

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

Transfer No. \_\_\_\_\_

**MINIMUM REQUIREMENTS CHECKLIST  
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER**

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

**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 transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #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 <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ \* #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) 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: Water Right Purchase and Sale Agreement and Attachment #10 Grant Deeds

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NOV 13 2013

Department of Water Resources  
Eastern RegionSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 78926APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1Name of Applicant Gary and Shannon SummersPhone (208) 351-0077Mailing Address 1177 E 9<sup>th</sup> N, Rexburg, ID 83440

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 Rocky Mountain Environmental Associates Inc. Phone (208) 524-2353 / Fax 524-1795Mailing address 482 Constitution Way, Ste 303, Idaho Falls, ID 83402 Email kmoore@rockymountainenvironmental.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

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 has contracted to sell 6.3 acres of water right to the Victor/Cedron Cemetery District to be used for irrigation of lawn and landscaping. A Water Right Sales and Purchase Agreement can be found under Attachment #9. Ownership of the transferred portion will be changed after the transfer is approved. The water right is being transferred from lots within the Four Peaks Estates subdivision to which the Applicant has clear title. Deeds for ownership of the water right are found in Attachment #10.

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

AMENDED

AMENDED

**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**PART 1 Continued**

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**B. DESCRIPTION OF RIGHT(S) 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<br>(cfs/ac-ft) | Nature of Use | Period of Use  | Source & Tributary |
|-----------------------------------------------------------------------------|--------------|-----------------------|---------------|----------------|--------------------|
| All or Part<br><input type="checkbox"/> <input checked="" type="checkbox"/> | 22-14026     | 0.076 cfs             | Irrigation    | 04/15 to 10/15 | Ground water       |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |               | to             |                    |
| Total Authorized under rights                                               |              | 0.076                 | cfs and/or    |                | ac-ft              |

2. Total amount of water being transferred or changed 0.076 cubic feet per second and/or 18.9 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     |     |   | SW | SE | 12  | 3N  | 45E | Teton  | 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 |             |
| 3N  | 45E | 12  |      |    |    |    |      |    |    |    |      |    |    |    |      |    | 6.3 |    | 6.3         |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |     |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |     |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |     |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |     |    |             |

Total Acres (for irrigation use): 6.3

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**PART 1 Continued**

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

1. 

| All or Part                                                  | Right Number | Amount<br>(cfs/ac-ft) | Nature of Use | Period of Use  | Source & Tributary |
|--------------------------------------------------------------|--------------|-----------------------|---------------|----------------|--------------------|
| <input type="checkbox"/> <input checked="" type="checkbox"/> | 22-14026     | 0.079 cfs             | Irrigation    | 04/15 to 10/15 | Ground water       |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |

Total Authorized under rights 0.076 cfs and/or \_\_\_\_\_ ac-ft

2. Total amount of water being transferred or changed 0.076 cubic feet per second and/or 18.9 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 | 1/4 | 1/4 | 1/4 | Sec | Twp | Rge | County | Source       | Local Name or tag # |
|-------|-----|-----|-----|-----|-----|-----|-----|--------|--------------|---------------------|
| Y     |     |     | SW  | SW  | 12  | 3N  | 45E | Idaho  | Ground Water |                     |
|       |     |     |     |     |     |     |     |        |              |                     |
|       |     |     |     |     |     |     |     |        |              |                     |
|       |     |     |     |     |     |     |     |        |              |                     |
|       |     |     |     |     |     |     |     |        |              |                     |

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

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

| Twp | Rge | Sec | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |     |    | Acre Totals |
|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|-----|----|-------------|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW  | SE |             |
| 3N  | 45E | 12  |        |    |    |    |        |    |    |    |        |    |    |    |        |    | 6.3 |    | 6.3         |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |     |    |             |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |     |    |             |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |     |    |             |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |     |    |             |

Total Acres (for irrigation use): 6.3

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: A new well will deliver the water through the existing irrigation system.

b. Who owns the property at the point(s) of diversion? Victor Cemetery District

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

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

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 affect on the land now irrigated if the place of use is changed pursuant to this transfer:

The land now irrigated will no longer be irrigated with this water right.

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) of use:

The existing place of use has been subdivided and sold to new owners. There are no other water rights on the existing place of use, except for private domestic water rights developed at each residence. The new place of use has shares in the Trail Creek Sprinkler Irrigation Co. However, they have difficulty accessing their water all season, and thus are seeking to transfer this ground water right.

