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**WATER RESOURCES
WESTERN REGION**

Instrument # 449132 # Pages: 12
ELMORE COUNTY, Idaho
Aug 06, 2015 11:20:36 am Fee: \$ 43.00
For: GIVENS PURSLEY LLP
BARBARA STEELE, Recorder
DELLIS, Deputy

AGREEMENT

This Agreement is entered into effective the 8 day of June 2015 by and between Black Mesa Farms, L.L.C., an Idaho limited liability company ("Black Mesa"), and Terrie E. and Walter L. Trail, husband and wife ("Trail"). Black Mesa and Trail may be referred to individually or collectively hereinafter as "Party" or "Parties."

RECITALS

A. Black Mesa owns and farms the lands in Elmore County, Idaho described in Exhibit A-1 and depicted in Exhibit A-2 hereto (the "Black Mesa Property"). Black Mesa also owns decreed water right nos. 2-103 and 2-2209B (the "Black Mesa Water Rights") authorizing irrigation use on the Black Mesa Property.

B. Trail owns and farms the lands in Elmore County, Idaho described in Exhibit B-1 and depicted in Exhibit B-2 hereto (the "Trail Property"). Trail also owns water right no. 2-4021 ("Trail Water Right") authorizing irrigation use on the Trail Property.

C. Previous to and contemporaneously with this Agreement, Black Mesa and Trail have coordinated their farming operations, cross-leased certain acres of their respective properties to each other ("Cross Lease"), and used their respective water rights to irrigate the land they lease from each other. The Cross Lease expires in December 2019. Under the Cross Lease, Black Mesa is permitted to farm eighty (80) acres of the Trail Property each year, and Trail is permitted to farm three hundred ten (310) acres of the Black Mesa Property each year. The specific acres being farmed by the Parties each year are rotated among various tracts on both the Black Mesa Property and the Trail Property.

D. Trail has filed Transfer 79305 ("Transfer") with the Idaho Department of Water Resources ("Department") seeking to include the Black Mesa Property as part of the permissible place of use ("PPU") authorized for the Trail Water Right. When approved, the Transfer is contemplated to authorize the use of the Trail Water Right on the Black Mesa Property so that it can be used to irrigate up to 310 acres as permitted by the Cross Lease.

E. Black Mesa intends to file an application with the Idaho Water Resources Board ("IWRB") to lease portions of one or more of the Black Mesa Water Rights to the IWRB Water Supply Bank so that Black Mesa can in turn rent the same water rights from the Water Supply Bank to irrigate up to eighty acres of the Trail Property (the "Water Supply Bank Application"). The Water

Bank Application is anticipated to avoid the need to for Black Mesa to file its own water right transfer application with the Department.

F. The purpose of this Agreement is to confirm the Parties' intent that Department approval of the Transfer, IWRB approval of the Water Supply Bank Application and/or the Parties' use of their respective water rights on each other's properties shall not create any adverse legal interests in the water rights, nor shall either party have any legal authority to change, sell, encumber or in any way convey the other Party's water right(s).

AGREEMENT

NOW THEREFORE, in consideration of the above recitals, the agreements and covenants of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is agreed as follows:

1. The Trail Transfer and Water Right.
 - a. Trail may include the Black Mesa Property as part of the PPU for the Trail Water Right as proposed by the Trail Transfer. The Parties will request that the Department include a condition or remark in any Transfer approval indicating that the Trail Water Right is subject to an agreement between Trail and Black Mesa.
 - b. For so long as Trail and Black Mesa have an effective written agreement, including the Cross Lease and any extension thereof, by which Trail may farm a portion of the Black Mesa Property, Trail may use the Trail Water Right to irrigate up to 310 acres of the Black Mesa Property. The location of the particular 310 acres farmable by Trail each year will be agreed to in advance by Trail and Black Mesa. For so long as Trail and Black Mesa have an effective written agreement, including the Cross Lease and any extension thereof, by which Black Mesa may farm a portion of the Trail Property, Black Mesa may use the Trail Water Right to farm up to 80 acres of the Trail Property or may use water rented from the Water Supply Bank or may use the Black Mesa Water Right upon an approved transfer. The location of the particular 80 acres farmable by Black Mesa each year and the Water Right used on the particular 80 acres farmable by Black Mesa each year will be agreed to in advance by Trail and Black Mesa.
 - c. Notwithstanding the Transfer approval, the Trail Water Right may not be used to irrigate any portion of the Black Mesa Property unless Trail is authorized to farm on the Black Mesa Property by an effective written agreement between Black Mesa and Trail.
 - d. The Black Mesa Water Right may not be used to irrigate any portion of the Trail Property unless Black Mesa obtains an approved Transfer or an approved rental of water from the Water Supply Bank from the Department

