

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

81730

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED

MAY 29 2018

Department of Water Resources
Idaho

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at www.idwr.idaho.gov.

Name of Applicant(s) Widmer Ranch LLC

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

AMENDED

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☒ ☐ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☒ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).**
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☐ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 29 2018

Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Widmer Ranch LLC

Phone 208-540-0599

Mailing address 461 Widmer Lane, Geneva, ID 83238

Email janetwidmer@live.com

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

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

☐ No Representative

Name of Representative _____

Phone _____

Mailing address _____

Email _____

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

OR

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

AMENDED

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

OR

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

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


Signature of Applicant or Authorized Representative

KIRAK WIDMER
Print Name and Title if applicable

5/29/2018
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

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

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**.

Transfer corrects errors in Thomas Fork Decree. Samuel Widmer rights have always been associated with our property. Deeds provided with the transfer show property was owned by Samuel Widmer in 1919. The transfer will cover acres previously irrigated by 11-7678 (moved off of property by Transfer 81752)..

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	11-119	0.66 cfs	Irrigation	4/20 to 9/30	Thomas Fork
☐ ☒	11-120	0.24 cfs	Irrigation	4/20 to 9/30	Thomas Fork
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.90 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.90 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Y			NW	SW	26	12S	46E	Bear Lake	Thomas Fork	Pump Station

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	46E	26								15.6	23.2	27		24.2					90
										L2	L3			L4					
Total Acres (for irrigation use)																			90

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Pumping station will be measured and regulated by watermaster for WD 11F (Thomas Fork).

- b. Who owns the property at the point(s) of diversion? Applicants

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
N/A

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: N/A Water will continue to be used on contiguous ranch property.

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
This transfer will correct an error in the Thomas Fork Decree. The Samuel Widmer right was decreed in the wrong Township and in the wrong section. The deeds provided show that the Samuel Widmer property should have been described in Sections 2 and 3, T13S, R46E. We are moving it to Section 26.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
None

