

DEC 11 2014

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 79727

WATER RESOURCES
WESTERN REGIONMINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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

Name of Applicant(s) Idaho Water Company, LLC

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A * Means the item is always required and must be included with the application.

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

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

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

IN FILE # 2-10420

Page 1 of Transfer No. 79727

ORIGINAL APPLICATION CURRENT
AMENDED APPLICATION WITHDRAWN 9/25/15

Superseded by Amended Transfer Recd 6/22/15

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

DEC 11 2014

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

WATER RESOURCES

WESTERN REGION

Name of Applicant(s) Idaho Water Company LLCPhone (208) 312-1135Mailing address Delbert G. Kohtz, 1135 Valley Rd. S., Eden, ID 83325

Email _____

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

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

☐ No RepresentativeName of Representative Roxanne Brown, SPF Water Engineering LLCPhone (208) 383-4140Mailing address 300 E. Mallard Dr., Suite 350, Boise, ID 83706Email rbrown@spfwater.comAttorney: Michael C. Creamer, Givens Pursley, P.O. Box 2720, Boise, ID 83701-2720 (208) 388-1200

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

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

Signature of Applicant or Authorized Representative

Del Kohtz, Member

Print Name and Title if applicable

Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
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**.
 Applicant seeks authorization to change the point of diversion and place of use for water right 2-10422 and the point of diversion and a portion of the place of use for water right 2-10420. No other element of the subject water rights will be changed.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	2-10420	0.50	irrigation	3-1 to 10-31	Snake R./Columbia R.
☒ ☐	2-10422	2.00	irrigation	3-1 to 10-31	Snake R./Columbia R.
☐ ☐	Unchanged Portion			to	
☐ ☐	2-10420	1.24	irrigation	3-1 to 10-31	Snake R./Columbia R.
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 3.74 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 2.50 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

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

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
	8		SE	SE	4	6S	8E	Owyhee	Snake River	Hoodco/A0008103

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

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Total Acres (for irrigation use)																			

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
SUPPLEMENTAL PAGE - PART 1.B.4 (PLACE OF USE)

Place of Use

IRRIGATION Within OWYHEE County

T06S R08E S4	NWSW	40.00	T06S R08E S4	SWSW	40.00
T06S R08E S4	SESW	40.00	T06S R08E S4	SWSE	40.00
T06S R08E S5	Lot 4 NWNW	44.00	T06S R08E S5	SWNW	40.00
T06S R08E S5	SENW	40.00	T06S R08E S5	NESW	40.00
T06S R08E S5	NWSW	40.00	T06S R08E S5	SWSW	40.00
T06S R08E S5	SESW	40.00	T06S R08E S5	NESE	40.00
T06S R08E S5	NWSE	40.00	T06S R08E S5	SWSE	40.00
T06S R08E S5	SESE	40.00	T06S R08E S6	Lot 1 NENE	44.00
T06S R08E S6	SENE	40.00	T06S R08E S7	SWNE	40.00
T06S R08E S7	SENE	40.00	T06S R08E S7	NESW	40.00
T06S R08E S7	SESW	40.00	T06S R08E S7	NESE	40.00
T06S R08E S7	NWSE	40.00	T06S R08E S7	SWSE	40.00
T06S R08E S7	SESE	40.00	T06S R08E S8	NENE	40.00
T06S R08E S8	NWNE	40.00	T06S R08E S8	SWNE	40.00
T06S R08E S8	SENE	40.00	T06S R08E S8	NENW	40.00
T06S R08E S8	NWNW	40.00	T06S R08E S8	SWNW	40.00
T06S R08E S8	SENW	40.00	T06S R08E S8	NESW	40.00
T06S R08E S8	NWSW	40.00	T06S R08E S8	SWSW	40.00
T06S R08E S8	SESW	40.00	T06S R08E S8	NESE	40.00
T06S R08E S8	NWSE	40.00	T06S R08E S8	SWSE	40.00
T06S R08E S8	SESE	40.00	T06S R08E S9	NENE	40.00
T06S R08E S9	NWNE	40.00	T06S R08E S9	SWNE	40.00
T06S R08E S9	SENE	40.00	T06S R08E S9	NENW	40.00
T06S R08E S9	NWNW	40.00	T06S R08E S9	SWNW	40.00
T06S R08E S9	SENW	40.00	T06S R08E S9	NESW	40.00
T06S R08E S9	NWSW	40.00	T06S R08E S9	SWSW	40.00
T06S R08E S9	SESW	40.00	T06S R08E S9	NESE	40.00
T06S R08E S9	NWSE	40.00	T06S R08E S9	SWSE	40.00
T06S R08E S9	SESE	40.00	T06S R08E S10	SWNW	40.00
T06S R08E S10	NESW	40.00	T06S R08E S10	NWSW	40.00
T06S R08E S10	SWSW	40.00	T06S R08E S10	SESW	40.00
T06S R08E S10	NWSE	40.00	T06S R08E S10	SWSE	40.00
T06S R08E S15	NENW	40.00	T06S R08E S15	NWNW	40.00
T06S R08E S15	SWNW	40.00	T06S R08E S15	SENW	40.00

T06S R08E S15	NESW	40.00	T06S R08E S15	NWSW	40.00
T06S R08E S15	SWSW	40.00	T06S R08E S15	SESW	40.00
T06S R08E S16	NENE	40.00	T06S R08E S16	NWNE	40.00
T06S R08E S16	SWNE	40.00	T06S R08E S16	SENE	40.00
T06S R08E S16	NENW	40.00	T06S R08E S16	NWNW	40.00
T06S R08E S16	SWNW	40.00	T06S R08E S16	SENW	40.00
T06S R08E S16	NESW	40.00	T06S R08E S16	NWSW	40.00
T06S R08E S16	SWSW	40.00	T06S R08E S16	SESW	40.00
T06S R08E S16	NESE	40.00	T06S R08E S16	NWSE	40.00
T06S R08E S16	SWSE	40.00	T06S R08E S16	SESE	40.00
T06S R08E S17	NENE	40.00	T06S R08E S17	NWNE	40.00
T06S R08E S17	SWNE	40.00	T06S R08E S17	SENE	40.00
T06S R08E S17	NENW	40.00	T06S R08E S17	NWNW	40.00
T06S R08E S17	SENW	40.00	T06S R08E S17	NESW	40.00
T06S R08E S17	NWSW	40.00	T06S R08E S17	SWSW	40.00
T06S R08E S17	SESW	40.00	T06S R08E S17	NESE	40.00
T06S R08E S17	NWSE	40.00	T06S R08E S17	SWSE	40.00
T06S R08E S17	SESE	40.00			

120 acres within an existing 4,128-acre permissible place of use

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

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

Existing pump station from the Snake River to distribution piping and pivot irrigation system, which will comply with all water measurement and reporting requirements of Water District 02, as and when imposed.

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

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Right-of-way Serial No. I-21930.

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: No liens, deeds of trust, mortgages or contracts

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

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

If yes, ☒ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

Land at original place of use that is the subject of this transfer application will no longer be irrigated.

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

There are partial overlaps of water rights 2-10420 and 2-10422 with water right 57-11710. Non-overlapping acres of 2-10420 are proposed for this transfer. Thirty-nine acres of water right 57-11710 overlap with 2-10422 and will no longer be irrigated. Existing water rights at the new place of use include 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B, 2-7102B, and 2-10053 (800 acres within the 4,128-acre permissible place of use).

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

Yes No

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

If yes, describe:

Water rights 2-10420 and 2-10422 are currently leased to the Idaho Water Supply Bank. The rights were not rented for the 2015 season as of November 20, 2014 (per conversation with IDWR staff). Water rights 2-10420 and 2-10422, and overlapping portions of water right 57-11710 (39 acres) will be removed from the Idaho Water Supply Bank and the overlapping portion of 57-11710 will be relinquished upon transfer approval.

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

Current Water Right No.: 2-10420

Current Owner: MICHAEL B IHLE
LINDA M IHLE
Priority Date: 7/30/1969
Origin: Water Right
Status: Water Supply Bank Active
Basis: Decreed

Source

SNAKE RIVER

Tributary

COLUMBIA RIVER

Beneficial Use

IRRIGATION

From To

03/01 to 10/31

Total Diversion

Diversion Rate

1.74 CFS

1.74 CFS

Annual Volume

Location of Point(s) of Diversion

SNAKE RIVER

OWYHEE County

L7(SW1/4SW1/4)

Sec. 26, Twp 03S, Rge 01E B.M.

Place of Use

IRRIGATION Within OWYHEE County

T04S R01E S1	SWNE	12.00	T04S R01E S12	NENE	24.00
T04S R01E S12	SENE	2.00	T04S R01E S12	NESE	4.00
T04S R01E S12	SESE	12.00	T04S R01E S13	NENE	15.00

Total Acres: 69

Conditions of Approval:

1. T19 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.
2. S39 The use of water for irrigation under this right may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. F06 The following rights are also diverted through point of diversion described above: 2-2357A, 2-2357B, 2-2173, 2-7046E, and 2-10398.

Decreed Date: 6/8/2009

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

Current Water Right No.: 2-10422

Current Owner: MICHAEL B IHLI
LINDA M IHLI

Priority Date: 7/30/1969

Origin: Water Right

Status: Water Supply Bank Active

Basis: Decreed

Source

SNAKE RIVER

Tributary

COLUMBIA RIVER

Beneficial Use

IRRIGATION

From To

03/01 to 10/31

Diversion Rate

2 CFS

Annual Volume

Total Diversion

2 CFS

Location of Point(s) of Diversion

SNAKE RIVER

L7(SW1/4SW1/4)

Sec. 26, Twp 03S, Rge 01E B.M.

OWYHEE County

Place of Use

IRRIGATION Within OWYHEE County

T04S R01E S1	NWSE	20.00	T04S R01E S12	SWNE	20.00
T04S R01E S12	NWSE	20.00	T04S R01E S12	SWSE	20.00
T04S R01E S13	NWNE	20.00			

Total Acres: 100

Conditions of Approval:

1. S39 The use of water for irrigation under this right may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. E53 Use of this right with Right Nos. 57-7034A, 57-11708, 57-11709 and 57-11710 is limited to a total combined annual diversion volume of 2220 AF.
4. F06 The following rights are also diverted through point of diversion described above: 2-2357A, 2-2357B, 2-2173, 2-7046E, and 2-10398.

Decreed Date: 6/9/2009

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 1.

Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ www.idwr.idaho.gov, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: 2-10420

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

[illegible]

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

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

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

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

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the 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**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

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

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

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

FOR DEPARTMENT USE ONLY

Transfer contains 10 pages and 5 attachments.

Received by CJ Date 12/1/14 Preliminary check by AA Date 9/10/15

Fee paid 600- Date 12/11/14 Received by CJ Receipt # W042685

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

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

Idaho Water Company - Cam

RECEIVED

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 Price 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,

to Page 3

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

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS AGREEMENT is made and entered into this 17th day of November, 2014, by and between the IDAHO WATER COMPANY LLC, an Idaho Limited Liability Company (hereafter "Seller") whose address is 1135 Valley Rd. So, Eden, Idaho, 83325, Delbert G. Kohtz, an individual ("Guarantor"), and MIDNIGHT SUN, INC. VIII, a Delaware Corporation (hereinafter "Buyer") whose address is c/o Charles W. Bryan, Jr., UBS AgriVest LLC, 1314 12th Ave. South, Suite 5, Nampa, Idaho, 83651. A member of the Seller, Del Kohtz discloses that he is a licensed real estate agent acting herein as principal for his own account and not representing or acting as an agent for the Buyer.

