c) Buyer Notification and Consent to Release from Conflicting Agency Duties. Buyer acknowledges that Broker as named above has disclosed the fact that at times Broker acts as agent(s) for other buyers and for sellers in the sale of the property. Buyer has been advised and understands that it may create a conflict of interest for Broker to introduce Buyer to a Seller client's property because Broker could not satisfy all of its client duties to both Buyer client and Seller client in connection with such a showing or any transaction which resulted. **Based on the understandings acknowledged, Buyer makes the following election.** (Make one election only.)

\_\_\_\_\_/\_\_\_\_\_  
Initials  
Limited Dual Agency  
and / or  
Assigned Agency

Buyer DOES want to be introduced to Seller client's property and hereby agrees to relieve Broker of conflicting agency duties, including the duty to disclose confidential information known to the Broker at the time and the duty of loyalty to either party. Relieved of all conflicting agency duties, Broker will act in an unbiased manner to assist the Buyer and Seller in the introduction of Buyer to such Seller client's property and in the preparation of any contract of sale which may result. Buyer authorizes Broker to act in a limited dual agency capacity. Further, Buyer agrees that Broker may offer, but is not obligated to offer, assigned agency representation, and if offered by the Broker, Buyer authorizes Broker to act in such capacity.

OR

\_\_\_\_\_/\_\_\_\_\_  
Initials  
Single Agency

Buyer DOES NOT want to be introduced to Seller client's property and hereby releases Broker from any responsibility or duty under the agency agreement. Broker shall be under no obligation or duty to introduce the Buyer to any Seller client's property.

13. Miscellaneous.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.

- (b) Notices. Any notice under this Agreement shall be in writing and be delivered in person, by U.S. Mail, by private courier, or by facsimile. Notice shall be provided to the following:

|                                    |                                      |
|------------------------------------|--------------------------------------|
| <u>Seller</u>                      | <u>Buyer</u>                         |
| Rocky Mountain Water Exchange, LLC | The Ronald and Marybeth Miller Trust |
| 482 Constitution Way Ste 303       | PO Box 150                           |
| Idaho Falls, ID 83402              | Swan Valley, ID 83449                |
| Email: rog.rmea@gmail.com          |                                      |
| <br><u>Seller's Representative</u> | <br><u>Buyer's Representative</u>    |
| Reed Nord                          | Ron Miller                           |
| 3525 Merlin Dr.                    | PO Box 150                           |
| Idaho Falls, ID 83404              | Swan Valley, ID 83449                |
| Email: rgnord@ida.net              | 801-201-8520                         |
|                                    | Email: mmiller346@aol.com            |

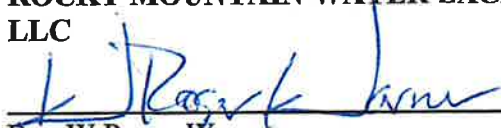
- (c) Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties hereto regarding the Purchased Water Right. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.
- (d) Remedies Cumulative. Upon any breach, any and all rights and remedies which either Party may have under this Agreement or by operation of law or equity, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other. No such right or remedy, whether exercised by said Party or not, shall be deemed to be in exclusion of any other right or remedy, any two or more of all such rights and remedies may be exercised at the same time or separately as desired.
- (e) Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.
- (f) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.

- (g) Counterparts. This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.
- (h) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.
- (i) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.
- (j) Essence of Time. Time is of the essence in this Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

**"SELLER"**

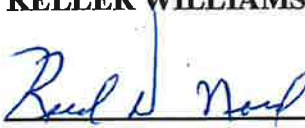
**ROCKY MOUNTAIN WATER EXCHANGE,  
LLC**

  
By: W Roger Warner

Its: Manager

**"BROKER"**

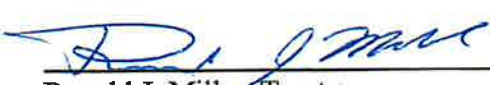
**KELLER WILLIAMS EAST IDAHO**

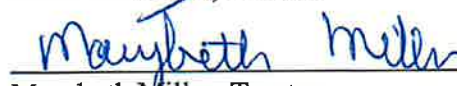
  
Michael James Johnston

By: Reed D. Nord, Agent for Broker

**"BUYER"**

**THE RONALD AND MARYBETH MILLER  
TRUST**

  
Ronald J. Miller, Trustee

  
Marybeth Miller, Trustee

\\RMEASERVER\Projects\2017\17-0142\_WR\_WaterRightSales\Water Right Buyer\Ron Miller

**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

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**Exhibit 1****The "Water Right"****IDAHO DEPARTMENT OF WATER RESOURCES****WATER RIGHT REPORT**

11/30/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-7720

| <u>Owner Type</u>      | <u>Name and Address</u>                                               |
|------------------------|-----------------------------------------------------------------------|
| Current Owner          | PT ELLIOTT LLC<br>392 N 4500 E<br>RIGBY, ID 83442-5596<br>2085897140  |
| Directors Report Owner | BURLEIGH TOMCHAK<br>202 BASSETT RD<br>ROBERTS, ID 83444<br>2082286871 |
| Directors Report Owner | MABEL TOMCHAK<br>458 BASSETT RD<br>ROBERTS, ID 83444<br>2082286871    |

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| GROUND WATER  |                  |

| <u>Beneficial Use</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/01       | 10/31     | 0.58 CFS              | 116.4 AFA     |
| Total Diversion       |             |           | 0.58 CFS              | 116.4 AFA     |

Location of Point(s) of Diversion:

GROUND WATER | NESW Lt 6 | Sec. 03 | Township 04N | Range 37E | JEFFERSON County

GROUND WATER | SWSW Lt 5 | Sec. 03 | Township 04N | Range 37E | JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

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| Township | Range | Section | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres |
|----------|-------|---------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|
| 04N      | 37E   | 3       | 7   | SWNE  | 5.7   | 12  | SWNE  | 4.6   |     |       |       |     |       |       |
|          |       |         |     | NWSW  | 18    | 5   | SWSW  | 0.3   | 14  | SWSW  | 0.5   |     |       |       |