authorizing such use of water and unless Black Mesa is authorized to farm on the Trail Property by an effective written agreement between Trail and Black Mesa.

- c. Nothing in this Agreement precludes Trail from leasing or renting water rights from the Water Supply Bank for use upon the Trail Property or the Black Mesa Property if necessary for the full and proper irrigation of said property.

2. The Black Mesa Water Supply Bank Lease and Water Rights

- a. Black Mesa may lease portions of one or more of the Black Mesa Water Rights to the Water Supply Bank and in turn rent them out of the Water Supply Bank for use on the Trail Property as contemplated by the Water Supply Bank Application. For so long as Black Mesa and Trail have an effective written agreement, including the Cross Lease and any extension thereof, by which Black Mesa may farm the Trail Property, Black Mesa may use Black Mesa Water Rights to irrigate as many acres as have from time to time been agreed to by the Parties in such written agreement.
- b. If Black Mesa's Water Supply Bank Application is denied, and provided there is in effect a written agreement between Black Mesa and Trail allowing Black Mesa to farm a portion of the Trail Property, then Trail agrees that Black Mesa, in Black Mesa's discretion, may file its own transfer application with the Department to include the Trail Property as part of the PPU for Black Mesa's Water Rights ("Black Mesa Transfer").
- c. Notwithstanding the Water Supply Bank Application, rental agreement or Black Mesa Transfer the Black Mesa Water Rights may not be used to irrigate any portion of the Trail Property unless Black Mesa is authorized to farm on the Trail Property by an effective written agreement between Black Mesa and Trail.

3. Disclaimer; Non-Encumbrance; Further Assurances.

- a. Trail and Black Mesa covenant and agree one to another that notwithstanding the Trail Transfer, the Water Supply Bank Application, the Black Mesa Transfer, or any agreement between the Parties allowing use of their respective water rights on each other's lands, neither Party now has, or shall hereafter acquire or assert, any right or interest in any portion of the other Party's water right(s) used or authorized to be used on their respective properties ("Interest Disclaimer").
- b. In addition to the recording of this Agreement in the real property records of Elmore County, Idaho, the Parties shall use all measures reasonably appropriate to provide notice of this Agreement and Interest Disclaimer to any person dealing with their respective properties or interests in their respective properties so as to ensure that no third-party interest, lien, claim or encumbrance attaches to the other Party's property or water right(s).

- c. The Parties shall not execute any document that purports to convey, or has the effect of conveying, any interest, lien, security interest, claim or other encumbrance (collectively "Encumbrance") affecting the property or water right(s) of the other Party, and shall at their sole expense, execute all documents and take all actions reasonably required to promptly remove or satisfy any such Encumbrance.

4. Unwinding Transfers or Water Supply Bank Application

- a. If either Party (the "Noticing Party") in its sole discretion determines to no longer lease their property to the other Party (the "Notified Party"), they may give written notice to the Notified Party of that decision and require that the Notified Party promptly take all necessary actions to remove or disassociate its water right(s) from the Noticing Party's property, including without limitation, cancelling any Water Supply Bank Application or rental agreement, or filing a transfer application to eliminate the Noticing Party's property as part of the authorized place of use for the Notified Party's water right(s).
- b. A Noticing Party shall have the authority to make any necessary request or application to the Department to remove or transfer the Notified Party's water rights from the Noticing Party's property if the Notified Party fails or refuses to take such action within a reasonable time after receiving the written notice provided for in section 4(a) above.
- c. Notwithstanding the foregoing subparagraph 4(a), either Party in its sole discretion may take all actions necessary to remove or disassociate its water right(s) from the other Party's property, including without limitation, cancelling any Water Supply Bank Application or rental agreement, or filing a transfer application with the Department to eliminate the other Party's property as part of the authorized place of use for their water right(s).
- d. Black Mesa and Trail hereby give their express advance consent to the removal and disassociation of the other Party's water rights from their respective properties, and agree to promptly provide any further consent or assurance that may be required to give effect to this Section 4.

