

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 79727**

This is to certify that: IDAHO WATER CO LLC
C/O DEL KOHTZ
1135 VALLEY RD S
EDEN, ID 83325

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

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
2-10420	WR/DECREED	7/30/1969	1.740 cfs	N/A	N/A	69.0	SNAKE RIVER
2-10422	WR/DECREED	7/30/1969	2.000 cfs	N/A	N/A	100.0	SNAKE RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
2-10420	YES	YES	YES	NO	NO	NO
2-10422	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
2-10420	2-10510	0.500 cfs	N/A	20.0	4128.0	2-10420	1.240 cfs	N/A	N/A	49.0
2-10422	2-10422	1.820 cfs	N/A	91.0	4128.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.320 cfs	N/A	111.0	4128.0		N/A	N/A	N/A	N/A

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

Dated this 18th day of November, 2015.


for _____
Chief, Water Allocation Bureau

SUPPORT DATA

Transfer No. 79727

IN FILE # 2-10426

WATER RIGHT NO. 2-10420

As Modified by Transfer No. 79727

In accordance with the approval of Transfer No. 79727, Water Right No. 2-10420 is now described as follows:

Right Holder: MICHAEL B IHLI OR
LINDA M IHLI
625 S SCHOOL AVE
KUNA, ID 83634

Priority Date: 7/30/1969

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
IRRIGATION

From 03/01 **To** 10/31

Diversion Rate
1.240 cfs
1.240 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L7 (SWSW) Sec 26 Twp 03S Rge 01E OWYHEE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01E	1			12.0														12.0
04S	01E	12	24.0			2.0												11.0	37.0

POU Total Acres: 49.0

CONDITIONS OF APPROVAL

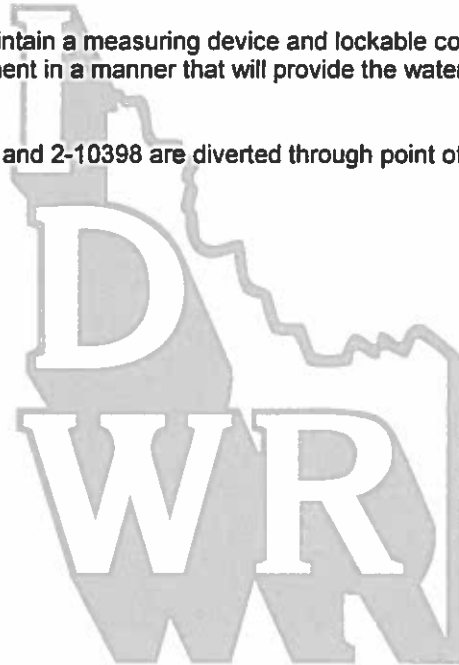
1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 6/8/2009.

Transfer No. 79727

WATER RIGHT NO. 2-10420
As Modified by Transfer No. 79727

CONDITIONS OF APPROVAL

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
6. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 2.
7. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
8. Rights 2-10420, 2-10395 and 2-10398 are diverted through point of diversion described above.



WATER RIGHT NO. 2-10510
As Modified by Transfer No. 79727

In accordance with the approval of Transfer No. 79727, Water Right No. 2-10510 is now described as follows:

Right Holder: MICHAEL B IHLI OR
 LINDA M IHLI
 625 S SCHOOL AVE
 KUNA, ID 83634

Priority Date: 7/30/1969

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
 IRRIGATION

From 03/01 **To** 10/31

Diversion Rate
 0.500 cfs
 0.500 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L8 (SESE) Sec 4 Twp 06S Rge 08E OWYHEE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	08E	4									40.0	40.0	40.0				40.0		160.0
06S	08E	5						44.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	444.0
								L 4											
06S	08E	6	44.0			40.0													84.0
			L 1																
06S	08E	7			40.0	40.0					40.0			40.0	40.0	40.0	40.0	40.0	320.0
06S	08E	8	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	08E	9	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	08E	10							40.0		40.0	40.0	40.0	40.0		40.0	40.0		280.0
06S	08E	15					40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0					320.0
06S	08E	16	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	08E	17	40.0	40.0	40.0	40.0	40.0	40.0		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	600.0

Right Acre Limit: 20.0

POU Total Acres: 4128.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 79727

WATER RIGHT NO. 2-10510

As Modified by Transfer No. 79727

CONDITIONS OF APPROVAL

3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. This right is limited to the irrigation of 20 acres within the authorized place of use in a single irrigation season.
5. Rights 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B, 2-7102B, 2-10422 and 2-10510 when combined shall not exceed a total annual irrigation of 911 acres.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 6/8/2009.
8. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 2.
9. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
10. Rights 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B and 2-7102B are diverted through point of diversion described above.

WATER RIGHT NO. 2-10422**As Modified by Transfer No. 79727**

In accordance with the approval of Transfer No. 79727, Water Right No. 2-10422 is now described as follows:

Right Holder: MICHAEL B IHLE OR
LINDA M IHLE
625 S SCHOOL AVE
KUNA, ID 83634

Priority Date: 7/30/1969

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
IRRIGATION

From 03/01 **To** 10/31

Diversion Rate
1.820 cfs
1.820 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L8 (SESE) Sec 4 Twp 06S Rge 08E OWYHEE County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	08E	4										40.0	40.0	40.0			40.0		160.0
06S	08E	5						44.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	444.0
								L 4											
06S	08E	6	44.0			40.0													84.0
			L 1																
06S	08E	7			40.0	40.0					40.0			40.0	40.0	40.0	40.0	40.0	320.0
06S	08E	8	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	08E	9	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	08E	10							40.0		40.0	40.0	40.0	40.0		40.0	40.0		280.0
06S	08E	15					40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0					320.0
06S	08E	16	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	08E	17	40.0	40.0	40.0	40.0	40.0	40.0		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	600.0

Right Acre Limit: 91.0

POU Total Acres: 4128.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 79727

