

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 85296

RECEIVED

SEP 03 2021

Department of Water Resources
Eastern Region

MINIMUM REQUIREMENTS CHECKLIST

TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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.

Name of Applicant(s) Kenneth Rick Miles

Check 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.
- ☐ ☒ #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) Kenneth Rick Miles Phone _____
Mailing address 446 N 4108 East, Rigby, Idaho 83442 Email _____

- ☐ 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

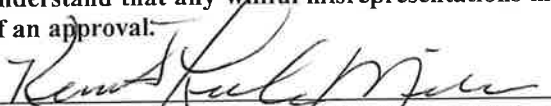
☒ Send original correspondence to the applicant and copies to the representative.

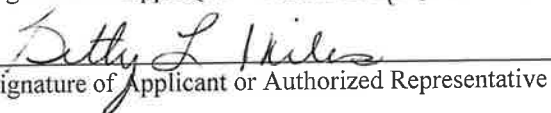
☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.

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.

 Kenneth Rick Miles 9-1-21
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

 Betty L Miles 9-1-21
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. 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**.

3. 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 2.5 acre of water right for the purposes of irrigating 2.5 acres on the property.

The 2.5 acres associated with Surface Water Right #1-7017 will be abandoned. See Part 1A.3.

Narrative to Support Application

Rocky Mountain Water Environmental Associates, Inc. for Rick Miles.

Water rights 35-7720 and 1-7017 are currently appurtenant to 36.6 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 2.5 acres and 0.04 cfs

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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.

I.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	35-7720	0.05 cfs	Irrigation	4/01 to 10/31	Groundwater
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.05 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.05 cubic feet per second and/or _____ 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			SW	SE	6	4N	39E	Jefferson	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	
4N	39E	6															2.5		2.5
Total Acres (for irrigation use)																			2.5

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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:

A well will be drilled after the transfer is approved. A measuring device can be installed, if required, at that time.

- b. Who owns the property at the point(s) of diversion? Kenneth Rick Miles

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 2.5-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 POD/POU no other irrigation rights.

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

Yes No

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☒ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe:

Idaho Department of Water Resources

WATER RIGHT REPORT

8/4/2021

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 392 N 4500 E RIGBY, ID 83442-5596 2085897140
Directors Report Owner	BURLEIGH TOMCHAK 202 BASSETT RD ROBERTS, ID 83444 2082286871
Directors Report Owner	MABEL TOMCHAK 458 BASSETT RD ROBERTS, ID 83444 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	0.73 CFS	146.4 AFA
Total Diversion			0.73 CFS	146.4 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	25.5	5	SWSW	0.3	14	SWSW	0.5			

Total Acres: 36.6

Conditions of Approval:

1. X35 Rights 35-7720 and 01-7017 when combined shall not exceed the irrigation of 36.6 acres.
2. E53 Use of this right with all other rights is limited to a total combined annual diversion volume of 146.4 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:

Idaho Department of Water Resources

WATER RIGHT REPORT

8/4/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 1-7017

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

Priority Date: 03/14/1978

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SNAKE RIVER	COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	0.62 CFS	
Total Diversion			0.62 CFS	

Location of Point(s) of Diversion:

SNAKE RIVER|NWNWSE Lt 13|Sec. 03|Township 04N|Range 37E|JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	37E	3	7	SWNE	5.7	12	SWNE	4.6						
				NWSW	25.5	5	SWSW	0.3	14	SWSW	0.5			

Total Acres: 36.6

Conditions of Approval:

1. X35 Rights 1-7017 and 35-7720 when combined shall not exceed the irrigation of 36.6 acres.
2. 005 Use of water under this right is subject to control by the watermaster of State Water District No. 1, Snake River.
3. 001 A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
4. F01 Water is delivered through Tomchak B #1 pump.
5. R18 The right holder must obtain adequate supplemental water for the irrigation season that natural flow is not available.
6. 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: 09/14/2007

