

Jordan, Blake

From: Rob Harris [rharris@holdenlegal.com]
Sent: Tuesday, May 15, 2012 2:43 PM
To: Jordan, Blake
Subject: Telford Lands LLC Transfer
Attachments: Water Rights Summary.Revised.pdf; IMG.JPG; Telford.Deed.pdf

Blake:

Please substitute the attached for the spreadsheet I sent over last week. It has the points of injection and redirection that I forgot to add in.

Also, I just received the attached consent from Isom Acres Ltd. Partnership. You should have all you need from the mortgage holders.

On the ownership issue, I don't have assessment notices, but attached is the deed conveying title from the Isoms to Telford (it was submitted along with a recent NCO for the water rights). Ownership is obviously still in Telford's name given Isom's mortgage and Farm Credit's mortgage, so this should suffice.

I am looking for a transport agreement, but it may take some time. I understand why you may want this information, and will do my best to provide it, but the Idaho Supreme Court has said that "Although a ditch easement typically concerns the conveyance of water, it is 'a property right apart from and independent of' questions of water rights." *Beach Lateral Water Users Ass'n v. Harrison*, 142 Idaho 600, 130 P.3d 1138 (2006) (quoting *Savage Lateral Ditch Water Users Assoc. v. Pulley*, 125 Idaho 237, 242, 869 P.2d 554, 559 (1993)).

Please confirm that you received this email (the attachments may hang it up in the Department's email).



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April 27, 2012

To: Idaho Department of Water Resources
From: Isom Acres Limited Partnership
Subject: Transfer of Water Rights: Telford Lands LLC

Isom Acres Limited Partnership is the mortgagor for property owned by Telford Lands, LLC, which is depicted on the attached map. This letter will serve to convey our consent to a water right transfer to "stack" the water rights on the farm. We are former owners of the farm, and believe the transfer will make the water right align with how we irrigated the property, and how Willard Bell of Crater Farms, Inc. likewise irrigated the property. This consent does not release the security interest of Isom Acres Limited Partnership to the land or water rights at issue in the transfers, but merely consents to the amendment of these water rights.

Charles Isom
Isom Acres Limited Partnership
By Charles Isom
As: Manager

STATE OF IDAHO

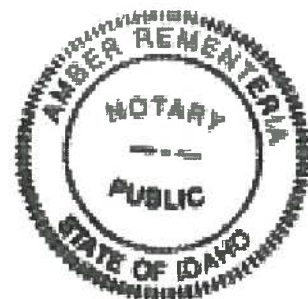
COUNTY OF Blaine

On this 14th day of April, 2012, before me personally appeared Charles Isom and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as authorized agent for Isom Acres Limited Partnership, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

May
Dated: April 14, 2012



Amber Rementeria
Notary Public
Print Name Amber Rementeria
My commission expires 11-07-2014



COPY

NO. 0048455

RECORDED

MAR 02 2011

AM 1:50 PM
BUTTE COUNTY RECORDER
B. B. Boyer

WARRANTY DEED

Order No. 4957LRT

For Valuable Consideration Received:

ISOM ACRES LIMITED PARTNERSHIP

the Grantor, does hereby grant, bargain, sell, convey and warrant unto

TELFORD LANDS, LLC

the Grantee, whose current address is:

1450 W. Highway 24, Paul, ID 83347

the following described premises, to-wit:

PARCEL I:

Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho.

Section 14: W1/2

Section 15: ALL

Section 16: E1/2

Section 22: N1/2

Section 23: NW1/4, E1/2SW1/4, SE1/4

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that he is the owner in fee simple of said premises; that said premises are free from all encumbrances and that he will warrant and defend the same from all lawful claims whatsoever.

Isom Acres Limited Partnership

Charles Isom
By Charles Isom

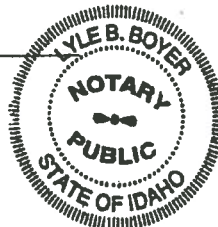
1-3-11
Date

STATE OF IDAHO)
)ss.
COUNTY OF BUTTE)

On this 1st day of March, 2011, before me, the undersigned, a Notary Public, in and for said State, personally appeared CHARLES ISOM, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument as a Managing Member of ISOM ACRES LIMITED PARTNERSHIP, and acknowledged to me that he executed the same in said Limited Partnership's name.

WITNESS MY HAND AND OFFICIAL SEAL

Lyle B. Boyer
Commission Expires: 06/05/2015
Residing at: Arco, Idaho



TRANSPORT AGREEMENT FOR GROUND WATER

THIS AGREEMENT, made and entered into this 13th day of March, 2012, by and between Telford Lands, LLC, hereinafter referred to as "Landowner", an owner of certain lands and water right(s) within Basin 34 located in portions of Butte and Custer County, State of Idaho, and the Big Lost River Irrigation District, an irrigation district duly organized under the laws of State of Idaho, hereinafter referred to as "District", with its principal office in Mackay, Custer County, State of Idaho.

