

*Amended*  
**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**

Transfer No. 76372

**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. Part 2B forms are available on the Department's website at: [http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/PDFs\\_09/WaterRight\\_TransferApp\\_Part2B.pdf](http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/PDFs_09/WaterRight_TransferApp_Part2B.pdf).
- ☒ \* 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.
- ☐ ☒ #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).
- ☐ ☒ #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/wrt\\_default.htm](http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/wrt_default.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.)
- ☐ ☒ #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: \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No. 16312

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1

AMENDED

Name of Applicant(s) City of Notus, ID Phone 208-459-6212

Mailing address 375 Notus Road Email notuscityclerk@gmail.com

- ☐ 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 Jesse Neilson Phone 208-433-1900

Mailing address 1998 W. Judith Lane, Boise, ID 83705 Email jneilson@pharmereng.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] Mayor Chris Collins 3/13/12  
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**. The City of Notus would like to "consolidate" their water rights by modifying the point of diversion and diversion rate so that all of the City's water rights can be diverted at any of the listed points of diversion

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 28 2012

WATER RESOURCES  
WESTERN REGION

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<br>(cfs/ac-ft) | Nature of Use  | Period of Use   | Source & Tributary |
|--------------------------------------------------------------|--------------|-----------------------|----------------|-----------------|--------------------|
| All or Part                                                  |              |                       |                |                 |                    |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 63-3075      | 1.2 cfs               | Beneficial Use | 1956 to Current | Ground Water       |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 63-12189     | 1.5 cfs               | Beneficial Use | 1995 to Current | Ground Water       |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 63-12467     | 1.00 cfs              | Beneficial Use | 1998 to Current | 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              |                    |

Total authorized under rights cc. 3/21/12 2.70 cfs and/or cc. 3/21/12 ac-ft

2. Total amount of water proposed to be transferred or changed cc. 3/21/12 2.70 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 #                  |
|-------|-----|---|----|----|-----|-----|-----|--------|--------------|--------------------------------------|
| No    |     |   | NW | SE | 34  | 05N | 04W | Canyon | Ground Water | Well #1                              |
| No    |     |   | SW | NE | 34  | 05N | 04W | Canyon | Ground Water | 63-3075 (Well #2) <u>CC. 3/21/12</u> |
| No    |     |   | SW | NE | 34  | 05N | 04W | Canyon | Ground Water | 63-12467 (Well #4)                   |
|       |     |   |    |    |     |     |     |        |              |                                      |
|       |     |   |    |    |     |     |     |        |              |                                      |

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 |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |

Total Acres (for irrigation use) \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1 Continued

5. General Information:

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future: The existing municipal well infrastructure will remain the same. Well property is owned by the City and the City is required By Idaho Department of Environmental Quality to meet specific requirements set forth by the Idaho Administrative Procedures Act (IDAPA).

b. Who owns the property at the point(s) of diversion? City of Notus, ID  
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?  
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: N/A

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: No change

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 change

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 type="checkbox"/> | <input checked="" 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: \_\_\_\_\_

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 2

**A. DESCRIPTION OF RIGHT(S) AS RECORDED**

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

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

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

Right Number: \_\_\_\_\_

[illegible]

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

[illegible]

Total Acres (for irrigation use) \_\_\_\_\_

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 3

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

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

### 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**.

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

**FOR DEPARTMENT USE ONLY**

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments.

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

|                 |             |                    |                  |
|-----------------|-------------|--------------------|------------------|
| <b>Fee Paid</b> | <b>Date</b> | <b>Received by</b> | <b>Receipt #</b> |
|-----------------|-------------|--------------------|------------------|

| Add'l Fee Paid | Date | Received by | Receipt # |
|----------------|------|-------------|-----------|
|                |      |             |           |

IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report 63-3075

WATER RIGHT NUMBER: 63-3075

| <u>Owner Type</u> | <u>Name and Address</u>                                                |
|-------------------|------------------------------------------------------------------------|
| Current Owner     | CITY OF NOTUS<br>375 NOTUS RD<br>NOTUS, ID 83656-0257<br>(208)459-6212 |

Priority Date: 01/30/1956

Basis: Decreed

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>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| MUNICIPAL             | 01/01 to 12/31          | 1.200 CFS             |                      |
|                       | <u>Total Diversion:</u> | 1.200 CFS             |                      |

Location of Point(s) of Diversion

|               |            |                                 |
|---------------|------------|---------------------------------|
| GROUND WATER  | SW1/4NE1/4 | Sec. 34, Twp 05N, Rge 04W, B.M. |
| CANYON County |            |                                 |
| GROUND WATER  | NW1/4SE1/4 | Sec. 34, Twp 05N, Rge 04W, B.M. |
| CANYON County |            |                                 |

