

RECEIVED

OCT 29 2015

DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 80418

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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

Name of Applicant(s) JAMES L WELLS AND RUTH T WELLSCheck whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A *Means the item is always required and must be included with the application.

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

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

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

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

OCT 29 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

Name of Applicant JAMES L WELLS Phone 2
Mailing Address 790 E 3800 N, BUHL ID 83316 Email (208) 308-1950
Name of Applicant RUTH T WELLS Phone (208) 308-1950
Mailing Address 790 E 3800 N, BUHL ID 83316 Email _____

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

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

☐ No Representative

Name of Representative _____ Phone _____
Mailing Address _____ Email _____

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

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

* James L. Wells James L. Wells 10/29/15
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

* Ruth T. Wells Ruth T. Wells 10/29/15
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

1.	Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
47-7270	No	No	No	Yes	No	No	No

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

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

The transfer intends to update the POU shape to reflect changes in the irrigation system,

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

1. Detailed Water Right Description(s) Attached labeled Part 1.

Summary of Water Rights After the Approved Change

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
47-7270	1.020 cfs	400.0 af	N/A	100.0		N/A	N/A	N/A	N/A

**COMBINED
TOTALS**

1.020 cfs 400.0 af N/A 100.0 N/A N/A N/A N/A

2. Total amount of water proposed to be transferred or changed 1.02 cubic feet per second and/or _____ acre-feet per annum

3. Points(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☒ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5.**

4. Place of Use:

- ☐ No changes to place of use are proposed. (Proceed to #5.)
- ☒ As shown in Part 1.
- ☐ See Attachment.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes**

Proposed Water Right No. 47-7270

Current Water Right Owner

JAMES L WELLS
790 E 3800 N
BUHL, ID 83316

AND

RUTH T WELLS
790 E 3800 N
BUHL, ID 83316

Priority Date: 1/6/2000

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	1.020 CFS	400.0 AFA	
Total Diversion			1.020 CFS	400.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER

SESW

Sec. 12 Twp 10S Rge 13E TWIN FALLS 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	
10S	13E	12												10.2			23.0		33.2
10S	13E	13		25.0	3.2		26.4			12.2									66.8

POU Total Acres: 100.0

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

5. General Information:

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

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

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

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
No, ☐ If Yes, ☒

Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: Northwest Farm Credit Services

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

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
They will be dried up.

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

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

Yes	No
☐	☒
☐	☒
☐	☒
☐	☒

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

If yes, describe:

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

Current Water Right No. 47-7270

Current Water Right Owner

**JAMES L WELLS
790 E 3800 N
BUHL, ID 83316**

AND

**RUTH T WELLS
790 E 3800 N
BUHL, ID 83316**

Priority Date: 1/6/2000

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	1.020 CFS	400.0 AFA	
Total Diversion			1.020 CFS	400.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER

SESW

Sec. 12 Twp 10S Rge 13E TWIN FALLS 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	
10S	13E	12												15.0			23.0		38.0
10S	13E	13		20.0	8.0		24.0			10.0									62.0

POU Total Acres: 100.0

Conditions/Remarks:

1. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

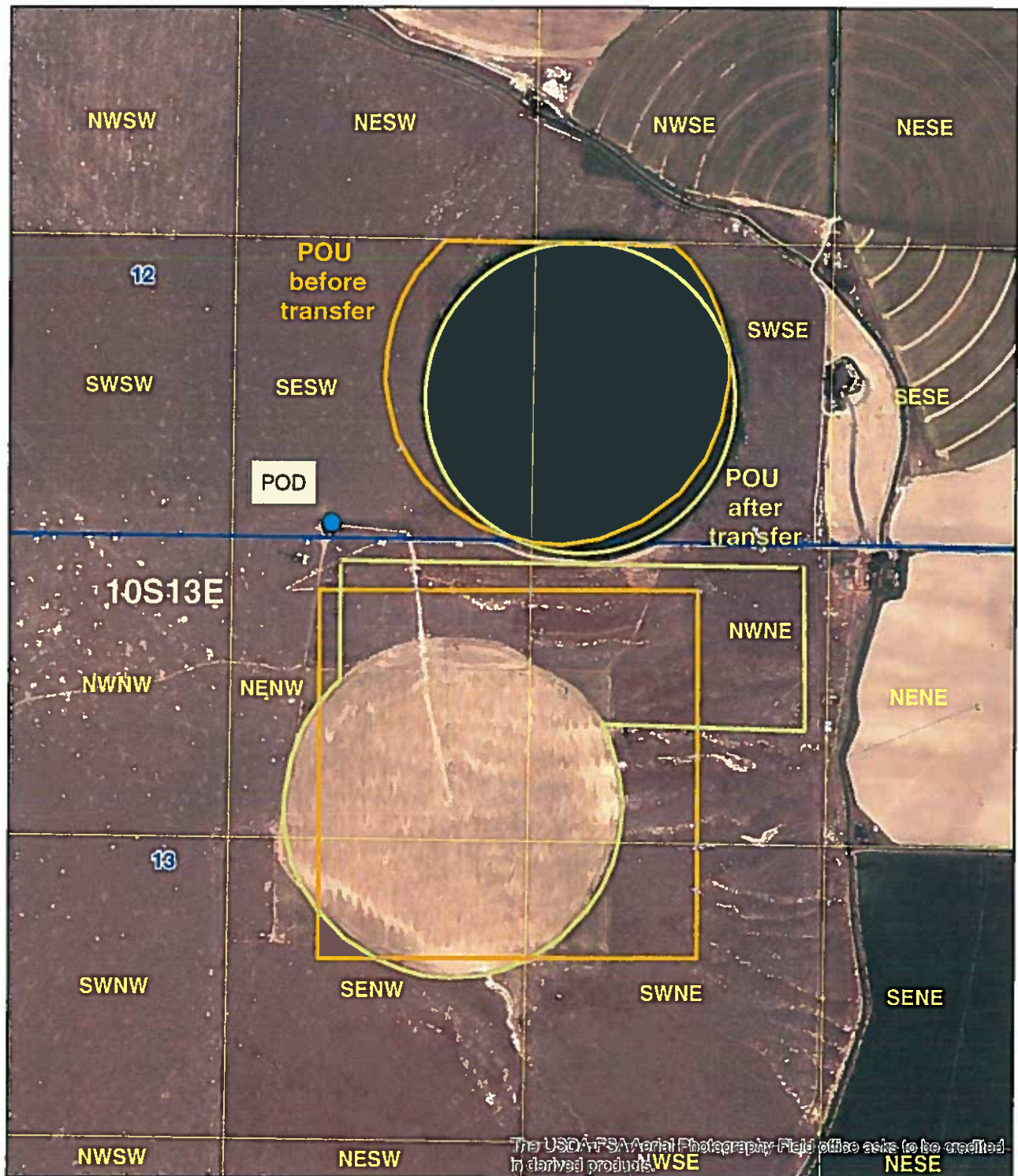
☐ Attach a map of the diversion, measurement, control, and distribution system. Label it Attachment #7a. If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it Attachment #7b. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

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

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

Transfer No. 80418

Wells Transfer - 80418



Legend

- Township/Range
- Sections
- QQ

Map displaying current
and proposed POU shapes



TRANSFER 80418

0 0.05 0.1 0.2 Miles

RECEIVED ✓

SEP 16 2015

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPT OF WATER RESOURCES
SOUTHERN REGION

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
47-7270	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Sunsett Butte LLC
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): James L. Wells Ruth T Wells
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or ☐ and/or
- 790 E 3800 N Buhl Id 83316
Mailing address City State ZIP
- 208 308 1950 Jim Wells FNZR idaho.com
Telephone Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: Aug 21, 2015
6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).
7. This form must be signed and submitted with the following REQUIRED items:
- ☐ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- ☐ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- ☐ Filing fee (see instructions for further explanation):
- ☐ \$25 per undivided water right.
 - ☐ \$100 per split water right.
 - ☐ No fee is required for pending adjudication claims.
- ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
- ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

8. Signature: James L. Wells OWNER 9/16/15
Signature of new owner/claimant Title, if applicable Date
- Signature: Ruth T. Wells owner 9/16/15
Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by DM Date 9-16-2015 Receipt No. S035012 Receipt Amt. \$25-

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by _____ Date _____

WARRANTY DEED

Alliance Title & Escrow Corp. Order No.:278994

FOR VALUE RECEIVED

Sunset Butte, LLC, an Idaho Limited Liability Company

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

James L. Wells and Ruth T. Wells, husband and wife

whose current address is 790 E. 3800 N., Buhl, ID 83316

the grantee(s), the following described premises, in Twin Falls County, Idaho, TO WIT:

See Attached Exhibit "A"

Subject to Provisions in Agreement attached as Exhibit "B"

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: August 19, 2015

Sunset Butte, LLC, an Idaho Limited Liability Company

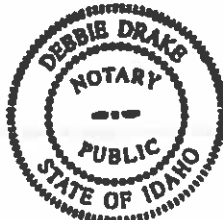
Robin D. Wells, Member Vivian R. Wells, Member
Robin D. Wells, Member Vivian R. Wells, Member

State of ID) ss
County of Twin Falls)

On this 20 day of August, 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared Robin D. Wells and Vivian R. Wells known or identified to me to be the Managing Member in the Limited Liability Company known as Sunset Butte, LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

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

Debbie Drake
Notary Public for the State of ID
Residing at: Residing at: Twin Falls, Idaho
Commission Expires: 04-13-2018



TWIN FALLS COUNTY
RECORDED FOR
ALLIANCE TITLE - TWIN FALLS OF
03:01:03 PM 08-20-2015
2015014141
NO. PAGES 14 FEE \$49.00
KRISTINA GLASCOCK
COUNTY CLERK
DEPUTY: DJW
Electronically Recorded by Simplifile

EXHIBIT "A"

278994

Parcel 1

Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho
Section 12: A parcel of land located in the S½S½ being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 12, from which the East One Quarter (E¼) corner of Section 12 bears North 00°34'05" West 2649.91 feet;
THENCE from the Southeast corner of Section 12 on a bearing of South 89°32'18" West along the South boundary of Section 12 for a distance of 1325.15 feet to the southeast corner of the SW¼SE¼ of Section 12 and being the TRUE POINT OF BEGINNING;
THENCE continuing South 89°32'18" West along the South boundary of the SE¼ of Section 12 for a distance of 1325.15 feet to the South One Quarter (S¼) corner of Section 12;
THENCE continuing South 89°32'18" West along the South boundary of the SW¼ of Section 12 for a distance of 993.86 feet;
THENCE North 00°34'20" West for a distance of 996.37 feet;
THENCE South 89°34'44" West for a distance of 1367.72 feet;
THENCE South 00°34'32" East for a distance of 997.34 feet to a point on the South boundary of the SW¼ of Section 12;
THENCE South 89°32'18" West along the South boundary of the SW¼ of Section 12 for a distance of 288.77 feet to the Southwest corner of Section 12;
THENCE North 00°34'05" West along the West boundary of the SW¼ of Section 12 for a distance of 1330.11 feet to the Northwest corner of the SW¼SW¼ of Section 12;
THENCE North 89°35'39" East along the North boundary of the S¼SW¼ of Section 12 for a distance of 2650.16 feet to the Northeast corner of the SE¼SW¼ of Section 12;
THENCE continuing North 89°35'39" East along the North boundary of the SW¼SE¼ of Section 12 for a distance of 1325.23 feet to the Northeast corner of the SW¼SE¼ of Section 12;
THENCE South 00°34'17" East along the East boundary of the SW¼SE¼ of Section 12 for a distance of 1326.24 feet to the TRUE POINT OF BEGINNING.

Parcel 2

Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho
Section 13: A parcel of land being more particularly described as follows:

COMMENCING at the Northeast corner of said Section 13, from which the East One Quarter (E¼) corner of Section 13 bears South 00°33'48" East 2648.78 feet;
THENCE from the Northeast corner of Section 13 on a bearing of South 89°32'18" West along the North boundary of the NE¼ of Section 13 for a distance of 1325.15 feet to the Northeast corner of the W¼NE¼ of Section 13 and being the TRUE POINT OF BEGINNING;
THENCE South 00°34'43" East along the East boundary of the W¼NE¼ of Section 13 for a distance of 2649.40 feet to the Southeast corner of the W¼NE¼ of Section 13;

