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RECEIVED  
JUL 01 2019  
Department of Water Resources  
Eastern Region

*Attorneys for Protestant Glen Atchley*

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR  
TRANSFER NO. 81228 IN THE NAME OF  
BRIAN LOOSLI

**STIPULATION FOR WITHDRAWAL  
OF PROTEST**

THIS STIPULATION FOR WITHDRAWAL OF PROTEST (this "Stipulation") is made and entered into as of the day 1st of ~~June~~ July, 2019, by and between **Brian Loosli** (hereinafter, collectively "Loosli"); and **Glen Atchley** ("Atchley"). Loosli and Atchley may hereinafter be collectively referred to as the "Parties" or individually a "Party."

**RECITALS:**

- A. Loosli filed Application for Transfer No. 81228 (hereinafter simply "81228") on September 22, 2016 with the Idaho Department of Water Resources ("IDWR" or "Department").
- B. 81228 proposes to amend Water Right No. 21-7132 (hereinafter simply "21-7132"). More specifically, as described in 81228, it proposes to "add an existing well as a point of diversion for right 21-7132 and add a corresponding injection point into Fall River. . . and to drop the point of re-diversion in L1 Sec 21, 8N, 42E. The place of use will be changed to remove acres no longer irrigated, add acres under 21-12358, and make some other minor POU adjustments."
- C. When 21-7132 was being developed, the applicants (S. Lynn Loosli and Portia Loosli, Curtis Loosli and Carole Loosli, and Leon and Lila Martindale) also entered into a *Pump and Well Agreement and Easement* dated July 5, 1978 which was recorded as Instrument No. 559673 on August 23, 2016 in the records of Fremont County, Idaho (the "Well Agreement").

- D. Atchley purchased a portion of the Martindale parcel subject to the Well Agreement.
- E. Atchley protested 81228.
- F. Since 81228 was filed and during the pendency of the protest, Atchley submitted a *Notice of Change of Water Right Ownership* for the portion of 21-7132 appurtenant to the property purchased from Martindale from Atchley. The portion split out to Atchley has been assigned the identification number of 21-13268.
- G. Instead of participating in administrative hearings contesting the transfer as provided for under Idaho law, the Parties have elected to enter this Stipulation to resolve the protest that has been filed.

#### **AGREEMENTS:**

- 1. **Approval for 81228.** The Parties agree that IDWR shall issue an approval in the form of the draft approval attached hereto as **Exhibit 1**.
- 2. **Atchley Abandonment of Interest in Well Agreement.** Within thirty (30) days after issuance of the final approval for 81228 described in paragraph 1 herein, Atchley shall execute and record the *Notice of Abandonment of Interest in Pump and Well Agreement and Easement* in the form attached hereto as **Exhibit 2**.
- 3. **Resolution of Protests.** This Stipulation is intended to resolve the protest filed by Atchley. Resolution of this protest is conditioned upon the Department issuing the final approval as set forth herein.
- 4. **Reservation of Rights.** The Parties agree and acknowledge that this Stipulation only resolves Atchley's protest to 81228. The Parties shall not use this Stipulation in any other administrative or judicial proceedings for any purpose, other than an action to enforce its terms as provided in paragraph 8 below.
- 5. **Reliance Upon Statements/Integration and Merger.** The Parties specifically acknowledge that they have executed this Stipulation without relying upon any statements or representations written or oral, as to any statement of law or fact made by any other person or attorney. The Parties to this Stipulation have read and understand the Stipulation and warrant and represent that this Stipulation is executed voluntarily and without duress or undue influence on the part of or on behalf of any party. This agreement represents the sole entire and integrated Stipulation by and between the Parties hereto and supersedes any and all prior understandings or agreements whether written or oral except as specifically provided herein.
- 6. **Successors and Assigns.** This Stipulation shall be binding upon and shall inure to the benefit of each Party's officers, directors, shareholders, heirs, successors and assigns, and shall be specifically enforceable.