Place of Use

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Notus municipal water supply system as provided for under Idaho Law.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-12189

WATER RIGHT NUMBER: 63-12189

| <u>Owner Type</u> | <u>Name and Address</u>                                                |
|-------------------|------------------------------------------------------------------------|
| Current Owner     | CITY OF NOTUS<br>375 NOTUS RD<br>NOTUS, ID 83656-0257<br>(208)459-6212 |

Priority Date: 03/07/1995

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>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| MUNICIPAL             | 1/01 to 12/31           | 1.500 CFS             |                      |
|                       | <u>Total Diversion:</u> | 1.500 CFS             |                      |

Location of Point(s) of Diversion

|               |            |                                 |
|---------------|------------|---------------------------------|
| GROUND WATER  | SW1/4SE1/4 | Sec. 27, Twp 05N, Rge 04W, B.M. |
| CANYON County |            |                                 |

Place of Use

Conditions of Approval:

1. Place of use is located within the city limits of Notus and surrounding service area.
2. 01M After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-12467

WATER RIGHT NUMBER: 63-12467

| <u>Owner Type</u> | <u>Name and Address</u>                                                |
|-------------------|------------------------------------------------------------------------|
| Current Owner     | CITY OF NOTUS<br>375 NOTUS RD<br>NOTUS, ID 83656-0257<br>(208)459-6212 |

Priority Date: 09/04/1998

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>Annual Volume</u> |
|-----------------------|-------------------------|-----------|-----------------------|----------------------|
| MUNICIPAL             | 01/01                   | to 12/31  | 1.000 CFS             |                      |
|                       | <u>Total Diversion:</u> |           | 1.000 CFS             |                      |

Location of Point(s) of Diversion

|               |            |                                 |
|---------------|------------|---------------------------------|
| GROUND WATER  | SW1/4NE1/4 | Sec. 34, Twp 05N, Rge 04W, B.M. |
| CANYON County |            |                                 |

Place of Use

Conditions of Approval:

1. 103 When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
2. 124 Place of use is within the service area of the City of Notus municipal water supply system as provided for under Idaho Law.
3. X35 Rights 63-3075, 63-12189 and 63-12467 when combined shall not exceed a total diversion rate of 2.7 cfs.
4. Water bearing zone to be appropriated is from 300 to 700 feet
5. 102 The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.
6. 01M After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
7. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.

Remarks:

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 3

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

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.  
☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

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 rights(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**.

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

FOR DEPARTMENT USE ONLY

Transfer contains 9 pages and 1 attachments.

Received by JH Date 3-1-10 Prelim. Check by VLM Date 9-22-11

Fee Paid 450.- Date 3-1-10 Received by JH Receipt # W038163

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

From  
DNB.

Well #3 (Ownership  
Transferred To School)



Well #4

Well #2

Well #1



- LEGEND**
- Fire Hydrant Locations
  - Water Blowoff Valves
  - Water Meter Locations
  - New Water System (Installed 2000)
  - Existing Water System
  - Existing Sewer System
  - Existing Telephone, Fiber Optic & Cable Lines
  - Existing Culverts

RECORD DRAFTER  
These project drawings have been prepared, in part, on the basis of information furnished and furnished by others. The Engineer will not be responsible for any errors or omissions which have been incorporated into this document as if fact.

## Lester, Steve

---

**From:** Lester, Steve  
**Sent:** Thursday, April 12, 2012 2:21 PM  
**To:** 'legals@idahopress.com'  
**Subject:** Legal Ads - Canyon County  
**Attachments:** Canyon County letter.docx; Canyon County combined ads.docx

Hi again Amanda:

Please publish attached ads for Canyon County 4/19 & 4/26/2012. Let me know if you need anything else on those.

For Gem County email earlier today, did your reply mean I did miss that deadline for next week's newspaper?

Thank you again for your help.

Steve Lester  
Water Rights Supervisor  
IDWR Western Region  
208-334-2190

*Legal Notice*

April 12, 2012

LEGAL NOTICE DEPARTMENT  
PRESS-TRIBUNE  
PO BOX 9399  
NAMPA, ID 83652

RE: Transfer No. 76372 (Water Rights 63-3075, 63-12189, 63-12467)  
Application for Permit Nos. 63-33486, 63-33619

Dear Legal Notice Department:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 5/7/2012. Your cooperation is appreciated.