ADW VSW

THENCE South 89°30'41" West along the South boundary of the W½NE¼ of Section 13 for a distance of 1324.45 feet to the Northeast corner of the SW¼ of Section 13;
THENCE South 00°35'37" East along the East boundary of the NE¼SW¼ of Section 13 for a distance of 1325.02 feet to the Southeast corner of the N½SW¼ of Section 13;
THENCE South 89°29'45" West along the South boundary of the N½SW¼ of Section 13 for a distance of 2645.15 feet to the Southwest corner of the N½SW¼ of Section 13;
THENCE North 00°30'01" West along the West boundary of the NW¼SW¼ of Section 13 for a distance of 1325.68 feet to the West One Quarter (W¼) corner of Section 13;
THENCE North 00°45'05" West along the West boundary of the NW¼ of Section 13 for a distance of 2651.30 feet to the Northwest corner of Section 13;
THENCE North 89°32'18" East along the North boundary of the NW¼ of Section 13 for a distance of 288.77 feet;
THENCE South 00°34'32" East for a distance of 331.38 feet;
THENCE North 89°32'53" East for a distance of 1386.00 feet;
THENCE North 08°00'00" East for a distance of 315.01 feet;
THENCE North 73°24'51" West for a distance of 68.35 feet to a point on the North boundary the NE¼NW¼ of Section 13;
THENCE North 89°32'18" East along the North boundary of Section 13 for a distance of 2319.01 feet to the TRUE POINT OF BEGINNING.

ADW JW

EXHIBIT "B"
FIRST ADDENDUM TO REAL ESTATE PURCHASE
AND SALE AGREEMENT

This First Addendum to Real Estate Purchase and Sale Agreement is made and entered into effective this 20 day of August, 2015, by and between **SUNSET BUTTE, LLC**, an Idaho limited liability company, hereinafter referred to as "Sunset", and **JAMES L. WELLS** and **RUTH T. WELLS**, hereinafter referred to as "Wells".

WITNESSETH:

WHEREAS, Sunset owns certain parcels of real property located in Twin Falls County, Idaho. Each parcel is more particularly described in this Agreement; and,

WHEREAS, the Wells are purchasing a portion of Sunset's real estate in a transaction scheduled to close on or before August 21, 2015; and,

WHEREAS, the parties have entered into a Real Estate Purchase and Sale Agreement dated June 25, 2015 which calls for an easement across the parcel to be sold to the Wells in favor of real estate owned by Sunset, and which calls for a restrictive covenant to run with the land; and,

WHEREAS, the parties desire to further describe the easement and the restrictive covenant.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the parties do hereby agree to the reservation of a perpetual, nonexclusive access and utility easement, more particularly described below, for ingress, egress, vehicular travel and the construction, installation, use, replacement and maintenance of utilities and related equipment to service Sunset's real estate which is surrounded by the parcels being sold to Wells. The easement shall be located on, over, under and across a strip of land that is described in

Exhibit "C" attached hereto and incorporated herein by reference. The parties to this Agreement are as set forth below together with their respective successors in interest. This Agreement is subject to the terms and conditions as set forth below.

I. PARTIES.

The parties to this Agreement are as follows:

- A. Sunset Butte, LLC
3219 E 3600 N
Kimberly, ID 83341
- B. James L. Wells and Ruth T. Wells
790 E 3800 N
Buhl, ID 83316

II. PROPERTY BURDENED.

The Wells property burdened by this access and utility easement is more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

III. PROPERTY BENEFITTED.

The Sunset property benefitted by this access and utility easement is more particularly described on Exhibit "B" attached hereto and by this reference made a part hereof.

IV. EASEMENT LEGAL DESCRIPTION.

The specific legal description of the portion of the Wells property subject to the easement is more particularly described on Exhibit "C" attached hereto and by this reference made a part hereof. In addition to the easement reserved in Exhibit "C" for the benefit of and appurtenant to Sunset's real property, the parties acknowledge and confirm the existing easement described on Exhibit "D" attached hereto and by this reference made a part hereof. The easement described on Exhibit "D" is also a perpetual, nonexclusive easement for vehicular access for the benefit of and appurtenant to Sunset's real property described on Exhibit "B".

It is specifically understood by all parties that the actual location of the Exhibit "C" easement may slightly vary from time to time as farming practices and equipment change. Both parties acknowledge and consent to such temporary and minimal deviations from the specific legal description.

V. USE OF THE EASEMENTS.

A. Sunset shall have reasonable access to the Exhibit "C" Easement for the purpose of construction, repair, maintenance, operation, replacement or removal of utilities and related equipment for the benefit of their real property.

B. Sunset may use both easements for the purpose of ingress, egress, and access to their real property, including the use of vehicles and machines.

C. The Wells shall have the right to use and enjoy the surface of the land encumbered by the easements provided that such use does not interfere with the construction, repair, maintenance, operation, replacement or removal of the utilities or related equipment used by Sunset, and does not impede their ingress, egress, or access across the easement property.