Permit Proof Due Date: 5/1/1983

Permit Proof Made Date: 3/8/1983

Permit Approved Date: 5/25/1978

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: 03/14/1978

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:

Generic Max Volume per Acre: 4

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

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 3 day of August, 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 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. **Kenneth Rick Miles and Betty Miles**, husband and wife, whose address is 446 N 4108 East, Rigby, Idaho 83442, (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 2.5 acres of the Water Right. Buyer has agreed to purchase 2.5 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:

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AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS LM / BM DATE: 8.2.21 PAGE 1 OF 14

Purpose:	Irrigation
Priority:	April 22, 1977
Quantity (Diversion Rate):	0.05 cfs of the total authorized 0.73 cfs
Quantity (Volume):	10.0 acre-feet per annum
Place of Use (Acreage):	2.5 acres of the 36.6 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]
[REDACTED]
Paid up front.
4. Earnest Money Deposit. No earnest money deposit.
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). 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.
 - (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 2.5 acres, 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

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AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: LM RLM DATE: 8.2.21 PAGE 2 OF 14

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 Rocky Mountain Water Exchange LLC, 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402, or at another location mutually agreed by the Parties.
- (c) Documents to be Delivered at Closing.
 - (1) At Closing, No additional fees due at closing. Paid up front.
 - (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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: [Signature] DATE: 8.2.21 PAGE 3 OF 14

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.
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.

KPL
AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KPL DATE: 8.2.21 PAGE 4 OF 14

- (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 [REDACTED]
- (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.

LRL
AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: [Signature] DATE: 8-2-21 PAGE 5 OF 14

- (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:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: Rhu / LRL DATE: 8.2.21 PAGE 6 OF 14

Seller

Rocky Mountain Water Exchange, LLC
 482 Constitution Way Ste 303
 Idaho Falls, ID 83402
 Email: rog.rmea@gmail.com

Buyer

Rick and Betty Miles
 446 N 4108 East
 Rigby, Idaho 83442
 rmiles@rmesi.net

Seller's Representative

Reed Nord
 3525 Merlin Dr.
 Idaho Falls, ID 83404
 Email: rgnord@ida.net

Buyer's Representative

- (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.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

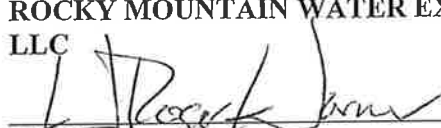
BUYER AND SELLER'S INITIALS: [Signature] [Signature] DATE: 8.2.21 PAGE 7 OF 14

- (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"



Rick Miles



Betty Miles



\\RMEASERVER\Projects\2017\17-0142_WR_WaterRightSales\Water Right Buyer\Gary Chapman

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

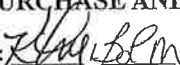
BUYER AND SELLER'S INITIALS:  DATE: 8/2/21 PAGE 8 OF 14

Exhibit 1

The "Water Right"

Idaho Department of Water Resources

WATER RIGHT REPORT

8/2/2021

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 392 N 4500 E RIGBY, ID 83442-5596 2085897140
Directors Report Owner	BURLEIGH TOMCHAK 202 BASSETT RD ROBERTS, ID 83444 2082286871
Directors Report Owner	MABEL TOMCHAK 458 BASSETT RD ROBERTS, ID 83444 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	0.73 CFS	146.4 AFA
Total Diversion			0.73 CFS	146.4 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

BUYER AND SELLER'S INITIALS: _____ / _____ DATE: _____ PAGE 9 OF 14

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	25.5	5	SWSW	0.3	14	SWSW	0.5			

Total Acres: 36.6

Conditions of Approval:

1. X35 Rights 35-7720 and 01-7017 when combined shall not exceed the irrigation of 36.6 acres.
2. E53 Use of this right with all other rights is limited to a total combined annual diversion volume of 146.4 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