Total Acres: 29.1

Conditions of Approval:

1. X35 Rights 35-7720 and 01-7017 when combined shall not exceed the irrigation of 29.1 acres.
2. E53 Use of this right with all other rights is limited to a total combined annual diversion volume of 116.4 acre-feet at the field headgate for the lands below.
3. T19 Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

**Dates:**

Licensed Date:

Decreed Date: 01/12/2004

Permit Proof Due Date: 7/1/1982

Permit Proof Made Date: 5/20/1982

Permit Approved Date: 7/25/1977

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 05/20/1977

Protest Deadline Date:

Number of Protests: 0

**Other Information:**

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

BUYER AND SELLER'S INITIALS:

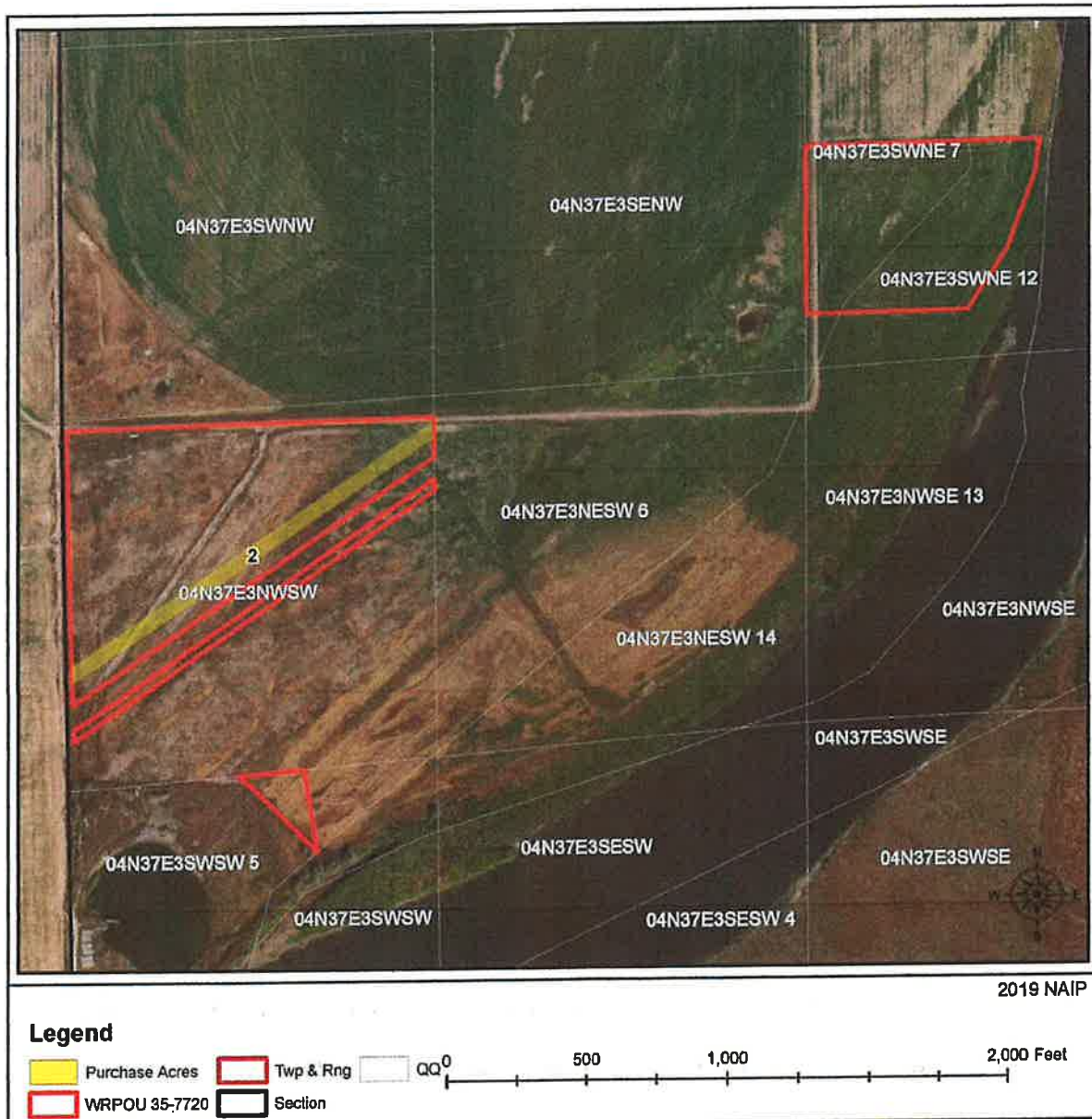
MM

DATE: 12/1/07

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85687

**Exhibit 2**  
**Map of 2.0 Acres—the “Purchased Water Right”**



**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

85687

**Exhibit 3  
Form of the Deed**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Kristin Moore  
Rocky Mountain Environmental Associates, Inc.  
482 Constitution Way, Suite 303  
Idaho Falls, ID 83402

(Space Above for Recorder's Use)

**SPECIAL WARRANTY DEED FOR WATER RIGHTS**

**PT ELLIOT, LLC**, an Idaho limited liability company, whose address is 392 N 4500 E, Rigby, Idaho 83442 (hereinafter collectively "Grantor") does hereby grant, bargain, sell, assign, and convey unto **RONALD J. MILLER and MARYBETH MILLER, CO-TRUSTEES, U/D/T** dated December 29, 2014, creating **THE RONALD AND MARYBETH MILLER TRUST**, whose address is PO Box 150, Swan Valley, Idaho 83449 (hereinafter "Grantee") and to Grantee's heirs and assigns forever, all of Grantor's right, title, and interest in water right described on Exhibit A attached hereto (hereinafter the "Water Right").

Grantor hereby covenants and warrants to Grantee as follows:

- (A) Grantor is the owner of the Water Right;
- (B) Grantor has not conveyed any of the Water Right to anyone other than Grantee;
- (C) The Water Right is free from all liens, claims, or encumbrances; and
- (D) Grantor has the authority to convey the Water Right to Grantee.