D. Sunset may delegate the use of the easements to their agents, tenants, and subtenants for all of the purposes for which Sunset may use the easements.

VI. ATTORNEY'S FEES.

In the event of any suit or proceeding by either party herein and against the other party, including any and all bankruptcy claims, actions and proceedings deemed necessary or desirable, or to otherwise protect the interest of a party, including the hiring of any attorney in the event of default, the non-defaulting party or the prevailing party (in the event of suit) shall be entitled to recover reasonable attorneys' fees and costs, including fees or costs that may be incurred in any appellate proceeding.

VII. PERPETUAL EASEMENT.

The easements referenced in this Addendum are perpetual and shall be binding upon all of the parties hereto and their successors and assigns and shall be deemed to be a covenant running with the real property appurtenant to and for the express benefit of and for the express burden of each party's real property as described herein.

VIII. COVENANT TO NOT COMPETE.

It is expressly acknowledged and agreed to that the Wells property described in Exhibit "A" shall be and is subject to the following covenant: Wells covenants and agrees to not construct any radio antenna supporting structure, including without limitation, towers, poles, monopoles or buildings which contain or are used for the purpose of transmission or reception of radio signals on the purchased property. This covenant shall run with the land and shall bind Wells and their heirs, successors, and assigns of the property, in whole or in part, including without limitation any future owner of the property, in whole or in part.

IX. RECORDING.

This Addendum shall be recorded with the Warranty Deed conveying the real estate to Wells described in Exhibit "A". Once recorded, the easements and covenant contained in this Addendum shall be incorporated into and become a part of that Warranty Deed.

X. ATTORNEY DISCLOSURE

This Addendum was drafted by attorneys of the law firm of Stephan, Kvanvig, Stone & Trainor representing Sunset Butte, LLC as a convenience to the parties and as an accommodation to a pending transaction between Sunset Butte, LLC and Wells. Wells acknowledges that Stephan, Kvanvig, Stone & Trainor has not provided legal advice to Wells, and that Wells was encouraged to, and offered the opportunity to, consult legal counsel of their choosing relative to this agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this First Addendum to Real Estate Purchase And Sale Agreement effective the 20 day August, 2015.

Sunset Butte, LLC,
an Idaho Limited Liability Company,

By: Vivian R Wells, Manager & Member
Vivian R Wells, Manager & Member

By: Robin D. Wells, Member
Robin D. Wells, Member

"Sunset"
James L. Wells
James L. Wells

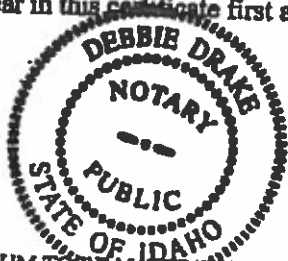
Ruth T. Wells
Ruth T. Wells

"Wells"

STATE OF IDAHO)
COUNTY OF TWIN FALLS) ss.

On this 20 day of August, 2015, before me, the undersigned, a Notary Public for Idaho, personally appeared VIVIAN R WELLS as manager and member and ROBIN D. WELLS as member of Sunset Butte, LLC, an Idaho limited liability company, known or identified to me to be the persons that executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of said company.

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



Debbie Drake
Notary Public for Idaho
My Commission Expires on 04-13-2018
Residing at: Twin Falls, Idaho
Commission Expires: 04-13-2018

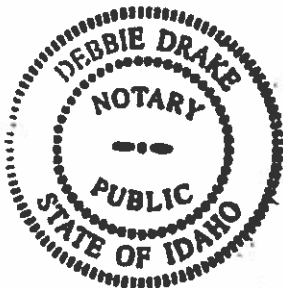
STATE OF IDAHO

COUNTY OF TWIN FALLS

)
: ss.
)

On this 20 day of August, 2015, before me the undersigned, a Notary Public for Idaho, personally appeared **JAMES L. WELLS** and **RUTH T. WELLS**, known or proved to me on the basis of satisfactory evidence to be the persons whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

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




Notary Public for Idaho
My Commission Expires on 04-13-2018
Residing at: Twin Falls, Idaho
Commission Expires: 04-13-2018

EXHIBIT "A"