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

| Yes                                 | No                                  |                                                                                               |
|-------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | undergone a period of five or more consecutive years of non-use,                              |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | currently leased to the Water Supply Bank,                                                    |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | currently used in a mitigation plan limiting the use of water under the right, or             |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: The water right proposed to be transferred was leased into the Water Supply Bank since it could not be used at the existing place of use. It was admitted into the Bank on August 1, 2013, and is not currently being rented. The portion transferred will be requested to be removed from the Bank upon approval of this transfer.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 2A**

WATER RIGHT NO. 22-14026

|                          |                                |          |                             |
|--------------------------|--------------------------------|----------|-----------------------------|
| <b><u>Owner Type</u></b> | <b><u>Name and Address</u></b> |          |                             |
| Current Owner            | GARY SUMMERS                   | Attorney | RIGBY ANDRUS & MOELLER CHTD |
| Current Owner            | SHANNON SUMMERS                |          | PO BOX 250                  |
|                          | 1177 E 9TH N                   |          | REXBURG, ID 83440           |
|                          | REXBURG, ID 83440              |          | (208)356-3633               |
|                          | (208)351-0077                  |          |                             |

Priority Date: 06/19/1961

Basis: Decreed

Status: Active

Water Supply Bank 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            | 04/15       | 10/15     | 2.61 CFS              | 646.8 AFA     |
| Total Diversion       |             |           | 2.61 CFS              |               |

Location of Point(s) of Diversion:

|              |      |         |              |           |              |
|--------------|------|---------|--------------|-----------|--------------|
| GROUND WATER | NENE | Sec. 12 | Township 05N | Range 45E | TETON County |
|--------------|------|---------|--------------|-----------|--------------|

Place of Use Legal Description: IRRIGATION TETON 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> |
|-----------------|--------------|----------------|------------|--------------|--------------|------------|--------------|--------------|------------|--------------|--------------|------------|--------------|--------------|
| 05N             | 45E          | 11             |            | SWNE         | 37.6         |            | SENE         | 30           |            |              |              |            |              |              |
|                 |              | 12             |            | NENE         | 35           |            | NWNE         | 37.8         |            |              |              |            |              |              |
|                 |              |                |            | SWNW         | 40           |            | SENW         | 35.2         |            |              |              |            |              |              |

Total Acres: 215.6

Conditions of Approval:

- The use of water for irrigation under this right may continue to as late as October 31, provided other elements
1. S37 of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than November 24, 2008.
  - Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for
  2. T19 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.

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2B

**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.

Right Number: 22-14026[illegible]

2. Lands irrigated or place of use: (if irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

[illegible]

Total Acres (for irrigation use) 6.3

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**Part 3**

**A. PLAT MAP (See Part 3A for 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.

**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 supplemental, 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 \_\_\_\_\_ pages and \_\_\_\_\_ attachments.

Received by \_\_\_\_\_ Date \_\_\_\_\_ Prelim. Check by \_\_\_\_\_ Date \_\_\_\_\_

Fee Paid \$200.00 Date Nov 18 2013 Receipted by Km Receipt # ED39316

Add'l Fee Paid \_\_\_\_\_ Date \_\_\_\_\_ Receipted by \_\_\_\_\_ Receipt # \_\_\_\_\_

