

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 84009

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED
MAR 23 2020

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) Rocky Mountain Water Exchange, 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: Deed and Plat map of Well #11 location

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Rocky Mountain Water Exchange, LLC Phone 208-524-2353
Mailing address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Email _____

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

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

☐ No Representative

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

☐ Send all correspondence for this application to the representative and not to the applicant.

OR

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

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

OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

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

[Signature]
Signature of Applicant or Authorized Representative

W Roger Warner, Managing Partner
Print Name and Title if applicable

3/23/2020
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

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

2. Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.

3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.

Applicant is contracted with Falls Water Company Inc for the sale and purchase of ground water rights. This application proposes to transfer a total of 52 acres of irrigation water rights to be used within Falls Water Company service area for irrigation purposes. See Part 1A.3 for more details.

Narrative to Support Application

Rocky Mountain Water Exchange, LLC for Falls Water Company Inc.

Rocky Mountain Water Exchange, LLC (“RMWE”) is contracted with Falls Water Company Inc. (“Falls Water”) to obtain irrigation water rights for use in their municipal water system. Water rights 35-2604 and 35-7720 have been identified as candidates and portions of each water right are proposed to be transferred to Falls Water’s municipal system but for irrigation purposes.

The proposed points of diversion will include the existing eight wells and one new well. The proposed new well will be known as Well #11 and will be located on a parcel of land owned by Falls Water. A deed showing ownership of the proposed well location is enclosed with the application. Although the Public Land Survey System geodatabase in GIS shows that the parcel is within Section 4, T2N, R38E, the parcel was surveyed and confirmed to be located within Section 9, T2N, R38E. A copy of the plat is included with the transfer.

The proposed place of use is the service area boundary of Falls Water, which is updated in this transfer, as well as in a pending transfer for the previously existing Falls Water rights.

It is proposed that the transferred portions be changed to “Municipal,” since they will be distributed within a municipal water delivery system. However, the ultimate use of this water right is still for irrigation, therefore, there is no fundamental change in the nature of use. Diversion will occur only within the irrigation season of use, as the rights were decreed. It is anticipated that a condition could be placed on the water right designating the irrigation limitations.

Water Right 35-2604

Water right 35-2604 is a primary ground water right decreed for the diversion of 2.7 cfs for the irrigation of 200 acres. The property was actively irrigated from the authorized point of diversion since it was originally developed in 1960. The Water Management Information System (WMIS) verifies that the well was used until 2016. No diversions have occurred since 2016. The point of diversion measurement and reporting is referenced as WMIS #200051. Since irrigation under 35-2604 last occurred in 2016, there are no forfeiture concerns.

The place of use boundary represented on IDWR’s geospatial database does not correlate well to the decreed place of use. Review of 2015 aerial photography, the most recent photography available when ground water was last diverted, shows that the actual irrigated acres do not correlate exactly to the decreed place of use either; meaning the distribution of irrigated acres across the quarter-quarters is not consistent. Figure 1 illustrates the IDWR shapefile and the actual irrigated acres at the place of use. Table 1 displays the water right place of use and actual irrigated acres per quarter-quarter.

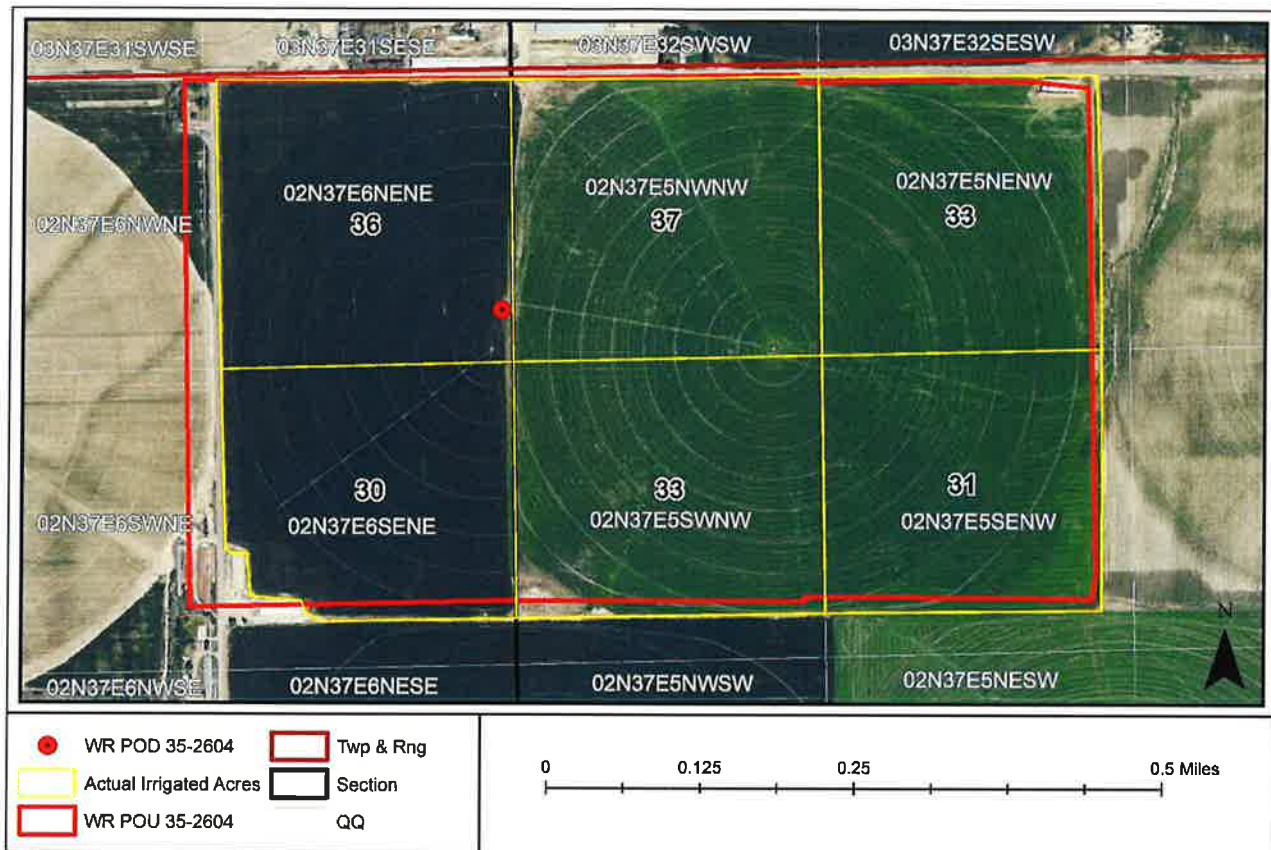


Figure 1. Acres at the Place of Use illustrated on 2015 NAIP.

Table 1. Acres per quarter-quarter

TRS	QQ	WR POU	ACTUAL IRRIGATED
2N37E5	NENW	27	33
	NWNW	30	37
	SWNW	39	33
	SENW	35	31
2N37E6	NENE	30	36
	SENE	39	30
Total Acres		200	200

It's been confirmed through a review of historical aerial photography that the same 200 acres have always been irrigated at the place of use through the ground water irrigation system. Although the decreed place of use and the IDWR shapefile do not correlate to the actual irrigated acres, it appears that there has been no significant change in the amount of irrigated acres since the beginning of the Snake River Basin Adjudication. A transfer would be required to correctly describe the place of use. However, since the water right is to be sold and

transferred, it is proposed to transfer portions of the water right based upon the decreed description. This transfer proposes to move 39 acres from the SENE.

New Sweden Irrigation District

In October of 2016, the place of use of 35-2604 was annexed into the New Sweden Irrigation District. A letter on February 2, 2017 from New Sweden to IDWR clearly states that the place of use is now included in the irrigation district service area. A copy is included at the end of this narrative. Beginning in 2017, the place of use began to be irrigated through surface water only. No ground water under water right 35-2604 has been diverted and used in combination with surface water.

Water Right 35-7720

Water rights 35-7720 and 1-7017 are currently appurtenant to 78.7 acres of the PT Elliot LLC property. Rights 35-7720 from ground water and 1-7017 from the Snake River were developed as fully overlapping at the described place of use. The ground water right 35-7720 is diverted from a well located west of the place of use and conveyed to a pond. The water is then rediverted through a pump station for irrigation. Water right 1-7017 is diverted directly from the Snake River at the Tomchak B #1 pump, then conveyed through mainline for delivery into the sprinkler system.

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

1-7017 for 13 acres and 0.22 cfs

The existing place of use of 35-7720 and 1-7017 is not described consistently between the two water rights. However, irrigation through these rights has always pertained to the same amount of acreage and IDWR's shapefiles of the POU is the same for both water rights.

The decreed acreage, the IDWR shapefile, and the actual irrigated acres of 35-7720 do not correlate well, similar to what was described for water right 35-2604. Meaning, the distribution of acres actually irrigated are not represented in the decreed place of use. Although the acres are not represented in the correct legal description, the total acres irrigated is consistent with the total decreed acres of 78.7. Figure 2 illustrates the IDWR shapefile and the actual irrigated acres at the place of use. Table 2 displays the breakdown of the water right place of use and actual irrigated acres per quarter-quarter basis. It is proposed to transfer 13 acres of the place of use as described on the decreed water right and shown in the table in Part 2B. Attachment #7b illustrates the 13 acres that will be transferred, but it is only representative of the number of acres to be transferred (retired).

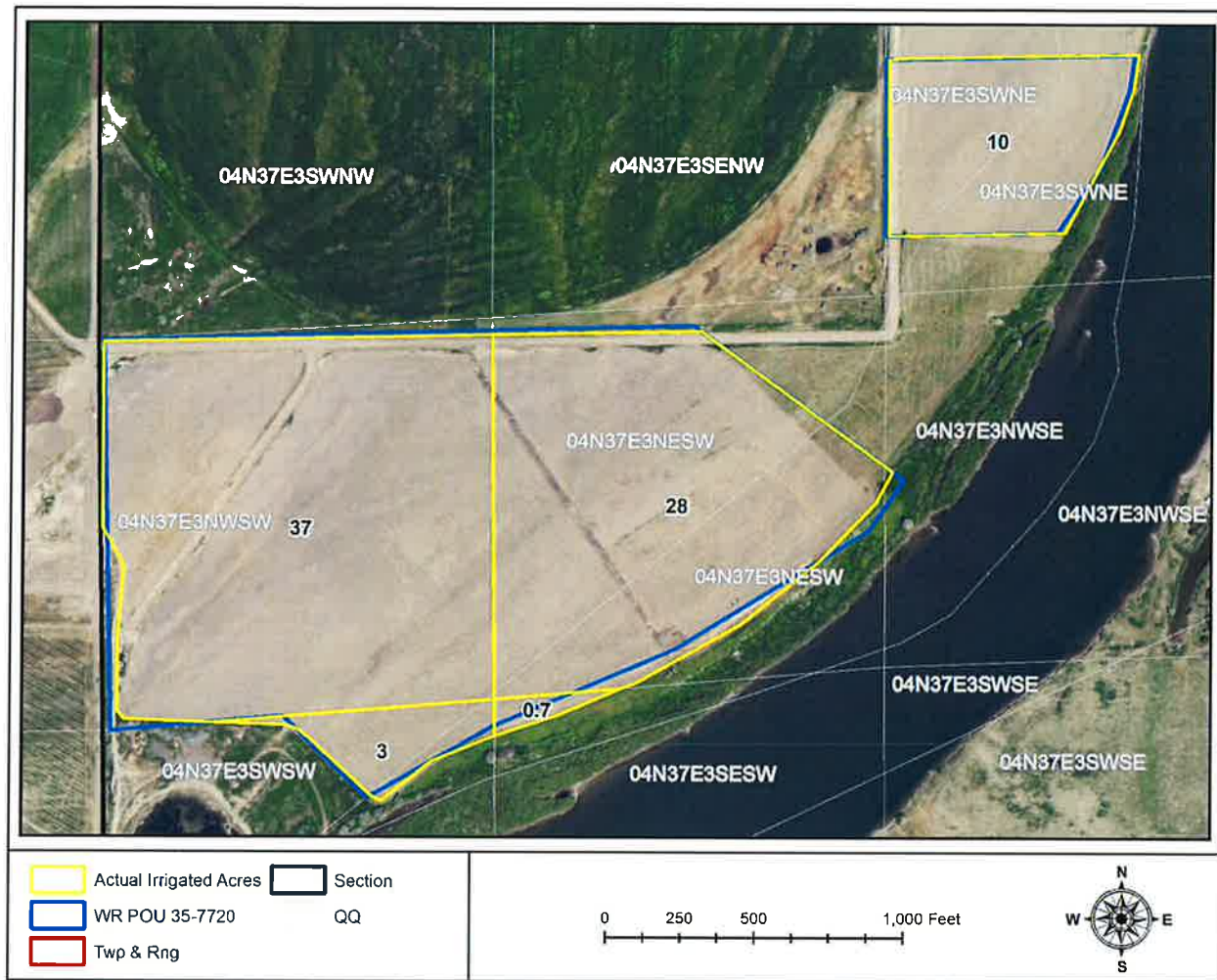


Figure 2. Acres at the Place of Use illustrated on 2015 NAIP.

Table 2. Acres per quarter-quarter

TRS	QQ	WR POU	ACTUAL IRRIGATED
4N37E3	SWNE	11.7	10
	NESW	25	28
	NWSW	40	37
	SWSW	2	3
	SESW	0	0.7
Total Acres		78.7	78.7

Summary

In combination, the two portions of the water rights will authorize Falls Water to irrigate an additional 52 acres within their municipal water system during the irrigation season. ESPA modeling results show that this transfer will meet IDWR modeling requirements, as discussed in Attachment #5. Ownership will be changed following approval of the transfer and a closing of the water right sale.