Sincerely,

Steve Lester  
Water Rights Supervisor

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-33486

STEVE BOSCHMA

5592 KUNA RD

KUNA, ID 83634

Point of Diversion: 3 points in SESW S19 T02N R01W, 1 point in L4 (SWSW) CANYON County Source GROUND WATER

Use: COMMERCIAL & STOCKWATER 01/01 to 12/31 at 0.45 cfs each

Total Diversion: 0.45 CFS

Date Filed: 3/3/2011

Place of Use: COMMERCIAL & STOCKWATER

T02N R01W S19 NESW L4(SWSW) SESW

Water bearing zone to be appropriated is from 234 to 240 feet.

Commercial use is for a dairy.

63-33619

ZACHARY &/or TRISHA BEUTLER

11809 SHALAKO RD

CALDWELL, ID 83607

Point of Diversion: L7 (SWSW) S6 T05N R02W CANYON County Source GROUND WATER

Use: IRRIGATION 03/01 to 11/15 0.1 CFS, STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.12 CFS

Date Filed: 4/2/2012

Place of Use: IRRIGATION & STOCKWATER

T05N R02W S6 L7 (SWSW)

Total Acres: 3.4

Water bearing zone to be appropriated is from 294 to 304 feet.

#### **PROPOSED CHANGE OF WATER RIGHTS**

The City of Notus of PO Box 257, Notus, Idaho 83656, filed Application No. 76372 to transfer three water rights with 1956 to 1998 priority dates from ground water totaling 2.7 cfs. The purpose of the transfer is to change the points of diversion of the three rights to correctly reflect the combined diversion and delivery system. Water will be used at the current place of use which is the City of Notus municipal service area.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the rights &/or proposed transfer, please see [www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp](http://www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp). Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 5/7/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 4/19/2012 and 4/26/2012

# Letter of Transmittal



1998 W. Judith Lane  
Boise, Idaho 83705  
Phone (208) 433-1900  
Fax (208) 433-1901  
www.pharmereng.com

RECEIVED  
MAR 16 2012  
WATER RESOURCES  
WESTERN REGION

VICKY MUSIC  
SR. WATER RESOURCE AGENT  
IDWR WESTERN REGION  
2735 AIRPORT WAY  
BOISE, ID 83705

ATTENTION: VICKY MUSIC

RE: CITY OF NOTUS – TRANSFER APPLICATION

DATE: MARCH 15, 2012

PROJECT NO.: 10224

## WE ARE SENDING YOU THE FOLLOWING:

- ☒ Attached ☐ Attached separate cover via \_\_\_\_\_
- ☐ Shop Drawing ☐ Prints ☐ Plans ☐ Samples ☐ Specification
- ☐ Copy of letter ☐ Change order ☐

| COPIES | DATE      | No. | DESCRIPTION                                |
|--------|-----------|-----|--------------------------------------------|
| 1      | 3/15/2012 |     | TRANSFER APPLICATION FOR THE CITY OF NOTUS |
|        |           |     |                                            |
|        |           |     |                                            |
|        |           |     |                                            |
|        |           |     |                                            |
|        |           |     |                                            |
|        |           |     |                                            |
|        |           |     |                                            |

## THESE ARE TRANSMITTED AS CHECKED BELOW:

- ☐ For approval ☐ Approved as submitted ☒ Resubmit ☐ copies for approval
- ☐ For your use ☐ Approved as noted ☐ Submit ☐ copies for distribution
- ☐ As requested ☐ Returned for corrections ☐ Return ☐ corrected prints
- ☐ For review and comment ☐
- ☐ For bids due: ☐ Prints returned after loan to us

**Remarks:** Please find attached the water right transfer application for the City of Notus, ID. I have included an updated distribution map to reflect the transfer of ownership of well #3 to the school. I did not include the description of rights(s) as recorded (Part 2.A) per our previous phone conversation. If you would like this information, please let me know. Also note that for Part 1.B.3, right number 63-3075 has two points of diversion as documented in the Water Right Back File 63-3075 found on the IDWR Website. Please let me know if you have any questions or need additional information. Regards,

COPY TO: Mayer Collins SIGNED: [Signature]

## Music, Vicky

---

**From:** Music, Vicky  
**Sent:** Thursday, March 08, 2012 10:47 AM  
**To:** 'Jesse Neilson'  
**Subject:** FW: City of Notus transfer 76372  
**Attachments:** City Of Notus.pdf

Jesse –

Attached is the letter I referred to in our conversation of a few minutes ago that you did not receive. The new deadline for the amended transfer and the amended well agreement is March 23, 2012. Call if you have additional questions. Thank you.

