

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1023

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

LESSOR: UNIT 2 LLC
44 W BROADWAY #2101S
SALT LAKE CITY UT 84101

RECEIVED
JUL 23 2019
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on June 26, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
21-13202	7/13/1974	GROUND WATER	0.47	70.2	23.4
Lease Totals			0.47	70.2	23.4

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2023. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

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5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: UNIT 2 LLC
44 W BROADWAY #2101S
SALT LAKE CITY UT 84101

By [Signature]
Title Manager
Date 7/20/19

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 7/29/2019

Lease approved by IDWR [Signature]

Date 7-29-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 21-13202

GROUND WATER	SENW	Sec. 17	Twp 08N	Rge 41E	FREMONT County
GROUND WATER	SWSE	Sec. 8	Twp 08N	Rge 41E	FREMONT County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
21-13202	IRRIGATION	04/01		11/01	0.40 cfs	70.2 AF
Totals:					0.40 cfs	70.2 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	41E	8											20.8						20.8
08N	41E	17						2.6											2.6

Total Acres: 23.4

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

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8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Right Nos. 21-7564, 21-13201 and 21-7046 are also diverted through points of diversion described above.
13. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1023

21-13202

Effective until December 31, 2023

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ



0 500 1,000 Feet

RECEIVED

JUN 26 2019

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARDPrint Form DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

JUN 19 2019

Department of Water Resources
Eastern Region

Designated Applicant Unit 2 LLC

(Select one owner - see item 1A on the application)

Water Right No. 21-13202

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes



Completed Application to Sell or Lease a Water Right to the Water Supply Bank.



Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

1A

Signatures and contact information for **all owners** of the water right to be leased or sold on this application.

1B

An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.

1C

Notice of Change in Water Right Ownership form (accessible from www.idwr.idaho.gov).

1D



Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.

2



Description of a water right portion offered to the Water Supply Bank.

3



A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.

4A



Written consent from irrigation district or water delivery company.

4G



Evidence demonstrating the water right has not been forfeited pursuant to [Section 42-222\(2\), Idaho Code](#).

Department Use Only

Fee Amount \$ 250-

Received By: *SC*Date Received: *6/19/19*Receipt # *2045089*W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: *Unit 2 LLC*

1441

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

RECEIVED
JUN 19 2019
Department of Water Resources
Eastern Region

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Unit 2 LLC

Mailing Address 44 W Broadway #2101S Salt Lake City UT 84101
Street City State Zip Code

Email Address lcrapo@mac.com Phone Number 917 923 0009

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Lance Crapo Organization Unit 2 LLC

Professional Title _____ Email Address lcrapo@me.com

Mailing Address 44 W Broadway #2101S, Salt Lake City, UT 84101 Phone Number 801 560 5141

☒ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☒ The full water right is being offered to the Bank.

OR

☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.
- B. Please provide a description of the current water diversion and delivery system.
Please see map. The black area = POU. The POD is labeled Blake's #2. Main line runs to the NW corner of the black POU. No circle remains there.
- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. NONE
- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.
- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. *Not sure - it may not have been.*
- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☒ No ☐
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.
- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan? If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2019 to 2023 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

K Crapo
Signature of Designated Applicant

Kathleen Crapo
Printed Name

7-11-19
Date

Crapo
Signature of Authorized Representative

RICHARD CRAPO
Printed Name

7/11/19
Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

ATTACHMENT 1A

Designated Applicant:

Unit 2 LLC
44 W Broadway #2101S
Salt Lake City, UT 84101
Telephone: 917 923 0009
Email: lcrapo@mac.com

As Designated Applicant, I submit this lease application on behalf of all other water right holders.


Kathleen Crapo
Manager, Unit 2 LLC

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

3. Point(s) of diversion:

[illegible]

- [illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** 23.4

Lease for 21-13202

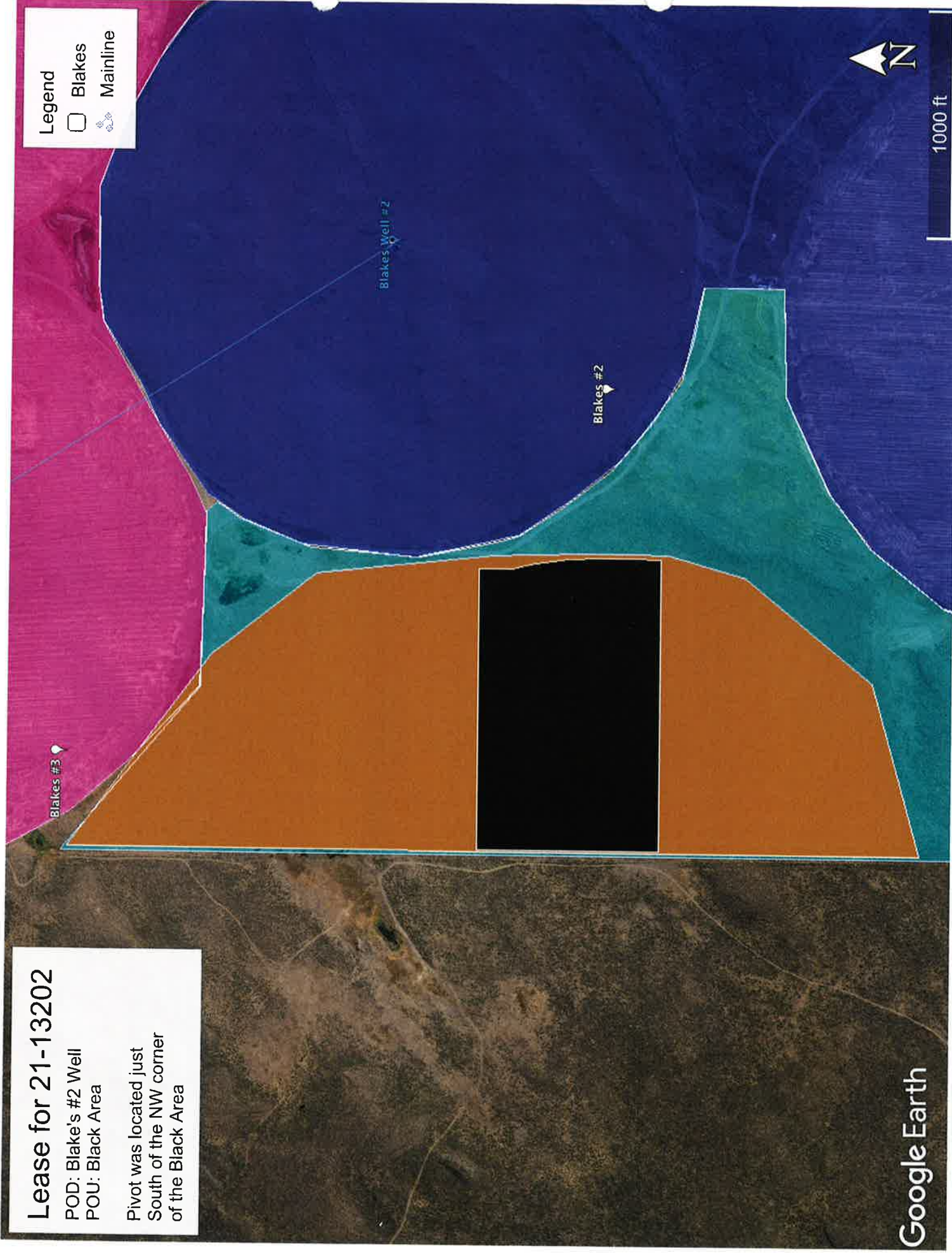
POD: Blake's #2 Well

POU: Black Area

Pivot was located just
South of the NW corner
of the Black Area

Legend

- Blakes
- Mainline



ATTACHMENT 1D

OPERATING AGREEMENT of UNIT 2 LLC

This Operating Agreement of Unit 2 LLC, a limited liability company organized or to be organized pursuant to the Act, is entered into and shall be effective as of the Effective Date, by Richard L. Crapo and Kathleen D. Crapo, Trustees and their successors in trust of the Richard L. and Kathleen D. Crapo Living Trust dated March 11, 2013 as the Initial Member, for and on behalf of itself and the Company, and Richard L. Crapo and Kathleen D. Crapo, as the Managers.

ARTICLE 1 FORMATION

1.1. Organization. The Company is organized as an Idaho limited liability company pursuant to the provisions of the Act. The Initial Member hereby authorizes, approves and ratifies the filing of the Certificate with the Secretary of State in the form filed. The Initial Member, for itself and the Company, and the Managers agree that, upon and after the filing of the Certificate with the Secretary of State, this Agreement shall be the sole and entire operating agreement of the Company, governing to the fullest extent permitted by the Act all the relations among the Members as members and between the Members and the Company, all rights and duties of the Managers, all activities of the Company and the conduct of those activities, and the means and conditions for amending this Agreement. No oral or implied agreements, whether made or claimed to have been made in the past, present or future, shall ever be or become part of or included in this Agreement or otherwise constitute all or part of this Agreement or all or part of any operating agreement of the Company under the Act. This Agreement may be amended only as provided herein.

1.2. Name. The name of the Company is Unit 2 LLC, and all business of the Company shall be conducted under that name or such other names as the Managers shall determine and for which Certificates of Assumed Business Name are filed with the Secretary of State of Idaho.

1.3. Effective Date. This Agreement shall be effective as of the date and time of filing of the Certificate with the Idaho Secretary of State.

1.4. Term. The term of the Company shall commence with the date of filing of the Certificate with the Secretary of State of Idaho and continue until the Company is dissolved and its affairs wound up in accordance with the Act or this Agreement.

1.5. Designated Office. The designated office of the Company shall be as set forth in the Certificate, as the same may be changed from time to time by the Company by filing a statement of change in form and substance required by the Act with the Secretary of State.

