

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 79646**RECEIVED****OCT 23 2014**Department of Water Resources
Eastern Region

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) Kent Merrill

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 #1-9.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the 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.
- ☐ ☒ #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 Other. Please describe: Gift Deeds showing WR ownership; Water Right Sales and Purchase Agreement

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Kent Merrill Phone 745-6990

Mailing address 532 N 3825 E, Rigby, ID 83442 Email _____

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

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

☐ No Representative

Name of Representative Rocky Mountain Environmental Associates, Inc Phone 208-524-2353

Mailing address 482 Constitution Way Ste 303, Idaho Falls, ID 83402 Email kristin.rmea@gmail.com

- ☐ 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

Kent Merrill
Print Name and Title if applicable

10-21-14
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
☐ Change nature of use

☐ Add diversion point(s)
☐ Change period of use

☒ Change place of use
☐ Other _____
- 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**.

See attached Narrative

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 ☐ ☒	25-14364	0.019 cfs	Irrigation	04/01 to 10/31	Ground water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.019 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.019 cubic feet per second and/or _____ acre-feet per annum.

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 #
Y			SE	NE	35	4N	38E	JEFFERSON	GROUND WATER	

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

- ☐ 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	
4N	38E	35				1													1

Total Acres (for irrigation use) 1

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:
New well to pump to irrigation system with 17 spigots throughout greenhouses, demonstration area, and nursery lot.

- b. Who owns the property at the point(s) of diversion? Nest Egg Investments, LLC
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Applicant has an agreement with property owner for the sale and purchase of the described water right. Upon approval of this application, ownership of transferred portion will be conveyed to Nest Egg Investments. Attach #9

- 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: _____

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

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
The existing place of use will no longer be irrigated under this water right. One acre of water right will be transferred from Lot 2, Block 1 (0.4 ac) and Lot 10, Block 2 (0.6 ac) of Valley Estates.

- e. 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:
No other water rights.

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

Yes No

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

If yes, describe:

An Extension for forfeiture was granted until June 2016.

AMENDED

WATER RIGHT NO. 25-14364

Part 2A

Owner Type Name and Address

Current Owner KENT MERRILL
532 N 3825 E
RIGBY, ID 83442
(208)745-6990

Priority Date: 02/28/1992

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.29 CFS	57.2 AFA
Total Diversion			0.29 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSW	Sec. 30	Township 04N	Range 39E	JEFFERSON County
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Licensed Diversion Capacity: 0.78

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	39E	30	4	SWSW	14.3									

Total Acres: 14.3

Conditions of Approval:

1. 050 Diversion and use of water under this right is subject to rules that may subsequently be promulgated for existing rights used for supplemental purposes.
2. R31 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
3. R55 This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
4. R56 Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

Licensed Date: 01/29/1997

Water District Number: 120

79646

Narrative for Application for Permit and Application for Transfer **for Nest Egg Investments, LLC**

Applicant proposes to develop a new nursery located on 3800 E, north of County Line Road, Rigby, Idaho, in the SENE of Section 35, T4N, R38E. The nursery will include 10 greenhouses, a demonstration area, and a nursery lot. To acquire water rights for the new facility, two applications are proposed: an Application for Transfer to move a portion of water right number 25-14364 for irrigation of 1.0 acre and an Application for Permit to obtain water for domestic use and a higher diversion rate for the irrigation right proposed to be transferred.

Water Demands

Applicant has an existing facility with similar water requirements as the proposed facility, each including the same number of greenhouses, a demonstration area, and a nursery lot. The irrigation system includes 14 spigots, each requiring 17.5 gallons per minute for efficient operation. The system operates at 6 spigots simultaneously, requiring 0.23 cfs for peak use. Annual measurements of the existing facility shows a diversion volume of about 1.8 acre-feet annually.

The proposed facility will be constructed in a similar manner and will therefore require a peak diversion rate of 0.23 cfs and about 1.8 acre-feet annually.

Total surface area for irrigation will be approximately 0.7 acres, which will be rounded up to 1.0 acre for simplicity of transfer.

Proposed Transfer Application

To supply an irrigation water right, applicant has contracted to purchase 1.0 acre of water right no. 25-14364 from Kent Merrill. This would provide 1.0 acre and 4.0 acre-feet annually for irrigation, which is more than sufficient for the anticipated

Table 1. Summary of Proposed Applications for Irrigation

Quantities	Anticipated Demand	App. For Permit	App. for Trans
Irrigated Acres	0.7	1	1
Diversion Rate (cfs)	0.23	0.23	0.02
Volume (afa)	1.8	0	4.0

water volume demand as summarized in Table 1. An application for transfer¹ is proposed to move the 1.0 acre portion of the water right to the nursery location. The diversion rate applicable to 1.0 acre of water right is insufficient for the peak demands of the nursery.

Existing Place of Use

Water right no. 25-14364 allows for the irrigation of 14.3 acres within various lots within the Valley Estates Subdivision. Kent Merrill only owns a portion of the acres of this water right with clear title. In creating the maps that accompany the transfer, it appears that the IDWR water right place of use

¹ The Transfer Application is submitted by the current water right owner Kent Merrill. The ownership of the water right will be conveyed to Nest Egg Investments, LLC upon approval of this transfer and closing of the water right sale. A copy of the gift deeds can be found in Attachment #9 to show Merrill's ownership. A copy of the Water Right Sales and Purchase Agreement can also be found in Attachment #9.

shapefile is incorrect. A portion of the water right still remains within Lot 2, Block 1, deeded to Kent and Diane Merrill by Blair and Rhonda Chas; however, the shapefile does not include any of this lot. The gift deed specifies that 1.0 acre of water right was originally granted to Merrills.