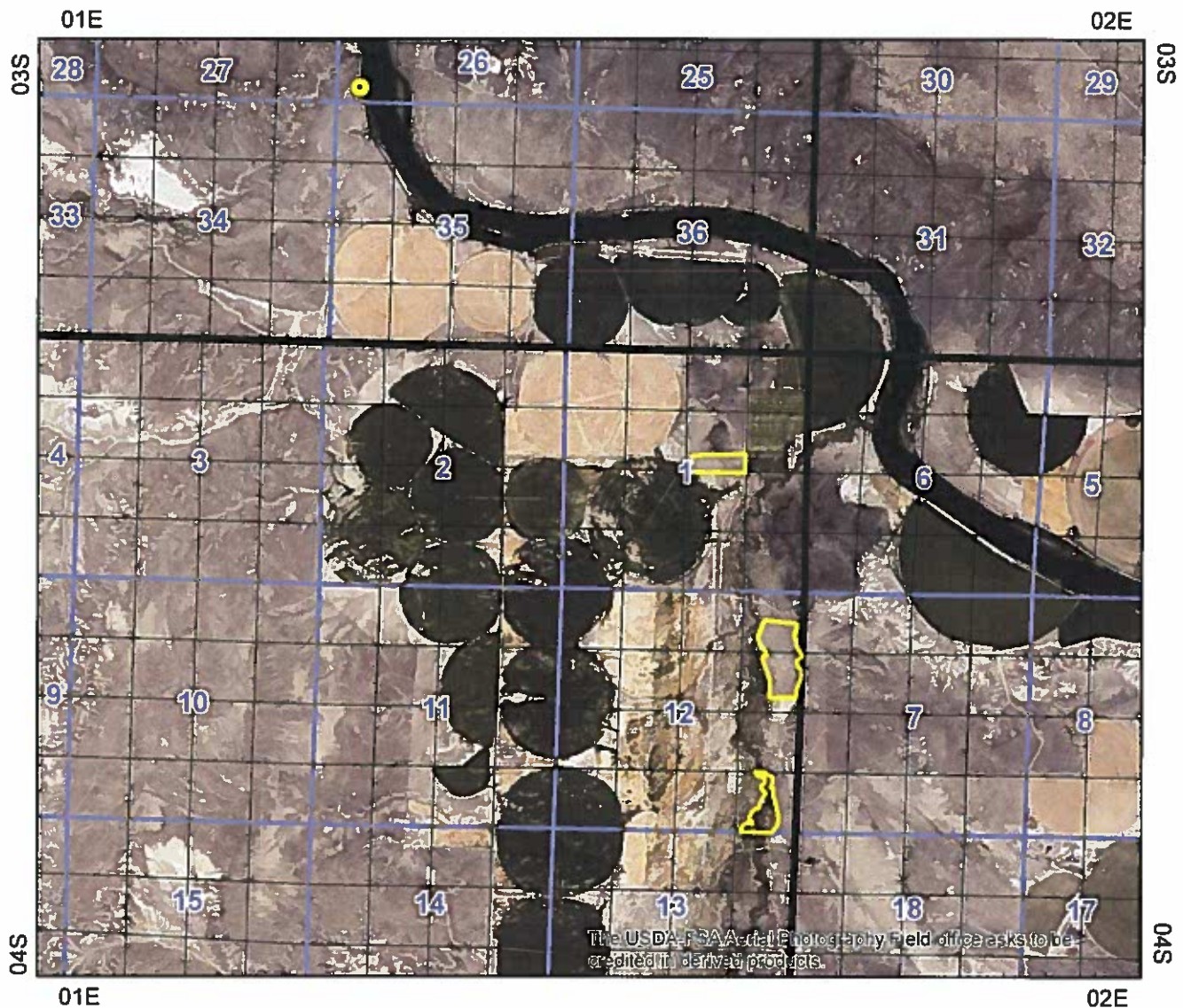
WATER RIGHT NO. 2-10422
As Modified by Transfer No. 79727

CONDITIONS OF APPROVAL

3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. This right is limited to the irrigation of 91 acres within the authorized place of use in a single irrigation season.
5. Rights 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B, 2-7102B, 2-10422 and 2-10510 when combined shall not exceed a total annual irrigation of 911 acres.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 6/9/2009.
8. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 2.
9. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
10. The approval of Transfer No. 79727 redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
11. Rights 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B and 2-7102B are diverted through point of diversion described above.

State of Idaho
Department of Water Resources
Attachment to Transfer No. 79727
2-10420

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



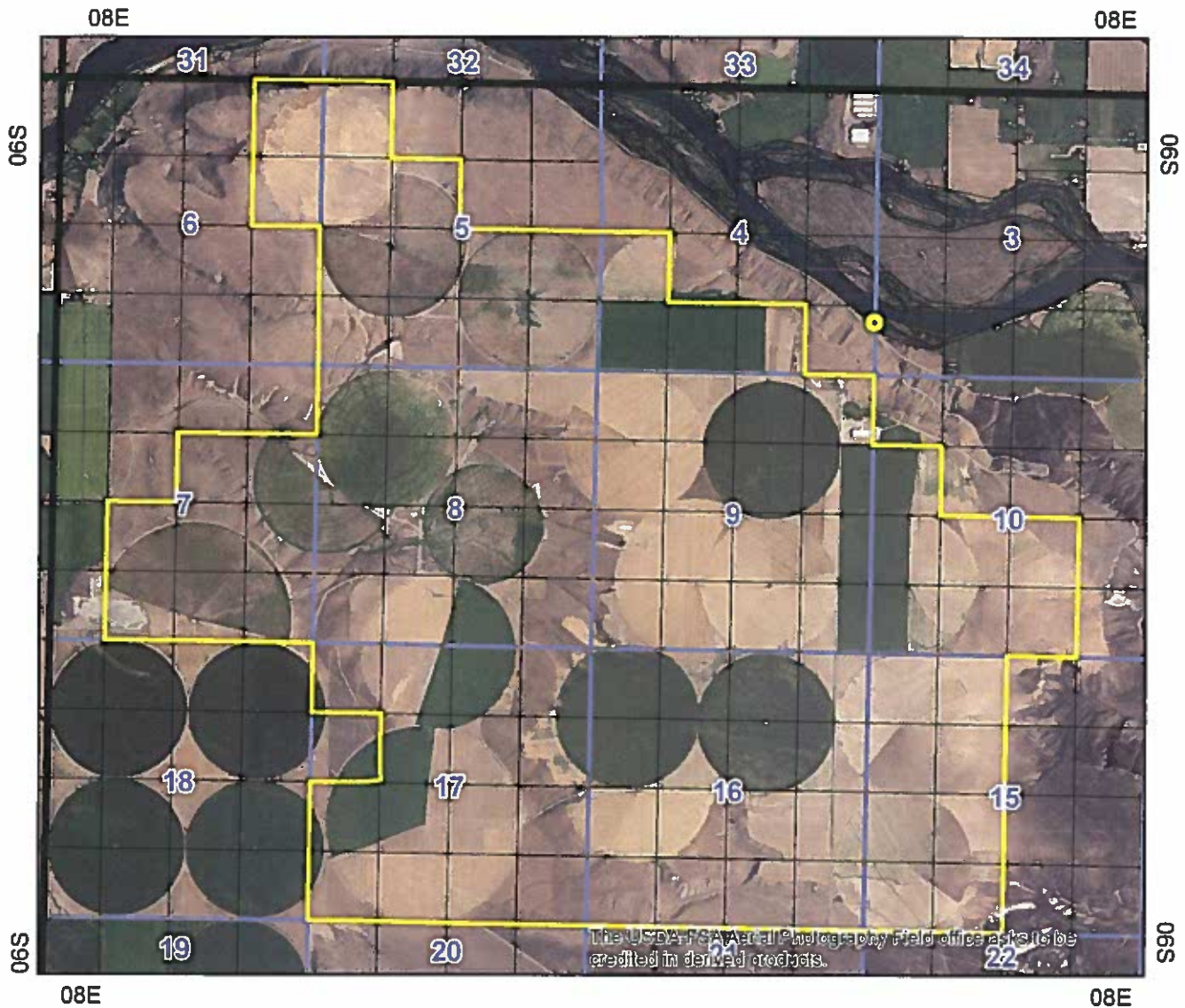
-  Point of Diversion
-  Place of Use Boundary
-  Townships
-  PLS Sections