1.6. Registered Agent and Office. The registered agent for the service of process and the registered office shall be that person and location reflected in the Certificate as filed in the office of the Secretary of State. The registered agent may be changed by filing with the Secretary of State a statement of change in form and substance required by the Act.

1.7. Purpose. The purpose of the Company is to acquire, purchase, hold, maintain, lease, rent and sell farm real property and improvements and personal property relating thereto (the "Primary

Purpose”), and to engage in any other activity or business permitted by law as authorized from time to time by Super Majority Interest. The Company shall have the authority to do all things necessary or convenient to accomplish its Primary Purpose and operate its business as described in this Agreement.

ARTICLE 2 DEFINITIONS

In addition to any other terms that are defined in this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings for purposes of this Agreement:

Act. The Idaho Uniform Limited Liability Company Act and all amendments to the Act.

Affiliate. With respect to any Member or Manager, any Person who controls such Member or Manager (through such Person’s majority ownership of such Member or Manager) or Person who is controlled by such Member or Manager (through the Member’s or Manager’s majority ownership of such Person).

Agreement. This Operating Agreement of Unit 2 LLC and all amendments hereto adopted in accordance herewith and the Act.

Capital Account. The account maintained for a Member or Transferee determined in accordance with Article 3.

Capital Contribution. Any contribution of Property or services to the Company, or the obligation to contribute Property or services to the Company made, by or on behalf of a Member or Transferee that is described as a Capital Contribution in this Agreement or otherwise in writing signed by all Members. No service or other benefit by any Person to the Company shall constitute or be deemed a Capital Contribution, unless described as a Capital Contribution in this Agreement or other written instrument signed by all Members. All agreements to contribute capital to the Company must be in writing and must be signed by all Members. No oral, or claimed oral, agreements shall create any obligation to contribute capital to the Company or any membership or other interest of any kind or nature in the Company.

Cash Available for Distribution. With respect to any fiscal period, all cash receipts during such fiscal period, less (1) the amount of cash disbursed by the Company during such period, including, without limitation, third-party debt service, expenditures required to be capitalized and operating cash expenses such as licensing fees, taxes, utilities and telephone expenses, insurance expenses, supplies, professional expenses, rent, general and administrative expenses, management and maintenance fees, reasonable travel expenses for Company business and distributions to Members, (2) Capital Contributions and other equity and debt financing, to the extent used to fund Reserves, and (3) any additional amount to be set aside to replenish or increase Reserves.

Certificate. The Certificate of Organization of the Company as filed with the Secretary of State, as the same may be amended from time to time by filing authorized by Super Majority Interest in form and substance required by the Act with the Secretary of State.

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

Company. Unit 2 LLC, a limited liability company formed under the Act, and any successor limited liability company.

Company Liabilities. All debts, obligations and other liabilities of the Company, whether arising in contract, tort or otherwise.

Company Property. Any Property owned by the Company.

Crapo Living Trust. Richard L. Crapo and Kathleen Crapo, Trustees and their successors in trust of the Richard L. Crapo and Kathleen D. Crapo Living Trust dated March 11, 2013, as amended from time to time.

Disposition (Dispose). Any sale, assignment, transfer, gift or exchange.

Dissociation (Dissociate). Any action which causes a Person to cease to be a Member as described in Article 11 of this Agreement.

Distribution (Distribute). A transfer of Property by the Company to a Member as described in Article 7 or Article 12.

Gifting Member. Gifting Member shall mean any Member who gifts, bequeaths, or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) any Units or any interest therein.

Immediate Family Member. Immediate Family Member shall mean a child, grandchild or other Lineal Descendant or any trust of which a Lineal Descendant and/or a Member is a beneficiary.

Initial Capital Contributions. The Capital Contributions agreed to be made by the Initial Member as described in Section 3.2 of Article 3.

Initial Member. The Crapo Living Trust.

Lineal Descendant. Lineal Descendant means a lineal descendant of Richard L. Crapo and Kathleen D. Crapo, husband and wife, and includes all lineal descendants of all degrees and any child adopted by a Lineal Descendant while such child is under the age of eighteen (18) years.

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

Majority Interest. Majority Interest means that Members holding a majority of the Units entitled to vote with respect to a specific matter consent in writing to or authorize by affirmative vote the particular matter, unless the applicable provision of this Agreement specifically requires the authorization of a Super Majority Interest or all Members. Transferees shall not be considered Members with Units entitled to vote for the purpose of determining Majority Interest.

Manager. Manager means a Person so appointed pursuant to Article 6.

Member. A Person who holds Units and who also has the right to exercise the Voting Rights attributable to those Units by reason of being (i) an Initial Member, or (ii) admitted as a Member in accordance with the terms of this Agreement. A person may become a Member only as provided in this Agreement.

Person. Any individual, general partnership, limited partnership, limited liability company, limited liability partnership, corporation, joint venture, trust, business trust, cooperative, association, or other entity of any kind.

Presumed Company Tax Liability. Presumed Company Tax Liability shall, as to each Member for any given fiscal year of the Company, be deemed to be equal to the product of (i) the excess, if any, of the cumulative amount of the income and gain items reported or reportable on such Member's Schedule K-1 (IRS Form 1065) with respect to the Company for such year over the sum of the deduction and loss items reported or reportable on such Schedule K-1 for such year, and (ii) thirty-five percent (35%) expressed as a decimal (0.35).

Primary Purpose. The Primary Purpose of the Company as defined in Section 1.7 of this Agreement.

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

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

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

Remaining Members. In the event of Dissociation of a Member, all of the Members at the time of such Dissociation other than the Member who is Dissociated. In the event of a Member who has any potential conflict of interest or is involved in a transaction between the Member and the Company, the Members who do not have any potential conflict of interest or who are not involved with the transaction. In the event of a Disposition or attempted Disposition of Units, all Members except the Selling Member or Gifting Member.

Reserves. With respect to any fiscal period, funds set aside or amounts allocated during such period to reserves which shall be maintained in amounts deemed sufficient by the Managers for working capital and to pay taxes, insurance, debt service, or other costs or expenses incident to the ownership of Company Property or operation of the Company's business.

Selling Member. Selling Member shall mean any Member or Transferee that sells, assigns, pledges, hypothecates, or otherwise transfers for consideration any Units or any interest therein.

Sharing Ratio. With respect to any Member or Transferee, a fraction (expressed as a percentage), the numerator of which is the total number of such Member's or Transferee's Units and the denominator of which is the total number of all Units of all Members and Transferees.

Super Majority Interest. Super Majority Interest means that Members holding at least sixty-six percent (66%) of the Units entitled to vote with respect to a specific matter consent in writing to or authorize by affirmative vote the particular matter, unless the applicable provision of this Agreement specifically requires the authorization of all Members. Transferees shall not be considered Members with Units entitled to vote for the purpose of determining Super Majority Interest.

Taxable Year. The taxable year of the Company as determined pursuant to §706 of the Code.

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

Transferee. Any Person to whom the right to receive Distributions from the Company has been transferred but who has not been admitted as a Member. A Transferee, by becoming a Transferee, shall be subject to and bound by all the obligations of this Agreement imposed on Members, including without limitation confidentiality obligations, but shall not be entitled to the rights and privileges of Members under this Agreement, including without limitation rights to receive financial information or reports from the Company or its Managers (other than information returns for tax purposes required by law) or to access, inspect or copy books and records of the Company. A Transferee is treated as a Member for the limited purposes of accounting, taxation and Distributions, whether or not specifically referred to in those sections of this Agreement dealing with such matters. The treatment of a Transferee as a Member for such limited purposes does not confer upon the Transferee any rights to vote or participate in any manner in the management of the Company.

Transferring Member. Transferring Member means either a Selling Member or a Gifting Member, or both.

Units. Ownership rights of a Member of the Company as further set forth in Article 3.

Voting Rights. The rights of a Member to vote his, her or its Units on any issue, including the election of Managers, as provided in this Agreement or by the Act.

ARTICLE 3 CONTRIBUTIONS, UNITS AND CAPITAL ACCOUNTS

3.1. Units. Ownership rights in the Company are reflected in Units. Each Unit has the following described rights.

3.1.1. Each Unit held by a Member has equal Voting Rights with every other Unit held by Members and in matters subject to a vote of Members has one vote.

3.1.2. Each Unit has equal rights with every other Unit with respect to the sharing of Profits and Losses and with respect to Distributions, except as otherwise provided in this Agreement.

The number of Units issued and the holders thereof shall be kept and maintained on the books and records of the Company. There shall be no separately issued certificates.

3.2. Initial Capital Contributions. The name and address of the Initial Member, the description and value of the Initial Capital Contributions, and the number of Units issued to the Initial Member are as set forth on the attached Exhibit A.

3.3. Disposition of Units. No Member may Dispose of Units except as provided in this Agreement. Any such Disposition results in the Disposition of the rights in Profits and Losses and to Distributions and the rights in the Capital Account attributable to the Units, but no Voting Rights unless the Transferee becomes a Member in accordance with the terms and conditions of this Agreement, unless otherwise agreed in writing signed by all Members.

3.4. Subsequent Capital Contributions. No Member shall be required or permitted to make any additional Capital Contribution to the Company, except as authorized by a Majority Interest. If such authorization is obtained and additional capital is contributed to the Company, the Capital Account of each contributing Member shall be adjusted to reflect the additional Capital Contribution. Additional Units also may be issued to each contributing Member, if authorized in writing signed by all Members.