Previous transfers have removed portions of the parent right to other lands through water right sales. In specific, Transfer No. 77589 on behalf of Walters Ready Mix transferred 5.0 acres from the parent right no. 25-14361. The acres were transferred from the roadways (4.4 acres) and Lot 2, Block 1 (0.6 acres). This leaves a remaining 0.4 acres within Lot 2, Block 1 to which Merrill's own the water right, which is proposed to be moved via this transfer, along with the other portion shown in Table 2. All acres are located within the SWSW Section 30, T4N, R39E.

Table 2. Acres to be Transferred

Lot Owner Last Name	Lot Owner First Name	Lot #	Block #	Acres Transferred from Lot	Remaining Acres Not Transferred
Chase	Blair	2	1	0.4	0
Polatis	Todd and Tori	10	2	0.6	0.1
Total Acres=				1.0	

ESPA Analysis

Using the ESPAM Transfer Spreadsheet, it is determined that transferring 1.0 acre of water right to the proposed location will have very minimal effects, less than 2.0 af/trimester, to the reaches of the Snake River. No mitigation is required.

Proposed Application for Permit

The proposed application for permit² will accomplish two purposes: to provide for a *de minimus* domestic right needed for the nursery office and to obtain an adequate diversion rate for irrigation to satisfy peak use demand. The domestic component will allow up to 2,500 gpd according to the Domestic Part B definition. The irrigation component is proposed to allow a higher diversion rate of 0.23 cfs for the portion of water right no. 25-14364 proposed in the companion transfer application. A typical diversion rate for 1.0 acre of irrigation is 0.02 cfs. However, the water demands as explained above will require the ability to divert the irrigation water at a higher rate for efficiency and timing.

No additional volume is being requested with this application. All required volume will be provided through the water right proposed to be transferred.

Summary

In combination, the Transfer and Permit Applications will result in water rights to irrigate 1.0 acre at the proposed nursery location with a peak diversion rate of 0.23 cfs. Volume will not exceed 4.0 acre-feet between the two irrigation water rights.

Additionally, a domestic component will provide a *de minimus* quantity not to exceed 2,500 gpd.

² The Permit Application is submitted by Nest Egg Investments, LLC, owner of the proposed nursery.

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for Nest Egg Investments, LLC

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The proposed facility will be constructed in a similar manner and will therefore require a peak diversion rate of 0.23 cfs and about 1.8 acre-feet annually.

Total surface area for irrigation will be approximately 0.7 acres, which will be rounded up to 1.0 acre for simplicity of transfer.

Proposed Transfer Application

To supply an irrigation water right, applicant has contracted to purchase 1.0 acre of water right no. 25-14364 from Kent Merrill. This would provide 1.0 acre and 3.5 acre-feet annually for irrigation, which is more than sufficient for the anticipated

Table 1. Summary of Proposed Applications for Irrigation

Quantities	Anticipated Demand	App. For Permit	App. for Trans
Irrigated Acres	0.7	1	1
Diversion Rate (cfs)	0.23	0.23	0.02
Volume (afa)	1.8	0	3.5

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No additional volume is being requested with this application. All required volume will be provided through the water right proposed to be transferred.

Summary

In combination, the Transfer and Permit Applications will result in water rights to irrigate 1.0 acre at the proposed nursery location with a peak diversion rate of 0.23 cfs. Volume will not exceed 3.5 acre-feet between the two irrigation water rights.

Additionally, a domestic component will provide a *de minimus* quantity not to exceed 2,500 gpd.

² The Permit Application is submitted by Nest Egg Investments, LLC, owner of the proposed nursery.