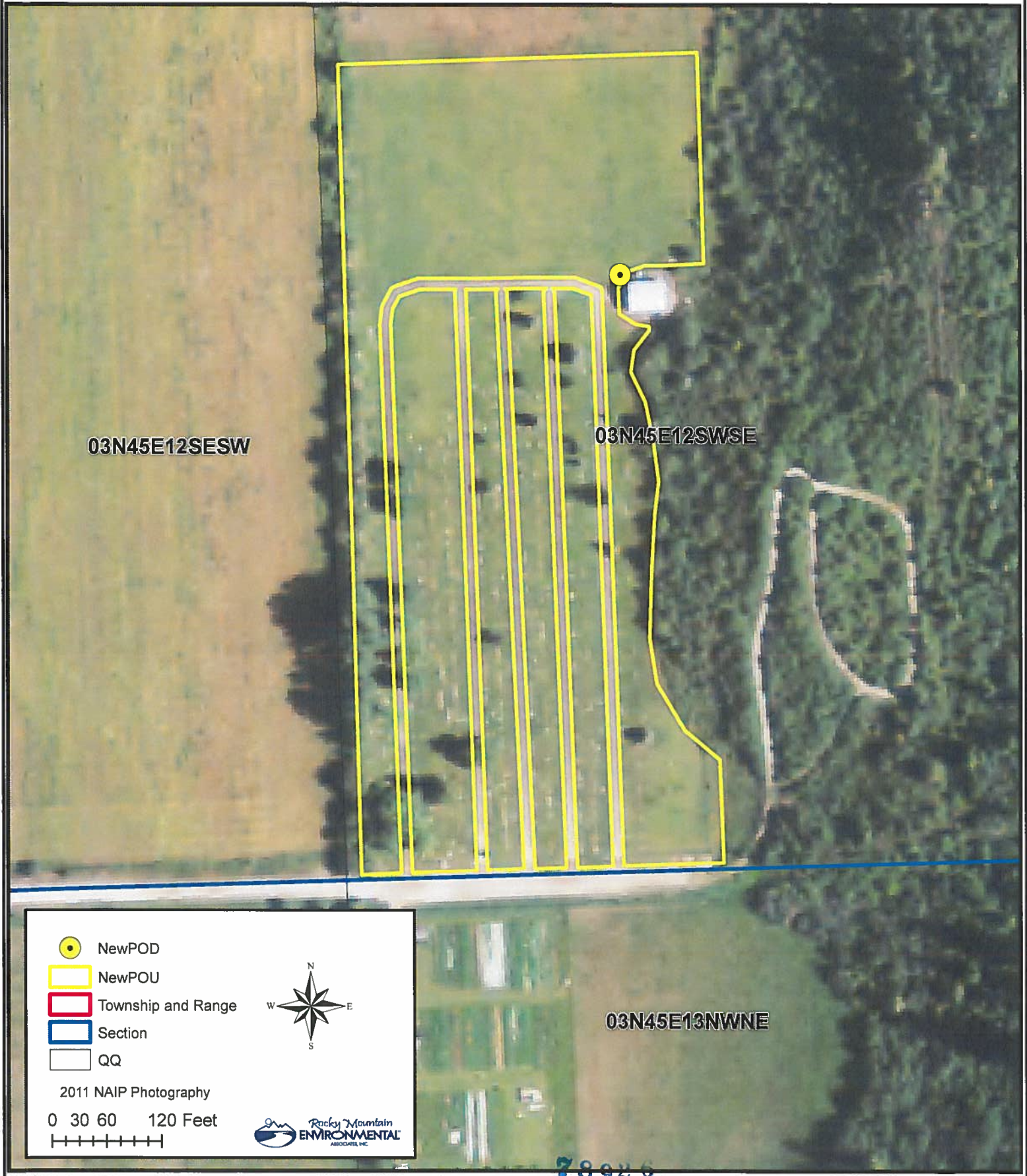
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# Application for Transfer