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

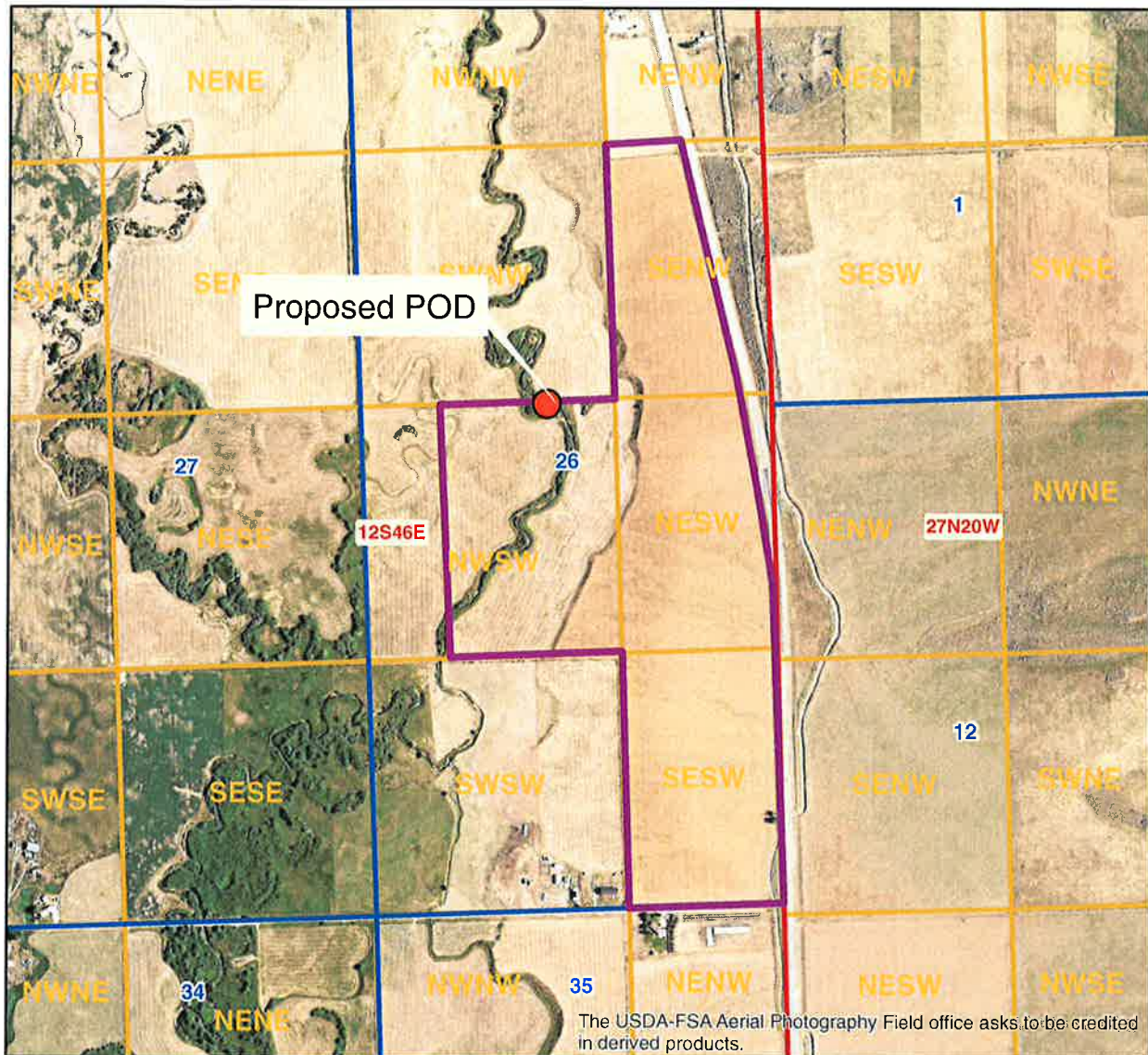
Yes No

- ☒ ☐ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

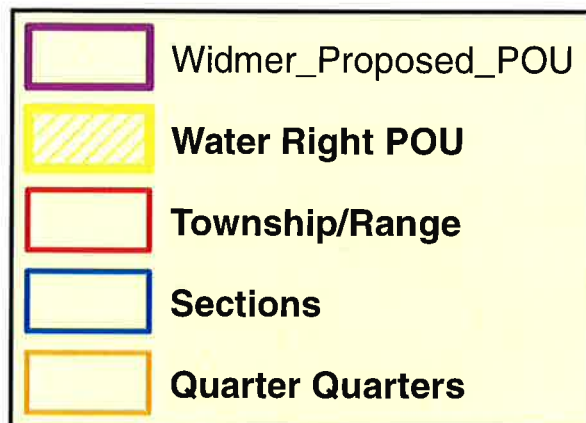
If yes, describe:

In the past, the Samuel Widmer rights have been used to irrigate our property through the Taylor Canal. In more recent years, because of the error in the decree, Taylor Canal Company has not been willing to let us divert these rights from the canal. We diverted these rights in 2017.

Application for Transfer - Widmer 11-119 and 11-120



2013 Aerial Photo



0 750 1,500 Feet



Attachment 11
RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Robert L. Harris, Esq.
Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130
Idaho Falls, ID 83405-0130

(Space Above for Recorder's Use)

WATER RIGHTS ALLOCATION AGREEMENT

This Water Rights Allocation Agreement (this "Agreement") is entered into by and between **Laura Widmer**, a single woman, whose address is P.O. Box 64, Geneva, ID 83238 (hereinafter "Laura"), and **Widmer Ranch, L.L.C.**, an Idaho limited liability company, whose address is 461 Widmer Lane, Geneva, ID 83238 (hereinafter "Widmer Ranch"). Laura and Widmer Ranch may be referred to herein individually as a "Party" and collectively the "Parties."

