

RECEIVED

DEC 05 2017

DEPARTMENT OF
WATER RESOURCES

**Agreement for Assignment of Water Permit and Bureau of Land Management
Right-of-Way Grant/ Temporary Use Permit**

28th Jan
On this 3rd day of November, 2017, the Mountain Home Ground Water Advisory Committee ("Committee") and the Board of County Commissioners of Elmore County ("County") enter into this Agreement for Assignment of Water Permit and Bureau of Land Management Right of Way Grant/ Temporary Use Permit ("Agreement").

Whereas, the Committee has been inactive since 2006, and has no interest in becoming an active Committee; and

Whereas, the Committee obtained water permit No. 61-7731, but did not take the necessary actions to submit proof of beneficial proof of actual diversion and use of water under Idaho law; and

Whereas, the Committee obtained Right-of-Way Grant/Temporary Use Permit, Serial Number IDI-32357 from the U.S. Bureau of Land Management in March, 1998 ("BLM Permit"); and

Whereas, over the past three years, the County has taken substantial affirmative steps to pursue ground water recharge projects to improve the ground water levels in Elmore County, including expenditures of County funds to obtain legal advice, engineering services, and fees to obtain new water rights, agreements, federal special use permits, and environmental compliance; and

Whereas, the County's efforts have served a genuine need to improve ground water recharge in Elmore County; and

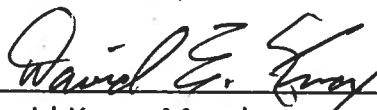
Whereas, the Committee does not intend to become active in the foreseeable future, and believes it is in the best interests of the public of Elmore County that the Committee assign all of its rights, titles, and interests in water permit No. 61-7731 and the BLM Permit to the County;

Now, therefore, the Committee and the County agree as follows:

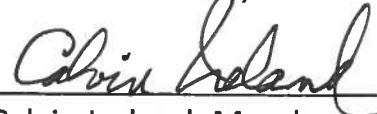
1. The Committee hereby assigns and conveys all of its rights, titles, and interests in water permit No. 61-7731 and the BLM Permit to the County. The Committee also executes the Assignment of Permit attached hereto as Exhibit A.
2. The Committee grants the County full authority to pursue the reinstatement of water permit No. 61-7731, and renewal of the BLM Permit if necessary.
3. The County agrees to exert all reasonable efforts to obtain reinstatement of water permit No. 61-7731, and renewal of the BLM Permit if necessary, at County expense.
4. The Committee represents it has actual or apparent authority to enter into this Agreement.
5. The County represents it has actual or apparent authority to enter into this Agreement.
6. This Agreement shall be effective on the date on which the last signatory has signed and dated it.

Mountain Home Ground Water Advisory Committee


Jim Blanksma, Chairman


David Knox, Member

Mark Hiddleston, Member


Calvin Ireland, Member

Dated, this 3rd day of November, 2017

26th

Dec

Elmore County Board of County Commissioners

ABSENT

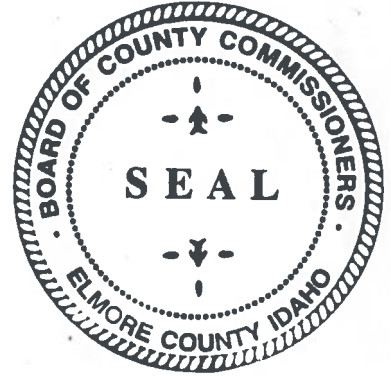
Albert Hofer, Chairman



Wesley R. Wootan, Commissioner, **ACTING CHAIRMAN**



Franklin L. Corbus, Commissioner



Attest:



Barbara Steele, Elmore County Clerk

Dated, this 3rd day of November, 2017

"EXHIBIT A"

\$25 fee per permit

Received by _____

Receipt amt. \$ _____

Receipt no. _____

Date _____

RECEIVED

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DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, Mountain Home Groundwater Advisory, hereby assign to Elmore County, Board of Commissioners

Current owner(s)	New owner(s)
of, <u>150 South 4th East, Ste#2, Mountain Home, ID 83647</u>	<u>208-587-2129</u>
New owner's address including city, state and ZIP	Phone

All my right, title, and interest in and to Permit No(s): 61-7731 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Permit Number(s):

_____, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

Does the new permit holder own the property at the:

Point of diversion? ☐ Yes ☒ NoPlace of use? ☐ Yes ☒ No

If no, describe the arrangement enabling the new owner to access the point of diversion and/or the place of use:

The new owner is in the process of obtaining easements and license agreements for points of diversion and places of use.