7. **Waiver and Modification.** No provision of this Stipulation may be waived, modified, or amended except by written agreement executed by all the Parties hereto.
8. **Enforcement and Interpretation.** This Stipulation is a valid and binding obligation of the parties, and their successors or assigns. It shall be admissible and enforceable according to its terms, and venue in any subsequent action shall rest within the State of Idaho. This Stipulation is subject to interpretation in accordance with the laws of the State of Idaho.
9. **Counterparts.** This Stipulation may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument.

  
Brian Loosli

  
Glen Atchley

**EXHIBIT 1**  
**DRAFT TRANSFER APPROVAL**

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

DRAFT, JUNE 27, 2019

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 81228**

DRAFT, JUNE 27, 2019

This is to certify that: BRIAN LOOSLI  
3127 E 1100 N  
ASHTON, ID 83420

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

**Summary of Water Rights Before the Proposed Changes**

| <u>Water Right</u> | <u>Origin/Basis</u> | <u>Priority Date</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>Source</u> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 21-7132            | WR/DECREED          | 7/14/1977            | 8.470 cfs             | 3595.3 af               | 1436.5            | 1740.2             | GROUND WATER  |

**Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)**

| <u>Water Right</u> | <u>Origin/Basis</u> | <u>Priority Date</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>Source</u> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 21-12358           | WR/DECREED          | 4/1/1948             | 3.200 cfs             | 962.5 af                | 275.0             | 278.2              | GROUND WATER  |

**Purpose of Transfer (Changes Proposed)**

| <u>Current Number</u> | <u>Split</u> | <u>POD</u> | <u>POU</u> | <u>Add POD</u> | <u>Period of Use</u> | <u>Nature of Use</u> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 21-7132               | YES          | YES        | YES        | YES            | NO                   | NO                   |

**Summary Of Water Rights After the Approved Change**

| <u>Existing Right</u>  | <u>New No. (Changed Portion)</u> | <u>Transfer Rate</u> | <u>Transfer Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>New No. (remaining portion)</u> | <u>Remaining Rate</u> | <u>Remaining Volume</u> | <u>Remaining Acre Limit</u> | <u>Remaining Total Acres</u> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 21-7132                | 21-13258                         | 6.750 cfs            | 2865.2 af              | 1144.6            | 1651.5             | 21-7132                            | 1.720 cfs             | 730.1 af                | 291.9                       | 353.6                        |
| <b>COMBINED TOTALS</b> |                                  | <b>6.750 cfs</b>     | <b>2865.2 af</b>       | <b>1144.6</b>     | <b>1651.5</b>      |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Chief, Water Allocation Bureau

Transfer No. 81228

**WATER RIGHT NO. 21-7132****As Modified by Transfer No. 81228**

In accordance with the approval of Transfer No. 81228, Water Right No. 21-7132 is now described as follows:

**Right Holder:** DALE L BUCKWALTER  
836 N 3275E  
PO BOX 870  
ASHTON, ID 83420

CURTIS LOOSLI  
3140 E 1100 N  
ASHTON, ID 83420

**Priority Date:** 7/14/1977

**Source:** GROUND WATER

**BENEFICIAL USE**

IRRIGATION

**From**

04/01

**To**

to 10/31

**Diversion Rate**

1.720 cfs

1.720 cfs

**Diversion Volume**

730.1 af

730.1 af

**LOCATION OF POINT(S) OF DIVERSION**

|              |           |                        |                |     |
|--------------|-----------|------------------------|----------------|-----|
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County |     |
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County | (R) |
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County | (I) |
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County | (I) |
| GROUND WATER | L1 (NESE) | Sec 21 Twp 08N Rge 42E | FREMONT County | (R) |
| GROUND WATER | L4 (SWSW) | Sec 21 Twp 08N Rge 42E | FREMONT County |     |
| GROUND WATER | L8 (SWNE) | Sec 23 Twp 08N Rge 42E | FREMONT County | (R) |
| GROUND WATER | SWSWSE    | Sec 16 Twp 08N Rge 43E | FREMONT County | (R) |
| GROUND WATER | NWSESE    | Sec 17 Twp 08N Rge 43E | FREMONT County | (R) |
| GROUND WATER | NESENW    | Sec 8 Twp 08N Rge 43E  | FREMONT County | (R) |

