

RECEIVED  
FORM 202 Rev. 09/16  
AUG 27 2021

85265

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

Ident. No. 92-11120

IDWR / NORTH

1. Name of applicant(s) B2 LAND LLC Phone 5097516745  
Name connector (check one): ☐ and ☐ or ☐ and/or  
Mailing address 444 E WALNUT AVE City GENESEE  
State IDAHO ZIP 83832 Email brad99403@gmail.com
2. Name of representative, if any \_\_\_\_\_ Phone \_\_\_\_\_  
Mailing address \_\_\_\_\_ City \_\_\_\_\_  
State \_\_\_\_\_ ZIP \_\_\_\_\_ Email \_\_\_\_\_
- a. ☐ 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.
- b. ☐ 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.
3. Source of water supply MIDDLE FK ST MARIES RIVER which is a tributary of ST MARIES RIVER
4. Location of point(s) of diversion:

| Twp | Rge | Sec | Govt Lot | 1/4 | 1/4 | 1/4 | County   | Source              | Local name or tag # |
|-----|-----|-----|----------|-----|-----|-----|----------|---------------------|---------------------|
| 42N | 02E | 5   |          |     | NE  | SW  | SHOSHONE | MIDDLE FK ST MARIES |                     |
| 42N | 02E | 5   |          |     | SE  | SW  | SHOSHONE | MIDDLE FK ST MARIES |                     |
|     |     |     |          |     |     |     |          | RIVER               |                     |
|     |     |     |          |     |     |     |          |                     |                     |

5. Water will be used for the following purposes:
- Amount .03 for IRRIGATION purposes from 04-01 to 10-31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount .02 for STOCK WATER purposes from 01-01 to 12-31 (both dates inclusive)  
(cfs or acre-feet per year)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per year)
- Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) .05 cubic feet per second (cfs) and/or (b) \_\_\_\_\_ acre-feet per year (af).
7. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source. 2 hp SUCTION PUMP WITH 1.5" INLET- TO 3/4" HOSE WITH WATER LINE TO SPRINKLER AND STOCK TANKS
- b. Height of storage dam N/A feet; active reservoir capacity \_\_\_\_\_ acre-feet; total reservoir capacity \_\_\_\_\_ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
- c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? \_\_\_\_\_; drilling firm \_\_\_\_\_; well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_

**For Department Use**

Received by Ja Date 8-27-21 Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
Fee \$ 100 Received by Ja Receipt No. N037318 Date 8-27-21

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_
  - Stockwatering; list number and kind of livestock. 25 HEAD MIXED STOCK
  - Municipal; must complete and attach the Municipal Water Right Application Checklist.
  - Domestic; show number of households \_\_\_\_\_
  - Other; describe fully. \_\_\_\_\_
9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
  - If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW  |    |    |     | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|----|----|----|----|-----|----|----|-----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE  | NW | SW | SE  | NE | NW | SW | SE |        |
| 42N | 02E | 5   |    |    |    |    |    |    |    |    | .05 |    |    | .05 |    |    |    |    | 1.0    |
| 42N | 02E | 5   |    |    |    |    |    |    |    |    | 5   |    |    | 5   |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |     |    |    |     |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |     |    |    |     |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |     |    |    |     |    |    |    |    |        |

Total number of acres to be irrigated: 1.0

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? YES, WATER FOR NEW PLANTED GRASS AND TREES AS A RESULT OF STREAMBANK STABILIZATION PROJECT AS NEEDED TO FOSTER GROWTH
11. a. Who owns the property at the point of diversion? B2 LAND LLC  
b. Who owns the land to be irrigated or place of use? B2 LAND LLC  
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: \_\_\_\_\_
12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. FILL STOCK WATER TANKS. ALSO I HAVE COMPLETED A PERMITTED STREAMBANK RESTORATION AND NEED TO REPLANT 45 TREES AND A SOME GRASS. WILL SPRINKLE BOTH THE TREES AND GRASS AS NEEDED TO FOSTER GROWTH
13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