3.5. Capital Accounts. The Company shall establish and maintain a Capital Account for each Member and Transferee. Each Member's Capital Account shall be increased by (1) the amount of any money actually contributed by the Member to the capital of the Company, (2) the fair market value at the time of contribution of any Property contributed by the Member (net of liabilities assumed by the Company or subject to which the Company takes such Property, within the meaning of § 752 of the Code), and (3) the Member's share of Profits and of any separately allocated items of income or gain except adjustments required by the Code (including any gain and income from unrealized income with respect to accounts receivable allocated to the Member to reflect the difference between the book value and tax basis of assets contributed by the Member). Each Member's Capital Account shall be decreased by (1) the amount of any money Distributed to the Member by the Company, (2) the fair market value at the time of Distribution of any Property Distributed to the Member (net of liabilities of the Company assumed by the Member or subject to which the Member takes such Property within the meaning of § 752 of the Code), and (3) the Member's share of Losses and of any separately allocated items of deduction or loss except adjustments required by the Code (including any loss or deduction allocated to the Member to reflect the difference between the book value and tax basis of assets contributed by the Member).

3.6. Distribution of Property. If the Company at any time Distributes any of its Property in-kind to any Member, the Capital Account of each Member shall be adjusted to account for that Member's allocable share (as determined under Article 7) of the Profits or Losses that would have been realized by the Company had it sold the Property that was Distributed at its fair market value immediately prior to its Distribution.

3.7. Basis Adjustment. The Code § 704(b) bases of Company Property shall be adjusted to equal their respective gross fair market values, as determined by Majority Interest, at the following times: (a) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution, (b) the distribution by the Company to a Member of more than a de minimis amount of Property as consideration for an interest in the Company, and (c) the liquidation of the Company, provided that the adjustments are necessary or appropriate to reflect the

relative economic interests of the Members. Such adjustments are to be treated as items of Profits or Losses and allocated in accordance with Section 7.1.

ARTICLE 4 ACCOUNTING AND RECORDS

4.1. Records to be Maintained. The Company shall maintain books and records which properly reflect all financial transactions made by the Company, and such other records as the Managers or Members by Majority Interest may direct. The Company books and records shall be maintained at the principal office of the Company or such other place as designated by the Managers or Majority Interest. During regular business hours and at a reasonable location specified by the Company, a Member may obtain from the Company and inspect and copy full information regarding the activities, financial condition and other circumstances of the Company as is just and reasonable if:

4.1.1. The Member seeks the information for a purpose material to the Member's interest as a Member;

4.1.2. The Member makes demand and in a record received by the Company describing with reasonable particularity the information sought and the purpose for seeking the information; and

4.1.3. The information sought is directly connected to the Member's purpose.

4.2. Reports to Members. All Members shall be entitled to receive financial reports on the Company at least annually. All Members shall be provided with those information returns required by law. The furnishing of such financial reports and information returns shall be deemed to satisfy the obligations of the Company and the Members and Managers to furnish to each Member and/or Manager the information required by the Act.

ARTICLE 5 RIGHTS AND DUTIES OF MEMBERS

5.1. Voting Rights. Each Member who has not Dissociated shall be entitled to vote on matters subject to vote of Members as provided in this Agreement or by the Act.

5.2. Liability of Members. The Company Liabilities are solely the debts, obligations and liabilities of the Company, and do not become the debts, obligations or liabilities of a Member solely by reason of the Member acting as a Member. The failure of the Company to observe any particular formalities or requirements relating to the exercise of its powers or management of its activities under this Agreement or the Act shall not be grounds for imposing personal liability on the Members for any Company Liabilities. No Member shall be liable or responsible for the acts or decisions of the Managers, whether or not authorized by this Agreement. The parties agree that any act, business or transaction engaged in by any Member that is authorized or permitted by, or otherwise complies with, the provisions of this Agreement, shall not violate any fiduciary duty or contractual obligation of good faith and fair dealing of such Member. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not be construed as creating a deficit restoration obligation or otherwise personally obligate any Member to make a Capital Contribution in excess of the Initial Capital Contribution.

5.3. Indemnification. The Company shall indemnify the Members and their agents for all costs, losses, liabilities, and damages paid or accrued by them in connection with the business of the Company, to the fullest extent provided or allowed by the laws of the State of Idaho.

5.4. Representations and Warranties. Each Member hereby represents and warrants to the Company and each other Member that: (a) the Member is acquiring its interest in the Company for the Member's own account as an investment and without an intent to distribute the interest; (b) the Member acknowledges that the Units have not been registered under the Securities Act of 1933 or any state securities laws, and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

5.5. Conflicts of Interest.

5.5.1. Except as otherwise provided in this Agreement, a Member shall be entitled to enter into transactions that may be considered to be competitive with, or a business opportunity that may be beneficial to, the Company at any time.

5.5.2. A Member does not violate a duty or obligation to the Company merely because the Member's conduct furthers the Member's own interest. A Member may lend money to and transact other business with the Company. The rights and obligations of a Member who lends money to or transacts business with the Company are the same as those of a Person who is not a Member, subject to other applicable law. No act or transaction by a Member with the Company that otherwise would breach the duty of loyalty or any other fiduciary duty of such Member to the Company or any other Member shall constitute a breach of any such duty of such Member to the Company or any other Member or be voidable solely because a Member has a direct or indirect interest in the act or transaction if either (i) the act or transaction is fair to the Company or (ii) after full disclosure of all material facts, the act or transaction is authorized or ratified by Majority Interest of the Remaining Members. A Member acting in the capacity of creditor to the Company shall be treated as other creditors of the Company who are not Members to the fullest extent permitted by law.

5.6. Compensation of Members. No Member shall be entitled to a salary or any other compensation for performing services for the Company, except as authorized by Majority Interest.

5.7. Title to and Conveyance of Company Property. Title to the Company's Property shall be held in the Company's name. Conveyance of title to real property held in the name of the Company shall be effective only upon the execution of all documents relating thereto by all Managers.

5.8. Duties of Members. A Member does not have any fiduciary duty to the Company or to any other Member solely by reason of being a Member. No conduct permitted by Section 5.5 or 5.9 or any other provision of this Agreement or the Act shall constitute a breach of any duty of loyalty, care, good faith and fair dealing or any other fiduciary duty to the Company or any Member. No Member shall be required to devote full time to the affairs of the Company but each Member shall devote whatever time, effort and skill may be necessary for the efficient and successful conduct of the Company's business.

5.9. Outside Activities of Members. Any Member may engage in or possess an interest in other business ventures and investments of every nature and description independently or with others,

including but not limited to, the ownership of an investment in stock, securities, real estate and other investment properties; and neither the Company nor the other Members shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived therefrom.

5.10. Alteration, Limitation and Elimination of Duties and Liabilities. It is the intent and agreement of the Members, for themselves and on behalf of the Company, and the Managers that, except as expressly provided in this Agreement, the duty of loyalty, the duty of care, and other fiduciary duties that may be applicable to the Members or Managers are by this Agreement eliminated and/or limited to the fullest extent provided by law.

5.10.1. The parties agree that the Members' and Managers' compliance with the provisions of this Agreement shall satisfy and constitute compliance by such Members and Managers with all their fiduciary duties and obligations of good faith and fair dealing.

5.10.2. For purposes of the duty of loyalty and any other applicable fiduciary duties, no act, decision, business or transaction other than an act, decision, business or transaction directly applicable to the Primary Purpose may constitute a Company opportunity.

5.10.3. No act, decision, business or transaction by a Member or Manager authorized or permitted by this Agreement shall constitute a breach of any duty, fiduciary or otherwise, of such Member or Manager or constitute an oppressive or harmful act, under the Act or otherwise in law or in equity, to any other Member, Transferee or Manager.

5.10.4. The parties agree that, except as expressly provided in this Agreement, the duty of care of each Member and Manager is hereby eliminated.

5.10.5. The parties agree that no Member or Manager shall have any liability to the Company or its Members or Transferees for money damages, except for:

- (1) Breach of the duty of loyalty as altered and limited by this Agreement;
- (2) A financial benefit received by the Member or Manager to which the Member or Manager is not entitled;
- (3) Breach of the confidentiality obligations set forth in Section 14.23.
- (4) The consent to or receipt of a Distribution in violation of the Act;
- (5) Intentional infliction of harm on the Company or a Member; or
- (6) An intentional violation of criminal law.

5.10.6. The Members, for themselves and on behalf of the Company, and the Managers agree that the alteration, limitation and/or elimination of fiduciary duties and liabilities of Members and Managers as provided in this section and otherwise in this Agreement are not manifestly unreasonable but rather constitute consideration and conditions to their entering into and becoming parties to this Agreement.

5.11. Action by Members Without a Meeting. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken by Members owning at least a Majority Interest, unless the approval of a greater proportion or number of Units entitled to vote on the action is required for such action to be taken pursuant to this Agreement or the Act, in which case the written consent(s) must be signed by Members owning at least the required proportion or number of Units entitled to vote on the action. Action taken pursuant to this subsection shall be effective when the requisite number of Members have signed the applicable consent, unless the applicable consent specifies a different effective date. The record date for determining Members entitled to take action without a meeting shall be the date the first Member signs a written consent.

ARTICLE 6 MANAGEMENT

6.1. Management. The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage and control the business of the Company to the best of their ability. Except for situations in which the authorization of the Members is expressly required by this Agreement or by nonwaivable provisions of applicable law, the Managers shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business. At any time when there is more than one Manager, any one Manager may take any action permitted to be taken by the Managers, unless the authorization or act of more than one of the Managers is expressly required pursuant to this Agreement or the Act. The Members agree that only the Managers shall have responsibility for the management of the Company, and no Member or Affiliate or any shareholder, director, officer, manager, member, employee, agent or other representative of any Manager, Member or Affiliate shall have any responsibility or liability for the management of the Company or any acts or omissions of any Manager relating to the management of the Company or any other matter.

6.2. Number, Tenure, and Qualifications. The number of Managers of the Company shall be fixed from time to time by Majority Interest, but in no instance shall there be less than one (1) Manager. All references to Managers in this Agreement shall mean and refer to the Manager in the singular if and when there is only one (1) Manager. Each Manager shall hold office until its successor is elected and qualified. The Manager or Managers shall be elected by a Majority Interest. A Manager need not be a resident of the state of Idaho or a Member. The Company shall initially have two (2) Managers. By this Agreement the Initial Member elects Richard L. Crapo and Kathleen D. Crapo as the Managers who shall hold office until their successor(s) is (are) elected and qualified.

