

Amended

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 84061

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) P4 PRODUCTION, LLC

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: _____

AmendedSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) P4 PRODUCTION, LLC Phone 208-547-1200
 Mailing address PO BOX 816, SODA SPRINGS, ID 83276 Email jason.maughan@bayer.com

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

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

☐ No Representative

Name of Representative RANDALL C. BUDGE/TJ BUDGE, RACINE OLSON, PLLC Phone 208-232-6101
 Mailing address PO BOX 1391, POCATELLO, ID83204 Email randy@racineolson.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.

Randy C. Budge
 Signature of Applicant or Authorized Representative

RANDALL C. BUDGE
 Print Name and Title if applicable

2/08/2021
 Date

 Signature of Applicant or Authorized Representative

 Print Name and Title if applicable

 Date

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
☐ Change nature of use
 ☐ Add diversion point(s)
☐ Change period of use
 ☒ Change place of use
☐ Other _____
- Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
 If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.
- Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.
Applicant has leased these water rights to Last Chance Canal Company, Ltd. Which has subleased the water rights to Famers Land and Irrigation Company. This transfer is to change the point of diversion and place of use to the Farmers irrigation system. See 11-531A WR report for POU.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 01 2021
Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	11-448	0.3/49	IRRIGATION	4/15 to 10/15	SODA CREEK/BEAR R.
☒ ☐	11-471	0.02/4.6	IRRIGATION	4/15 to 10/15	SODA CREEK/BEAR R.
☒ ☐	11-457	0.1/17.5	IRRIGATION	4/15 to 10/15	SODA CREEK/BEAR R.
☒ ☐	11-2106	1.02/178.5	IRRIGATION	4/15 to 10/15	WASTEWATER/SODA CR
☒ ☐	11-499	0.60/105	IRRIGATION	4/15 to 10/15	SODA CREEK/BEAR R.
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 1.02 cfs and/or 178.5 acre-feet.

2. Total amount of water proposed to be transferred or changed 1.02 cubic feet per second and/or 178.5 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 #
			SE	NE	12	9S	41E	CARIBOU	SODA CREEK	Farmers Land and Irrig
	4		NW	NW	6	9S	42E	CARIBOU	WASTEWATER 11-2106	WASTEWATER POD
	4		NW	NW	6	9S	42E	CARIBOU	WASTEWATER 11-2106	INJECTION SODA CR
			SE	NE	12	9S	41E	CARIBOU	WASTEWATER 11-2106	REDIVERSION

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	
Total Acres (for irrigation use)																			4,000*

**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:

EXISTING DIVERSION SYSTEM OF FARMERS LAND AND IRRIGATION COMPANY DIVERTING WATER
FROM SODA CREEK INTO THE FARMERS CANAL.

- b. Who owns the property at the point(s) of diversion? FARMERS LAND AND IRRIGATION - LESSEE

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 AT THE EXISTING PLACE OF USE WILL NO LONGER BE IRRIGATED. THE WATER
TRANSFERRED WILL BE DELIVERED VIA SODA CREEK TO THE FARMERS CANAL DIVERSION.

- 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:

RIGHT NO. 11-531A

- 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:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

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

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ☒ 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. Label it **Attachment #7b**.

If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

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

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- ☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

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

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Preliminary check by _____ Date _____