TERMS AND CONDITIONS

1. The Seller, in consideration of the terms contained herein, does hereby contract and agree to sell and convey to the Buyer and the Buyer does hereby agree to buy from the Seller a 120 acre portion of Idaho Water Right Nos. 02-10422 (100 acres) and 02-10420 (20 acres) and the water appurtenant thereto (the "Water Rights") for \$[REDACTED] per acre. There are 120 acres of water included in this agreement. No land is included in this agreement.
2. The total purchase price shall be \$[REDACTED] ([REDACTED] Thousand Dollars). The entire purchase price shall be paid at closing, less a 20% down payment in the amount of \$[REDACTED] ("Down Payment") to be paid to Seller at signing of this agreement.
3. This agreement is contingent upon and subject to approval of the application for transfer by the Idaho Department of Water Resources ("Department"), and such transfer approval shall be a condition precedent to Buyer's obligation to close the purchase and sale.

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4. If the foregoing condition precedent is 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, and Buyer shall be entitled to return of the Down Payment within twenty (20) days of Buyer's receipt of such notice.

5. Guarantor hereby personally guarantees Seller's obligation to return the Down Payment to Buyer as, if and when required by this agreement.

6. The closing of this transaction shall take place at the law offices of Givens Pursley LLP, 601 W. Bannock St., Boise, Idaho, 83702, within ten days of Buyer's receipt of a final order from the Department approving the application for transfer. At the closing, Buyer shall deliver to Seller the balance of the purchase price and Seller shall deliver to Buyer a fully-executed Special Warranty Deed for Water Rights conveying the Water Rights free and clear of liens and encumbrances. The Buyer shall be given possession and use of the Water Rights and the water appurtenant thereto upon closing.

7. Non-payment of the purchase price after the transfer has been approved shall constitute a lien on the Buyer's property, in the name of the Seller.

8. The Buyer's place of use and point of diversion will be used for the transfer. The Seller has a legally binding option contract with the original owner of the Water Rights and has the legal right to sell the Water Rights to Seller.

9. 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. This agreement shall be binding upon and shall inure to the benefit of the

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heirs, personal representatives, administrators, successors and assigns to the parties hereto.

11. All consultant and filing fees for preparation and filing of the transfer application, calculation of mitigation, and attorney fees in the case of protests and hearings on the water transfer are to be paid by the Seller.

12. The Seller has the Buyer's permission to make needed changes to the Water Rights transfer application to facilitate the process of transferring the water to comply with the IDWR Transfer Model. The changes made will not materially change the amount of money Buyer has to pay, or the amount of water Buyer receives. Buyer will have notice of any changes made to the transfer application.

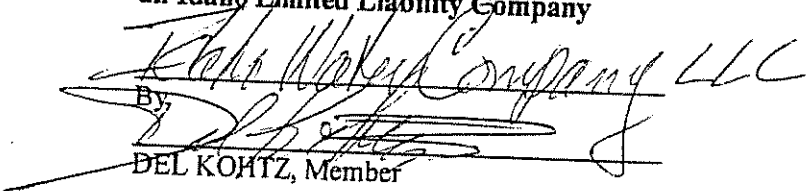
13. If, during the Buyer's due diligence period of not more than 30 days from the date this agreement is signed by both parties, the Buyer finds the Water Rights are deficient for the Buyer's intent, this agreement is void and the Down Payment will be refunded to Buyer.

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

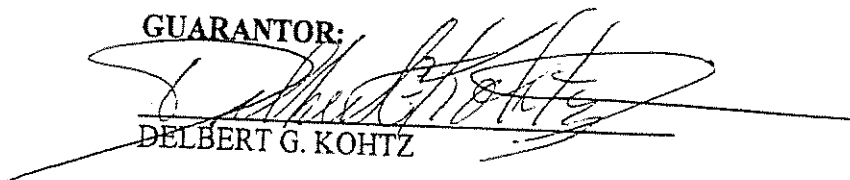
SELLER

Idaho Water Company, LLC,
an Idaho Limited Liability Company

By


DEL KOHTZ, Member

GUARANTOR:


DELBERT G. KOHTZ

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BUYER
Midnight Sun, Inc. VIII,
a Delaware Corporation

By

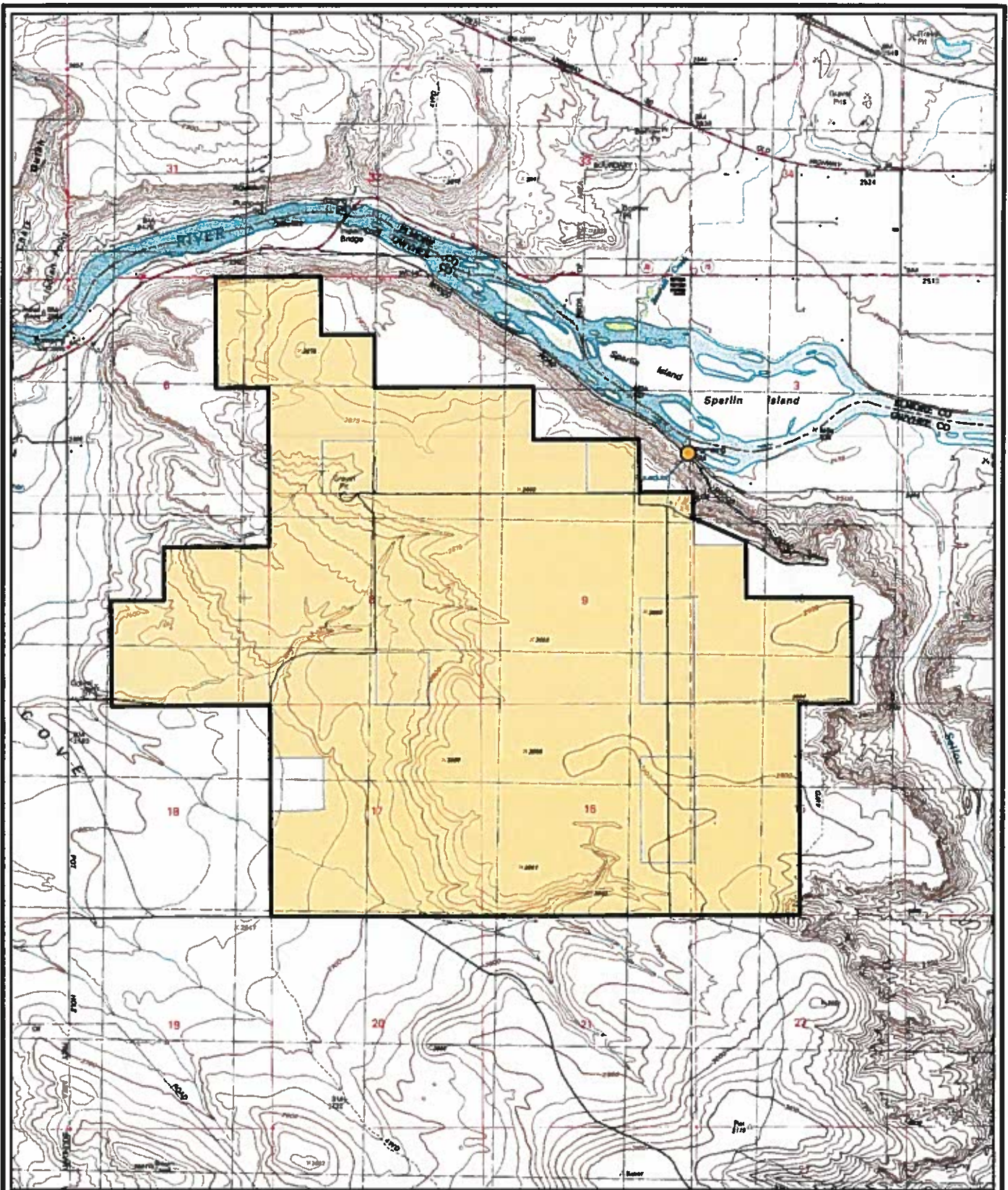


CHARLES M. BRYAN, JR.
Vice President, Midnight Sun, Inc. VIII

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 Farm Boundary

 Existing Point of Diversion

 Existing Permissible Place of Use

Attachment 7a - Proposed Point of Diversion
and Permissible Place of Use



1

Miles

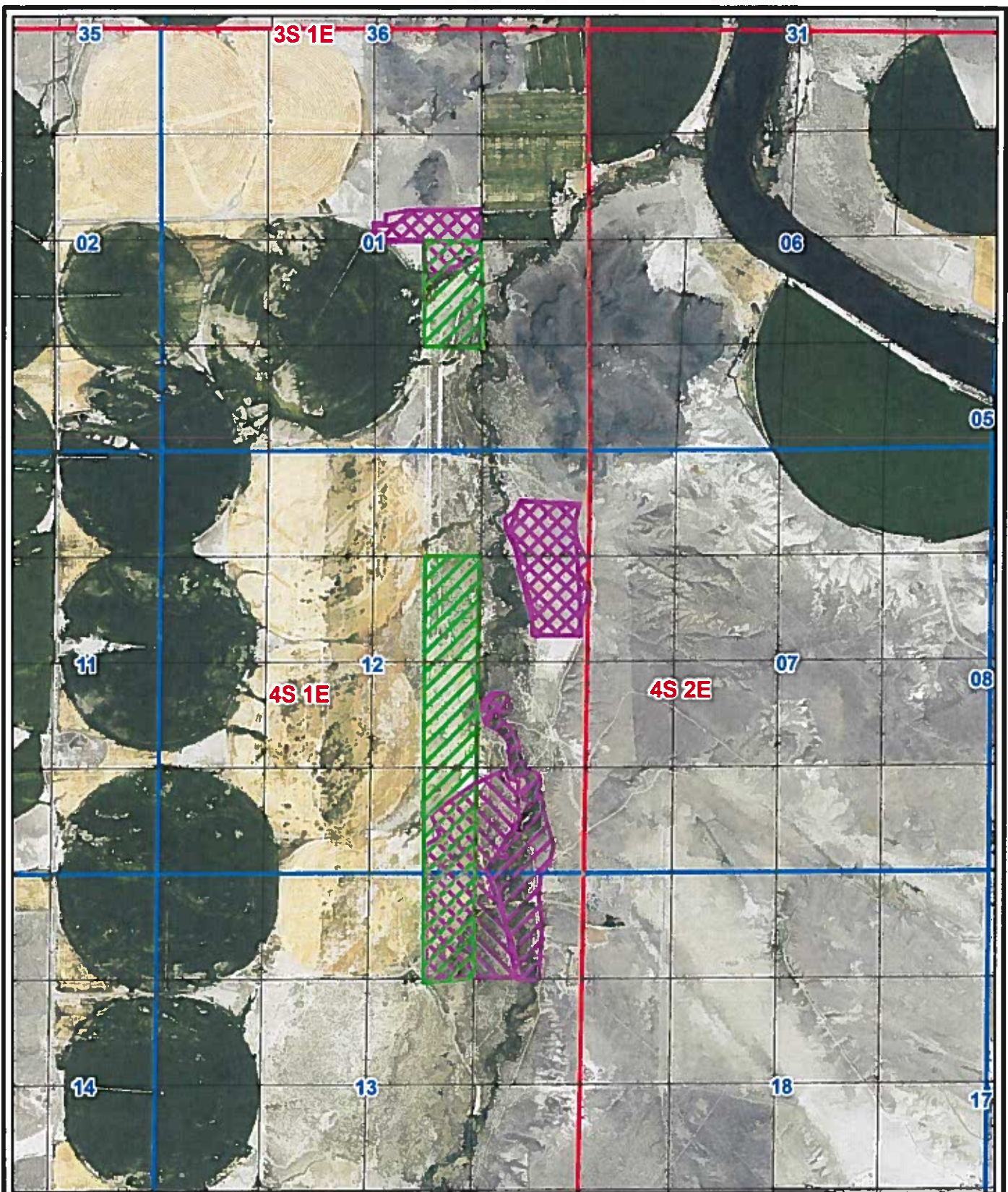


SPF WATER
ENGINEERING

TRANSFER NO. 79727

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EXPLANATION - PLACE OF USE

 2-10420

 57-11710

 2-10422

Attachment 7b(1) - Place of Use
Before Proposed Transfer
2013 NAIP Photography



0.5

Miles



SPF WATER
ENGINEERING
OCT 2015

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TRANSFER No. 79727



EXPLANATION - PLACE OF USE

 2-10420

 57-11710

Attachment 7b(2) - Place of Use
After Proposed Transfer
2013 NAIP Photography



0.5

Miles



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OCT 02 2015

Transfer No. 79727

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 79727

**APPLICATION FOR TRANSFER OF WATER RIGHT
ATTACHMENT WSB:
TRANSFERRING WATER RIGHTS LEASED TO THE WATER SUPPLY BANK**

Approval of a transfer application will not impact the terms of a Water Supply Bank Lease Contract. Any transferred water right or portion of a water right that is leased to the Water Supply Bank (Bank) shall remain unused while the lease is active.