**PLACE OF USE: 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 | 42E | 21  |    |    |    | 40.0 |    |    |    |    |      |      |      |      | 14.0 |      |      |      | 54.0   |
|     |     |     |    |    |    |      |    |    |    |    |      |      |      |      | L 1  |      |      |      |        |
| 08N | 42E | 22  |    |    |    |      |    |    |    |    | 2.2  |      |      | 2.7  | 40.0 | 28.4 | 35.7 | 39.0 | 148.0  |
|     |     |     |    |    |    |      |    |    |    |    | L 6  |      |      |      |      | L 7  |      |      |        |
| 08N | 42E | 23  |    |    |    |      |    |    |    |    | 35.1 | 40.0 | 40.0 | 36.5 |      |      |      |      | 151.6  |

Right Acre Limit: 291.9

POU Total Acres: 353.6

Transfer No. 81228

**WATER RIGHT NO. 21-7132**  
**As Modified by Transfer No. 81228**

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 291.9 acres within the authorized place of use in a single irrigation season.
2. Use of water under this right will 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. 01.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
5. This right is subject to all prior existing water rights and no demand on upstream prior rights or existing exchanges can be made or interference with prior downstream rights allowed even if the exchange well is pumping water into Fall River.
6. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

**WATER RIGHT NO. 21-13258****As Modified by Transfer No. 81228**

In accordance with the approval of Transfer No. 81228, Water Right No. 21-13258 is now described as follows:

**Right Holder:** S LYNN LOOSLI  
3140 E 1100 N  
ASHTON, ID 83420

**Priority Date:** 7/14/1977

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| IRRIGATION            | 04/01       | to 10/31  | 6.750 cfs             | 2865.2 af               |
|                       |             |           | 6.750 cfs             | 2865.2 af               |

**LOCATION OF POINT(S) OF DIVERSION**

|              |           |                        |                |     |
|--------------|-----------|------------------------|----------------|-----|
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County | (I) |
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County | (I) |
| GROUND WATER | SENE      | Sec 13 Twp 08N Rge 41E | FREMONT County |     |
| GROUND WATER | L1 (SESE) | Sec 20 Twp 08N Rge 42E | FREMONT County |     |
| GROUND WATER | L4 (SWSW) | Sec 21 Twp 08N Rge 42E | FREMONT County |     |
| GROUND WATER | NWSESE    | Sec 17 Twp 08N Rge 43E | FREMONT County | (R) |
| GROUND WATER | NESE      | Sec 13 Twp 08N Rge 41E | FREMONT County | (I) |
| GROUND WATER | NESENW    | Sec 8 Twp 08N Rge 43E  | FREMONT County | (R) |
| GROUND WATER | SWSWSE    | Sec 16 Twp 08N Rge 43E | FREMONT County | (R) |

