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DEC 19 2017

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 82068**MINIMUM REQUIREMENTS CHECKLIST**
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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

Name of Applicant(s) Idaho Water Company, LLC

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

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

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

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

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☒ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at 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: Federal right-of-way grant no. IDI 016775 for point of diversion access

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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WATER RESOURCES
DIVISION

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Idaho Water Company, LLC Phone 208-312-1135

Mailing address 1135 Valley Rd. S., Eden, ID 83325 Email _____

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

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

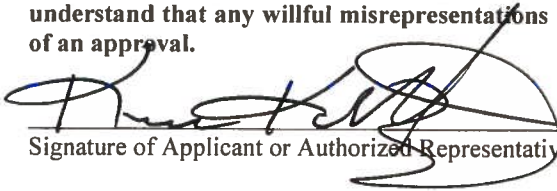
☐ No Representative

Name of Representative SPF Water Engineering LLC Phone 208-383-4140

Mailing address 300 E. Mallard Dr., Suite 350, Boise, ID 83706 Email lgraves@spfwater.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

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


Signature of Applicant or Authorized Representative

Kevin Kohrtz / Idaho Water Co
Print Name and Title if applicable

12/14/17
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
☐ Change nature of use

☐ Add diversion point(s)
☐ Change period of use

☒ Change place of use
☐ Other _____
- 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**.
 Change the place of use and point of diversion for a portion of water right 2-10017 as described in the water right option agreement included as Attachment 3. No changes are proposed to the remaining right.

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 ☐ ☒	2-10017	1.98/675	Irrigation	3/15 to 11/15	Snake R., Columbia R.
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 29 cfs and/or 9860 acre-feet.

2. Total amount of water proposed to be transferred or changed 1.98 cubic feet per second and/or 675 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 #
N	4	NW	NW	NW	1	6S	7E	Elmore	Snake River	Existing Pump Station

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.) (new pou for portion proposed for transfer)

- ☐ 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	
5S	7E	36		30			40	40	40										150
Total Acres (for irrigation use)																			150

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

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

Existing pump station from the Snake River to distribution piping and irrigation system.

- b. Who owns the property at the point(s) of diversion? USDI-Bureau of Land Management (BLM)

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Federal right-of-way grant no. IDI 016775

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

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

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank? If yes, ☐ complete Attachment WSB.
- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
Acres identified for transfer at original place of use will no longer be irrigated.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

Existing POD & POU: water right 2-2251 for irrigation of additional acres within the same same PPU from the same irrigation system.

Proposed POU: none; proposed POD: 2-2379

- 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:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 2-10017

Current Owner: JACKIE VAN ES
DALE VAN ES

Priority Date: 12/4/1963

Origin: Water Right

Status: Active

Basis: Decreed

Source

SNAKE RIVER

Tributary

COLUMBIA RIVER

Beneficial Use

IRRIGATION

From To

03/15 to 11/15

Total Diversion

Diversion Rate

29 CFS

29 CFS

Annual Volume

9860 AF

9860 AF

Location of Point(s) of Diversion

SNAKE RIVER

OWYHEE County

SE1/4NW1/4

Sec. 30, Twp 02S, Rge 01E B.M.

Place of Use

IRRIGATION Within OWYHEE County

T02S R01W S14	SWSW	40.00	T02S R01W S14	SESW	40.00
T02S R01W S14	SWSE	40.00	T02S R01W S15	SENE	40.00
T02S R01W S15	NESW	40.00	T02S R01W S15	SESW	40.00
T02S R01W S15	NESE	40.00	T02S R01W S15	NWSE	40.00
T02S R01W S15	SWSE	40.00	T02S R01W S15	SESE	40.00
T02S R01W S21	SESE	40.00	T02S R01W S22	NENE	40.00
T02S R01W S22	NWNE	40.00	T02S R01W S22	SWNE	40.00
T02S R01W S22	SENE	40.00	T02S R01W S22	NENW	40.00
T02S R01W S22	SENW	40.00	T02S R01W S22	NESW	40.00
T02S R01W S22	NWSW	40.00	T02S R01W S22	SWSW	40.00
T02S R01W S22	SESW	40.00	T02S R01W S22	NESE	40.00
T02S R01W S22	NWSE	40.00	T02S R01W S22	SWSE	40.00
T02S R01W S22	SESE	40.00	T02S R01W S23	NWNE	40.00
T02S R01W S23	SWNE	40.00	T02S R01W S23	NENW	40.00
T02S R01W S23	NWNW	40.00	T02S R01W S23	SWNW	40.00
T02S R01W S23	SENW	40.00	T02S R01W S23	NESW	40.00
T02S R01W S23	NWSW	40.00	T02S R01W S23	SWSW	40.00
T02S R01W S23	SESW	40.00	T02S R01W S23	NWSE	40.00
T02S R01W S23	SWSE	40.00	T02S R01W S26	NWNE	40.00
T02S R01W S26	SWNE	40.00	T02S R01W S26	NENW	40.00
T02S R01W S26	NWNW	40.00	T02S R01W S26	SWNW	40.00
T02S R01W S26	SENW	40.00	T02S R01W S26	NESW	40.00
T02S R01W S26	NWSW	40.00	T02S R01W S26	SWSW	40.00
T02S R01W S26	SESW	40.00	T02S R01W S26	NWSE	40.00
T02S R01W S26	SWSE	40.00	T02S R01W S27	NENE	40.00
T02S R01W S27	NWNE	40.00	T02S R01W S27	SWNE	40.00
T02S R01W S27	SENE	40.00	T02S R01W S27	NENW	40.00
T02S R01W S27	NWNW	40.00	T02S R01W S27	SWNW	40.00
T02S R01W S27	SENW	40.00	T02S R01W S27	NESW	40.00
T02S R01W S27	NWSW	40.00	T02S R01W S27	SWSW	40.00
T02S R01W S27	SESW	40.00	T02S R01W S27	NESE	40.00
T02S R01W S27	NWSE	40.00	T02S R01W S27	SWSE	40.00
T02S R01W S27	SESE	40.00	T02S R01W S34	NENE	40.00
T02S R01W S34	NWNE	40.00	T02S R01W S34	NENW	40.00

Total Acres: 2720

Conditions of Approval:

1. P29 This right is a combination of old right nos. 2-2249, 2-2250, 2-2252, 2-2253, 2-2254, 2-2255 and 2-2256.
2. X35 Rights 2-2251 and 2-10017 when combined shall not exceed a total diversion rate of 29.00 cfs.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. F06 The following rights are diverted through point of diversion described above: 2-2251 and 2-10017.
5. T07 The right holder shall accomplish the change authorized by Transfer 74753 within one year of the date of the approval.
6. 01M 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.
7. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
8. E56 The rights listed below are limited to the irrigation of a combined total of 2,495 acres in a single irrigation season. Combined Right Nos.: 2-2251, 2-10017.
9. X27 This right is limited to the irrigation of 2191 acres within the place of use described above in a single irrigation season.
10. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Decreed Date: 4/5/2010

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

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

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ☒ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**.