If the transfer proposes to relocate the place of use of an irrigation water right, and the relocated acres include land currently idled due to a Bank lease contract, the applicant is required to identify the areas that will be idled at the new place of use for the duration of the lease contract. The acres to be idled should be clearly identified on the map created for Attachment 7B of the transfer application. The applicant should confirm the map is attached when completing the table below. If the leased portion of the place of use is not proposed to be relocated, a map is not required.

A Bank lease contract shall remain in effect until it expires, a new lease proposal is processed to replace it, or the water right is released from the Bank through written confirmation issued by the Water Resource Board. If the proposed transfer is approved, the water right owner will be provided sufficient time to allow the lease contract to expire before beneficial use of water at the new place of use will be expected. Meanwhile, water rights leased to the Bank are protected from forfeiture for the duration of the lease contract.

Water right owners who would like to adjust the terms of their lease contracts can either submit a new lease proposal on an [Application to Lease a Water Right to the Water Supply Bank](#) form, or they can request early termination of their lease contracts by completing a [Request to Release a Water Right from the Water Supply Bank](#) form. If a water right is leased to the Bank, and it is currently being rented from the Bank, the lease cannot be reduced or terminated until the rental agreement concludes. A request to release a water right or to submit a new lease application should be sent to the Department's state office. To find out if there are any rentals associated with a leased water right, please call a Bank representative at the Department at 208-287-4800.

In the table below, please provide the requested information for any water right that is both proposed for transfer and leased to the Bank. The information needed to complete this table can be found in your Bank lease contract. A copy of your lease contract can be obtained using the 'Search Water Rights' option on the Department's internet page at www.idwr.idaho.gov or by contacting any Department office.

Water Right Number	Lease Contract Expiration Date	Water Right Quantities Leased to the Bank			Map Attachment 7B Clearly Identifies Idled Place of Use at New Location
		Rate (cfs)	Volume (AF)	Acres	
2-10420	12/31/2016	1.74		69.0	Attached? ☐ or No Change ☒
2-10422	12/31/2016	2.00		100.0	Attached? ☐ or No Change ☒
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐

Is the ownership of the water right(s) leased to the Bank being changed? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).

Additional Information:

Agency Use Only: Personnel processing transfer applications should forward a copy of this attachment, the original Lessor Designation form and/or IRS Form W-9, if received, to the State Office.

No. W 29874		Due no later than Apr 30, 2014		Annual Report Form				2. Registered Agent and Address (NO PO BOX)	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. IDAHO WATER COMPANY, LLC DELBERT G KOHTZ 1135 VALLEY RD SOUTH EDEN ID 83325 USA		DELBERT G KOHTZ 1135 VALLEY RD SOUTH EDEN ID 83325					
				3. <u>New</u> Registered Agent Signature:*					
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.									
Office Held	Name	Street or PO Address	City	State	Country	Postal Code			
MEMBER	DELBERT G KOHTZ	1135 VALLEY RD SOUTH	EDEN	ID	USA	83325			
MEMBER	FRANCES L KOHTZ	1135 VALLEY RD SOUTH	EDEN	ID	USA	83325			
5. Organized Under the Laws of: ID W 29874		6. Annual Report must be signed.* Signature: Delbert Kohtz Name (type or print): Delbert Kohtz Date: 02/11/2014 Title: Managing Member							
Processed 02/11/2014		* Electronically provided signatures are accepted as original signatures.							

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OCT 02 2015

Attachment #10

TRANSFER No. 7972

SUPERSEDED BY
REVISED AGREEMENT
RECEIVED 10/14/15. -AE

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 0.4 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 (\$██████████) ("Purchase Price"), which is based on \$██████████ 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██████████ earnest or option money.

Balance of Purchase Price. The balance of the Purchase Price following the feasibility And Option Period , being ██████████, 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 \$██████████ 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 \$██████████ (██████████) 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,

to Page 3

~~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.

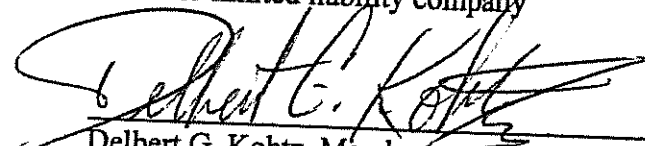
13. Essence of Time. Time is of the essence to this Agreement.

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

RECEIVED



JUN 22 2015

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 79727

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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

Name of Applicant(s) Idaho Water Company, LLC

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

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

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

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

SCANNED

OCT 02 2015

THIS AMENDED APPLICATION WITHDRAWN PER LETTER RECEIVED 9/25/15. -ALY

RECEIVED

JUN 22 2015

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Idaho Water Company LLCPhone (208) 312-1135Mailing address Delbert G. Kohtz, 1135 Valley Rd. S., Eden, ID 83325

Email _____

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

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

☐ No RepresentativeName of Representative Roxanne Brown, SPF Water Engineering LLCPhone (208) 383-4140Mailing address 300 E. Mallard Dr., Suite 350, Boise, ID 83706Email rbrown@spfwater.comAttorney: Michael C. Creamer, Givens Pursley, P.O. Box 2720, Boise, ID 83701-2720 (208) 388-1200

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

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

Signature of Applicant or Authorized Representative

Del Kohtz, Member

Print Name and Title if applicable

Date

Signature of Applicant or Authorized Representative

Delbert Kohtz

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
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**.
- Applicant seeks authorization to change the point of diversion and place of use for water right 2-10422 and the point of diversion and a portion of the place of use for water right 2-10420. No other element of the subject water rights will be changed.

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
SUPPLEMENTAL PAGE - PART 1.B.4 (PLACE OF USE)

Place of Use

IRRIGATION Within OWYHEE County

T06S R08E S4	NWSW	40.00	T06S R08E S4	SWSW	40.00
T06S R08E S4	SESW	40.00	T06S R08E S4	SWSE	40.00
T06S R08E S5	Lot 4 NWNW	44.00	T06S R08E S5	SWNW	40.00
T06S R08E S5	SENW	40.00	T06S R08E S5	NESW	40.00
T06S R08E S5	NWSW	40.00	T06S R08E S5	SWSW	40.00
T06S R08E S5	SESW	40.00	T06S R08E S5	NESE	40.00
T06S R08E S5	NWSE	40.00	T06S R08E S5	SWSE	40.00
T06S R08E S5	SESE	40.00	T06S R08E S6	Lot 1 NENE	44.00
T06S R08E S6	SENE	40.00	T06S R08E S7	SWNE	40.00
T06S R08E S7	SENE	40.00	T06S R08E S7	NESW	40.00
T06S R08E S7	SESW	40.00	T06S R08E S7	NESE	40.00
T06S R08E S7	NWSE	40.00	T06S R08E S7	SWSE	40.00
T06S R08E S7	SESE	40.00	T06S R08E S8	NENE	40.00
T06S R08E S8	NWNE	40.00	T06S R08E S8	SWNE	40.00
T06S R08E S8	SENE	40.00	T06S R08E S8	NENW	40.00
T06S R08E S8	NWNW	40.00	T06S R08E S8	SWNW	40.00
T06S R08E S8	SENW	40.00	T06S R08E S8	NESW	40.00
T06S R08E S8	NWSW	40.00	T06S R08E S8	SWSW	40.00
T06S R08E S8	SESW	40.00	T06S R08E S8	NESE	40.00
T06S R08E S8	NWSE	40.00	T06S R08E S8	SWSE	40.00
T06S R08E S8	SESE	40.00	T06S R08E S9	NENE	40.00
T06S R08E S9	NWNE	40.00	T06S R08E S9	SWNE	40.00
T06S R08E S9	SENE	40.00	T06S R08E S9	NENW	40.00
T06S R08E S9	NWNW	40.00	T06S R08E S9	SWNW	40.00
T06S R08E S9	SENW	40.00	T06S R08E S9	NESW	40.00
T06S R08E S9	NWSW	40.00	T06S R08E S9	SWSW	40.00
T06S R08E S9	SESW	40.00	T06S R08E S9	NESE	40.00
T06S R08E S9	NWSE	40.00	T06S R08E S9	SWSE	40.00
T06S R08E S9	SESE	40.00	T06S R08E S10	SWNW	40.00
T06S R08E S10	NESW	40.00	T06S R08E S10	NWSW	40.00
T06S R08E S10	SWSW	40.00	T06S R08E S10	SESW	40.00
T06S R08E S10	NWSE	40.00	T06S R08E S10	SWSE	40.00
T06S R08E S15	NENW	40.00	T06S R08E S15	NWNW	40.00
T06S R08E S15	SWNW	40.00	T06S R08E S15	SENW	40.00

T06S R08E S15	NESW	40.00	T06S R08E S15	NWSW	40.00
T06S R08E S15	SWSW	40.00	T06S R08E S15	SESW	40.00
T06S R08E S16	NENE	40.00	T06S R08E S16	NWNE	40.00
T06S R08E S16	SWNE	40.00	T06S R08E S16	SENE	40.00
T06S R08E S16	NENW	40.00	T06S R08E S16	NWNW	40.00
T06S R08E S16	SWNW	40.00	T06S R08E S16	SENW	40.00
T06S R08E S16	NESW	40.00	T06S R08E S16	NWSW	40.00
T06S R08E S16	SWSW	40.00	T06S R08E S16	SESW	40.00
T06S R08E S16	NESE	40.00	T06S R08E S16	NWSE	40.00
T06S R08E S16	SWSE	40.00	T06S R08E S16	SESE	40.00
T06S R08E S17	NENE	40.00	T06S R08E S17	NWNE	40.00
T06S R08E S17	SWNE	40.00	T06S R08E S17	SENE	40.00
T06S R08E S17	NENW	40.00	T06S R08E S17	NWNW	40.00
T06S R08E S17	SENW	40.00	T06S R08E S17	NESW	40.00
T06S R08E S17	NWSW	40.00	T06S R08E S17	SWSW	40.00
T06S R08E S17	SESW	40.00	T06S R08E S17	NESE	40.00
T06S R08E S17	NWSE	40.00	T06S R08E S17	SWSE	40.00
T06S R08E S17	SESE	40.00			

120 acres within an existing 4,128-acre permissible place of use

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:
Existing pump station from the Snake River to distribution piping and pivot irrigation system, which will comply with all water measurement and reporting requirements of Water District 02, as and when imposed.