5. Binding Effect, Covenants to Run with the Land and Water Rights. This Agreement, and the covenants of the Parties contained herein, shall run with the lands and the water rights that are the subject of this Agreement, and shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors and assigns, and upon any person or entity dealing with the lands or water rights that are the subject of this Agreement.

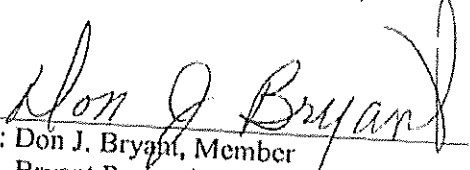
6. Written Amendment. This Agreement constitutes the entire agreement of the Parties concerning the subject matter hereof, and may not be amended except by a writing signed by both Parties and recorded so as to provide notice to third parties.

7. 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.

8. Dispute Resolution. In the event of any dispute(s) between the Parties concerning the performance of this Agreement, they will first attempt to resolve their dispute(s) by mediation.

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

BLACK MESA FARMS, L.L.C.


By: Don J. Bryant, Member
Bryant Properties, LLC as "Member"
of Black Mesa Farms, L.L.C.

TERRIE E. AND WALTER L. TRAIL

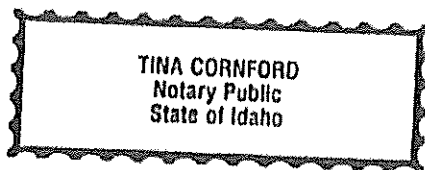

Terrie E. Trail


Walter L. Trail

State of Idaho)
County of Elmore)

On this 8 day of June, in the year 2015, before me, a Notary Public in and for said County and State, personally appeared Terrie E. Trail, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

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

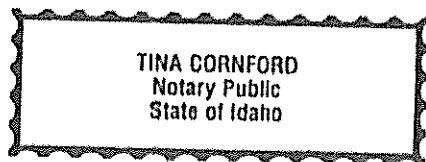


Tina Cornford
Notary Public for Idaho
Residing at 1205 E 65th Ave. Id. 83647
My Commission expires 10-19-2018

State of Idaho)
County of Elmore)

On this 8 day of June, in the year 2015, before me, a Notary Public in and for said County and State, personally appeared Walter L. Trail, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

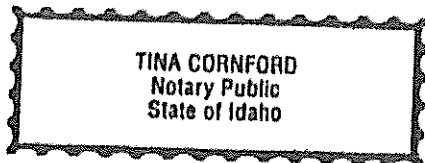


Tina Cornford
Notary Public for Idaho
Residing at 1205 E 65th Ave. Id. 83647
My Commission expires 10-19-2018

STATE OF IDAHO)
 : ss.
County of Elmore)

On this 8 day of June, 2015, before me, a notary public in and for said state, personally appeared Don J. Bryant, known or identified to me to be a member of Bryant Properties, LLC, one of the members of BLACK MESA FARMS, L.L.C. and the member who subscribed said BLACK MESA FARMS, L.L.C.'s name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company's name.

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



Tina Cornford
Notary Public for Idaho
Residing at: 1205 E 16.5th Ave, Homestead, FL 33067
My commission expires: 10-19-2018

EXHIBIT A-1
(Black Mesa Property Legal Description)

In Elmore County, Idaho:

T6S, R10E B.M.

Section 1:	NESW, S1/2SW, W1/2SE, SESE
Section 2	SESE
Section 11:	E1/2NE, SWNE, S1/2
Section 12	All
Section 13:	N1/2, N1/2SW, SE
Section 14:	N1/2, NESW, N1/2SE
Section 24:	NE, N1/2SE

T6S, R11E, B.M.