**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.**

Brad Batterton, member  
Signature of Applicant

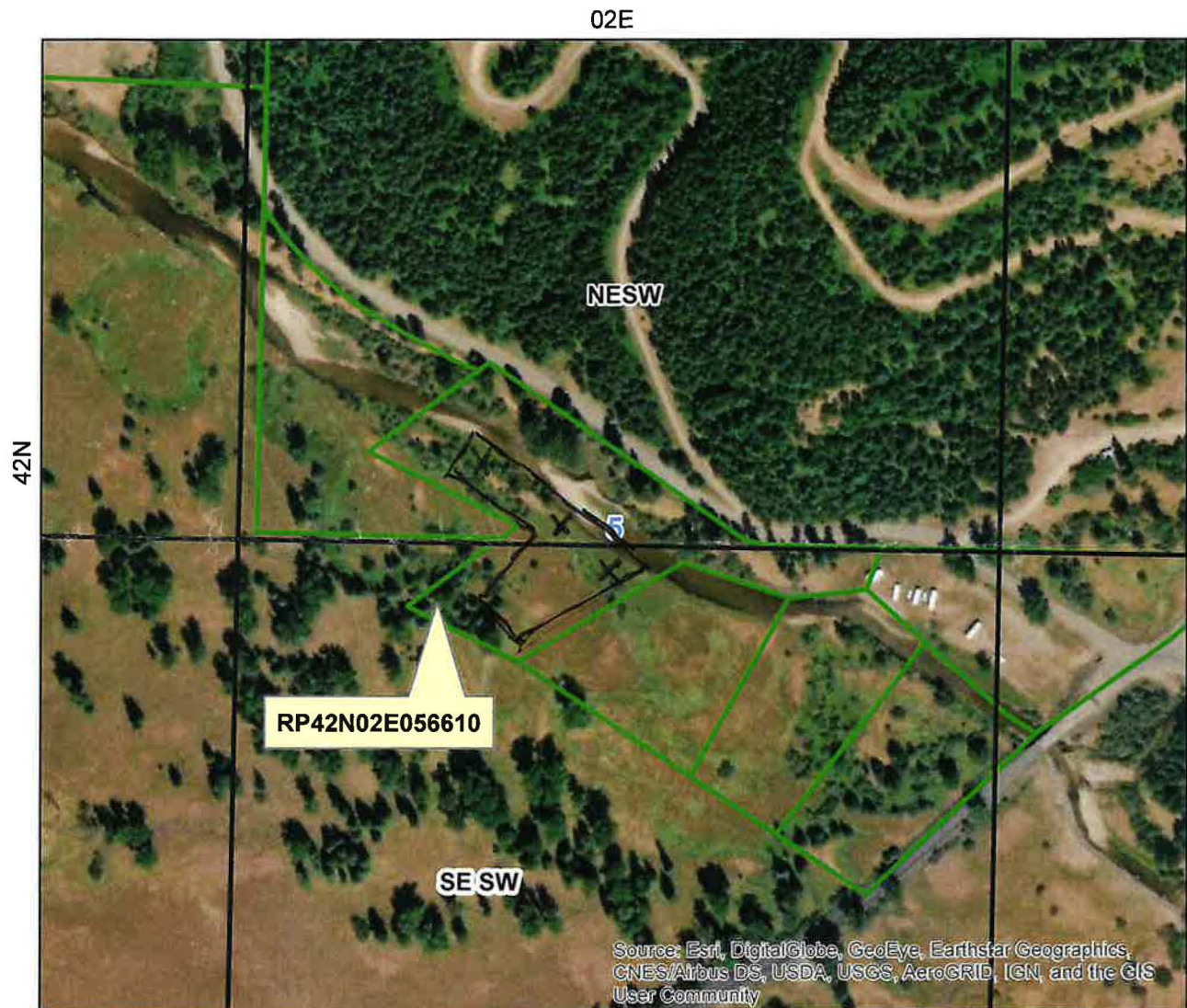
BRAD E BATTERTON, MEMBER

Print Name (and title, if applicable)

\_\_\_\_\_  
Signature of Applicant

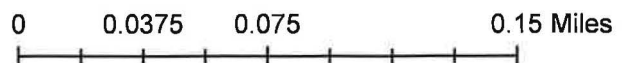
\_\_\_\_\_  
Print Name (and title, if applicable)

State of Idaho  
Department of Water Resources  
**Application For Permit**



-  PLS Sections
-  Quarter Quarters
-  Taxlots

Tax parcel information provided by Shoshone County.



X = Point of Diversion  
 = place of use:  
Irrigation & Stock water



# **OPERATING AGREEMENT**

**OF**

**B2 LAND, LLC**

This Operating Agreement of **B2 LAND, LLC**, an Idaho limited liability company organized pursuant to the Idaho Limited Liability Company Act is entered into and shall be effective as of July 23, 2019, by and among the Company and the persons executing this Agreement as Members.

## **ARTICLE I DEFINITIONS**

For purposes of this Operating Agreement (as defined below), unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- 1.1 **Act** - The Idaho Limited Liability Company Act and all amendments to the Act.
- 1.2 **Additional Member** - A Member other than an Initial Member or a Substitute Member who has acquired a Membership Interest from the Company.
- 1.3 **Articles** - The Articles of Organization of the Company as properly adopted and amended from time to time by the Members and filed with the Secretary of State.
- 1.4 **Assignee** - A transferee of a Membership Interest who has not been admitted as a Substituted Member.
- 1.5 **Bankrupt Member** - A member who: (1) has become the subject of an Order for Relief under the United States Bankruptcy Code, (2) has initiated, either in an original Proceeding or by way of answer in any state insolvency or receivership proceeding, an action for liquidation arrangement, composition, readjustment, dissolution, or similar relief.
- 1.6 **Business Day** - Any day other than Saturday, Sunday or any legal holiday observed in the State.
- 1.7 **Capital Account** - The account maintained by a Member or Assignee determined in accordance with Article VIII.

1.8 **Capital Contribution** - Any contribution of Property, services or the obligation to contribute Property or services made by or on behalf of a Member or Assignee.