Attachment #7a

Water Right No. 22-14026

Gary and Shannon Summers / Victor/Cedron Cemetery

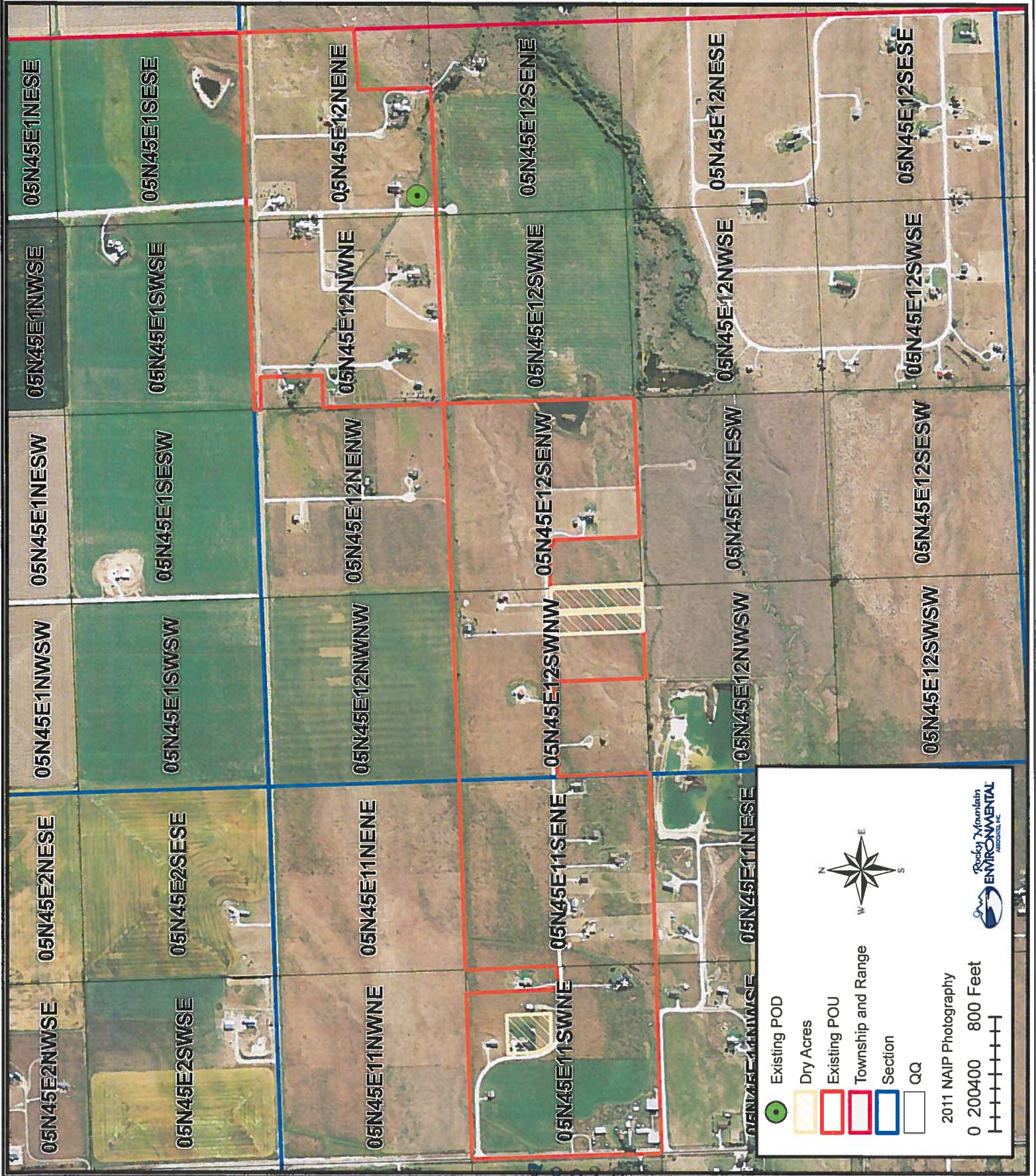


# Application for Transfer

Attachment #7b

Water Right No. 22-14026

Gary and Shannon Summers / Victor/Cedron Cemetery



# **WATER RIGHTS PURCHASE AND SALE AGREEMENT**

THIS AGREEMENT is made and entered into this 22 day of Oct, 2013, (the "Effective Date") by and between Gary Summers and Shannon Summers, Husband and Wife, of 27 N 3000 E, Sugar City, ID 83448, hereafter "SELLER", and Victor/Cedron Cemetery, of P.O. Box 192 Victory, ID, 83455, 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) Decreed Water Right No. 22-14026.

|                            |                                            |
|----------------------------|--------------------------------------------|
| Source:                    | Ground water                               |
| Purpose:                   | Irrigation                                 |
| Priority:                  | June 19, 1961                              |
| Quantity (Diversion Rate): | 0.076 cfs of the total authorized 2.64 cfs |
| Quantity (Volume):         | 18.9 acre feet per annum                   |
| Place of Use (Acreage):    | 6.3 acres of the 217.8 authorized acres.   |

The above portion of Water Right No. 22-14026 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 Six and Three Tenths (6.30) acres, lawful money of the United States, to be paid by BUYER to SELLER as follows:

- a. **First Payment.** The sum of [REDACTED], representing ½ of the purchase price of the water rights due the SELLER shall be paid as a First Payment in cash or check, 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
  - b. **Remaining Balance.** The remaining balance of [REDACTED] shall be paid in cash or check to SELLER, within one (1) year following the date of receipt of First Payment by SELLER.
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 Gary Summers and Shannon Summers 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 one (1) year of SELLERS receipt of First Payment. 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 22-14026 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:

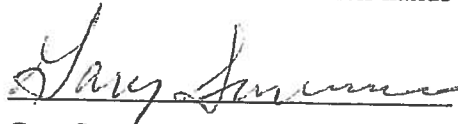
8.1 **Authority.** BUYER has full power and authority to enter into this Agreement and complete the Transaction.