- b. Who owns the property at the point(s) of diversion? USDI-Bureau of Land Management (BLM)
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Right-of-way Serial No. I-21930.

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it Attachment #6. List the name of the entity and type of lien: No liens, deeds of trust, mortgages or contracts

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

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

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
There are partial overlaps of water rights 2-10420 and 2-10422 with water right 57-11710. Non-overlapping acres of 2-10420 are proposed for this transfer. Thirty-nine acres of water right 57-11710 overlap with 2-10422 and will no longer be irrigated. Existing water rights at the new place of use include 2-2260, 2-7019B, 2-7019D, 2-7022B, 2-7023B, 2-7102B, and 2-10053 (800 acres within the 4,128-acre permissible place of use).
- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

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

If yes, describe:

Water rights 2-10420 and 2-10422 are currently leased to the Idaho Water Supply Bank. The rights were not rented for the 2015 season as of November 20, 2014 (per conversation with IDWR staff). Water rights 2-10420 and 2-10422, and overlapping portions of water right 57-11710 (39 acres) will be removed from the Idaho Water Supply Bank and the overlapping portion of 57-11710 will be relinquished upon transfer approval.

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

Current Water Right No.: 2-10420

Current Owner: MICHAEL B IHLI
LINDA M IHLI
Priority Date: 7/30/1969
Origin: Water Right
Status: Water Supply Bank Active
Basis: Decreed

Source

SNAKE RIVER

Tributary

COLUMBIA RIVER

Beneficial Use

IRRIGATION

From To

03/01 to 10/31

Total Diversion

Diversion Rate

1.74 CFS

1.74 CFS

Annual Volume

Location of Point(s) of Diversion

SNAKE RIVER

OWYHEE County

L7(SW1/4SW1/4)

Sec. 26, Twp 03S, Rge 01E B.M.

Place of Use

IRRIGATION Within OWYHEE County

T04S R01E S1	SWNE	12.00	T04S R01E S12	NENE	24.00
T04S R01E S12	SENE	2.00	T04S R01E S12	NESE	4.00
T04S R01E S12	SESE	12.00	T04S R01E S13	NENE	15.00

Total Acres: 69

Conditions of Approval:

1. T19 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.
2. S39 The use of water for irrigation under this right may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. F06 The following rights are also diverted through point of diversion described above: 2-2357A, 2-2357B, 2-2173, 2-7046E, and 2-10398.

Decreed Date: 6/8/2009

SCANNED

OCT 02 2015

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

Current Water Right No.: 2-10422

Current Owner: MICHAEL B IHLE
LINDA M IHLE
Priority Date: 7/30/1969
Origin: Water Right
Status: Water Supply Bank Active
Basis: Decreed

Source

SNAKE RIVER

Tributary

COLUMBIA RIVER

Beneficial Use

IRRIGATION

From To

03/01 to 10/31

Total Diversion

Diversion Rate

2 CFS

2 CFS

Annual Volume

Location of Point(s) of Diversion

SNAKE RIVER

OWYHEE County

L7(SW1/4SW1/4)

Sec. 26, Twp 03S, Rge 01E B.M.

Place of Use

IRRIGATION Within OWYHEE County

T04S R01E S1	NWSE	20.00	T04S R01E S12	SWNE	20.00
T04S R01E S12	NWSE	20.00	T04S R01E S12	SWSE	20.00
T04S R01E S13	NWNE	20.00			

Total Acres: 100

Conditions of Approval:

1. S39 The use of water for irrigation under this right may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. E53 Use of this right with Right Nos. 57-7034A, 57-11708, 57-11709 and 57-11710 is limited to a total combined annual diversion volume of 2220 AF.
4. F06 The following rights are also diverted through point of diversion described above: 2-2357A, 2-2357B, 2-2173, 2-7046E, and 2-10398.

Decreed Date: 6/9/2009

SCANNED
OCT 07 2015

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

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

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

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

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

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the 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.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

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

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

FOR DEPARTMENT USE ONLY

Transfer contains 10 pages and 4 attachments.

Received by WESTERN REGION Date 6/22/15 Preliminary check by AA Date 9/10/15

* Fee paid \$660.00 Date 12/11/14 Received by CJ Receipt # W042685

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

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

*FEE PAID W/ ORIGINAL FILING RECEIVED 12/11/14. Page 010
-AG

SCANNED

007 0 2 2015

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 0.1 cfs. 242.5K 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.

SCANNED

OCT 02 2015

OPTION AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHTS - 1

ATTACHMENT # 3 (9 PAGES)

TRANSFER No. 79727 A3.

2. Purchase Price. The purchase price for the acres of the Water Rights are [REDACTED] ("Purchase Price"), which is based on [REDACTED] 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 [REDACTED] earnest or option money.

Balance of Purchase Price. The balance of the Purchase Price following the feasibility And Option Period, being [REDACTED], 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 Price 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 [REDACTED] 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 [REDACTED] 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 [REDACTED] 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,

to Page 3

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.

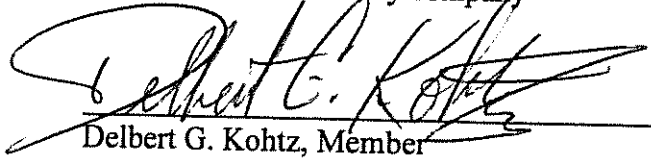
14. Notices. All notices to be given to the parties shall be in writing, delivered in hand, or by U.S. Mail, postage pre-paid directed to such parties address as contained herein unless such party shall have directed in writing that notice be sent to a different address.

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

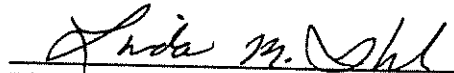
Idaho Water Company LLC.
an Idaho limited liability company