1.9 **Code** - The Internal Revenue Code of 1986 as amended from time to time.

1.10 **Commitment** - The Capital Contributions that a Member or Assignee is obligated to make under this Operating Agreement.

1.11 **Company** – **B2 LAND, LLC**, a limited liability company formed under the laws of Idaho, and any successor limited liability company.

1.12 **Company Liability** - Any enforceable debt or obligation for which the Company is liable or which is secured by any Company Property.

1.13 **Company Property** - Any Property owned by the Company.

1.14 **Contributing Members** - Those Members making contributions as a result of the failure of a Delinquent Member to make the contributions required by the Commitment as described in Article VIII.

1.15 **Delinquent Member** - A Member or Assignee who has failed to meet the Commitment of that Member or Assignee.

1.16 **Distribution** - A transfer of Property to a member on account of a Membership Interest as described in Article VIII.

1.17 **Disposition (Dispose)** - Any sale, assignment, transfer, exchange, mortgage, pledge, grant, hypothecation, or other transfer, absolute or as security or encumbrance (including dispositions by operation of law).

1.18 **Dissociation** - Any action which causes a Person to cease to be a Member as described in Article XI hereof.

1.19 **Dissolution Event** - An event, the occurrence of which will result in the dissolution of the Company under Article XIV unless the Members agree to the contrary.

1.20 **Effective Date** – July 23, 2019.

1.21 **Immediate Family** - A Member's Immediate Family includes the Member's spouse, children (including natural, adopted and stepchildren), grandchildren, and parents.

1.22 **Initial Capital Contribution** - The Capital Contribution agreed to be made by the Initial Members as described in Article VIII.

1.23 **Initial Members** – The member(s) as identified on Exhibit A attached hereto and made a part hereof by this reference who have executed the Operating Agreement.

1.24 **Majority** - The affirmative vote or consent of more than one-half (½) of the membership interest of all Members described as a "Majority" in Article VI hereof.

1.25 **Management Right** - The right of a Member to participate in the management of the Company, including the rights to information and to consent or approve actions of the Company.

1.26 **Managing Member** - A Member selected to manage the affairs of the Company under Article VII hereof.

1.27 **Member** - Initial Member, Substituted Member or Additional Member, and, unless the context expressly indicates to the contrary, includes Managing Members and Assignees.

1.28 **Membership Interest** - The rights of a Member or, in the case of an Assignee, the rights of the assigning Member in Distributions (liquidating or otherwise) and allocations of the profits, losses, gains, deductions, and credits of the Company.

1.29 **Net Losses** - The losses and deductions of the Company determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.

1.30 **Net Profits** - The income and gains of the Company determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.

1.31 **Notice** - Notice shall be in writing. Notice to the Company shall be considered given when mailed by first class mail postage prepaid addressed to any Managing Member in care of the Company at the address of the Principal Office. Notice to a Member shall be considered given when mailed by first class mail postage prepaid, addressed to the Member at the address reflected in the Operating Agreement unless the Member has give the Company a Notice of a different address.

1.32 **Operating Agreement** - This Operating Agreement including all Subscription Agreements, if any, and amendments adopted in accordance with the Operating Agreement and the Act.

1.33 **Organization** - A person other than a natural person. Organization includes, without limitation, corporations (both non-profit and other corporations), partnerships (both limited and general), joint ventures, limited liability companies, and unincorporated associations, but the term does not include joint tenancies and tenancies by the entirety.

1.34 **Organization Expenses** - Those expenses incurred in the organization of the Company including the costs of preparation of the Operating Agreement and Articles.

1.35 **Proceeding** - Any judicial or administrative trial, hearing or other activity, civil criminal or investigative, the result of which may be that a court, arbitrator, or governmental agency may enter a judgment, order, decree, or other determination which, if not appealed and reversed, would be binding upon the Company, a Member or other person subject to the jurisdiction of such court, arbitrator, or governmental agency.

1.36 **Property** - Any property real or personal, tangible or intangible, including money and any legal or equitable interest in such property, but excluding services and promises to perform services in the future.

1.37 **Permitted Transferee** - Any member of the Member's Immediate Family, or an Organization controlled by such Member or by members of the Member's Immediate Family.

1.38 **Person** - An individual, trust, estate, or any incorporated or unincorporated organization permitted to be a member of a limited liability company under the laws of the State of Idaho.

1.39 **Proceeding** - Any administrative, judicial, or other adversary proceeding, including, without limitation, litigation, arbitration, administrative adjudication, mediation, and appeal or review of any of the foregoing.

1.40 **Regulations** - Except where the context indicates otherwise, the permanent, temporary, proposed, or proposed and temporary regulations of the Department of the Treasury under the Code as such regulations may be lawfully changed from time to time.

1.41 **Related Person** - A person having a relationship to a Member that is described in §1.751-4(b) of the Regulations.

1.42 **Resignation** - The act by which a Managing Member ceases to be a Managing Member.