WITNESSETH:

WHEREAS, Landowner is the owner of certain real property located outside the boundaries of the District, described on Exhibit A attached.

WHEREAS, Landowner has certain ground water rights appurtenant to the above-described real property, which rights are described on Exhibit B attached.

WHEREAS, Landowner desires the District to transport water diverted under the above-described right(s) through the facilities of the District for use on the lands of the Landowner as described above; and,

WHEREAS, the District is the owner of certain canal(s) described on Exhibit C attached, hereinafter referred to as canal(s), being a part of the facilities the District owns and operates, for the delivery of surface water rights held by individuals which are diverted from the Big Lost River for the irrigation of their private lands, and for the conveyance of storage water supplies held by the District for the irrigation of lands within the District: and,

WHEREAS, the District can accommodate the transportation of the above-described ground water right(s) under certain conditions set forth hereinafter in said canal(s) being co-mingled with other water right(s) which uses are on lands inside the District; and,

WHEREAS, Landowner desires the District to transport certain water supplies diverted pursuant to the above-described ground water right(s) which have as their specific place of use lands outside the established boundaries of the District, from the point of diversion to a point of delivery of said canal(s) described above,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other consideration received but not recited, the parties do hereby agree:

1. District will transport the water according to above described water right(s) of the Landowner through said canal(s) to the above described point of delivery during times and in quantities consistent with the described elements of the water right(s) existing as of the date of this agreement during periods when they are actually diverted into the District's canal, less conveyance losses as hereinafter provided, for the use on Landowners property as described above. Landowner agrees that all water supplies transported by virtue of this agreement shall be limited in their use to those elements and conditions as described herein existing as of the date of this agreement and in compliance with the laws of the State of Idaho, all Idaho Department of Water Resources (IDWR) rules, regulations and policies and all District rules, regulations and policies pertaining to the use of the District's facilities. If Landowner disputes the Manager's interpretation of this agreement, upon request of Landowner said dispute shall be resolved by the District's Board of Directors at a regularly scheduled meeting of the Board.
2. Landowner shall be responsible at Landowner's own expense for any additional ditches, structures, or facilities necessary for the conveyance of their water supplies beyond the District's canal to the Landowner's place of use that may be required, and District assumes no responsibilities of whatsoever kind or nature for said water after it leaves the District's canal at the point of delivery described above. Landowner further hereby agrees to hold the District harmless from all claims of whatsoever kind or nature arising from the transportation and use of said water by Landowner beyond the point of delivery from the District's canal.
3. The obligations of the District to transport water for Landowner under this agreement and the right of the Landowner to have water transported by the District under this agreement will be consistent with the limitations and conditions described and made part of the respective water right(s), and will be treated similarly in their conveyance as to other ground water rights co-mingled in the District's said canal(s) in one of the following manners. Delivery of said ground water rights may be reduced or interrupted by the District giving (24) hours prior notice to the Landowner, when the relevant canal's total capacity is needed for the conveyance of water for lands inside the District boundaries. If such reduction or interruptions occur, fee(s) and assessment(s) will be pro-rated proportionately for the number of days during the irrigation

season the conveyance was reduced or interrupted. Or, Landowner may avoid such reductions and/or interruptions unique to the conveyance of the ground water supplies by making a direct cost of construction payment to the District, in an amount and as agreed upon the District, for actual and real enlargement to the relevant canal(s) used for the conveyance of said water supplies. If such payment and enlargement is made, an addendum describing said costs and enlargements will be attached, incorporated, and made part of the agreement. The parties acknowledge that any construction and enlargement can only take place in such a manner and at such time so as to not otherwise interfere with the delivery of water to other water users, and that until construction and enlargement can be completed, the delivery of ground water rights may be reduced or interrupted as provided herein.

4. Landowner shall construct and maintain, at his sole cost and expense, all pipelines, pumps, headgates, control devises, measuring devices or structures, or other improvements necessary for the delivery of Landowner's water from the District's canal(s). Any such pipelines, pumps, headgates, control devises, measuring devices or structures, or other improvements must meet the standards and be in compliance with the established policies and guidelines of the District as determined by the Board of Directors. At all times when diverting ground water into or out of the District's facilities, Landowner shall maintain a measuring device on each pump pumping water into the District's facilities and shall maintain a measuring device and lockable control valve on each diversion out of the District's facilities, at a location and as approved by the Manager of District. The lock on the control valve shall be under the control of District and its employees. Landowner agrees to calibrate all measuring devices at least once per year at the beginning of the irrigation season and when requested by District. Further, Landowner agrees to calibration by IDWR when requested by District or IDWR. In the event of differing calibration readings, the calibration readings of IDWR shall be used by the parties.