Dated this _____ day of _____, 20_____.

Permit holder	Title (if applicable)	Permit holder	Title (if applicable)
---------------	-----------------------	---------------	-----------------------

State of Idaho)
)ss
 County of _____)

On this _____ day of _____, 20_____, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL

Notary Public

My commission expires: _____



RECEIVED

DEC 05 2017

DEPARTMENT OF
WATER RESOURCES

December 3, 2017

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098
Attn: Dan Nelson

*Subject: Elmore County, Board of County Commissioners
Assignment of Permit No. 61-7731
Assignment of BLM Right-of-Way Grant/Temporary Use Permit IDI-32357*

Dear Mr. Nelson,

Enclosed on behalf of Elmore County, Board of County Commissioners, is a completed assignment for the above-referenced permit currently in the name of Mountain Home Groundwater Advisory Committee. The Committee became inactive in 2006 and has determined that Elmore County, Board of County Commissioners, is the reasonable successor for ensuring continued future beneficial use. The documents also include an assignment to the County of the Committee's BLM Right-of-Way Grant/Temporary Use Permit IDI-32357.

Please let me know if you have any questions regarding these documents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terry M. Scanlan", is written over a horizontal line.

Terry M. Scanlan, P.E., P.G.

Enclosures

cc: Elmore County Board of Commissioners
Scott Campbell

File: 1188.0030

Nelson, Dan

From: Scott Campbell <scott@slclexh2o.com>
Sent: Tuesday, December 05, 2017 11:25 AM
To: Nelson, Dan; Terry Scanlan
Cc: Buzz Grant; budcorbus@gmail.com
Subject: RE: 61-7731

Dan,

Thank you for the clarification. When you receive the original of the Assignment Agreement, please confirm with an email.

Scott

From: Nelson, Dan [mailto:Dan.Nelson@idwr.idaho.gov]
Sent: Tuesday, December 5, 2017 8:52 AM
To: Scott Campbell <scott@slclexh2o.com>; Terry Scanlan <TScanlan@spfwater.com>
Cc: Buzz Grant <bgrant@grantlawpllc.com>; budcorbus@gmail.com
Subject: RE: 61-7731

Scott,

I am sorry, but I am a bit confused by your email, it could be partially my fault for my quick response to Terry on December 4, 2017. The only thing delaying the processing of this permit is our receipt of the original assignment of permit from the Mountain Home Advisory Committee to Elmore County. I have already done a considerable amount of work on this permit, so I should have it ready to move through the normal process once we receive the assignment.

My earlier emails do state that a concern was raised about licensing this permit in trespass. It was my understanding that Terry was attempting to act progressively in supplying that information before it was actually required. However, a formal request that the easements be in place before the permit can be reinstated and possibly licensed has not been issued by the Department. At this time, I can't say if this issue will negatively affect the processing time of this permit until after the assignment of permit is received.

I agree with you that I would not require Elmore County to seek a formal legal opinion on whether or not an easement can be assigned from one owner to another. I was simply asking for an email from BLM to see if it was possible. If you are confident that the assigned easement is viable, then I will be more than happy to include your assessment in the reinstatement review memo. As you know, a water right does not grant an easement onto the lands of another, so we count on the right holders to attain the necessary permits. Our concern comes from the past filings where the BLM has protested or filed a petition for reconsideration because the required easements were not in place or valid.

I hope this answers your inquiry. If you have any further questions, please don't hesitate to contact me.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Scott Campbell [scott@slclexh2o.com]
Sent: Monday, December 04, 2017 1:08 PM
To: Terry Scanlan; Nelson, Dan
Cc: Buzz Grant; budcorbus@gmail.com
Subject: RE: 61-7731

Dan,

I hesitate to tell the Elmore County Commissioners that they will need to spend more legal fees and face additional delays based on your email. There is nothing in Idaho Code that requires Elmore County to obtain two approvals for the assignment of the BLM Permit. The Advisory Committee was the entity that was issued the permit by the BLM. Idaho law allows the transfer of property by a written instrument. You have the written instrument. That should be enough.