6.3. Certain Powers of Managers. Without limiting the generality of Section 6.1, the Managers shall have power and authority, on behalf of the Company:

6.3.1. To acquire, purchase, rent or lease real or personal property from any Person or entity on such terms as the Managers may determine. The fact that a Manager or a Member is directly or indirectly affiliated or connected with any such Person shall not prohibit the Managers from dealing with that Person provided the transaction is approved by a majority of the disinterested Members;

6.3.2. To sell, exchange (including exchanges pursuant to Section 1031 of the Code), lease, rent or otherwise Dispose of Company Property in the ordinary course of the Company's business to any Person or entity, and on such terms, as the Managers may determine;

6.3.3. To borrow money for the Company from banks, other lending institutions, the Managers, Members or Affiliates of the Managers or Members on such terms as the Managers deem appropriate, and, in connection therewith, to hypothecate, encumber, and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers or, to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers;

6.3.4. To purchase liability and other insurance to protect the Company's property and business;

6.3.5. To hold and own any and all Company Property in the name of the Company;

6.3.6. To invest any Company funds temporarily (by way of example but not limitation) in time deposits, short-term governmental obligations, commercial paper or other investments;

6.3.7. Upon authorization by a Super Majority Interest, to sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan so long as such Disposition is not in violation of, or a cause of a default under, any other agreement to which the Company may be bound; provided, however, that the authorization by a Super Majority Interest shall not be required with respect to any sale or disposition of the Company's assets in the ordinary course of the Company's business;

6.3.8. To execute all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage, or disposition of any Company Property; assignments; bills of sale; leases; partnership agreements; operating agreements of other limited liability companies; and any other instruments or documents necessary or advisable, in the opinion of the Managers, to the business of the Company;

6.3.9. To employ accountants, legal counsel, managing agents, or other experts to perform services for the Company and to compensate them from Company funds;

6.3.10. To enter into any and all other agreements, with any other Person for any purpose deemed necessary or advisable by the Managers for the Company or its business, in such forms as the Managers authorize; and

6.3.11. To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

The foregoing notwithstanding, no Manager, except Richard L. Crapo or Kathleen D. Crapo while serving as Manager, may do or perform any of the foregoing or take any other action to the extent it obligates the Company singly or in the aggregate to a debt, liability, or obligation greater than \$100,000, except for the payment of accounts payable in the ordinary course of business or as authorized by Majority Interest.

Unless authorized to do so by this Agreement or in writing by the Managers of the Company, no attorney-in-fact, employee, or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniarily for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized in writing by the Managers to act as an agent of the Company in accordance with the previous sentence.

6.4. Liability for Certain Acts. Each Manager shall perform his duties as a Manager in good faith, in a manner he reasonably believes to be in the best interests of the Company, and with such care as a person in a like position would reasonably exercise under similar circumstances. A Manager who so performs his duties as a Manager shall not have any liability by reason of being or having been a Manager of the Company. The Managers do not, in any way, guarantee the return of the Members' or Transferees' Capital Contributions or a profit for the Members or Transferees from the operations of the Company. The Managers shall not be liable to the Company or to any Member or Transferee for any money damages sustained by the Company or any Member or Transferee except for fraud, deceit, gross negligence, intentional misconduct toward the Company or any Member, Transferee or Manager, breach of this Agreement, or breach of the duty of loyalty as such duty has been altered or limited by this Agreement, a financial benefit received by such Manager to which such Manager is not entitled, such Manager's consent to a Distribution in violation of the Act, such Manager's intentional infliction of harm to the Company or any Member or Transferee, or such Manager's knowing violation of law or intentional violation of criminal law.

6.5. Managers Have No Exclusive Duty to Company. The Managers shall not be required to manage the Company as their sole and exclusive function and they (or any Manager) may have other business interests and may engage in other activities in addition to those relating to the Company. The management or participation in other businesses, investments, developments or other activities by a Manager, whether or not such compete with the Primary Purpose, shall not constitute a violation or breach of the duty of loyalty or any other fiduciary duty of such Manager to the Company, any Member, any Transferee or any other Manager. Neither the Company nor any Member or Transferee shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Managers or to the income or proceeds derived therefrom. The Managers shall incur no liability to the Company or to any Member or Transferee as a result of engaging in any other business or venture.

6.6. Bank Accounts. The Managers may, from time to time, open bank accounts in the name of the Company, and the Managers shall be the sole signatories thereon, unless the Managers determine otherwise.

6.7. Indemnity of the Managers, Employees and Other Agents. The Company shall indemnify and hold harmless any Person who is or was a Manager from and against any liability, whether civil or criminal, and any loss, damage, or expense, including reasonable attorney fees, incurred in connection with the ordinary and proper conduct of the Company's business and the preservation of its business and property, or by reason of the fact that such Person is or was a Manager, if the Person to be indemnified (i) acted in good faith and in a manner such Person believed to be consistent with the provisions of this Agreement; and (ii) with respect to any criminal action or proceeding, the Person to be indemnified had no reasonable cause to believe the conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not of itself create a presumption that indemnification is not available hereunder. The obligation of the Company to indemnify any Person who is or was a Manager hereunder shall be satisfied out of Company assets only, and if the assets of the Company are insufficient to satisfy its obligation to

indemnify any such Person, such Person shall not be entitled to contribution from any Member. The Company shall indemnify its employees and other agents who are not Managers to the fullest extent permitted by law, provided that such indemnification in any given situation is authorized by Majority Interest.

6.8. Resignation. Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

6.9. Removal. All or any lesser number of Managers may be removed, with or without cause, by Majority Interest. The removal of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

6.10. Vacancies. Any vacancy occurring, for any reason, in the number of Managers of the Company may be filled by the affirmative vote of a majority of the remaining Managers then in office, provided that if there are no remaining Managers, the vacancy(ies) shall be filled by Majority Interest. Any Manager's position to be filled by reason of an increase in the number of Managers shall be filled by affirmative vote of a majority of the Managers then in office or by Majority Interest. A Manager elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office and shall hold office until the expiration of such term and until his successor shall be elected and shall qualify or until his earlier death, resignation, or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until the next meeting of Members and until his successor shall be elected and shall qualify, or until his earlier death, resignation, or removal.

6.11. Salaries. The salaries and/or other compensation of the Managers shall be fixed from time to time by a Majority Interest, and no Manager shall be prevented from receiving such salary or compensation by reason of the fact that he, she or it is also a Member of the Company. Compensation paid by the Company to a Manager who is a Member shall be treated as guaranteed payments.

ARTICLE 7 ALLOCATIONS AND DISTRIBUTIONS

7.1. Allocations of Profits and Losses from Operations. Except as may be required by § 704(c) of the Code and as provided in Exhibit B or in Article 12 in connection with the dissolution of the Company, Profits, Losses, and other items of income, gain, loss, deduction and credit shall be apportioned among the Members in proportion to their Sharing Ratios.

7.2. Annual Tax Distributions. As soon as conveniently possible after the end of each taxable year of the Company (but in no event sooner than the time that the Company's accountants have determined the Company's income, gains, deductions, losses and credits with reasonable accuracy), distributions of Cash Available for Distribution shall be made to the Members in proportion to and to the extent of their respective Presumed Company Tax Liabilities.

7.3. Distributions in the Ordinary Course of Business. The Company shall Distribute Cash Available for Distribution at least annually as determined by the Managers. Cash shall be Distributed according to each Member's Sharing Ratio.

7.4. Limitations on Distributions. No Distribution shall be declared and paid if, after the Distribution is made, (1) the Company would not be able to pay its debts as they become due in the ordinary course of the Company's activities or (2) the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the Company were to be dissolved, wound up and terminated at the time of the Distribution, to satisfy the preferential rights upon dissolution, winding up and termination of Members whose preferential rights are superior to those of persons receiving the Distribution.

ARTICLE 8 TAXES

8.1. Elections. The Managers may make any tax elections for the Company allowed under the Code or the tax laws of any Taxing Jurisdiction. The Company shall be taxed as a partnership.

8.2. Taxes of Taxing Jurisdictions.

8.2.1. To the extent that the laws of any Taxing Jurisdiction require, each Member and Transferee or such Members or Transferees as may be required by the Taxing Jurisdiction, will submit an agreement indicating that the Member or Transferee will make timely income tax payments to the Taxing Jurisdiction and that the Member or Transferee accepts personal jurisdiction of the Taxing Jurisdiction with regard to the collection of income taxes attributable to the Member's or Transferee's income, and interest, and penalties assessed on such income. If a Member or Transferee fails to provide such agreement, the Company may withhold and pay over to such Taxing Jurisdiction the amount of tax, penalty and interest determined under the laws of the Taxing Jurisdiction with respect to such Member or Transferee and such Member's or Transferee's income. Any such payments with respect to the income of a Member or Transferee shall be treated as a Distribution for purposes of Article 7.

8.2.2. The Members may, where permitted by the rules of any Taxing Jurisdiction, file a composite, combined or aggregate tax return reflecting the income of the Company and pay the tax, interest and penalties of some or all of the Members on such income to the Taxing Jurisdiction, in which case the Company shall inform the Members of the amount of such tax interest and penalties so paid.

8.3. Tax Matters Partner. Richard L. Crapo is hereby designated the *tax matters partner* of the Company pursuant to § 6231(a)(7) of the Code. Any other Member may be designated as the tax matters partner by Majority Interest. Any Member designated as tax matters partner shall take such action as may be necessary to cause each other Member to become a *notice partner* within the meaning of § 6223 of the Code. Any Member who is designated tax matter partner may not take any action contemplated by §§ 6222 through 6231 of the Code except as authorized by Majority Interest.