Fee paid _____ Date _____ Received by _____ Receipt # _____

Add'l fee paid ~~\$~~50.00 Date 2/16/21 Received by *CH* Receipt # E046632

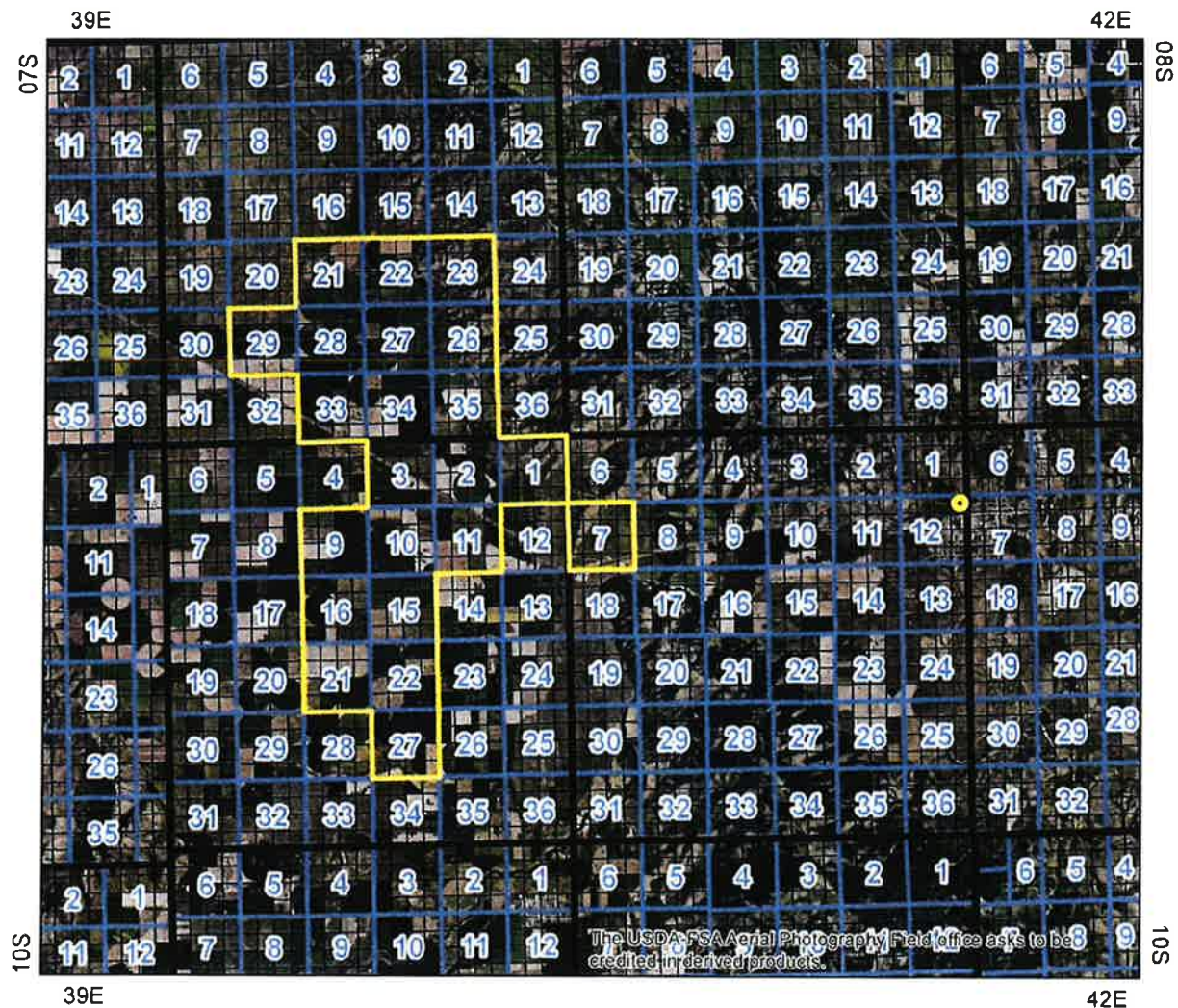
Check all that apply: Attachment WSB ☐ (copy sent to state office) Lessor Designation form ☐ &/or W-9 ☐ (originals to state office)

State of Idaho
Department of Water Resources

Water Right 11-531A

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 1.5 3 6 Miles



IDAHO Department of Water Resources



IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to [call ahead for an appointment](#).