5. Under no condition shall Landowner be entitled to have water quantities delivered which are in excess of the quantity of water actually diverted into said canal, less losses calculated by the District consistent with the District's operation of said canal(s). The parties covenant and agree that the loss of water supplies conveyed pursuant to this agreement will be determined by the District by using reasonable calculations of evaporation, operational losses and conveyance losses as they are similarly applied to other water supplies co-mingled in the same common canal(s). Losses may be adjusted from time to time according to seasonal circumstances that may exist when the District determines that conditions causing losses, have changed. The

District's methodology of calculating losses, now existing or as hereafter modified, shall be used to calculate the distribution of water. In the event of dispute between the parties concerning the amount of loss, Landowner agrees to provide the Manager, for the Manager's review, all data supporting Landowner's position concerning the amount of loss occurring. If Landowner cannot rectify differences with the Manager, Landowner agrees to present Landowner's data and position at a regularly scheduled meeting of the District's Board of Directors for consideration by the Board.

6. For each pump pumping into and for each diversion out of the District's facilities, Landowner agrees to provide District 24 hours prior notice of (1) Landowner's intent to divert into District's facilities, (2) Landowner's intent to reduce, alter or cease diversion into District's facilities, (3) Landowner's intent to divert out of District's facilities and (4) Landowner's intent to reduce, alter or cease diversion out of District's facilities. The District manager or ditch rider shall be present for, or shall otherwise pre-approve, any changes to flows, pumps, equipment, or other items affecting the pumping of water into and diversion of water out of the District's facilities.

7. Water supplies transported for the Landowner by the District under this agreement shall be limited to those periods of time in which the District is delivering water through its facilities for the irrigation of lands within the District, unless otherwise approved by the District.

8. For and in consideration of the transportation of Landowner's water supplies by the District under the terms of this agreement, Landowner does hereby agree to pay to the District an annual fee, which will include appropriate operation and maintenance charges. Fees will be calculated in a proportionate manner identical to services rendered for lands inside the District. Operation and maintenance charges will be fixed to the "quantity" of the water right element calculating one (1) irrigated acre for each .02 C.F.S. of water right. Each irrigated acre will then be assessed 80% of "Class 1" according to the established class schedule of the District. Other fees may be assessed equal to, but not in excess of, those assessed to similar lands inside the District. All fees and charges are due on or before the 1st of May of each year. Failure of the Landowner to pay the annual fees and charges under this agreement, when due, whether or not water is delivered or is to be delivered to the Landowner by the District, shall constitute a substantial breach of this agreement and the agreement may be subjected to termination by the District. If the District intends to terminate this agreement for reasons of non-payment, the District shall notify the Landowner in writing by certified mail of those intentions whereby

Landowner will have ten (10) days from the mailing date to pay such fees, charges, and reasonable penalty and interest, or respond in writing and/or appear before the District's board at the next regularly scheduled board meeting following the ten (10) days to resolve the matter of unpaid fees and charges. Any transportation fees not paid when due shall bear a penalty of two percent (2%) and interest at the rate of one percent (1%) per month from the due date until paid. Landowner also understands and agrees that no water supply will be transported until all fees which are due and associated penalties are paid in full or as mutually agreed to by both parties are paid in full or as mutually agreed to by both parties.

9. No water rights, transmission rights, or ditch rights in the facilities of the District shall accrue to Landowner by reason of this agreement, the pertinent rights of the Landowner being limited and fully contained herein. It is further understood and agreed that nothing in this agreement shall constitute a dedication or assignment to either party of rights or facilities not expressed in this agreement.

10. It is fully understood and agreed by the parties hereto that under no circumstances of whatsoever kind or nature shall the District at any time agree to the transportation of storage water impounded pursuant to the District's water rights No. 34-00012 and 34-10873 for use by the Landowner on lands which are not within the District.

11. In the event of breach of this agreement by Landowner, District may, at its election:

11.1 provide written notice of breach and cessation to Landowner, specifying the breaches. In the event that written notice of breach and cessation is given, Landowner shall immediately discontinue use of the District's facilities as authorized by this agreement until the breaches are cured. Once the District verifies to Landowner in writing that the breaches are cured, Landowner can resume use of the District's facilities as authorized by this agreement. Should the District serve Landowner with a notice of breach and cessation, performance of this agreement by Landowner shall not be excused, and Landowner shall remain obligated to perform all of Landowner's duties and responsibilities set forth in this agreement; and/or

11.2 If a breach described in paragraph 11.1 continues in existence until end of the irrigation season in which the notice is given, or in the event the Landowner fails to pay annual fees as described in paragraph 8 by the end of the irrigation season, the District may deem said breach a material breach of this agreement and a default hereunder. If such a default is determined by the District to exist, the District may terminate this agreement by giving the

Landowner written notice of said default and termination of this agreement, in which case the agreement shall terminate on December 31st of the year in which notice is given; and/or

11.3 The remedies described herein are cumulative and not exclusive. In the event of breach or default, District and/or Landowner are authorized to exercise all remedies authorized by law or in equity.