8.4. Method of Accounting. The records of the Company shall be maintained on the method of accounting determined by the Managers.

ARTICLE 9 TRANSFERABILITY

9.1. Transfer by Initial Member. So long as Richard L. Crapo and Kathleen D. Crapo, or either of them, remain a Trustee of the Crapo Living Trust, the Initial Member may Dispose of all or part of the Initial Member's Units at any time and to any Person whom the Initial Member chooses, upon such terms and conditions as the Initial Member determines. The transferee shall be a Transferee unless and until the transferee agrees to be a party to and bound by this Agreement in writing in form and substance acceptable to the Managers. Upon such agreement, the transferee shall be admitted as a Member of the Company.

9.2. Disposition to Immediate Family Member. Any Member may Dispose of Units in the Company by Disposition to or for the benefit of an Immediate Family Member of that Member. In such case, such Immediate Family Member shall be admitted to the Company as a Member and shall receive and hold such Units subject to the terms and obligations of this Agreement.

9.3. Disposition by Sale.

9.3.1. Any Member (the "Offering Member") desiring to sell any Units in the Company other than to an Immediate Family Member of that Member shall give written notice (the "Sale Notice") to the Company and the other Members of an intention to sell the Member's Units. Such notice shall include an offer to sell the Units in accordance with the terms and conditions of (i) Section 9.7 of this Agreement or (ii) a copy of a bona fide offer which such Member shall have received for the purchase of such Units ("Bona Fide Third Party Offer").

9.3.2. The Company shall have the option for a period of sixty (60) days (the "Company Option Period") after the date of receipt of the Sale Notice to purchase or redeem all the Units so offered. If the option is not exercised within the Company Option Period as to all the Units so offered, the Members shall have the option for a period of thirty (30) days commencing with the end of the Company Option Period to purchase all the remaining Units so offered (the "Member Option Period"). The options may not be exercised on only a portion of the Units offered for sale. In order to be validly exercised, the options together must be exercised on all of the Units offered for sale. If the above options are not exercised as to all the Units so offered, the Offering Member may sell the Units pursuant to the terms and conditions of Section 9.7 of this Agreement or the Bona Fide Third Party Offer, as applicable, within sixty (60) days of the expiration of the Member Option Period, and the purchaser of such Units shall be admitted to the Company as a Member and shall hold such Units subject to the terms and obligations of this Agreement. If such sale is not completed within that time, no subsequent sale shall be made without first offering the Units to the Company and the other Members as provided herein.

9.3.3. The terms of payment for all Units purchased or redeemed by the Company and/or the Members under this Section 9.3 shall be either the terms set forth in Section 9.7 of this Agreement or the terms of the Bona Fide Third Party Offer, if any, as determined by the purchasing Company and/or Members in its or their sole discretion.

9.4. Disposition upon Death.

9.4.1. If a Member's Units are not transferred to or for the benefit of an Immediate Family Member as a result of the death of a Member, within one hundred eighty (180) days after such death the Member's estate or the Member's successors in interest (referred to as the "Seller") shall give written notice (the "Option Notice") to the Company and the other Members of an offer to sell all of the Units owned by the Seller.

9.4.2. The Company shall have the option for a period of sixty (60) days (the "Company Option Period") after the date of receipt of the Option Notice to purchase or redeem all the Units so offered. If the option is not exercised within the Company Option Period as to all the Units so offered, the Members shall have the option for a period of thirty (30) days commencing with the end of the Company Option Period to purchase all the remaining Units so offered (the "Member Option Period"). The options may not be exercised on only a portion of the Units offered for sale. In order to be validly exercised, the options together must be exercised on all of the Units offered for sale. If the above options are not exercised as to all of the Units so offered, the deceased Member's Units shall be transferred pursuant to such deceased Member's applicable Last Will and Testament or trust or, if the Member has no applicable Last Will and Testament or trust, by the laws of intestacy to such Member's heirs, and the transferee of such Units shall be admitted to the Company as a Member and shall hold such Units subject to the terms and obligations of this Agreement.

9.4.3. The purchase price and terms of payment for all Units purchased or redeemed by the Company and/or the Members under this Section 9.4 shall be determined in accordance with Section 9.7 of this Agreement.

9.5. Dissociation of a Member.

9.5.1. If a Member wishes to Dissociate from the Company, the Member or the Member's successors in interest (referred to as the "Seller") shall give written notice (the "Dissociation Notice") to the Company and the other Members of an offer to sell all of the Units owned by the Seller.

9.5.2. The Company shall have the option for a period of sixty (60) days (the "Company Option Period") after the date of receipt of the Dissociation Notice to purchase or redeem all the Units so offered. If the option is not exercised within the Company Option Period as to all the Units so offered, the Remaining Members shall have the option for a period of thirty (30) days commencing with the end of the Company Option Period to purchase all the remaining Units so offered (the "Member Option Period"). The options may not be exercised on only a portion of the Units offered for sale. In order to be validly exercised, the options together must be exercised on all of the Units offered for sale. If the above options are not exercised as to all of the Units so offered, the Member shall not be entitled to Dissociate from the Company.

9.5.3. The purchase price and terms of payment for all Units purchased or redeemed by the Company and/or the Members under this Section 9.5 shall be determined in accordance with Section 9.7 of this Agreement.

9.6. Other Dispositions.

9.6.1. Upon any anticipated Disposition of the Units of any Member or Transferee that is not covered by the provisions of Section 9.1, 9.2, 9.3, 9.4 or 9.5 above, including but not limited to any Disposition pursuant to a voluntary or involuntary bankruptcy proceeding, the Member or Transferee or the Member's or Transferee's successors in interest (referred to as the "Seller") shall give written notice (the "Disposition Notice") to the Company and the Members of an offer to sell all of the Units owned by the Seller.

9.6.2. The Company shall have the option for a period of sixty (60) days (the "Company Option Period") after the date of receipt of the Disposition Notice to purchase or redeem all the Units so offered. If the option is not exercised within the Company Option Period as to all the Units so offered, the Members shall have the option for a period of thirty (30) days commencing with the end of the Company Option Period to purchase all the remaining Units so offered (the "Member Option Period"). The options may not be exercised on only a portion of the Units offered for sale. In order to be validly exercised, the options together must be exercised on all of the Units offered for sale. If the above options are not exercised as to all of the Units so offered, the Seller may Dispose of the Units pursuant to the terms and conditions contained in the Disposition Notice within sixty (60) days of the expiration of the Member Option Period. If such Disposition is not completed within that time, no such subsequent Disposition shall be made without first offering the Units to the Company and to the Members as provided herein. Any transferee (other than a Member) of any such Units shall have all rights of a Transferee but shall not become a Member unless admitted to the Company as a Member by a Super Majority Interest.

9.6.3. The purchase price and terms of payment for all Units purchased or redeemed by the Company and/or the Members under this Section 9.6 shall be determined in accordance with Section 9.7 of this Agreement.

9.7. Terms of Purchase.

9.7.1. If the Company and/or the Members (the "Purchaser") purchase or redeem Units under Section 9.3, 9.4, 9.5 or 9.6, except for a purchase price set forth in a Bona Fide Third Party Offer or as otherwise agreed in a written instrument signed by the Purchaser and the Seller, the purchase of the Units shall be on the terms and conditions set forth below.

9.7.2. The purchase price shall be as stated in a Bona Fide Third Party Offer, if any. If there is no Bona Fide Third Party Offer, the Company Property shall be appraised. If the Purchaser and the Seller cannot agree on an appraiser, they shall each appoint an appraiser. If the two appraisers cannot agree upon the value of the Company Property, they shall appoint a third appraiser. If the two appraisers cannot agree upon a third appraiser, one shall be appointed by a court of competent jurisdiction. The decision of the majority of the three appraisers shall be binding on all parties. If a majority of the three appraisers cannot agree upon the value of the Company Property, then the value of the Company Property shall be the average of the three values determined by the appraisers. The costs of appraisal shall be shared equally by the Purchaser and the Seller. The purchase price for the Units shall be the amount the Seller would receive in connection with such Units if the Company (i) liquidated and received the appraised

value for the Company Property, and (ii) Distributed the liquidation proceeds in accordance with Section 12.3 of this Agreement.

9.7.3. The closing date for any purchase or redemption of Units under the terms and conditions of this Agreement shall be not later than one hundred twenty (120) days following the effective date of notice.

9.7.4. On the closing date, the Purchaser shall make a cash down payment of not less than forty percent (40%) of the total purchase price. If the Purchaser shall receive the proceeds of any insurance policy on the life of a deceased Member such insurance proceeds shall be paid to the Seller, up to the purchase price of the Units. If the total amount of such insurance proceeds does not equal forty percent (40%) of the total purchase price, the Purchaser shall pay sufficient additional cash to cause the down payment to equal forty percent (40%) of said purchase price. The Seller shall have no claim to any proceeds in excess of the purchase price.

9.7.5. The unpaid balance of the purchase price shall bear interest at the Prime Interest Rate published in the Wall Street Journal plus one percent (1%) as of the date of closing. The balance of the purchase price and accrued interest shall be payable in forty (40) equal quarterly installments commencing three (3) months after the date of closing and continuing quarterly (for example if the closing were on November 5, payments would be made on February 5, May 5, August 5 and November 5) thereafter until the purchase price and all accrued interest shall be paid in full. All payments shall be applied first to accrued interest and then to reduction of principal.

9.7.6. The Purchaser may prepay principal at any time in multiples of \$500.00 without penalty. Interest on such additional principal payments shall cease as of the date payment is made. Any prepayment shall be applied to the last payment(s) coming due under this Agreement and shall not excuse the necessity of making the next ensuing payment(s) on the date and in the amount as required by this Agreement.

9.7.7. The Units purchased or redeemed by the Company and/or any Member shall be pledged as security for the payment obligations hereunder. The Remaining Members shall guarantee the Company's purchase or redemption obligations. Unless the parties agree otherwise, the promissory note, security agreement and guaranty shall be in the forms attached hereto as Exhibits C-1 through C-3.