THE NEW SWEDEN IRRIGATION DISTRICT

2350 W. 1700 SO.
IDAHO FALLS, IDAHO

OFFICE OF THE SECRETARY-TREASURER

208-523-0175



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MAR 06 2017

Department of Water Resources
Eastern Region

Blake Jorden
Idaho Department of Water Resources

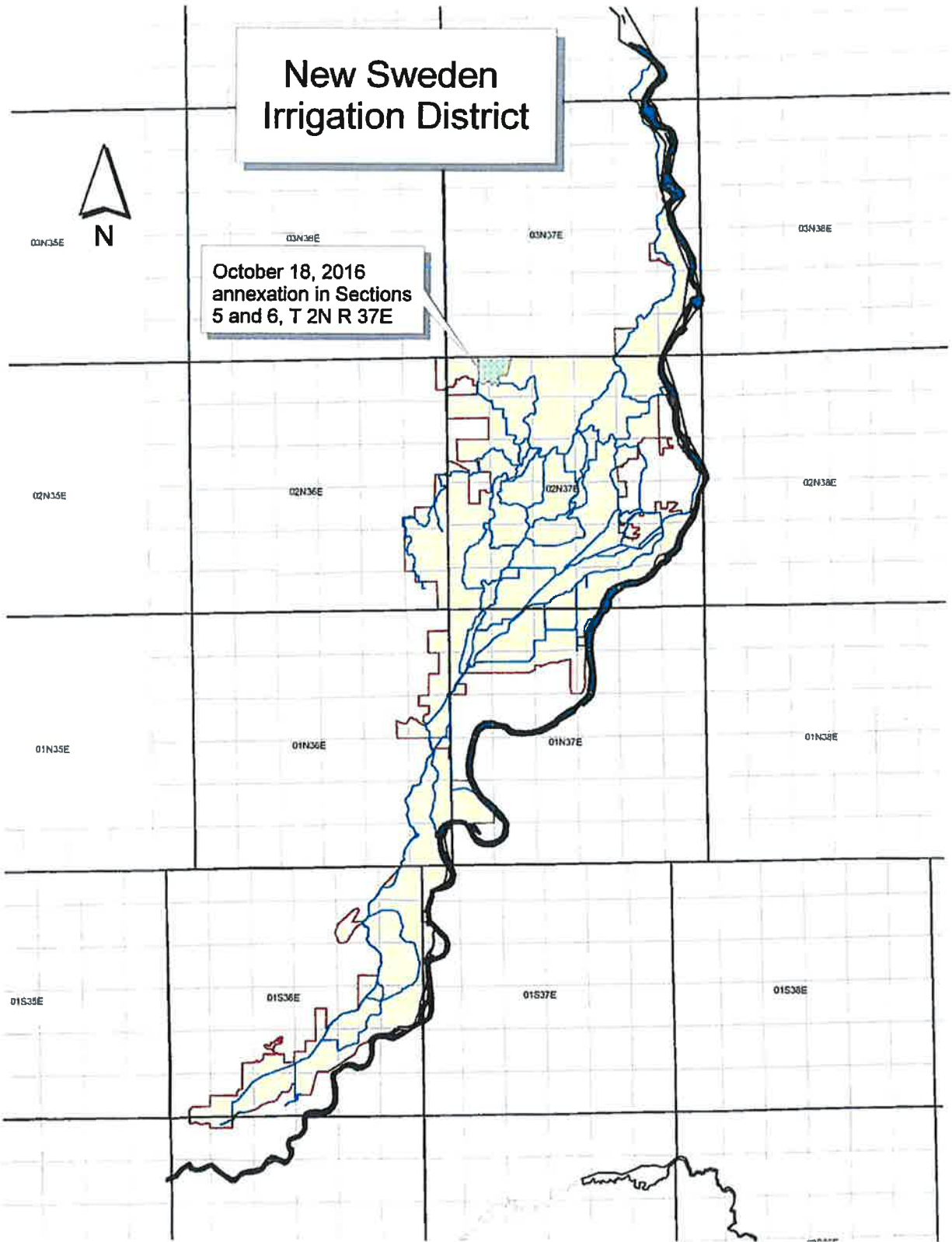
February 2, 2017

Dear Mr. Jorden,

New Sweden Irrigation District recently annexed some property into the District which has required a change to the digital boundary. The lands annexed are located in Sections 5 and 6, T 2N, R 37E, and totaled 250 acres. They are owned by Wayne Jensen. I have enclosed a map of the District which shows the new lands. As we discussed in our telephone conversation, I will email you the new shape file. If you have any further questions, you may contact me on my cell phone, 208-317-1685, or at the office at 208-523-0175.

Thank You,

Kail Sheppard
District Manager



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.

Total authorized under rights 0.79 cfs cfs and/or _____ acre-feet.

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**.

4. Place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

- [illegible]

Ident. No. _____

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 municipal water system for Falls Water Company. Eight existing wells and one proposed well, which is not yet drilled. Measuring devices and lockable controlling works are already in place for existing wells.

- b. Who owns the property at the point(s) of diversion? Falls Water Company Inc.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
See agreements in Attachment #3.

- 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 POU of 35-2604 is now irrigated by New Sweden Irrigation District; ground water is no longer applied. The POU of 35-7720 will no longer be irrigated.

- 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:

35-2604: now irrigated with New Sweden Irrig. District; no other rights at POD.

35-7720: POU overlapped by 1-7017 (see Part1A.3). POD shared with 35-14649, 35-14650, 35-7744

Proposed POD/POU: 25-7148, 25-7191, 25-7418, 25-7509, 25-14035, 25-14055, 25-14114, 25-14326, 25-14327

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

Yes No

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

If yes, describe:

Both rights have been leased to the WSB for the 2020 season to maintain during the sale and transfer process.

The transferred water is not intended to be used at the proposed location during the 2020 season. Actual use at the proposed location will not be needed until 2021.



WATER RIGHT REPORT

3/17/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-2604

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WAYNE A JENSEN 2777 N 26 W IDAHO FALLS, ID 83402 2085214001
Original Owner	C W BURKE RT 5 IDAHO FALLS, ID 83401

Priority Date: 07/11/1960

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	2.7 CFS	800 AFA
Total Diversion			2.7 CFS	800 AFA

Location of Point(s) of Diversion:

GROUND WATER | SENENE | Sec. 06 | Township 02N | Range 37E | BONNEVILLE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE 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>
02N	37E	5	3	NENW	27	4	NWNW	30		SWNW	39		SENE	35
		6		NENE	30		SENE	39						

Total Acres: 200

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 01/31/2002

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

84009



WATER RIGHT REPORT

3/17/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-7720

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

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	1.57 CFS	
Total Diversion			1.57 CFS	

Location of Point(s) of Diversion:

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

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
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84009

04N | 37E | 3 | 7 | SWNE | 11.6999998092651 | | | | | Part 2A
6 | NESW | 25 | | NWSW | 40 | 5 | SWSW | 2 | | |

Total Acres: 78.7

Conditions of Approval:

1. E53 USE OF THIS RIGHT WITH ALL OTHER RIGHTS IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 315 AF AT THE FIELD HEADGATE FOR THE LANDS BELOW.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3. E55 USE OF THIS RIGHT WITH RIGHT NO. 01-7017 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 78.7 ACRES IN A SINGLE IRRIGATION SEASON.

Dates:

Licensed Date:

Decreed Date: 01/12/2004

Permit Proof Due Date: 7/1/1982

Permit Proof Made Date: 5/20/1982

Permit Approved Date: 7/25/1977

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 05/20/1977

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

84009

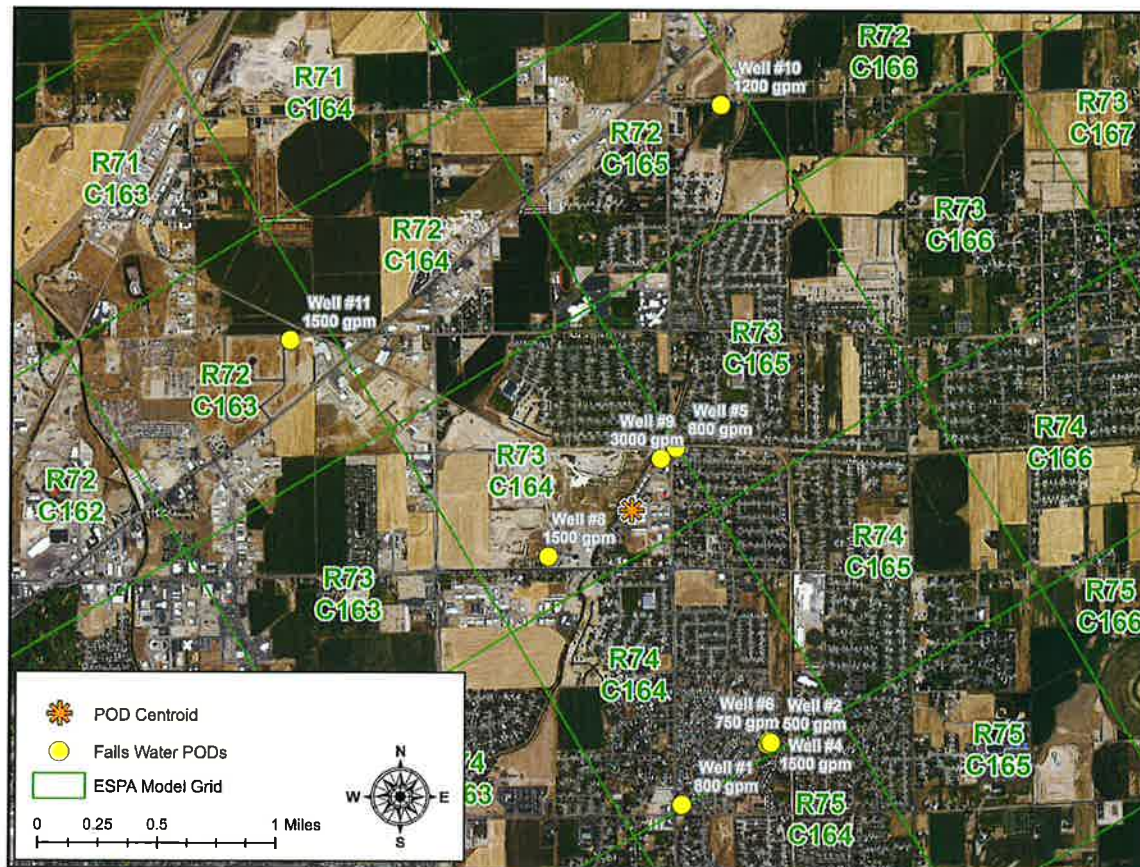
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Eastern Snake Plain Aquifer Modeling Analysis

Rocky Mountain Water Exchange, LLC for Falls Water Company Inc.

The Applicant proposes to transfer 52 acres of water right from two different rights and locations to be used in the Falls Water Company Inc. municipal system. Since Falls Water Company has nine points of diversion, including the proposed new well, a weighted centroid was used to represent the TO Well. Figure 1 below illustrates the points of diversion, local names, and pumping rates used to calculate the weighted centroid.

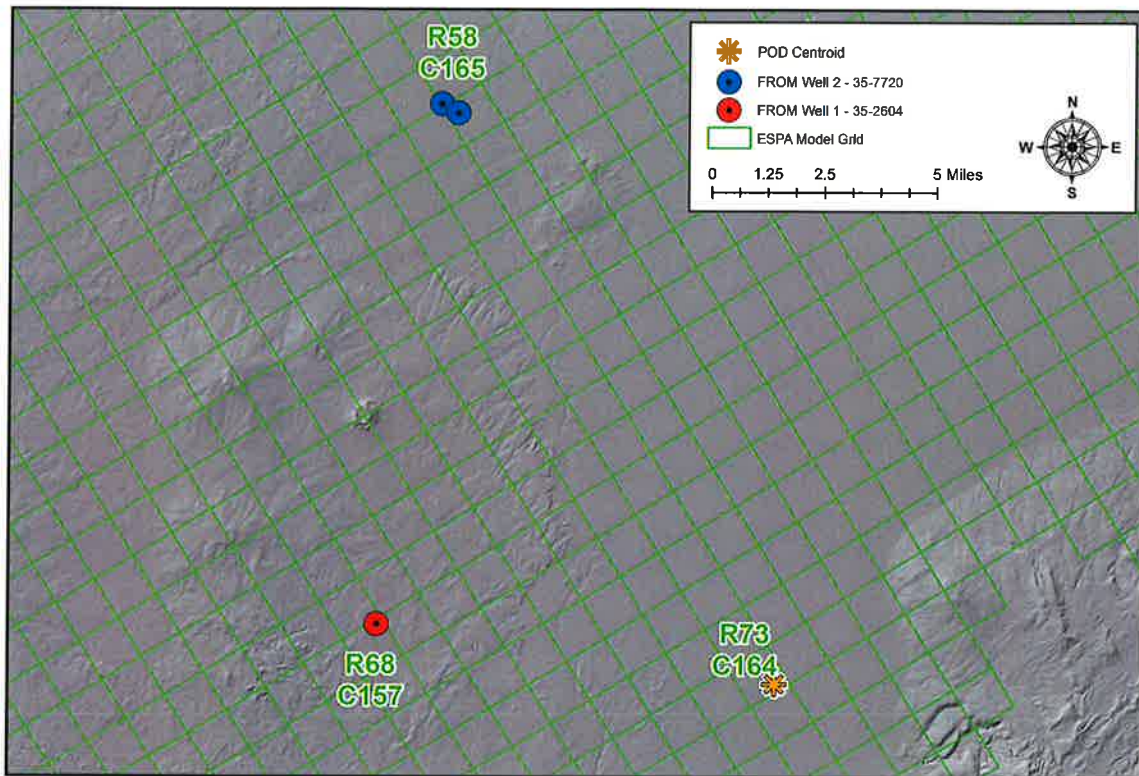
Figure 1. Centroid of Falls Water wells



The points of diversion included in this modeling analysis are identified to be located in the following grid cells and shown in Figure 2:

TO Well	Falls Water Company	R73 C164
FROM Well 1	Wayne Jensen 35-2604	R68 C157
FROM Well 2	PT Elliot LLC 35-7720	R58 C165

Figure 2. Locations of PODs on ESPA Grid



ESPAM 2.1 is used to simulate the depletions of transferring 52 acres, 39 acres from FROM Well 1 and 13 acres from FROM Well 2, at 3.0 acre-feet per acre. Water right 35-2604 was not used during years 2017-2019 when the farm was converted to a surface water system. Those years show no diversion under FROM Well 1. Likewise, since the water rights will not be diverted during 2020 at the TO Well, the simulation shows no diversion of either water right during 2020.

The net affects show depletions in the Heise to Shelley and Shelley to Near Blackfoot reaches which do not exceed 2.0 acre-feet per trimester. Near Blackfoot to Neeley shows a benefit of up to 2.6 acre-feet per trimester. **No mitigation is required.**

Figures 3-5 include excerpts from the ESPAM 2.1 simulation.