RECITALS

- A. Water Right Nos. 11-119 and 11-120 were decreed on February 20, 1902, in the case of *Fawsett Bros. et al. vs. Thomas Fork Irrigation and Canal Company et al.* (the "Thomas Fork Decree"), to Samuel Widmer.
- B. Water Right No. 11-119 (hereinafter simply "11-119") was decreed for 0.8 cfs to be diverted from the Thomas Fork Canal with a priority date of June 15, 1885, for the irrigation of the following described property as set forth in the Thomas Fork Decree:
- "W1/2NE1/4, NW1/4SE1/4, NE1/4SW1/4, Sec. 3, T.12 S., R. 46"
- C. Water Right No. 11-120 (hereinafter simply "11-120") was decreed for 0.8 cfs to be diverted from the Muddy Canal with a priority date of September 15, 1894, for the irrigation of the following described property contained in the Thomas Fork Decree:
- "See 6/15/85 right"
- D. It appears that the place of use description for 11-119 and 11-120 (by reference to 11-119's place of use) contained a typographical error because the place of use legal description in the Thomas Fork Decree describes property that was not owned by Samuel Widmer.
- E. Laura and Widmer Ranch now own property originally owned by Samuel Widmer.

- F. A dispute has arisen between the Parties regarding the ownership of 11-119 and 11-120. The Parties desire to resolve this ownership issue pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of their mutual promises and agreements expressed herein, the sufficiency of which consideration the Parties hereby acknowledge, the Parties agree as follows:

1. **Allocation of Water Rights.** The Parties hereby agree to the following allocation of ownership of 11-119 and 11-120:

SPLIT OF WATER RIGHT NOS. 11-119 AND 11-120							
Water Right	Priority Date	Div. Rate (cfs)	Miner's Inches	Source	Water Use	Individual Acre Unit	Combined Acres
ORIGINAL WATER RIGHT							
11-119	6/15/1885	0.8	40	THOMAS FORK	IRRIGATION	80	160
11-120	9/15/1894	0.8	40	THOMAS FORK	IRRIGATION	80	
TOTALS		1.6	80			160	160

SPLIT TO WIDMER RANCH LLC							
11-119	6/15/1885	0.66	33	THOMAS FORK	IRRIGATION	66	90
11-120	9/15/1894	0.24	12	THOMAS FORK	IRRIGATION	24	
TOTALS		0.9	45			90	90
SPLIT TO LAURA WIDMER							
11-119	6/15/1885	0.14	7	THOMAS FORK	IRRIGATION	14	70
11-120	9/15/1894	0.56	28	THOMAS FORK	IRRIGATION	56	
TOTALS		0.7	35			70	70
SPLIT TOTALS							
		1.6	80			160	160

2. **General Provisions.**

2.1. **Binding Effect.**

2.1.1. This Agreement shall be binding upon each of the Parties to this Agreement and any and all of its successors, representatives, attorneys, assigns, agents, employees, members, servants, insurers, reinsurers, underwriters, parent entities, holding companies, subsidiaries, and/or related entities, and any and all other persons and entities acting for, by or through said Party or on said Party's behalf.

2.1.2. This Agreement shall inure to the benefit of each of the Parties to this Agreement, their attorneys, and any and all of the Party's successors, representatives, assigns, agents, employees, servants, insurers, reinsurers,

underwriters, parent entities, holding companies, subsidiaries and/or related entities, and any and all other persons and entities acting for, by or through such Party.