Parcel 1

Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho

Section 12: A parcel of land located in the S½S½ being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 12, from which the East One Quarter (E¼) corner of Section 12 bears North 00°34'05" West 2649.91 feet;
THENCE from the Southeast corner of Section 12 on a bearing of South 89°32'18" West along the South boundary of Section 12 for a distance of 1325.15 feet to the southeast corner of the SW¼SE¼ of Section 12 and being the TRUE POINT OF BEGINNING;
THENCE continuing South 89°32'18" West along the South boundary of the SE¼ of Section 12 for a distance of 1325.15 feet to the South One Quarter (S¼) corner of Section 12;
THENCE continuing South 89°32'18" West along the South boundary of the SW¼ of Section 12 for a distance of 993.86 feet;
THENCE North 00°34'20" West for a distance of 996.37 feet;
THENCE South 89°34'44" West for a distance of 1367.72 feet;
THENCE South 00°34'32" East for a distance of 997.34 feet to a point on the South boundary of the SW¼ of Section 12;
THENCE South 89°32'18" West along the South boundary of the SW¼ of Section 12 for a distance of 288.77 feet to the Southwest corner of Section 12;
THENCE North 00°34'05" West along the West boundary of the SW¼ of Section 12 for a distance of 1330.11 feet to the Northwest corner of the SW¼SW¼ of Section 12;
THENCE North 89°35'39" East along the North boundary of the S¼SW¼ of Section 12 for a distance of 2650.16 feet to the Northeast corner of the SE¼SW¼ of Section 12;
THENCE continuing North 89°35'39" East along the North boundary of the SW¼SE¼ of Section 12 for a distance of 1325.23 feet to the Northeast corner of the SW¼SE¼ of Section 12;
THENCE South 00°34'17" East along the East boundary of the SW¼SE¼ of Section 12 for a distance of 1326.24 feet to the TRUE POINT OF BEGINNING.

Parcel 2

Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho

Section 13: A parcel of land being more particularly described as follows:

COMMENCING at the Northeast corner of said Section 13, from which the East One Quarter (E¼) corner of Section 13 bears South 00°33'48" East 2648.78 feet;
THENCE from the Northeast corner of Section 13 on a bearing of South 89°32'18" West along the North boundary of the NE¼ of Section 13 for a distance of 1325.15 feet to the Northeast corner of the W¼NE¼ of Section 13 and being the TRUE POINT OF BEGINNING;
THENCE South 00°34'43" East along the East boundary of the W¼NE¼ of Section 13 for a distance of 2649.40 feet to the Southeast corner of the W¼NE¼ of Section 13;
THENCE South 89°30'41" West along the South boundary of the W¼NE¼ of Section 13 for a distance of 1324.45 feet to the Northeast corner of the SW¼ of Section 13;

THENCE South 00°35'37" East along the East boundary of the NE¼SW¼ of Section 13 for a distance of 1325.02 feet to the Southeast corner of the N¼SW¼ of Section 13;
THENCE South 89°29'45" West along the South boundary of the N¼SW¼ of Section 13 for a distance of 2645.15 feet to the Southwest corner of the N¼SW¼ of Section 13;
THENCE North 00°30'01" West along the West boundary of the NW¼SW¼ of Section 13 for a distance of 1325.68 feet to the West One Quarter (W¼) corner of Section 13;
THENCE North 00°45'05" West along the West boundary of the NW¼ of Section 13 for a distance of 2631.30 feet to the Northwest corner of Section 13;
THENCE North 89°32'18" East along the North boundary of the NW¼ of Section 13 for a distance of 288.77 feet;
THENCE South 00°34'32" East for a distance of 331.38 feet;
THENCE North 89°32'53" East for a distance of 1386.00 feet;
THENCE North 08°00'00" East for a distance of 315.01 feet;
THENCE North 73°24'51" West for a distance of 68.35 feet to a point on the North boundary the NE¼NW¼ of Section 13;
THENCE North 89°32'18" East along the North boundary of Section 13 for a distance of 2319.01 feet to the TRUE POINT OF BEGINNING.