0 0.475 0.95 1.9 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer No. 79727
2-10422 and 2-10510

This map depicts the IRRIGATION place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place of Use Boundary
-  Townships
-  PLS Sections

0 0.4 0.8 1.6 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

November 19, 2015

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

IDAHO WATER CO LLC
C/O DEL KOHTZ
1135 VALLEY RD S
EDEN ID 83325

Re: Transfer No: 79727
Water Right No(s): 2-10420, 2-10422

Transfer Approval Notice

Dear Water Right Holder <and other Interested Persons>:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note part or all of the water right (one or more rights might apply) in your approved transfer is leased to the Water Supply Bank (Bank). You may not use the right or portion of right leased to the Bank, even if the right is not rented from the Bank. To make the right available for your use, please submit a written request to the Department to change the lease. The Department will verify if the right is rented and not available for your use, or if the lease can be changed to allow your use of the right.

For more information about the Bank and the lease, please contact the Department as follows:

Water Supply Bank Coordinator
IDWR State Office
PO Box 83720
Boise, ID 83720-0098
(telephone 208-287-4800)

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Neely for:", is written over a large, stylized, loopy initial that likely represents "Nick".

Nick Miller
Western Region Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 79727
Water Right No(s): 2-10420, 2-10422**

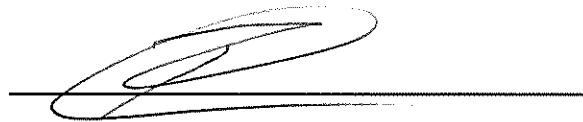
**IDAHO WATER CO LLC
C/O DEL KOHTZ
1135 VALLEY RD S
EDEN ID 83325**

**GIVENS PURSLEY LLP
MICHAEL C CREAMER
PO BOX 2720
BOISE ID 83701-2720**

**SPF WATER ENGINEERING LLC
C/O ROXANNE BROWN
300 E MALLARD DR STE 350
BOISE ID 83706**

**CORBIN KNOWLES
WATERMASTER OF DISTRICT 2
IDWR STATE OFFICE
PO BOX 83720
BOISE ID 83720-008**

**WATER SUPPLY BANK COORDINATOR
IDWR STATE OFFICE
PO BOX 83720
BOISE ID 83720-0098**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**Rachel Neely
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Transfer No. 79727

FROM: Angie Grimm

DATE: September 28, 2015 Revised November 17, 2015

RE: Evaluation of Application

The transfer proposes to change the point of diversion (POD) and place of use (POU) for right 2-10422 and a portion of right 2-10420 from the current location on the Snake River near the confluence with Castle Creek to an existing pump approximately 60 miles upstream.

The current point of diversion and place of use site is generally located south of the Snake River just west of the confluence with Castle Creek approximately 10 miles northeast of Oreana. The proposed POD and POU are located south of the Snake River just west of the confluence with Sailor Creek approximately two miles southwest of Hammett.

Contact person for the applicant is Roxanne Brown, with SPF Water Engineering LLC.

Summary of Information Submitted

Authority to File: Mike or Linda Ihli are the current owners of the rights proposed for transfer. The transfer applicant (Idaho Water Company LLC) provided a copy of the water right purchase agreement with Mike and Linda Ihli documenting authorization from the water right holders of record to request the change(s). Also, the applicant provided a copy of the water right purchase agreement between the applicant and the proposed POU and POD land owners authorizing the change(s).

Water Right Validity: Rights decreed by the SRBA in June of 2009. Rights presumed valid based on acceptance for lease into the WSB in 2014 until 12/31/2016. Rights while leased into the WSB are protected from forfeiture.

Injury to Other Water Rights: This transfer proposes moving the POD for the rights approximately 60 miles upstream on the Snake River. The current POD is approximately 15 miles upstream of Swan Falls Dam, while the new POD is approximately 15 miles upstream of CJ Strike Reservoir. There are approximately 70 water rights with priority dates junior to the rights proposed for transfer with PODs between the existing POD and proposed POD. The diversions are within Water District 02 Snake River. Potential injury should be prevented by watermeter regulation.

Enlargement of Use: Rights 2-10420 and 2-10422 are at least partially overlapped by Castle Creek right 57-11710. The transfer proposes to change a 20 acre portion of right 2-10420 for which right 57-11710 does not overlap. The transfer proposes to change all of right 2-10422 of which 39 acres overlaps 57-11710. WSB lease analysis of right 2-10422 indicates only 36 acres overlaps with 57-11710. However, the transfer application and transfer reviewer analysis (POU of rights vs. shapes in ArcMap indicating historically irrigated land) confirms 39 acres of overlap. In order to avoid enlargement, the applicant indicates the overlapping portion of right 57-11710 will be abandoned upon approval of the transfer removing right 2-10422 from the POU.

The applicant submitted an affidavit of Mike Ihli, in his capacity as Water District No. 57C (Castle Creek) Watermaster, to document the historic extent right 57-11710 has been beneficially used with right 2-10422. Attached is an analysis of this historic use data to determine the quantity of right 2-10422 that may be transferred for primary irrigation use within the new PPU (Analysis of Historic Use Right 2-10422 with Right 57-11710). The analysis concluded 1.92 cfs of right 2-10422 is available to transfer while 0.08 cfs would be deemed forfeit (removed to avoid enlargement). To maintain the historic rate/ac (and comply with the provisions for the water right purchase agreement requiring a rate/ac of 0.02 cfs), the overlapping rate/ac use of 2-10422 was consolidated onto less acres. Thus 39 acres will be reduced to 35 acres. The current water right owner would be required to abandon 0.75 cfs of right 57-11710 associated with the 39 acres being removed.

Additionally, the SRBA partial decree issued for right 2-7046E stipulates there is a combined rate limit of 32 cfs for rights 2-7046E (2.82 cfs), 2-10235 (0.8 cfs), 2-10422 (2.0 cfs), 2-10423 (0.8 cfs), 2-10244 (5.19 cfs) and 2-10332 (21.19 cfs - since split into 2-10469 20.51 cfs & 2-10470 0.68 cfs). These rights authorize total irrigation of 1699.5 acres (0.019 cfs/ac). At 0.019 cfs/ac, the total diversion rate for 100 acres under right 2-10422 would be 1.9 cfs vs. 2.0 cfs decreed. When changing the POD for rights, it's preferable to remove the combined rate limit via the transfer process to avoid complications with water right administration/delivery. In this case, to maintain the 0.02 cfs rate/ac value on the acres being transferred, five (5) acres would need to be removed ($1.9 \text{ cfs} / 0.02 \text{ cfs/ac} = 95 \text{ acres}$ vs. 100 acres currently authorized) from the right. Subsequently, the combined rate limit for the rights will be reduced from 32 cfs to 30.1 cfs for rights 2-7046E, 2-10235, 2-10423, 2-10244, 2-10469 and 2-10470 remaining in the system. This combined use limit will be placed in the database to reflect upon the rights rather than updated in conditions directly on the rights, because these rights are not involved in the transfer. Overall, removing four (4) acres to address the overlap with 57-11710 discussed above plus five (5) acres to address the combined rate limit, right 2-10422 should be reduced from 2.0 cfs for 100 acres to 1.82 cfs for 91 acres via this transfer process to avoid enlargement.