9.8. Miscellaneous.

9.8.1. Units purchased or redeemed by the Company shall have no voting or other rights while held by the Company. Units purchased by any Member shall have all voting and other rights, and said rights shall belong to the Purchaser so long as there is no default under the terms of any agreement evidencing, securing or guaranteeing the payment of the purchase price for such Units. If the Purchaser fails to cure any default within any applicable cure period, the Seller shall be entitled to exercise all rights to which said Units were entitled prior to purchase by the Purchaser.

9.8.2. So long as any part of the purchase price for Units purchased by the Company remains unpaid, the Company will not do any of the following, without the Seller's prior written

approval: issue any additional Units; reorganize its capital structure; merge or consolidate with any other entity; sell any of its assets except in the ordinary course of business; incur extraordinary indebtedness; or pay salaries or other compensation in excess of that which is reasonable. So long as any part of the purchase price for such Units remains unpaid, the Seller or the Seller's legal representative shall have the right to examine the books and records of the Company and to receive copies of all accounting records and reports prepared for or on behalf of the Company; but all such information disclosed shall be confidential and the Company, in its discretion, may require the recipient of any such information to sign a confidentiality agreement in form and substance satisfactory to the Managers.

9.8.3. If purchase offers from the Remaining Members specify in the aggregate more Units than are available for purchase by the Members, each Member shall have priority, up to the number of Units specified in the Member's notice, to such proportion of the available Units as the Member's Units bears to the Units of all Members electing to purchase. The Units not purchased on such a priority basis shall be allocated in one or more successive allocations to those Members electing to purchase more than the Units to which they have priority right, up to the Units specified in their respective notices, in the proportion that the Units held by each of them bears to the Units held by those Members entitled to purchase such excess Units.

9.8.4. The Company shall make an election under §754 of the Internal Revenue Code of 1986, as amended, for the year in which a Member Disposes of all its Units in the Company.

9.8.5. The parties hereby declare that it is impossible to measure in money the damages which will accrue to any party, by reason of a failure to perform any of the obligations under this Agreement and that the remedy of the Members or the Company for a breach of this Agreement is not adequate at law. Any Member, Seller, or the Company may enforce rights hereunder by injunction proceedings, proceedings for specific performance, or other equitable proceedings. Any Person (including the Company) against whom such action or proceeding is brought hereby waives the claim or defense that an adequate remedy at law exists.

9.8.6. Except as provided in this Article 9 or as otherwise specifically provided in this Agreement, without the prior authorization of a Super Majority Interest, no Member shall have the right to:

(i) Sell, assign, pledge, hypothecate, grant a security interest in, exchange, or otherwise transfer or encumber for consideration any Units, or

(ii) Gift, bequeath, or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) any Units or any interest therein.

9.9. Transferee Not Member in Absence of Consent.

9.9.1. Except as otherwise provided in this Article 9, if a Super Majority Interest of the Remaining Members do not approve by written consent the proposed sale or gift of the Transferring Member's Units to a transferee or donee that is not a Member or Immediate Family Member of a Member immediately before the sale or gift, then the proposed transferee or donee shall have no right to vote or otherwise participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be a Transferee only. No

transfer of a Member's Units shall be effective unless and until written notice (including the name and address of the proposed transferee or donee and the date of such transfer) has been provided to the Company and the Remaining Members.

9.9.2. Unless and until a Transferee becomes a substituted Member, the Transferring Member shall continue to possess all rights pertinent to the transferred interest (other than the right to receive Distributions and related allocations of income, gains, losses, deductions, and credits in accordance with this Agreement).

9.9.3. If a Transferring Member transfers all his Units to a Transferee who becomes a Member, such Transferring Member shall cease to be a Member and shall have no power to exercise any rights of a Member, but such Transferring Member shall continue to be liable for all his obligations to the Company outstanding at the time of the transfer.

9.10. Transferee's Units Subject to Article 9. A Transferee that desires to sell any Units to a third party purchaser shall be subject to the obligations and requirements of this Article 9, including the obligation to give written notice to the Company and all Members, and the Members shall have the right to purchase the Units as provided herein.

9.11. Agreement Among Members. At any and all times any agreement among the Members (buy-sale agreement) is in effect, such agreement shall be binding upon all Members who are parties thereto and, to the extent any of the provisions of such agreement and the provisions of this Article 9 are inconsistent, such agreement shall control, with respect to those Members that are parties to it.

ARTICLE 10 ADMISSION OF ADDITIONAL MEMBERS

Except as otherwise provided in Article 9, new Members shall be admitted to the Company only on such terms and conditions as are approved by Super Majority Interest. Each Member may grant or withhold the consent to such admission for any reason, or no reason, in such Member's sole and absolute discretion.

ARTICLE 11 DISSOCIATION OF A MEMBER

A Member shall cease to be a Member, without breaching this Agreement, upon the Disposition in compliance with the terms of this Agreement of all the Units of the Member to a Person who becomes a Member or upon the prior written authorization signed by all the Members. Each Member waives any right to compel a return of the Member's Capital Account. The Dissociation of a Member shall not cause the dissolution of the Company. A Dissociated Member who has not Disposed of all its Units shall be treated as a Transferee. A Dissociated Member shall have no right to demand a return of capital or payment for any interest in the Company.

ARTICLE 12 DISSOLUTION AND WINDING UP

12.1. Dissolution. The Company shall be dissolved and its affairs wound up only upon the written authorization of all the Members or as required by the Act.

12.2. Effect of Dissolution. Upon dissolution, the Company shall cease carrying on, as distinguished from the winding up of, the Company's activities, but the Company shall not be terminated but continue only for purposes of winding up until the winding up of the affairs of the Company, including settling and closing the Company's activities, shall be completed.

12.3. Distribution of Assets on Dissolution. Upon the winding up of the Company, the Company Property shall be paid or Distributed in the following order of priority:

12.3.1. to creditors, including Members who are creditors, to the extent permitted by law, in satisfaction of Company Liabilities;

12.3.2. to Members in accordance with positive Capital Account balances taking into account all Capital Account adjustments for the Company's taxable year in which the liquidation occurs; and

12.3.3. to Members in accordance with each Member's Sharing Ratio.

Liquidation proceeds shall be paid within 60 days of the end of the Company's taxable year or, if later, within 90 days after the date of liquidation. Such Distributions shall be in cash or Property (which need not be Distributed proportionately) or partly in both, as determined by the Managers.

12.4. Winding Up and Certificate of Dissolution. The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining Property and assets of the Company have been Distributed to the Members. Upon the completion of winding up of the Company, a statement of dissolution in form and substance required by the Act shall be delivered to the Secretary of State for filing.

ARTICLE 13 AMENDMENT

This Agreement may be amended or modified from time to time only by a written instrument that expressly refers to this Agreement and is executed by all the Members at the time of the amendment. An amendment to this Agreement does not need to be signed by any Transferee or Dissociated Member, but to the fullest extent permitted by the Act, the obligations of the Company and its Members and Managers to, and the rights of, Transferees and Dissociated Members shall be governed by this Agreement as amended in accordance with this Article 13. No Member, Transferee or Dissociated Member shall have any vested rights in this Agreement which may not be modified through an amendment to this Agreement. The foregoing notwithstanding, no amendment to this Agreement may amend, change or modify the rights and obligations of the Managers, or any Manager, hereunder unless the Managers or Manager whose rights and obligations are affected by such amendment signs the amendment.

ARTICLE 14
MISCELLANEOUS PROVISIONS

14.1. Entire Agreement. This Agreement represents the entire agreement among all the Members and between the Members and the Company pertaining to the subject matter of this Agreement.

14.2. No Partnership Intended for Nontax Purposes. The Members have formed the Company under the Act, and expressly do not intend hereby to form a partnership under the Idaho Uniform Partnership Act, the Idaho Uniform Limited Partnership Act or any other statute or law. The Members do not intend to be partners one to another, or partners as to any third party. To the extent any Member, by word or action, represents to another Person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

14.3. Rights of Creditors and Third Parties under Agreement. This Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and Transferees. This Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no creditor or third party shall have any rights under this Agreement, or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise. Agreements to contribute capital to the Company shall be enforceable only by the Company and its Members and Managers.

14.4. Notice. Any notice required hereunder shall be effective (i) when such notice is delivered to the recipient in person, or (ii) when sent by telefax or electronic mail to a number or address designated by the recipient, or (iii) mailed by certified mail, postage paid, addressed as follows for the Company and Initial Member:

Company:	Unit 2 LLC 435 North 1500 East Saint Anthony, Idaho 83445
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Initial Member:	Crapo Living Trust Attn: Richard and Kathleen Crapo, Trustees 435 North 1500 East Saint Anthony, Idaho 83445 Email: craporl@outlook.com Email: k.crapo@me.com
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The address for receiving notices for any Member other than the Initial Member shall be the Member's last known address on the records of the Company. The address for receiving notices may be changed by any Member at any time by written notice to the Managers.

14.5. Exhibits and Income Tax Provisions. All exhibits attached to this Agreement, including without limitation, all income tax provisions on the attached Exhibit B, are incorporated in and made a part of this Agreement by this reference.

14.6. Waiver of Action for Partition. Each Member and Transferee irrevocably waives any right that the Member or Transferee may have to maintain any action for partition with respect to any or all Company Property.

14.7 Withdrawal. A Member may not voluntarily withdraw from the Company. Any withdrawal or attempted withdrawal as a Member by express will shall be wrongful and constitute a breach of this Agreement.