1.43 **Sharing Ratio** - With respect to any Member, the percentage of ownership in the Company as specified on Exhibit A to this Operating Agreement.

1.44 **Subscription Agreement** - Agreement between a Member and the Company to fulfill the Commitment defined in 1.10 of this Article.

1.45 **Substitute Member** - An Assignee who has been admitted to all of the rights of membership pursuant to the Operating Agreement.

1.46 **Taxable Year** - The taxable year of the Company as determined pursuant to §606 of the Code.

1.47 **Taxing Jurisdiction** - Any state, local or foreign government that collects tax, interest or penalties, however designated, on any Member's Share of the income or gain attributable to the Company.

## **ARTICLE II FORMATION**

2.1 **Organization** - The Members hereby organize the Company as an Idaho limited liability company pursuant to the provisions of the Act.

2.2 **Agreement** - For and in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Members executing the Operating Agreement hereby agree to the terms and conditions of the Operating Agreement as it may from time to time be amended according to its terms. It is the express intention of the Members that the Operating Agreement shall be the sole source of agreement of the parties, and, except to the extent a provision of the Operating Agreement expressly incorporates federal income tax rules by reference to sections of the Code or Regulations or is expressly prohibited or ineffective under the Act, the Operating Agreement shall govern, even when inconsistent with, or different than, the provisions of the Act or any other law or rule. To the extent any provision of the Operating Agreement is prohibited or ineffective under the Act, the Operating Agreement shall be considered amended to the smallest degree possible in order to make the agreement effective under the Act. In the event the Act is subsequently amended or interpreted in such a way to make any provision of the Operating Agreement that was formerly invalid valid, such provisions shall be considered to be valid from the effective date of such interpretation or amendment.

2.3 **Name** - The name of the Company is **B2 LAND, LLC**, and all business of the Company shall be conducted under that name or under any other name, but in any case, only to the extent permitted by applicable law.

2.4 **Effective Date** - The Operating Agreement shall become effective July 23, 2019.

2.5 **Term** - The term of the Company shall be perpetual unless the Company shall be dissolved and its affairs wound up in accordance with the Act or the Operating Agreement.

2.6 **Registered Agent and Office** - The registered agent for the service of process and the registered office shall be that Person and location reflected in the Articles as filed in the office of the Secretary of State. The Managing Members, may, from time to time, change the registered agent or office through appropriate filings with the Secretary of State. If the Managing Members shall fail to designate a replacement registered agent or change of address of the registered office, any Member may designate a replacement registered agent or file a notice of change of address through appropriate filings with the Secretary of State.

2.7 **Principal Office** - The Principal Office of the Company shall be located at 444 E Walnut St., Genesee, ID 83832.

### **ARTICLE III NATURE OF BUSINESS**

3.1 The Company shall engage for any lawful purposes through its members and shall have and exercise all powers necessary or convenient to effect its purposes.

### **ARTICLE IV ACCOUNTING AND RECORDS**

4.1 **Records to be Maintained** - The Company shall maintain the following records and information, at the Principal Office:

- a) a current and past list, setting forth the full name and last known mailing address of each member and manager;
- b) a copy of the articles of organization and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any articles have been executed;
- c) copies of the Company's federal, foreign, state and local income tax returns and reports, if any, for the three most recent years;
- d) copies of the Operating Agreement including all amendments thereto and copies of any written operating agreement no longer in effect;
- e) any financial statements of the Company for the three most recent years;
- f) a record of the Capital Account for each Member in accordance with Article VIII, for the three most recent years.

**ARTICLE V  
NAMES AND ADDRESSES OF MEMBERS**

5.1 The names and addresses of the Initial Member(s) are:

Brad E. Batterton  
444 E. Walnut St.  
Genesee, ID 83832

Lisa M. Batterton  
444 E. Walnut St.  
Genesee, ID 83832

**ARTICLE VI  
RIGHTS AND DUTIES OF MEMBERS**

6.1 **Management Rights** - All members (other than Assignees) who have not Dissociated shall be entitled to vote on any matter submitted to a vote of the Members. Notwithstanding the foregoing, the following actions require the consent of all Members:

- a) any amendment to this Operating Agreement;
- b) the admission of Assignees to Management Rights;
- c) the continuation of the Company after a Dissolution Event;
- d) the authorization of a Managing Member or Member to do any act on behalf of the Company that contravenes the Operating Agreement which shall require unanimous consent of the Members.

6.2 **Majority** - Whenever any matter is required or allowed to be approved by a Majority of Members or a Majority of the Remaining Members under the Act or the Operating Agreement, such matter shall be considered approved or consented to upon the receipt of the affirmative approval or consent, either in writing or at a meeting of the Members of more than one-half (½) by number of the members.

6.3 **Liability of Members** - No person solely by virtue of her Member status shall be liable as such for the liabilities of the Company. The failure of a limited liability company to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this agreement or the Act shall not be grounds for imposing personal liability on the members or managers for liabilities of the limited liability company.