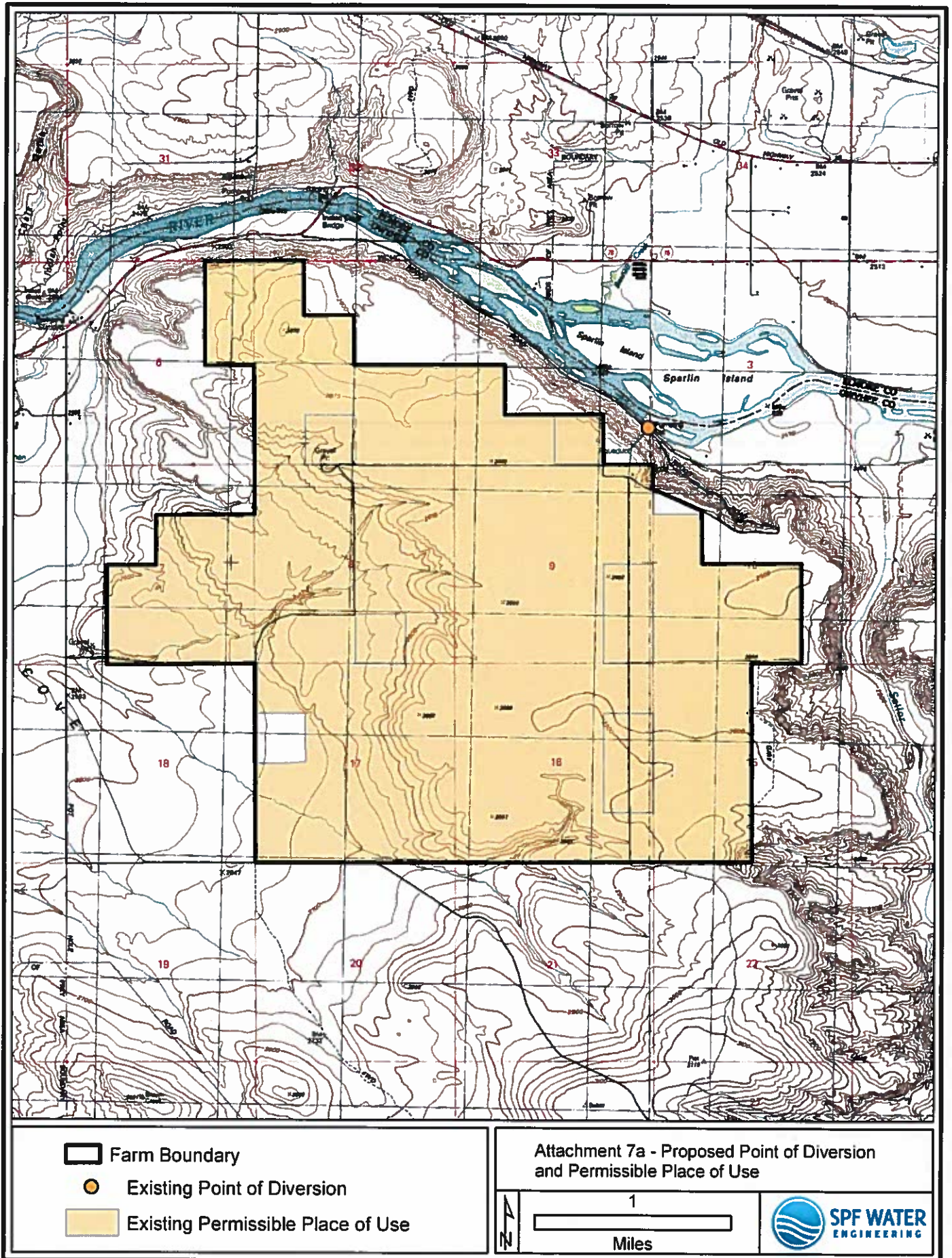

Delbert G. Kohtz, Member

SELLER


Michael B. Ihli

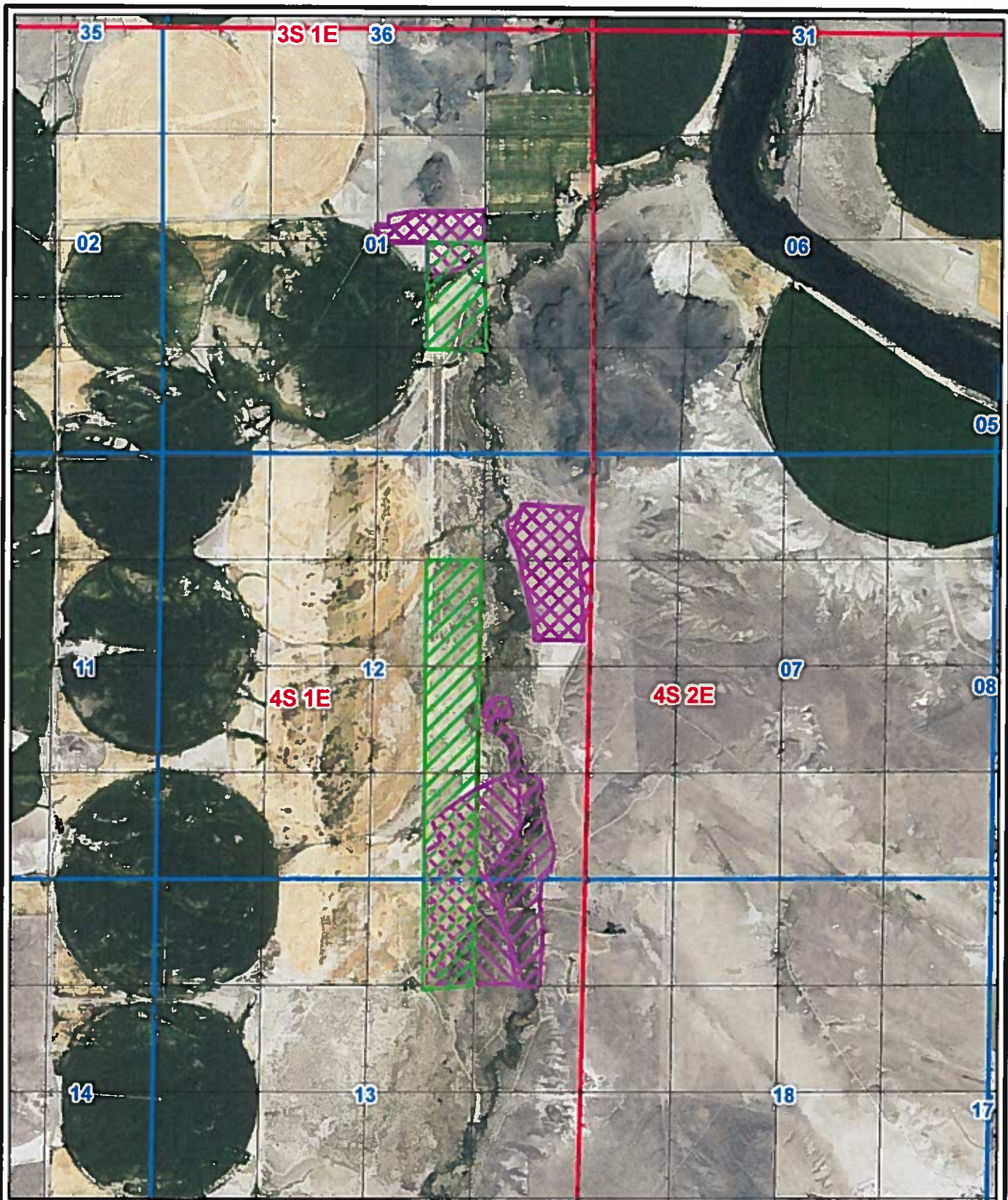
SELLER


Linda M. Ihli



TRANSFER No. 79727 CANNE

OCT 02 20



EXPLANATION - PLACE OF USE

 2-10420
 2-10422

 57-11710

Attachment 7b(1) - Place of Use
 Before Proposed Transfer
 2013 NAIP Photography



0.5

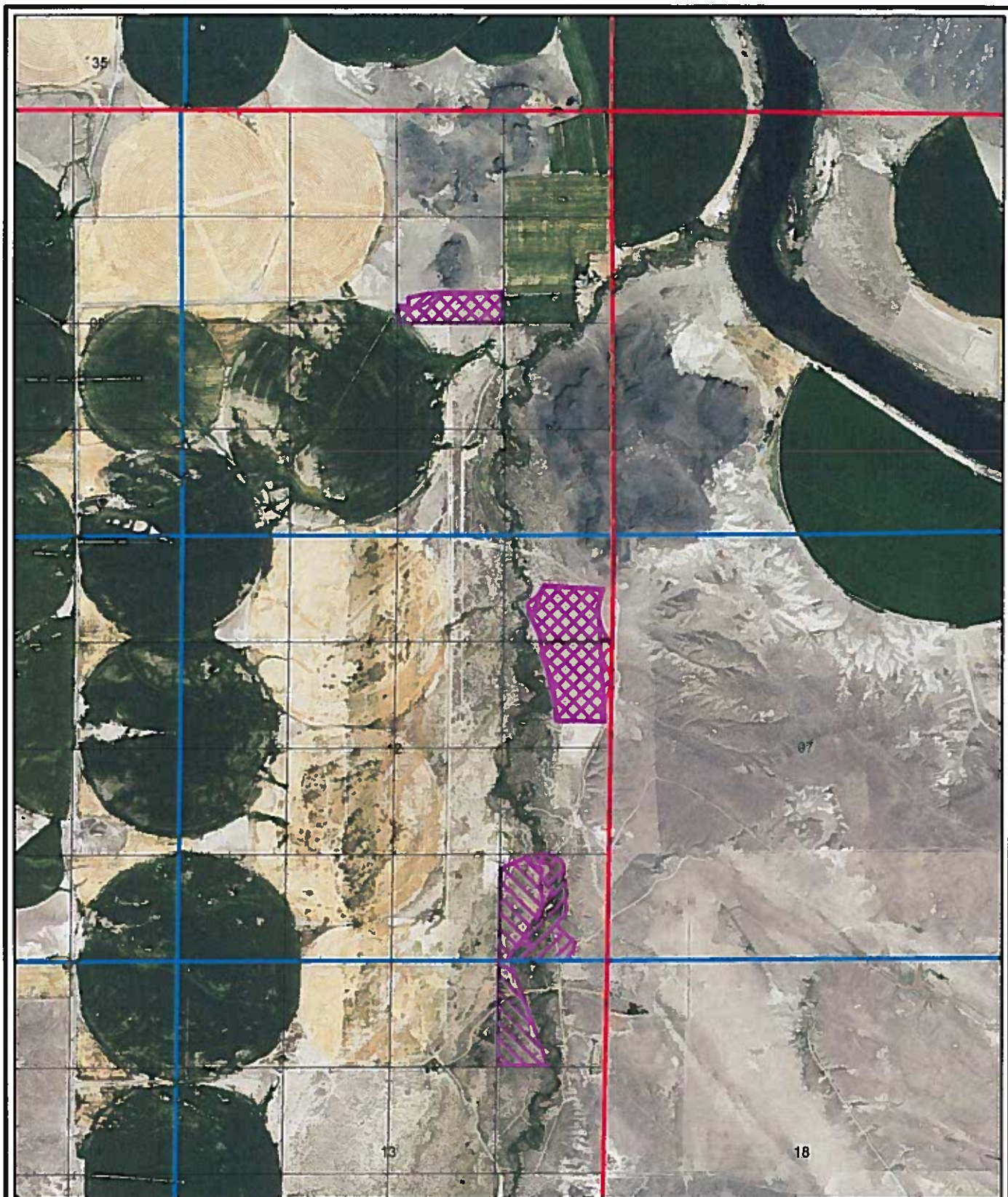
Miles



SCANNED

OCT 02 2015

TRANSFER No. 79227



EXPLANATION - PLACE OF USE



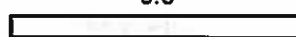
2-10420



57-11710

Attachment 7b(2) - Place of Use
After Proposed Transfer
2013 NAIP Photography

0.5



Miles



**SPF WATER
ENGINEERING**

SCANNED
OCT 02 2015

TRANSFER No. 7978

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 79727**APPLICATION FOR TRANSFER OF WATER RIGHT
ATTACHMENT WSB:
TRANSFERRING WATER RIGHTS LEASED TO THE WATER SUPPLY BANK**

Approval of a transfer application will not impact the terms of a Water Supply Bank Lease Contract. Any transferred water right or portion of a water right that is leased to the Water Supply Bank (Bank) shall remain unused while the lease is active.

If the transfer proposes to relocate the place of use of an irrigation water right, and the relocated acres include land currently idled due to a Bank lease contract, the applicant is required to identify the areas that will be idled at the new place of use for the duration of the lease contract. The acres to be idled should be clearly identified on the map created for Attachment 7B of the transfer application. The applicant should confirm the map is attached when completing the table below. If the leased portion of the place of use is not proposed to be relocated, a map is not required.

A Bank lease contract shall remain in effect until it expires, a new lease proposal is processed to replace it, or the water right is released from the Bank through written confirmation issued by the Water Resource Board. If the proposed transfer is approved, the water right owner will be provided sufficient time to allow the lease contract to expire before beneficial use of water at the new place of use will be expected. Meanwhile, water rights leased to the Bank are protected from forfeiture for the duration of the lease contract.

Water right owners who would like to adjust the terms of their lease contracts can either submit a new lease proposal on an [Application to Lease a Water Right to the Water Supply Bank](#) form, or they can request early termination of their lease contracts by completing a [Request to Release a Water Right from the Water Supply Bank](#) form. If a water right is leased to the Bank, and it is currently being rented from the Bank, the lease cannot be reduced or terminated until the rental agreement concludes. A request to release a water right or to submit a new lease application should be sent to the Department's state office. To find out if there are any rentals associated with a leased water right, please call a Bank representative at the Department at 208-287-4800.

In the table below, please provide the requested information for any water right that is both proposed for transfer and leased to the Bank. The information needed to complete this table can be found in your Bank lease contract. A copy of your lease contract can be obtained using the 'Search Water Rights' option on the Department's internet page at www.idwr.idaho.gov or by contacting any Department office.

Water Right Number	Lease Contract Expiration Date	Water Right Quantities Leased to the Bank			Map Attachment 7B Clearly Identifies Idled Place of Use at New Location
		Rate (cfs)	Volume (AF)	Acres	
2-10420	12/31/2016	1.74*		69.0	Attached? ☐ or No Change ☒
2-10422	12/31/2016	2.00		100.0	Attached? ☐ or No Change ☒
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐

Is the ownership of the water right(s) leased to the Bank being changed? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).

Additional Information:

* The rate of diversion for water right 2-10420 is shown as 1.74 cfs in IDWR's records. This appears to be an error created during processing of Transfer No. 74511. The correct diversion rate for water right 2-10420 is 1.46 cfs (a proportionate share of water right 2-10397).

Agency Use Only: Personnel processing transfer applications should forward a copy of this attachment, the original Lessor Designation form and/or IRS Form W-9, if received, to the State Office.



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 2, 2015

MIKE IHLI
WATER DISTRICT #57C
625 S SCHOOL AVE
KUNA ID 83634

RE: Application for Permit No. 57-11845
Application for Transfer No. 79727

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application(s). A copy of the application(s) is enclosed with this letter for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of October 26, 2015.

If you desire to formally protest approval of this application, you may do so by filing a written protest along with a \$25.00 filing fee for each protested application by the protest deadline.

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

Sincerely,

Rachel Neely
Administrative Assistant



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 2, 2015

IDAHO WATER COMPANY LLC
ATTN DELBERT KOHTZ
1135 VALLEY RD S
EDEN ID 83325

Application for Transfer No. 79727

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the OWYHEE AVALANCHE on 10/7/2015 and 10/14/2015. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

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

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

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

Sincerely,

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

Rachel Neely
Administrative Assistant

CC:
MICHAEL C CREAMER
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720

SPF WATER ENGINEERING LLC
ATTN ROXANNE BROWN
300 E MALLARD DR STE 350
BOISE ID 83706

MIKE IHLI
625 S SCHOOL AVE
KUNA ID 83634

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, October 01, 2015 3:27 PM
To: 'JENNIFER@OWYHEEAVALANCHE.COM'
Subject: Owyhee Legal Ads
Attachments: Owyhee Cover Letter.docx; Owyhee Legal Ad.docx

Good Afternoon Legal Clerk,

Please see the attached ads for publication on 10/7/15 & 10/14/15.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

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

October 1, 2015

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

RE: Application for Permit No. 57-11845
 Application for Permit No. 57-11862
 Application for Permit No. 57-11864
 Application for Transfer No. 80195
 Application for Transfer No. 79727

Dear Legal Notice Department:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/26/2015. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following applications have been filed to appropriate the public waters of the State of Idaho:

57-11845

MICHAEL B IHLI
LINDA M IHLI
625 S SCHOOL AVE
KUNA, ID 83634

Point of Diversion NWNE 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 E 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

Published on 10/7/2015 and 10/14/2015

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, October 01, 2015 4:30 PM
To: Knowles, Corbin
Subject: Application for Transfer No. 79727
Attachments: 1 Watermaster Recommendation Form.docx; Application for Transfer No. 79727.pdf

October 1, 2015

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

RE: Application for Transfer No. 79727

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the applications are enclosed with this email for your reference. Please review the applications, complete the attached recommendation form, and submit your reply, if any, to this office by October 26, 2014.