**PLACE OF USE: 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 | 12  |      |      |      |      |      |      |      |      |      |      |      |      |      |      | 6.4  | 6.8  | 13.2   |
| 08N | 41E | 13  | 40.0 | 37.0 | 36.0 | 38.0 |      |      | 31.0 | 40.0 | 13.0 | 20.0 |      |      |      |      |      |      | 255.0  |
|     |     |     |      |      |      |      |      |      | L 3  |      | L 5  | L 4  |      |      |      |      |      |      |        |
| 08N | 41E | 14  |      |      |      |      |      |      |      |      |      |      |      |      | 10.0 |      |      |      | 10.0   |
|     |     |     |      |      |      |      |      |      |      |      |      |      |      |      | L 1  |      |      |      |        |
| 08N | 43E | 8   |      |      | 18.7 | 38.2 |      |      |      | 8.5  | 37.7 | 5.2  | 22.9 | 20.1 | 40.0 | 40.0 | 32.9 | 25.3 | 289.5  |
| 08N | 43E | 9   |      |      |      |      |      |      |      |      | 40.0 | 40.0 | 19.4 | 14.4 |      | 40.0 | 37.7 | 40.0 | 231.5  |
| 08N | 43E | 16  | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 25.1 | 20.2 | 19.2 | 40.0 | 14.5 | 0.9  | 519.9  |
| 08N | 43E | 17  | 38.5 | 31.1 | 40.0 | 40.0 | 37.3 | 12.1 | 6.6  | 36.7 | 20.0 |      |      |      | 37.9 | 28.5 |      | 3.7  | 332.4  |

Right Acre Limit: 1144.6

POU Total Acres: 1651.5

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 1,144.6 acres within the authorized place of use in a single irrigation season.

Transfer No. 81228

**WATER RIGHT NO. 21-13258**

**As Modified by Transfer No. 81228**

**CONDITIONS OF APPROVAL**

2. Water rights 21-12358 and 21-13258 are appurtenant to the same 278.2 acres in Sections 12, 13 and 14, T08N, R41E.
3. Use of water under this right will 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 Nos. 01 and 100.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. The right holder shall maintain two separate measuring devices at the point of diversion located in the SENE, Section 13, T08N, R41E: one to measure the quantity of water injected into Fall River and one to measure the quantity of water diverted for direct irrigation.
6. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8. This right is subject to all prior existing water rights and no demand on upstream prior rights or existing exchanges can be made or interference with prior downstream rights allowed even if the exchange well is pumping water into Fall River.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

**WATER RIGHT NO. 21-12358**  
**As Modified by Transfer No. 81228**

In accordance with the approval of Transfer No. 81228, Water Right No. 21-12358 is now described as follows:

**Right Holder:** S LYNN LOOSLI  
 PORTIA R LOOSLI  
 3140 E 1100 N  
 ASHTON, ID 83420

**Priority Date:** 4/1/1948

**Source:** GROUND WATER

|                              |                    |                  |                              |                                |
|------------------------------|--------------------|------------------|------------------------------|--------------------------------|
| <b><u>BENEFICIAL USE</u></b> | <b><u>From</u></b> | <b><u>To</u></b> | <b><u>Diversion Rate</u></b> | <b><u>Diversion Volume</u></b> |
| IRRIGATION                   | 04/15              | to 10/15         | 3.200 cfs                    | 962.5 af                       |
|                              |                    |                  | 3.200 cfs                    | 962.5 af                       |

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      SENE                      Sec 13 Twp 08N Rge 41E FREMONT County

**PLACE OF USE: 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 | 12  |      |      |      |      |    |    |      |      |      |      |    |    |      |    |     |     |        |
| 08N | 41E | 13  | 40.0 | 37.0 | 36.0 | 38.0 |    |    | 31.0 | 40.0 | 13.0 | 20.0 |    |    |      |    | 6.4 | 6.8 | 13.2   |
|     |     |     |      |      |      |      |    |    | L 3  |      | L 5  | L 4  |    |    |      |    |     |     | 255.0  |
| 08N | 41E | 14  |      |      |      |      |    |    |      |      |      |      |    |    | 10.0 |    |     |     | 10.0   |
|     |     |     |      |      |      |      |    |    |      |      |      |      |    |    | L 1  |    |     |     |        |

Right Acre Limit: 275.0

POU Total Acres: 278.2

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 275 acres within the place of use described above in a single irrigation season.
2. Rights 21-41G, 21-51B, 21-12358, 21-12977 and 21-12978 when combined shall not exceed a total diversion rate of 7.02 cfs and the irrigation of 278.2 acres.
3. Water rights 21-12358 and 21-13258 are appurtenant to the same 278.2 acres in Sections 12, 13 and 14, T08N, R41E.
4. Use of water under this right will 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 Districts 01 and 100.