ENHANCED GROUND-WATER

UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH

Cells this color are
set up for user entries

ENTER STARTING DATE FOR
SIMULATION. THEN PUSH
"UPDATE DATES" BUTTON

YEAR

1992

SEASON

TRANSFER NO

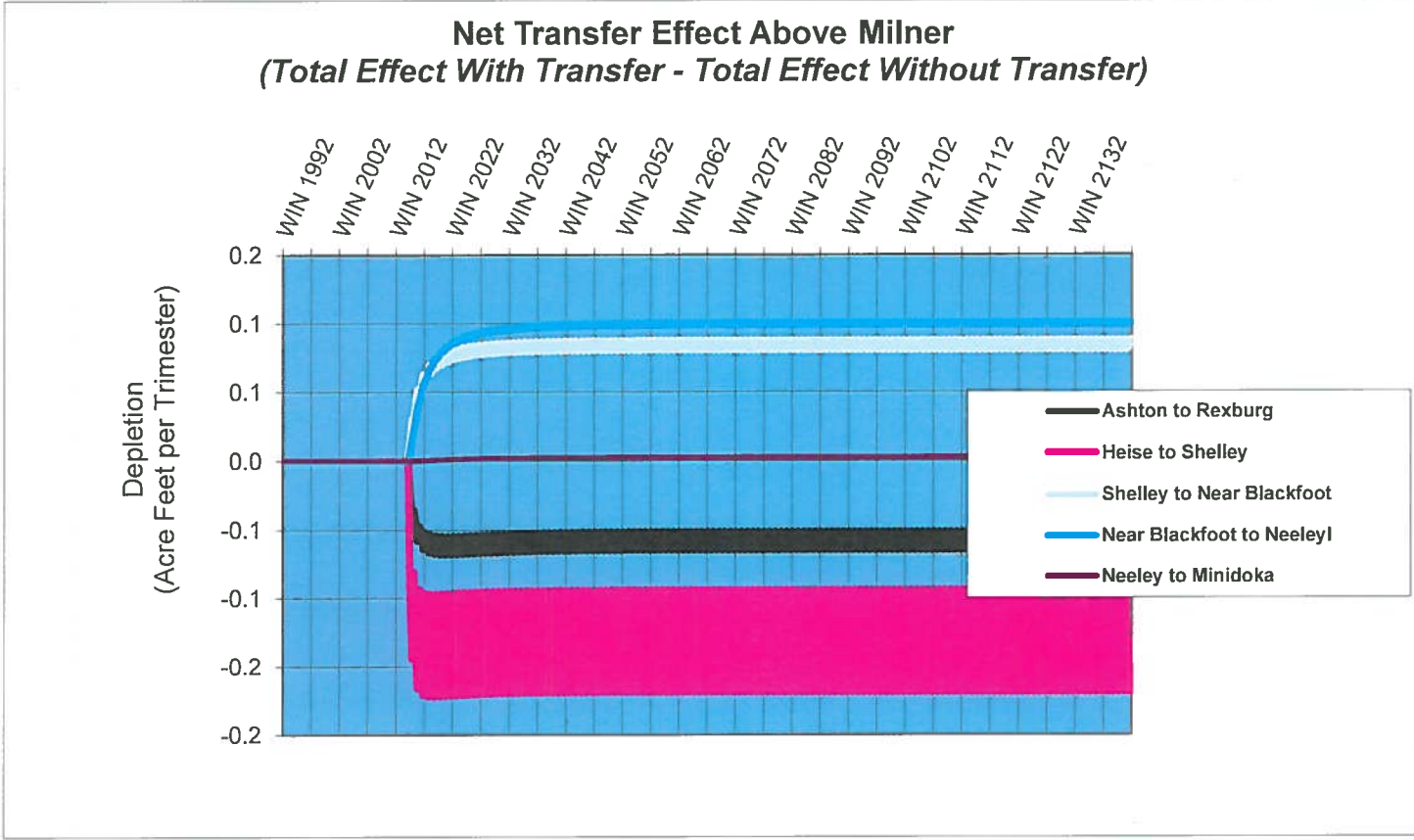
TRANSFER NAME

West Egg Investm

ENTER CELL LOCATIONS:

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COLUMN	169	171	0	0

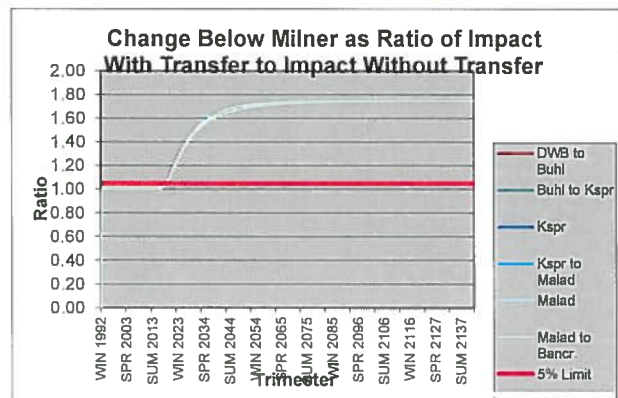
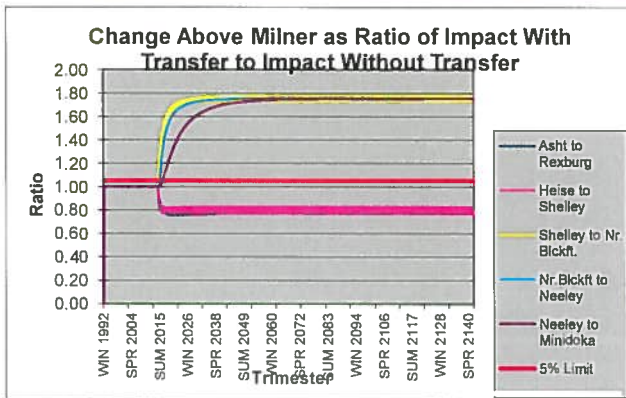
TRIMESTER OF ACTIVITY	TO WELL	FROM1 WELL		FROM2 WELL	
	Projected Use AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transf AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transf AF/TRIMESTER
WIN 1992	0	0	0	0	0
SPR 1993	0	2	2	0	0
SUM 1993	0	2	2	0	0
WIN 1993	0	0	0	0	0
SPR 1994	0	2	2	0	0
SUM 1994	0	2	2	0	0
WIN 1994	0	0	0	0	0
SPR 2014	0	2	2	0	0
SUM 2014	0	2	2	0	0
WIN 2014	0	0	0	0	0
SPR 2015	2	0	2	0	0
SUM 2015	2	0	2	0	0
WIN 2015	0	0	0	0	0
SPR 2016	2	0	2	0	0
SUM 2016	2	0	2	0	0
WIN 2016	0	0	0	0	0
SPR 2140	2	0	2	0	0
SUM 2140	2	0	2	0	0
WIN 2140	0	0	0	0	0
SPR 2141	2	0	2	0	0