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

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

B. CHANGES IN NATURE OF USE (Water Balance)

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

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

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

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

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

Transfer contains 9 pages and 5 attachments.

Received by CA Date 12/19/17 Preliminary check by _____ Date _____

Fee paid \$580⁰⁰ Date 12/19/17 Received by CS Receipt # W045927

Add'l fee paid _____ Date _____ Received by _____ Receipt # _____

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

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHTS

THIS OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHTS (the "Agreement") is made and entered this 17th day of July, 2017 ("Effective Date"), by and between IDAHO WATER COMPANY LLC, an Idaho Limited Liability Company, whose address is 1135 Valley Road South, Eden, Idaho 83325 (hereinafter "Buyer"), and Dale and Jackie Van Es, husband and wife, whose address is 8222 Desert Drive, Marsing, ID 83639 (hereinafter "Seller") (collectively the "Parties").

RECITALS

A. Seller is the owner of that certain decreed Water Right(s) designated as No. 2-10017 (the "Water Right"), attached hereto as EXHIBIT B, in the records of the Idaho Department of Water Resources ("the Department"). The Water Right is and has been appurtenant to the 150 acres of Real Property owned by the Seller and located in Owyhee County, Idaho ("the Property") as more particularly described:

T2S R1W S27 SWSW 34 acres	T2S R1W S34 NENE 35 acres
T2S R1W S27 SESW 1.7 acres	T2S R1W S34 NWNE 40 acres
T2S R1W S27 SWSE .7 acres	T2S R1W S34 NENW 38 acres
T2S R1W S27 SESE .6 acres	

- B. The Property has historically been the permissible place of use for the Water Right, where it has been beneficially and continuously used and not left idle for any period exceeding five years.
- C. The Seller wishes to convey, and the Buyer wishes to buy the amount of Water Rights authorizing diversion for irrigation from the Snake River totaling 1.98 cubic feet per second ("cfs") and 675 acre-feet per annum ("afa"). Seller wishes to forever sever this portion of the above described Water Right from the Property and convey it to Buyer ("the Transfer"), subject to the terms of the Option. **No land is included in this agreement.**
- D. Seller and Buyer acknowledge that the Transfer will require formal application to, and approval by, the Department and that Buyer will handle the Transfer as described herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, the sums to be paid by Buyer to Seller, and the terms and conditions set forth below, the Parties agree as follows:

1. **Option.** Seller offers to grant and convey to Buyer and Buyer does hereby agree to purchase from Sellers an option to purchase the above described portion of Idaho Water Right 2-10017.
2. **Option Price.** The consideration for the Option is [REDACTED] paid to Seller at signing. The option price will be non-refundable and will be applied toward the Total Purchase Price should the Buyer exercise the Option.
3. **Transfer.** During the Option period, Buyer may submit an application for transfer of the Water Right to another property. Costs for the transfer application and any fees for the transfer are the Buyer's expense. Seller agrees to allow Buyer access to all records reasonably necessary to accomplish the Transfer and will in good faith endeavor to cooperate fully with Buyer's efforts to transfer the water including, but not limited to, ensuring that agents, employees, consultants, and representatives of Buyer have reasonable access to the Property on which the Water Rights are diverted, transported and used, at reasonable times, to investigate the Water Rights for Buyer's purposes and to accomplish the Transfer. The Seller will cooperate fully in providing information regarding the historical use of the Water Rights to agents, employees, consultants, and representatives of entities of Buyer or the Department. Upon request, Seller will provide Buyer, its agents or the Department information concerning: (1) who owns other interests in the Water Rights; (2) what land is irrigated with the Water Rights; (3) what other water rights may have been used to irrigate the lands on which the Water Rights are used, and (4) what lands are irrigated by the other portions of the Water Rights, or any other uses made by the Water Rights. Seller will further provide any deeds, abstracts, title opinions, title insurance policies, stock certificates, agreements, assignments, permits, licenses, court decrees, engineering reports, photographs, records of use, utility records, correspondence with State or local water officials, and all other documents or information that pertain to the Water Rights, for purposes of accomplishing the Transfer.

4. **Option Period.** Upon payment of the Option Price, Buyer will hold an exclusive option to purchase the Water Rights for the period of 365 (three hundred sixty-five) days. Seller will not sell, transfer, convey, encumber, lease or otherwise dispose of or abandon the Water Rights (or any portion thereof) without the prior written consent of Buyer. Seller will not solicit any other offers for the portion of the Water Right in which Buyer has an option to purchase. If the Buyer applies to transfer the water and due to delays in transfer approval by the Department, at the Buyer's sole discretion, the option period may be extended by six (6) months for an additional payment of [REDACTED]. Buyer may extend the Option for subsequent six-month terms until the Water Right is transferred for so long as the transfer application remains active. Each additional term will require an Option payment. All Option Payments will be deducted from the purchase price at closing. If the initial 365-day Option period expires before completion of the transfer and Buyer chooses not to extend the Option, this agreement will terminate. Buyer may exercise the Option at any time during the Option Period by providing Seller written notice of its intent to do so.
5. **Purchase Price.** If Buyer exercises the Option, the total purchase price will be [REDACTED]. The total purchase price less the option price, subsequent option payments, and any adjustments due to transfer conditions, will be due and paid on the closing date.
6. **Adjustment to Purchase Price and Water Rights to be Purchased Due to Transfer Conditions.** If the Buyer exercises the Option, Seller and Buyer acknowledge that the Purchase Price is based upon a unit value of [REDACTED] per each acre of water authorized by the Transfer to be available for Buyer's intended use. If due to acknowledged uncertainties in the transfer process or otherwise, the Department approves the Transfer but with conditions limiting the total annual diversion volume to less than proposed, then the Parties agree that the Total Purchase Price will be adjusted based on the number of acres ultimately approved in the transfer.
7. **Use of Water Right.** During the Option Period, Seller will remain in possession and have continued use of the Water Right for irrigation on the Property. If Buyer exercises the option, Seller may continue use of the Water Right through the current irrigation season. Prior to

Closing, the Seller will be entitled to all income from the Water Right; will handle all expenses associated with use of the water right, including but not limited to maintenance, repair, and replacement of any equipment; and will pay when due all taxes associated with the Water Right.