Figure 3. Data Entry

ENHANCED GROUND-WATER RIGHTS TRANSFER

UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE IDAHO DEPARTMENT OF WATER

Cells this color are set up for user entries

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

YEAR: 1960 TRANSFER NO.:
SEASON: SUMMER TRANSFER NAME: RMWE/Falls Water

UPDATE DATES RUN MODEL GET OUTPUT

CALCULATE EFFECTS

ENTER CELL LOCATIONS:

	'TO' CELL	'FROM1' CELL	'FROM2' CELL	'FROM3' CELL
ROW	73	68	58	45
COLUMN	164	157	165	30

TRIMESTER OF ACTIVITY	TO WELL	FROM1 WELL		FROM2 WELL		FROM3 WELL	
	Projected Use AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER
SUM 1960	0	39	39	0	0	0	0
WIN 1960	0	39	39	0	0	0	0
SPR 1961	0	39	39	0	0	0	0
SUM 1961	0	39	39	0	0	0	0
WIN 1961	0	39	39	0	0	0	0
SPR 1978	0	39	39	0	0	0	0
SUM 1978	0	39	39	0	0	0	0
WIN 1978	0	39	39	0	0	0	0
SPR 1979	0	39	39	13	13	0	0
SUM 1979	0	39	39	13	13	0	0
WIN 1979	0	39	39	13	13	0	0
SPR 1980	0	39	39	13	13	0	0
SUM 1980	0	39	39	13	13	0	0
WIN 1980	0	39	39	13	13	0	0
SPR 2016	0	39	39	13	13	0	0
SUM 2016	0	39	39	13	13	0	0
WIN 2016	0	39	39	13	13	0	0
SPR 2017	0	0	39	13	13	0	0
SUM 2017	0	0	39	13	13	0	0
WIN 2017	0	0	39	13	13	0	0
SPR 2018	0	0	39	13	13	0	0
SUM 2018	0	0	39	13	13	0	0
WIN 2018	0	0	39	13	13	0	0
SPR 2019	0	0	39	13	13	0	0
SUM 2019	0	0	39	13	13	0	0
WIN 2019	0	0	39	13	13	0	0
SPR 2020	0	0	39	0	13	0	0
SUM 2020	0	0	39	0	13	0	0
WIN 2020	0	0	39	0	13	0	0
SPR 2021	52	0	39	0	13	0	0
SUM 2021	52	0	39	0	13	0	0
WIN 2021	52	0	39	0	13	0	0
SPR 2022	52	0	39	0	13	0	0
SUM 2022	52	0	39	0	13	0	0
WIN 2022	52	0	39	0	13	0	0
SPR 2107	52	0	39	0	13	0	0
SUM 2107	52	0	39	0	13	0	0
WIN 2107	52	0	39	0	13	0	0
SPR 2108	52	0	39	0	13	0	0
SUM 2108	52	0	39	0	13	0	0
WIN 2108	52	0	39	0	13	0	0
SPR 2109	52	0	39	0	13	0	0
SUM 2109	52	0	39	0	13	0	0
WIN 2109	52	0	39	0	13	0	0
SPR 2110	52	0	39	0	13	0	0

Figure 4. Net Transfer Graphs

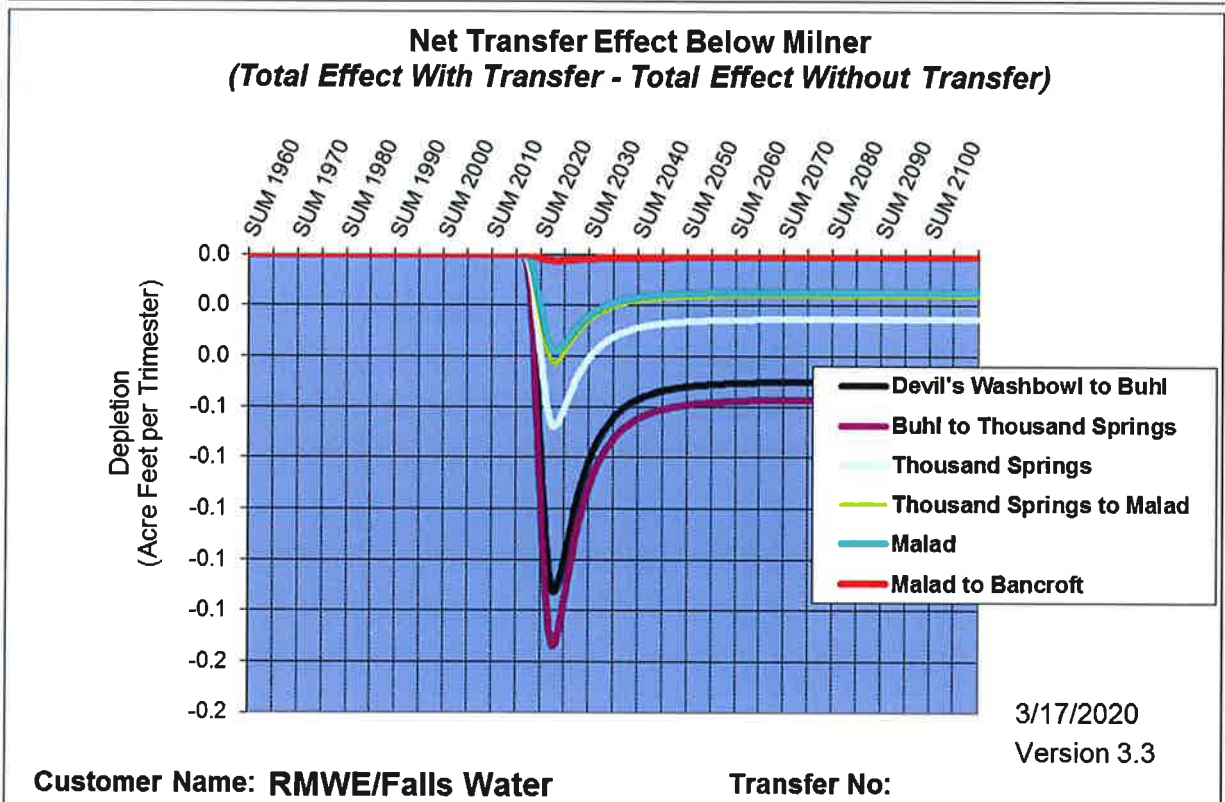
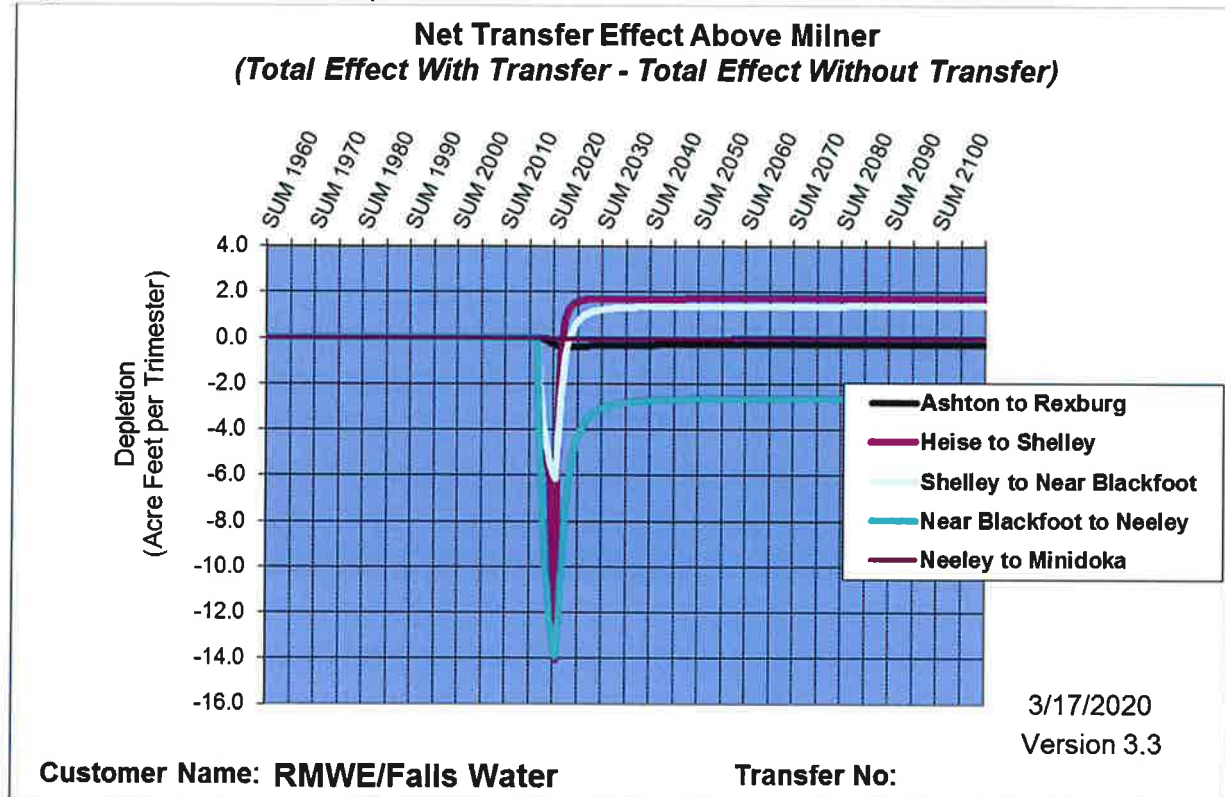
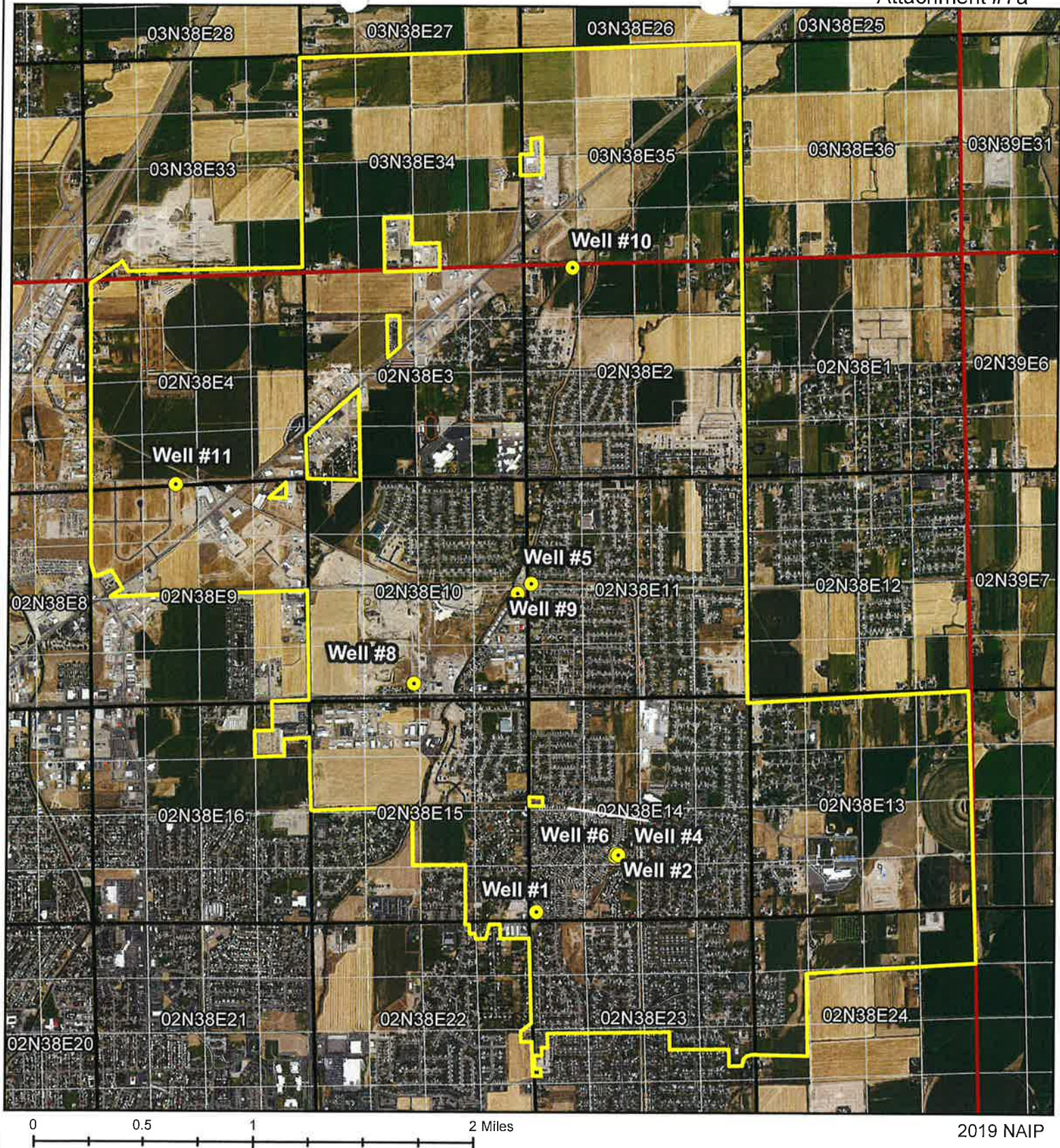


Figure 5. Calculated Effects.

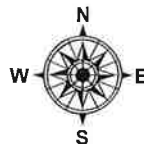
	Net Transfer Effect (AF/four months)										
	Ashton to Rexburg	Heise to Shelley	Shelley to Nr Bickft	Nr Bickft Neeley	Neeley to Minidoka	Dev. Wbl. Buhl	Buhl to Kspr	Kspr Kspr	Kspr to Malad	Malad Malad	Malad to Bancroft
SUM 1960	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1960	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1961	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1961	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2017	0.0	-2.3	-1.0	-2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2017	0.0	-3.4	-2.0	-4.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2017	0.0	-4.2	-2.9	-6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2018	-0.1	-4.6	-3.6	-7.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2018	-0.1	-5.0	-4.1	-8.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2018	-0.1	-5.3	-4.6	-10.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2019	-0.1	-5.5	-5.0	-10.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2019	-0.2	-5.7	-5.3	-11.7	0.0	0.0	-0.1	0.0	0.0	0.0	0.0
WIN 2019	-0.2	-5.9	-5.6	-12.4	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SPR 2020	-0.2	-9.9	-5.8	-13.0	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SUM 2020	-0.3	-12.5	-6.0	-13.5	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
WIN 2020	-0.3	-14.0	-6.1	-13.9	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SPR 2021	-0.3	-5.5	-4.9	-13.2	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SUM 2021	-0.4	-2.4	-3.7	-12.0	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
WIN 2021	-0.4	-0.9	-2.6	-10.7	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SPR 2022	-0.4	0.0	-1.8	-9.5	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SUM 2022	-0.4	0.5	-1.2	-8.5	0.0	-0.1	-0.2	-0.1	0.0	0.0	0.0
WIN 2022	-0.4	0.8	-0.7	-7.6	0.0	-0.1	-0.2	-0.1	0.0	0.0	0.0
SPR 2023	-0.4	1.1	-0.4	-6.9	0.0	-0.1	-0.2	-0.1	0.0	0.0	0.0
SUM 2023	-0.4	1.2	-0.1	-6.3	0.0	-0.1	-0.2	-0.1	0.0	0.0	0.0
WIN 2023	-0.4	1.4	0.1	-5.8	0.0	-0.1	-0.2	-0.1	0.0	0.0	0.0
SPR 2024	-0.4	1.4	0.3	-5.3	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SUM 2024	-0.4	1.5	0.5	-5.0	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
WIN 2024	-0.4	1.5	0.6	-4.7	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SPR 2025	-0.4	1.6	0.7	-4.4	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SUM 2025	-0.4	1.6	0.8	-4.2	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
WIN 2025	-0.4	1.6	0.9	-4.1	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SPR 2026	-0.4	1.7	0.9	-3.9	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SUM 2026	-0.4	1.7	1.0	-3.8	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
WIN 2026	-0.4	1.7	1.0	-3.7	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SPR 2027	-0.4	1.7	1.0	-3.6	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
SUM 2027	-0.4	1.7	1.1	-3.5	0.0	-0.1	-0.1	-0.1	0.0	0.0	0.0
WIN 2027	-0.4	1.7	1.1	-3.4	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
WIN 2107	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SPR 2108	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SUM 2108	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
WIN 2108	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SPR 2109	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SUM 2109	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
WIN 2109	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0
SPR 2110	-0.3	1.7	1.4	-2.6	0.0	-0.1	-0.1	0.0	0.0	0.0	0.0