Change Ratio

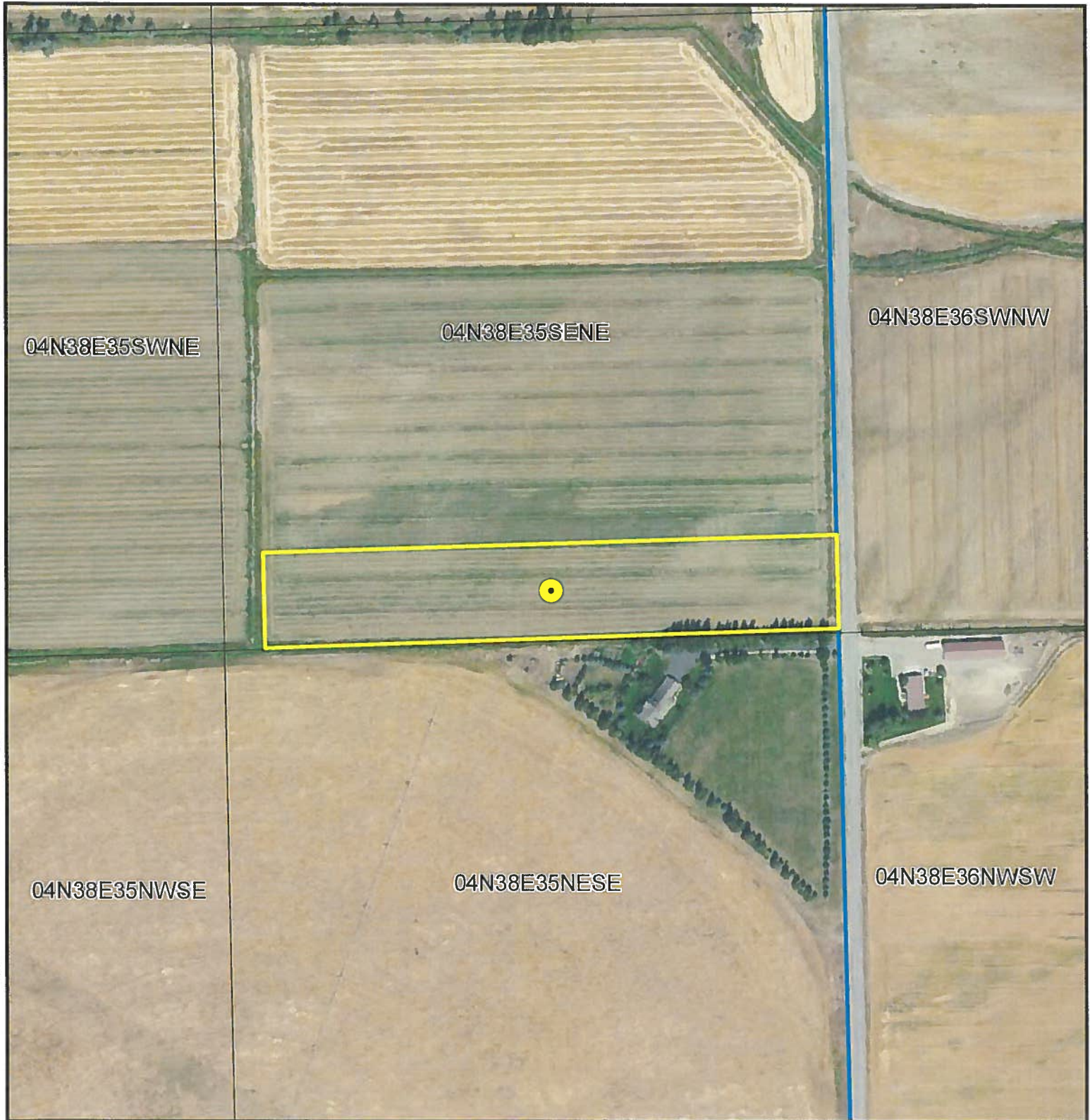
Net effect divided by w/o transfer condition

period	Ashton to Asht to Rexb	Heise to Heise to She	Shelley to Shelley to I	Nr Blckft to Nr Blckft to	Neeley to Neeley to I	Dev. Wbl. to DWB to Bu	Buhl to Buhl to Kspr	Kspr Kspr to Ma	Kspr to Kspr to Ma	Malad Malad to	Malad to Malad to Bancr.	5% Limit
WIN 1992												1.05
SPR 1993	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SUM 1993	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
WIN 1993	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SPR 1994	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SUM 1994	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
WIN 1994	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SPR 2014	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SUM 2014	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
WIN 2014	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SPR 2015	0.92	0.86	1.12	1.04	1.00	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
SUM 2015	0.85	0.81	1.27	1.11	1.01	1.00	1.00	1.00	1.00	1.00	100.0%	1.05
WIN 2015	0.86	0.86	1.30	1.17	1.02	1.00	1.00	1.00	1.00	1.00	100.1%	1.05
SPR 2016	0.82	0.79	1.38	1.23	1.03	1.00	1.00	1.00	1.00	1.00	100.1%	1.05
SUM 2016	0.79	0.78	1.46	1.30	1.05	1.00	1.00	1.00	1.00	1.00	100.3%	1.05
WIN 2016	0.81	0.83	1.45	1.34	1.07	1.01	1.01	1.01	1.01	1.01	100.6%	1.05
SPR 2140	0.79	0.78	1.75	1.75	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
SUM 2140	0.77	0.77	1.78	1.76	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
WIN 2140	0.80	0.83	1.74	1.75	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
SPR 2141	0.79	0.78	1.75	1.75	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
SUM 2141	0.77	0.77	1.78	1.76	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
WIN 2141	0.80	0.83	1.74	1.75	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
SPR 2142	0.79	0.78	1.75	1.75	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05
SUM 2142	0.77	0.77	1.78	1.76	1.75	1.75	1.75	1.75	1.75	1.75	175.0%	1.05