Reducing the quantity authorized under right 2-10422, abandoning associated use of overlapping right 57-11710, and moving the primary use under 2-10420 (non-overlapping use) will prevent possible enlargement of diversion rate, diversion volume and consumptive use volume under the rights.

Local Public Interest: Allowing for the continued use of existing water rights within the trust water area and a water district for agricultural use is in the 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.

Additional Information/Analysis

The applicant provided additional information regarding the historic use of overlapping Castle Creek right 57-11710. Attached is an analysis of this historic use data to determine the quantity of right 2-10422 that may be transferred for primary irrigation use within the new PPU (Analysis of Historic Use Right 2-10422 with Right 57-11710). Correspondence was sent to the applicant identifying the quantity available for transfer under right 2-10422 and the requirement for abandonment of the associated portion of overlapping right 57-11710 based on the historic use.

Initial review of the rights proposed for transfer identified a discrepancy in the quantity authorized under right 2-10420. An error was identified in the processing of previous Transfer No. 74511 (approved 3/6/09) that resulted in the right 2-10420 being approved for a greater quantity than appropriate (approved for 1.74 cfs rather than 1.46 cfs). This error was pointed out to the applicant's representative and an amended transfer application was requested via phone call documented via hand-written notes on the letter dated 5/13/15. An amended transfer application was received 6/22/15 changing the proposed quantity of right 2-10420 to be transferred from 0.5 cfs to 0.42 cfs. Additionally, an amended version of the water right purchase agreement was submitted changing the quantity of right 2-10420 from 0.4 cfs to 0.42 cfs. However, the amended transfer application indicates the unchanged portion of right 2-10420 is 1.24 cfs which the initial reviewer concluded should only be 1.04 cfs. An email dated 7/30/15 sent to the applicant's representative requested the application be amended to correct this discrepancy.

After the initial reviewer's retirement, the application was re-assigned for processing. Upon further review, it appears following Transfer No. 74511 approval, right 2-10420 was decreed (6/8/09) by the SRBA, associated with Transfer No. 78404 approval (3/4/13) and accepted for lease into the WSB (4/2/14) all at a quantity of 1.74 cfs rather than the 1.46 cfs the previous transfer reviewer identified as correct. Upon discussion with management, it's been determined right 2-10420 should be recognized as 1.74 cfs based on the SRBA decree. This determination is consistent with subsequent actions by the Department relevant to this right. Therefore, the applicant's representative and water right holder (Mike Ihli) were notified the Department recommends the amended transfer application received 6/22/14 be retracted and processing of the original application proceed. However, the water right purchase agreement on file indicates only 0.42 cfs is subject to change rather than 0.50 cfs (associated with 20 acres to be transferred). An amended water right purchase agreement was requested to address this discrepancy.

Watermaster comments regarding this proposal were requested from Corbin Knowles, Water District 02 Watermaster via telephone and email. The Watermaster indicated a similar proposal (Transfer No. 77667) was approved previously by the Department. On 9/15/15, an email requesting Watermaster comments was sent. During an office visit following the 9/15/15 email, the Water District 02 Watermaster stated he does not object to the transfer so long as any combined use limitations are addressed (do not leave combined use limitations on points of diversion ~60 miles apart due to regulation difficulties it causes).

Discussion

Data entry affected the correct records for rights 2-10420 and 2-10422. The results of the partial decrees issued 6/8/09 and 6/9/09 respectively were migrated to water right records prior to data entry of a subsequent transfer.

Right 57-11710 partially overlaps the current POU of right 2-10420 and 2-10422. In comparing POU acres and shapes, it appears all land authorized for irrigation under 57-11710 in the NWSE Section 1 (6 ac), SWSE Section 12 (13 ac) and NWNE Section 13 (20 ac) is also authorized under 2-10422. Thus, there is a total of 39 acres of overlap under rights 2-10422 and 57-11710. Historical use data of 57-11710 was analyzed to determine the extent to which the rights maybe un-staked (via decrease in quantity available under 2-10422 and abandonment of overlapping portion of 57-11710) as discussed above (Enlargement of Use & Additional Information/Analysis sections). 20 acres of land under 2-10420 proposed for transfer is a portion that right 57-11710 does not overlap; NESE Section 12 (4 ac) + SESE Section 12 (1 ac) + NENE Section 13 (15 ac). There are no other overlapping rights for the current POU.

Right 2-10422 currently has a combined volume limitation condition of 2220 AF when used with rights 57-7034A, 57-11708, 57-11709, and 57-11710. During processing of Transfer No. 78404 involving rights 2-10395 and 2-10398, a memo was written on 1/23/13 addressing this combined volume limitation along with others. This analysis concluded this combined volume limit was placed on the rights in error during the SRBA and furthermore it should be removed from any rights during future processing. Based on the previous analysis, the draft approval for this transfer removes this erroneous combined use limit from right 2-10422.

The current POD for rights 2-10420 and 2-10422 is also the point of diversion for rights 2-10395 and 2-10398 per conditions on associated rights. This overlap should not affect this transfer as there are no combined limits between the rights and these rights are used for a different POU. The reference to the same POD will be removed via processing of this transfer for the portion of 2-10420 and 2-10422 being transferred. The portion of right 2-10420 not being transferred, will be updated to remove reference to other water rights no longer diverted from this pod (changed via previous transfer). There are no other overlapping rights for the current POD.

The transfer proposes creating a permissible place of use (PPU) for rights 2-10420 (portion) and 2-10422. This PPU is the current PPU for rights 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B, and 2-7102B. Currently these rights authorize a total of 800 acres of irrigation within the 4,128 acre PPU. A subset of these rights (2-7019B, 2-7019D, 2-7022B, 2-7023B and 2-7102B) have a combined volume limit of 2,508 AF. This transfer proposes adding additional acres (120 acres of which 111 acres is transferable per Enlargement of Use section above) for irrigation within the same PPU. A combined use condition will be placed on 2-10510 (changed portion of 2-10420) and 2-10422 limiting irrigation within the 4,128 acre PPU to 911 acres when used in combination with the other rights. There is no volume quantity described for the rights being transferred into the system, thus no combined volume limit will be used. There are no combined rate limits on any of the rights (existing system or rights transferring into system). Rights 51-10323 and 2-10053 are domestic and stockwater rights within the same PPU. Right 2-7369 PPU is within a portion of the proposed PPU (NESW & SESW Section 7), but this right is owned by a different entity than the PPU property owner and is not likely used within the proposed PPU. There are no other overlapping rights on the proposed PPU.