Enter First Time Step of Transfer: SPR 2020													
Match:	180	Match:	456										
	AtR	HiS	StNB	NBIN	NiM	DWtB	BiTS	TS	TStM	M	MtB	Total	
Preexisting Effects @ SS (Last Time Step):	1.74	20.06	8.50	20.25	0.12	0.38	0.43	0.19	0.12	0.11	0.01	51.90	Total Effects without Trans
dy State - Value of Dep. @ Last Time Step:	1.45	21.80	9.89	17.60	0.10	0.33	0.37	0.17	0.10	0.10	0.01	51.92	Total Effects with Trans
ts @ Transient State (Max Value Timestep):	1.74	20.06	8.50	20.25	0.12	0.38	0.43	0.19	0.12	0.11	0.01	51.90	Total Effects without Trans
nt State - Max. Value of Dep. After Transfer:	1.46	21.80	9.89	17.60	0.10	0.33	0.37	0.17	0.10	0.10	0.01	51.93	Total Effects with Trans
Steady State Change:	-0.29	1.74	1.39	-2.64	-0.02	-0.05	-0.06	-0.03	-0.02	-0.01	0.00		
Transient State Change:	-0.28	1.74	1.39	-2.64	-0.02	-0.05	-0.06	-0.03	-0.02	-0.01	0.00		

84009



- Proposed PODs
- Municipal Service Area
- Twp & Rng
- Section
- QQ



Proposed Water Right Locations

Rocky Mountain Water Exchange LLC / Falls Water Co Inc

RMEA # 19-0176

by: KM

Date: 3/17/2020



84009



● WRPOD 1-7017

● WRPOD 35-7720

▨ Purchased Acres

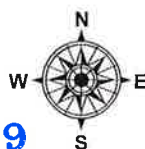
▭ WR POU 35-7720

▭ Pending Trans 83918 & 83915

▭ Twp & Rng

▭ Section

▭ QQ



84009

Existing Location 35-7720

Rocky Mountain Water Exchange LLC / Falls Water Co Inc

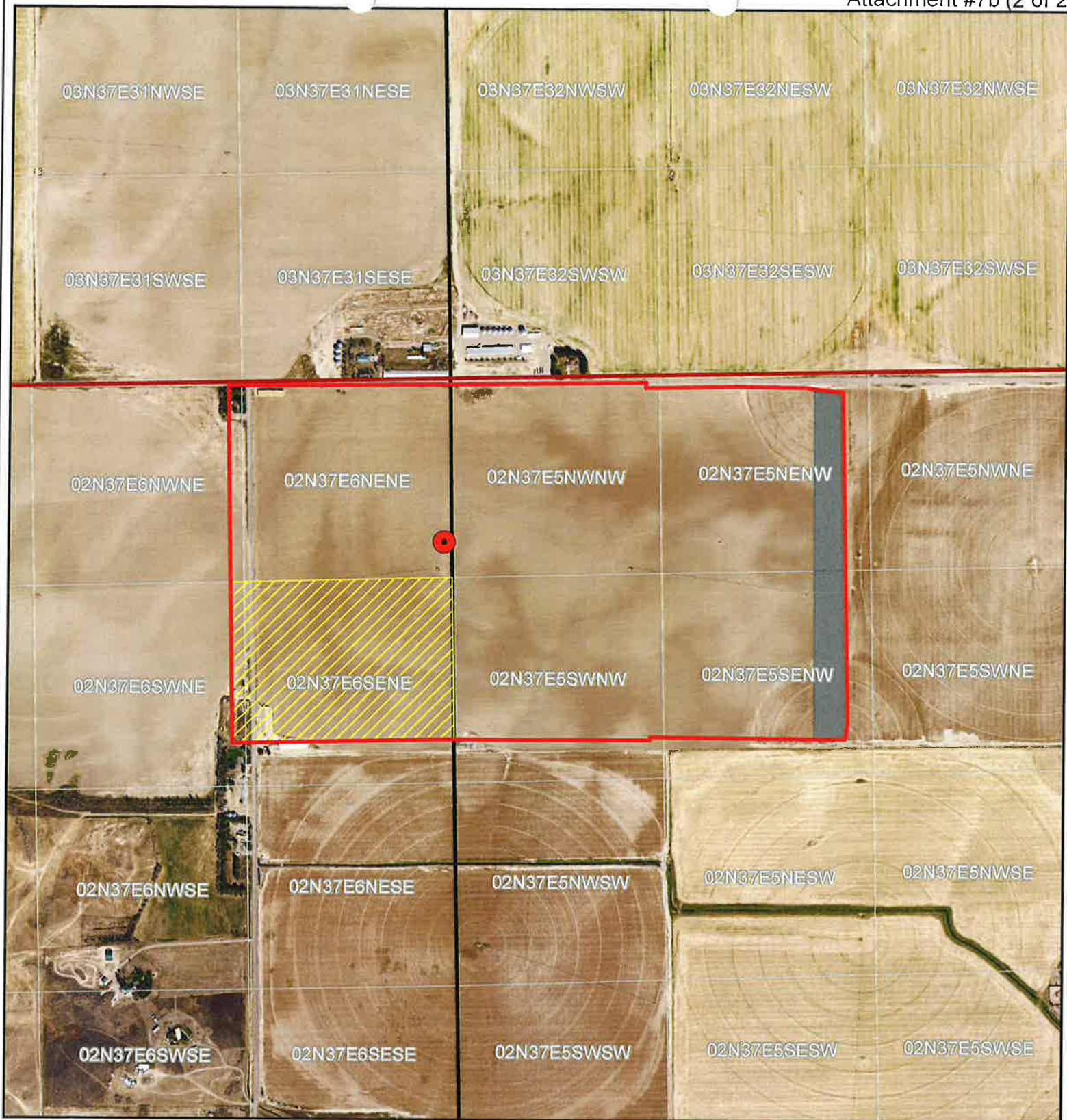
RMEA # 19-0176

by: KM

Date: 3/17/2020



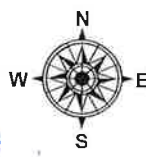
Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.



0 0.125 0.25 0.5 Miles

2019 NAIP

- WRPD 35-2604
- WRPOU 35-2604
- Purchased Acres
- Pending Trans 83920
- Twp & Rng
- Section
- QQ



Existing Location 35-2604

Rocky Mountain Water Exchange LLC / Falls Water Co Inc

RMEA # 19-0176

by: KM

Date: 3/17/2020



Change in Nature of Use

Rocky Mountain Water Exchange, LLC for Falls Water Company Inc.

Water Rights 35-2604 and 35-7720 have been used for irrigation purposes at their decreed places of use until recently. This transfer proposes to change the nature of use of the transferred portions to "Municipal," since they will be distributed within a municipal water delivery system. However, the ultimate use of this water right is still for irrigation, therefore, there is no fundamental change in the nature of use. Diversion will occur only within the irrigation season of use, as the rights were decreed. A condition could be placed on the water right designating the irrigation limitations.

APPLICATION FOR TRANSFER OF WATER RIGHT ATTACHMENT WSB: TRANSFERRING WATER RIGHTS LEASED TO THE WATER SUPPLY BANK

Approval of a transfer application will not impact the terms of a Water Supply Bank Lease Contract. Any transferred water right or portion of a water right that is leased to the Water Supply Bank (Bank) shall remain unused while the lease is active.

If the transfer proposes to relocate the place of use of an irrigation water right, and the relocated acres include land currently idled due to a Bank lease contract, the applicant is required to identify the areas that will be idled at the new place of use for the duration of the lease contract. The acres to be idled should be clearly identified on the map created for Attachment 7B of the transfer application. The applicant should confirm the map is attached when completing the table below. If the leased portion of the place of use is not proposed to be relocated, a map is not required.

A Bank lease contract shall remain in effect until it expires, a new lease proposal is processed to replace it, or the water right is released from the Bank through written confirmation issued by the Water Resource Board. If the proposed transfer is approved, the water right owner will be provided sufficient time to allow the lease contract to expire before beneficial use of water at the new place of use will be expected. Meanwhile, water rights leased to the Bank are protected from forfeiture for the duration of the lease contract.

Water right owners who would like to adjust the terms of their lease contracts can either submit a new lease proposal on an Application to Lease a Water Right to the Water Supply Bank form, or they can request early termination of their lease contracts by completing a Request to Release a Water Right from the Water Supply Bank form. If a water right is leased to the Bank, and it is currently being rented from the Bank, the lease cannot be reduced or terminated until the rental agreement concludes. A request to release a water right or to submit a new lease application should be sent to the Department's state office. To find out if there are any rentals associated with a leased water right, please call a Bank representative at the Department at 208-287-4800.

In the table below, please provide the requested information for any water right that is both proposed for transfer and leased to the Bank. The information needed to complete this table can be found in your Bank lease contract. A copy of your lease contract can be obtained using the 'Search Water Rights' option on the Department's internet page at www.idwr.idaho.gov or by contacting any Department office.

Water Right Number	Lease Contract Expiration Date	Water Right Quantities Leased to the Bank			Map Attachment 7B Clearly Identifies Idled Place of Use at New Location
		Rate (cfs)	Volume (AF)	Acres	
35-2604	Dec 31, 2020	2.56	760	190	Attached? <input checked="" type="checkbox"/> or No Change <input type="checkbox"/>
35-7720	Dec 31, 2020	1.57	-	78.7	Attached? <input checked="" type="checkbox"/> or No Change <input type="checkbox"/>
					Attached? <input type="checkbox"/> or No Change <input type="checkbox"/>
					Attached? <input type="checkbox"/> or No Change <input type="checkbox"/>
					Attached? <input type="checkbox"/> or No Change <input type="checkbox"/>
					Attached? <input type="checkbox"/> or No Change <input type="checkbox"/>
					Attached? <input type="checkbox"/> or No Change <input type="checkbox"/>

Is the ownership of the water right(s) leased to the Bank being changed? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.

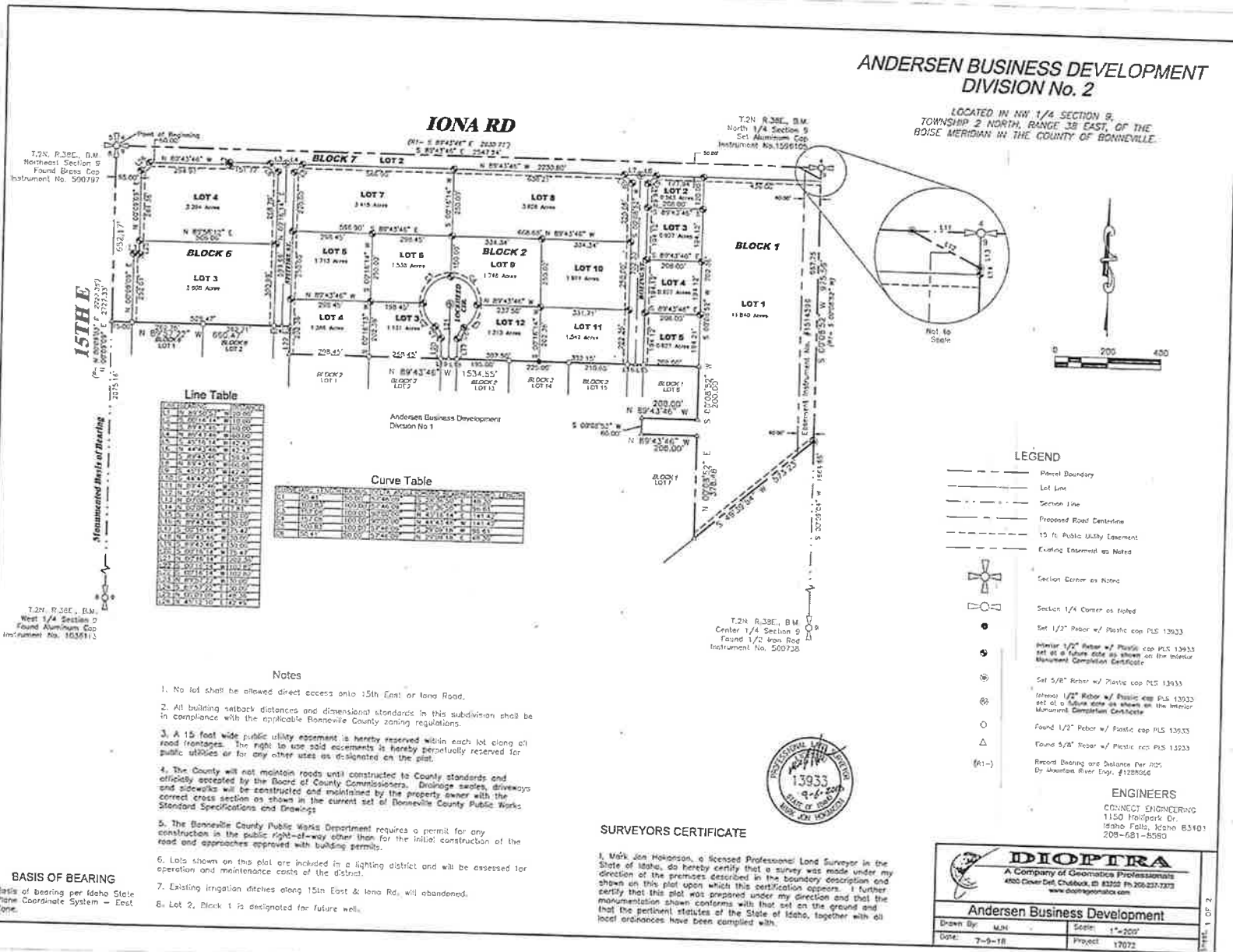
Additional Information:

The portion of water rights proposed to be transferred will not be used at the new point of diversion and place of use during the 2020 season. It is anticipated that diversion of the transferred portions will not be required or used until the 2021 season, after the WSB lease contracts have expired.

Agency Use Only: Personnel processing transfer applications should forward a copy of this attachment, the original Lessor Designation form and/or IRS Form W-9, if received, to the State Office.

84009

Instrument 113333, B.M. Found Brass Cap Instrument No. 500797



LEGAL DESCRIPTION

Part of the NW 1/4 of Section 9, Township 2 North, Range 38 East Boise Meridian, Bonneville County, Idaho, described as:
Commencing at the Northwest Corner of Section 9, Township 2 North, Range 38 East of the Boise Meridian, also being the True Point of Beginning; Thence S 89°43'46" E 2347.24 feet along the north line of said section; Thence S 02°04'10" E 93.63 feet to the center quarter line of said section; Thence S 00°08'52" W 975.56 feet along the center quarter line of said section, to the north right of way line of State Highway 26; Thence S 49°29'54" W 573.22 feet along said right of way; Thence N 00°08'52" E 378.48 feet; Thence N 89°43'46" W 208.00 feet; Thence N 00°08'52" E 80.00 feet; Thence S 89°43'46" E 208.00 feet; Thence N 00°08'52" E 208.00 feet; Thence N 89°43'46" W 1534.55 feet; Thence N 00°16'14" E 102.82 feet; Thence N 89°57'22" W 660.47 feet to the West Section line of said section; Thence N 00°09'09" E 652.17 feet along said section line to the True Point of Beginning.