Attachment #7a

Kent Merrill / Nest Egg Investments LLC



2013 NAIP Photography

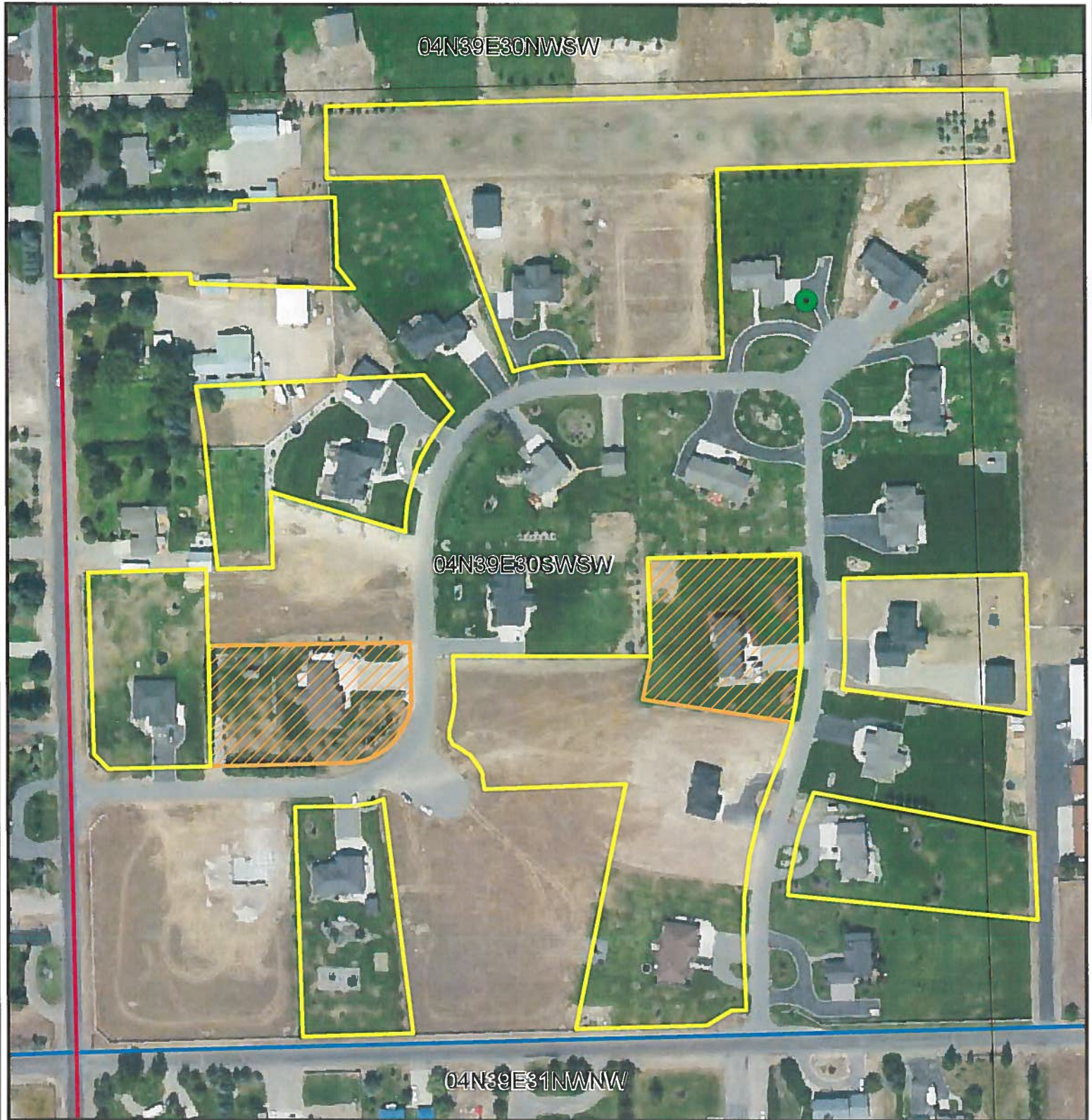
- Approx New POD
- Approx New POU
- Township and Range
- Section
- QQ



0 200 400 79646 800 Feet

Attachment #7b

Kent Merrill / Nest Egg Investments LLC



- WRPOD 25-14364
- WRPOU 25-14364
- Dry Acres
- Township and Range
- Section
- QQ



0 125 250 500 Feet

2013 NAIP Photography

GIFT DEED

THIS INDENTURE, Made and entered into this 9 day of March, 2011, by and between Blair and Rhonda Chase, of 109 N 3908 E, Rigby, ID 83442, the party of the first part, and Kent and Diane Merrill, of 532 N 3825 E, Rigby, ID 83442, the party of the second part,

WITNESSETH:

That said party of the first part, for and in consideration of the esteem he holds for the party of the second part, by these presents, does give, convey and confirm unto the said parties of the second part, the following described real property, located in Jefferson County, to-wit:

Any and all water rights attributed to Lot 2, Block 1, Valley Estates, Division No. 1, SW¼, Section 30, T 4N, R 39E, B.M. (1.00 Acre), including but not limited to Water Right No. 25-14247

IN WITNESS WHEREOF, The party of the first part has hereunto set his hand and seal the day and year first above written.