8. **Closing.** Where the Buyer has exercised its option and elected to proceed with purchase of the Water Right, Closing will occur at a reasonable time, place, and location designated by the Parties within thirty (30) days following Department approval of the Transfer. Possession and use of the Water Right passes to Buyer on Closing, subject to the provisions of section 7 in this agreement. At Closing, Buyer will deliver the Purchase Price Balance to Seller, less any permitted adjustments under section 6 of this Agreement, and Seller will provide Buyer with a fully-executed Special Warranty Deed for Water Rights substantially in the form attached hereto as EXHIBIT A conveying the Water Right to Buyer. All costs of Closing, defined as recording fees, closing agent fees, escrow fees, will be shared equally by the Buyer (50%) and Seller (50%).
9. **Compensation of Broker** Seller has enlisted the services of a broker and in consideration of the services performed, Buyer agrees to compensate Seller's broker in the amount equal to the compensation offered by the Seller but not more than 2% of the final purchase price or [REDACTED] Buyer's portion is due and payable only upon closing where Buyer has chosen to exercise the Option. In the event that the total purchase price is adjusted downward under the terms of section 6 in this agreement, Buyer's portion of the broker's compensation will be adjusted to reflect not more than 2% of the final total purchase price.
10. **Attorney Fees.** If any suit occurs or proceeding by either party against the other party, in any way arising out of this Agreement, the prevailing party will be awarded their reasonable attorney fees and costs.
11. **Binding.** This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective heirs, representatives, successors and assigns.

12. **Authority.** Each party represents and warrants to the other that they have full power and authority to enter into this Agreement. Del Kohtz, owner and managing member of Idaho Water Company LLC, discloses that he is a licensed Real Estate Agent and is acting as principal for his own account.
13. **Entire Agreement.** This Option Agreement for Purchase and Sale of Water Rights contains the entire understanding between the Parties related to this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are fully integrated and merged herein.
14. **Modification.** No modification of this Agreement will be valid unless the same is in writing and signed by both Parties.
15. **Notices.** All notices to be given to the Parties will be in writing, delivered in hand, or by U.S. Mail, postage pre-paid directed to such Parties address as contained herein unless such party will have directed in writing that notice be sent to a different address.
16. **Recitals.** The parties agree that the preceding recitals are not mere recitals but are fully integrated provisions of this Agreement.
17. **Counterparts.** This Agreement may be executed in counterparts.
18. **Assignment.** Buyer may assign its Option and other rights under this Agreement.
19. **Severability.** If any provision of this Agreement is determined 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 the parties agree that in such case each provision is deemed severable from all other provisions of this Agreement.
20. **Jurisdiction.** This Agreement is governed by, and construed and enforced under the laws of the State of Idaho.

[end of text; signature page follows]

IN WITNESS WHEREOF the Parties have caused their names to be subscribed on the dates set forth above.

SELLERS:

Dale Van Es

Jackie Van Es

BUYER:

Idaho Water Company LLC,

BY: Kevin Kohrtz, Member

STATE OF IDAHO,)
) ss.
County of anyhoe)

On this 27 day of July, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Dale Van Es & Jackie Van Es, husband and wife, known or identified by me to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same.

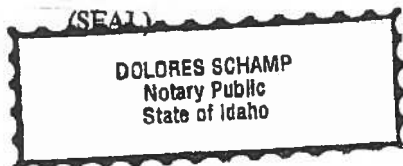
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for Idaho

Residing at MANA, Idaho

Commission expires: 11/25/2017

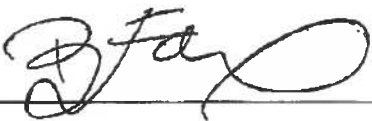


STATE OF IDAHO,)
County of ADA) ss.

On this 14 day of JULY, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Kevin G. Kohtz, known and identified to me to be a Member of Idaho Water Company, LLC, an Idaho liability company, that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





Notary Public for Idaho
Residing at BOISE ID, Idaho
Commission expires: 1/8/22

Exhibit A – Form of Water Rights Deed

When recorded deliver to:

IDAHO WATER COMPANY LLC.
1135 VALLEY ROAD SOUTH
EDEN, ID 83325

SPECIAL WARRANTY DEED FOR WATER RIGHTS

Dale & Jackie Van Es, husband and wife, whose address is 8222 Desert Dr. Marsing, ID 83639 ("Grantor"), do hereby grant, bargain, sell, assign, and convey unto Idaho Water Company LLC, an Idaho Limited Liability company, whose address is 1135 Valley Road South, Eden, Idaho 83325, ("Grantee"), and to Grantee's heirs, successors, and assigns forever, that 150 acre portion of the certain decreed Water Right No. 2-10017 ("the Water Right") that had been appurtenant to the Owyhee County, State of Idaho, real property described as:

T2S R1W S27 SWSW	34 acres	T2S R1W S34 NENE	35 acres
T2S R1W S27 SESW	1.7 acres	T2S R1W S34 NWNE	40 acres
T2S R1W S27 SWSE	.7 acres	T2S R1W S34 NENW	38 acres
T2S R1W S27 SESE	.6 acres		

and subsequently severed therefrom.

TO HAVE AND TO HOLD, the said Water Rights, together with any and all interests, and appurtenances incident thereto, and all the rights, estates, titles, claims, permits, licenses, or shares of stock evidencing, claiming, or representing said water rights, unto the said Grantee, and to the Grantees heirs and assigns forever. Grantor, for itself, its successors and assigns, covenant and agree that it will warrant title and forever defend the Water Rights in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming the whole of any part thereof, by, through, or under Grantor, or against adverse claims arising by, through or under the acts or omissions of Grantors. The singular shall include the plural and the use of any gender shall be applicable to all genders.

To the extent the Water Rights, or any of them, are represented by a permit or other property not conveyable by deed, this deed shall be deemed and operate as a bill of sale therefore.

Grantor retains no residual or reversionary interest in any of the Water Rights transferred.

Grantor hereby covenants and warrants to Grantee:

Exhibit B

(Water Rights)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/20/2017

WATER RIGHT NO. 2-10017

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DALE VAN ES
Current Owner	JACKIE VAN ES 8222 DESERT DR MARSING, ID 83639 2088965990
Directors Report Owner	HULET FARM MANAGEMENT CO C/O JAY H HULET 15103 MURPHY FLAT RD MURPHY, ID 83650 2088342738
Security Interest	WELLS FARGO FINANCIAL LEASING INC 800 WALNUT ST MAC F4031-050 DES MOINES, IA 58039 5155574498
Security Interest	RABO AGRIFINANCE INC 12443 OLIVE BLVD STE 50 ST LOUIS, MO 63141

Priority Date: 12/04/1963

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	29 CFS	9860 AFA
Total Diversion			29 CFS	

Location of Point(s) of Diversion:

SNAKE RIVER SENW Sec. 30 Township 02S Range 01E OWYHEE County

IRRIGATION Use:
Acre Limit: 2191

Place(s) of use:

Place of Use Legal Description: IRRIGATION OWYHEE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
02S	01W	14		SWSW 40			SESW 40							
				SWSE 40										
		15		SENE 40										
				NESW 40			SESW 40							
				NESE 40			NWSE 40			SWSE 40			SESE 40	
		21		SESE 40										
		22		NENE 40			NWNE 40			SWNE 40			SENE 40	
				NENW 40			SENW 40							
				NESW 40			NWSW 40			SWSW 40			SESW 40	
				NESE 40			NWSE 40			SWSE 40			SESE 40	
		23		NWNE 40			SWNE 40							
				NENW 40			NWNW 40			SWNW 40			SENW 40	
				NESW 40			NWSW 40			SWSW 40			SESW 40	
				NWSE 40			SWSE 40							
		26		NWNE 40			SWNE 40							
				NENW 40			NWNW 40			SWNW 40			SENW 40	
				NESW 40			NWSW 40			SWSW 40			SESW 40	
				NWSE 40			SWSE 40							
		27		NENE 40			NWNE 40			SWNE 40			SENE 40	
				NENW 40			NWNW 40			SWNW 40			SENW 40	
				NESW 40			NWSW 40			SWSW 40			SESW 40	
				NESE 40			NWSE 40			SWSE 40			SESE 40	
		34		NENE 40			NWNE 40							
				NENW 40										

Total Acres: 2720

Conditions of Approval:



4/1/2016 Google Photo

SWSW
34 ac

2S 1W

SESW
1.7 ac

SWSE
0.7 ac

SESE
0.6 ac

NENW
38 ac

NWNE
40 ac

NENE
35 ac

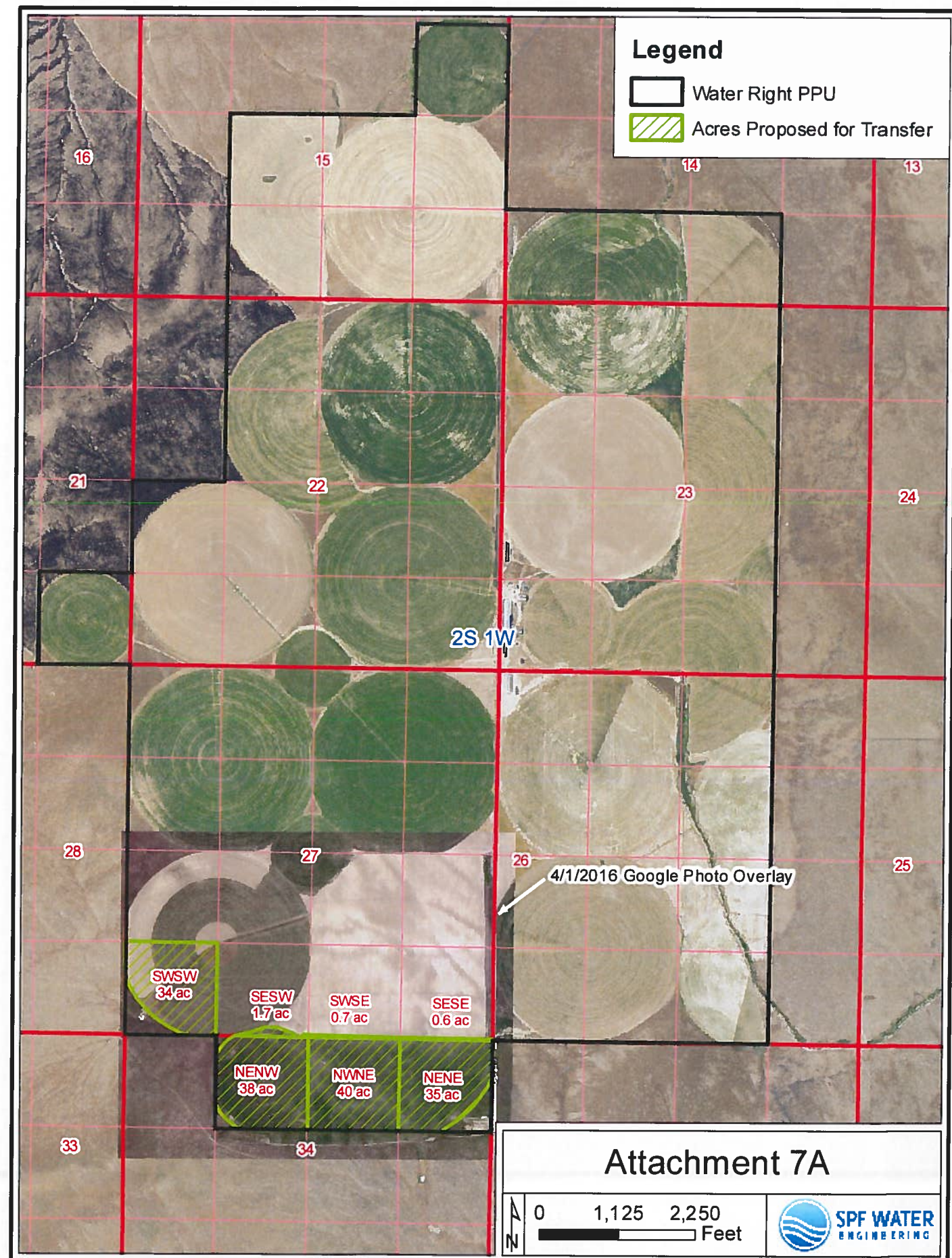
Van Es Murphy Farm
Irrigation Acres to Sale