Parcel contains ±46.670 acres

HEALTH DEPARTMENT CERTIFICATE

A sanitary restriction according to Idaho Code 50-1326 through 50-1328 is imposed on this plot. No building, dwelling, or shelter shall be erected until the sanitary restrictions requirements are satisfied and lifted.

This plot is approved and sanitary restrictions are satisfied and lifted this 5th day of September, 2018.

Matthew J. Hinkley
Southeastern Idaho Public Health
Environmental Health Specialist

IRRIGATION WATER RIGHTS CERTIFICATE

The property included in this plot has petitioned for and been removed from all future irrigation water rights.

1595795

Instrument No.

Date: 11/01/2018

INTERIOR MONUMENT COMPLETION CERTIFICATION

Pursuant to the requirements of I.C. 50-1331 through 50-1333, I, Mark Jon Hokanson, the surveyor of record for this subdivision plot, hereby certify that the interior monuments as shown on this plot shall be set in accordance with the requirements of I.C. 50-1303 on or before the 31st day of March, 2019.

SURVEYORS CERTIFICATE

I, Mark Jon Hokanson, a licensed Professional Land Surveyor in the State of Idaho, do hereby certify that a survey was made under my direction of the premises described in the boundary description and shown on this plot upon which this certification appears. I further certify that this plot was prepared under my direction and that the monumentation shown conforms with that set on the ground and that the pertinent statutes of the State of Idaho, together with all local ordinances have been complied with.

Mark Jon Hokanson
Mark Jon Hokanson, License No. 13933

Date: 9-1-2018



EXAMINING SURVEYOR'S CERTIFICATE

I hereby certify that I have examined this plot and find it to correct and acceptable as required by Idaho Code 50-1305.

Steven P. Smith
Bonneville County Surveyor PLS# 12640

Date: 10/22/18

TREASURER'S CERTIFICATE

I, the undersigned County Treasurer in and for the County of Bonneville, State of Idaho, per the requirements of Idaho Code 50-1308, do hereby certify that all County property taxes due for the property included in this project are current.

Paul J. Smith
Bonneville County Treasurer

Date: 12-5-18

ANDERSEN BUSINESS DEVELOPMENT DIVISION No. 2

LOCATED IN NW 1/4 SECTION 9,
TOWNSHIP 2 NORTH, RANGE 38 EAST, OF THE
BOISE MERIDIAN IN THE COUNTY OF BONNEVILLE.

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS that we the undersigned are the lawful owners of the tract of land included in the boundary description shown herein and have caused the same to be plotted and divided into blocks, lots, streets and easements to be hereafter known as ANDERSEN BUSINESS DEVELOPMENT DIVISION No. 2.

BE IT FURTHER KNOWN that we do hereby dedicate to the Public all streets and rights-of-way shown herein, that we also grant and convey to the Public all public utility easements shown herein and that we hereby warrant and shall defend the estate subject to such dedication and conveyances in the quiet and peaceful possession of the Public against said owner and their heirs and assigns, and against every person whatsoever who lawfully holds or who later claims to have lawfully held any rights in said estate as of the date hereof. We also certify that the lots within this subdivision will be served by Falls Water Co.

IN WITNESS WHEREOF, we have hereunto set our hands this 6 day of September, 2018.

Ryan Andersen
Andersen Holding LLC
Managing Member
Ryan Andersen

ACKNOWLEDGMENT

STATE OF IDAHO }

COUNTY OF BONNEVILLE }

On this 6 day of September, 2018, Ryan Andersen, Managing Member of Andersen Holding LLC, personally appeared before me, an undersigned Notary Public for the State of Idaho and acknowledged to me that he executed the herein instrument on behalf of said limited liability company and acknowledged to me that said limited liability company executed the same. In witness thereof, I have hereunto set my hand and affixed my seal this day.

Ryan Andersen
Residing at Bonneville Co.

My commission expires: 7-31-28



COUNTY APPROVAL

The foregoing plot was duly accepted and approved by the Board of County Commissioners of Bonneville County, Idaho, by resolution adopted this 17 day of October, 2018.

Robert S. Smith
Chairman, Board of Commissioners

Steven P. Smith
Public Works Department

RECORDER'S CERTIFICATE

I hereby certify that the foregoing subdivision plot of the ANDERSEN BUSINESS DEVELOPMENT DIVISION No. 2, Bonneville County, Idaho, was duly for recording in the office of the Recorder of Bonneville County, Idaho, this 11 day of November, 2018, at 5:10 PM and received under instrument number 1595795 in Plot Book on Page .

Steve Davis
Bonneville County Recorder

Instrument # 1595795
Bonneville County, Idaho, Falls, Idaho
12/11/2018 4:22 PM
Recorder of Bonneville County
12/11/2018 4:22 PM
Steve Davis
Bonneville County Recorder

DIOPTRA A Company of Geomatics Professionals 4800 Clover Dell, Chubbuck, ID 83202 Tel: 208 227-7373 www.dioptra.com	
Andersen Business Development	
Drawn By: <u>MJS</u>	Scale: <u>1"=200'</u>
Date: <u>7-9-18</u>	Project: <u>12072</u>

Instrument # 1632797
Bonneville County, Idaho Falls, Idaho
02/10/2020 03:43:49 PM No. of Pages: 2
Recorded for: FIRST AMERICAN TITLE - IDAHO FALLS
Penny Manning Fee: \$15.00
Ex-Officio Recorder Deputy Dwoolf
Index to: DEED, QUIT-CLAIM

AFTER RECORDING MAIL TO:

Space Above This Line for Recorder's Use Only

QUITCLAIM DEED

Date: January 31, 2020

For Value Received

Andersen Holdings/Ryan Andersen

do(es) hereby convey, release, remise, and forever quit claim unto ,
Falls Water Co., Inc.

whose address is ,
2180 North Deborah Drive, Idaho Falls, ID 83401

herein after called the Grantee, the following described premises situated in Bonneville
County, Idaho, to-wit:

LOT 2, BLOCK 1, ANDERSEN BUSINESS DEVELOPMENT #2, ACCORDING TO THE
RECORDED PLAT THEREOF IN BONNEVILLE COUNTY, IDAHO.

together with its appurtenances.

This instrument filed as an accommodation only,
it has not been examined as to its execution,
insurability or effect on title.
First American Title Company
607 S. Woodruff Ave.
Idaho Falls, Idaho 83401

Instrument # 1632797

02/10/2020 03:43:49 PM Page 2 of 2



Ryan Andersen, Managing partner/owner of Andersen Holdings LLC

STATE OF Idaho)
COUNTY OF Bonneville)

On this 6th day of February, 2019, before me, a Notary Public in and for said State, personally appeared Ryan Andersen, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument*, and acknowledged to me that he/she/they executed the same.**



Notary Public of Idaho

Residing at: Bonneville CountyCommission Expires: 3/9/2024

*as manager of Andersen Holdings LLC

** as behalf of said LLC

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT ("Option Agreement") is made and entered to be effective as of the 13 day of October [MONTH], 2018 (the "Effective Date"), by and between the following entities:

1. Wayne A Jensen [NAME OF SELLER], _____
whose address is 2777 North 26th West, hereinafter "Seller";
2. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Buyer"); and
3. Acting on behalf of Buyer, **Keller Williams Realty East Idaho**, an Idaho limited liability limited partnership whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with **Michael James Johnston** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").

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

RECITALS:

- A. Seller owns Water Right No. 35-2604 (the "Water Right"), which was decreed on 7-11-1960 [DECREE DATE] in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with a priority date of 7-11-1960 [PRIORITY DATE]. The current description of the Water Right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Buyer has inspected government records and reviewed other information pertaining to the Water Right. Seller desires to grant, and Buyer desires to obtain, an option to purchase the Water Right as set forth in the terms and provisions of this Agreement.

AGREEMENT:

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

1. Option Granted. Seller hereby grants and sells to Buyer the exclusive option and right ("Option") to purchase, at Buyer's sole discretion, the Water Right at any time on or before 12-14-2020, (the "Option Period") if Buyer is not then in default of any provision of this Agreement.

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: WJ / RMW DATE: Nov 4, 2019 PAGE 1 OF 11

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2. Payment for Option. Upon execution of the Option Agreement, Buyer shall pay to Seller a fee in the amount of \$ [REDACTED] as payment for the Option. This payment is nonrefundable, except in the case of Seller's default.
3. Transfer Application. During the Option Period, Buyer, in its sole discretion may elect to file with IDWR one or more applications for transfer ("Transfer" or "Transfer Application") for the Water Right. Seller hereby consents to such transfers. Buyer shall bear all costs associated with each Transfer and shall have the ability to file a Transfer as to any of the Water Rights. The Transfer applications may entail a change in any element or condition of the Water Rights or may entail use of the Water Rights for mitigation or some other similar purpose. Buyer shall be entitled to any mitigation credits resulting from the Transfer.
4. Cooperation with Transfer Efforts. Seller shall cooperate fully with Buyer throughout with each Transfer. At Buyer's request and direction, Seller shall take whatever steps are reasonable and appropriate to support and assist in securing approval of the Transfer, including signing and notarizing Transfer Applications, authorizations, and other documents consistent with Buyer's rights under this Option Agreement, or ceasing irrigation of portions of the Water Right place of use if necessary. Any costs incurred by Seller at Buyer's direction in this regard shall be reimbursed by Buyer. In the event that it is necessary to dry up acres in order to obtain transfer approval, Buyer will inform Seller of the need to dry up acres and shall identify which acres need to be dried up. Buyer shall not have the ability to require acres to be dried up if notice to dry up acres is provided to Seller after Seller has planted crops for the upcoming growing season, unless Buyer and Seller agree otherwise. Additionally, to the extent crop reports are available, Seller agrees to secure and provide to Buyer (or to assist Buyer to obtain) Farm Service Agency crop reports for the Water Right place of use.
5. Withdrawal of Transfer Application. At any time and in its sole discretion Buyer may withdraw, amend, or suspend any pending Transfer Application or file a new or revised Transfer Application.
6. Use and Protection of Water Rights. Prior to their conveyance to Buyer at Closing if the Option is exercised, Seller is authorized to continue to use any portion of the place of use of the Water Right that is not the subject of a Transfer. Seller shall keep Buyer fully advised of the status and use of the Water Rights during the Option Period. At no time during which this Option Agreement is in effect shall Seller take any action that diminishes the value or utility of the Water Right.
7. Exercise of Option. Buyer shall exercise the Option by providing notice consistent with paragraph 11 of this Option Agreement. If Buyer exercises the option to purchase, the purchase price for the Water Right shall be [REDACTED] [OPTIONAL: AND] and the Parties [OPTION 1] shall be bound by the terms and provisions of the attached *Agreement for Purchase and Sale of Water Right* attached hereto as **Exhibit 3** or [OPTION 2] the Parties shall fill in the blanks of and thereafter execute the attached form *Agreement for Purchase and Sale of Water Right* attached hereto as **Exhibit 3**.

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

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8. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the Effective Date as follows:
- (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Option Agreement, and shall remove, or shall exercise commercially reasonable efforts to cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Water Right on or before Closing if the Option is exercised and the Water Right is purchased by Buyer.
 - (b) Appurtenance. The Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
 - (c) Not Forfeited. No portion of the Water Right has not been forfeited or abandoned in whole or in part.
 - (d) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.
9. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as of the Effective Date and again as of the Closing for the Water Right, as follows:
- (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.
 - (b) Buyer's Due Diligence. Buyer and Buyer's consultants and counsel have had a full opportunity to review all documents, records and other information made available to Buyer by Seller and/or otherwise reasonably available to Buyer through public or other sources, related to the nature and extent of the Water Right, the laws and rules affecting their transfer and use by Buyer, and the suitability or fitness of the Water Right for Buyer's intended purposes.
10. Broker.
- (a) The Broker represents Buyer under this Option Agreement and Buyer shall pay Broker a fee of [REDACTED]
 - (b) Consent To Limited Dual Representation And Assigned Agency. The undersigned Buyer has received, read and understand the Agency Disclosure Brochure (prepared by the Idaho Real Estate Commission). The undersigned Buyer understands that the brokerage involved in this transaction may be providing agency representation to both the Buyer and the Seller. The undersigned Buyer understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and cannot legally disclose to either client certain confidential client information concerning price negotiations, terms, or factors motivating the


OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

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Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations, and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by § 54-2085, Idaho Code. The undersigned Buyer understands that a limited dual agent does not have a duty of undivided loyalty to either client. The undersigned Buyer further acknowledges that, to the extent the brokerage firm offers assigned agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in § 54-2087, Idaho Code. In an assigned agency situation, the designated Broker (the broker who supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.


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


Initials

Limited Dual Agency and / or Assigned Agency

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

OR


Initials

Single Agency

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

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS:  DATE: 11/14/2019 PAGE 4 OF 11

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11. Miscellaneous.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.
- (b) Notices. Any notice under this Agreement shall be in writing and be delivered in person, by U.S. Mail, by private courier, by facsimile, or by email to the listed email address below. Notice shall be provided to the following:

<u>Seller</u>	<u>Buyer</u>
Wayne A Jensen 2777 North 26 th West Idaho Falls, Idaho 83402	Rocky Mountain Water Exchange 482 Constitution, Suite 303 Idaho Falls, Idaho 83402
<u>Seller's Representative</u>	<u>Buyer's Representative</u>
Wayne A Jensen 2777 North 26 th West Idaho Falls, Idaho 83402	Rocky Mountain Water Exchange 482 Constitution, Suite 303 Idaho Falls, Idaho 83402

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

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: WAS / RMW DATE: 11/4/2019 PAGE 5 OF 11

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- (f) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.
- (g) Counterparts. This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.
- (h) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.
- (i) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.
- (j) Essence of Time. Time is of the essence in this Option Agreement.
- (k) Recording. The Parties shall record a notice of this Option Agreement in the records of _____ Bonneville County, Idaho, in a form substantially like the form attached hereto as **Exhibit 2**.