Blair Chase
Blair Chase

Rhonda Chase
Rhonda Chase

Rhonda Chase

GIFT DEED - Page 1 of 2

Microfilm No. 390913
3-31-2011
At 3:28 O'Clock P M
CHRISTINE DOULTER
Jefferson Co. Recorder 13.28 Deputy
Fee \$
Recorded at Request of Diane Merrill

STATE OF IDAHO,)

County of Jefferson ss.

On this 28th day of March, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Blair and Rhonda Chase, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

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

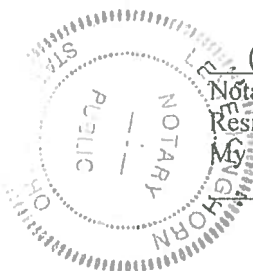
 Shirley Knapp
 Notary Public for Idaho
 Residing at: Lewistown, ID
 My Commission Expires: 1-13-2015

STATE OF IDAHO,)

County of Jefferson ss.

On this 28th day of March, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Blair and Rhonda Chase, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

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

 Shirley Knapp
 Notary Public for Idaho
 Residing at: Lewistown, ID
 My Commission Expires: 1-13-2015

GIFT DEED - Page 2 of 2

Instrument # 392444

RIGBY, JEFFERSON, IDAHO

7-12-2011 09:38:00 No. of Pages: 2

Recorded for : ROCKY MOUNTAIN ENVIRONMENTAL

CHRISTINE BOULTER

Fee: 13.00

Ex-Officio Recorder Deputy

Index to: GIFT DEED

GIFT DEED

THIS INDENTURE, Made and entered into this 7th day of July, 2011, by and between Todd A. Polatis and Tori M. Polatis of 109 N 3918 E, Rigby, ID 83442, the party of the first part, and Kent and Diane Merrill, of 532 N 3825 E, Rigby, ID 83442, the party of the second part,

WITNESSETH:

That said party of the first part, for and in consideration of the esteem he holds for the party of the second part, by these presents, does give, convey and confirm unto the said parties of the second part, the following described real property, located in Jefferson County, to-wit:

A portion of Water Right No. 25-14247 attributed to Lot 10, Block 2, Valley Estates, Division No. 1, SW $\frac{1}{4}$, Section 30, T 4N, R 39E, B.M. in the amount of 0.7 acres. The remainder of 0.3 acres will be retained and used on the Lot described.

IN WITNESS WHEREOF, The party of the first part has hereunto set his hand and seal the day and year first above written.


Todd A Polatis


Tori Mae Polatis

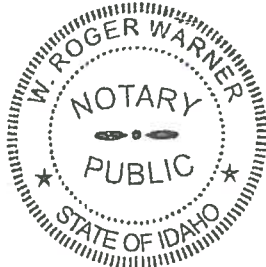
STATE OF IDAHO,)

ss.

County of Jefferson)

On this 8th day of June, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Todd Polaris, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same.

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



W. Roger Warner
 Notary Public for Idaho
 Residing at: 432 N 3900 E, Rigby, ID
 My Commission Expires:
June 24, 2016

STATE OF IDAHO,)

ss.

County of Jefferson)

On this 8th day of June, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Tori Polaris, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that ~~he~~/she executed the same.

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

W. Roger Warner
 Notary Public for Idaho
 Residing at: 432 N. 3900 E Rigby, ID
 My Commission Expires:
June 24, 2016

**WATER RIGHTS PURCHASE
AND SALE AGREEMENT**

THIS AGREEMENT is made and entered into this ____ day of October, 2014, (the "Effective Date") by and between Kent Merrill, a married man, of 532 N 3825 E, Rigby, ID 83442, hereafter "SELLER", and Nest Egg Investments, LLC, an Idaho corporation, 145 N 3762 E, Rigby, ID, 83442, hereafter "BUYER";

WITNESSETH:

That for and in consideration of the mutual covenants and agreements set forth below, the parties hereto agree as follows:

1. **Water Right Purchase.** SELLER hereby sells to BUYER, and BUYER hereby purchases from SELLER, the following described water right or water right portion for the consideration and subject to the terms and conditions contained herein:

A portion of Idaho Department of Water Resources (IDWR) Licensed Water Right No. 25-14364.