Rights 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B, and 2-7102B are also diverted from the proposed POD for this transfer. These are the same rights used within the proposed PPU system. Rights 2-10053, 2-10475, and 2-10476 are stockwater rights with an authorized POD within the same 40 ac-tract as the proposed POD, but there are no conditions on any of the rights indicating diversion is the same POD as the irrigation rights. There are no combined diversion limits on any of these rights with the six irrigation rights, thus it is not critical to verify POD overlap with these stockwater rights.

Rights 2-10420 and 2-10422 (together with overlapping portions of 57-11710) are leased into the WSB until 12/31/16. Currently, these rights are not rented from the WSB. Coordination will be done with WSB staff at the state office to ensure enlargement does not occur (leased acreage remains idled, etc.).

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.

Analysis of Historic Use Right 2-10422 with Right 57-11710 Transfer No. 79727

Angie Grimm, IDWR 9/17/2015

A common 39 acres are irrigated via rights 2-10422 (2.0 cfs 100 acres Snake River 7/30/1969 priority) & 57-11710 (1.91 cfs 99 acres Castle Creek 12/29/1970 priority). Transfer No. 79727 proposes to un-stack right 2-10422 from right 57-11710 and move 2-10422 upstream to a different POD and POU. The Department requested historic use data for these rights from the transfer applicant to determine the amount of water that maybe transferred under right 2-10422 for primary use upstream. The transfer applicant indicated the water right owner of 57-11710 is willing to abandon the overlapping portion of right 57-11710 upon transfer approval. The transfer applicant submitted an affidavit from Mike Ihli, Castle Creek Water District 57C Watermaster, in response to the historic use information request. The affidavit indicates flows available for 57-11710 priority generally cease by May 1 and the last three years no water was available for 57-11710 priority. Administrator's Memorandum Transfer Processing No. 24 states the Department will use an average annual historic consumptive use volume over an appropriately representative time period (not less than five years) to determine the volume available for transfer under supplemental rights (57-11710 is considered the supplemental right in this scenario based on priority and use). The historic use information provide did not include consumptive use volume data. Below are calculations deriving the historic diversion volume for right 2-10422 and 57-11710 based on fully authorized diversion of 2-10422 (derived from rate) minus the average diversion volume of right 57-11710 (derived from rate). This method is not ideal for such a calculation, it is considered conservative in some aspects while an over-estimation in others, but appears to be a reasonable solution to avoid enlargement based on the data available.

Historic Data Use 57-11710:

- 100% Castle Cr 3/1 - 5/1 (61 days): $0.019 \text{ cfs/ac} \times 1.9835 \times 61 \text{ days} = 2.3 \text{ AF/ac}$ for 2 years
- 0% Castle Cr 3/1 - 5/1 (61 days): 0 AF/ac for 3 years
- Avg. volume Castle Cr: $[2.3 \text{ AF/ac} + 2.3 \text{ AF/ac} + 0 \text{ AF/ac} + 0 \text{ AF/ac} + 0 \text{ AF/ac}] \div 5 \text{ years} = 0.9 \text{ AF/ac}$ average provided from Castle Cr (3/1 - 5/1) 1st 61 days of irrigation season each year.

Historic Use 2-10422 derived from 57-11710 use data:

- 3/1 - 5/1: $0.02 \text{ cfs/ac} \times 1.9835 \times 61 \text{ days} = 2.4 \text{ AF/ac} - 0.9 \text{ AF/ac (Castle Ck)} = 1.5 \text{ AF/ac}$
- 5/1 - 11/15: $0.02 \text{ cfs/ac} \times 1.9835 \times 199 \text{ days} = 7.9 \text{ AF/ac} - 0 \text{ AF/ac (Castle Ck)} = 7.9 \text{ AF/ac}$
- 3/1 - 11/15: $1.5 \text{ AF/ac} + 7.9 \text{ AF/ac} = 9.4 \text{ AF/ac}$ possible diversion based on rate/ac
- Maximum annual consumptive volume for area is 4.5 AF/ac. Proportion 0.9 AF/ac to 9.4 AF/ac is X AF/ac to 4.5 AF/ac: $(0.9 \text{ AF/ac} \times 4.5 \text{ AF/ac}) \div 9.4 \text{ AF/ac} = 0.4 \text{ AF/ac}$ Castle Creek
- $4.5 \text{ AF/ac total} - 0.4 \text{ AF/ac from Castle Creek} = 4.1 \text{ AF/ac from Snake Rv}$
- $4.1 \text{ AF/ac} \div 4.5 \text{ AF/ac} \times 100 = 91\%$ volume from Snake River & 9 % from Castle Cr
- $0.02 \text{ cfs/ac total} - (0.02 \text{ cfs} \times 9\% = 0.002 \text{ cfs/ac Castle Cr}) = 0.018 \text{ cfs/ac Snake Rv}$
- $0.018 \text{ cfs/ac} \times 39 \text{ ac} = 0.70 \text{ cfs} \div 0.02 \text{ cfs/ac} = 35 \text{ ac}$ Snake Rv irrigation transferrable reduced from 39 acres applied for based on this historic use analysis

2-10422 Transfer:

- $0.02 \text{ cfs/ac} \times 61 \text{ ac (no overlap)} = 1.22 \text{ cfs} + 0.70 \text{ cfs (35 ac from overlap)} = 1.92 \text{ cfs}$ for 96 ac
- $2.0 \text{ cfs} - 1.92 \text{ cfs available to transfer} = 0.08 \text{ cfs}$ for 4 acres considered forfeit

57-11710 to Abandon:

- $1.91 \text{ cfs/99 ac} \times 39 \text{ ac (overlap w/ Snake Rv being transferred)} = 0.75 \text{ cfs}$
- $1.91 \text{ cfs for 99 ac} - 0.75 \text{ cfs for 39 acres} = 1.16 \text{ cfs}$ for 60 acres

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NOV 09 2015

WATER RESOURCES
WESTERN REGION

November 9, 2015

Angie,

Thank you for your help in supplying the information necessary to complete this form. If this form is not done correctly, or if anything else is needed, please let me know. If it is sufficient, and assuming there are no glitches, could you give me your best guess as to the timing for the final approval of the transfer. You can just email me if you would. Thank you.

Mike Ihli

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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WATER RESOURCES
WESTERN REGION

Notice of Abandonment of Water Right

Print Name of Water Right Owner(s): MIKE and LINDA IHLIMailing Address: 625 S. School Ave. KUNA IDAHO 83634Phone: 208-867-5736

Note: If you are not listed as the current owner of the water right in the Idaho Department of Water Resources' records, you must include evidence of ownership of the water right (or portion of the water right) with this form. Evidence may include a warranty deed, quitclaim deed, court decree, contract of sale, etc.

I am the current owner of X all, or part of, the water right described in the Idaho Department of Water Resources' records as Water Right No. 57-11710.