Transfer No. 81228

**WATER RIGHT NO. 21-12358**

**As Modified by Transfer No. 81228**

**CONDITIONS OF APPROVAL**

5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
8. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
9. Each year prior to commencing diversion and use of water under this right, the right holder shall obtain the expressed written certification of the Water District No. 1 watermaster that the right holder has dedicated and assigned 275 acre feet of stored water for use by the watermaster to release into Henrys Fork River to mitigate depletion of river flow resulting from diversion of ground water when this right is not in priority. Operation of the well at any time without the written certification of the watermaster shall be a violation of Section 42-351, Idaho Code.
10. Use of water under this right may be affected by the provisions of that certain agreement between the rightholder and others dated December 12, 1994, to the extent that the provisions of said agreement can lawfully be implemented.
11. The right holder shall accomplish the change authorized by transfer 4456 within one year of the date of the approval.
12. Failure of the right holder to comply with the conditions of transfer 4456 is cause for the Director to rescind approval of the transfer.
13. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

## EXHIBIT 2

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Clen and Emma Atchley  
4054 E. 1330 N.  
Ashton, ID 83420

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(Space Above for Recorder's Use)

### NOTICE OF ABANDONMENT OF INTEREST IN PUMP AND WELL AGREEMENT AND EASEMENT (INSTRUMENT NO. 559673)

THIS NOTICE OF ABANDONMENT OF INTEREST IN PUMP AND WELL AGREEMENT AND EASEMENT is hereby provided by **Clen Atchley and Emma Atchley**, husband and wife, of 4054 E. 1330 N., Ashton, Idaho 83420 (collectively, the "Atchleys"), which relates to *Pump and Well Agreement and Easement* dated July 5, 1978 which was recorded as Instrument No. 559673 on August 23, 2016 in the records of Fremont County, Idaho between S. Lynn Loosli and Portia Loosli, Curtis Loosli and Carole Loosli, and Leon and Lila Martindale (the "Well Agreement").

#### WITNESSETH:

1. The Atchleys are the owners of property described in the *Warranty Deed* dated May 17, 1993 which was recorded as Instrument No. 426433 on May 25, 1993 in the records of Fremont County, Idaho (the "Atchley Property").
2. The Atchley Property was previously owned by Leon and Lila Martindale that is subject to the Well Agreement. The Atchleys are therefore successors-in-interest to that portion of the Martindale property subject to the Well Agreement and are therefore bound and subject to the terms of the Well Agreement.

#### NOTICE OF THE FOLLOWING IS HEREBY GIVEN:

The Atchleys hereby abandon any and all right, title, and interest in the well, pump, diversion facilities, easements, and other rights and obligations described in the Well Agreement described herein (recorded as Instrument No. 559673 in the records of Fremont County, Idaho). Accordingly, the Atchleys shall have no obligation to share in the electrical, maintenance, or other costs associated with such well, or otherwise have any obligation to repair or maintain the wells or any of its appurtenances.

**"Atchleys"**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clen Atchley

Dated: \_\_\_\_\_

\_\_\_\_\_  
Emma Atchley

STATE OF IDAHO           )  
                                      )ss.  
County of Fremont        )

This record was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2019, by **CLEN ATCHLEY**.

\_\_\_\_\_  
Notary Public for Idaho  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO           )  
                                      )ss.  
County of Fremont        )

This record was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2019, by **EMMA ATCHLEY**.

\_\_\_\_\_  
Notary Public for Idaho  
My Commission Expires: \_\_\_\_\_

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2019, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

**DOCUMENT SERVED: STIPULATION FOR WITHDRAWAL OF PROTEST**

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