6.4 **Indemnifications** - The Company shall indemnify the Members, Managing Members, and agents for all costs, losses, liabilities and damages paid or accrued by such Member, Manager or agent in connection with the business of the Company, to the fullest extent provided or allowed by the laws of the State.

## **ARTICLE VII MANAGEMENT BY MEMBERS**

7.1 **Original Managing Members** - The ordinary and usual decisions concerning the business affairs of the Company shall be made by the Members. The initial Member(s) are:



Brad E. Batterton  
444 E. Walnut St.  
Genesee, ID 83832

Lisa M. Batterton  
444 E. Walnut St.  
Genesee, ID 83832



7.2 **Authority of Members to Bind the Company** - The Members hereby agree that each of the Members are authorized agents of the Company and shall have the authority to bind the Company. Each Member has the power, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company, including, without limitation:

- a) the institution, prosecution and defense of any Proceeding in the Company's name;
- b) the purchase, receipt, lease or other acquisition, ownership, holding, improvement, use and other dealing with, Property, wherever located;
- c) the sale, conveyance, mortgage, pledge, lease, exchange, and other disposition of Property;
- d) the entering into of contracts and guaranties; incurring of liabilities; borrowing money, issuance of notes, bonds, and other obligations; and the securing of any of its obligations by mortgage or pledge of any of its Property or income;
- e) the lending of money, investment and reinvestment of the Company's funds, and receipt and holding of Property as security for repayment, including, without limitation, the loaning of money to, and otherwise helping Members, officers, employees, and agents;

- f) the conduct of the Company's business, the establishment of Company offices, and the exercise of the powers of the Company within or without the State;
- g) the appointment of employees and agents of the Company, the defining of their duties, the establishment of their compensation;
- h) the payment of pensions and establishment of pension plans, pension trusts, profit sharing plans, and benefit and incentive plans for all or any of the current or former Members, employees, and agents of the Company;
- i) the making of donations to the public welfare or for religious, charitable, scientific, literary or educational purposes;
- j) the payment or donation, or any other act that furthers the business and affairs of the Company;
- k) the payment of compensation, or additional compensation to any or all Members, and employees on account of services previously rendered to the limited liability company, whether or not an agreement to pay such compensation was made before such services were rendered;
- l) the purchase of insurance on the life of any of its Members, or employees for the benefit of the Company;
- m) the participation in partnership agreements, joint ventures, or other associations of any kind with any person or persons;
- n) the indemnification of Members or any other Person.

**7.4 Actions of the Members** - Each Member has the power to bind the Company as provided in this Article VII. Any difference arising as to any matter within the Authority of the Members shall be decided by a majority in number of the Members. No act of a Member in contravention of such determination shall bind the Company to Persons having knowledge of such determination. No person dealing with the Company shall have any obligation to inquire into the power of authority of the Managing Member acting on behalf of the Company.

**7.5 Compensation Member** - Each Member shall be reimbursed all reasonable expenses incurred in managing the Company and shall be entitled to compensation in an amount to be determined from time to time by the affirmative vote of a Majority of the Members.

## **ARTICLE VIII CONTRIBUTIONS AND CAPITAL ACCOUNTS**

8.1 **Initial Contributions** - Each Initial Member shall make the Capital Contribution described for that Member on Exhibit A at the time and on the terms specified on Exhibit A and shall perform that Member's Commitment. If no time for contribution is specified, the Capital Contributions shall be made upon the filing of the Articles of Organization with the Secretary of State. The value of the Capital Contributions shall be as set forth on Exhibit A. No interest shall accrue on any Capital Contribution and no Member shall have the right to withdraw or be repaid any Capital Contribution except as provided in this Operating Agreement. Each Additional Member shall make the Initial Capital Contribution described in the Admission Agreement. The value of the Additional Member's Initial Capital Contribution and the time for making such contribution shall be determined at the time of the admission of the additional member.

8.2 **Additional Contributions** - In addition to the Initial Capital Contributions and Commitments, the Members may determine from time to time that additional contributions are needed to enable the Company to conduct its business. Upon making such a determination, the Members shall give Notice to all Members in writing at least ten Business Days prior to the date on which such contribution is due. Such Notice shall set forth the amount of additional contribution needed, the purpose for which the contribution is needed, and the date by which the Members should contribute. Each Member shall be entitled to contribute a proportionate share of such additional contribution. Except to the extent of a Member's unpaid Commitment, no Member shall be obligated to make any such additional contributions. In the event any one or more Members do not make their additional contribution, the other members shall be given the opportunity to make the contributions. Each additional Member shall make the Capital Contribution to which such Member has agreed, at the time or times and upon the terms to which the Members and the Additional Member agree.