Section 6:	Lot 7
Section 7:	All
Section 17:	W1/2NW, NWSW
Section 18:	Lots 1 through 4 inclusive, NE, E1/2W1/2, N1/2SE, SWSE
Section 19:	Lots 1 through 3 inclusive

Containing 4,097.57 acres more or less.

EXHIBIT A-2
(Black Mesa Farms Property Depiction)

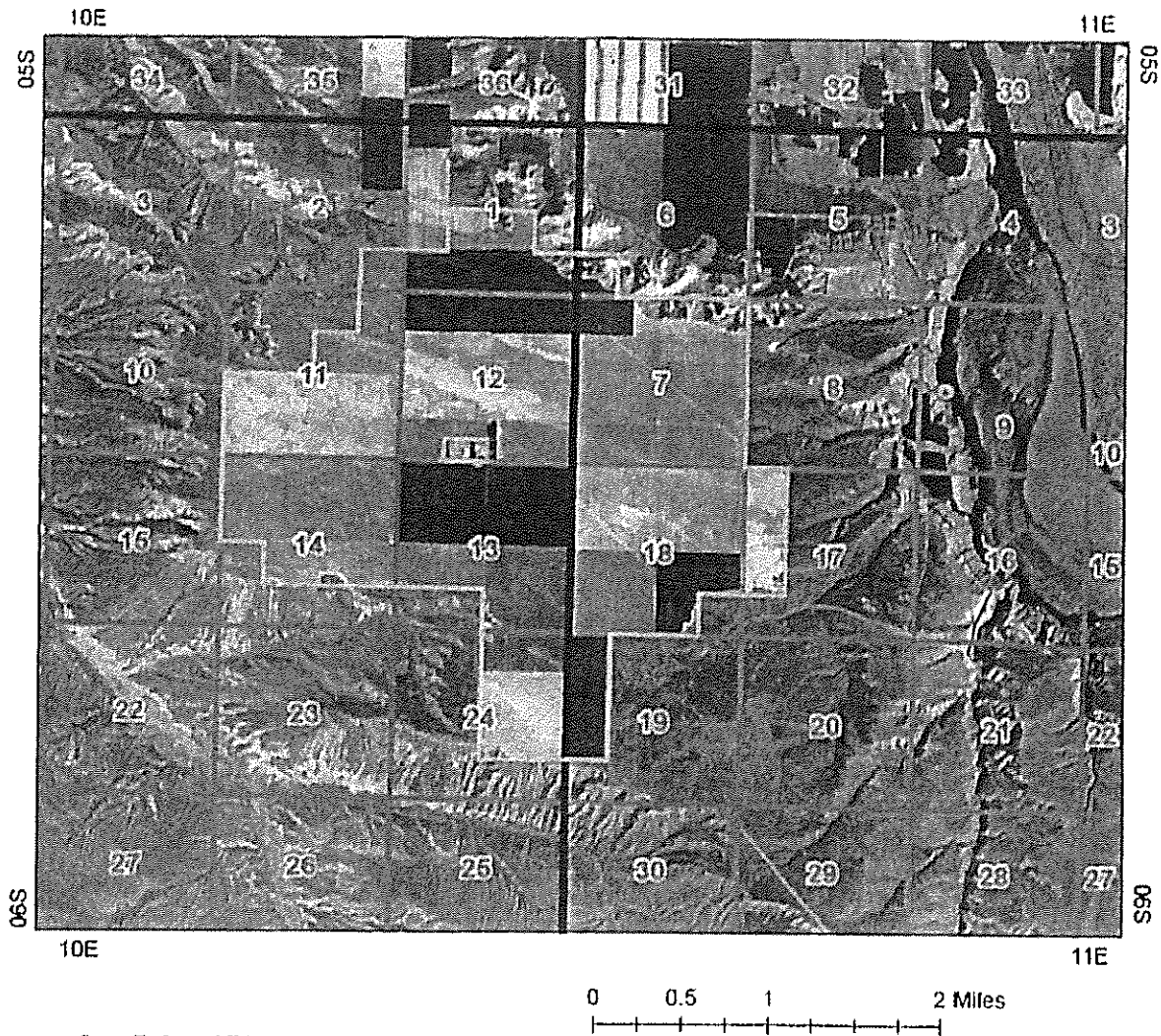


EXHIBIT B-1
(Trail Property Legal Description)