Grantor makes no other covenants or warranties as to the Water Right.

IN WITNESS WHEREOF, the undersigned authorized officer of Grantor, acting on behalf of Grantor, has caused his name to be hereunto subscribed.

**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

85687

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**"GRANTOR"**

\_\_\_\_\_  
\_\_\_\_\_

STATE OF IDAHO           )  
                                      )ss.  
County of \_\_\_\_\_)

This record was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Idaho  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO           )  
                                      )ss.  
County of \_\_\_\_\_)

This record was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Idaho  
My Commission Expires: \_\_\_\_\_

**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

mailed 10/1/22

**85687**

**EXHIBIT A**  
**WATER RIGHT DESCRIPTION**  
**(TO BE COMPLETED AFTER APPROVED TRANSFER)**

**AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT**

**BUYER AND SELLER TERMS:** None

**DATE:**

**PAGE 14 OF 14**

**85687**

## Eastern Snake Plain Aquifer Modeling Analysis and Narrative

### *Transfer Application of WR# 35-7720*

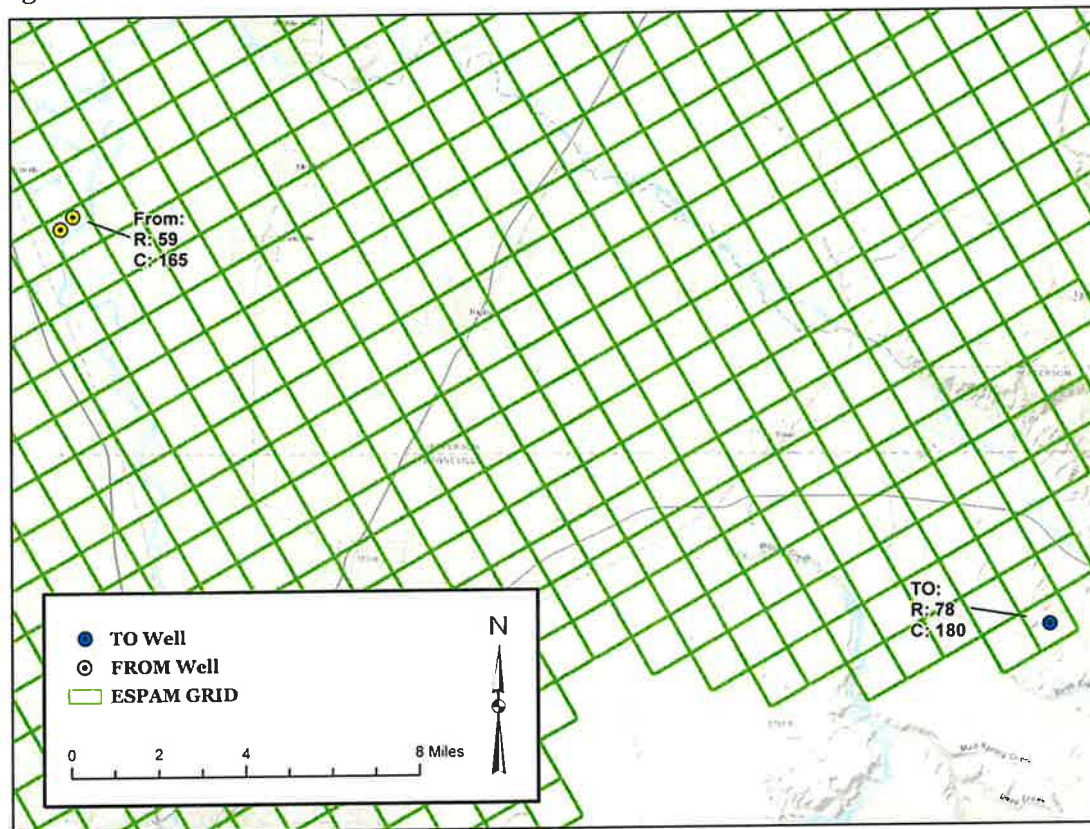
The Applicant requires 3 acres at the proposed place of use for pond storage and landscape irrigation. This application proposes to transfer water from water right nos. 35-7720 that will cover the acres required.

### Data Input Values

The TO Well location is one point of diversion that will be created after the approval of the transfer. Since the proposed POU is outside of the ESPAM grid, the closest model cell was used which is identified as R78 C180.

The FROM Well location is two points of diversion located within the same model cell R59 C165. The model cell is identified as R59 C165. Figure 1 shows the locations of the points of diversion used in the modeling scenario.

Figure 1. ESPA Model Grid



The standard consumptive use volume of 3.0 afa/acre for a total of 9.0 afa, or 3.0 af/trimester, was used to calculate a volume for modeling. This is an overestimate of the volume that will actually be used at the TO location, since evapotranspiration values will be less at the proposed location.

## Results

Using ESPAM 2.2 through the Enhanced Ground Water Rights Transfer Spreadsheet 3.4 to simulate the depletions of transferring 3 acres to the proposed place of use, the affects do not exceed the threshold of 2.0 af/trimester. No mitigation is required. Figures 2-4 include excerpts from the model simulation.