Source:	Ground water
Purpose:	Irrigation
Priority:	February 28, 1992
Quantity (Diversion Rate):	0.019 cfs of the total authorized
Quantity (Volume):	4.0 acre feet per annum
Place of Use (Acreage):	1 acre

The above portion of Water Right No. 25-14364 is hereinafter referred to as the "Water Right." The Water Right shall be conveyed from SELLER to BUYER by Special Warranty Deed, in the form set forth in Exhibit "A" attached hereto. Said Special Warranty Deed will be executed and recorded by SELLER as grantor to BUYER as grantee, and delivered to grantee together with Idaho Department of Water Resources (IDWR) Change of Ownership Form in the form attached hereto as Exhibit "B" upon closing.

2. **Purchase Price.** The purchase price for the Water Right is [REDACTED] per acre for the total sum of [REDACTED] for 1.0 acre, lawful money of the United States, to be paid by BUYER to SELLER as follows:

- a. **Down Payment.** The sum of [REDACTED] shall be paid as a down payment upon the execution of this agreement, receipt whereof is hereby acknowledged by SELLER;
 - b. **Remaining Balance.** The remaining balance of [REDACTED] shall be paid in cash, within thirty (30) days of receipt of notice of formal approval by Idaho Department of Water Resources of the Application for Transfer referenced in Paragraph 3 hereof.
3. **Application for Transfer.** It is understood and agreed that BUYER will initiate the appropriate transfer proceeding under *Idaho Code* §§ 42-108 and 42-222, by filing an application with IDWR in the form attached hereto as Exhibit "C" to change the point of diversion, place of use and nature of use of the Water Right as provided in said application. The filing fees and all costs and expenses of such proceedings shall be borne by BUYER. This transfer and water right will remain in the name of Kent Merrill until the contract is closed and fully paid to SELLER by the BUYER. The BUYER's place of use and point of diversion will be used for the transfer. The parties agree to cooperate in the prosecution of said transfer proceeding to the end that it might be approved by the Idaho Department of Water Resources with as much dispatch as possible.
4. **Closing.** The closing of this transaction and delivery of the executed Assignment to BUYER and the entire purchase price for the contract to SELLER shall take place at the office of Rocky Mountain Environmental Associates, Inc., within thirty days of BUYER's receipt of approval from the Department of the application for transfer. The BUYER shall be given possession and use of the water right and the water appurtenant thereto, upon closing.
5. **Processing of Application for Transfer.** In the event the transfer is not approved by the Idaho Department of Water Resources, or not approved in a manner satisfactory to BUYER, BUYER shall have the right to have said application withdrawn. In the event BUYER withdraws said application, SELLER agrees to refund any portion of the purchase price paid by BUYER prior to the date of such withdrawal, to BUYER, without interest, within thirty (30) days of the filing of the Notice of Withdrawal.

6. **Signature Deadline.** SELLER hereby agrees to sign this Agreement within ten (10) business days after BUYER signs this Agreement. If SELLER does not sign the Agreement within the specified time period, BUYER may terminate this Agreement by providing written notice to SELLER within twenty (20) business days after BUYER signs this Agreement.

7. **Seller's Representations and Warranties.** SELLER represents and warrants to BUYER that:

7.1 **Authority.** SELLER has full power and authority to enter into this Agreement and complete the Transaction.

7.2 **Binding Agreement.** Upon SELLER's execution of this Agreement, this Agreement will be binding and enforceable against SELLER in accordance with its terms.

7.3 **Title.** SELLER has fee title to the Water Right. SELLER believes in good faith that there are no unrecorded agreements, leases, liens or encumbrances which may affect title to the Water Right.

7.4 **Other Agreements.** SELLER shall not, prior to any termination of this Agreement, enter into or execute any easement, encumbrance, lease, or other agreement, with respect to the Water Right. Notwithstanding the above, it is understood and agreed that SELLER is free to enter into the sale or lease of the balance of Water Right 25-14364 or related water rights provided said sale(s) or lease(s) do not materially impair the transfer rights of SELLER to the Water Right.

SELLER shall not solicit any other offers for the portion of the Water Right in which BUYER and SELLER are under contract to purchase.

7.5 **No Litigation or Condemnation.** There are no suits, claims, proceedings or investigations pending or threatened with respect to the Water Right or which will adversely

affect SELLER's ability to meet its obligations with respect to this Agreement. SELLER has no knowledge of or reason to suspect any proposed public improvements that could result in any condemnation or taking of all or a portion of the Water Right.

7.6 **Snake River Basin Adjudication.** SELLER has researched and reviewed the Water Right and warrants that claims for the Water Right have been filed in the Snake River Basin Adjudication (the "SRBA").

8. **BUYER's Representations and Warranties.** BUYER represents and warrants to SELLER that:

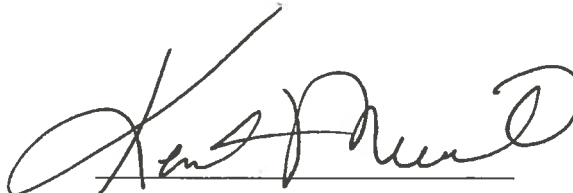
8.1 **Authority.** BUYER has full power and authority to enter into this Agreement and complete the Transaction.

8.2 **Binding Agreement.** Upon BUYER's execution of this Agreement, this Agreement will be binding and enforceable against BUYER in accordance with its terms, and upon BUYER's execution of the additional documents contemplated by this Agreement, they will be binding and enforceable against BUYER in accordance with their terms.

9. **Attorney's Fees.** Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise.
10. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument. This Agreement may be signed and delivered by facsimile (fax or email) which shall be effective as an original.