[Home](#) / [Water Rights](#) / [Research](#) / [Search Water Rights](#)

WATER RIGHT REPORT

11/3/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 11-531A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FARMERS LAND & IRRIGATION CORP C/O JERRY RIGBY RIGBY THATCHER ANDRUS & MOELLER PO BOX 250 REXBURG, ID 83440 2083563633

Priority Date: 05/01/1892

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SODA CREEK	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/20	9/30	76.1 CFS	
Total Diversion			76.1 CFS	

Location of Point(s) of Diversion:

SODA CREEK|NENE|Sec. 12|Township 09S|Range 41E|CARIBOU County
Place(s) of use:

Place of Use Legal Description: IRRIGATION CARIBOU 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>
08S	40E	21												
		22												
		23												
		26												
		27												
		28												
		29												
		33												
		34												
		35												
09S		1												
		2												
		3												
		9												
		10												
		11												
		15												
		16												
		21												
		22												
		27												
	41E	7												

Conditions of Approval:

1. || P/D, SODA CANAL. P/U, AC IRR=4000. REDUCED BY 20 CFS. UNDER CONDITIONS OF DECREE.

Dates:

Licensed Date:

Decreed Date: 07/14/1920

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

P4 Production, L.L.C., hereby appoints Randall C. Budge of the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, its true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow him to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on its behalf. Unless previously withdrawn, this Special Power of Attorney for Water Rights will expire on November 30, 2018.

DATED this 12 day of November 2013.

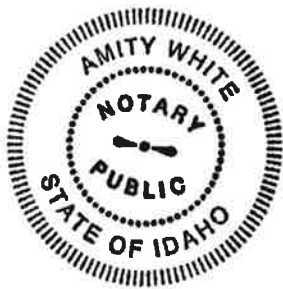
P4 PRODUCTION, L.L.C.

By: [Signature]
Name: Sheldon Alver
Title: Vice President Operations

STATE OF IDAHO)
 :SS
County of Caribou)

On this 12th day of November 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Sheldon Alver, known or identified to me to be the Vice President Operations of P4 Production, L.L.C., who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



[Signature]
NOTARY PUBLIC FOR IDAHO
Commission expires: 7/14/14

Randall C. Budge (ISB# 1949)
RACINE OLSON, PLLP
P.O. Box 1391 / 201 E. Center St.
Pocatello, Idaho 83204
(208) 232-6101 – phone
(208) 232-6109 – fax
randy@racineolson.com

Attorneys for Applicants

**STATE OF IDAHO
BEFORE THE DEPARTMENT OF WATER RESOURCES**

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 84061
P4 Production, L.L.C.,
Applicant,

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”), is entered into effective November 3, 2020 between the Applicant P4 Production, L.L.C. (“Applicant”), whose address is P.O. Box 816, Soda Springs, Idaho 83276 Last Chance Canal Company, Ltd. (“Last Chance”) and Protestant Farmers Land and Irrigation Company (“Protestant” or “Farmers”), whose address is in care of Jerry R. Rigby, P.O. Box 250, Rexburg, Idaho 83440.

RECITALS

- A. On May 6, 2020, Applicant filed with the Idaho Department of Water Resources (“IDWR”) Application for Transfer of Water Right No. 84061 (“Application”) for the purpose of changing the point of diversion and place of use to Last Chance pursuant to the Lease of Water Rights entered into April 15, 2020 between Applicant as the “Lessor” and Last Chance as the “Lessee” (the “P4-Last Chance Lease”).
- B. IDWR published notice of the Application in the Caribou County Sun once a week for three consecutive weeks.
- C. Protestant timely filed a Notice of Protest on June 5, 2020 asserting that the approval of the transfer may adversely impact Protestant’s water rights in Soda Creek, among other things.

- D. A prehearing conference was held on July 23, 2020 where the parties entered into settlement negotiations to resolve the protests.
- E. Applicant and Protestant desire to enter into this Stipulation to settle and resolve the protest and enable the Application to be approved upon the terms set forth below.