I hereby abandon all, or X part of the water right designated above. This abandonment is intentional and voluntary. I recognize that this abandonment permanently eliminates the right to divert and use water under the water right designated above.

If this abandonment applies to a portion of the water right, please indicate which part is abandoned by describing the diversion rate, annual diversion volume or storage volume, and place of use (include acres if the use is irrigation) and by attaching a detailed map identifying the specific locations.

.75 cfs for 39 acres - 6 acres NWSE Sect. 1
+ 13 acres SWSE Sect. 12 + 20 acres NWNE Sect. 13
all in T04S R01E, B.M. Owyhee Co., Idaho

Mike IHLI

Signature of Water Right Owner(s) or Authorized Representative

NOV 9 2015
Date

MICHAEL B. IHLI OWNER

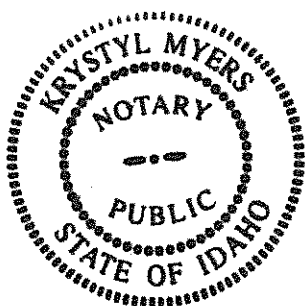
Print Name and Title of Authorized Representative

(Complete if applicable and include your authority to act on behalf of the water right owner)

State of Idaho)County of Ada) ss

On this 9th day of November, 2015, the signer(s) of the above instrument appeared before me and duly acknowledged to me that he/she executed the same.

SEAL

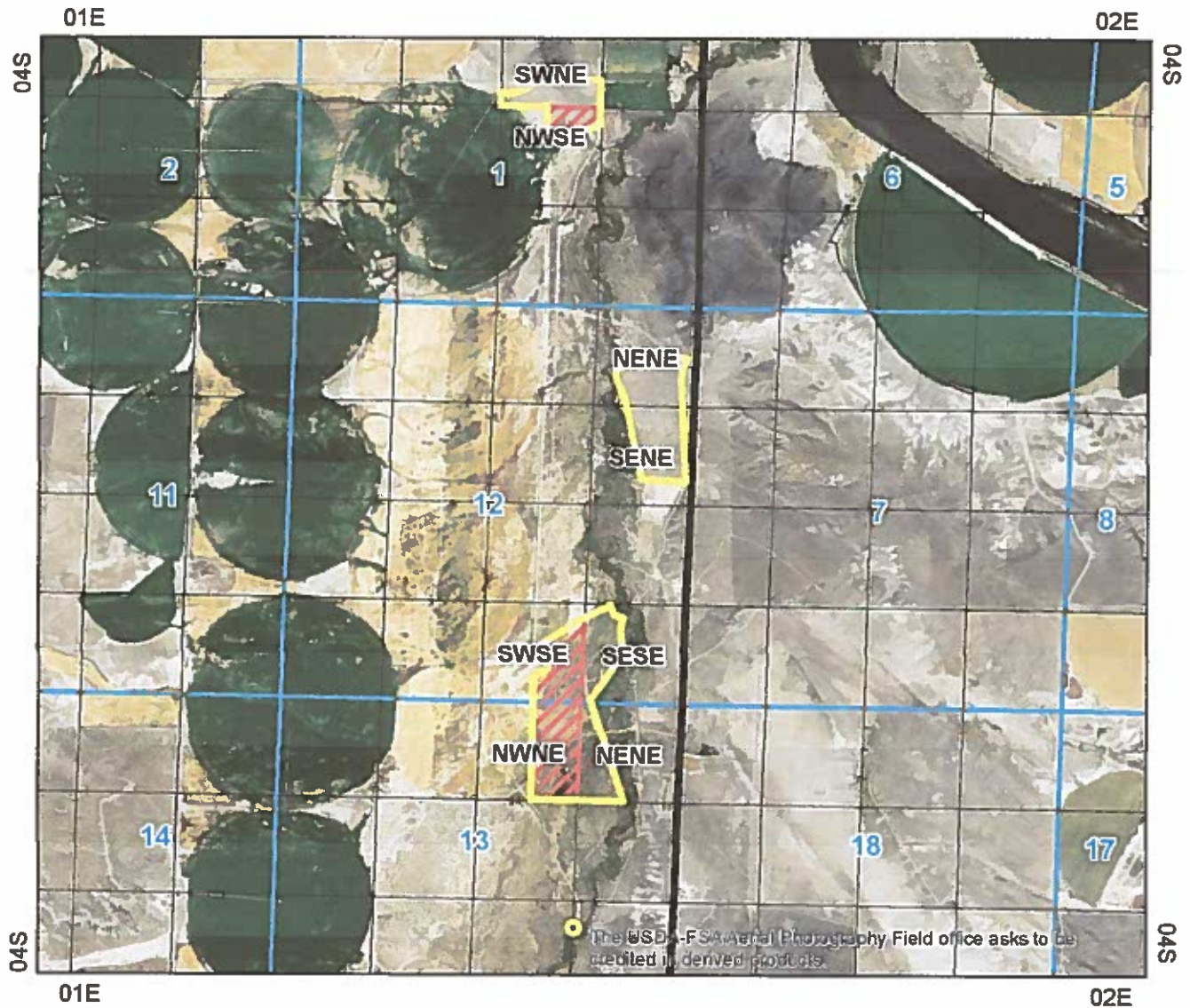


Krystyl Myers
Notary Public

My commission expires: 10-6-21

State of Idaho
Department of Water Resources

Notice of Abandonment of Water Right Map Portion of Water Right 57-11710



- Point of Diversion
- 57-11710 Current POU
- 57-11710 POU to Abandon
- Townships
- PLS Sections

0 0.275 0.55 1.1 Miles



Grimm, Angie

From: Grimm, Angie
Sent: Thursday, November 05, 2015 2:14 PM
To: 'Mike Ihli'
Cc: 'mcc@givenspursley.com'; 'Roxanne Brown'; 'delkohtzidwc@mindspring.com'
Subject: Request for Written Confirmation Intent to Abandon Portion of WR 57-11710 - Transfer No. 79727
Attachments: notice-of-abandonment-of-water-right.pdf; 57-11710_Ihli_AbandonmentMap.pdf

Mike,

Good afternoon! Processing of Idaho Water Company LLC Transfer Application No. 79727 is continuing with the public notice protest period ending 10/26/15. The transfer application form (Part 1B item no. 5g) indicates it is your intent the overlapping portion of Castle Creek water right 57-11710 be relinquished upon transfer approval. Before approval of the transfer may be issued, the Idaho Department of Water Resources (IDWR) requires a written statement from you, as the water right owner of 57-11710, confirming it is your intent to relinquish/abandon the overlapping portion of Castle Creek water right 57-11710 (0.75 cfs for 39 acres - 6 ac NWSE Sect 1 + 13 ac SWSE Sect 12 + 20 acres NWNE Sect 13 T04S R01E) upon approval of Transfer No. 79727. Written confirmation may be provided by completion of the attached form provided by IDWR for such a purpose. I've also attached a map depicting the current place of use for right 57-11710 identifying the 39 overlapping acres to be abandoned for your use as the required attachment for the abandonment notice. Once received, IDWR will proceed with finalizing this matter. While realizing you wish to proceed with this matter as quickly as possible and I anticipate a timely response, I must state that your response, or a request for more time to make your response, must be received within thirty (30) days. Without a timely written response, IDWR will issue a preliminary order to reject the application. Please contact me via reply to this email or by phone if you have any questions. Thank you for your attention to this matter. I look forward to your response.