11. **Binding Effect.** This Agreement is binding upon and inures to the benefit of the parties to this Agreement and their respective successors and assigns.
12. **Reliance Upon Statements/Integration and Merger.** This Agreement sets forth the entire understanding of the parties with respect to the matters set forth in this Agreement as of the date both Buyer and Seller sign the Agreement; it supersedes all prior oral or written agreements of the parties as to the matters set forth in this Agreement; and it cannot be altered or amended except by an instrument in writing, signed by Buyer and Seller.
13. **Severability.** If any provision of this Agreement or any portion of any provision of this Agreement is determined to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability may not alter the remaining portion of such provision, or any other provision of this Agreement, as each provision of this Agreement is deemed severable from all other provisions of this Agreement.
14. **Governing Law.** This Agreement is governed by, and construed and enforced in accordance with, the laws of the State of Idaho.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

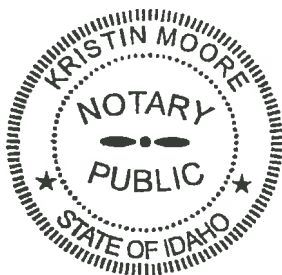


Kent Merrill

STATE OF IDAHO)

County of Jefferson ^{SS.}

On this 21 day of October, in the year of 2014, before me, the undersigned, a Notary Public, personally appeared **Kent Merrill**, 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.




Notary Public for Idaho

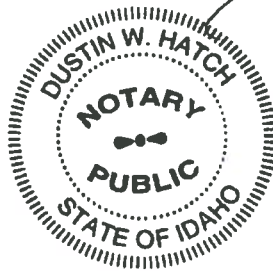
Residing at: Presby, ID

My Commission Expires: June 29, 2016


Nest Egg Investments, LLC
By: Aaron McCracken
Its: Member

STATE OF IDAHO)
County of Bonneville)
SS.

On this 14 day of Oct, in the year of 2014, before me, the undersigned, a Notary Public, personally appeared **Aaron McCracken**, 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.




Notary Public for Idaho
Residing at: Idaho Falls
My Commission Expires: 6/24/14

Termination Date: October 30, 2014 .

If BUYER does not accept this contract of sale on or before the Termination Date above, this contract is voidable by the SELLER.

Exhibit A
Form of Deed

When Recorded Return To:

xxx

SPECIAL WARRANTY DEED FOR WATER RIGHT

[Name of Seller], an [type of company] registered to do business in [state] as [name], whose address is [address] ("Grantor"), does hereby grant, bargain, sell, assign, and convey unto [Name of Buyer], an [type of company] registered to do business in [state] as [name], whose address is [address] ("Grantee"), and to Grantee's heirs, successors, and assigns forever, all of Grantor's right, title, and interest in the Water Right described in Exhibits [xxx] hereto (collectively the "Water Right").

Grantor assigns to Grantee any other interest it may have in the Water Right including any claim, permit, license, or shares of stock evidencing, claiming, or representing such Water Right.

To the extent the Water Right, or any of them, are represented by a permit or other property not conveyable by deed, this deed shall be deemed and shall operate as a bill of sale therefore.

Grantor retains no residual or reversionary interest in any of the Water Right. Notwithstanding the above, the Water Right is only a portion of water right number 22-14026 and this Special Warranty Deed is not intended and does not intend to transfer the balance of water right 22-14026 and related rights.

Grantor hereby covenants and warrants to Grantee as follows:

- (A) that Grantor is the owner in fee simple of the Water Right;
- (B) that Grantor has not conveyed any of the Water Right to anyone other than Grantee;
- (C) that the Water Right is free from all liens, claims, or encumbrances;
- (D) that Grantor has the authority to convey the Water Right to Grantee;
- (E) the Grantor has disclosed to Grantee in good faith all relevant information known to Grantor bearing on the validity and extent of the Water Right.

Grantor makes no other covenants or warranties as to the Water Right.

[end of text; signature page to follow]

IN WITNESS WHEREOF, the undersigned authorized officers of Grantor, acting on behalf of Grantor, have caused their names to be hereunto subscribed on the date shown by each name.

Grantor: [NAME OF SELLER]

Dated: _____ By: _____
Name
Title

Exhibits:
Exhibit 1 to Water Right Deed: Description of Water Right No. [number] (or portion thereof)
Exhibit 2 to Water Right Deed: Description of Water Right No. [number] (or portion thereof)
[Etc.]

[Add appropriate notary forms]

Exhibit B



RECEIVED
OCT 23 2014
Department of Water Resources
Eastern Region

October 23, 2014

RMEA 14-0082

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls, ID 83402

Re: New Applications

Dear IDWR,

Our firm has been engaged by Nest Egg Investments, LLC to consult on their water right interests. Please find attached an Application for Permit under the name of Nest Egg Investments, LLC and an Application for Transfer under the name of Kent Merrill. Both applications seek to obtain water rights for a new nursery near County Line Rd, Rigby, Idaho. A check for the total filing fees for each application (\$250 for the Permit and \$200 for the Transfer) is also included.

We are requesting to be added to the contact list for said applications as a consulting representative to receive all notifications relative to these water rights.

Respectfully,

A handwritten signature in blue ink that reads "Kristin Moore".

Kristin Moore
Water Rights Analyst

Attachments: Application for Permit
 Application for Transfer
 Check #17544 for filing fees