Figure 2. Data Entry

**ENHANCED GROUND-WATER RIGHTS TRANSFER**  
UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE IDAHO DEPARTMENT OF AGRICULTURE

Cells this color are set up for user entries

ENTER STARTING DATE FOR SIMULATION. THEN PUSH "UPDATE DATES" BUTTON

TRANSFER NO: 0

YEAR: 1979

SEASON: SPRING

TRANSFER NAME: test

UPDATE DATES

RUN MODEL

GET OUTPUT

CALCULATE EFFECTS

ENTER CELL LOCATIONS:

|        | 'TO' CELL | 'FROM1' CELL | 'FROM2' CELL | 'FROM3' CELL |
|--------|-----------|--------------|--------------|--------------|
| ROW    | 78        | 59           | 0            | 0            |
| COLUMN | 180       | 165          | 0            | 0            |

| TRIMESTER OF ACTIVITY | TO WELL                       | FROM1 WELL                    |                                  | FROM2 WELL                    |                                  | FROM3 WELL                    |                                  |
|-----------------------|-------------------------------|-------------------------------|----------------------------------|-------------------------------|----------------------------------|-------------------------------|----------------------------------|
|                       | Projected Use<br>AF/TRIMESTER | With Transfer<br>AF/TRIMESTER | Without Transfer<br>AF/TRIMESTER | With Transfer<br>AF/TRIMESTER | Without Transfer<br>AF/TRIMESTER | With Transfer<br>AF/TRIMESTER | Without Transfer<br>AF/TRIMESTER |
| SPR 1979              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 1979              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 1979              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2020              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2021              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2021              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2021              | 0.00                          | 3.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2022              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2022              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2022              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2023              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2023              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2023              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2024              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2024              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2024              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2025              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2025              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2025              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2026              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2026              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2127              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2127              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SPR 2128              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| SUM 2128              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |
| WIN 2128              | 3.00                          | 0.00                          | 3.00                             | 0.00                          | 0.00                             | 0.00                          | 0.00                             |

Figure 3. Net Transfer Graphs

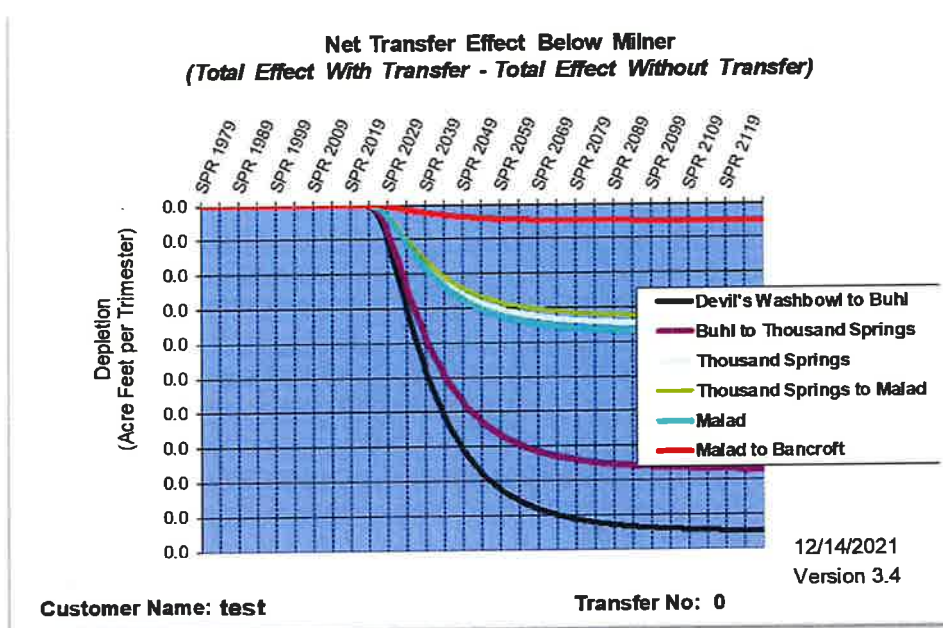
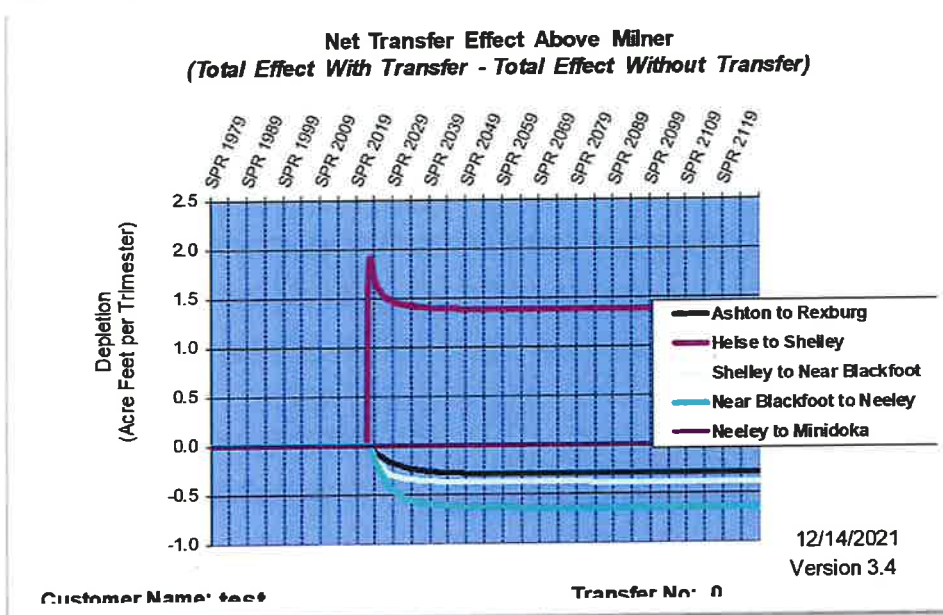