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

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

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WATER RESOURCES
WESTERN REGION

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

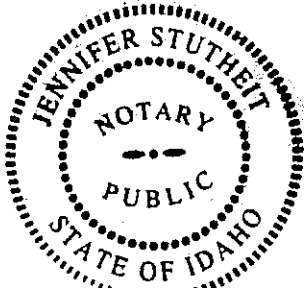
OCTOBER 7, 14, 2015

SIGNED:

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 30 day of OCT in the year of 2015 before me, a

Notary Public, personally appeared ROBERT E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jenny Stutheit
Notary Public of Idaho

Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2021

THE FOLLOWING
APPLICATIONS HAVE
BEEN FILED TO
APPROPRIATE THE
PUBLIC WATERS OF THE
STATE OF IDAHO:

57-11845 MICHAEL B IHLL,
LINDA MIHLI, 625 S SCHOOL
AVE, KUNA, ID 83634. Point
of Diversion NWNESE S13
T04S R01E OWYHEE County
Source CASTLE CREEK
Tributary SNAKE RIVER. Use:
DIVERSION TO STORAGE
11/16 to 02/28 2 CFS. Use:
WILDLIFE STORAGE 01/01 to
12/31 200 AF. Total Diversion: 2
CFS 200 AF. Date Filed: 2/4/2014
Place of Use: WILDLIFE
STORAGE, T04S R01E S12
SWNE SENE SE(ALL)

57-11862 ALVIN DAVISON,
TINA DAVISON, PO BOX
35, MURPHY, ID 83650. Point
of Diversion SESE S27 T02S
R02W OWYHEE County
Source GROUND WATER. Use:
IRRIGATION 03/01 to 11/15 0.12
CFS. Total Diversion: 0.12 CFS.
Date Filed: 6/11/2015 Place of
Use: IRRIGATION, T02S R02W

S27 SESE Total Acres: 4

57-11864 MKFT REAL
ESTATE LLC, 601 RIVERSIDE
AVE 5TH FLOOR, SPOKANE,
WA 99201. Points of Diversion
SESW SWSE S26 T04S R01W
OWYHEE County Source
GROUND WATER. Point of
Diversion SWSW S25 T04S
R01W OWYHEE County
Source GROUND WATER. Use:
IRRIGATION 03/01 to 11/15 1
CFS. Total Diversion: 1 CFS.
Date Filed: 6/24/2015. Place
of Use: IRRIGATION. T04S
R01W S25 SWSW, T04S R01W
S26 SW(ALL) SE(ALL), T05S
R01W S34 NENE SWNE SENE,
T05S R01W S35 NENE NWNE
SWNE NW(ALL). Total Acres:
532. Application proposes 50
additional acres to be irrigated
within a permissible place of use
of 532 acres with water right nos.
57-2271, 57-2278, & 57-11711.

PROPOSED CHANGE OF
WATER RIGHT(S)

MKFT Real Estate, LLC, of 601
E. Riverside Ave., Spokane, WA
99201, filed Transfer Application
No. 80195 to consolidate the
points of diversion for Right Nos.
57-2271, 57-2278, and 57-11711
to a proposed well in the SESW
Sec. 26 T4S R1W, an existing
well in the SWSE Sec. 26 T4S
R1W, and a second existing well
in the SWSW Sec. 25 T4S R1W.
Transfer also proposes to create
a permissible place of use for
irrigation flexibility. All three
rights authorize a total of 7.82
cfs and 1758.6 acre-feet. Priority
dates range from 1964 to 2007.
No other changes proposed.

**PROPOSED CHANGE OF
WATER RIGHT(S)**

Idaho Water Company LLC of 1135 Valley Rd. S. Eden ID 83325 filed Application No. 79727 to transfer two water rights with 1969 priority dates from the Snake River totaling 2.5 cfs. The purpose of the transfer is to change the point of diversion and place of use to a location approximately 60 miles upstream. The current site is generally located south of the Snake River just west of the confluence with Castle Creek approximately 10 miles northeast of Oreana. The proposed site is located south of the Snake River just west of the confluence with Sailor Creek approximately two miles southwest of Hammett. The unchanged portion of one of the rights will remain at the current site near Oreana.

Permits will be subject to all prior water rights. 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/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(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 10-26-2015. The protestant must also send a copy of the protest to the applicant.

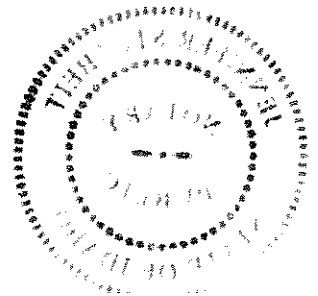
GARY SPACKMAN, Director
10/7/14/15

VORBN
11/2/15

11/2/15

NOV 5 2015

WESTERN REGION
WATER RESOURCES





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OCT 14 2015

WATER RESOURCES
WESTERN REGION

October 14, 2015

Angie,

Here is the amended (by changing and initialing) Option Agreement between Idaho Water Company and me that you requested. If you have any questions or concerns, please notify Del Kohtz or me. Thank you.

Mike Ihli
208-867-5736

del e idaho water company - com

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OCT 14 2015

WATER RESOURCES
WESTERN REGION

OPTION AGREEMENT

FOR PURCHASE AND SALE OF WATER RIGHT

THIS OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT ("Agreement") is made and entered into this 26th day of September, 2014 ("Effective Date"), by and between Michael B. Ihli and Linda M. Ihli, whose address is 625 South School Avenue Kuna, Idaho 83634. (hereinafter "Seller") and Idaho Water Company LLC, an Idaho limited liability company, whose address is 1135 Valley Road, So. Eden, Idaho 83325 (hereinafter "Buyer").

RECITALS

A. WHEREAS, Seller is the owner of water right(s) designated as Right No(s). 2-10422 and 2-10420 ("Water Rights") in the records of the Idaho Department of Water Resources ("Department") more particularly described in Exhibit A hereto.

B. Seller offers to sell and Buyer wishes to purchase the Water Rights, or the following described portion(s) of the Water Rights: 120 acres consisting of 100 acres of 2-10422 at 2.0 cfs and 20 acres of 2-10420 at 0.5 cfs. Further, the parties intend to change the point of diversion and place of use thereof to other lands ("Transfer"). To the extent Buyer is purchasing only a portion of the Water Rights, then as used hereafter in this Agreement the term "Water Rights" shall refer to such portions of the Water Rights subject to purchase by Buyer.

C. Seller and Buyer acknowledge that the Transfer will require formal application to, and approval by, the Idaho Department of Water Resources.