TRACT I (Fee Lands)

TOWNSHIP FIVE SOUTH, RANGE TEN EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

Section 35: SE1/4NE1/4 and the E1/2SE1/4

TOWNSHIP SIX SOUTH, RANGE TEN EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

Section 1: Lot 4, SW1/4NW1/4 AND NW1/4SW1/4

Section 2: Lot 1 and SE1/4NE1/4

That portion of Section 36, Township 5 South, Range 10 East, B.M., Elmore County, Idaho, lying northerly and westerly of the following described line, to wit: Beginning at the northeast corner of said Section 36; thence South 0°38' West 300 feet along the east boundary line of said Section 36; thence South 77°24' West 524 feet; thence South 43°04' West 1698 feet; thence South 57°24' West 631 feet; thence South 42°04' West 375 feet; thence South 85°24' West 325 feet; thence South 43°44' West 390 feet; thence South 52°24' West 320 feet; thence South 9°32' West 721 feet; thence South 51°30' West 460 feet; thence South 63°30' West 490 feet; thence South 17°10' East 435 feet; thence North 89°30' East 485 feet; thence South 82°50' East 250 feet; thence South 4°30' East 390 feet; thence South 1°20' East 185 feet; thence South 41°00' West 385 feet to a point on the South Boundary line of said Section 36, which point is the end point of said line and from which point the South Quarter corner of said Section 36 bears North 89°59' East a distance of 902 feet.

SAVE AND EXCEPT:

A parcel of land in the NE1/4 of the NE1/4 of Section 36, Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho, more particularly described as follows:

Beginning at the NE corner of said Section 36, a BLM brass cap monument; thence South 0°34' W., 297.5 feet on the east line of said Section 36 to a steel bar; thence S. 77°17' W., 502.0 feet to a steel bar; thence N. 0°34' E., 410.7 feet to a steel bar on the north line of said Section 36; thence S. 89°41' E. 488.66 feet to the Real Point of Beginning.

TRACT II (Rights of Way)

Segment 1:

A right of way for an irrigation pipeline along the presently existing Cottonwood Mutual Canal Company system which runs in a westerly direction from the west bank of Snake River in Lot 6 of Section 9, T6S, R11E, B.M. through Section 8, T6S, R11E, B.M. to the westerly line thereof.

Segment 2:

Bureau of Land Management Right of Way Serial No. 1-12250 for an irrigation pipeline in the South half of Section 7, T6S, R11E, B.M., and in the south half and the west half of Section 12 and in the south half of the southwest quarter of Section 1, T6S, R11E, B.M., said right of way being 40 feet wide lying 20 feet on either side of the centerline more particularly described as follows:

Commencing at a point on the section line common to Sections 7 and 8, T6S, R11E, B.M., which point bears S. 00°10' W. a distance of 320 feet from the quarter corner common to said Sections 7 and 8;

Thence running S. 75°51'43" W. a distance of 1,094 feet to a point at or near the center of the SW1/4 of said Section 7;

Thence running N. 89°50' W. a distance of 1,252 feet to a point on the section line common to said Section 7 and to Section 12, T6S, R10E, B.M., said point being at or near the NW corner of the SW1/4SW1/4, said Section 7;

Thence running N. 89°40' W. a distance of 3,974 feet to a point at or near the center of the SW1/4 of said Section 12;

Thence running N. 00°13' E. a distance of 2,635 feet to a point at or near the center of the NW1/4 of said Section 12;

Thence running N. 00°05' E. a distance of 2,633 feet to a point on the south line of NW1/4SW1/4 of Section 1, T6S, R10E, B.M. (a part of Tract I hereinbefore described), which point bears N. 45°00' E. a distance of 1,266 feet from the SW corner of said Section 1.

EXHIBIT B-2
(Trail Property Depiction)