[SIGNATURES ON FOLLOWING PAGE]

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

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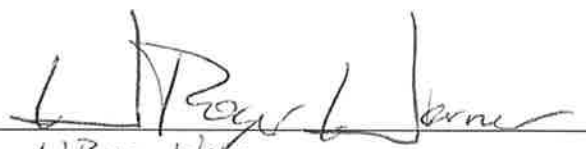
IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

"SELLER"




"BUYER"

**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**


By: W. Roger Whitmer
Its: Partner

"BROKER"

KELLER WILLIAMS EAST IDAHO


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

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: hN / DATE: 11/4/2019 PAGE 7 OF 11

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Exhibit 1
The "Water Right"

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS:

/

DATE:

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

9/13/2017

WATER RIGHT NO. 35-2604

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WAYNE A JENSEN 2777 N 26 W IDAHO FALLS, ID 83402 2085214001
Original Owner	C W BURKE RT 5 IDAHO FALLS, ID 83401

Priority Date: 07/11/1960

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	2.7 CFS	800 AFA
Total Diversion			2.7 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SENENE|Sec. 06|Township 02N|Range 37E|BONNEVILLE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE 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>
02N	37E	5	3	NENW	27	4	NWNW	30		SWNW	39		SENW	35

6	NENE	30	SENE	39			
---	------	----	------	----	--	--	--

Total Acres: 200

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 01/31/2002

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

Exhibit 2
MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT is entered into this _____ day of _____, 20____, (the "Effective Date") by and between the following parties:

1. _____ [NAME OF SELLER], _____ [TYPE OF ENTITY], whose address is _____ [ADDRESS], hereinafter "Seller"; and
 2. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Buyer")
- A. Seller owns Water Right No. _____ (the "Water Right"), which was decreed on [DECREE DATE] in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with a priority date of [PRIORITY DATE].
 - B. Pursuant to a certain Option Agreement for Purchase and Sale of Water Right ("Option Agreement"), Seller has granted Buyer an exclusive option and right to purchase the Water Right.

NOW, THEREFORE, in order to provide public notice thereof, Seller and Buyer recite as follows:

1. Buyer and Seller acknowledge and agree that the Water Right is subject to Buyer's exclusive right to purchase under the terms and conditions of the Option Agreement.
2. Buyer and Seller acknowledge and agree that the Water Right is subject to Buyer's exclusive right to purchase under the terms and conditions of the Option Agreement.
3. Buyer and Seller agree that this Memorandum of Option Agreement may be recorded.
4. Buyer shall execute and record a release of this Memorandum of Option Agreement upon the expiration of the Option Period or termination of the Option Agreement in the event that Buyer does not exercise the option under the Option Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Memorandum of Option Agreement effective as of the Effective Date.

[SIGNATURES ON FOLLOWING PAGE]

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: _____ / _____ DATE: _____ PAGE 9 OF 11

“SELLER”

“BUYER”

**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**

By: _____
Its: _____

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: _____ / _____ DATE: _____ PAGE 10 OF 11

Exhibit 3
AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

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OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

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

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AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT (this "Agreement") is made and entered to be effective as of the 5th day of March, 2020 (the "Effective Date"), by and between the following entities:

1. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Seller"); and
2. Acting on behalf of Seller, **Keller Williams Realty East Idaho**, an Idaho limited liability limited partnership whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with **Michael James Johnston** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").
3. **Falls Water Company**, whose address is 2180 N Deborah Drive, Idaho Falls, Idaho 83401, (hereinafter "Buyer");

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

RECITALS:

- A. Seller currently has the legal right and option to all of Water Right No. 35-2604 (the "Water Right"), which was decreed on January 31, 2002 in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with a priority date of July 11, 1960. The current description of the Water Right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Seller desires to sell, and Buyer desires to buy up to 51 acres of the Water Right. Buyer has agreed to purchase up to 51 acres of the Water Right from Seller as set forth in the terms and provisions of this Agreement. The amount actually purchased may be less than the 51 acres represented depending upon successfully completing the transfer process.

AGREEMENT:

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

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / RL DATE: 3/5/2020 PAGE 1 OF 14

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Purpose:	Irrigation
Priority:	July 11, 1960
Quantity (Diversion Rate):	up to <u>0.69</u> cfs of the total authorized <u>2.7</u> cfs
Quantity (Volume):	<u>Up to 204</u> acre-feet per annum
Place of Use (Acreage):	<u>Up to 51</u> acres of the <u>200</u> authorized acres identified on Exhibit 2 .

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

2. Property Retained. Other than the Purchased Water Right, Seller reserves and retains unto Seller any other water rights that may be appurtenant to the authorized place of use for the Water Right. No land, easements, or other property interests, other than the Purchased Water Right, are included in this Agreement.
3. Purchase Price. The purchase price for the Purchased Water Right is up to [REDACTED] (the "Purchase Price"). If the actual number of acres successfully transferred are less than 51 acres, the purchase price will be re-calculated on that basis but still subject to other provisions of suitability described herein.
4. Earnest Money Deposit. Contemporaneous with the execution of this Agreement, Buyer shall deliver to Seller earnest money in the amount of [REDACTED] (the "Earnest Money"). The Earnest Money shall be applied towards the Purchase Price at closing, or otherwise disposed of as provided herein. A check for earnest money should be made to "Pioneer Title" who will escrow said monies until closing.
5. Transfer Application. Within 30 days after both Parties sign this Agreement, Buyer will file with IDWR an *Application for Transfer of Water Right* (the "Transfer") to amend and move the Purchased Water Right to Buyer's desired location(s). The Parties will cooperate in obtaining IDWR approval of the Transfer and will provide and execute any necessary documents requested by IDWR. Buyer will be responsible for the costs to file the Transfer, including all attorney fees, consultant fees, and filing fees associated with preparation of the Transfer and/or defending against a protest to the Transfer. In the event this Agreement is terminated pursuant to paragraph 6 of this Agreement, Buyer shall at its sole expense take such action as may be required to void or reverse the Transfer in order to return the Purchased Water Right to the condition it existed on the Effective Date, upon completion of which the Earnest Money will be returned by Buyer within 14 days of such completion.
6. Transfer Contingencies.
 - (a) [IF APPLICABLE] Unstacking of Water Rights. While the elements of the Water Right and an associated water right, Water Right No. _____, are sufficiently described to allow IDWR to "unstack" these water rights, this Agreement shall be null and void and of no further effect if IDWR does not

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / LRL DATE: 3/5/2020 PAGE 2 OF 14

unstack the Purchased Water Right from Water Right No. _____.

- (b) [IF APPLICABLE] Lien Release. If, after exercising commercially reasonable efforts, Seller is unable to obtain a lien release on the Water Right, this Agreement shall be null and void and of no further effect, and Buyer shall return the Earnest Money to Buyer.
- (c) No Protests. If no protests or other objections to the Transfer are filed with IDWR, but the Transfer is (i) denied, (ii) approved by IDWR for less than 32.8 acres, or (iii) approved by IDWR with conditions that materially devalue the Purchased Water Right for Buyer's intended use thereof; then Buyer may terminate this Agreement within 14 days after the date of the IDWR approval notice by providing written notice of termination to Seller. Within 14 days of receipt of the notice of termination, Seller shall refund the Earnest Money to Buyer. If Buyer does not terminate this Agreement as provided herein, the Parties shall proceed to Closing as set forth in paragraph 7.
- (d) Protest Filed. If a protest or other objection to the Transfer is filed with IDWR, then Buyer may terminate this Agreement within 180 days after the protest is filed with IDWR. If Buyer does elect to terminate this Agreement, Seller shall refund the Earnest Money to Buyer within 14 days of receipt of the notice of termination.
- (e) Option Agreement. If Seller is unable to obtain title to the Water Right through the exercise of Seller's option to purchase the Water Right because of a breach by the other party to the Option Agreement, Seller may elect to terminate this Agreement within 180 days of the breach. In such event, Closing on this Agreement shall be stayed for said 180 days pending resolution of the dispute over the Option Agreement or termination by Seller.

7. Closing.

- (a) Closing Date. If (1) the Water Right is unstacked as provided in paragraph 6(a); and (2) no protest to the Transfer is filed with IDWR; or (3) IDWR issues a transfer approval acceptable to Buyer without the conditions of paragraph 6(c) present, then Closing on the Purchased Water Right shall occur within 30 days after the date all the above items are satisfied. If a protest or other objection to the Transfer is filed with IDWR, or there is a dispute over the Option Agreement, and Buyer does not elect to terminate the Agreement as set forth in paragraph 6(d) of this Agreement, the Closing shall occur within 14 days after the 180-day termination period expires. Notwithstanding the above, the Parties may mutually agree to another date for the Closing.
- (b) Closing Location. The Closing shall occur at the offices of Pioneer Title Company, 1655 Elk Creek Drive Suite 100, Idaho Falls, Idaho 83404, or at another location mutually agreed by the Parties.
- (c) Documents to be Delivered at Closing.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB, LRL DATE: 3/5/2020 PAGE 3 OF 14

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- (1) At Closing, Buyer shall deliver the Purchase Price less the Earnest Money.
 - (2) At Closing, Seller shall deliver to Buyer the Special Warranty Deed (the "Deed") substantially in the form attached to this Agreement as **Exhibit 3** for the Purchased Water Right, and any lien release or other documents reasonably requested to confirm the conveyance of the Purchased Water Right free and clear of encumbrances.
- (d) Fees and Costs of Closing. The cost of recording the Deed after Closing shall be paid by Buyer. All other expenses not specifically referenced in this Agreement but related to the Transfer and incurred by Seller or Buyer with respect to this transaction shall be borne and paid exclusively by the Party incurring the same, without reimbursement.
8. Default. In addition to either Party's failure to perform any material term or condition of this Agreement or a Party's breach of any of such Party's representations or warranties (in which event the non-defaulting party may pursue any available remedy, including equitable relief), Buyer shall be deemed in default hereof if Buyer files a petition in bankruptcy or is adjudicated bankrupt or insolvent, Buyer makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of its property, or institutes proceedings for its reorganization, in which case, in addition to any other remedies or rights Seller might have, Seller shall have the power and authority to notify the Department that the Application for Transfer has been withdrawn.
9. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the Effective Date and again as of the Closing as follows:
 - (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Agreement, and will obtain good marketable title to the Purchased Water Right in fee simple, and Seller (at its expense) shall remove, or shall exercise commercially reasonable efforts to cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Purchased Water Right on or before Closing. If, after exercising commercially reasonable efforts, the liens, claims, or encumbrances are not removed by Closing, Seller may terminate this Agreement.
 - (b) Conveyance. Seller shall then convey the Purchased Water Right free and clear of all liens, encumbrances and restrictions, except such restrictions on the use of water as may appear on the Water Right Report contained at **Exhibit 1**.
 - (c) Appurtenance. The Purchased Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
 - (d) Not Forfeited. No portion of the Purchased Water Right has been forfeited or abandoned in whole or in part.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / WPL DATE: 3/5/2020 PAGE 4 OF 14

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- (e) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.
10. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as of the Effective Date and again as of the Closing for the Purchased Water Right, as follows:
- (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.
- (b) Buyer's Due Diligence. Buyer and Buyer's consultants and counsel have had a full opportunity to review all documents, records and other information made available to Buyer by Seller and/or otherwise reasonably available to Buyer through public or other sources, related to the nature and extent of the Purchased Water Right, the laws and rules affecting their transfer and use by Buyer, and the suitability or fitness of the Purchased Water Right for Buyer's intended purposes.
11. Warranties to Survive Closing. All representations and warranties made by the Parties herein are also covenants, and each Party shall take all such actions as may be required to satisfy said covenants and to cause the representations and warranties to be true on and as of the Closing. The Parties' respective obligations to close and consummate the transaction contemplated herein are contingent upon the representations, warranties and covenants contained in this Agreement being true, valid and satisfied on and as of the Closing. All such representations and warranties shall survive the Closing.
12. Broker.
- (a) The Broker represents Buyer under this Agreement and Buyer shall pay Broker a fee of [REDACTED]
- (b) Consent To Limited Dual Representation And Assigned Agency. The undersigned Buyer has received, read and understand the Agency Disclosure Brochure (prepared by the Idaho Real Estate Commission). The undersigned Buyer understands that the brokerage involved in this transaction may be providing agency representation to both the Buyer and the Seller. The undersigned Buyer understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and cannot legally disclose to either client certain confidential client information concerning price negotiations, terms, or factors motivating the Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations, and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by § 54-2085, Idaho Code. The undersigned Buyer understands that a limited dual agent does not have a duty of undivided loyalty to either client. The undersigned Buyer further acknowledges that, to the extent the brokerage firm offers assigned

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB, WPL DATE: 3/5/2020 PAGE 5 OF 14

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agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in § 54-2087, Idaho Code. In an assigned agency situation, the designated Broker (the broker who supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.

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

_____/_____
Initials
Limited Dual Agency
and / or
Assigned Agency

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

OR

KSB / R.D.N.
Initials
Single Agency

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

13. Miscellaneous.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB, LRL DATE: 3/5/2020 PAGE 6 OF 14

other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.

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

<u>Seller</u>	<u>Buyer</u>
Rocky Mountain Water Exchange, LLC	Falls Water Company
482 Constitution Way Ste 303	2180 N Deborah Drive
Idaho Falls, ID 83402	Idaho Falls, ID 83401
Email: rog.rmea@gmail.com	Email:scott1@fallswater.com
 <u>Seller's Representative</u>	 <u>Buyer's Representative</u>
Reed Nord	Scott Bruce
3525 Merlin Dr.	Falls Water Company
Idaho Falls, ID 83404	2180 N Deborah Drive
Email: rgnord@ida.net	Idaho Falls, ID 83401
	Email:scott1@fallswater.com

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KS B / LVL DATE: 3/5/2020 PAGE 7 OF 14

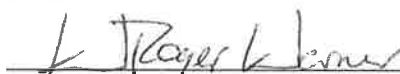
way affect the validity or enforcement of the remaining provisions, or any part hereof.

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

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

"SELLER"

**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**



By: W Roger Warner

Its: Partner

"BROKER"

KELLER WILLIAMS EAST IDAHO



Michael James Johnston

By: Reed D. Nord, Agent for Broker

"BUYER"

FALLS WATER COMPANY



By: K. Scott Bruce

Its: General Manager

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / WRL DATE: 3/5/2020 PAGE 8 OF 14

Exhibit 1

IDAHO Department of Water Resources



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

WATER RIGHT REPORT

2/7/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-2604

Owner Type	Name and Address
Current Owner	WAYNE A JENSEN 2777 N 26 W IDAHO FALLS, ID 83402 2085214001
Original Owner	C W BURKE RT 5 IDAHO FALLS, ID 83401

Priority Date: 07/11/1960

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	10/31	2.7 CFS	800 AFA
Total Diversion			2.7 CFS	800 AFA

Location of Point(s) of Diversion:

GROUND WATER | SENENE | Sec. 06 | Township 02N | Range 37E | BONNEVILLE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	37E	5	3	NENW 27	4	NWNW 30		SWNW 39		SENE 39			SENE 39	
		6		NENE 30										

Total Acres: 200

Conditions of Approval:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHTBUYER AND SELLER'S INITIALS: KSB / LRL DATE: 3/5/2020 PAGE 9 OF 14

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1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 01/31/2002

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / KPL DATE: 3/5/2020 PAGE 10 OF 14

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Exhibit 2
Map of Up to 51 Acres—the “Purchased Water Right”

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSBL/KY **DATE:** 3/5/2020 **PAGE 11 OF 14**

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**Exhibit 3
Form of the Deed**

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

(Space Above for Recorder's Use)

SPECIAL WARRANTY DEED FOR WATER RIGHTS

_____[NAME OF SELLER], _____[TYPE
OF ENTITY], whose address is _____
_____[ADDRESS] (hereinafter collectively "Grantor") does hereby grant, bargain, sell, assign,
and convey unto **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company,
whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho (hereinafter "Grantee")
and to Grantee's heirs and assigns forever, all of Grantor's right, title, and interest in water right
described on Exhibit A attached hereto (hereinafter the "Water Right").