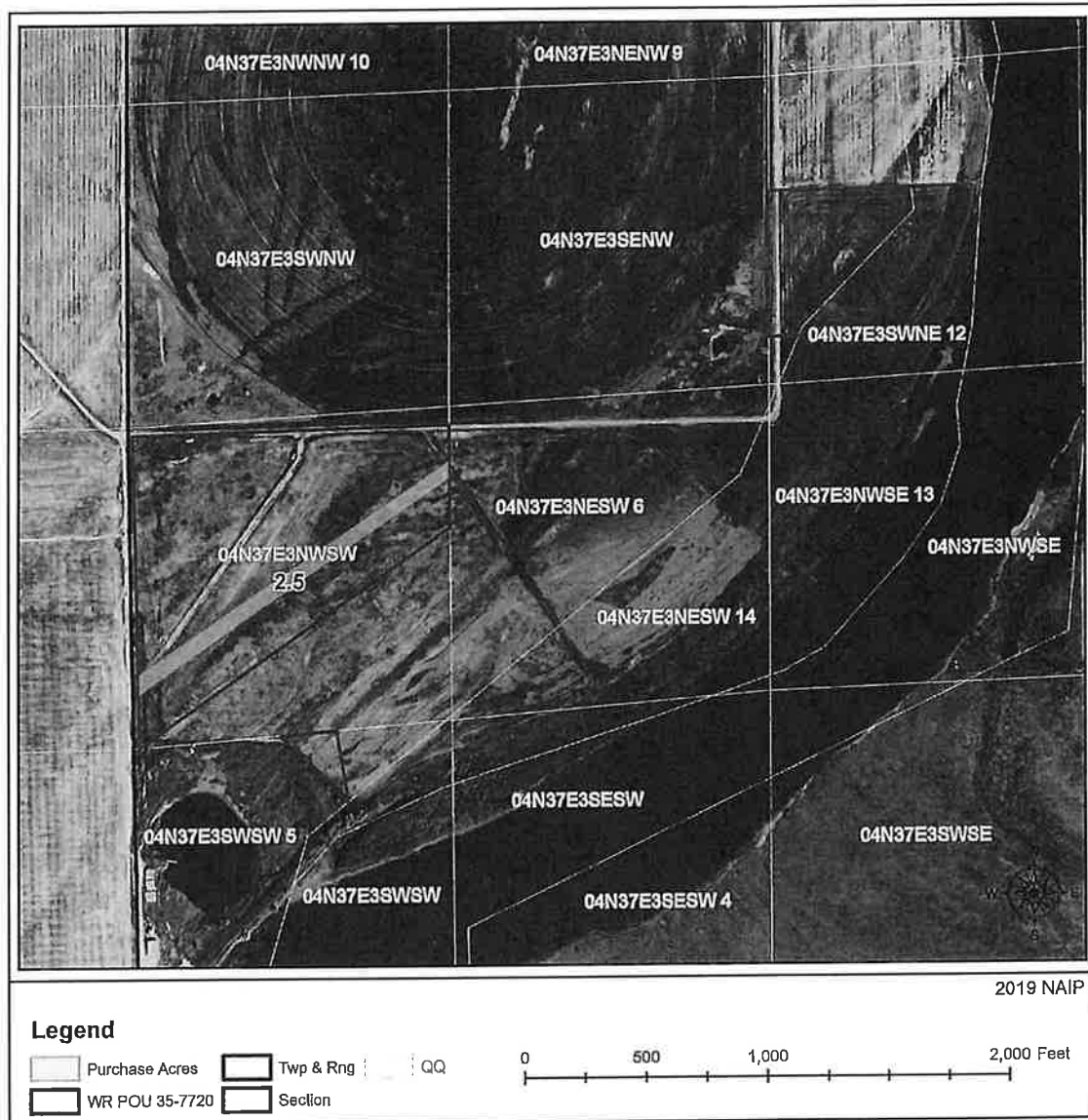
Combined Volume Limit:

Combined Rate Limit:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: _____ / _____ DATE: _____ PAGE 10 OF 14

Exhibit 2
Map of 2.5 Acres—the “Purchased Water Right”



AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: ____ / ____ DATE: _____ PAGE 11 OF 14

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 **KENNETH RICK MILES AND BETTY MILES**, husband and wife, whose address is 446 N 4108 East, Rigby, Idaho 83442, (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.