AGREEMENT

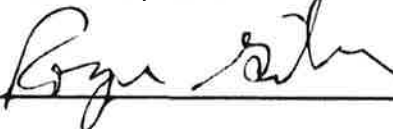
1. Last Chance and Protestant hereby stipulate and agree that the P4-Last Chance Lease be subleased by Last Chance to Farmers for a one-year term which will automatically renew annually for successive one-year terms unless and until any party gives not less than sixty (60) days written notice to terminate the sublease at the end of the initial term or annual renewal term. Applicant has consented to the sublease.
2. The Application for Transfer will be amended to reflect Farmers point of diversion and place of use under its existing water right. Neither party will protest the republished application.
3. This Settlement Agreement and the sublease will be effective upon approval of the amended Transfer Application.

LAST CHANCE CANAL COMPANY, LTD.

By: _____
MARK MATHEWS, President

APPLICANT:

P4 PRODUCTION, L.L.C.

By:  _____

- D. A prehearing conference was held on July 23, 2020 where the parties entered into settlement negotiations to resolve the protests.
- E. Applicant and Protestant desire to enter into this Stipulation to settle and resolve the protest and enable the Application to be approved upon the terms set forth below.

AGREEMENT

1. Last Chance and Protestant hereby stipulate and agree that the P4-Last Chance Lease be subleased by Last Chance to Farmers for a one-year term which will automatically renew annually for successive one-year terms unless and until any party gives not less than sixty (60) days written notice to terminate the sublease at the end of the initial term or annual renewal term. Applicant has consented to the sublease.
2. The Application for Transfer will be amended to reflect Farmers point of diversion and place of use under its existing water right. Neither party will protest the republished application.
3. This Settlement Agreement and the sublease will be effective upon approval of the amended Transfer Application.

LAST CHANCE CANAL COMPANY, LTD.

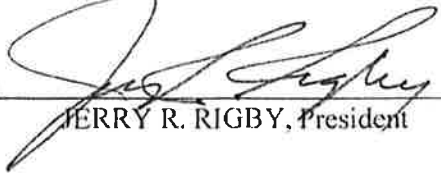
By: 
MARK MATHEWS, President

APPLICANT:

P4 PRODUCTION, L.L.C.

By: _____

PROTESTANT:

By: 
JERRY R. RIGBY, President

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of November, 2020, I served a true and correct copy of the following persons by the method indicated:

RANDALL C. BUDGE

Original to: Idaho Department of Water Resources Eastern Regional Office 900 North Skyline Drive, Suite A Idaho Falls, Idaho 83402-1718	☒ U.S. Mail ☐ Facsimile – 208-736-2121 ☐ Overnight Mail ☐ Hand Delivery ☐ Email
Farmers Land and Irrigation Company c/o Jerry R. Rigby P.O. Box 250 Rexburg, Idaho 83440	☒ U.S. Mail ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☐ Email
Last Chance Canal Company c/o Mark Mathews, President mathews6@live.com	☐ U.S. Mail ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery ☒ Email

LEASE OF WATER RIGHTS

Lease of Water Rights Agreement ("Lease") is made and entered into effective April 15, 2020, between P4 PRODUCTION, L.L.C., whose address is P.O. Box 816, Soda Springs, Idaho 83276 (hereinafter "Lessor") and LAST CHANCE CANAL COMPANY, LTD., whose address is P.O. Box 93, Grace, Idaho 83241 (hereinafter "Lessee"). This Lease amends and replaces the Lease of Water Rights dated April 22, 1999 entered into between Lessor and Lessee which is hereby terminated.