12. This agreement shall be for the duration of five (5) years, beginning the 13th day of March, 2012, and shall remain in full force and effect until the 31st day of December, 2016, unless terminated as herein provided. If Landowner desires to renew this agreement, so long as Landowner is not in default hereunder, Landowner may renew by providing written notice of renewal to District, in writing, prior to the termination of this agreement. At the time of renewal, Landowner shall execute a new transport agreement in the form most recently adopted by the Board of Directors of District.

13. Landowner agrees that no assignment or other transfer of this agreement may be made except for security purposes, for succeeding interest to an immediate heir or by sale or assignment of the heretofore-described water right(s). Any assignment or transfer, in order to be effective, must be in writing and approved, in writing, by the Board of District. In the event the Landowner desires to assign this agreement to a lending institution as security for a farm loan, the District hereby agrees to give its written consent upon ten (10) days written notice of said assignment. Except for an assignment for security purposes, the assignee or transferee of this agreement shall be required to execute a new transport agreement in the form most recently adopted by the Board of Directors of District.

14. This agreement supersedes and replaces all prior transport agreements entered into between the parties pertaining to the described water rights. This document constitutes the full agreement of the parties hereto, and no amendments or changes hereto may be made unless agreed to in writing and duly signed by each of the parties hereto.

15. This agreement shall be binding on the parties and their heirs, successors in interest, legal representatives and assigns.

16. If any term or provision of this agreement or its application to any person or circumstance

1/4/12

shall, to any extent, be invalid or unenforceable by a court of proper jurisdiction, the remainder of this agreement or the application of any term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and each term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

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

BIG LOST RIVER IRRIGATION DISTRICT

By: _____

ATTEST:

Secretary

STATE OF IDAHO

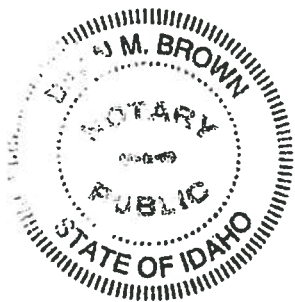
County of Custer/Battle

) ss.

On this 13th day of March, 2012, before me the undersigned Notary Public in and for said State, personally appeared Joel Andersen and Keaton Harwood, known to me to be the Chairman of the Board and Secretary of Big Lost River Irrigation District, respectively, and acknowledged to me that they executed the same on behalf of said irrigation district.

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

(SEAL)



Notary Public of Idaho
Residing at: MacKay
My Commission Expires: 10/16/12

1/4/12

LANDOWNER(S)

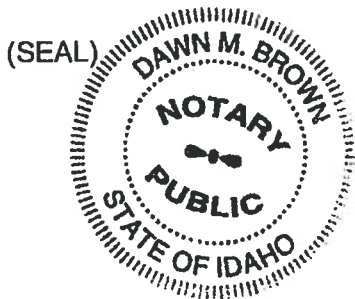
Telford Land LLC
By Mike Telford

STATE OF IDAHO

County of Custer/Butte) ss.

On this 13th day of March, 2012, before me the undersigned Notary Public in and for said State, personally appeared Mike Telford, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (s)he 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.



Dawn Brown
Notary Public of Idaho
Residing at: Mackay
My Commission Expires: 10/16/12

Exhibits for Telford(Isom) 2012 transport agreement

Exhibit A_Lands outside of district boundaries

03N	26E	14	NENW	39	NWNW	36	SWNW	40	SENW	40
			NESW	40	NWSW	40	SWSW	40	SESW	40
		15	NENE	39	NWNE	40	SWNE	40	SENE	40
			NENW	39	NWNW	39	SWNW	40	SENW	40
			NESW	40	NWSW	40	SWSW	40	SESW	40
			NESE	40	NWSE	40	SWSE	40	SESE	40
		16	NENE	39	NWNE	39	SWNE	40	SENE	40
			NESE	40	NWSE	40	SWSE	39	SESE	39
		22	NENE	40	NWNE	40	SWNE	40	SENE	40
			NENW	40	NWNW	40	SWNW	40	SENW	40
		23	NENW	40	NWNW	40				
			NESW	40	SESW	33				
			NESE	39	NWSE	40	SWSE	40	SESE	40

Exhibit B

WR 34-7037(600") plus 400" inches*

*Prior transport agreement and BLRID minutes reflect approval for 20 cfs(1000") to be transported.

Exhibit C

Island and Munsey Canals

SENWSW Sec. 34 of Township 05N, Range 26E, Butte County

NWNWNW Sec. 26, Township 04N, Range 26E, Butte County