DATED this _____ day of _____, 20_____.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: _____ / _____ DATE: _____ PAGE 12 OF 14

"GRANTOR"

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the ____ day of _____,
2021, by _____.

Notary Public for Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the ____ day of _____,
2021, by _____.

Notary Public for Idaho
My Commission Expires: _____

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: ____ / ____ DATE: _____ PAGE 13 OF 14

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: ____/____ **DATE:** _____ **PAGE 14 OF 14**

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, rog.rmea@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 27.7-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

- (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).

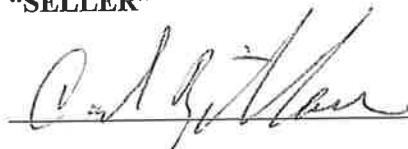
Each party signing this document confirms that he has received, read and understood the Agency Disclosure Brochure adopted or approved by the Idaho real estate commission and has consented

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

Eastern Snake Plain Aquifer Modeling Analysis and Narrative

Transfer Application of WR# 35-7720

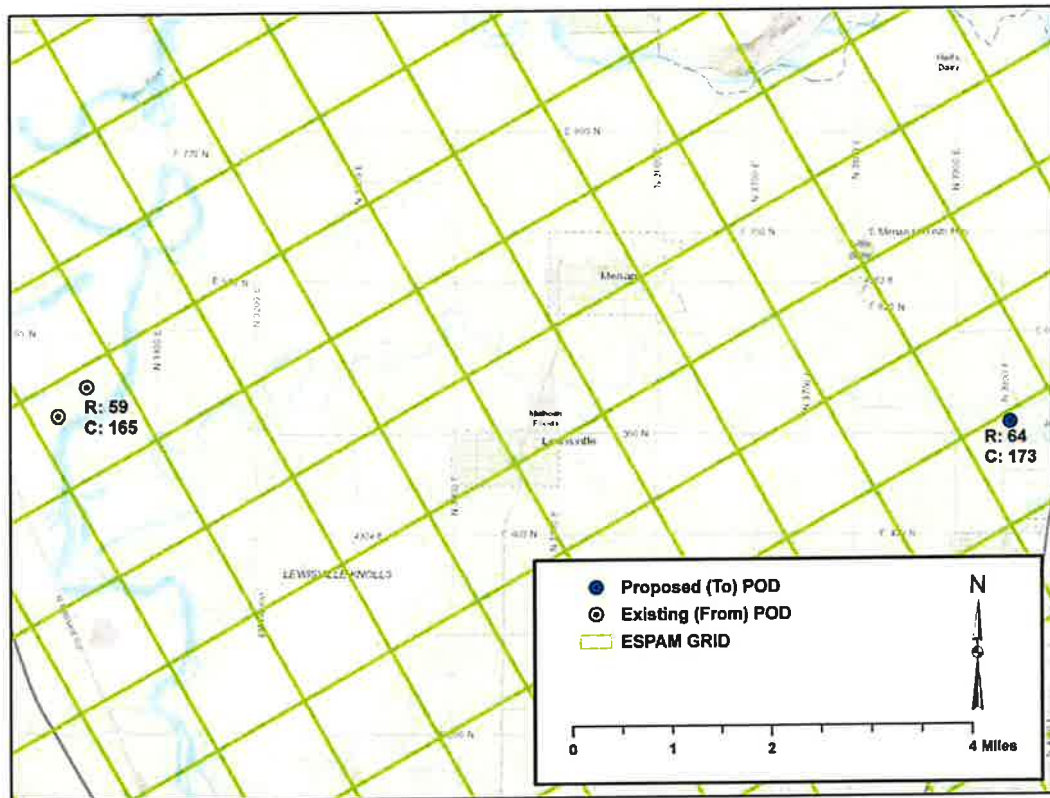
The Applicant requires an additional 2.5 acres at the proposed place of use for irrigation of additional acres. This application proposes to transfer water from water right nos. 35-7720 that will cover the acres required.