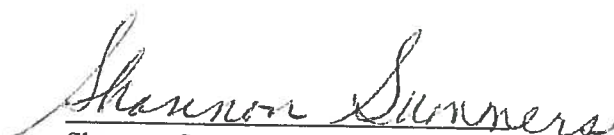
8.2 **Binding Agreement.** Upon BUYER's execution of this Agreement, this Agreement will be binding and enforceable against BUYER in accordance with its terms, and upon BUYER's execution of the additional documents contemplated by this Agreement, they will be binding and enforceable against BUYER in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

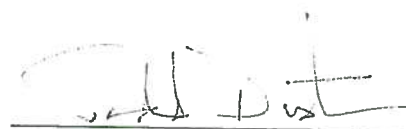
9. **Attorney's Fees.** Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the 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.

  
Gary Summers

  
Shannon Summers

  
Todd Dustin or other authorized representative of  
the Victor/Cedron Cemetery

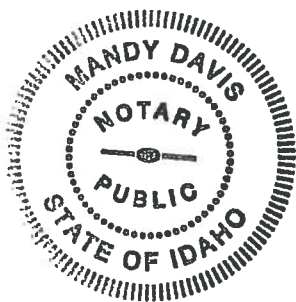
*Termination Date:* December 31, 2013 .

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

\\Rmea01\roger\_2013\Gary Summers wr sale\Water Right Sales Agreement\_Victor cemetery.wpd:edv

STATE OF IDAHO )  
 )ss.  
County of )

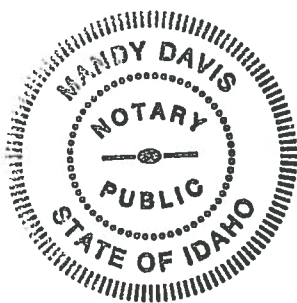
On this 22 day of Oct, in the year of 2013, before me,  
the undersigned, a Notary Public, personally appeared **Gary Summers**, known or identified to  
me to be the person whose name is subscribed to the within instrument and acknowledged to me  
that he executed the same.



Mandy Davis  
Notary Public for Idaho  
Residing at: St Anthony  
My Commission Expires: 6/24/17

STATE OF IDAHO       )  
                                   )ss.  
 County of                )

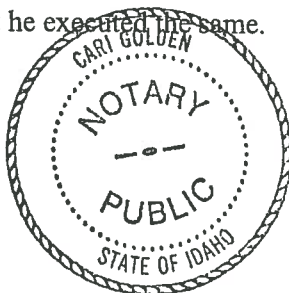
On this 22 day of Oct., in the year of 2013, before me,  
 the undersigned, a Notary Public, personally appeared **Shannon Summers**, known or identified  
 to me to be the person whose name is subscribed to the within instrument and acknowledged to  
 me that he executed the same.



Mandy Davis  
 Notary Public for Idaho  
 Residing at: St Anthony  
 My Commission Expires: 6/24/17

STATE OF IDAHO                    )  
                                          )ss.  
County of Teton                    )

On this 15 day of Oct, in the year of 2013, before me,  
the undersigned, a Notary Public, personally appeared Todd Dustin, 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.



Carl Golden  
Notary Public for Arizona  
Residing at: Victor Id  
My Commission Expires: 4-10-15

## Exhibit A Form of Deed

When Recorded Return To:

xxx

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### 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

Instrument # 222274

TETON COUNTY, IDAHO

5-25-2012 01:35:28 No. of Pages: 2

Recorded for : RIGBY ANDRUS &amp; RIGBY CHTD

MARY LOU HANSEN

Fee: 10.00

Ex-Officio Recorder Deputy

Index to: DEED, GRANT

**GRANT DEED**

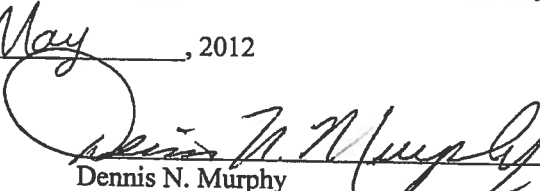
FOR VALUE RECEIVED, Dennis N. Murphy and Lanice Murphy, husband and wife, of 36 W. Butler Lane, Driggs, ID 83422, hereinafter called "Grantors"; do hereby grant and convey, to Gary Summers and Shannon Summers, husband and wife, of 27 N 3000 E, Sugar City, ID 83448, hereinafter called "Grantees".