EXHIBIT 'B'

Parcel 1

A parcel of land located in the S1/2SW1/4 of Section 12 and N1/2NW1/4 of Section 13, Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho and being more particularly described as follows:

**TOWNSHIP 10 SOUTH
RANGE 13 EAST**

SECTIONS 12 and 13: (42.022 ACRES)

COMMENCING at the Southeast corner of said Section 12, from which the East One Quarter (E1/4) corner of Section 12 bears North 00°34'05" West-2649.91 feet, **THENCE** from the Southeast corner of Section 12 on a bearing of South 89°32'18" West along the South boundary of Section 12 for a distance of 3644.16 feet to the **TRUE POINT OF BEGINNING**:

THENCE South 73°24'51" East for a distance of 68.35 feet;
THENCE South 08°00'00" West for a distance of 315.01 feet;
THENCE South 89°32'53" West for a distance of 1386.00 feet;
THENCE North 00°34'32" West for a distance of 331.38 feet to a point on the South boundary of the SW1/4 of Section 12;
THENCE continuing North 00°34'32" West for a distance of 997.34 feet;
THENCE North 89°34'44" East for a distance of 1367.72 feet;
THENCE South 00°34'20" East for a distance of 996.37 feet to the **TRUE POINT OF BEGINNING**.

Parcel 2

A parcel of land located in the NE1/4NW1/4 of Section 13, Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho and being more particularly described as follows:

**TOWNSHIP 10 SOUTH
RANGE 13 EAST**

SECTIONS 13: (0.337 ACRES)

COMMENCING at the Northeast corner of said Section 13, from which the East One Quarter (E1/4) corner of Section 13 bears South 00°33'48" East-2648.78 feet, **THENCE** from the Northeast corner of Section 13 on a bearing of South 89°32'18" West along the North boundary of Section 13 for a distance of 3610.26 feet, **THENCE** South 00°20'20" East for a distance of 25.00 feet to the **TRUE POINT OF BEGINNING**:

THENCE continuing South 00°20'20" East for a distance of 140.00 feet;
THENCE South 89°32'18" West parallel with the North boundary of the NW1/4 of Section 13 for a distance of 105.00 feet;
THENCE North 00°20'20" West for a distance of 140.00 feet;
THENCE North 89°32'18" East parallel with the North boundary of the NW1/4 of Section 13 for a distance of 105.00 feet to the **TRUE POINT OF BEGINNING**.

EXHIBIT "C"

Reserving unto the grantor an access and utility easement being encompassed by the following described boundary:

Township 10 South, Range 13 East, Boise Meridian, Twin Falls County, Idaho
Sections 12 and 13: A parcel of land being more particularly described as follows:

COMMENCING at the Northeast corner of Section 13;
THENCE South 89°32'18" West along the North boundary of the NE¼ of Section 13 for a distance of 25.0 feet to a point on the West easement boundary of county road 900 East and being the TRUE POINT OF BEGINNING;
THENCE South 00°33'48" East along the West easement boundary of county road 900 East for a distance of 25.00 feet;
THENCE South 89°32'18" West parallel with and 25.0 feet South of the North boundary of the NE¼ of Section 13 for a distance of 1985.97 feet;
THENCE South 76°11'21" West for a distance of 41.38 feet;
THENCE South 70°03'40" West for a distance of 203.34 feet;
THENCE South 80°28'33" West for a distance of 71.04 feet;
THENCE North 89°21'40" West for a distance of 87.41 feet;
THENCE North 84°25'38" West for a distance of 214.97 feet;
THENCE North 77°39'49" West for a distance of 88.08 feet;
THENCE North 69°00'27" West for a distance of 86.28 feet;
THENCE North 79°33'18" West for a distance of 69.73 feet;
THENCE South 89°32'18" West parallel with the North boundary of the NW¼ of Section 13 for a distance of 676.54 feet;
THENCE South 07°54'12" West for a distance of 309.93 feet;
THENCE South 89°32'53" West for a distance of 54.66 feet;
THENCE North 08°00'00" East for a distance of 315.01 feet;

THENCE North 73°24'51" West for a distance of 68.35 feet to a point on the North boundary of the NW¼ of Section 13;
THENCE North 00°34'20" West for a distance of 25.00 feet;
THENCE North 89°32'18" East parallel with the South boundary of Section 12 for a distance of 3619.16 feet to a point on the West easement boundary of the county road 900 East;
THENCE South 00°34'05" East along the West easement boundary of county road 900 East for a distance of 25.00 feet to the TRUE POINT OF BEGINNING.

EXHIBIT "D"

DESCRIPTION OF THE EASEMENT

A 20.00 foot wide vehicular access easement located in a portion of W 1/4, Section 13, Township 10 South, Range 13 East, Boise Meridian, Twin Falls, County, Idaho; being more particularly described as follows.