14.8. Attorney. Billy G. DuPree, Jr., attorney at law, of DuPree Law Offices, P.C., has prepared this Agreement at the request of the Initial Member, who has waived conflicts of interest for purposes thereof. All Members acknowledge that Mr. DuPree prepared this Agreement on behalf of and in the course of his representation of the Company, and that:

- (1) THE MEMBERS HAVE BEEN ADVISED THAT A CONFLICT EXISTS AMONG THEIR INDIVIDUAL INTERESTS; AND
- (2) THE MEMBERS HAVE BEEN ADVISED TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL; AND
- (3) THE MEMBERS HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL; AND
- (4) THE MEMBERS HAVE RECEIVED NO REPRESENTATIONS FROM MR. DUPREE ABOUT THE TAX CONSEQUENCES OF THIS AGREEMENT; AND
- (5) THE MEMBERS HAVE BEEN ADVISED THAT THIS AGREEMENT MAY HAVE TAX CONSEQUENCES; AND
- (6) THE MEMBERS HAVE BEEN ADVISED TO SEEK THE ADVICE OF INDEPENDENT TAX COUNSEL; AND
- (7) THE MEMBERS HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT TAX COUNSEL.

14.9. Application of Idaho Law. This Agreement, and the application or interpretation hereof, shall be governed exclusively by its terms and by the laws of the State of Idaho, and specifically the Act.

14.10. Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

14.11. Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

14.12. Waivers. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation. No

waiver shall be effective against any Member or Manager unless in writing signed by such Member or Manager.

14.13. Attorney's Fees. In the event of any litigation, arbitration or other dispute arising as a result of or relating to this Agreement, the prevailing party in any such litigation, arbitration or other dispute shall be entitled to recover from the nonprevailing party, in addition to any other damages assessed, its reasonable attorney's fees and all other costs and expenses incurred in connection with such litigation, arbitration or dispute, whether incurred with or without legal action, in preparation for or at trial, or on appeal.

14.14. Severability. If any provision of this Agreement, or the application thereof to any Person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

14.15. Heirs, Successors, and Assigns. Each and all of the covenants, terms, provisions, and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors, and assigns.

14.16. Default Rules. Regardless of whether this Agreement specifically refers to particular default rules (i) if any provision of this Agreement conflicts with a default rule, the provision of this Agreement controls and the default rule is modified or negated accordingly, and (ii) if it is necessary to construe a default rule as modified or negated in order to effectuate any provision of this Agreement, the default rule is modified or negated accordingly.

14.17. Relationship Between Agreement and Certificate. If a provision of this Agreement differs from a provision of the Certificate, then to the extent allowed by law this Agreement will govern.

14.18. Interpretation. If there are any inconsistencies between any provisions of this Agreement and any provisions of the Act, to the fullest extent permitted by the Act, the provisions of this Agreement shall control.

14.19. Counterparts; Delivery. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument. This Agreement may be signed and delivered by facsimile transmission or electronic mail which shall be effective as an original.

14.20. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, equity, statute, ordinance, or otherwise.

14.21. Certification. The Managers, and each of them, are hereby authorized to certify as correct and complete and deliver, as the Managers, or any of them, determines in its sole discretion, copies of this Agreement and any amendments hereto to creditors and other third parties.

14.22. Statement of Authority. The Managers, or any of them, is hereby authorized to sign and file with the Secretary of State, as the Managers, or any of them, determines in the Manager's discretion, one (1) or more statements of authority to identify the Managers or Manager who has authority to sign documents and take actions on behalf of the Company and to include in such statement(s) of authority such other information as the Managers, or any of them, deems advisable or appropriate in accordance with the Act. The Managers, or any of them, also may elect, in the Manager's sole discretion, to file with the Secretary of State amendments and cancellations of statements of authority in accordance with the Act.

14.23. Confidentiality.

14.23.1. Except as provided in this Paragraph 14.23, the Members agree they will not at any time reveal or disclose to any person or entity, or use for the benefit of themselves or any person other than the Company, any of the Company's Confidential Information (as defined below), except to such Member's accountants and attorneys ("Member's Representatives") or as necessary to such Member's lenders and in tax returns. A Member and such Member's Representatives may disclose and discuss Confidential Information with other Member's Representatives, as necessary with such Member's lenders, or any other person authorized in writing by a Super Majority Interest. A Member also may disclose all such information pursuant to subpoena but only after giving prompt notice of such subpoena to the Company. The disclosing Member shall remain liable to the Company for any unauthorized disclosure or use by persons to whom the Member discloses such information. For purposes of this Agreement, the Company's Confidential Information means: any information received from the Company or from a third party at the direction of the Company marked "Confidential" or developed, in whole or in part, as a result of access to such information or to the books, records or properties of the Company of any kind, nature, or description concerning any matters affecting or relating to the business of the Company, including, but not limited to: sales and financial information of any kind; trade secrets or any information relating to any trade secrets; proprietary information or information not generally known to the public; the names, addresses or other identifying information (including lists) of any of the Company's Members; information relating to Company Property; information or documents of a confidential nature relating to the ownership or operation of the Company or concerning any Manager(s), Member(s), employee(s), agent(s), servant(s), representative(s), contractor(s), consultant(s) and/or agent(s) of the Company; or any other information concerning the business of the Company, its manner of operation, its plans, its ideas, or business projections or any other data of any kind, nature, or description, without regard to whether any or all of the foregoing matters would be deemed confidential, proprietary, material, or important (the "Company's Confidential Information").

The foregoing notwithstanding, the Company's Confidential Information shall not include: (i) information that is or becomes part of the public domain through no fault of or action by the Member or any person to whom the Member discloses such information; (ii) information legally known by the Member or any person to whom the Member discloses such information without any obligation to the Company of confidentiality or nondisclosure prior to receipt thereof from the Company; (iii) information received by the Member or any person to whom the Member discloses such information from a source other than the Company that is under no duty of confidentiality to the Company; (iv) information independently prepared by the Member or any person to whom the Member discloses such information without reference to the Company's Confidential Information; (v) information expressly approved in writing for unrestricted release by the Company; or (vi) information that the Company voluntarily discloses to any Person.

14.23.2. The Company shall have the right to obtain an order of any court of competent jurisdiction prohibiting such Member and Member's spouse from violating this provision at any time in the future. The Members agree that this provision is necessary to protect the legitimate business interests of the Company and that they will not contest the enforceability hereof in any proceeding brought to enforce this Section 14.23, but they may contest whether a violation of this Section 14.23 actually occurred. This remedy is not exclusive, and the Company may pursue any and all available legal or equitable remedies in enforcing this Section 14.23. Without limiting the foregoing, the Members agree that damages to be incurred by the Company from an unauthorized disclosure of the Company's Confidential Information are substantial and that such damages are likely to be difficult to identify and determine objectively. Accordingly, the Members hereby agree that a Member shall be liable to the Company for liquidated damages in the amount of Ten Thousand Dollars (\$10,000) for each breach of this Section 14.23. The Company also will have the right to enforce Section 14.23 by injunction.

IN WITNESS WHEREOF, the undersigned Initial Member, for and on behalf of the Initial Member and the Company, and the Managers have executed this Agreement to be effective as of the Effective Date.

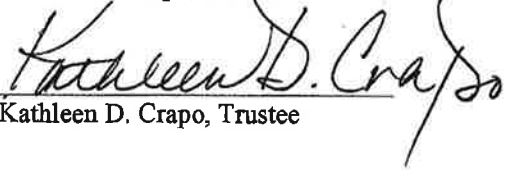
MEMBER:

The Richard L. and Kathleen D. Crapo
Living Trust dated

By:

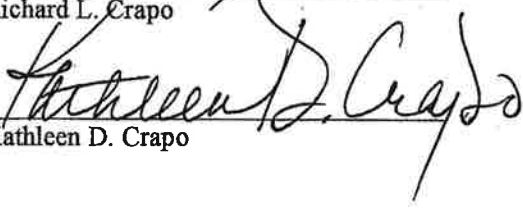

Richard L. Crapo, Trustee

By:


Kathleen D. Crapo, Trustee

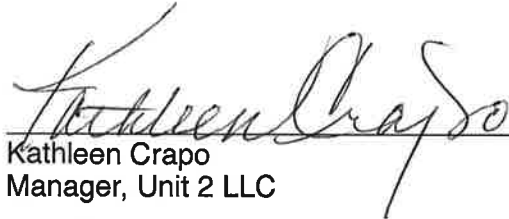
MANAGERS:


Richard L. Crapo


Kathleen D. Crapo

MISC. ATTACHMENT (1D)

As Designated Applicant, Lance Crapo has the authority to represent Unit 2 LLC.