If you or someone else at the Department believes there is some mandatory requirement that Elmore County has to get a "legal opinion" from the BLM, please provide me with the specific reference to Idaho law. If there is no such Idaho law provision, I will have to assume that there is no reasonable basis for this impediment imposed by IDWR to the immediate processing of the reinstatement request of Elmore County.

Please provide me with a written response as soon as possible to avoid further unnecessary and costly delays. Elmore County is becoming very frustrated with IDWR's process. Up until now, I have been successful in convincing the County Commissioners that prior requests from you have been your effort to obtain documentation that is appropriate. Now, I fail to see the reasonableness of this last impediment. I will not be able to reassure the County Commissioners that this is a valid demand, unless IDWR can provide me with legitimate legal authority that **requires** this information from the BLM.

Thank you for your anticipated cooperation.

Scott Campbell

From: Terry Scanlan [<mailto:TScanlan@spfwater.com>]
Sent: Monday, December 4, 2017 12:15 PM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Cc: Scott Campbell <scott@slclexh2o.com>; Buzz Grant <bgrant@grantlawpllc.com>; budcorbus@gmail.com
Subject: RE: 61-7731

Thanks Dan. I'll pass this off to the County's water attorney, Scott Campbell, as he has been more involved in the BLM easement issues and the assignment from the Committee. He should be able to address this.

Terry

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]
Sent: Monday, December 4, 2017 10:41 AM
To: Terry Scanlan <TScanlan@spfwater.com>
Subject: RE: 61-7731

Terry,

All I really need for the assignment of the BLM Easement is if BLM will allow the easement to be assigned to a different party or not. If you can get an email or letter from the BLM letting you know that it is legal for the committee to assign the easement to the county, we are good with that.

Dan.

From: Terry Scanlan [<mailto:TScanlan@spfwater.com>]
Sent: Sunday, December 03, 2017 10:16 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Cc: Scott Campbell <scott@slclexh2o.com>; Scott King <SKing@spfwater.com>
Subject: RE: 61-7731

Dan –

Understood. I will get you the original.

The assignment includes an assignment of the Committee's BLM easement.

The County is in the process of getting a new BLM easement for their pending application for permit 61-12314. They have started the Environmental Assessment.

Terry

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]
Sent: Saturday, December 2, 2017 10:14 AM
To: Terry Scanlan <TScanlan@spfwater.com>
Subject: RE: 61-7731

Terry,

We need the signed assignment. A copy doesn't work, How are you doing on the BLM Easement? We haven't received anything on that yet either. After we get the two agreements and the assignment, I think we can start working on this one again.

Dan Nelson

From: Terry Scanlan [TScanlan@spfwater.com]
Sent: Friday, December 01, 2017 4:20 PM
To: Nelson, Dan
Cc: Scott Campbell; Scott King
Subject: RE: 61-7731

Dan –

We have been making progress on our end with regard to this permit.

- Attached is a completed assignment form from the Committee to the County for the permit and BLM easement. I have the original document here in my office. Let me know if the scan will suffice or if I need to deliver the original.
- The County is working with Simplot on a license agreement for their use of the Simplot gravel pit. We received the finalized agreement from Simplot today. I will send a copy to you as soon as it is signed by both Simplot and the County.
- I have attached a license agreement with the Mountain Home Irrigation District for the POD and ditch that conveys water to the Simplot gravel pit.

Let me know if there is anything else you will need from the County or me on this matter.

If you get a chance, I would like to look at your license recommendations. We may want to meet to discuss before a license is issued. Have a great weekend.

Terry

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]

Sent: Thursday, October 19, 2017 3:13 PM

To: Terry Scanlan <TScanlan@spfwater.com>

Subject: RE: 61-7731

Hello Terry,

I do have a copy of the easement, and a letter stating concerns of the completion of the project. I have attached them to this email. I could not find additional communication with Bureau of Land Management (BLM) after the 1999 recharge event, but there could be some in the file that I didn't find. The files for the Mountain Home Ground Water Advisory Committee (Committee) fill an entire file cabinet drawer and two banker boxes, so I could have missed something.

This is a very unique situation, and there are a number of legal issues that I will do my best to give you the Department's stance on these issues. I would recommend that you seek legal advice as needed.