Figure 4. Calculated Affects Beginning Prior to Proposed Rental Period

|                                    | Net Transfer Effect (AF/four months) |                     |                         |                     |                       |                   |                 |              |                  |                |                      |
|------------------------------------|--------------------------------------|---------------------|-------------------------|---------------------|-----------------------|-------------------|-----------------|--------------|------------------|----------------|----------------------|
|                                    | Ashton to<br>Rexburg                 | Heise to<br>Shelley | Shelley to<br>Nr Bickft | Nr Bickft<br>Neeley | Neeley to<br>Minidoka | Dev. Wbl.<br>Buhl | Buhl to<br>Kspr | Kspr<br>Kspr | Kspr to<br>Malad | Malad<br>Malad | Malad to<br>Bancroft |
| SPR 1979                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 1979                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 1979                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 1980                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 1980                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2020                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2021                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2021                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2021                           | 0.0                                  | 0.0                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2022                           | 0.0                                  | 1.5                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2022                           | 0.0                                  | 1.9                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2022                           | 0.0                                  | 1.9                 | 0.0                     | 0.0                 | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2023                           | 0.0                                  | 1.9                 | -0.1                    | -0.1                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2023                           | 0.0                                  | 1.8                 | -0.1                    | -0.1                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2023                           | -0.1                                 | 1.8                 | -0.1                    | -0.1                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2024                           | -0.1                                 | 1.7                 | -0.1                    | -0.2                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2024                           | -0.1                                 | 1.7                 | -0.2                    | -0.2                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2024                           | -0.1                                 | 1.6                 | -0.2                    | -0.2                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2025                           | -0.1                                 | 1.6                 | -0.2                    | -0.2                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2025                           | -0.1                                 | 1.6                 | -0.2                    | -0.3                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2025                           | -0.1                                 | 1.6                 | -0.2                    | -0.3                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2026                           | -0.1                                 | 1.5                 | -0.2                    | -0.3                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2026                           | -0.1                                 | 1.5                 | -0.2                    | -0.3                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2026                           | -0.1                                 | 1.5                 | -0.3                    | -0.4                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2027                           | -0.1                                 | 1.5                 | -0.3                    | -0.4                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2027                           | -0.2                                 | 1.5                 | -0.3                    | -0.4                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2027                           | -0.2                                 | 1.5                 | -0.3                    | -0.4                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2028                           | -0.2                                 | 1.5                 | -0.3                    | -0.4                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2028                           | -0.2                                 | 1.5                 | -0.3                    | -0.4                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2028                           | -0.2                                 | 1.5                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2029                           | -0.2                                 | 1.5                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2029                           | -0.2                                 | 1.5                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2029                           | -0.2                                 | 1.5                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2030                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2030                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2030                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2031                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2031                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2031                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2032                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2032                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2032                           | -0.2                                 | 1.4                 | -0.3                    | -0.5                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2033                           | -0.2                                 | 1.4                 | -0.3                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2033                           | -0.2                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2033                           | -0.2                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2034                           | -0.2                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2034                           | -0.2                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2034                           | -0.2                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2035                           | -0.2                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2035                           | -0.3                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2035                           | -0.3                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2127                           | -0.3                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SPR 2128                           | -0.3                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| SUM 2128                           | -0.3                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| WIN 2128                           | -0.3                                 | 1.4                 | -0.4                    | -0.6                | 0.0                   | 0.0               | 0.0             | 0.0          | 0.0              | 0.0            | 0.0                  |
| Effects @ SS (Last Time Step):     | 0.33                                 | 1.29                | 0.54                    | 0.80                | 0.01                  | 0.01              | 0.01            | 0.00         | 0.00             | 0.00           | 0.00                 |
|                                    | 0.02                                 | 2.66                | 0.15                    | 0.16                | 0.00                  | 0.00              | 0.00            | 0.00         | 0.00             | 0.00           | 0.00                 |
| Value of Dep. @ Last Time Step:    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                |                      |
| ient State (Max Value Timestep):   | 0.33                                 | 1.29                | 0.54                    | 0.80                | 0.01                  | 0.01              | 0.01            | 0.00         | 0.00             | 0.00           | 0.00                 |
|                                    | 0.32                                 | 3.19                | 0.53                    | 0.80                | 0.01                  | 0.01              | 0.01            | 0.00         | 0.00             | 0.00           | 0.00                 |
| Max. Value of Dep. After Transfer: |                                      |                     |                         |                     |                       |                   |                 |              |                  |                |                      |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                |                      |
| Steady State Change:               | -0.30                                | 1.38                | -0.39                   | -0.65               | -0.01                 | -0.01             | -0.01           | 0.00         | 0.00             | 0.00           | 0.00                 |
| Transient State Change:            | 0.00                                 | 1.91                | 0.00                    | -0.01               | 0.00                  | 0.00              | 0.00            | 0.00         | 0.00             | 0.00           | 0.00                 |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                |                      |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | Total                |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | 3.00                 |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | Total Effect         |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | 3.00                 |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | Total Effect         |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | 4.89                 |
|                                    |                                      |                     |                         |                     |                       |                   |                 |              |                  |                | Total Effect         |



2019 NAIP

- Proposed POD
- POU WR #23-88B
- Pond POU
- Irrigation POU
- Twn & Rng
- Section
- QQ