1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the following described water rights originally decreed in the District Court of the United States for the District of Idaho, Eastern Division, in Equity No. 201, in the case of Utah Power & Light Company, Plaintiff, vs. The Last Chance Canal Company, Limited, et al., Defendants, commonly known as the "Dietrich Decree", also identified as the following Idaho Department of Water Resource ("IDWR") Water Right Numbers, (the "Water Rights"):

Water Right No.	Period/Use	Priority	Quantity
11-448	4/15-10/15	6/01/1909	0.3 CFS/49 AFA
11-499	4/15-10/15	5/01/1881	0.20 CFS/72.6 AFA
11-457	4/15-10/15	2/10/1881	0.10 CFS/17.5 AFA
11-471	4/15-10/15	2/10/1881	0.02 CFS/4.6 AFA
11-457	4/15-10/15	2/10/1881	0.10 CFS/17.5 AFA
11-2106	4/15-10/15	10/11/1952	1.02 CFS/178.5 AFA
11-00531C	4/15-10/15	5/01/1889	2.02 CFS/353.5 AFA
TOTAL			3.04 CFS/532 AFA

(Note: Rights 11-448, 11-499, 11-457, 11-471 and 11-2106 when combined shall not exceed a total diversion rate of 1.02 CFS or a total annual maximum diversion volume of 178.5 AF for the irrigation of 51 acres per conditions on each right. The totals reflect this limiting condition.)

2. **Term.** The term of this Lease shall be for a term of three (3) years, commencing April 15, 2020, and terminating on April 14, 2025. Thereafter, this Lease will be automatically renewed and extended for successive additional one-year term(s), unless and until terminated by either party as hereafter provided.

Either party may terminate this Lease at any time, other than during the irrigation season, upon not less than sixty (60) days advance written notice.

3. **Rent.** For the use of the Water Rights Lessee shall pay to Lessor on or before April 1 of each year rent in the amount of \$500 per CFS, a total of \$1,520 per year. The first year's rent shall be due upon approval of the transfer application described in paragraph 7 allowing Lessee to use the water right.

4. **Non-Use by Lessor.** Lessor covenants that all lands to which the Water Rights are presently appurtenant shall not be irrigated from the described water right during the term of this Lease.

5. **Use by Lessee.** During the term of this Lease and during any extension, Lessee shall place to beneficial use for irrigation purposes, between April 15th and October 15th of each year, all waters approved for use under the Water Rights and shall comply with all applicable federal, state and local laws and all rules and regulations applicable to the water rights of the IDWR and any other state and agency applicable to the Water Rights, together with all applicable state and federal environmental and water quality laws.

6. **Representations by Lessor.** Lessor covenants and represents that it is the true and lawful owners of the Water Rights and the land to which they are appurtenant, that they have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described Water Rights.

7. **Transfer Application.** The parties acknowledge and agree that it will be necessary to make application and obtain IDWR approval to transfer the existing point of diversion and place of use of the Water Rights to Lessee's property; and, further, that upon termination of the Lease, it will be necessary to make application and secure IDWR approval to change the point of diversion and place of use back from Lessee's property to the original locations upon Lessor's property.

7.1 Lessor will file and process all necessary applications with IDWR to transfer the places of use and points of diversion of the Water Rights on a temporary basis during the lease term and upon termination.

7.2 Lessor and Lessee shall cooperate with each other in securing such transfers and processing such application(s) and shall execute any documents necessary to achieving such transfers.

7.3 Lessor shall be responsible for the costs associated with accomplishing the foregoing transfers.

7.4 This Lease is conditioned upon IDWR's approval of a transfer of the Water Rights from Lessor's present places of use and points of diversion to places of use and points of diversion located on lands owned or leased by Lessee. In the event the transfer to Lessee's property is not granted, this Lease may be terminated at Lessee's option.

8. **Indemnification of Lessor.** Lessee agrees to indemnify and hold harmless Lessor from any and all claims and demands, including legal attorney fees and costs, which may arise

directly or indirectly as a result of this lease or the transfer or use of the Water Rights by Lessee pursuant to this Lease.