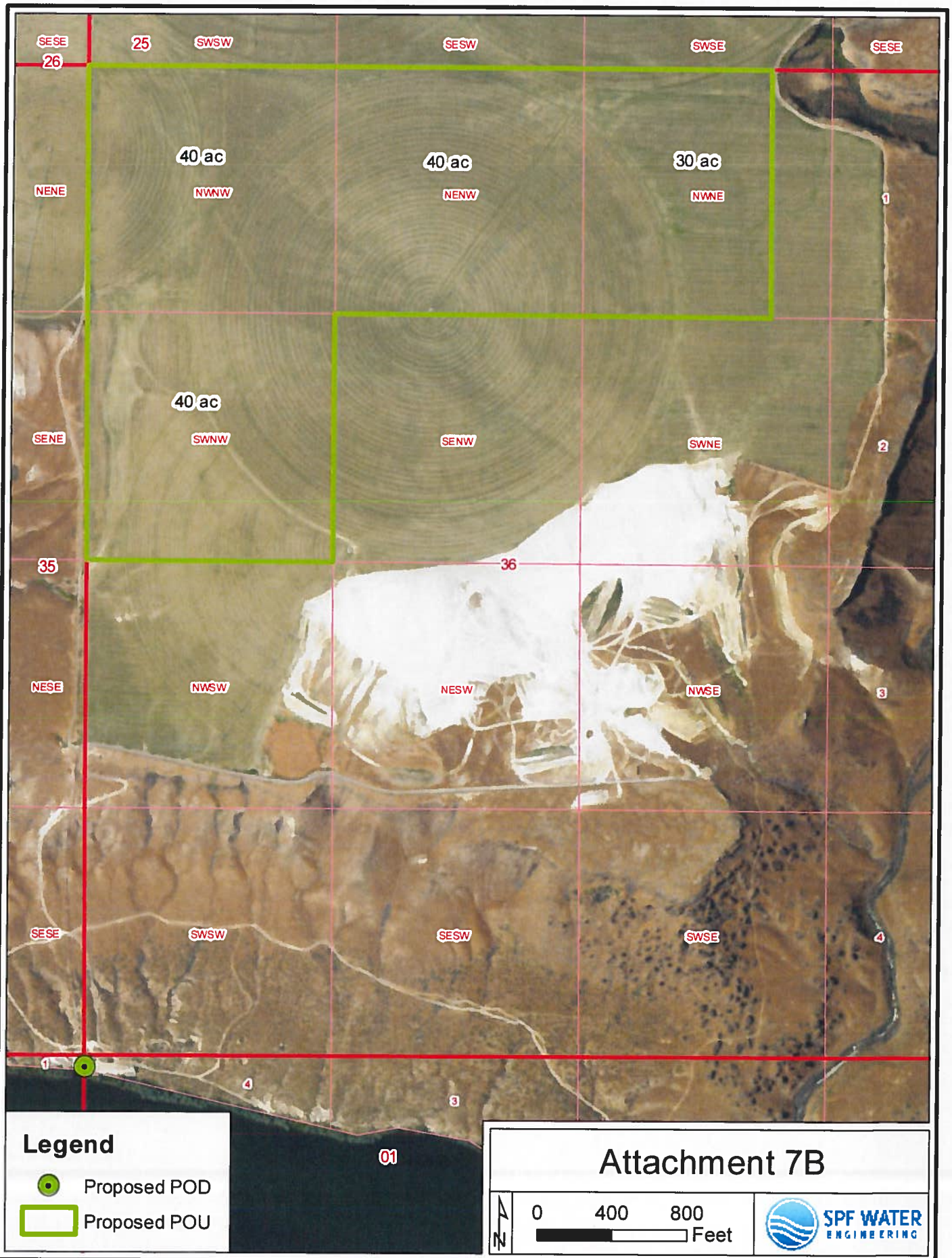


0 500 1,000
Feet



SPF WATER
ENGINEERING





VSS
9-8

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho Land Office
P. O. Box 2237
Boise, Idaho 83701

DECISION

Right-of-Way Granted

DETAILS OF GRANT

Serial number of grant: **Idaho 016775**

Name of grantee: **Robert C. Rice, Jeannette C. Rice, Donald J. Rice, and Donald N. Rice**

Map showing the location and dimensions of grant:

Map designations: **Pipeline Right-of-Way**

Date filed: **September 27, 1965**

Permitted use by grantee: **Irrigation pipeline and pump base**

Authority for grant: **Act of March 3, 1891 (26 Stat. 1101), as amended.**

Regulations applicable to grant:

Code reference: **43 CFR Sections 2234.1 and 2234.3-1**

Circular number(s): **2161**

Date of Grant: **Sept. 8, 1967**

Expiration date of Grant:

Rental: **None**

Amount:

When payable by grantee:

TERMS AND CONDITIONS OF GRANT

Pursuant to the authority vested in the undersigned by Order No. 701 of the Associate Director, Bureau of Land Management, dated July 23, 1964, (29 F.R. 10526), as amended, a right-of-way, the details of which are shown above, is hereby granted subject to the following terms and conditions.

1. All valid rights existing on the date of the grant.
2. All regulations in the circular(s) specified above.
3. Filing of proof of construction within five years of the date of the grant.
4. Further terms and conditions as follows:

- (a) Pursuant to 43 CFR 2234.1-3(c), the District Manager, Boise District Office, 230 Collins Road Boise, Idaho, has the authority to conduct all business with the grantee with respect to use of lands and disposition of resources, and the grantee is requested to contact the above-designated official prior to the beginning of construction.
- (b) **attached Federal Power Commission - Idaho Fish and Game Department stipulations.**

ILO-2234-113
7-67

cc: DM I-1
USGS
Ida. Fish and Game
base file
VSS: js 9/8/67

Curtis E. Taylor
Acting Manager Land Office

82068

Stipulations
Federal Power Commission - Idaho Fish and Game Department
Right-of-Way Idaho 016775

We, Robert C. Rice, Jeanette C. Rice, Donald J. Rice and Donaldda N. Rice, accept right-of-way Idaho 016775 subject to the following stipulations:

1. Lot 3, section 1, T. 6 S., R 7 E., B.M., Idaho is subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) as amended.
2. In the event the land is required for power development purposes any structures or improvements placed thereon found to interfere with such development will be removed or relocated as necessary by us to eliminate such interference at no cost to the United States, its permittees or licensees.
3. The pipeline, for not less than 100 feet in distance from the pump, will be placed beneath the ground level and covered with earth so as not to interfere in any way with free vehicle or pedestrian travel along the stream course of the Snake River.
4. The pumps and motors will be housed and the unit fenced, with a minimum of land within the fenced enclosure, and said housing structures will be fully painted so as to hold reflected sunlight and glare to a minimum.
5. That if gasoline motors are used for the pumping operation or for any other purpose immediately associated with this operation, mufflers will be attached to the motors and maintained to fully suppress motor noises.
6. No additional buildings except to house the pumps and motors will be installed on the site and that equipment of material not used actively in pumping operations will not be stored on the site.
7. All excavated materials will be leveled and all disturbed surfaces will be seeded to native or adaptable grasses.

ACCEPTED BY

Robert C. Rice
Robert C. Rice

8-29-67
Date

Donald J. Rice
Donald J. Rice

8-29-67
Date

Jeanette C. Rice
Jeanette C. Rice

8-29-67
Date

Donaldda N. Rice
Donaldda N. Rice

Aug. 29, 1967
Date

414
10 24 75
I-016775 (943)

Idaho State Office
Room 398, Federal Building
550 W. Fort Street
P. O. Box 042
Boise, Idaho 83724

OCT 24 1975

Robert C. Rhead et al
Route B, Box 20
Mountain Home, Idaho 83647

Dear Mr. Rhead:

Enclosed is a decision amending the original grant (as amended on March 1, 1972) for your irrigation pipeline and pump base. This decision amends the original grant to include that portion of your pump base in lot 1 of Sec. 2, T. 6 S., R. 7 E., B.M., and your access road to the pump site.

The proof of construction map you submitted on May 8, 1972, was for "Right-of-Way for Pipeline, Pump Site & Inlet Canal as Completed." The access road was not applied for prior to submission of this map. We considered this map, therefore, as an application for the access road as well as an addition to the pump base. The enclosed decision amends the earlier grant to include the access road and additional pump base.