Commencing at the Northeast corner of said Section 13. Said point lies South 00-01'-41" East 5300.11 feet from the Northeast corner of Section 12, Township 10 South Range 13 East, B.M. Thence South 89-32'-18" West 9610.46 feet. Thence South 00-11'-18" West 56.47 feet to the REAL POINT OF BEGINNING of the centerline of said 20.00 foot wide easement.

Thence South 71-25'-10" East 47.42 feet, Thence South 8-59'-03" West 167.24 feet, Thence South 8-15'-18" West 180.49 feet, Thence South 9-12'-23" West 778.61 feet, Thence South 26-32'-42" West 37.18 feet, Thence South 83-27'-05" West 48.80 feet, Thence South 89-30'-34" West 76.50 feet, Thence South 75-58'-20" West 48.50 feet, Thence South 49-27'-31" West 45.59 feet, Thence South 19-56'-31" West 59.51 feet, Thence South 4-30'-20" West 48.63 feet, Thence South 0-16'-15" East 822.49 feet, Thence South 0-27'-18" West 244.18 feet, Thence South 0-03'-48" East 923.90 feet, Thence South 2-20'-51" East 153.96 feet, Thence South 0-14'-14" East 173.15 feet, Thence South 1-03'-02" West 145.26 feet, Thence South 2-37'-13" West 127.84 feet, Thence South 0-00'-25" East 319.61 feet, Thence South 0-35'-08" East 834.86 feet, Thence South 9-38'-33" West 39.18 feet, Thence South 37-07'-17" West 96.00 feet, Thence South 69-01'-28" West 25.25 feet, Thence South 74-54'-56" West 47.50 feet, Thence South 71-01'-51" West 22.93 feet, Thence South 14-10'-46" West 43.73 feet, To the centerline of the 3800 North County Road and being the ending point of the centerline of the 20.00 wide easement.



RECEIVED

NOV 02 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

October 29, 2015

State of Idaho
Department of Water Resources
650 Addison Ave. West
Twin Falls, ID 83301-5858
Attn: Bill Bitzenberg
Re: Transfer #80418

Dear Mr. Bitzenberg:

It is my understanding that James Wells has requested a change to the POU on water right #47-7270, which is secured along with the underlying land by Northwest Farm Credit Services. As lienholder, Northwest Farm Credit agrees to this change in the POU for this water right. This action will not diminish our lien position in either the water right or land secured under our mortgage.

If I can answer any questions or concerns, feel free to give me a call (208)732-1033.

Sincerely,

A handwritten signature in blue ink that reads "Bill Lickley".

Bill Lickley
Relationship Manager/VP

MEMORANDUM

Date: November 6, 2015
To: Transfer 80418, Wells File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to modify the place of use (POU) for ground water right 47-7270 (1.02 cfs, 100 acres) to reflect changes in the irrigation system. The proposed place of use is located 6.2 to 6.7 miles west and 1.7 to 2.4 miles south of the intersection of Broadway Avenue and Clear Lake Road in Buhl.

The transfer should not be subject to public notice per the March 18, 2009 memo by Allen Merritt pertaining to advertising guidance.

- **Authority to File:**
The Department's database indicates that water right 47-7270 is owned by the applicants, James and Ruth Wells. Application was signed by James and Ruth Wells. A warranty deed provided in a recent change of ownership shows the Wells to be the owners of the property which is the subject of the transfer. The deed is included in the transfer paperwork.
- **Water Right Validity:**
Water right 47-7270 was decreed in June of 2010 so forfeiture is not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen.
- **Enlargement of Use:**
None anticipated. There will be no increase in irrigated acreage.
- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

FEE MEMORANDUM

Date: November 6, 2015
To: Wells transfer #80418 file
From: Jim Bitzenburg
Re: Receipting of fees paid

This transfer intends to change the place of use for one ground water irrigation right, 47-7270 (1.02 cfs, 100 acres). The total amount of acres changing is 9.6 out of 100 acres, or $0.096\% \times 1.02 \text{ cfs} = 0.1 \text{ cfs}$, so the fee from the transfer fee schedule is \$200.00. The \$200.00 fee was paid by Jim Wells on 10/29/2015, receipt #S035078.

MEMORANDUM

Date: November 6, 2015
To: Transfer 80418
From: James Bitzenburg
Re: Legal Notice Not Required

Legal Notice Not Required
11/6/2015

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

This transfer should not be subject to public notice per the March 18, 2009 memo by Allen Merritt pertaining to advertising guidance. The change of POU is to contiguous land.