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

Sincerely,

Rachel Neely

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

Grimm, Angie

From: Grimm, Angie
Sent: Thursday, October 01, 2015 4:43 PM
To: 'Mike Ihli'
Cc: Miller, Nick; 'Roxanne Brown'; 'mcc@givenspursley.com'
Subject: RE: Transfer 79727
Attachments: AnalysisOfHistoricUseData.pdf; Review Memo.pdf; Transfer%20Process%2024%20super%202.pdf

Mike,

In the interest of a timely response, attached is my complete review memo for this transfer (draft version, but I do not anticipate any significant changes between now and final determination regarding this transfer) along with a copy of Administrative Memo Transfer No. 24, which is the processing guidelines I used to review this transfer proposal. I hope this information is helpful to address your questions. The overall answer to your questions is right 2-10422 is being reduced to avoid enlargement of the right, which must be done per Idaho Code § 42-222. The overlapping portion of Castle Creek right 57-11710 should be abandoned to avoid enlargement in use as well once the Snake River right is no longer used with the Castle Creek right. The partial decree of 2-10422 would not mention curtailment considering the proposal to un-stack (remove associated with Castle Creek right) had not occurred until this transfer was proposed. To my knowledge, previous transfers of parent rights associated with 2-10422 were largely point of diversion transfers for which both Snake River and Castle Creek water continued to be used on the same place of use. Without a full review of the all the previous transfers I cannot be certain of this, but that is my recollection. I've addressed communications regarding this transfer proposal to the transfer applicant as is Department policy. I hope this attached information gives you a more complete picture of the process and my review. Should you still have questions, please respond in writing and either I or other water rights staff will respond to address remaining questions.

Regards,

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

From: Mike Ihli [mailto:mikeihli@gmail.com]
Sent: Thursday, October 01, 2015 6:33 AM
To: Grimm, Angie
Cc: Miller, Nick
Subject: Transfer 79727

Angie,

Thank you for your response to my email of September 17. For now, I am not questioning the data or the methodology used in computing the use of Castle Creek water. I am, however, questioning the premise that the Snake River right should be reduced due to the use of Castle Creek water. With that in mind, I have several specific questions:

1. My Snake River rights were decreed in full under the SRBA, as were the overlapping Castle Creek rights, with no mention of curtailment due to the overlap. If a curtailment of .08 cfs of Snake River water is required, why wasn't that noted in the partial decree?
2. Over the years there have been several transfers completed on water rights that were either from the same parent right as 10422 or shared the same Point of Diversion and priority date as the parent right of 10422. In all cases, these rights shared the same relationship to the parent right of 57-11710 in that there was an overlap in the Place of Use. In other words, there were identical overlap conditions as those that now exist between 10422 and 57-11710. In no case was it required by IDWR that the amount of Snake River rights transferred be reduced due to the Castle Creek rights. Why is this transfer now being singled out for discriminatory treatment?
3. IDWR is asserting that the amount of water to be transferred under 10422 should be reduced by four acres, or .08 cfs due to the overlap of Castle Creek water under 57-11710. The department is also requesting that I relinquish .75 cfs or 39 acres of 57-11710. The department is treating the transfer of 10422 water as if the Castle Creek water under 57-11710 is going to continue to be used, which it is not due to relinquishment. So, by reducing the Snake River water transferred by .08 cfs and relinquishing .75 cfs (.08 cfs of actual use using your figures) I am actually being penalized .16 cfs of flow. Where do I receive credit for the .08 cfs of flow that returns to the Snake River due to the relinquishment of the Castle Creek water?

As you have placed us under a time constraint in acting on this transfer, I would appreciate a timely response. If a meeting in person would be helpful, I will be available on short notice.

On a practical note, the time delays that we have experienced on this transfer could have been avoided had the department communicated directly with me regarding changes to the content of my water right. I realize that was not your fault personally, but I hope now that we can continue to communicate directly.

Thank you for help and attention to this matter.

Mike Ihli



SPF WATER
ENGINEERING

RECEIVED

SEP 25 2015

WATER RESOURCES
WESTERN REGION

September 23, 2015

Angela Grimm, Water Rights Supervisor
IDWR Western Regional Office
2735 Airport Way
Boise, Idaho 83705

Delivered via email to angie.grimm@idwr.idaho.gov

Subject: Retraction of Amended Transfer Application No. 79727

Dear Angie,

In response to your correspondence dated September 18, 2015, SPF requests to withdraw the amended *Application for Transfer of Water Right* filed on behalf of Idaho Water Company (IWC) and Mr. Del Kohtz on June 18, 2015. SPF takes this action after consultation with Mr. Kohtz and Michael C. Creamer (who continues to be the legal representative for IWC and Mr. Kohtz).

We also respectfully request that IDWR continue processing of the original transfer application submitted on December 10, 2014. As requested in your correspondence, Mr. Kohtz will provide an amended "Option Agreement for Purchase and Sale of Water Right" between IWC and the current water right holder (Mike Ihli) which will correct the quantity of water associated with 20 acres of water right 2-10420 from 0.42 cfs to 0.50 cfs.

Please contact SPF, Mr. Creamer or Mr. Kohtz concerning this application. GIS shapefiles for the current and proposed place of use are available from SPF upon request.

Sincerely,

A handwritten signature in cursive script that reads "Roxanne Brown".

Roxanne Brown

cc: Idaho Water Company

Mike Creamer, Givens Pursley

Enclosures

SPF Job. No. 951.0030

Grimm, Angie

From: Roxanne Brown [RBrown@spfwater.com]
Sent: Wednesday, September 23, 2015 11:44 AM
To: Grimm, Angie
Subject: letter retracting amended transfer 79727 (Idaho Water Co.)
Attachments: LTR IDWR Retract IWC Amended Transfer 2015-09-23.pdf

Angie – We have also mailed the attached letter, but I wanted to get a copy to you as soon as possible. It will be nice to finish this process.

Del Kohtz will be providing a copy of the amended option agreement as noted in the attached letter. We request continued processing of the original transfer as submitted; any correction to the place of use and/or permissible place of use will be left to the land owner at the new transferred location. Please let me know if you need anything else.

Thank you for all your help.

Roxanne

Roxanne Brown | Sr. Water Right Specialist

SPF Water Engineering, LLC

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

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2136

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





SPF WATER
ENGINEERING

September 23, 2015

Angela Grimm, Water Rights Supervisor
IDWR Western Regional Office
2735 Airport Way
Boise, Idaho 83705

Delivered via email to angie.grimm@idwr.idaho.gov

Subject: Retraction of Amended Transfer Application No. 79727

Dear Angie,

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We also respectfully request that IDWR continue processing of the original transfer application submitted on December 10, 2014. As requested in your correspondence, Mr. Kohtz will provide an amended "Option Agreement for Purchase and Sale of Water Right" between IWC and the current water right holder (Mike Ihli) which will correct the quantity of water associated with 20 acres of water right 2-10420 from 0.42 cfs to 0.50 cfs.

Please contact SPF, Mr. Creamer or Mr. Kohtz concerning this application. GIS shapefiles for the current and proposed place of use are available from SPF upon request.

Sincerely,

Roxanne Brown

cc: Idaho Water Company

Mike Creamer, Givens Pursley

Enclosures

SPF Job. No. 951.0030



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 18, 2015

IDAHO WATER COMPANY LLC
C/O ROXANNE BROWN
SPF WATER ENGINEERING LLC
300 E MALLARD DR SUITE 350
BOISE ID 83706

Re: Application for Transfer No. 79727 - Water Rights 2-10420 and 2-10422

Dear Roxanne:

This office received your client's application for transfer to change water rights referenced above. Initial review of the application found a possible discrepancy regarding the quantity of water available under water right 2-10420. The initial reviewer also requested additional information regarding the historic extent of beneficial use for right 2-10422 along with overlapping Castle Creek right 57-11710, which the Idaho Department of Water Resources (IDWR) received 7/27/15. After the initial reviewer's retirement, it's become my responsibility to continue review and processing of this transfer application. This letter is intended to;

1. explain the Department's current position regarding the quantity of water under right 2-10420,
2. request the amended application be retracted (based on the Department's current position regarding right 2-10420),
3. request an amended "Option Agreement for Purchase and Sale of Water Right" to reflect the quantity of water associated with 20 acres under 2-10420,
4. explain the findings of the historic use data (see Analysis of Historic Use Right 2-10422 with Right 57-11710 enclosed), and
5. disclose the quantity the Department's determined is transferrable under right 2-10422.

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 identified and an amended transfer application was requested via phone call in May. 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 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 Snake River Basin Adjudication (SRBA) court, associated with Transfer No. 78404 approval (3/4/13) and accepted for lease into the Water Supply Bank (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 IDWR relevant to this right. **Therefore, IDWR 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). IDWR requests submittal of an amended water right purchase agreement within the next thirty (30) days to address this discrepancy.

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 permissible place of use (Analysis of Historic Use Right 2-10422 with Right 57-11710). The analysis concluded 1.92 cfs of right 2-10422 (for irrigation of 96 acres maintaining historic rate/ac) is available to transfer without enlarging the historic use. The current water right owner would be required to abandon 0.75 cfs of right 57-11710 associated with the 39 acres being removed, as the transfer application indicates willingness to do. **Ultimately, a total of 116 acres of primary irrigation under rights 2-10420 (20 acre portion) and 2-10422 (96 acres) may be transferred without enlargement of the historic use of the rights based on the historic use data submitted. If the applicant is aggrieved by this determination, IDWR requests additional information regarding the historic use volume associated with right 2-10422 demonstrating a different quantity of water may be transferrable without enlargement of use within the next thirty (30) days. Otherwise, IDWR will assume the applicant is satisfied with the analysis conducted and transfer processing will proceed.**

Please submit the requested information above within the next thirty (30) days. If the applicant does not submit an amended water right purchase agreement, IDWR will assume the applicant only intends to transfer 0.42 cfs for 20 acres (rather than 0.50 cfs) and the remaining portion of right 2-10420 may be reduced by 0.08 cfs to maintain the historic rate/ac (avoid enlargement). If the applicant does not submit additional historic use data for right 2-10422, IDWR will proceed with the current analysis completed and allow transfer of 1.92 cfs for primary irrigation of 96 acres (vs. 2.0 cfs for 100 acres) to avoid enlargement. Your response, or a request for more time to make your response, must be received within thirty (30) days. The application will be voided without a timely written reply.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions or wish to address the above questions over the phone. Thank you for your attention to this matter.

Sincerely,



Angela M. Grimm
Water Rights Supervisor

Enclosure(s): Analysis of Historic Use Right 2-10422 with Right 57-11710

Cc: Mike Ihli (via email)

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:

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

Grimm, Angie

From: Grimm, Angie
Sent: Friday, September 18, 2015 8:14 AM
To: 'Mike Ihli'
Cc: Miller, Nick
Subject: RE: Transfer no. 79727
Attachments: DOC016.pdf

Mike,

I am working on processing this transfer and your wildlife application as we speak. I anticipate the wildlife application will be advertised the next advertising cycle (in the Owyhee Avalanche 10/7 & 10/14).