Grantor hereby covenants and warrants to Grantee as follows:

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

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

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

DATED this _____ day of _____, 20____.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: RSB / KRL DATE: 3/5/2020 PAGE 12 OF 14

"GRANTOR"

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____,
2018, by _____.

Notary Public for Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____,
2018, by _____.

Notary Public for Idaho
My Commission Expires: _____

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / LRL DATE: 3/5/2020 PAGE 13 OF 14

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / KVL **DATE:** 3/5/2020 **PAGE 14 OF 14**

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OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT ("Option Agreement") is made and entered to be effective as of the 2 day of ~~November 2019~~ (the "Effective Date"), by and between the following entities:

January 2020

1. PT ELLIOTT LLC, a limited liability corporation, whose address is 392 N 4500 E, Rigby, ID 83442-5596, hereinafter "Seller";
2. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Buyer"); and
3. Acting on behalf of Buyer, **Keller Williams Realty East Idaho**, an Idaho limited liability limited partnership whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with **Michael James Johnston** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").

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

RECITALS:

- A. Seller owns Water Right Nos. 35-7720 and 1-7017 (the "Water Rights"), which were decreed on January 12, 2004 and September 14, 2007, respectively in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with priority dates of April 22, 1977 and March 14, 1978, respectively. The current description of the Water Rights are more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Buyer has inspected government records and reviewed other information pertaining to the Water Right. Seller desires to grant, and Buyer desires to obtain, an option to purchase the [] entire Water Rights or [X] a 40-acre portion of the Water Right (whether the entire Water Right or a portion thereof is designated, either is referred to hereinafter in this Agreement simply as the "Water Rights") as set forth in the terms and provisions of this Agreement.

AGREEMENT:

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

1. Option Granted. Seller hereby grants and sells to Buyer the exclusive option and right ("Option") to purchase, at Buyer's sole discretion, the Water Right at any time on or before

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: RL / LRL DATE: 1/2/20 PAGE 1 OF 16

June 30, 2020 (the "Option Period") if Buyer is not then in default of any provision of this Agreement.

2. Payment for Option. Upon execution of the Option Agreement, Buyer shall pay to Seller a fee in the amount of [REDACTED] for the Option. This payment is nonrefundable, except in the case of Seller's default.
3. Transfer Application. During the Option Period, Buyer, in its sole discretion may elect to file with IDWR one or more applications for transfer ("Transfer" or "Transfer Application") for the Water Right. Seller hereby consents to such transfers. Buyer shall bear all costs associated with each Transfer and shall have the ability to file a Transfer for the Water Right. The Transfer applications may entail a change in any element or condition of the Water Right or may entail use of the Water Right for mitigation or some other similar purpose. Buyer shall be entitled to any mitigation credits resulting from the Transfer.
4. Cooperation with Transfer Efforts. Seller shall cooperate fully with Buyer throughout with each Transfer. At Buyer's request and direction, Seller shall take whatever steps are reasonable and appropriate to support and assist in securing approval of the Transfer, including signing and notarizing Transfer applications, consents, authorizations, and other documents consistent with Buyer's rights under this Option Agreement, or ceasing irrigation of portions of the Water Right place of use if necessary. Provided, however, that Buyer shall not have the ability to require acres to be dried up if notice to dry up acres is provided to Seller after Seller has planted crops for the upcoming growing season, unless Buyer and Seller agree otherwise. Additionally, to the extent crop reports are available, Seller agrees to secure and provide to Buyer (or to assist Buyer to obtain) Farm Service Agency crop reports for the Water Right place of use. Any costs incurred by Seller at Buyer's direction in this regard shall be reimbursed by Buyer. If it is necessary to dry up acres in order to obtain transfer approval, Buyer will inform Seller of the need to dry up acres and seller shall identify which acres need to be dried up.
5. Withdrawal of Transfer Application. At any time and in its sole discretion Buyer may withdraw, amend, or suspend any pending Transfer Application or file a new or revised Transfer Application.
6. Use and Protection of Water Rights. Prior to their conveyance to Buyer at Closing if the Option is exercised, Seller is authorized to continue to use any portion of the place of use of the Water Right that is not the subject of a Transfer. Seller shall keep Buyer fully advised of the status and use of the Water Rights during the Option Period. At no time during which this Option Agreement is in effect shall Seller take any action that diminishes the value or utility of the Water Right.
7. Exercise of Option. Buyer shall exercise the Option by providing notice consistent with paragraph 11 of this Option Agreement. If Buyer exercises the option to purchase, the purchase price for the Water Rights shall be [REDACTED]
[REDACTED]

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: CL / LRL DATE: 1/2/20 PAGE 2 OF 16

8. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the Effective Date as follows:
- (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Option Agreement, and shall remove, or shall exercise commercially reasonable efforts to cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Water Right on or before Closing if the Option is exercised and the Water Right is purchased by Buyer.
 - (b) Appurtenance. The Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
 - (c) Not Forfeited. No portion of the Water Right has been forfeited or abandoned in whole or in part.
 - (d) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.
9. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as of the Effective Date and again as of the Closing for the Water Right, as follows:
- (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.
 - (b) Buyer's Due Diligence. Buyer and Buyer's consultants and counsel have had a full opportunity to review all documents, records and other information made available to Buyer by Seller and/or otherwise reasonably available to Buyer through public or other sources, related to the nature and extent of the Water Right, the laws and rules affecting their transfer and use by Buyer, and the suitability or fitness of the Water Right for Buyer's intended purposes.
 - (c) Buyer pays all fees including title fees, if any.
10. Broker.
- (a) The Broker represents Buyer under this Option Agreement and Buyer shall pay Broker a fee of [REDACTED]
 - (b) Consent To Limited Dual Representation And Assigned Agency. The undersigned Buyer has received, read and understand the Agency Disclosure Brochure (prepared by the Idaho Real Estate Commission). The undersigned Buyer understands that the brokerage involved in this transaction may be providing agency representation to both the Buyer and the Seller. The undersigned Buyer understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: CL / LRL DATE: 1/2/20 PAGE 3 OF 16

cannot legally disclose to either client certain confidential client information concerning price negotiations, terms, or factors motivating the Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations, and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by § 54-2085, Idaho Code. The undersigned Buyer understands that a limited dual agent does not have a duty of undivided loyalty to either client. The undersigned Buyer further acknowledges that, to the extent the brokerage firm offers assigned agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in § 54-2087, Idaho Code. In an assigned agency situation, the designated Broker (the broker who supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.

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

LPK
Initials

Limited Dual Agency
and / or
Assigned Agency

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

OR

 /
Initials

Buyer DOES NOT want to be introduced to Seller client's property and hereby releases Broker from any responsibility or duty under the agency

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: LPK / LPK DATE: 1/2/20 PAGE 4 OF 16

Single Agency agreement. Broker shall be under no obligation or duty to introduce the Buyer to any Seller client's property.

11. Miscellaneous.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.
- (b) Notices. Any notice under this Agreement shall be in writing and be delivered in person, by U.S. Mail, by private courier, by facsimile, or by email to the listed email address below. Notice shall be provided to the following:

<u>Seller</u>	<u>Buyer</u>
PT ELLIOTT LLC	Rocky Mountain Water Exchange LLC
392 N 4500 E	482 Constitution Way, Ste 303
Rigby, ID 83442-5596	Idaho Falls, ID 83402
Email: <u>Carl.Zitlau@gmail.com</u>	Email: rog.rmea@gmail.com
<u>Seller's Representative</u>	<u>Buyer's Representative</u>
Carl Zitlau, Manager	Reed Nord
_____	_____
Email: <u>Carl.Zitlau@gmail.com</u>	Email: rgnord@ida.net

- (c) Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties hereto regarding this Option Agreement. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.
- (d) Remedies Cumulative. Upon any breach, any and all rights and remedies which either Party may have under this Agreement or by operation of law or equity, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other. No such right or remedy, whether exercised by said Party or not, shall be deemed to be in exclusion of any other right or remedy, any two or more of all such rights and remedies may be exercised at the same time or separately as desired.

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: C. Z. / R. N. DATE: 1/2/20 PAGE 5 OF 16

- (e) Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.
- (f) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.
- (g) Counterparts. This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.
- (h) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.
- (i) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.
- (j) Essence of Time. Time is of the essence in this Option Agreement.
- (k) Recording. The Parties shall record a notice of this Option Agreement in the records of Jefferson County, Idaho, in a form substantially like the form attached hereto as **Exhibit 2**.

[SIGNATURES ON FOLLOWING PAGE]

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: BA / BKL DATE: 1/2/20 PAGE 6 OF 16

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

"SELLER"

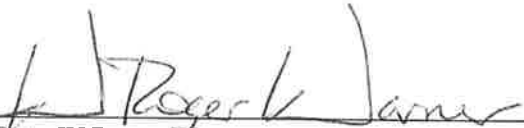
PT ELLIOTT LLC


By: CARL ZITLAU
Its: MANAGER

By: _____
Its: _____

"BUYER"

**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**


By: W Roger Warner
Its: Partner

"BROKER"

KELLER WILLIAMS EAST IDAHO



OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: C. Zitlau DATE: 1/2/20 PAGE 7 OF 16

Michael James Johnston

By: Reed D. Nord, Agent for Broker

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: MB / EWK DATE: 1/2/20 PAGE 8 OF 16

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Exhibit 1
The "Water Right"

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: C.B. / W.R. DATE: 1/2/20 PAGE 9 OF 16

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IDAHO Department of Water Resources



WATER RIGHT REPORT

11/12/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 1-7017

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

Priority Date: 03/14/1978

Basis: Decreed

Status: Active

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

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	10/31	1.33 CFS	
Total Diversion			1.33 CFS	

Location of Point(s) of Diversion:

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

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	37E	3	7	SWNE	5.69999980926514	12	SWNE	4.59999990463257						
			6	NESW	18.2999992370605	14	NESW	9		NWSW	38	5	SWSW	2.2999999523162
			14	SWSW	0.5		14	SESW	0.3					

Total Acres: 78.7

Conditions of Approval:

1. 001 A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
2. 005 Use of water under this right is subject to control by the watermaster of State Water District No. 1, Snake River.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. R18 The right holder must obtain adequate supplemental water for the irrigation season that natural flow is not available.
5. F01 Water is delivered through Tomchak B #1 pump.
6. E55 Right Nos. 1-7017 and 35-7720 are limited to the irrigation of a combined total of 78.7 acres in a single irrigation season.

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

 BUYER AND SELLER'S INITIALS: C.B. / ELLIOTT DATE: 1/2/20 PAGE 10 OF 16

Dates:

Licensed Date:

Decreed Date: 09/14/2007

Permit Proof Due Date: 5/1/1983

Permit Proof Made Date: 3/8/1983

Permit Approved Date: 5/25/1978

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 03/14/1978

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: C.B. 12/20 DATE: 1/2/20 PAGE 11 OF 16

IDAHO Department of Water Resources



WATER RIGHT REPORT

11/12/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-7720

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

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	1.57 CFS	
Total Diversion			1.57 CFS	

Location of Point(s) of Diversion:

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

GROUND WATER | NWSE | Sec. 04 | Township 04N | Range 37E | JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

 BUYER AND SELLER'S INITIALS: C. D. / L. R. L. DATE: 1/2/20 PAGE 12 OF 16

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04N	37E	3	7	SWNE	11.6999998092651								
			6	NESW	25	NWSW	40	5	SWSW	2			

Total Acres: 78.7

Conditions of Approval:

1. E53 USE OF THIS RIGHT WITH ALL OTHER RIGHTS IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 315 AF AT THE FIELD HEADGATE FOR THE LANDS BELOW.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3. E55 USE OF THIS RIGHT WITH RIGHT NO. 01-7017 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 78.7 ACRES IN A SINGLE IRRIGATION SEASON.

Dates:

Licensed Date:

Decreed Date: 01/12/2004

Permit Proof Due Date: 7/1/1982

Permit Proof Made Date: 5/20/1982

Permit Approved Date: 7/25/1977

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 05/20/1977

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: C.B. 1/2/20 DATE: 1/2/20 PAGE 13 OF 16

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: CLL / LRL DATE: 1/2/20 PAGE 14 OF 16

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Exhibit 2
MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT is entered into this 2 day of ~~November, 2019~~, (the "Effective Date") by and between the following parties:

January 1, 2020

1. **PT ELLIOTT LLC, a limited liability corporation**, whose address is 392 N 4500 E, Rigby, ID 83442-5596, (hereinafter "Seller"); and
 2. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Buyer").
- A. Seller owns Water Right Nos. 35-7720 and 1-7017 (the "Water Rights"), which were decreed on January 12, 2004 and September 14, 2007, respectively in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with priority dates of April 22, 1977 and March 14, 1978, respectively.
- B. Pursuant to a certain Option Agreement for Purchase and Sale of Water Right ("Option Agreement"), Seller has granted Buyer an exclusive option and right to purchase Water Right Nos. 35-7720 and 1-7017, which were decreed on January 12, 2004 and September 14, 2007, respectively in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with priority dates of April 22, 1977 and March 14, 1978, respectively.

NOW, THEREFORE, in order to provide public notice thereof, Seller and Buyer recite as follows:

1. Buyer and Seller acknowledge and agree that the Water Right or portion thereof is subject to Buyer's exclusive right to purchase under the terms and conditions of the Option Agreement.
2. Buyer and Seller acknowledge and agree that the Water Right or portion thereof is subject to Buyer's exclusive right to purchase under the terms and conditions of the Option Agreement.
3. Buyer and Seller agree that this Memorandum of Option Agreement may be recorded.
4. Buyer shall execute and record a release of this Memorandum of Option Agreement upon the expiration of the Option Period or termination of the Option Agreement in the event that Buyer does not exercise the option under the Option Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Memorandum of Option Agreement effective as of the Effective Date.