9. **Breach.** In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect to terminate this Lease and recover any damages or pursue any other remedy available under Idaho law by reason of such breach.

10. **Option to Purchase.** Should Lessor during the term of this Lease or any renewal thereof or at any time within one (1) year from the date of termination of this Lease decide to sell the leased Water Rights, and should Lessor receive a bona fide offer therefor acceptable to Lessor, before making any such sale or any agreement to sell, Lessor shall give Lessee notice in writing by certified or registered mail of Lessor's desire to sell and the complete terms of the offer, and Lessee shall have the exclusive right, for a period of sixty (60) days from the date of delivery of such notice, to purchase the leased Water Rights at the amount of the offer. If Lessee fails to exercise the option herein granted and the water rights are actually sold by Lessor, such sale shall be made subject to this Lease.

11. **Option to Renew Lease.** Should Lessor decide to re-lease the Water Rights at the expiration of the lease term or any extension thereof, and should Lessor receive an offer of lease therefor acceptable to Lessor, the, before making any such lease agreement, Lessor shall give Lessee notice in writing by certified or registered mail of Lessor's desire to re-lease the Water Rights, and Lessee shall have the exclusive right, for a period of sixty (60) days from the date of delivery of such notice, to lease the Water Rights at the amount and under the same terms and conditions of the offer.

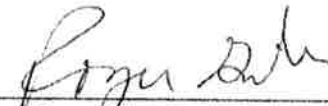
12. **Assignment.** This Agreement may not be assigned by either party without the express written consent of the other.

13. **Attorney Fees.** In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

14. **Binding Effect.** This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

LESSOR:

P4 PRODUCTION, L.L.C.

By: 
Name: Roger Gibson
Title: President
Date: 5/4/2020

LESSEE:

**LAST CHANCE CANAL COMPANY,
LTD.**

By: 
MARK MATHEWS, President
Date: 4-30-20

ATTEST:

Jodi Mathews, Secretary

SUBLEASE OF WATER RIGHTS

The Sublease of Water Rights Agreement ("Sublease") is made and entered into effective April 15, 2020, between LAST CHANCE CANAL COMPANY, LTD., whose address is P.O. Box 93, Grace, Idaho 83241 (hereinafter "Lessor") FARMERS LAND AND IRRIGATION COMPANY, whose address is in care of Jerry R. Rigby, P.O. Box 250, Rexburg, Idaho 83440 (hereinafter "Lessee"). This Sublease is subject to that certain Lease of Water Rights entered into April 15, 2020 between P4 Production, L.L.C. ("P4") as "Lessor" and Last Chance Canal Company, Ltd. as "Lessee" (the "P4-Last Chance Lease") a copy of which is attached hereto and incorporated by reference.

1. **Leased Water Rights.** Lessor hereby subleases to Lessee and Lessee hereby subleases from Lessor the following described water rights leased by P4 Production, L.L.C. to Lessor pursuant to the P4-Last Chance Lease, said water rights
2. **3**
3. originally decreed in the District Court of the United States for the District of Idaho, Eastern Division, in Equity No. 201, in the case of Utah Power & Light Company, Plaintiff, vs. The Last Chance Canal Company, Limited, et al., Defendants, commonly known as the "Dietrich Decree", also identified as the following Idaho Department of Water Resource ("IDWR") Water Right Numbers, (the "Water Rights"):

Water Right No.	Period/Use	Priority	Quantity
11-448	4/15-10/15	6/01/1909	0.3 CFS/49 AFA
11-499	4/15-10/15	5/01/1881	0.20 CFS/72.6 AFA
11-457	4/15-10/15	2/10/1881	0.10 CFS/17.5 AFA
11-471	4/15-10/15	2/10/1881	0.02 CFS/4.6 AFA
11-457	4/15-10/15	2/10/1881	0.10 CFS/17.5 AFA
11-2106	4/15-10/15	10/11/1952	1.02 CFS/178.5 AFA
11-00531C	4/15-10/15	5/01/1889	2.02 CFS/353.5 AFA
TOTAL			3.04 CFS/532 AFA

(Note: Rights 11-448, 11-499, 11-457, 11-471 and 11-2106 when combined shall not exceed a total diversion rate of 1.02 CFS or a total annual maximum diversion volume of 178.5 AF for the irrigation of 51 acres per conditions on each right. The totals reflect this limiting condition.)