I understand processing of this transfer is taking longer than you expected, but I've been working diligently on this effort. I've attached a scanned copy of the letter I'm sending today outlining the Department's current take on several outstanding issues involving the rights proposed for transfer. This letter also requests some information from the transfer applicant. Once this information is received, we will proceed with further processing.

I hope you realize progress is being made. I've copied my supervisor (Nick Miller - Western Region Manager) on this response, but if you feel the desire to speak with him directly he can be reached via email or at 208-334-2190.

Regards,
Angie

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

From: Mike Ihli [mailto:mikeihli@gmail.com]
Sent: Thursday, September 17, 2015 12:17 PM
To: Grimm, Angie
Cc: Roxanne Brown
Subject: Transfer no. 79727

Angie,

It has been almost one month since I have had any communication on the above referenced item. When I told you that I would not bother you and let you go to work on this transfer, I had no idea that it would be this long before anything happened, especially because it has already been delayed so long due to inaction by IDWR.

This transfer was submitted over a year ago, and so far, nothing positive has happened. On the contrary, it was held up in order to correct a mistake made by IDWR, and then yet again to address a curious assertion by the department that these Snake River rights were somehow negatively affected by my Castle Creek rights.

I realize that the region has suffered some turmoil with retirements, etc. and I don't wish to be rude, but if you can't find the time or the interest to move this along, can you please direct this to your supervisor so that I might

be able to impress upon him or her the importance of this issue. I don't think the department understands the economic havoc it creates by putting projects like this on the back burner.

If, in fact, there is some progress being made, and I'm just not aware of it, then I apologize for the content of this email. However, the only way I have of knowing what is transpiring is to be notified by you. Please keep me posted and please give this transfer the attention that it is due.

Thank you,

Mike Ihli

Grimm, Angie

From: Grimm, Angie
Sent: Wednesday, September 16, 2015 4:33 PM
To: Palmer, Cherie
Subject: Transfer No. 79727 - Idaho Water Company
Attachments: DOC015.pdf; Review Memo.docx

Cherie,

Good afternoon! I've inherited a transfer Kay Walker began processing now that she's retired. The transfer applicant (Idaho Water Company LLC - Del Khotz) is proposing to change the POD and POU for rights 2-10420 (portion) and 2-10422 (whole) both of which are leased into the WSB. The transfer applicant submitted the Attachment WSB (scanned copy attached), but it did not include a map showing where acres will be idled within the proposed/new POU. A comment on the transfer form indicates the intent to request the rights be released from the WSB upon transfer approval. I've attached my draft transfer memo (still draft - have some blanks left to fill in on this one for sure) for some additional background information.

I just wanted to touch base with you early on in this process to make sure I'm communicated all that needs to be communicated to WSB as I go with this transfer. My next step is to send the applicant a letter (with cc to Mike Ihli) to explain how much water may be transferred (un-staking rights - value of rights without overlapping right, quantity mistakes prior to decree, etc.) and request an amended water right purchase agreement. I'm planning to advertise the transfer as soon as possible. Please let me know if there are things I should be doing on my end related to the WSB (if I need to request something from Mike Ihli - form to release rights perhaps or if the rights won't be rented we can wait 'til after the transfer goes through?). Feel free to give me a call if you'd like discuss any questions. This one is a doozy! ;)

Angie

Grimm, Angie

From: Grimm, Angie
Sent: Tuesday, September 15, 2015 1:28 PM
To: Knowles, Corbin
Subject: Transfer No. 79727 Idaho Water Co. (Ihli WR)
Attachments: DOC014.pdf

Corbin,

Good afternoon! I'm hoping you can help me close the loop on your comments related to Transfer No. 79727 Idaho Water Company for rights 2-10420 (portion) & 2-10422 (all) Kay Walker discussed with you to some degree prior to her retirement. I've attached a scanned copy of her notes in the file regarding her discussion(s) with you on this filing. The transfer proposes moving the rights over 40 miles upstream (straight line distance) from near the confluence of Castle Creek to above CJ Strike Reservoir near the confluence of Sailor Creek (south/southwest of Hammett). Kay's research found over 70 water rights junior to the rights proposed for transfer between the PODs that may be impacted by the change (moving a senior water right upstream of a junior user historically dependent upon the better supply perhaps?). The rights are subject to your regulation within the water district. The total quantity proposed for transfer is approximately 2.5 cfs. While the supply of water available in the Snake River is presumably greater below CJ Strike Reservoir (current POD) rather than above (proposed POD), I'm guessing a change of 2.5 cfs may not result in significant injury if any to other users. However, as the Watermaster I value your input and would appreciate confirmation to this affect OR any comments regarding concerns you may have. I apologize if you've previously commented in support or objection to this transfer when working with Kay and I'm just not able to find your response. It's a rather large change within your district so I don't want to be remiss in properly documenting your thoughts on the matter. Please provide comments as soon as possible. Feel free to call me if you'd like to discuss the details further before responding.

Thanks,
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

Grimm, Angie

From: Grimm, Angie
Sent: Wednesday, August 19, 2015 3:57 PM
To: 'Mike Ihli'
Subject: RE: FW: amended application 57-11845

Mike,

Good afternoon! Now that Kay has retired, I think I will pick up Transfer No. 79727 where she left off. It looks like Kay requested an amended application (via email to Roxanne Brown 7/30/15). I've been digging through the file and it appears the amendment request is based on the fact that a previous split lead to incorrect quantities on right 2-10420 prior to Transfer 79727 filing. Since the quantities are less, we COULD approve the Transfer for less without an amended application, but traditionally we like the applicant to be aware of the discrepancy. In the interest of time, I plan to continue to review the file as if an amended application is not necessary to address this issue. I plan to send out a letter with my analysis of the historic use data for 2-10422 (derived from use of overlapping Castle Ck right 57-11710 data you provided) and the amount we may be able to approve for transfer of both Snake River rights 2-10420 & 2-10422 as soon as possible. If the applicant is agreeable I will proceed with processing. If the applicant is not agreeable, I'll have to request more data be submitted regarding historic use of 2-10422.

All that being said... (hopefully not too much more than you wanted to know)... to answer your question, I will be processing the transfer application. I'm assuming the applicant will agree to my analysis on the quantity we can approve to transfer. If so, the Department will request you abandon the 39 acres (portion of right 57-11710 that overlaps 2-10422 currently). Assuming the Transfer is approved (requiring you to cease irrigation on land where water rights removed/abandoned), do you plan to irrigate/farm the same ground the wildlife storage/wetland area will be on?

Regards,
Angie

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

From: Mike Ihli [mailto:mikeihli@gmail.com]
Sent: Monday, August 17, 2015 7:27 AM
To: Grimm, Angie
Subject: Re: FW: amended application 57-11845

Angie,

Thank you for reviewing and reviving this application. I realize that there has been a lot of turn over there at the region. It has been a busy summer for me, as well. I'll respond to your comments and questions in the order you laid them out:

Adjusting the surface area to 145 acres will be fine and I can make it work.

1. Yes, make the change so that the proper terminology is used.
2. Yes, make the change as to the dates involved. I didn't understand, or didn't think about the fact that the water would stay in the ponds after the diversion season was over. As to what land is going to be irrigated versus where the ponds are going to be, I need to do a little research and surveying on that one. I will get it figured out and let you know as soon as I can tell for sure. It will depend somewhat on whether the transfer gets completed or not, as in order to do the transfer, I will have to relinquish any Castle Creek rights that overlap the river rights being transferred. Speaking to that, do you know who is handling the transfer now that Kay Walker has retired, and/or do you know where the transfer process stands right now? We have been on it almost a year, so I am hoping to have it completed soon.
3. Yes, I will be using the existing diversion structure and canal that I have always used to divert water under my Castle Creek water rights. I don't have any formal agreement, written or otherwise, with U.S. Ecology, and instead have always relied on the Idaho statute (42-1102) that allows me access across adjacent property in order to divert water to my property. Of course, this same diversion has been used for more than 50 years to divert water to my property.
4. Yes, I would like to have the entire 5 years.

Thanks again for your help on this matter. I'll follow up on the loose ends as soon as possible. In the meantime, let me know if I've missed anything for now.

Mike Ihli

On Thu, Aug 13, 2015 at 9:53 AM, Grimm, Angie <Angie.Grimm@idwr.idaho.gov> wrote:

Mike,

Good morning! I sincerely apologize for not responding to this email MUCH sooner. Things have been very hectic for me since we've had all the turnover in staff with retirements here at Western. I've finally had a chance to take your application and plug in the pond dimensions of 150 acres surface area by 1 ft average depth only being filled (water diverted to) between 11/16 - 2/28. The attached spreadsheet is the tool the Department uses to estimate the total volume of water required for a pond project including capacity, evaporation, and seepage losses. As you can see, the numbers work out to be 220.9 af, a little bit more than the 200 af you amended your application to back in April. Realizing the priority date is important to you, I'm assuming you do not wish to increase your proposal to 220.9 af on your application as this would lead to the priority date being advanced. As an alternative, you may reduce the total surface area proposed by a little as 5 acres and the numbers work out to be 202 af total, which is likely within the margin of error for our methodology/calculation tools. If you wouldn't mind changing the surface area in the document you sent me to 145 acres, I believe the quantity aspect will work out without increasing your total storage volume on the application.

Four other notes to clarify (can be done via email or you can come in to amend the application in person or mail in an amended version of your application attached):

1. Your application lists "Wildlife" and "Diversion to Storage" as the proposed uses. The "Wildlife" use should be described as "Wildlife Storage" use. If you agree, please respond to this email to that affect, or send in an amended application.

2. The season of use for the wildlife Storage should be year round unless you want to empty/drain the storage after 2/28. The Diversion to Storage use should be 11/16 to 2/28. Please confirm if you agree or send in an amended application. Is the land irrigated under water rights 57-11710, 2-10420, and 2-10422 DIFFERENT than the land you propose to cover with the wetland/pond wildlife use proposed? OR, I see these rights are partially in the WSB (until 12/2016) and partially involved in Transfer No. 79727. Is it your intent to cease irrigating once the wildlife use proposed under this application is developed?

3. Your application indicates the point of diversion is on land owned by U.S. Ecology Waste Management. I'm assuming you propose to divert water for this project down your existing canal from you existing water right point of diversion. If so, I'm assuming you have an arrangement with U.S. Ecology Waste Management allowing you to have a diversion structure/access to their property. Item no. 10.c of the application was left blank. Please provide a response to this item summarizing the arrangement enabling you to make this water right filing/access the point of diversion property.

4. Your application indicates you'll need 1.5 years to complete this project. We will round to the nearest whole number year, therefore you will get 2 years. You may have up to 5 years to submit the proof of beneficial use. If you'd like 5 years, please confirm via email or submit an amended application accordingly.

Again, Mike I apologize for delaying my response, but once you respond to this email I believe all aspects of your application will be addressed to at least allow advertising and proceed with processing. I appreciate your patience. Please feel free to call me with any questions or comments. If I do not hear from you within the next sixty (60) days, either your response or a written request for more time to respond, the Department will issue an order to void the application. Refunds will not be issued for voided permits. I look forward to hearing from you.

Regards,

Angie

Angela M. Grimm, P.G.