Where Elmore County (County) doesn't own any of the land and the Committee is no longer active, assigning the permit can be very tricky and very convoluted. Whoever signs the assignment must provide documentation that they have the legal authority to act on the behalf of the Committee. Once the authority of the person to assign the permit is established, we would not question the assignment, unless one of the other committee members offered an objection disputing the authority of the person who signed the assignment of permit. Then we may need to look a little deeper and find out what needs to be done to resolve the objection. There are always those unpredictable things that could arise, so you may want to take special care to ensure that everything is in order.

As far as your questions about other impediments to the license, I can tell you that a concern has been raised about issuing a license in trespass. I think that you have made a very good point in your example that it will be difficult to issue the license to the County without any agreements and/or easements in place that allow the County to use the water on the place of use. During the development period, the files show that the Committee had been given authority to develop a water right on the place of use, and there appears to have been several events where water may have been diverted into the recharge sites since the initial recharge event. However, the County is not the Committee. The Department does have to address whether or not the property owners of the point of diversion and places of use are agreeable to the re-instatement of the permit. The use of these recharge sites in the past are helpful, but if you want to ensure there are no questions on the County's ability to use this water right, I would secure the agreements and submit them as soon as possible. Most property owners are agreeable to water rights being licensed to their property due to economic reasons, but BLM has opposed water rights being allowed on BLM lands without the proper easements in place.

The reinstating of this permit by a different entity who doesn't own any of the property where the permit is located is a very unique situation. I met with various staff concerning this permit before writing my earlier email. We discovered that there are a number of ways that this situation can be resolved, but each has their own set of secondary issues that need to be addressed. I supplied you with the different options for resolving the ownership issue in my earlier email. As always, there are always unforeseen questions that arise, and there is no way to determine if those questions will cause a significant delay or not.

I hope this letter has been helpful. Reinstating a permit that has been lapsed for such a long time is always difficult. The ownership issues of this permit and place of use add to the complexity of this reinstatement. I personally don't have all of the answers, but I will do my best to answer any questions you may have. Please don't hesitate to contact me if needed.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Terry Scanlan [<mailto:TScanlan@spfwater.com>]
Sent: Thursday, October 19, 2017 11:21 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Cc: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: RE: 61-7731

Dan –

If we can get Jim Blanksma (Chairman in the Nov 2006 minutes) to assign the permit to the County, will that be sufficient?

Will there be any other impediments to licensing? For example, can the license be issued to the County even though the easement is with the Committee? The County is currently pursuing an easement for application 61-12314 that will be applicable, and could attempt to have the Committee's easement assigned to the County, but will this process delay licensing?

Terry

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]
Sent: Wednesday, October 18, 2017 3:29 PM
To: Terry Scanlan <TScanlan@spfwater.com>
Cc: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: RE: 61-7731

Hello Terry,

I have reviewed the information you submitted for Permit 61-7731 (Permit), and gone over this information with Shelley Keen and several others in the Department. As we discussed the other day, the ownership form submitted by Elmore County (County) isn't sufficient to change the ownership of the Permit. A permit is personal property, so the Permit would need to be assigned to the County by the Mountain Home Groundwater Advisory Committee (Committee). If we could accept the Change of Ownership form from the County, the County would need to supply conveyance documents that shows the County owns the land where the recharge is taking place and/or agreements or easements that authorize them to develop a water right on property they do

not own. Without the proper legal documentation authorizing the use of the Permit, it doesn't appear as though the County has any interest in the Permit.

I did find the original Bureau of Land Management (BLM) easement, but that easement only authorizes access to BLM lands for recharge by the Committee. The County was not listed on the easement, so they cannot use the easement in the Committee's name without some type of legal documentation that authorizes them to use Committee's lease.

Idaho Code requires that Proof of Beneficial Use Statement (Proof) must be submitted by the Permit Holder. The Department has accepted a Proof statement from owners of a property where the permit was developed. However, they must also show that they actually own the property where the water is being used by submitting a Change of Ownership Form with the attached conveyance documents showing they are the current owner of the property and/or agreements, leases, or easements giving them authority to develop the water right on that property. The final step is that they also need to provide documentation that they were unable to contact the current owner of the permit.

The situation facing Elmore County is complicated. The issues with not having the legal authority to divert or deliver the water to permitted place of use are only the compounded by the fact that Committee hasn't met since November 2, 2006. The Committee never formally disbanded, and the order requiring the formation of the committee and the Committee Bylaws do not have anything provides for the disbanding of the committee. Although the Committee is currently in-active, they can be re-activated at any time. Therefore, the claim in the Request to Reinstate a Permit Lapsed more than Sixty Days statement that the Committee had disbanded is not correct.