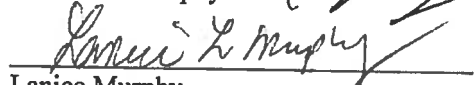
WITNESSETH, that the Grantors, for and in consideration of the sum of Five Hundred Dollars (\$500.00), lawful money of the United States of America, and other good and valuable consideration, to the Grantors in hand paid by the Grantees, the receipt whereof is hereby acknowledged, have granted, and by these presents do grant and confirm unto the Grantees, and to Grantees' successors and assigns forever, the following described water property right, to-wit:

Any and all Grantors' interest in Water Right No. 22-14026 (together with its parent right numbers 22-12527 & 22-2208) attributed to Four Peaks Estates, located within the NE1/4 of Section 11 and the N1/2 of Section 12, Twp. 5 N., Rge. 45 E.B.M., Teton County, Idaho.

IN WITNESS WHEREOF, The Grantors have hereunto set their hands this day.

DATED this 24 day of May, 2012

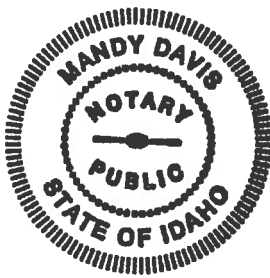
  
Dennis N. Murphy

  
Lanice Murphy

STATE OF IDAHO )  
 ) ss.  
 County of Madison )

On this 14 day of May, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared **Dennis N. Murphy and Lanice Murphy**, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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



Mandy Davis  
 Notary Public for: IDAHO  
 Residing at: St. Anthony  
 My Commission Expires: 6/24/17

Instrument # 222278

TETON COUNTY, IDAHO

6-26-2012 01:39:00 No. of Pages: 2

Recorded for : RIGBY ANDRUS &amp; RIGBY CHTD

MARY LOU HANSEN

Fee: 13.00

Ex-Officio Recorder Deputy

Index to: DEED, GRANT

**GRANT DEED**

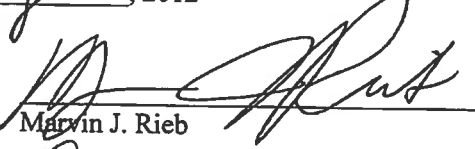
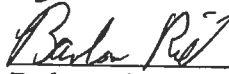
FOR VALUE RECEIVED, Marvin J. Rieb and Barbara Rieb, husband and wife, of 425 Marjaco, Idaho Falls, ID 83401, hereinafter called "Grantors"; do hereby grant and convey, to Gary Summers and Shannon Summers, husband and wife, of 27 N 3000 E, Sugar City, ID 83448, hereinafter called "Grantees".

WITNESSETH, that the Grantors, for and in consideration of the sum of One Thousand Dollars (\$1,000.00), lawful money of the United States of America, and other good and valuable consideration, to the Grantors in hand paid by the Grantees, the receipt whereof is hereby acknowledged, have granted, and by these presents do grant and confirm unto the Grantees, and to Grantees' successors and assigns forever, the following described water property right, to-wit:

Any and all Grantors' interest in Water Right No. 22-14026 (together with its parent right numbers 22-12527 & 22-2208) attributed to Four Peaks Estates, located within the NE1/4 of Section 11 and the N1/2 of Section 12, Twp. 5 N., Rge. 45 E.B.M., Teton County, Idaho.

IN WITNESS WHEREOF, The Grantors have hereunto set their hands this day.

DATED this 10 day of May, 2012

  
Marvin J. Rieb  
  
Barbara Rieb

On this 10<sup>th</sup> day of May, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared **Marvin J. Rieb and Barbara Rieb**, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

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

Marsha A. Sweet  
Notary Public for Idaho  
Residing at:  
My Commission Expires: 9/5/2012