AGREEMENT

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

1. Purchase and Sale. Seller, in consideration of the terms contained herein, agrees to sell and convey to Buyer, and Buyer does hereby agree to buy from Seller the Water Rights. No land is included in this Agreement.

2. Purchase Price. The purchase price for the acres of the Water Rights are Two Hundred Seventy Thousand Dollars (\$270,000.00) ("Purchase Price"), which is based on \$2250.00 per acre of water ("Per-Acre Price") for each of the 120 acres currently authorized to be irrigated under the Portion of the Water Rights. The Purchase Price shall be payable upon satisfaction of the option period and final approval of the transfer. '

Earnest Money Deposit. Upon execution of this Agreement by Seller and Buyer, Buyer shall pay to Seller \$1,000.00 earnest or option money.

Balance of Purchase Price. The balance of the Purchase Price following the feasibility And Option Period , being Two Hundred Sixty Nine Thousand Dollars (\$269,000.00), shall be due and payable to Seller at Closing.

Adjustment to Purchase Price. Seller and Buyer acknowledge the Purchase Price is based upon the Per-Acre Price, which in turn is based upon an assumed transferable volume of 4.5 acre feet and a transferable diversion rate of .02 cubic feet per second (cfs) per each irrigated acre. If the Department approves the Transfer but with conditions limiting the total annual diversion volume to less than the above described per acre volume and diversion rate and provided Buyer, in Buyer's sole discretion, has waived the conditions precedent herein, then the parties agree the Purchase Prices shall be adjusted at Closing based on the number of acres that could be supplied with the above described per acre volume and diversion rate approved by the per acre price.

3. Option. Upon execution of this agreement by the parties, Buyer shall deliver to Seller the sum of \$1000.00 as option or earnest money. The option money shall be applied to the Purchase Price at Closing. Payment of the option money entitles the Buyer to a sixty (60) day feasibility period in which to investigate the Water Rights. During the feasibility period, Seller agrees to provide any necessary and proper documentation, in a reasonably expedient manner, as requested to aid Buyer's investigation. Upon completion of the Buyer's investigation and expiration of the feasibility period, Buyer shall, within ten days, pay to Seller an additional non-refundable amount of \$5000.00 (Five Thousand Dollars) Option Money for a six month extension of the Option Period. Buyer shall provide Seller timely notice upon expiration of, or at any time during the six month Option Period that he intends to complete the Purchase and file a transfer of the Water Rights or that Buyer intends, at his election, not to exercise the Option. If Buyer completes the transfer and Closes the contract, the \$5000.00 Option Money shall be applied against the Purchase Price.

4. Pre-Closing Obligations. Seller and Buyer agree to cooperate in obtaining Department approval of the Transfer. Within thirty (30) days following the notice to exercise the Option,

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Buyer shall file with the Department an application to transfer the Water Rights in Seller's name using Buyer's intended place of use and point of diversion with Buyer being responsible for the costs to prepare, file and prosecute the Transfer application with the Department, including all consultant fees for preparation of the Transfer application, calculation of mitigation, and Buyer's attorney fees in the case of protests and hearings on the Transfer. Buyer and Seller shall use best efforts to obtain timely Transfer approval. Seller authorizes Buyer to make needed changes to the Transfer application to facilitate the process of transferring the water provided such changes made will not materially change the amount of money Buyer has to pay, or the amount of water Buyer receives. Seller agrees to promptly provide to Buyer any necessary Seller approvals or authorizations required in connection with the Transfer, including but not limited to authorizations to file, amend and prosecute the Transfer application, or to request records of historical power consumption, water diversion records and cropping from state or federal agencies related to the Water Rights or the lands to which they are appurtenant.

5. Conditions Precedent. The Closing and Buyer's obligation to purchase the Water Rights are subject to: (i) Department approval of the Transfer on terms acceptable to Buyer, in Buyer's sole discretion, including but not limited to authorizing diversion and use of 480 acre-feet per annum and a total diversion rate of 2.4 cfs at such location(s) and for such purpose(s) as requested in the Transfer.

6. Termination: If the foregoing condition(s) precedent is/are neither satisfied nor waived by Buyer, or in the event of any default by Seller, and provided Buyer is not in default hereunder, Buyer may terminate this Agreement by giving written notice of termination to Seller. Buyer also may terminate this Agreement prior to issuance of an order approving or denying the Transfer, if Buyer determines, in Buyer's sole discretion, not to go forward with the Transfer based on the cost of the Transfer process, anticipated conditions of IDWR's approval of the Transfer (other than the transferrable quantity conditions set forth in section 5 above) or the probability of success of the Transfer. In such case, upon written notice to Seller, Buyer may halt the Transfer process and terminate this Agreement with no liability to Seller; provided however, that if Buyer terminates this Agreement for any such reasons, Seller shall be entitled to retain the balance of Option Money as consideration for Seller entering into this Agreement.

7. Buyer's Waiver of Transfer Approval. Provided all other conditions precedent to Seller's obligation to close have been met, Buyer has the right to waive the Transfer approval condition precedent and close the Water Rights purchase, to the extent that the Department's Transfer Approval reduces the rate or annual volume authorized to be diverted at the intended point of diversion and place of use, and Buyer, in Buyer's sole discretion, deems the diversion rate and/or volume actually authorized by the Transfer Approval nevertheless to be sufficient for Buyer's intended use. If Buyer so waives such condition precedent, then Buyer shall remain obligated to pay the balance of the Purchase Price subject to any adjustments provided for above. If Buyer completes the Closing of this transaction, all conditions precedent shall be deemed waived.

8. Closing. Closing shall occur within thirty (30) days following issuance of a final order by the Department approving the Transfer. Possession and use of the Water Rights shall pass to Buyer on Closing. At Closing, the Buyer shall deliver the balance of the Purchase Price to the Seller, less any permitted adjustments, and Seller shall deliver to Buyer a fully-executed Special Warranty Deed substantially in the form attached hereto as Exhibit B conveying the Water Rights to Seller.

9. Attorney Fees. In the event of any suit or proceeding by either party against the other party, in any way arising out of this Agreement, the prevailing party shall be awarded their reasonable attorney fees and costs.

10. Binding. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, representatives, successors and assigns.

11. Entire Agreement. This Agreement contains the entire agreement between the parties related to the purchase and sale of the Water Rights, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein.

12. Modification. No modification of this Agreement shall be valid unless the same is in writing and signed by both parties.

13. Essence of Time. Time is of the essence to this Agreement.

14. Notices. All notices to be given to the parties shall 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 shall have directed in writing that notice be sent to a different address.

15. Counterparts. This Agreement may be executed in counterparts.

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

BUYER

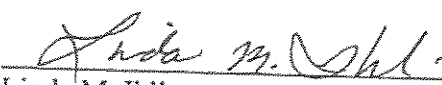
Idaho Water Company LLC.
an Idaho limited liability company


Delbert G. Kohtz, Member

SELLER


Michael B. Ihli

SELLER


Linda M. Ihli