2. **Term.** The term of this Sublease shall be one year, commencing April 15, 2021, and terminating on October 15, 2021. Thereafter, this Lease will be automatically renewed and extended for successive additional one-year term(s), unless and until terminated by either party or by P4

at any time, other than during the irrigation season, upon not less than sixty (60) days advance written notice.

4. **Rent.** For the use of the Water Rights Lessee shall pay directly to P4 at PO Box 816, Soda Springs, Idaho 83275 on or before April 1 of each year rent in the amount of \$500 per CFS, a total of \$1,520 per year. The first year's rent shall be due upon approval of the transfer application described in paragraph 7 allowing Lessee to use the water right.

4. **Non-Use by P4 Production, L.L.C.** Lessor covenants that all lands to which the Water Rights are presently appurtenant shall not be irrigated from the described water right during the term of this Sublease and upon approval of the transfer to change the point of diversion and place of use to Lessee, the water rights will not be used to irrigate other land.

5. **Use by Lessee.** During the term of this Sublease and during any extension, Lessee shall place to beneficial use for irrigation purposes, between April 15th and October 15th of each year, all waters approved for use under the Water Rights and shall comply with all applicable federal, state and local laws and all rules and regulations applicable to the water rights of the IDWR and any other state and agency applicable to the Water Rights, together with all applicable state and federal environmental and water quality laws.

6. **Representations by P4 Production, L.L.C.** P4 Production, L.L.C. represents that it is the owner of the Water Rights. Lessor covenants and represents that it is the true and lawful owners of the Water Rights and the land to which they are appurtenant, that they have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Sublease and Lessee utilizing the described Water Rights.

7. **Transfer Application.** The parties acknowledge and agree that it will be necessary to make application and obtain IDWR approval to transfer the existing point of diversion and place of use of the Water Rights to Lessee's property; and, further, that upon termination of the Sublease, it will be necessary to make application and secure IDWR approval to change the point of diversion and place of use back from Lessee's property to the original locations upon property of Lessor or P4..

7.1 Lessor will file and process all necessary applications with IDWR to transfer the places of use and points of diversion of the Water Rights on a temporary basis during the Sublease term and upon termination.

7.2 Lessor and Lessee shall cooperate with each other in securing such transfers and processing such application(s) and shall execute any documents necessary to achieving such transfers.

7.3 Lessor shall be responsible for the costs associated with accomplishing the foregoing transfers.

7.4 This Sublease is conditioned upon IDWR's approval of a transfer of the Water Rights from Lessor's present places of use and points of diversion to places of use and points of diversion located on lands owned or leased by Lessee. In the event the transfer to Lessee's property is not granted, this Sublease may be terminated at the option of P4 or either party.

8. **Indemnification of Lessor.** Lessee agrees to indemnify and hold harmless Lessor from any and all claims and demands, including legal attorney fees and costs, which may arise directly or indirectly as a result of this Sublease or the transfer or use of the Water Rights by Lessee pursuant to this Sublease.

9. **Breach.** In the event either party breaches this Sublease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect to terminate this Sublease and recover any damages or pursue any other remedy available under Idaho law by reason of such breach.

10. **Assignment.** This Sublease may not be assigned by either party without the express written consent of the other party and P4.

11. **Attorney Fees.** In the event of any litigation over this Sublease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

12. **Binding Effect.** This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

LESSOR:

LESSEE:

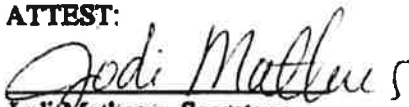
LAST CHANCE CANAL COMPANY, LTD.