Proof of construction of the pipeline, pump site and inlet canal was accepted on August 8, 1975. You should now file proof of construction of the access road, since it was not included with the proof of construction of the irrigation facilities. This should be filed within the next 30 days.

Sincerely yours,

Vincent S. Strobel

Vincent S. Strobel, Chief
Branch of L&M Operations

cc: District Manager, Boise

fasc: 30 days
Yeary:lr:10/24/75

Idaho State Office
Room 398, Federal Building
550 W. Fort Street
P. O. Box 042
Boise, Idaho 83724

DECISION

1

Right-of-Way Grant Amended

Serial number of grant: Idaho 016775

Name of grantees: Robert C. Rhead, Marlene D. Rhead, Claude E. Rhead
and Sarah I. Rhead

Map showing amended location:

Map designation: Robert C. Rhead et al I-016775 Right of Way
for Pipeline, Pump Site & Inlet Canal as
Completed

Date filed: May 8, 1972

Date of original grant: September 8, 1967

Date of amended grant: October 24, 1975

Pursuant to the authority vested in the undersigned by Order No. 701 of the Associate Director, Bureau of Land Management, dated July 23, 1964, (29 F.R. 10526), as amended, and as redelegated by the State Director (37 F.R. 2531), an amendment to the original grant, as previously amended on March 1, 1972, is hereby granted, subject to the same terms and conditions of the original grant, as amended in 1972.

Vincent S. Strobel

Vincent S. Strobel, Chief
Branch of L&M Operations

cc: District Manager, Boise

Yeary:lr:10/24/75

I-016775
(943)

Idaho State Office
Room 530 West Fort Street
Boise, Idaho 83702

7/21/71 12

DECISION

Right-of-way Grant Amended

Serial number of grant: Idaho 016775

Name of grantee: Robert C. Rhead, Marlene D. Rhead, Claude
E. Rhead and Sarah I. Rhead assignees and
successors in interest of Robert C. Rice,
et al.

Map showing amended location:

Map designation: Amended Right-of-way, Robert C.
Rhead et al.

Date filed: October 19, 1971

Date of original grant: September 8, 1967

Date of amended grant: MAR 1 1972

Pursuant to the authority vested in the undersigned by Order
No. 701 of the Associate Director, Bureau of Land Management,
dated July 23, 1964, (29 F.R. 10526), as amended, and as re-
delegated by the State Director (37 F.R. 2531), an amendment
to the right-of-way grant as shown above is hereby granted,
subject to the same terms and conditions of the original grant
and following additional terms and conditions:

1. Subject to the rights of the licensee for Project
No. 2055, its successors or assigns, to use said
project land for project purposes.
2. No improvements or structures will be constructed
that will interfere with the operation and main-
tenance of licensed Project No. 2055.
3. Subject to the "Additional Terms and Conditions"
attached hereto and made a part hereof.

Vincent B. Strobel, Chief
Branch of L&M Operations

Attachment

Strobel:hj:3/1/72
cc: DM I-1 w/copy of 3
Fish and Game Depart. w/copy of 3
U.S.G.S.
Reading
I-016775
cc: Idaho Land & Appr. Service w/copy of 3

AMENDMENT TO I-016775

RIGHT-OF-WAY FOR PIPELINE AND PUMP BASE
ACROSS FEDERAL LAND

ROBERT C. RHEAD ET AL
ASSIGNEE OF ROBERT C. RICE ET AL

We, the undersigned, of Route B, Box 20, Mountain Home, Idaho, do on this 10 day of October, 1971, state and affirm that the following information is given to the best of our knowledge in making application for an amendment to this right-of-way over public lands to construct a pipeline and pump base.

These lands lying Boise Grazing District #1 are described as:

Township 6 South - Range 7 East, B.M.
Section 1 - Lot 4

The lands applied for are presently being used only for grazing purposes under the organization and administration of the U. S. Department of the Interior, Bureau of Land Management. They have no particular value for any specific purpose and are not of strategic value or need locally. They are adjacent a large area of grazing land and intermingled with deeded lands and are of relatively low carrying capacity.

If this is allowed, it will not interfere with any contemplated use in the best interest locally or otherwise. The route applied for is the best practical location to obtain surface water for the lands we expect to irrigate. The lands to be irrigated are so located geographically and physically that access is impossible for a pipeline and pump base through another route without an unreasonable amount of expense. Also, this amended route will be considerably shorter across Federal land and approval of this site has already been obtained from the Idaho State Fish and Game. The proposed site is in an area which will allow me to reach my desert entry lands with approximately 446 feet less pipe.

The lands applied for as right-of-way are in no organized project for any development purpose.

There is no timber or timber project, mineral or mineral depositio on this land or within a radius of several miles. The area is composed chiefly of a lava ash soil, deep and fertile. The land is not a source of right-of-way for access to a public watering and the right-of-way construction has taken into account all roads and will not interfere with their present use.

We desire a right-of-way for a pipeline and pump base as shown on the attached plat having a total width on the northerly side of 40 feet, and on the southerly side of approximately 82.2 feet, containing 0.11 acres more or less.

The applicants are citizens of the United States and are fully qualified to carry out the requirements of the law regarding the full development of the proposed improvement.

Page 2

Amendment to Right-of-Way I-016775

Robert C. Rhead Et Al

The lands are applied for under the Act of March 3, 1891; Authority: 2234.3 issued under the U.S. 161,453, 2478; 5 U.S.C. 22; 43 U.S.C. 2, 1201 and the applicants agree that if an amended right-of-way is granted it will be subject to 43 CFS 2234 and its terms and conditions. The lands applied for are well known to the applicants and all initial arrangements have been made to carry out the plans as provided.

Dated this 18 day of October, 1971.

Robert C. Rhead
Robert C. Rhead

Marlene D. Rhead
Marlene D. Rhead

Sarah I. Rhead
Sarah I. Rhead

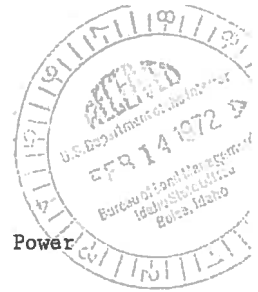
Claude E. Rhead
Claude E. Rhead

ADDITIONAL TERMS AND CONDITIONS

Bureau of Land Management, Idaho Fish and Game Department, Federal Power Commission, Idaho Power, and Elmore County.

We, Robert C. Rhead, Marlene D. Rhead, Claude E. Rhead, and Sarah I. Rhead understand and stipulate that Right-of-Way No. I-016775 will contain, in addition to the standard terms and conditions, the following additional terms and conditions.