## Proposed Water Right

Ron Miller

Project #: 21-0190

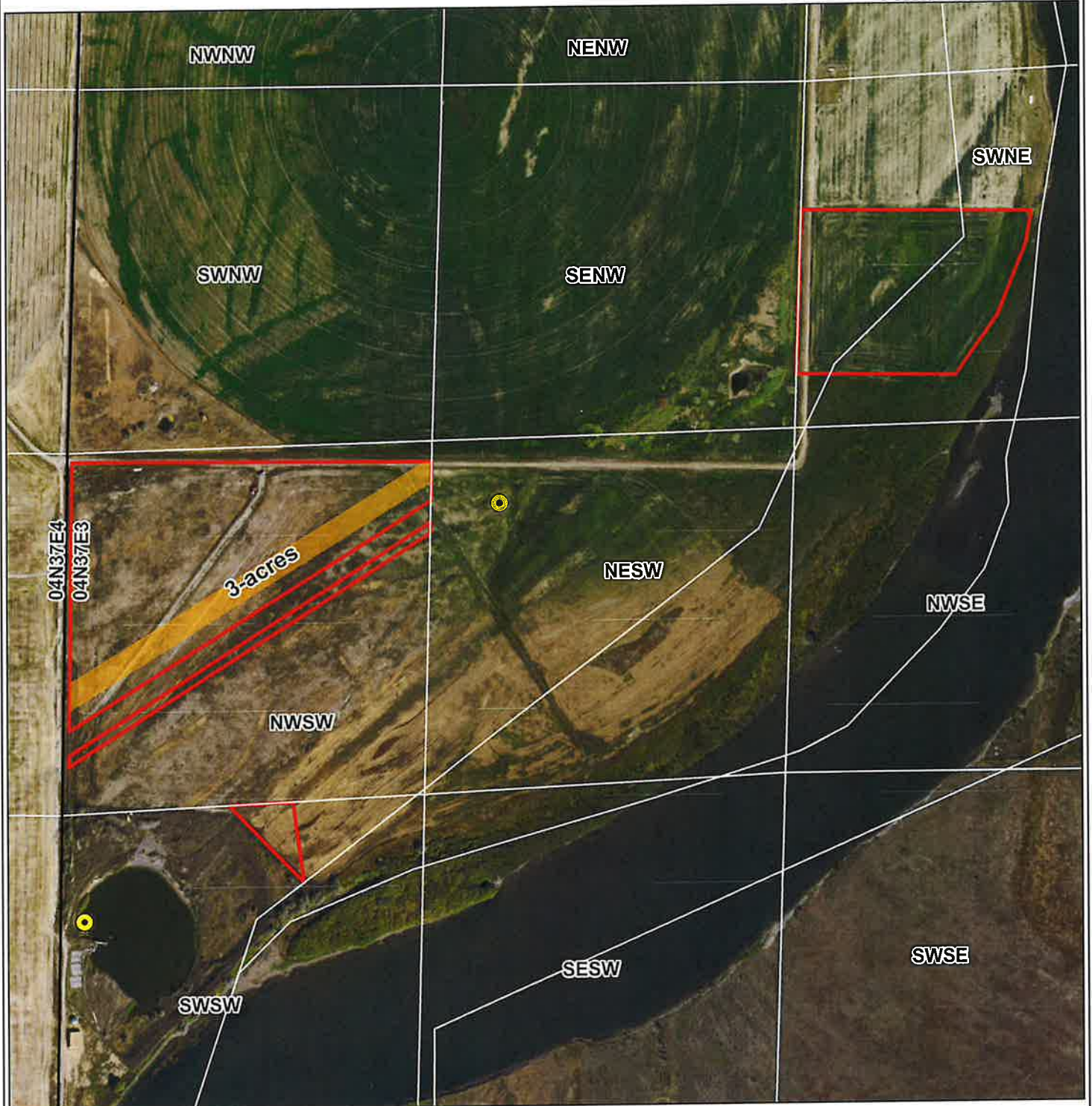
Drawn by: AD

Date: 12/21/2021



**Rocky Mountain**  
**ENVIRONMENTAL**  
ASSOCIATES, INC.

05687



0 0.05 0.1 0.2 Miles

2019 NAIP

- From Well POD
- Existing POU (3-acres)
- POU WR# 35-7720
- Twn & Rng
- Section
- QQ



## Existing Water Right

Ron Miller

Project #: 21-0190  
 Drawn by: AD  
 Date: 12/17/2021



85687

## Conversion of Nature of Use

*Ron Miller Transfer*

Applicant proposes to maintain four existing ponds approximate surface areas of 0.7 ac, 1.6 ac, 0.3 ac, and 0.5 ac (Combined: 3.1 ac of surface area). Ground water at this site is very shallow and is no more than 2 feet below ground surface year round. This application proposes to transfer an existing water right to provide for the consumptive components of the ponds and a small portion of irrigation.

A portion of existing water right 35-7720 is proposed to be converted from irrigation to be used for maintenance of pond evaporation. Using IDWRs Pond Loss Calculation Spreadsheet, evaporation of the total 3.1-acre ponds is calculated to be 3.8 afa, based upon the precipitation deficit from ET Idaho 2017 of Open Water – Shallow Systems from the Swan Valley 1W (NWS—USC00108937) Station. Excerpts of the spreadsheet and the ET values from ET Idaho 2017 are included in Figures 1 and 2.

It is proposed that to mitigate for the 3.8 afa increase in consumption, a portion of water right 35-7720 will converted from irrigation to pond storage. Historically, 35-7720 has been used to irrigate grain. Using ET Idaho 2017, and based upon information gathered at the Roberts station (AM/INL -- ROBI), spring grain has a precipitation deficit of 630 mm/year, or 2.07 af/year, for the growing season. It is calculated to require 1.8 acres of 35-7720 to be converted for pond maintenance, as shown in the equation below:

$$\text{Acres to Retire for Mitigation} = 3.8 \text{ afa} / 2.07 \text{ ft/yr} = 1.8 \text{ acres}$$

Since 3.0 acres of 35-7720 are proposed to be transferred to the new place of use, and 1.8 acres are required for maintenance of the pond, the total remaining irrigable acres will be 1.2 acres.

**Figure 1. Excerpt of IDWR Pond Loss Calculation Spreadsheet**

| Precipitation Deficit                                                                             |                     |                |                    |
|---------------------------------------------------------------------------------------------------|---------------------|----------------|--------------------|
| Station: Swan Valley 1W (NWS -- USC00108937)                                                      |                     |                |                    |
| Month                                                                                             | mm/day <sup>1</sup> | Days per month | mm/Month           |
| Jan                                                                                               | -0.92               | 31             | 0.00               |
| Feb                                                                                               | -0.36               | 28             | 0.00               |
| March                                                                                             | 0.23                | 31             | 7.13               |
| April                                                                                             | 0.95                | 30             | 28.50              |
| May                                                                                               | 0.79                | 31             | 24.49              |
| June                                                                                              | 2.55                | 30             | 76.50              |
| July                                                                                              | 3.35                | 31             | 103.85             |
| August                                                                                            | 2.61                | 31             | 80.91              |
| September                                                                                         | 1.38                | 30             | 41.40              |
| October                                                                                           | 0.35                | 31             | 10.85              |
| November                                                                                          | -0.84               | 30             | 0.00               |
| December                                                                                          | -0.89               | 31             | 0.00               |
| Total mm/year =                                                                                   |                     |                | 373.63             |
| [(mm/yr) ÷ (convert to feet) ] X (Surface area of pond, in acres) = Evaporation Loss in Acre Feet |                     |                |                    |
| ( 373.63 )                                                                                        | ÷                   | 304.8          | ) X 3.10 = 3.8 AFA |