8.3 **Maintenance of Capital Accounts** - The Company shall establish and maintain Capital Accounts for each Member and Assignee. Each Member's Capital Account shall be increased by (1) the amount of any Money actually contributed by the Member to the capital of the Company, (2) the fair market value of any Property contributed, as determined by the Company and the contributing Member at arm's length at the time of contribution (net of liabilities assumed by the Company or net of liabilities which the Company takes such Property subject to, within the meaning of §752 of the Code), and (3) the Member's share of Net Profits and of any separately allocated items of income or gain. Each Member's Capital Account shall be decreased by (1) the amount of any Money actually distributed to the Member, (2) the fair market value of any property distributed to the Member, and (3) the Member's share of Net Losses and of any separately allocated items of deduction or loss (including any loss or deduction allocated to the Member to reflect the difference between the book value and tax basis of assets contributed by the Member).

8.4 **Distribution of Assets** - If the Company at any time distributes any of its assets in-kind to any Member, the Capital account of each Member shall be adjusted to account for that Member's allocable share (as determined under Article IX below) of the Net Profits or Net Losses that would have been realized by the Company had it sold the assets that were distributed at their respective fair market values immediately prior to their distribution.

8.5 **Sale or Exchange of Interest** - In the event of a sale or exchange of some or all of a Member's Interest in the Company, the Capital Account of the Transferring Member shall become the capital account of the Assignee, to the extent it relates to the portion of the Interest Transferred.

## **ARTICLE IX PROFITS AND LOSSES**

9.1 **Income Accounts** - A separate income account shall be maintained for each Member for each fiscal year of the operation of the Company. Net profits, net losses, and other items of income, gain, loss, deduction and credit shall be apportioned among the members equally. At the end of each fiscal year after the crediting of income and charging of expenses, the balance of the income account shall then be transferred and closed to such respective Member's capital account.

## **ARTICLE X TAXES**

10.1 **Cash Method of Accounting** - The records of the Company shall be maintained on a cash receipt and disbursement method of accounting.

## **ARTICLE XI DISSOCIATION OF A MEMBER**

11.1 **Dissociation of a Member** - A Person shall cease to be a Member upon the happening of any of the following events:

- a) the member withdraws by voluntary act from the Company by giving sixty (60) days' Notice to the other Members;
- b) the member ceases to be a member of the Company due to the assignment of all of such Member's interest in the Company and the Assignee has become a Substitute Member;
- c) the member is removed as a member by an affirmative vote of a Majority of the members who have not assigned their interests when the Member assigns all of his interest in the Company;

- d) except where the Member obtains the written consent of all Members at the time the Member (i) makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent;
- e) except where the Member obtains the written consent of all Members at the time, in the case of a Member who is an individual;
  - (1) the Member's Death; or
  - (2) the entry of an order by a court of competent jurisdiction adjudicating the Member incompetent to manage his person or estate.

**11.2 Rights of Dissociating Member** - In the event any Member dissociates prior to the expiration of the Term:

- a) If the dissociation causes a dissolution and winding up of the company under Article XIII, the Member shall be entitled to participate in the winding up of the Company to the same extent as any other Member except that any Distribution to which the Member would have been entitled shall be reduced by the damages sustained by the Company as a result of the Dissolution caused by the dissociation and winding up.
- b) If the dissociation does not cause a dissolution and winding up of the Company under Article XIII and the event of dissociation is either 11.1.a, 11.1.c , 11.1.e., the Member shall be entitled to an amount equal to the value of the Member's Membership Interest in the Company, to be paid within six months of the date of dissociation. As to all other events of dissociation defined in Article XI, Section 11.1 which do not cause a dissolution, the dissociated Member shall be entitled to receive an amount equal to the Member's Membership Interest in the Company, to be paid when the Company is dissolved and wound up in accordance with Article XIII. The value of the Member's Membership Interest shall include the amount of any Distributions to which the Member is entitled under the Operating Agreement and the fair value of the Member's Membership Interest as of the date of dissociation based upon the Member's right to share in distributions from the Company reduced by any damages sustained by the Company as a result of the Member's dissociation.

**ARTICLE XII**  
**ADMISSION OF ASSIGNEES AND ADDITIONAL MEMBERS**

12.1 **Admission of Substitute Members** - An Assignee of a Membership Interest shall be admitted as a Substitute Member and admitted to all the rights of the Member who initially assigned the Membership Interest only with the approval of all the Members. If so admitted, the Substitute Member has all the rights and powers and is subject to all the restrictions and liabilities of the Member originally assigning the Membership Interest. The admission of a Substitute Member, without more, shall not release the Member originally assigning the Membership Interest from any liability to the Company that may have existed prior to the approval.

12.2 **Admission of Additional Members** - The Members may permit the admission of Additional Members and determine the Capital Contributions of such Members upon the unanimous approval of the Members.

**ARTICLE XIII**  
**DISSOLUTION AND WINDING UP**

13.1 **Dissolution** - The Company shall be dissolved and its affairs wound up, upon the first to occur of the following events (which, unless the Members agree to continue the business, shall constitute Dissolution Events):

- a) the written consent of all Members;
- b) the Dissociation of any Member, unless the business of the Company is continued with the consent of all of the remaining Members within 90 days after such Dissociation;
- c) the entry of a decree of judicial dissolution.