**FARMERS LAND AND IRRIGATION
COMPANY**

By: 
MARK MATHEWS, President
Date: 1-19-21

By: 
Eric S. Marshall President
Date: 12-17-20

ATTEST:


Jodi Mathews, Secretary

ATTEST:


WADE OLORENSAW SEC./TREAS.

CONSENT OF P4 PRODUCTION, L.L.C.

By: _____
Roger W. Gibson, President
Date: _____

LESSOR:

LESSEE:

LAST CHANCE CANAL COMPANY, LTD.

FARMERS LAND AND IRRIGATION
COMPANY

By: _____
MARK MATHEWS, President
Date: _____

By: Eric Simonson
Eric Simonson President
Date: 12-17-20

ATTEST:

Jodi Mathews, Secretary

ATTEST:

Wade Olorenshaw
WADE OLORENSAW SEC./TREAS.

CONSENT OF P4 PRODUCTION, L.L.C.

By: Roger W. Gibson
Roger W. Gibson, President
Date: 1/19/2021



State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

March 3, 2021

P4 PRODUCTION LLC
PO BOX 816
SODA SPRINGS, ID 83276-0816

RE: Transfer No. 84061
Water Right No(s). 11-2106, 11-448, 11-457, 11-471, 11-499

Dear Applicant(s):

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

A legal notice of the amended application has been prepared and is scheduled for publication in the CARIBOU COUNTY SUN on 3/11/2021 and 3/18/2021. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the amended 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 amended 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 amended application.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CH' or 'CHenman'.

Christina Henman
Administrative Assistant

CC:
RACINE OLSON PLLP
C/O RANDALL C BUDGE
PO BOX 1391
POCATELLO, ID 83204-1391



State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

March 3, 2021

JUSTIN HANSEN
360 MOUNTAIN VIEW AVE
SODA SPRINGS, ID 83276-1248

RE: Transfer No. 84061

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right amended application. You can find a copy of the application at: <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Christina Henman
Administrative Asst. I

Enclosure(s)

Henman, Christina

From: Henman, Christina
Sent: Wednesday, March 03, 2021 9:18 AM
To: 'watermasterdist11@gmail.com'
Subject: Amended Application for Transfer No. 84061
Attachments: RecommendationForm Transfer48.docx

Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right amended application. You can find a copy of the application at: <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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

Henman, Christina

From: Henman, Christina
Sent: Wednesday, March 03, 2021 10:28 AM
To: CARIBOU CO. SUN (ccsun10@aol.com)
Subject: Legal Notice for Caribou County Sun
Attachments: 84061Caribou County Sun.docx

LEGAL NOTICE DEPARTMENT
CARIBOU COUNTY SUN
PO BOX 815
SODA SPRINGS, ID 83276

RE: Transfer No. 84061
Water Right No(s). 11-2106, 11-448, 11-457, 11-471, 11-499

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 3/29/2021. Your cooperation is appreciated

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
AMENDED TRANSFER NO. 84061

P4 PRODUCTION LLC, PO BOX 816, SODA SPRINGS, ID 83276-0816 has filed Application No. 84061 for changes to the following water rights within CARIBOU County(s): Right No(s). 11-2106, 11-448, 11-457, 11-471, 11-499; 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, add point of diversion, and change place of use. The proposed points of diversion are in SENE Sec 12 T09S R41E from Soda Creek; and Lot 4 (NWNW) Sec 6 T09S R42E (diversion and injection), and SENE Sec 12 T09S R41E (rediversion) from Waste Water; for a total diversion rate of 1.02 cfs. The proposed place of use is 51 acres within the service area of Farmers Land & Irrigation Co. 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 3/29/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 3/11/2021 and 3/18/2021