Figure 2. Excerpts of ET Idaho 2017

|                                                                                                                                                                                                                                                                                                                                   |        |       |      |      |      |      |      |      |      |      |       |       |                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-------|------|------|------|------|------|------|------|------|-------|-------|-----------------------------|
| <b>Swan Valley 1W (NWS -- USC00108937)</b><br>Statistics based on thirty year normal spans 1978 to 2016 years.<br>For a different land cover or crop click on the above link.<br>You can highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data. |        |       |      |      |      |      |      |      |      |      |       |       |                             |
| <b>Open water - shallow systems (ponds/streams)</b><br><b>Precipitation Deficit</b> ( <a href="#">Click here for a graph</a> )                                                                                                                                                                                                    |        |       |      |      |      |      |      |      |      |      |       |       |                             |
|                                                                                                                                                                                                                                                                                                                                   | Jan    | Feb   | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct  | Nov   | Dec   | Growing Season <sup>a</sup> |
| Mean <sup>b</sup>                                                                                                                                                                                                                                                                                                                 | mm/day |       |      |      |      |      |      |      |      |      |       |       |                             |
| Monthly <sup>c</sup>                                                                                                                                                                                                                                                                                                              | -0.92  | -0.36 | 0.23 | 0.95 | 0.79 | 2.55 | 3.35 | 2.61 | 1.38 | 0.35 | -0.84 | -0.69 | 283                         |

|                                                                                                                                                                                                                                                                                                                        |        |      |      |      |      |      |      |      |      |       |       |       |                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|------|------|------|------|------|------|------|------|-------|-------|-------|-----------------------------|
| <b>Roberts (AM/INL -- ROBI)</b><br>Statistics based on thirty year normal spans 1998 to 2016 years.<br>For a different land cover or crop click on the above link.<br>You can highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data. |        |      |      |      |      |      |      |      |      |       |       |       |                             |
| <b>Spring Grain - Irrigated</b><br><b>Precipitation Deficit</b> ( <a href="#">Click here for a graph</a> )                                                                                                                                                                                                             |        |      |      |      |      |      |      |      |      |       |       |       |                             |
|                                                                                                                                                                                                                                                                                                                        | Jan    | Feb  | Mar  | Apr  | May  | Jun  | Jul  | Aug  | Sep  | Oct   | Nov   | Dec   | Growing Season <sup>a</sup> |
| Mean <sup>b</sup>                                                                                                                                                                                                                                                                                                      | mm/day |      |      |      |      |      |      |      |      |       |       |       |                             |
| Monthly <sup>c</sup>                                                                                                                                                                                                                                                                                                   | -0.21  | 0.11 | 0.14 | 0.43 | 2.17 | 6.01 | 8.31 | 3.50 | 0.13 | -0.25 | -0.12 | -0.32 | 630                         |



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: [easterninfo@idwr.idaho.gov](mailto:easterninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Gary Spackman**

January 19, 2022

RONALD MILLER  
MARYBETH MILLER  
PO BOX 150  
SWAN VALLEY, ID 83449

RE: Transfer No. 85687  
Water Right No(s). 35-7720

Dear Applicants:

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the JEFFERSON STAR on 1/26/2022 and 2/2/2022. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Christina Henman  
Administrative Assistant

CC:  
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC  
C/O KRISTIN MOORE  
482 CONSTITUTION WAY STE 303  
IDAHO FALLS, ID 83402-3552

## Henman, Christina

---

**From:** Henman, Christina  
**Sent:** Wednesday, January 19, 2022 12:03 PM  
**To:** info@jeffersonstarnews.com  
**Subject:** Legal Notice for Jefferson Star  
**Attachments:** 85687 Jefferson Star.docx

LEGAL NOTICE DEPARTMENT  
JEFFERSON STAR  
PO BOX 37  
RIGBY, ID 83442

RE: Transfer No. 85687  
Water Right No(s). 35-7720

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 2/14/2022. Your cooperation is appreciated.

Thank You,



**Christina Henman**  
Administrative Assistant  
IDWR, Eastern Region  
900 N Skyline Ste. A  
Idaho Falls, ID 83402  
Phone: (208) 525-7161

NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 85687

RONALD MILLER and MARYBETH MILLER, PO BOX 150, SWAN VALLEY, ID 83449 has filed Application No. 85687 for changes to the following water rights within JEFFERSON County(s): Right No(s). 35-7720; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change points of diversion, add points of diversion, change place of use, change period of use, and change nature of use. The application proposes 3 points of diversion in Lot 2 (NWNE) and 2 points of diversion in Lot 3 (NENW) Sec 2, T01N R43E for 0.06 cfs from ground water. The proposed place of use is in Lot 2 (NWNE) and Lot 3 (NENW) Sec 2 T01N R43E for aesthetic storage and the irrigation of 1.2 acres. The proposed season of use for aesthetic storage is 1/1 to 12/31.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 2/14/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 1/26/2022 and 2/2/2022

## Kaiser, Anna

---

**From:** Condon, Mary  
**Sent:** Wednesday, January 12, 2022 3:12 PM  
**To:** Kaiser, Anna  
**Subject:** RE: Transfer of WR recently released from the WSB

Anna,

The lease for PT Elliott LLC, for rights 1-7017 and 35-7720 did expire on 12/31/2021. At this time, we have not received another application to lease these rights back into the bank. The two rights were in the bank, either partially or wholly, for 2019, 2020 and for 2021.

Best,  
Mary

**From:** Kaiser, Anna <Anna.Kaiser@idwr.idaho.gov>  
**Sent:** Wednesday, January 12, 2022 3:07 PM  
**To:** Condon, Mary <Mary.Condon@idwr.idaho.gov>  
**Subject:** RE: Transfer of WR recently released from the WSB

Oh, I'm so sorry the number is actually 35-7720. OOPS!