13.2 **Effect of Dissolution** - Upon dissolution, the Company shall cease carrying on as distinguished from the winding up of the Company business, but the Company is not terminated, but continues until the winding up of the affairs of the Company is completed and the Certificate of Dissolution has been issued by the Secretary of State.

13.3 **Distribution of Assets on Dissolution** - Upon the winding up of the Company, the Company Property shall be distributed:

- a) to creditors, including Members who are creditors, to the extent permitted by law, in satisfaction of Company Liabilities;
- b) to Members in accordance with positive Capital Account balances

taking into account all Capital Account adjustments for the Company's taxable year in which the liquidation occurs. Liquidation proceeds shall be paid within 60 days of the end of the Company's taxable year or, if later, within 90 days after the date of liquidation. Such distributions shall be in cash or Property (which need not be distributed proportionately) or partly in both, as determined by the Managing Members.

**13.4 Winding Up and Certificate of Dissolution** - The winding up of a limited liability company shall be completed when all debts, liabilities, and obligations of the limited liability company have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining property and assets of the limited liability company have been distributed to the members. Upon the completion of winding up of the Company, a certificate of dissolution shall be delivered to the Secretary of State for filing. The certificate of dissolution shall set forth the information required by the Act.

#### **ARTICLE XIV AMENDMENT**

**14.1 Operating Agreement May Be Modified** - The Operating Agreement may be modified as provided in this Article XIV (as the same may, from time to time be amended).

**14.2 Amendment or Modification of Operating Agreement** - The Operating Agreement may be amended or modified from time to time only by a written instrument adopted and executed by two-thirds of the Members.

#### **ARTICLE XV MISCELLANEOUS PROVISIONS**

**15.1 Entire Agreement** - The Operating Agreement represents the entire agreement among all the Members and between the Members and the Company.

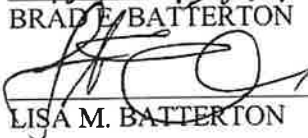
**15.2 No Partnership Intended for Non-tax Purposes** - The Members have formed the Company under the Act, and expressly do not intend hereby to form a partnership under either the Idaho Uniform Partnership Act or the Idaho Uniform Limited Partnership Act.

The Members do not intend to be partners one to another, or partners as to a third party. To the extent any Member, by word or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

15.3 **Rights of Creditors and Third Parties under Operating Agreement** - The Operating Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and assignees. The Operating Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under the Operating Agreement or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

DATED this 01 day of August, 2019.

  
\_\_\_\_\_  
BRAD E. BATTERTON

  
\_\_\_\_\_  
LISA M. BATTERTON



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Northern Region • 7600 N Mineral Drive, Suite 100 • Coeur D'Alene, ID 83815-7763  
Phone: 208-762-2800 • Fax: 208-762-2819 • Email: [northerninfo@idwr.idaho.gov](mailto:northerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Gary Spackman

September 9, 2021

B2 LAND LLC  
444 E WALNUT ST  
GENESEE, ID 83832-8733

RE: Application for Permit No. 92-11120

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the SHOSHONE NEWS PRESS on 9/17/2021 and 9/24/2021. 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 permit.

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

Sincerely,

Tammy Alleman  
Administrative Assistant

## Alleman, Tammy

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**From:** Alleman, Tammy  
**Sent:** Thursday, September 9, 2021 1:16 PM  
**To:** 'Chantilly.Higbee@deq.idaho.gov'; 'Horsmon,Merritt'; 'Anna.Moody@deq.idaho.gov'; Skoro, Emily; Golden, Kala  
**Subject:** Request for Comments for 92-11120 Irrigation (1 acre) & Stockwater from Middle Fork St Maries River  
**Attachments:** 92-11120 Application for Permit.pdf

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right Permit application. You can find copies of the application at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of the application(s), you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication. **The deadline for comments on the applications is October 4, 2021.**

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the Permit application.

Thank you,

Tammy



**Tammy Alleman | Administrative Assistant**  
**Idaho Department of Water Resources**  
Northern Regional Office  
7600 N Mineral Drive, Suite 100  
Coeur d'Alene, ID 83815-7763  
Phone: (208) 762-2800

## Alleman, Tammy

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**From:** Alleman, Tammy  
**Sent:** Thursday, September 9, 2021 1:06 PM  
**To:** 'LEGALS@CDAPRESS.COM'  
**Subject:** Legal Notice for Shoshone News Press  
**Attachments:** Legal Notice 92-11120 & 94-9661.docx

Please publish the enclosed legal notice in the **Shoshone News Press** on the dates indicated **September 17<sup>th</sup> & September 24<sup>th</sup>, 2021** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

**Please send a proof once you have the article ready for print for our review.**

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 **October 4<sup>th</sup>, 2021**. Your cooperation is appreciated.

Thank you,

Tammy



**Tammy Alleman | Administrative Assistant**  
**Idaho Department of Water Resources**  
Northern Regional Office  
7600 N Mineral Drive, Suite 100  
Coeur d'Alene, ID 83815-7763  
Phone: (208) 762-2800

**92-11120**

**94-9661**

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 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 9/17/2021 and 9/24/2021

# MEMORANDUM

**Date:** August 31, 2021  
**To:** Water Right File 92-11120  
**From:** smaxey  
**Re:** IRRIGATION & STOCKWATER USE LEGAL DESCRIPTIONS ADMIN MEMO # 9.