Kathleen Crapo
Manager, Unit 2 LLC



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

WATER RIGHT REPORT

6/15/2019

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 21-13202

Owner Type	Name and Address
Current Owner	UNIT 2 LLC 726 N 2100 E ST ANTHONY, ID 83445 2086243293
Original Owner	BLAKE BROTHER PARTNERSHIP C/O BRENT BLAKE 819 N 2600 E ST ANTHONY, ID 83445 2086243860
Original Owner	RICHARD R BLAKE PO BOX 211-5 ST ANTHONY, ID 83445
Original Owner	FRANK BRENT BLAKE PO BOX 211-6 ST ANTHONY, ID 83445

Priority Date: 07/13/1974

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	11/01	0.47 CFS	70.2 AFA
Total Diversion			0.47 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSE	Sec. 08	Township 08N	Range 41E	FREMONT County
GROUND WATER	SESW	Sec. 17	Township 08N	Range 41E	FREMONT County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FREMONT County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	41E	8		SWSW	20.8									
		17		NWNW	2.6									

Total Acres: 23.4

Conditions of Approval:

- 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.
- F05 Right Nos. 21-7564, 21-13201 and 21-7046 are also diverted through points of diversion described above.
- C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

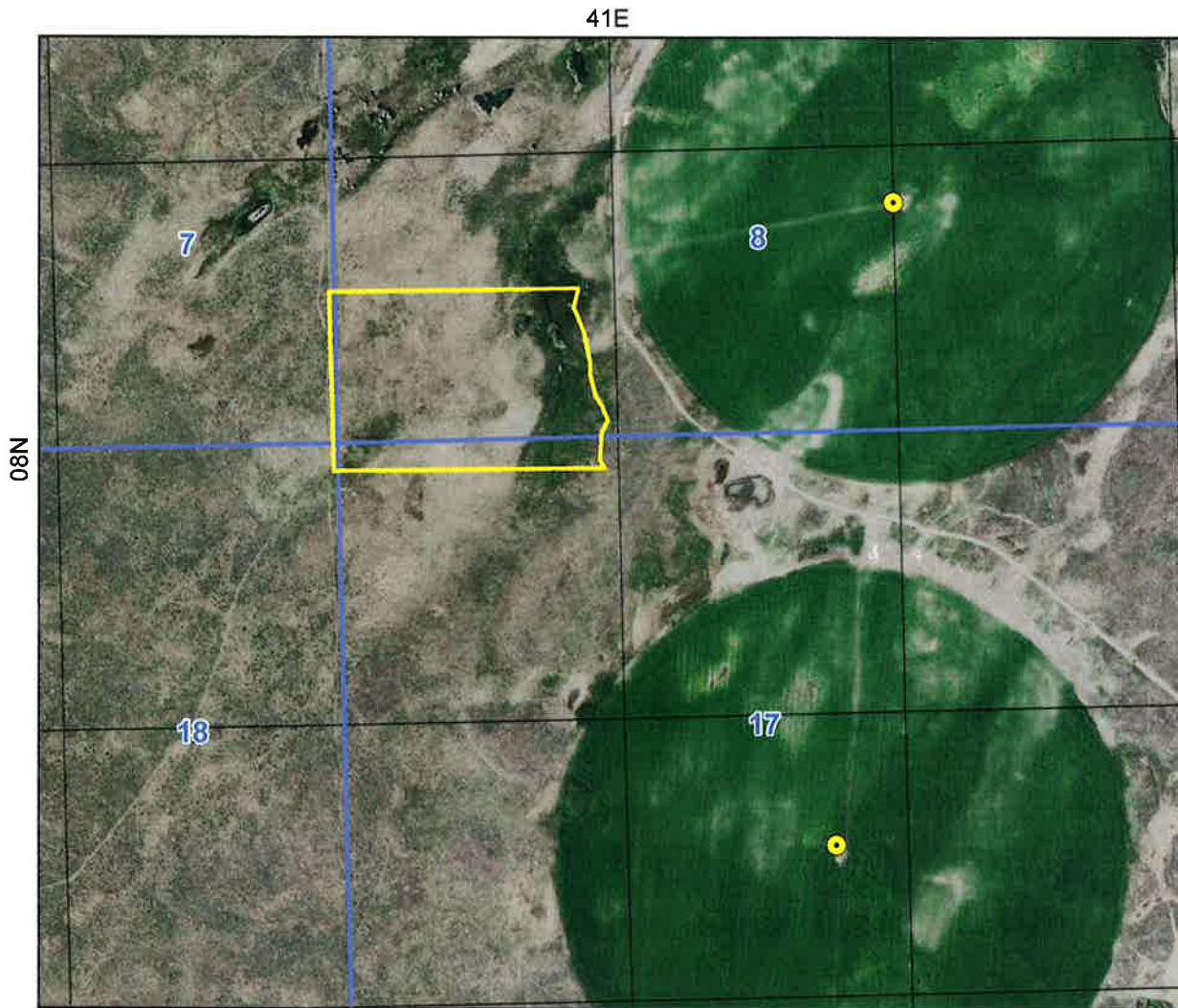
State of Idaho
Department of Water Resources

Water Right

21-13202

IRRIGATION

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



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

0 0.1 0.2 0.4 Miles



EXHIBIT A

<u>Name and Address of Initial Member</u>	<u>Description of Initial Capital Contribution</u>	<u>Value of Initial Capital Contribution</u>	<u>Units</u>
The Richard L. and Kathleen D. Crapo Living Trust 435 North 1500 East Saint Anthony, Idaho 83445	Cash	\$1,000.00	1,000



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 29, 2019

UNIT 2 LLC
44 W BROADWAY #2101S
SALT LAKE CITY UT 84101

RE: **WATER SUPPLY BANK LEASE CONTRACT 1023
FOR WATER RIGHT 21-13202**

Dear Lessor:

Water right **21-13202** was leased into the Water Supply Bank (Bank) as of June 26, 2019, in accordance with the enclosed executed lease contract. **Your water right, as described on the lease contract, is considered leased into the Bank and should remain unused until it is formally released from the Bank.** More information and further restrictions placed on your water right while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water right may not be available for immediate release if it has been rented or is being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Blake Jordan – Water District 100
Henry's Fork GWD



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 15, 2019

UNIT 2 LLC
44 W BROADWAY # 2101S
SALT LAKE CITY UT 84101

**RE: APPLICATION TO LEASE WATER RIGHT 21-13202 TO THE WATER SUPPLY BANK
CONTRACT 1023**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

According to Idaho Code § 42-222, in his approval of an extension of time to avoid forfeiture the director of the department of water resources shall set the date when the use of water is to be resumed. The resumption date for this right was set as April 1, 2021.

According to Idaho Code § 42-223 A water right shall not be lost or forfeited by failure of the owner of the right to divert and apply the water to beneficial use while the right is placed in the water supply bank or is retained in or rented from the water supply bank. The department has allowed water rights to be placed in the water supply bank prior to the resumption of use date. However, this practice has not been challenged in court as of the date of this letter.

The applicant must be ready to resume use the day after this right is released from the bank.

The right will automatically be released from the Bank on **December 31, 2023**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts

WATER SUPPLY BANK

Tools

Lease Review Checklist

Applicant(s) Name: Unit 2 LLC

Memo Date: July 15, 2019

Water Right Number(s): 21-13202

Reviewers Name: Jean

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box		COMMENTS/CONCERNS:
1	☒		
Fill out WSB Data Entry Checklist for Leases (Front of File)			
2	☒		
Reason for lease of water rights (Brief description of lease proposal in narrative)			
3	☒		
Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)			
4	☒	Yes	No
Rentable? (If no explain in comments or narrative)			
5	☒		
Authority to file			
	☒		
	☒		
	☒		
	☒		
6	☒		
Water Right validity			
			2011
7	☒		
Injury to other water rights			
		na	
			%
8	☒		
Enlargement concerns			
	☒		
	☒		
	☒		
	☒		
	☒		
	☒		
	☒		
	☒		
9	☒		
Local Public Interest			
	☒		
Does the processor know of any problems this action will cause for the local public?			
10	☒		
Have you contacted regional office and watermaster for comment/concerns?			
	☒		
Send the watermaster comment request form or e-mail request			
11	☒		3.5
Area Headgate requirement (write in Comments)			
12	☒		
Is water right involved in any other department action? Pull file and check database			
() Ownership Change () Transfer () Mitigation () Other - Explain in comments			

Narrative: The Department received this application on June 19, 2019. The applicant wishes to place the entire right in the Bank. The parent of this right, 21-7046, was decreed in 2011. In 2015, the owner of 21-7046 filed an Extension of Time to Avoid Forfeiture which was approved. Forfeiture is not an issue. Unit 2, LLC, filed an ownership change in 2016 and a portion was split from 21-7046 now known as 21-13202. Kathleen Crapo and Robert Crapo, members, signed the application. IDSOS administratively dissolved Unit 2, LLC for failing to file an annual report. There are no overlaps of this right. This right is currently within WD 100.

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Hersley, Jean

From: Hersley, Jean
Sent: Monday, July 15, 2019 9:03 AM
To: Jordan, Blake
Subject: WSB Lease for Unit 2 LLC 21-13202
Attachments: Idled Acres.pdf; Lease Application Review Checklist July 2017.xls; Report - Lease Contract - 1023.docx

Please let me know if you have any comments or concerns with the attached lease within 7 days. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

No. W 134128		Due no later than Feb 28, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. UNIT 2 LLC RICHARD CRAPO 435 N 1500 E SAINT ANTHONY ID 83445		RICHARD CRAPO 435 N 1500 E SAINT ANTHONY ID 83445	
				3. <u>New</u> Registered Agent Signature:*	
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.					
Office Held	Name	Street or PO Address	City	State	Country Postal Code
MEMBER	RICHARD L CRAPO	1908 E 500 N	ST ANTHONY	ID	USA 83445
MEMBER	KATHLEEN DAVIS CRAPO	1908 E 500 N	ST ANTHONY	ID	USA 83445
5. Organized Under the Laws of: ID W 134128		6. Annual Report must be signed.* Signature: Richard L Crapo Date: 12/29/2017 Name (type or print): Richard L Crapo Title: Owner			
Processed 12/29/2017		* Electronically provided signatures are accepted as original signatures.			

Hersley, Jean

From: Lance Crapo <lcrapo@me.com>
Sent: Thursday, July 11, 2019 2:48 PM
To: Hersley, Jean
Subject: Re: Water Supply Bank Lease Application for 21-13202 Unit 2 LLC
Attachments: Application for Leasing 21-13202 PART II.pdf

Hi Jean,

Sorry about that. Justin also had called me, but it's been a busy week. Please see attached pages 3 & 4 — and also a homemade map that shows the POU in black along with the POD. The mainline and circle are no longer on the property as it was deemed unfit for farming some time after it was developed.

If you or Justin have any questions, please don't hesitate to give me a ring: 917 923 0009.

Lance

On Jul 11, 2019, at 10:29 AM, Hersley, Jean <Jean.Hersley@idwr.idaho.gov> wrote:

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

- **Pages 3 and 4 of the Lease application were not submitted. Please fill out these pages (attached) and return to the Department. To speed up processing, you can email the pages to me, then place the originals in the mail.**

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact me at (208) 287-4942.

Sincerely,

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*