1. The actual excavation area for the intake channel will be flagged for inspection prior to construction.
2. The excavated material resulting from the construction of the intake channel will be distributed in such a manner that it will not adversely affect the appearance of the site. This will include levelling and smoothing the material, or otherwise preparing it for revegetation.
3. The center line of the pipeline and canal will be flagged for inspection prior to actual construction.
4. All excavation and fill slopes will be 1½:1 unless otherwise specified.
5. All excavated material will be smoothed and prepared for revegetating.
6. The pipeline will be buried and the surface area restored and prepared for seeding.
7. Any erosion resulting from leaks in the pipeline or canal, or from any natural or other surface runoff occurring over the newly disturbed areas, or in any other way caused by this construction or subsequent maintenance will be stopped, repaired, and corrected immediately.
8. No new roads will be constructed, access will be via existing roads.
9. Lot 4, Section 1, T. 6 S., R. 7 E., B.M., Idaho is subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920. (41 Stat. 1075; 16 U.S.C. 818) as amended.
10. We agree that in all our operations under this permit we shall comply with the applicable State and Federal laws and regulations concerning the use of poisonous substances, including insecticides, herbicides, fungicides, rodenticides, and other similar substances. Prior to the use of such substances on or near the right-of-way, we shall obtain from the District Manager approval of a written plan for such use. The plan shall state the type and quantity of material to be used, the pest to be controlled, the method of application and such other information as he may require. All use of such substances on or near the right-of-way shall be in accordance with the approved plan. If the use of a poison is prohibited by the Secretary of the Interior, it shall not be used. If use of a poison is limited by the Secretary of the Interior, it shall be used only in accordance with that limitation.
11. The pipeline, for not less than 100 ft. in distance from the pump, will be placed beneath the ground level and covered with earth as not to interfere in any way with free vehicle or pedestrian travel along the stream course of the Snake River. Any exposed pipe will be painted and maintained a dull color similar to the surroundings.
12. No additional buildings except to house the pumps and motors will be installed on the site and that equipment and material not used actively in pumping operations will not be stored on the site.
13. All excavated materials will be levelled and all disturbed surfaces will be seeded to native or adaptable grasses.
14. Any fences, gates, cattle guards, or other existing facilities disturbed by this right-of-way will be replaced.



15. The pumping site will be enclosed by a seven foot security type fence and posted with warning signs. The fence will be masked with perennial vines or shrubs.
16. All structures will be painted a dull color to reduce reflection and blend with the surroundings. All installations will be of low profile and screened so as not to detract from the natural surroundings.
17. The pump intakes will be adequately screened to prevent small fish and other wildlife from entering.
18. No chemical treatment of the canal or intake bay for removal of vegetation will be allowed. The grantee will take strict preventative measures to assure the Government that the pumping installation and operation will not be a source of water pollution from oil, paint, detergents, or other harmful chemicals or materials.
19. Areas will be cleaned up on or off the right-of-way where equipment has been operated or repaired; remove all garbage, and remove all temporary buildings, packing cases, trash, litter, fuel containers, oil cans, wire, discarded equipment or parts thereof, or other refuse resulting from operations. The right-of-way area will be maintained so as not to detract from the area.
20. The United States and state government agencies are not responsible for any harm or action of the grantee, his contractor, sub-contractors, or other persons using the area.
21. A performance bond of \$10,000.00 will be posted and said bond maintained until full proof of construction and all stipulation compliance has been satisfied by inspection of the Bureau of Land Management.
22. The grantee will not proceed with construction before consultation and agreement with Idaho Power Company to coordinate construction over lands occupied by Project No. 2055.
23. In the event the reserved lands of Project 2055 are required for project development purposes, any structures or improvements placed thereon found to interfere with such development shall be removed or relocated as necessary to eliminate such interference at no cost to the United States, its permittees or licensees.
24. Engineering plans for pump and pipeline site development will be submitted to the Bureau of Land Management and Fish and Game Department for approval prior to any construction on the site.

ACKNOWLEDGED

Robert C. Rhead
Robert C. Rhead

Feb 2 - 1972
Date

Marlene D. Rhead
Marlene D. Rhead

Claude E. Rhead Claude E. Rhead,
Claude E. Rhead
Robert C. Rhead

Sarah I. Rhead Sarah I. Rhead
Sarah I. Rhead
Robert C. Rhead



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 15, 2018

IDAHO WATER CO LLC
1135 VALLEY RD S
EDEN, ID 83325

RE: Transfer No. 82068
Water Right No(s). 2-10017

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the OWYHEE AVALANCHE and MOUNTAIN HOME NEWS on 2/21/2018 and 2/28/2018. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

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

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

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

Sincerely,

Rachel Neely
Administrative Assistant

CC:
WELLS FARGO FINANCIAL LEASING INC
800 WALNUT ST
MAC F4031-050
DES MOINES, IA 58039

RABO AGRIFINANCE LLC
14767 N OUTER 40 RD STE 400
CHESTERFIELD, MO 63017

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE, ID 83706

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, February 15, 2018 8:18 AM
To: 'Jennifer Stutheit'
Subject: Owyhee Legal Ad
Attachments: Owyhee Cover Letter.docx; Owyhee Legal Ad.docx

Good Morning Legal Clerk,

Please see the attached ad for publication on 2/21/2018 & 2/28/2018.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

February 15, 2018

LEGAL NOTICE DEPARTMENT
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE, ID 83628

RE: Transfer No. 82068

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 3/12/2018. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following application has been filed to appropriate the public waters of the State of Idaho:

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82068**

IDAHO WATER CO LLC, 1135 VALLEY RD S, EDEN, ID 83325; has filed Application No. 82068 for changes to the following water rights within Owyhee County(s): Right No(s). 2-10017. The transfer proposes to split the right and retire 1.98 cfs, 675 af and 150 acres for an irrigation use at a new point of diversion 5.6 miles west of Hammett, ID. The unchanged portion of the right will remain on land 11.0 miles SE of Melba, ID.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed transfer(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 3/12/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 2/21/2018 and 2/28/2018

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, February 15, 2018 8:18 AM
To: Swenson, Stacy
Subject: Elmore Legal Ad
Attachments: Elmore Cover Letter.docx; Elmore Legal Ad.docx

Good Morning Legal Clerk,

Please see the attached ad for publication on 2/21/2018 & 2/28/2018.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

February 15, 2018

LEGAL NOTICE DEPARTMENT
MOUNTAIN HOME NEWS
PO BOX 1330
MTN HOME ID 83647

RE: Transfer No. 82068

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 3/12/2018. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following application has been filed to appropriate the public waters of the State of Idaho:

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82068**

IDAHO WATER CO LLC, 1135 VALLEY RD S, EDEN, ID 83325; has filed Application No. 82068 for changes to the following water rights within OWYHEE County(s): Right No(s). 2-10017. The transfer proposes to split the right and retire 1.98 cfs, 675 af and 150 acres for an irrigation use at a new point of diversion 5.6 miles west of Hammett, ID. The unchanged portion of the right will remain on land 11.0 miles SE of Melba, ID.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed transfer(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 3/12/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 2/21/2018 and 2/28/2018