Data Input Values

The TO Well location is one proposed point of diversion. The model cell is identified as R64 C173.

The FROM Well location is two points of diversion located within the same model cell 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 7.5 afa was used to calculate a volume for modeling. Both the TO and the FROM wells share the same standard volume.

Results

Using ESPAM 2.1 to simulate the depletions of transferring 2.5 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: 35-7720

YEAR: 1979

SEASON: SPRING

TRANSFER NAME: Rick Miles

UPDATE DATES RUN MODEL GET OUTPUT

CALCULATE EFFECTS

ENTER CELL LOCATIONS:

	'TO' CELL	'FROM1' CELL	'FROM2' CELL	'FROM3' CELL
ROW	64	59	75	45
COLUMN	173	165	105	30

TRIMESTER OF ACTIVITY	TO WELL Projected Use AF/TRIMESTER	FROM1 WELL		FROM2 WELL		FROM3 WELL	
		With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER
SPR 1979	0	3	3	0	0	0	0
SUM 1979	0	3	3	0	0	0	0
WIN 1979	0	3	3	0	0	0	0
SPR 1980	0	3	3	0	0	0	0
SUM 1980	0	3	3	0	0	0	0
SUM 2019	0	3	3	0	0	0	0
WIN 2019	0	3	3	0	0	0	0
SPR 2020	0	3	3	0	0	0	0
SUM 2020	0	3	3	0	0	0	0
WIN 2020	0	3	3	0	0	0	0
SPR 2021	0	3	3	0	0	0	0
SUM 2021	3	0	3	0	0	0	0
WIN 2021	3	0	3	0	0	0	0
SPR 2022	3	0	3	0	0	0	0
SUM 2022	3	0	3	0	0	0	0
WIN 2022	3	0	3	0	0	0	0
SPR 2023	3	0	3	0	0	0	0
SUM 2023	3	0	3	0	0	0	0
WIN 2023	3	0	3	0	0	0	0
SPR 2024	3	0	3	0	0	0	0
SUM 2024	3	0	3	0	0	0	0
WIN 2024	3	0	3	0	0	0	0
SPR 2025	3	0	3	0	0	0	0
SUM 2025	3	0	3	0	0	0	0
WIN 2025	3	0	3	0	0	0	0
SPR 2026	3	0	3	0	0	0	0
SUM 2026	3	0	3	0	0	0	0
WIN 2026	3	0	3	0	0	0	0
SPR 2027	3	0	3	0	0	0	0
SUM 2027	3	0	3	0	0	0	0
WIN 2027	3	0	3	0	0	0	0
SPR 2028	3	0	3	0	0	0	0
SUM 2028	3	0	3	0	0	0	0
WIN 2028	3	0	3	0	0	0	0
SPR 2029	3	0	3	0	0	0	0
SUM 2029	3	0	3	0	0	0	0
WIN 2029	3	0	3	0	0	0	0
SPR 2030	3	0	3	0	0	0	0
SUM 2030	3	0	3	0	0	0	0
WIN 2030	3	0	3	0	0	0	0
SPR 2031	3	0	3	0	0	0	0
SUM 2031	3	0	3	0	0	0	0
WIN 2031	3	0	3	0	0	0	0