- 2.2. Recording.** This Agreement shall be recorded in the records of Bear Lake County, Idaho, on the properties of the Parties upon which the parties intend to use the water allocated to each Party's share of 11-119 and 11-120. The Parties agree that the recording of this Agreement shall function as a quitclaim deed in conveying any right, title, or interest each Party has in 11-119 and 11-120 to the other Party.
- 2.3. No Third-Party Beneficiary.** No term or provision of this Agreement is intended to be, nor may any term or provision be construed to be, for the benefit of any person, firm, corporation, or other entity not a party to this Agreement, and no other person, firm, corporation, or entity has any right or cause of action under this Agreement.
- 2.4. Waiver.** Failure of either Party to require performance of any provision of the Agreement shall not affect either Party's right to require full performance thereof at any time thereafter and the waiver by either party of a breach of any provisions hereof shall not constitute a waiver of a similar breach in the future or of any other breach or nullify the effectiveness of such provision.
- 2.5. Attorneys' Fees.** If any Party engages an attorney to enforce or interpret any provisions of or rights arising under this Agreement, the defaulting Party shall pay to the non-defaulting Parties all costs and expenses, including, but not limited to, reasonable attorneys' fees and costs, which the non-defaulting Parties may incur in enforcing this Agreement or in pursuing any remedy allowed by law, whether such is incurred by the filing of suit, on appeal, or otherwise.
- 2.6. Choice of Law, Venue, and Forum.** This Agreement is governed by, and construed and enforced in accordance with, the laws of the State of Idaho. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may only be brought against any of the parties in the state or federal courts in the State of Idaho in and for Bear Lake County, Idaho, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objections to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world.
- 2.7. Headings.** The headings in this Agreement are for reference only and do not limit or define the meaning of any provision of this Agreement.
- 2.8. Interpretation.** Each party has participated fully in the review of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The Parties declare that

the terms of this Agreement were derived through mutual negotiation and compromise, that this Agreement shall be deemed drafted by both Parties and any presumption or principle that the language shall be construed against either Party shall not apply.

2.9. Entire Agreement. This Agreement sets forth the entire understanding of the Parties with respect to the matters set forth in this Agreement and it supersedes all prior oral or written agreements of the Parties as to the matters set forth in this Agreement; and it cannot be altered or amended except by an instrument in writing, signed by both Parties.

2.10. Severability. If any provision of this Agreement or any portion of any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the invalidity, illegality, or unenforceability may not alter the remaining portion of such provision, or any other provision of this Agreement, as each provision of this Agreement is deemed severable from all other provisions of this Agreement.

2.11. Obligation and Authority. This Agreement constitute the legal, valid, and binding obligation of the parties, enforceable against the Parties in accordance with its terms. Each Party has the absolute and unrestricted right, power, and authority to execute and deliver this Agreement and to perform its obligations hereunder

2.12. Counterparts. This Agreement 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.

Each of the undersigned has fully read this Agreement and fully understands and voluntarily accepts the terms of this Agreement. The Parties declare that each has carefully read this Agreement, that each has reviewed its terms with each one's respective counsel, and that each agrees to it for the purpose herein described.

[Signature Page Follows]

COUNTERPART SIGNATURE PAGE

DATED this 4 ^{may}~~day~~ of ~~April~~^{RSW}, 2018.

WIDMER RANCH, L.L.C.

Kirk Widmer

By: Kirk Widmer

Its: Member

Janet Widmer

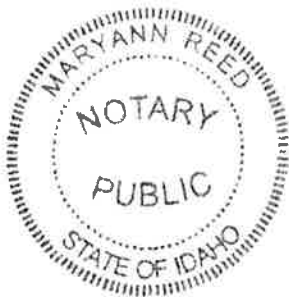
By: Janet Widmer

Its: Member

STATE OF IDAHO)

County of Bonneville) ss.
~~BLAINE~~)

This record was acknowledged before me on this 4 ^{may MK} day of ~~April~~, 2018, by **KIRK WIDMER** and **JANET WIDMER** as members of **WIDMER RANCH, L.L.C.**, an Idaho limited liability company.



Maryann Reed
NOTARY PUBLIC FOR IDAHO
My commission expires: 3-26-24

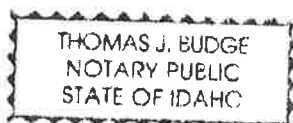
COUNTERPART SIGNATUER PAGE

DATED this 20th day of April, 2018.

Laura Widmer
Laura Widmer

STATE OF IDAHO)
)ss.
County of BEAR LAKE)

This record was acknowledged before me on the 20th day of April, 2018, by LAURA WIDMER.



Thomas J. Budge
Notary Public for Idaho
My Commission Expires: 12-21-18