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: C.R. / L.R. DATE: 1/2/20 PAGE 15 OF 16

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[SIGNATURES ON FOLLOWING PAGE]

"SELLER"

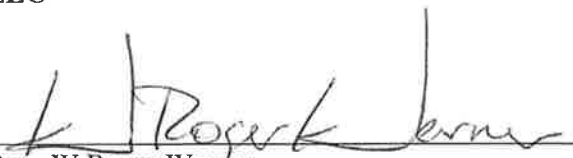
PT ELLIOTT LLC


By: CARL ZATLAU
Its: MANAGER

By: _____
Its: _____

"BUYER"

**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**


By: W Roger Warner
Its: Partner

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: LB / _____ DATE: 1/2/20 PAGE 16 OF 16

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AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT (this "Agreement") is made and entered to be effective as of the 5th day of March, 2020 (the "Effective Date"), by and between the following entities:

1. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Seller"); and
2. Acting on behalf of Seller, **Keller Williams Realty East Idaho**, an Idaho limited liability limited partnership whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with **Michael James Johnston** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").
3. **Falls Water Company**, whose address is 2180 N Deborah Drive, Idaho Falls, Idaho 83401, (hereinafter "Buyer");

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

RECITALS:

- A. Seller currently has the legal right and option to a portion of Water Right No. 35-7720 (the "Water Right"), which was decreed on January 12, 2004 in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with priority dates of April 22, 1977. The current description of the Water Right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Seller desires to sell, and Buyer desires to buy up to 13 acres of the Water Right. Buyer has agreed to purchase up to 13 acres of the Water Right from Seller as set forth in the terms and provisions of this Agreement. The amount actually purchased may be less than the 13 acres represented depending upon successfully completing the transfer process.

AGREEMENT:

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

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB/LPL DATE: 3/5/2020 PAGE 1 OF 14

Purpose:	Irrigation
Priority:	April 22, 1977
Quantity (Diversion Rate):	up to <u>0.26</u> cfs of the total authorized <u>1.57</u> cfs
Quantity (Volume):	<u>Up to 52</u> acre-feet per annum
Place of Use (Acreage):	<u>Up to 13</u> acres of the <u>78.7</u> authorized acres identified on Exhibit 2 .

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

2. Property Retained. Other than the Purchased Water Right, Seller reserves and retains unto Seller any other water rights that may be appurtenant to the authorized place of use for the Water Right. No land, easements, or other property interests, other than the Purchased Water Right, are included in this Agreement.
3. Purchase Price. The purchase price for the Purchased Water Right is up to [REDACTED] (the "Purchase Price"). If the actual number of acres successfully transferred are less than 13 acres, the purchase price will be re-calculated on that basis but still subject to other provisions of suitability described herein.
4. Earnest Money Deposit. Contemporaneous with the execution of this Agreement, Buyer shall deliver to Seller earnest money in the amount of [REDACTED] (the "Earnest Money"). The Earnest Money shall be applied towards the Purchase Price at closing, or otherwise disposed of as provided herein. A check for earnest money should be made to "Pioneer Title" who will escrow said monies until closing.
5. Transfer Application. Within 30 days after both Parties sign this Agreement, Buyer will file with IDWR an *Application for Transfer of Water Right* (the "Transfer") to amend and move the Purchased Water Right to Buyer's desired location(s). The Parties will cooperate in obtaining IDWR approval of the Transfer and will provide and execute any necessary documents requested by IDWR. Buyer will be responsible for the costs to file the Transfer, including all attorney fees, consultant fees, and filing fees associated with preparation of the Transfer and/or defending against a protest to the Transfer. In the event this Agreement is terminated pursuant to paragraph 6 of this Agreement, Buyer shall at its sole expense take such action as may be required to void or reverse the Transfer in order to return the Purchased Water Right to the condition it existed on the Effective Date, upon completion of which the Earnest Money will be returned by Buyer within 14 days of such completion.
6. Transfer Contingencies.
 - (a) [IF APPLICABLE] Unstacking of Water Rights. While the elements of the Water Right and an associated water right, Water Right No. _____, are sufficiently described to allow IDWR to "unstack" these water rights, this Agreement shall be null and void and of no further effect if IDWR does not unstack the Purchased Water Right from Water Right No. _____.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB, LRL DATE: 3/5/2020 PAGE 2 OF 14

- (b) [IF APPLICABLE] Lien Release. If, after exercising commercially reasonable efforts, Seller is unable to obtain a lien release on the Water Right, this Agreement shall be null and void and of no further effect, and Buyer shall return the Earnest Money to Buyer.
- (c) No Protests. If no protests or other objections to the Transfer are filed with IDWR, but the Transfer is (i) denied, (ii) approved by IDWR for less than 32.8 acres, or (iii) approved by IDWR with conditions that materially devalue the Purchased Water Right for Buyer's intended use thereof; then Buyer may terminate this Agreement within 14 days after the date of the IDWR approval notice by providing written notice of termination to Seller. Within 14 days of receipt of the notice of termination, Seller shall refund the Earnest Money to Buyer. If Buyer does not terminate this Agreement as provided herein, the Parties shall proceed to Closing as set forth in paragraph 7.
- (d) Protest Filed. If a protest or other objection to the Transfer is filed with IDWR, then Buyer may terminate this Agreement within 180 days after the protest is filed with IDWR. If Buyer does elect to terminate this Agreement, Seller shall refund the Earnest Money to Buyer within 14 days of receipt of the notice of termination.
- (e) Option Agreement. If Seller is unable to obtain title to the Water Right through the exercise of Seller's option to purchase the Water Right because of a breach by the other party to the Option Agreement, Seller may elect to terminate this Agreement within 180 days of the breach. In such event, Closing on this Agreement shall be stayed for said 180 days pending resolution of the dispute over the Option Agreement or termination by Seller.

7. Closing.

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB/KRL DATE: 3/5/2020 PAGE 3 OF 14

- (2) At Closing, Seller shall deliver to Buyer the Special Warranty Deed (the "Deed") substantially in the form attached to this Agreement as **Exhibit 3** for the Purchased Water Right, and any lien release or other documents reasonably requested to confirm the conveyance of the Purchased Water Right free and clear of encumbrances.
- (d) Fees and Costs of Closing. The cost of recording the Deed after Closing shall be paid by Buyer. All other expenses not specifically referenced in this Agreement but related to the Transfer and incurred by Seller or Buyer with respect to this transaction shall be borne and paid exclusively by the Party incurring the same, without reimbursement.
8. Default. In addition to either Party's failure to perform any material term or condition of this Agreement or a Party's breach of any of such Party's representations or warranties (in which event the non-defaulting party may pursue any available remedy, including equitable relief), Buyer shall be deemed in default hereof if Buyer files a petition in bankruptcy or is adjudicated bankrupt or insolvent, Buyer makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of its property, or institutes proceedings for its reorganization, in which case, in addition to any other remedies or rights Seller might have, Seller shall have the power and authority to notify the Department that the Application for Transfer has been withdrawn.
9. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the Effective Date and again as of the Closing as follows:
- (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Agreement, and will obtain good marketable title to the Purchased Water Right in fee simple, and Seller (at its expense) shall remove, or shall exercise commercially reasonable efforts to cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Purchased Water Right on or before Closing. If, after exercising commercially reasonable efforts, the liens, claims, or encumbrances are not removed by Closing, Seller may terminate this Agreement.
- (b) Conveyance. Seller shall then convey the Purchased Water Right free and clear of all liens, encumbrances and restrictions, except such restrictions on the use of water as may appear on the Water Right Report contained at **Exhibit 1**.
- (c) Appurtenance. The Purchased Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
- (d) Not Forfeited. No portion of the Purchased Water Right has been forfeited or abandoned in whole or in part.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / LRL DATE: 3/5/2020 PAGE 4 OF 14

- (e) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.
10. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as of the Effective Date and again as of the Closing for the Purchased Water Right, as follows:
- (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.
- (b) Buyer's Due Diligence. Buyer and Buyer's consultants and counsel have had a full opportunity to review all documents, records and other information made available to Buyer by Seller and/or otherwise reasonably available to Buyer through public or other sources, related to the nature and extent of the Purchased Water Right, the laws and rules affecting their transfer and use by Buyer, and the suitability or fitness of the Purchased Water Right for Buyer's intended purposes.
11. Warranties to Survive Closing. All representations and warranties made by the Parties herein are also covenants, and each Party shall take all such actions as may be required to satisfy said covenants and to cause the representations and warranties to be true on and as of the Closing. The Parties' respective obligations to close and consummate the transaction contemplated herein are contingent upon the representations, warranties and covenants contained in this Agreement being true, valid and satisfied on and as of the Closing. All such representations and warranties shall survive the Closing.
12. Broker.
- (a) The Broker represents Buyer under this Agreement and Buyer shall pay Broker a fee of [REDACTED]
- (b) Consent To Limited Dual Representation And Assigned Agency. The undersigned Buyer has received, read and understand the Agency Disclosure Brochure (prepared by the Idaho Real Estate Commission). The undersigned Buyer understands that the brokerage involved in this transaction may be providing agency representation to both the Buyer and the Seller. The undersigned Buyer understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and cannot legally disclose to either client certain confidential client information concerning price negotiations, terms, or factors motivating the Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations, and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by § 54-2085, Idaho Code. The undersigned Buyer understands that a limited dual agent does not have a duty of undivided loyalty to either client. The undersigned Buyer further acknowledges that, to the extent the brokerage firm offers assigned

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / LVL DATE: 3/5/2020 PAGE 5 OF 14

agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in § 54-2087, Idaho Code. In an assigned agency situation, the designated Broker (the broker who supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.

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

_____/_____
Initials
Limited Dual Agency
and / or
Assigned Agency

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

OR

KSB / R.D.W.
Initials

Single Agency

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

13. Miscellaneous.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / R.D.W. DATE: 3/5/2020 PAGE 6 OF 14

other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.

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

<u>Seller</u>	<u>Buyer</u>
Rocky Mountain Water Exchange, LLC 482 Constitution Way Ste 303 Idaho Falls, ID 83402 Email: rog.rmea@gmail.com	Falls Water Company 2180 N Deborah Drive Idaho Falls, ID 83401 Email: scott1@fallswater.com
<u>Seller's Representative</u>	<u>Buyer's Representative</u>
Reed Nord 3525 Merlin Dr. Idaho Falls, ID 83404 Email: rgnord@ida.net	Scott Bruce Falls Water Company 2180 N Deborah Drive Idaho Falls, ID 83401 Email: scott1@fallswater.com

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KS BIL PL DATE: 3/5/2020 PAGE 7 OF 14

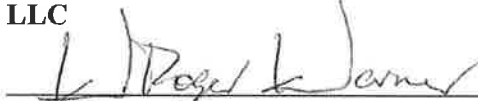
way affect the validity or enforcement of the remaining provisions, or any part hereof.

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

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

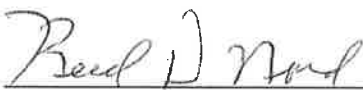
"SELLER"

**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**


By: W Roger Warner
Its: Partner


"BROKER"

KELLER WILLIAMS EAST IDAHO


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

"BUYER"

FALLS WATER COMPANY


By: K Scott Bruce
Its: General Manager

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB/WR DATE: 3/5/2020 PAGE 8 OF 14

Exhibit 1

IDAHO Department of Water Resources

The "Water Right"



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

WATER RIGHT REPORT

2/7/2020

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-7720

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

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	1.57 CFS	
Total Diversion			1.57 CFS	

Location of Point(s) of Diversion:

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

GROUND WATER | NWSE | Sec. 04 | Township 04N | Range 37E | JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	37E	3	7	SWNE	11.6999998092651									

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHTBUYER AND SELLER'S INITIALS: KSB, LVL DATE: 3/5/2020 PAGE 9 OF 14**84009**

6 NESW 25 NWSW 40 5 SWSW 2

Total Acres: 78.7

Conditions of Approval:

1. E53 USE OF THIS RIGHT WITH ALL OTHER RIGHTS IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 315 AF AT THE FIELD HEADGATE FOR THE LANDS BELOW.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3. E55 USE OF THIS RIGHT WITH RIGHT NO. 01-7017 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 78.7 ACRES IN A SINGLE IRRIGATION SEASON.

Dates:

Licensed Date:

Decreed Date: 01/12/2004

Permit Proof Due Date: 7/1/1982

Permit Proof Made Date: 5/20/1982

Permit Approved Date: 7/25/1977

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 05/20/1977

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 78.7

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KCB / LPL DATE: 3/5/2020 PAGE 10 OF 14

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Exhibit 2
Map of Up to 13 Acres—the “Purchased Water Right”

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB/LRL DATE: 3/5/2020 PAGE 11 OF 14

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**Exhibit 3
Form of the Deed**

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

(Space Above for Recorder's Use)

SPECIAL WARRANTY DEED FOR WATER RIGHTS

_____[NAME OF SELLER], _____[TYPE
OF ENTITY], whose address is _____
_____[ADDRESS] (hereinafter collectively "Grantor") does hereby grant, bargain, sell, assign,
and convey unto **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company,
whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho (hereinafter "Grantee")
and to Grantee's heirs and assigns forever, all of Grantor's right, title, and interest in water right
described on Exhibit A attached hereto (hereinafter the "Water Right").

Grantor hereby covenants and warrants to Grantee as follows:

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

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

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

DATED this _____ day of _____, 20_____.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB / _____ DATE: 3/5/2020 PAGE 12 OF 14

"GRANTOR"

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____,
2018, by _____.

Notary Public for Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____,
2018, by _____.

Notary Public for Idaho
My Commission Expires: _____

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: KSB/LVW DATE: 3/5/2020 PAGE 13 OF 14

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



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

May 6, 2020

ROCKY MOUNTAIN WATER EXCHANGE, LLC
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS, ID 83402

RE: Transfer No. 84009
Water Right No(s). 35-2604, 35-7720

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the POST REGISTER on 5/14/2020 and 5/21/2020. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

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

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

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

Sincerely,

Christina Henman
Administrative Assistant

Henman, Christina

From: Henman, Christina
Sent: Wednesday, May 06, 2020 3:23 PM
To: POST REGISTER (legalnotices@postregister.com)
Subject: 84009 Legal Notice for Post Register
Attachments: 84009 Post Register.doc

Hello,

Please find attached document regarding a legal notice for your newspaper.

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

May 6, 2020

Contains more than 1 page.

Legal Notice Department

Post Register

PO Box 1800

Idaho Falls ID 83403

RE: Transfer No. 84009

Water Right No(s). 35-2604, 35-7720

Dear Taylor Winger:

Enclosed you will find a legal notice which we wish to have published in your newspaper 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 September 6/01/2020. Your cooperation is appreciated.

Sincerely,

Christina Henman
Administrative Assistant
Dept of Water Resources
900 N Skyline Dr Ste A
Idaho Falls ID 83402

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84009

ROCKY MOUNTAIN WATER EXCHANGE, LLC, 482 CONSTITUTION WAY STE 303, IDAHO FALLS, ID 83402 has filed Application No. 84009 for changes to the following water rights within BONNEVILLE, JEFFERSON County(s): Right No(s). 35-2604, 35-7720; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change points of diversion, add points of diversion, change place of use, and change nature of use. The proposed points of diversion are in NENW Sec 9, Lot 4 (NWNW) Sec 2, SESW and NESE Sec 10, SWNW Sec 11, and NESW (3 wells) and SWSW Sec 14, T2N R38E for 0.79 cfs from ground water. The proposed nature of use will be municipal. The proposed place of use is within the service area of Falls Water Co., Inc.

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 6/1/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 5/14/2020 and 5/21/2020