Figure 3. Net Transfer Graphs

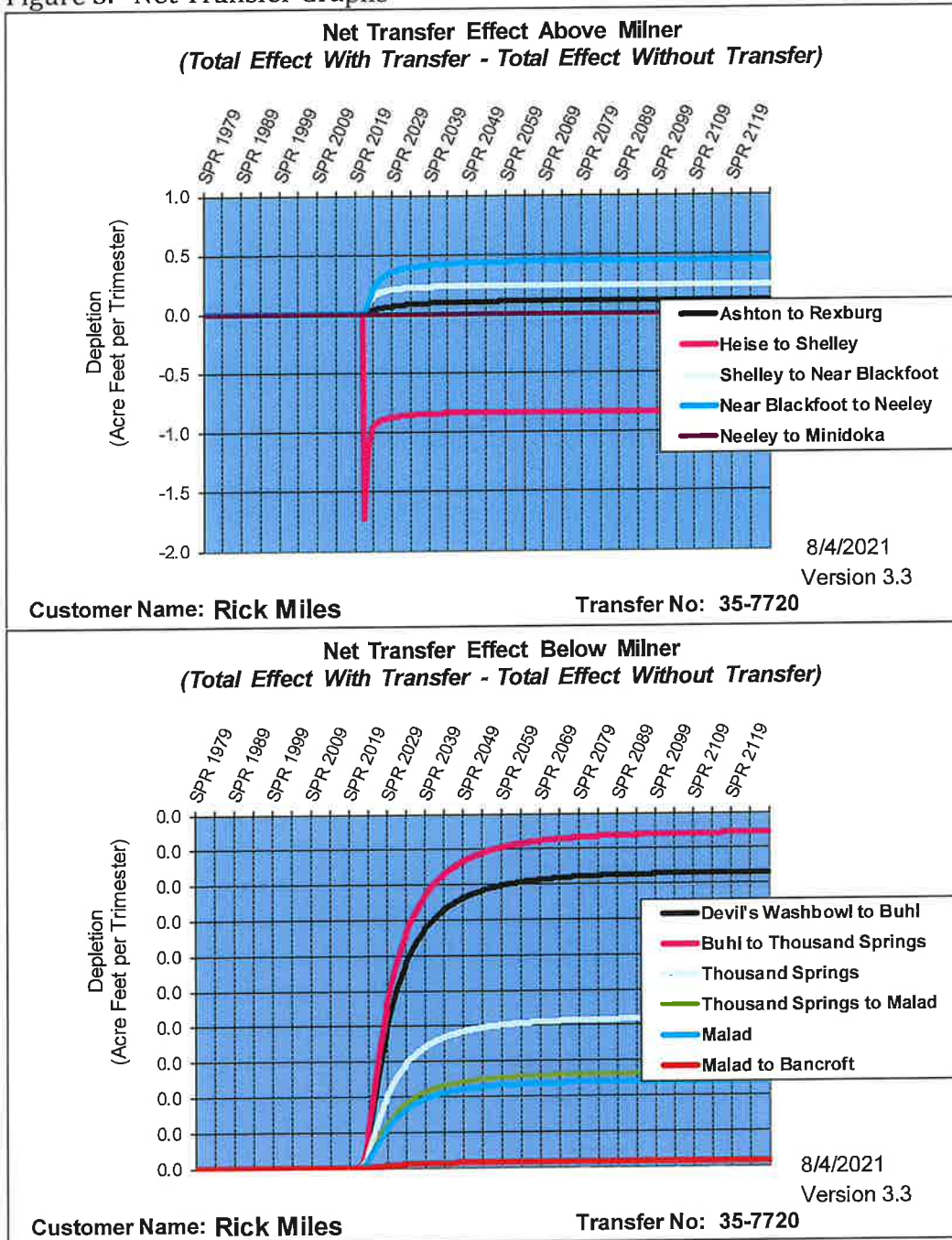


Figure 4. Calculated Affects Beginning Prior to Proposed Rental Period

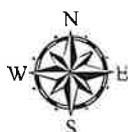
1	101	102	103	104	105	106	107	108	109	110	111
Net Transfer Effect (AF/four months)											
	Ashton to Rexburg	Heise to Shelley	Shelley to Nr Blckft	Nr Blckft Neeley	Neeley to Minidoka	Dev. Wbl. Buhl	Buhl to Kspr	Kspr	Kspr to Malad	Malad	Malad to Bancroft
SPR 1979	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	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
SUM 2020	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	-1.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2021	0.0	-1.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2022	0.0	-1.3	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2022	0.0	-1.1	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2022	0.0	-1.1	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2023	0.0	-1.0	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2023	0.0	-1.0	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2023	0.0	-1.0	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2024	0.0	-0.9	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2024	0.0	-0.9	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2024	0.0	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2025	0.0	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2025	0.0	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2025	0.0	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2026	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2026	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2026	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2027	