Water Rights Supervisor

IDWR - Western Region

2735 Airport Way

Boise, ID 83705-5082

(208) 334-2190 phone

(208) 334-2348 fax

From: Mike Ihli [<mailto:mikeihli@gmail.com>]

Sent: Monday, April 20, 2015 2:56 PM

To: Grimm, Angie

Subject: amended application 57-11845

Angie,

Here is a draft of the amended description that goes with the application that we amended in your office back on the 8th of this month. Sorry it took me awhile to get this done. Let me know of your questions or comments so that I can make sure to be on the right path with this.

Thank you for all your help.

Mike Ihli

Walker, Kay

From: Walker, Kay
Sent: Thursday, July 30, 2015 3:29 PM
To: Roxanne Brown
Cc: Walker, Kay
Subject: Transfer 79727 - Idaho Water Company

Hi, Roxanne.

We received information from Mike Ihli regarding the use (or non-use) of Castle Creek water. I picked up the transfer application thinking I could get it to advertising with the little time I have left and found another issue.

As I informed you, on May 13, 2015, the proportionate amount of water under Rt. 02-10420 is only 1.46 cfs. On the amended transfer application, the proposed amount of water under 02-10420 to be split appears to be 1.66 cfs. That right cannot exceed the 1.46 cfs that should have been reflected on Transfer 74511. Can you please get the transfer application amended to show the correct amount of water? On Attachment #9(WSB) under additional information there is a remark that states the same information. The issue is on page 3 of the application that shows 0.42 cfs to be transferred and 1.24 cfs unchanged = 1.66 cfs.

Thank you for your attention to this matter. Since I will be gone after tomorrow, you should address any questions and/or responses to Angie.

Kay

RECEIVED

JUL 27 2015

WATER RESOURCES
WESTERN REGION

IN THE MATTER OF:)

Water Right No. 57-11710)

Transfer No. 79727)

AFFIDAVIT

I submit the following testimony as the Water Master for Castle Creek (Water District 57-C) since 2004, as the owner of the property to which water right no. 57-11710 is appurtenant, and as a life-long resident of the area around Castle Creek.

Castle Creek is a high desert, seasonal stream, much like many others in southwest Idaho. Due to the lower elevations and southern exposure of the hills that drain into Castle Creek, its flow generally peaks earlier than other creeks in the area. There are good water years and poor water years, but the flow of Castle Creek typically peaks in March and provides some water to the most senior right holders as late as June. Those that use water from Castle Creek and have no primary supply of water from off-stream storage, wells, or the Snake River plant only crops that don't require full-season water, such as pasture or oats.

There are 119 water rights decreed on Castle Creek that have earlier priority dates than 57-11710. Of these, 113 of them have a point of diversion up-stream from the point of diversion for 57-11710. Five of them share a diversion point with 57-11710. After the initial high flows subside, and upstream/senior water rights are being diverted, there is no water available to divert under 57-11710. Generally, flows that could be used to irrigate under 57-11710 cease before May. For the last three years, there has been no water at all that could be diverted during the irrigation season under 57-11710.

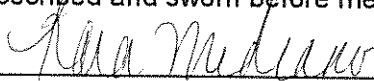
The original owners of the parent right of 57-11710 applied for it only after they had secured rights from the Snake River. They knew that to make a truly viable farm, they would need a dependable, season-long supply of water, and Castle Creek would not provide that. Castle Creek water rights were obtained strictly to help save pumping costs from the river. They were always strictly supplemental to the primary source of the Snake River.

In summary, the water from Castle Creek has never been dependable, and even in good years was not sufficient to fully, or even partially, irrigate the acreage available.



Michael B. Ihli

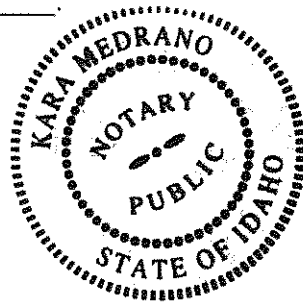
Subscribed and sworn before me this 27th day of July, 2015.



Signature of Notary

Residing at Kuna, Id

My commission expires 9-3-15





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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 26, 2015

IDAHO WATER COMPANY LLC
ATTN: DELBERT KOHTZ
1135 VALLEY RD S
EDEN ID 83325

RE: Application for Transfer 79727

Dear Mr. Kohtz:

We are in the process of reviewing the above transfer application and find that the application proposes to separate Snake River water from the Castle Creek water that has been used on the Ihli property. Both rights were applied for on July 30, 1969. When the Castle Creek right was permitted (57-7034) it was conditioned as being supplemental to the Snake River right (02-7046). In order to prevent enlargement of the Snake River right we need to know how much Snake River water has been historically used on the property. This information could include pumping records if available. We also need documentation of just how much Castle Creek water has been used. If we can obtain records of the total amount of water historically used we can then subtract the Castle Creek water and this would be the amount of water that can be transferred.

Please submit the above requested information within the next 60 (sixty) days. You may seek additional time to provide the information by making a written request to delay processing. Your written response including the requested information, or a request for more time to seek the information, must be received within these 60 days. Without a timely reply, IDWR will issue a preliminary order to reject the application. The application fee will not be refunded for a rejected application. A rejected application may be re-filed when adequate information can be provided.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact this office if you have any questions. Thank you for your attention to this matter.

Sincerely,


KAY WALKER
Sr. Water Resource Agent

Cc: Roxanne Brown, SPF Water Engineering



June 18, 2015

Kay Walker, Short-timer
IDWR Western Regional Office
2735 Airport Way
Boise, Idaho 83705

RECEIVED

JUN 22 2015

WATER RESOURCES
WESTERN REGION

Subject: Amended Transfer Application – Ihli to Midnight Sun LLC (951.0030)

Dear Kay,

SPF is pleased to submit the enclosed amended *Application for Transfer of Water Right* on behalf of Idaho Water Company (IWC) and Mr. Del Kohtz. Michael C. Creamer (Givens Pursley) continues to be the legal representative for IWC and Mr. Kohtz.

The amended application seeks authorization to move water right 2-10422 and a portion of water right 2-10420 from land owned by Mike Ihli to land owned by Midnight Sun LLC. Mr. Kohtz is submitting the amended application in response to your communication dated May 13, 2015 and subsequent telephone conversations with SPF. Two corrections have been made to the transfer application packet. The rate of diversion for the portion of water right 02-10420 has been changed to 0.42 cfs based on IDWR's re-calculation of the diversion rate of the parent right after a previous decree and the Option Agreement between IWC and Ihli has been amended to read 0.42 cfs when referencing water right 2-10420 in Recital B.

Please contact SPF, Mr. Creamer or Mr. Kohtz concerning this application. GIS shapefiles for the current and proposed place of use are available from SPF upon request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roxanne", is written in black ink.

Roxanne Brown

cc: Idaho Water Company

Mike Creamer, Givens Pursley

Enclosures

Walker, Kay

From: Walker, Kay
Sent: Tuesday, May 19, 2015 8:37 AM
To: Roxanne Brown
Cc: Walker, Kay
Subject: RE: Ihli split

Yes, I need the correction before can process. This transfer is moving the water about 50 miles upstream and I'll need to review all the pod's between the 2 points of diversion for possible injury. Not a quick review – also told Del that when he and his son popped in here last week checking on the status.

From: Roxanne Brown [<mailto:RBrown@spfwater.com>]
Sent: Tuesday, May 19, 2015 8:20 AM
To: Walker, Kay
Subject: RE: Ihli split

I'm just jealous...Del plans to get the contract amended and we will submit with the amended application. Does the transfer have to wait for the correction?

From: Walker, Kay [<mailto:Kay.Walker@idwr.idaho.gov>]
Sent: Tuesday, May 19, 2015 7:43 AM
To: Roxanne Brown
Cc: Walker, Kay
Subject: RE: Ihli split

Yes, I will get both parts corrected.

Yes, I am very glad I'll be out of here in 74 days.

Thanks for your help in correcting the agreement so we can proceed with the transfer.

From: Roxanne Brown [<mailto:RBrown@spfwater.com>]
Sent: Monday, May 18, 2015 12:45 PM
To: Walker, Kay
Subject: Ihli split

Here's what I get...will you go back and correct 2-10421 also? Just curious.

This means Del's transfer of 20 acres would have a diversion rate of 0.42 cfs, correct? Del will get a corrected contract and I'll amend the transfer app to reflect 0.42 cfs.

Aren't you glad you're leaving soon?

Roxanne Brown | Sr. Water Right Specialist

SPF Water Engineering, LLC

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

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2136

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



SPF WATER
ENGINEERING

Walker, Kay

From: Roxanne Brown [RBrown@spfwater.com]
Sent: Monday, May 18, 2015 12:45 PM
To: Walker, Kay
Subject: Ihli split
Attachments: Water Right Split 2-10420.pdf

Here's what I get...will you go back and correct 2-10421 also? Just curious.

This means Del's transfer of 20 acres would have a diversion rate of 0.42 cfs, correct? Del will get a corrected contract and I'll amend the transfer app to reflect 0.42 cfs.

Aren't you glad you're leaving soon?

Roxanne Brown | Sr. Water Right Specialist

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SPF WATER
ENGINEERING

Split Analysis

Water Right Number: 2-10397

Diversion Rate: 174 cfs

Date: May 18, 2015

Acreage Analysis

[illegible]

Split Tree

[illegible]

Summary

[illegible]



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 13, 2015

SPF WATER ENGINEERING
ATTN: ROXANNE BROWN
300 E MALLARD DR SUITE 350
BOISE ID 83706

RE: Application for Transfer #79727 – Ihli to Midnight Sun LLC

Dear Roxanne:

In initial review of this transfer application, we find that the transfer application and agreement between Mr. Ihli and Mr. Kohtz are not consistent with each other. Before we go any further in our review of this application, we would like clarification. On page 3 of the application form, it is shown that there will be 0.50 cfs transferred under Rt. 2-10420. On page 1 of the "Option Agreement for Purchase and Sale of Water Rights" it is noted that 0.4 cfs of Rt. 2-10420 will be sold. The water right consists of 69 acres of irrigation at 1.74 cfs. The proportionate amount of water would be 0.50 cfs. However, it appears that the agreement limits the amount that can be transferred. Please find out what the appropriate amount to be transferred should be.

Thank you for your attention to this matter.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

5-14-15
called Roxanne &
explained error four
on T. 74511 - she
will find out
how Mr. Kohtz
wants to handle
the agreement vs.
(0.43) proportionate amt
vs. transfer app
(0.50)
KW



SPF WATER
ENGINEERING

RECEIVED

DEC 11 2014

WATER RESOURCES
WESTERN REGION

December 10, 2014

Steve Lester, Interim Manager
IDWR Western Regional Office
2735 Airport Way
Boise, Idaho 83705

Via Hand-Delivery

Subject: Transfer Application – Ihli to Midnight Sun LLC (951.0030)

Dear Steve,

SPF is pleased to submit the enclosed *Application for Transfer of Water Right* on behalf of Idaho Water Company (IWC) and Mr. Del Kohtz. Michael C. Creamer (Givens Pursley) continues to be the legal representative for IWC and Mr. Kohtz.

The transfer application seeks authorization to move water right 2-10422 and a portion of water right 2-10420 from land owned by Mike Ihli to land owned by Midnight Sun LLC. Mr. Kohtz is submitting the application under the terms of a contract between IWC and the owner of the water rights, Mike Ihli. A copy of the Option Agreement between IWC and Ihli is attached to the application.

Please contact SPF, Mr. Creamer or Mr. Kohtz concerning this application. GIS shapefiles for the current and proposed place of use are available from SPF upon request.

Sincerely,

Roxanne Brown

cc: Idaho Water Company

Mike Creamer, Givens Pursley

Enclosures