**From:** Condon, Mary <[Mary.Condon@idwr.idaho.gov](mailto:Mary.Condon@idwr.idaho.gov)>  
**Sent:** Wednesday, January 12, 2022 2:53 PM  
**To:** Kaiser, Anna <[Anna.Kaiser@idwr.idaho.gov](mailto:Anna.Kaiser@idwr.idaho.gov)>  
**Subject:** RE: Transfer of WR recently released from the WSB

Hi Anna,

We have not had 35-2270 in the bank. I did just release over a hundred rights as of 12/31/2021, but I cannot find a lease, active or expired, by that number or in the name of Wixom.

Best,  
Mary

Mary Condon  
Water Supply Bank Coordinator



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Planning & Projects

[mary.condon@idwr.idaho.gov](mailto:mary.condon@idwr.idaho.gov)

Direct: (208) 287-4936

Fax: (208) 287-6700, Attn. Mary C.

**From:** Kaiser, Anna <[Anna.Kaiser@idwr.idaho.gov](mailto:Anna.Kaiser@idwr.idaho.gov)>  
**Sent:** Wednesday, January 12, 2022 2:47 PM  
**To:** Condon, Mary <[Mary.Condon@idwr.idaho.gov](mailto:Mary.Condon@idwr.idaho.gov)>  
**Subject:** Transfer of WR recently released from the WSB

Good afternoon,

I am processing a transfer for water right no. 35-2270. The applicant states 35-2270 was previously leased to the WSB but was released on December 31, 2021. I am emailing you to confirm this release date.

Thank you!  
Anna

Anna Kaiser | Senior Water Resource Agent  
Idaho Department of Water Resources | Eastern Regional Office  
900 N. Skyline Dr., Ste A | Idaho Falls, ID, 83402-1718  
(208).525.7161 | [anna.kaiser@idwr.idaho.gov](mailto:anna.kaiser@idwr.idaho.gov)



**Kaiser, Anna**

---

**From:** Kristin Moore <kristin.rmea@gmail.com>  
**Sent:** Tuesday, January 11, 2022 4:12 PM  
**To:** Kaiser, Anna  
**Subject:** RE: Transfers for MILLER  
**Attachments:** AmendedPg3\_v2.pdf; WRPOU\_35\_7720\_PurchasedAcres\_RonMiller.dbf; WRPOU\_35\_7720\_PurchasedAcres\_RonMiller.prj; WRPOU\_35\_7720\_PurchasedAcres\_RonMiller.sbn; WRPOU\_35\_7720\_PurchasedAcres\_RonMiller.sbx; WRPOU\_35\_7720\_PurchasedAcres\_RonMiller.shp; WRPOU\_35\_7720\_PurchasedAcres\_RonMiller.shx

Anna,

The client had us adjust the POD based on his on-the-ground knowledge and we got the map right, but looks like Pg 3 didn't get updated. I've fixed that for you, too.

And attached is the shapefile for the sliver of 35-7720 that is proposed to be transferred.

Thanks for catching that!

---

**Kristin Moore**

Senior Water Rights Analyst

482 Constitution Way, Ste 303, Idaho Falls, ID 83402

E-Mail: [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)

VOICE: 208-524-2353, Ext #104 ||| FAX: 208-524-1795



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---

**From:** Kaiser, Anna [<mailto:Anna.Kaiser@idwr.idaho.gov>]

**Sent:** Tuesday, January 11, 2022 3:52 PM

**To:** Kristin Moore <kristin.rmea@gmail.com>

**Subject:** RE: Transfers for MILLER

I have one more question. Pg. 3 of the transfer application involving WR 23-88B describes one new POD in the NWNE and the other in the NENW. However, based on the enclosed map, it looks like both PODs might be within the NWNE. The western-most new POD seems to be on the border, so I wanted to double check before I data entered.

Thanks again!

Anna

**From:** Kaiser, Anna  
**Sent:** Tuesday, January 11, 2022 11:23 AM  
**To:** Kristin Moore <[kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)>  
**Subject:** RE: Transfers for MILLER

Thank you!

Do you by chance have a shape file for the three-acre slice proposed to be transferred out of the original POU? Does that make sense?

**From:** Kristin Moore <[kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)>  
**Sent:** Tuesday, January 11, 2022 10:00 AM  
**To:** Kaiser, Anna <[Anna.Kaiser@idwr.idaho.gov](mailto:Anna.Kaiser@idwr.idaho.gov)>  
**Subject:** RE: Transfers for MILLER

Good morning, Anna!

You are right. I corrected Page 3 and have attached it here.

Also, here's the shapes for the ponds and the proposed irrigation.

Thanks,

---

**Kristin Moore**

Senior Water Rights Analyst  
482 Constitution Way, Ste 303, Idaho Falls, ID 83402  
E-Mail: [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)  
VOICE: 208-524-2353, Ext #104 ||| FAX: 208-524-1795



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---

**From:** Kaiser, Anna [<mailto:Anna.Kaiser@idwr.idaho.gov>]  
**Sent:** Tuesday, January 11, 2022 8:02 AM  
**To:** [kristin.rmea@gmail.com](mailto:kristin.rmea@gmail.com)  
**Subject:** Transfers for MILLER

Good morning,

I am currently processing the two transfers you submitted in the name of Ronald J. and Marybeth Miller.

It looks like there is a typo on pg. 3 of the application proposing transfer to WR 23-88B. The right on pg. 3 is listed as 33-88B. Could you please email me a corrected copy of pg. 3?

Could you also send me the shape files associated with both transfers?

Please do not hesitate to contact me with any questions.

Thank you,  
Anna

Anna Kaiser | Senior Water Resource Agent  
Idaho Department of Water Resources | Eastern Regional Office  
900 N. Skyline Dr., Ste A | Idaho Falls, ID, 83402-1718  
(208).497-3779 | [anna.kaiser@idwr.idaho.gov](mailto:anna.kaiser@idwr.idaho.gov)