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2027	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2027	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2028	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2028	0.1	-0.9	0.2	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2028	0.1	-0.9	0.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2029	0.1	-0.9	0.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2029	0.1	-0.9	0.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2029	0.1	-0.9	0.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2030	0.1	-0.9	0.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2030	0.1	-0.9	0.2	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Enter First Time Step of Transfer: SPR 2010											
Match: 94 Match: 456											
	ATR	HHS	SHNB	NBIN	NIM	DWIB	BRTS	TS	TSTM	M	MIB
Preexisting Effects @ SS (Last Time Step):	0.00	2.48	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Steady State - Value of Dep. @ Last Time Step:	0.11	1.65	0.25	0.46	0.00	0.01	0.01	0.00	0.00	0.00	0.00
sting Effects @ Transient State (Max Value Timestep):	0.00	2.48	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Transient State - Max. Value of Dep. After Transfer:	0.11	2.48	0.25	0.46	0.00	0.01	0.01	0.00	0.00	0.00	0.00
Steady State Change:	0.11	-0.82	0.24	0.44	0.00	0.01	0.01	0.00	0.00	0.00	0.00
Transient State Change:	0.11	0.00	0.24	0.44	0.00	0.01	0.01	0.00	0.00	0.00	0.00
Total	2.50										
Total Effects without Tra	2.50										
Total Effects with Trans											
Total Effects without Tra	2.50										
Total Effects with Trans	3.32										



0 0.04 0.08 0.16 Miles

2019 NAIP

- Proposed (To) POD
- Rick Miles Property Boundary
- Proposed POU (2.5 acres)
- Twn & Rng
- Sec
- QQ