Therefore, the County needs the Committee to take one of the following steps:

1. Submit the Proof in the name of the Committee. This will need to be signed by an officer of the Committee.
2. The Committee would need to assign the permit to the County. This will need to be signed by an officer of the Committee, and may need approval from the committee.
3. The Committee would need to sign a statement allowing the County to file Proof. This will need to be signed by an officer of the Committee, and may need approval from the committee.
4. The County would have to provide documentation that they tried to contact the Committee and the Committee refused to respond.
5. The Committee could provide documentation that they have denied the County's request to take over the permit.

I have attached the last known meeting minutes for the Committee, and sign in sheet for the meeting. This may help you to determine who to contact. If it is determined that the Committee needs to meet to dispose of this issue, the attached minutes will also assist you in contacting the last known Committee members to schedule a meeting.

Unfortunately, this is a very unique situation, so we need to ensure that all of the documentation will pass all of the necessary legal requirements. We also need to ensure that all those that sign the documents have the legal authority to sign for the committee. Please keep me informed on you progress, and let me know if there is anything that I can do to assist you.

Respectfully,

Daniel Nelson

Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Terry Scanlan [<mailto:TScanlan@spfwater.com>]
Sent: Friday, October 13, 2017 10:20 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Subject: 61-7731

Dan and Shelley –

Elmore County called me again today regarding the status of licensing of lapsed permit 61-7731. They would like the opportunity to meet and discuss any issues that may be delaying licensing. Can you suggest a date and time to meet to discuss status? Thanks.

Terry

From: Lori Graves
Sent: Monday, September 11, 2017 11:55 AM
To: Terry Scanlan <TScanlan@spfwater.com>; Scott Campbell <scott@slclexh2o.com>
Subject: FW: SPF ?s

The latest status on Department licensing of lapsed permit 61-7731...

From: Nelson, Dan [<mailto:Dan.Nelson@idwr.idaho.gov>]
Sent: Monday, September 11, 2017 11:21 AM
To: Lori Graves <LGraves@spfwater.com>
Subject: RE: SPF ?s

Hello Lori,

I just completed the licensing review memo. I am currently creating the maps, re-instatement order, and data entering the draft recommendations into the database. I should have it on Shelley's desk this week, but he is out until next Monday. I can't tell you how long it will take to license. There may be a couple of issues that upper management and legal may want to weigh in on. You never can tell. This permit has been lapsed for so long that it may take a bit to get it re-instated and licensed.

I hope this helps. If you have anything further to ask, please let me know.

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

From: Lori Graves [<mailto:LGraves@spfwater.com>]
Sent: Monday, September 11, 2017 9:17 AM
To: Nelson, Dan <Dan.Nelson@idwr.idaho.gov>
Subject: FW: SPF ?s

Good Morning Dan,

Angie said you may be working on the BUFE SPF submitted for 61-7731. Can you please let me know the status? (Elmore County Commissioners are asking)

Thanks Dan.

From: Grimm, Angie [<mailto:Angie.Grimm@idwr.idaho.gov>]
Sent: Friday, September 08, 2017 4:02 PM
To: Lori Graves <LGraves@spfwater.com>
Subject: RE: SPF ?s

Lori,

Good afternoon!

I offer the following in response to your inquiry:

1. I BELIEVE Dan Nelson is working on 61-7731. I would encourage you ask him for a status update as I'm really not quite sure where things are with that particular filing.
2. Barr's transfer approval has been drafted and is in final review. We hope to issue a decision on that filing in one, maybe two weeks.

Hope this information is helpful. Have a great weekend too! =)

Regards,
Angie

Angela M. Grimm, P.G.
Water Rights Supervisor
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

From: Lori Graves [<mailto:LGraves@spfwater.com>]
Sent: Friday, September 08, 2017 1:38 PM
To: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>
Subject: SPF ?s

Angie,

Just a couple of this week:

1. Review status of SPF's beneficial use field exam submitted for permit 61-7731 (Elmore County)
2. Review status of Jeff and Jeanne Barr's transfer application submitted in April

Have a great weekend.