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| <u>DOCUMENT</u>       | <u>PRIORITY<br/>DATE</u> | <u>ISSUE</u>                                                                                                                                                                                                                                                                |
|-----------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| APPLICATION RECEIVED  | 8/27/2021                | APPLICATION RECEIVED WITH CONTRADICTION ACRES TO BE IRRIGATED ON LINE 9 AND NUMBER '5' INSTEAD OF 'S' FOR STOCKWATER USE ON LINE 9 AND UNSIGNED SIGNATURE PAGE ON OPERATING AGREEMENT (AUTHORITY TO SIGN)                                                                   |
| CORRECTED APPLICATION | 8/27/2021                | E-MAIL ATTACHMENT RECEIVED FROM REPRESENTATIVE PROVIDING COPY OF SIGNED SIGNATURE PAGE ON OPERATING AGREEMENT. E-MAIL ALSO PROVIDED APPROVAL TO CORRECT CONTRADICTION IRRIGATION ACREAGE FOR LINE 9. TO READ AS 1.0 ACRE. CORRECTED IN ACCORDANCE WITH IDWR ADMIN MEMO # 9. |
| CORRECTED APPLICATION | 8/27/2021                | APPLICATION DATA ENTRY CORRECTED TO ADD STOCKWATER TO LEGAL DESCRIPTIONS MARKED WITH AN '5' ON LINE 9 OF APPLICATION. APPLICANT NOTIFIED WITH VOICEMAIL & E-MAIL IN ACCORDANCE WITH APPLICATION PROCESSING MEMO # 9. DATA ENTRY CORRECTED IN ACCORD WITH IDWR MEMO # 9.     |

## Maxey, Shaun

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**From:** brad99403@gmail.com  
**Sent:** Wednesday, September 1, 2021 6:09 AM  
**To:** Maxey, Shaun  
**Subject:** RE: Idaho Water Right Application For Permit 92-11120

Hi Shaun,

That is what I think, S for stockwater.

Thank you  
Brad

**From:** Maxey, Shaun <Shaun.Maxey@idwr.idaho.gov>  
**Sent:** Tuesday, August 31, 2021 5:05 PM  
**To:** brad99403@gmail.com  
**Subject:** RE: Idaho Water Right Application For Permit 92-11120

Mr. Bratterton:

Thanks for the signed page of the Operating Agreement.

I may have been mistaken about the number '5' that is shown in two of the legal description boxes on Line 9 of your Application.  
I believes this was meant to be an 'S' for 'Stockwater' use. An 'S' would be consistent with the map and the 'Stockwater' use that is listed on Line 5.

Please let me know if this is incorrect.

Shaun Maxey (208) 762.2816

**From:** [brad99403@gmail.com](mailto:brad99403@gmail.com) [<mailto:brad99403@gmail.com>]  
**Sent:** Tuesday, August 31, 2021 8:40 AM  
**To:** Maxey, Shaun <[Shaun.Maxey@idwr.idaho.gov](mailto:Shaun.Maxey@idwr.idaho.gov)>  
**Subject:** RE: Idaho Water Right Application For Permit 92-11120

Good morning Shawn

Please find attached the signed page of the operating agreement.  
Please consider this email approval to make changes as listed below.

Thank you  
Brad Batterton

**From:** Maxey, Shaun <[Shaun.Maxey@idwr.idaho.gov](mailto:Shaun.Maxey@idwr.idaho.gov)>  
**Sent:** Monday, August 30, 2021 4:34 PM  
**To:** [brad99403@gmail.com](mailto:brad99403@gmail.com)  
**Subject:** Idaho Water Right Application For Permit 92-11120

Mr. or Mrs. Bratterton:

Your Application for B2 Land, LLC to divert water from the Middle Fork St. Maries River has arrived at our office and been assigned ID number 92-11120. Some clarifications are needed.

Please reply to this e-mail to indicate your approval to make the following changes to Application 92-11120.

- 1) Strike the zeroes ('0') shown on the first row of the grid on line 9 of the Application. This clarification is needed so that the numbers will add up to the 1.0 acre you have shown in the total column.
- 2) Delete the two number '5's you have entered on the 2<sup>nd</sup> row of the grid on line 9 of the Application. This clarification is needed so that the numbers will add up to the 1.0 acre you have shown for the 'Total Number Of Acres To Be Irrigated' at the bottom of Line 9.
- 3) Please e-mail or send in a copy of the final page of the operating agreement that has your signatures. The page we received has no signatures.
- 4) Delete one of the two 'X' for Points of Diversion (POD) that are shown on the map you labeled in the NE SW T42N R02E Section 5. This needed to match the two legal descriptions on line 4 of your Application.

Thanks, Please call me if you have any questions at (208) 762.2816.

Shaun Maxey IDWR (208) 762.2816