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, February 15, 2018 8:18 AM
To: Whitney, Rob
Subject: Application for Transfer 82068
Attachments: Watermaster Recommendation Form_F.pdf; Application for Transfer No. 82068.pdf

February 15, 2018

ROB WHITNEY
WATER DISTRICT #02
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

RE: Application for Transfer 82068

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete the attached recommendation form, and submit your reply, if any, to this office by **March 12, 2018**.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 15, 2018

RABO AGRIFINANCE INC
12443 OLIVE BLVD STE 50
ST LOUIS MO 63141

BLM
1387 VINNELL WAY
BOISE ID 83709

DE RUYTER PROPERTIES
13027 SUNNY SLOPE RD
CALDWELL ID 83607

Re: Application for Transfer No. 82068

Dear Interested Party:

The above referenced application may be of interest to you. I would like to inform you that the application has been submitted to the *Owyhee Avalanche* and the *Mountain Home News* for advertising. I have enclosed a copy of the application for your convenience. This information is also available on our website www.idwr.idaho.gov.

If you desire to file a formal protest against approval of the application, a written protest along with the \$25.00 protest fee must be received in this office by **March 12, 2018**. A copy of the protest must also be sent to the applicant.

If you have any questions regarding the application, please contact this office at 208-334-2190.

Sincerely,

Rachel Neely
Administrative Assistant
Western Regional Office

Enclosures

February 9, 2018

RECEIVED

FEB 14 2018

WATER RESOURCES
WESTERN REGION

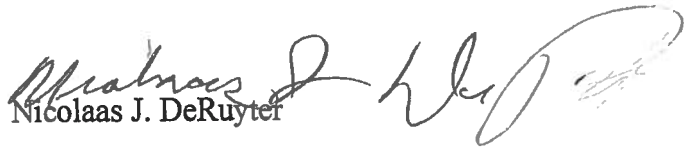
Idaho Department of Water Resources, Western Region
2735 Airport Way
Boise, ID 83705

RE: Transfer application 82068

Dear Sir or Madam,

I am the Manager of DeRuyter Dairy, LLC, the general partner of DeRuyter Properties, L.P., which is the owner of the lands proposed as the place of use under Application for Transfer No. 82068 (the "Transfer Application"). This letter authorizes the Idaho Department of Water Resources to allow Idaho Water Company, LLC, to apply for and seek approval of the Transfer Application.

Sincerely,


Nicolaas J. DeRuyter



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 1, 2018

COPY

IDAHO WATER COMPANY LLC
1135 VALLEY RD
EDEN ID 83325

RE: Additional Information Request for Transfer 82068

Dear Applicant,

On December 19, 2017, you filed an Application for Transfer of Water Right to split water right 2-10017. Item #6 of the Minimum Requirements Checklist was marked "No" requiring a 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 rights. Records show that Rabo AgriFinance filed a Notice of Security Interest in July of 20012 to expire 1/5/2027. A notarized letter from the lien holder agreeing to the proposed changes on official letterhead signed by an authorized representative must be received in order to complete transfer processing.

Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be rejected without a timely written reply within the next thirty (30) days. Refunds are not issued for rejected applications.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Respectfully,

Patrick Kelly
Water Resource Agent

Enclosure(s): Notice of Security Interest

MEMORANDUM

TO: Transfer No. 82068
FROM: Patrick Kelly
DATE: 2/1/2018
RE: Evaluation of Application

Summary of Information Submitted

Transfer 82068 purpose is to split 1.98 cfs, 675 af and 150 acres from 2-10017 to a new farm location. This water was sold by Dale and Jackie Van Es and bought by Idaho Water Company LLC on July 14, 2017 according to the sale agreement attached to the transfer.

2-10017 authorizes 29.00 cfs on 2,191 acres which translates to 0.13 cfs/ac. This rate per acre was maintained in the sale. The transfer fee of \$580 matches the fee schedule for 1.01 – 2.00 cfs.

A security interest was filed by Rabo AgriFinance Inc in 2012 with a maturity date in 2027. Comment letters from the company will be required to complete transfer processing. Notice will be sent to the company at the time of advertising as well.

Authority to File

The application was filed in the name of Idaho Water Company LLC. Idaho Water Company LLC is the designated buyer in the sale contract attached to the application. Kevin Kohtz signed the application. ID SOS records does not identify Kevin as a member with the company, however he did sign the sale contract for the rights. Because of this, it is assumed he has proper authority to file on behalf of the company.

Water Right Validity

The right was decreed in 2010. 2013 – 2015 shows irrigation use within the POU in excess of 2,191 acres. Concerns over validity are not present at this time.

Overlap Analysis

2-10017 is the only water right that was split and sold. No other rights should be considered for transfer.

Injury to Other Water Rights

The transfer proposes to move the split portion of water 50+ miles upstream of the Snake River. The new point of diversion is now above CJ Strike Reservoir. There are no irrigation rights at the proposed place of use, however irrigation practices at this site have been occurring since at least 2013 under a water supply bank rental agreement.

There are 3 existing water rights at the proposed point of diversion pump station. These are owned by BLM and De Ruyter Properties. Taxlot data suggests the new pump station is on property owned by either BLM or Robert Howard. The transfer application suggests BLM owns the ground and a federal right of way grant no IDI 016775 allows access to the water. Comment letters will be sent to both parties.

Enlargement of Use

The changing of diversion upstream is considered under improvement of the source. However this criteria may not apply since the availability of water should be the same at both locations. Still, conditions should be added to restrict the diversion to times when water is available and in priority at the original POD.

2-10017 shares combined use limits with 2-2251 for 29.00 cfs on 2,495 acres. 2-2251 is currently owned by Van Es, so consent to reducing the limit and including the associated right to the transfer should not be required. The amount of water sold to Idaho Water Company will be reduced from 2-10017 as well as the combined use limits shared with 2-2251.

Local Public Interest

No information has been made available to suggest a conflict with public interest.

Beneficial Use/Conservation of Water Resources

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.



SPF WATER
ENGINEERING

December 19, 2017

Angie Grimm
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

RECEIVED

DEC 19 2017

WATER RESOURCES
WESTERN REGION

Subject: Application for Transfer

Dear Angie,

Enclosed on behalf of Idaho Water Company, LLC, is an *Application for Transfer* proposing transferring a portion of water right 2-10017 to a new place of use. The water right is currently owned by Dale and Jackie Van Es. Included as Attachment 3 is a water right purchase agreement enabling Idaho Water Company to file the transfer application.

Check No. 3671514524 for \$580 is enclosed for the filing fee based on the amount of water proposed for transfer. Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Kevin Kohtz

Enclosures

SPF file number: 951.0050