Regards,
Lori

Lori Graves | Water Rights Specialist

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

p. 208.383.4140 | f. 208.383.4156 | c. 208.850.4601

e. lgraves@spfwater.com | w. www.spfwater.com

The information contained in this e-mail is intended only for the individual or entity to whom it is addressed. Its contents (including any attachments) may contain confidential and/or privileged information. If you are not an intended recipient you must not use, disclose, disseminate, copy or print its contents. If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy the message.

LICENSE AGREEMENT FOR GROUND WATER RECHARGE

On this 13th day of October, 2017, the Mountain Home Highway District ("District"), a special purpose public district formed and operating under Idaho Law, the **Licenser**, and Elmore County ("County"), a political subdivision of the State of Idaho, the **Licensee**, enter into this LICENSE AGREEMENT FOR GROUND WATER RECHARGE ("Agreement").

WHEREAS, the District owns real property in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 10, Township 3 South, Range 6 East, Boise Meridian, Elmore County, Idaho ("District Real Property"); and

WHEREAS, the County has filed an application for water permit with the Idaho Department of Water Resources, seeking approval for diversion of water from Canyon Creek at a point located within the District Real Property ("Lower Diversion Point"); and

WHEREAS, the application for water permit also identifies the gravel pit on the District Real Property as a location for use of the water diverted from Canyon Creek for ground water recharge from a diversion point on land owned by the United States, Bureau of Land Management ("District Recharge Site"); and

WHEREAS, the ground water recharge at the District Recharge Site would result from a diversion of water from Canyon Creek at a point located on real property owned by the United States, Bureau of Land Management ("Upper Diversion Point") and conveyed to the District Real Property by means of an open ditch; and

WHEREAS, the water diverted from Canyon Creek at the Lower Diversion Point would be conveyed from that point of diversion to a place of use for ground water recharge on real property owned by the J. R. Simplot Company by means of a control structure and head-gate in

Canyon Creek, a short pipe, and an open ditch, located on the District Real Property; and

WHEREAS, the County is seeking written authorization from the J. R. Simplot Company to use its real property for purposes of ground water recharge, using the water diverted from Canyon Creek at the Lower Diversion Point; and

WHEREAS, the County seeks the described approvals from the Idaho Department of Water Resources, the District, the United States Bureau of Land Management, and the J. R. Simplot Company for the purposes of using Canyon Creek water for ground water recharge to provide a benefit to all of the citizens using ground water in the Mountain Home area; and

WHEREAS, ground water declines in Elmore County have been a source of concern since the early 1980's and the declines have increased since the Idaho Department of Water Resources designated portions of the County as a Ground Water Management Area and a Critical Ground Water Management Area; and

WHEREAS, under Idaho law, ground water recharge is an authorized use of water; and

WHEREAS, the District has determined that periodic use of the District Real Property in the manner described in this Agreement will not conflict with the District's public purpose, its activities, or damage its real or personal property;

WITNESSETH

1. The District hereby grants to the County a License to use the District Real property for operation, maintenance, and

replacement or improvement of water diversion and conveyance facilities, including access, to divert and convey water from Canyon Creek to District Real Property, United States Bureau of Land Management real property, and J. R. Simplot Company real property for the purpose of ground water recharge.

2. The County shall bear all costs associated with the water diversion and conveyance facilities.
3. The County shall be liable for any damages to District real or personal property caused by the activities of the County pursuant to this Agreement.
4. The District or the County can terminate this Agreement by providing written notice of such termination. The termination shall be effective 30 days after the written notice has been received by the non-terminating party.
5. The County shall remove the diversion infrastructure and restore the Lower Diversion Point to its prior condition if the County fails to use the Lower Diversion Point for a consecutive 10 year period, after the District provides written notice to the County requesting such action be taken.
6. The County represents to the District that it has taken all necessary actions to authorize its Board of County Commissioners to execute this Agreement and to fulfill its terms.
7. The District represents to the County that it has taken all necessary actions to authorize its Board of Directors to execute this Agreement and to fulfill its terms.

Dated this 13th day of October, 2017.

Mountain Home Highway District

By: George L. Hall
Its _____

Elmore County

By: SEE ATTACHED SIGNATURE PAGE
Its _____

ELMORE COUNTY, a political subdivision of the State of Idaho

By: 
Albert Hofer, Chairman

By: 
Wesley R. Wootan, Commissioner

By: 
Franklin L. Corbus, Commissioner

ATTEST:


Barbara Steele, Elmore County Clerk

Date: 10-13-2017