Proposed Water Right

Rick Miles

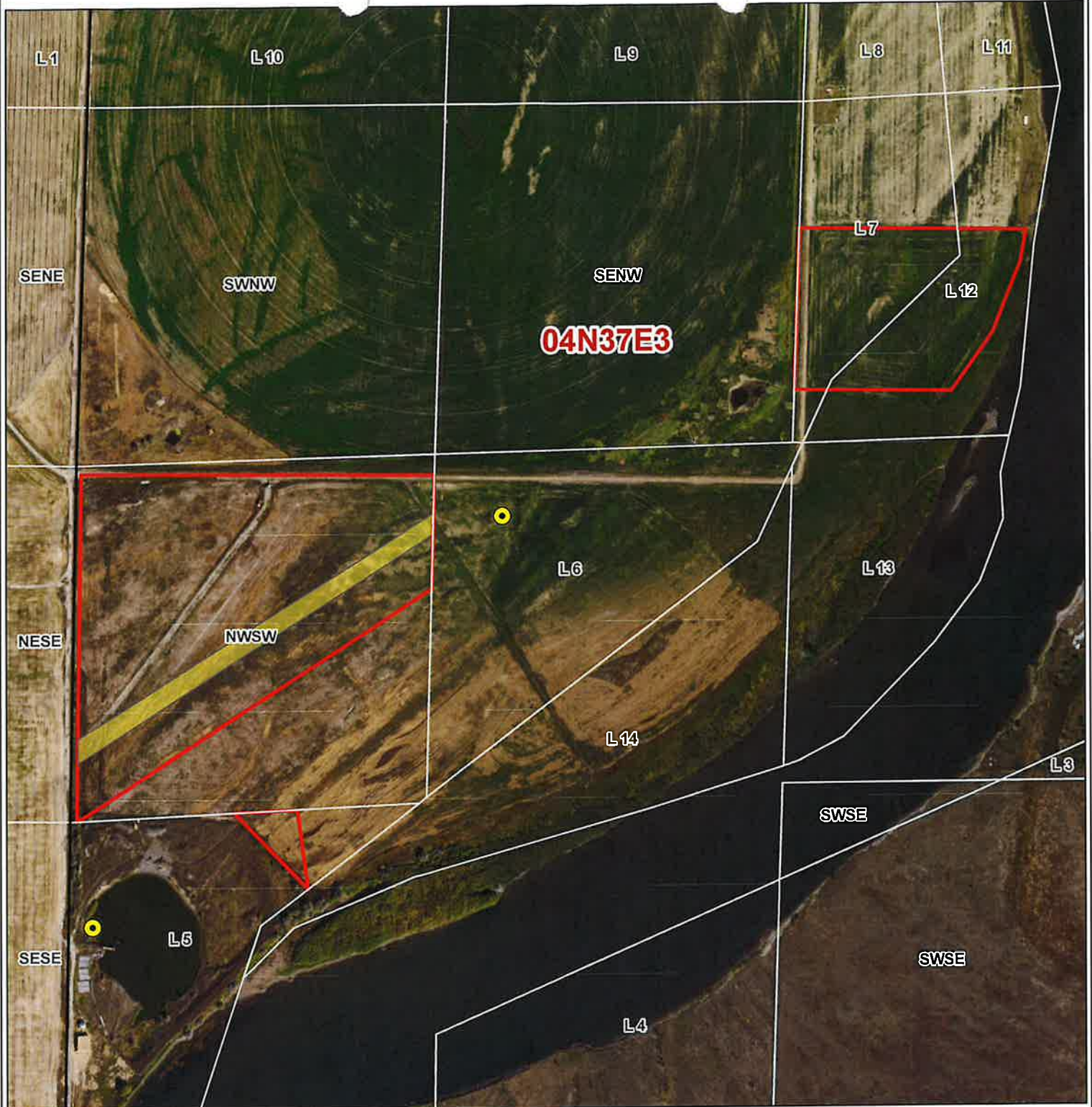
Project #: 21-0192

Drawn by: AD

Date: 8/31/2021



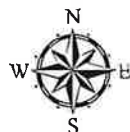
Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.



0 0.05 0.1 0.2 Miles

2019 NAIP

- Existing (From) POD
- Existing POU (2.5 acres)
- WRPOU 35-7720
- Twn & Rng
- Sec
- QQ



Existing Water Right

Rick Miles

Project #: 21-0192

Drawn by: AD

Date: 8/31/2021



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.



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 • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

September 8, 2021

RICK MILES
446 N 4108 E
RIGBY, ID 83442

RE: Transfer No. 85296
Water Right No(s). 35-7720

Dear Applicant(s):

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 9/15/2021 and 9/22/2021. 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, September 8, 2021 3:25 PM
To: 'info@jeffersonstarnews.com'
Subject: Legal Notice for Jefferson Star
Attachments: 85296 Jefferson Star.docx

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

RE: Transfer No. 85296
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 10/4/2021. 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. 85296**

RICK MILES, 446 N 4108 E, RIGBY, ID 83442 has filed Application No. 85296 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 point of diversion and place of use. The proposed point of diversion is in SWSE Sec 6 T04N R39E for 0.05 cfs from ground water. The proposed place of use is in SWSE Sec 6 T04N R39E for 2.5 acres. 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 10/4/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/15/2021 and 9/22/2021