Regards,  
Vicky Music

---

**From:** Music, Vicky  
**Sent:** Thursday, March 08, 2012 10:30 AM  
**To:** 'Jesse Neilson'  
**Subject:** City of Notus transfer 76372

Good morning Jesse-

FYI - I've not heard anything from the City re the transfer amendment and additional information. In our prior correspondence, the City was going to address these items and pursue the transfer, so I was surprised to hear nothing by the March 2, 2012, deadline.

Was this an oversight? I am sending this as a courtesy because the Department will be voiding the application in the next week if I don't have a response today.

Thank you.

Vicky Music  
Sr. Water Resource Agent  
IDWR Western Region  
2735 Airport Way  
Boise, ID 83705  
208.334.2190



**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

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

Phone: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

January 20, 2012

Jesse Neilson, P.E.  
City Engineer  
City of Notus  
P.O. Box 257  
Notus, Id 83656

Re Transfer No. 76372 (Water right nos. 63-3075, 63-12189 and 63-12467)

Dear Mr. Neilson:

The transfer referenced above was filed by the City of Notus on March 1, 2010. There were deficiencies in the application, such as the inclusion in the transfer application of disallowed claim 63-28218 and permit no. 63-12467. A permit cannot be changed via a transfer because it is considered personal property and not a water right. On June 3, 2010, the City requested that IDWR hold the application due to a legal dispute with Notus School District # 135. The Department held the application which allowed IDWR to proceed with the field exam and license 63-12467. The license will be issued in the next few weeks.

In October 2011, you provided a Well Conveyance Agreement and Mutual Release Agreement, between the City and the School District, dated January 26, 2011, which purportedly resolved the legal dispute by splitting water right no. 63-28218. However, the SRBA Court decreed claim no. 63-28218 as disallowed on March 19, 2009, a year before the transfer was filed and almost two years before the well agreement and release were executed.

The application for transfer must be amended to include only right nos. 63-3075, 63-12189 and 63-12467. If a portion of one of the rights is to be split and changed to the school district name, the transfer must reflect the split and documentation changing that portion of the right to the school district provided. The transfer application is available on the Department website at [www.idwr.idaho.gov](http://www.idwr.idaho.gov).

January 20, 2012

Application for transfer no. 76372

Page 2 of 2

**The amended application and supporting documentation is due by March 2, 2012.** Failure to meet this deadline may result in the application being voided. Fees are not refunded for voided applications. Thank you for your attention to this matter and please call me at 208.334.2190 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicky Music", with a stylized flourish at the end.

Vicky Music  
Sr. Water Resource Agent

## Music, Vicky

---

**From:** Music, Vicky  
**Sent:** Wednesday, October 05, 2011 11:28 AM  
**To:** 'Jesse Neilson'  
**Subject:** RE: City of Notus field exam 63-12467

Jesse – The addendum is fine as long as it identifies the water right number and corrects how the quantity will be split.

Thank you for the attachments.

Vicky Music

---

**From:** Jesse Neilson [<mailto:jneilson@pharmereng.com>]  
**Sent:** Wednesday, October 05, 2011 10:49 AM  
**To:** Music, Vicky  
**Subject:** RE: City of Notus field exam 63-12467

Vicky,

Attached is a distribution map, SCADA data and the population projections. Ideally it would be good to have a land use map because the City is drastically changing the boundaries. Any future parks will probably be irrigated of the City system.

The City lawyer would simply like to reissue an addendum stating that water right permit number on the agreement is incorrenct and provide a correct number. Before we proceed, please verify if this approach would be appropriate for the needs of IDWR.

## Music, Vicky

---

**From:** Music, Vicky  
**Sent:** Monday, October 03, 2011 1:43 PM  
**To:** 'Jesse Neilson'  
**Subject:** RE: City of Notus field exam 63-12467

Jesse –

I see the agreement and release states that the City has a permit for no. 63-28218. This is incorrect as this no. was a claim that was disallowed in the SRBA [in 2009 prior to this agreement ], hence, 63-28218 does not exist. Well no 3 was drilled in 1995 for water right no. 63-12189, a licensed right for 1.5 cfs. So, this is the right that must be split between the city and the school district. I think the lawyer ought to know – I don't know if IDWR can accept the agreement . A simple addendum would correct this. However, we will be able to split right 63-12189 with the transfer amendment that will have to be done.

I see that I did not mention in the list I provided that the system must be running, so the city employee who will be present at the exam should be very familiar.

Thank you.  
Vicky Music

---

**From:** Jesse Neilson [<mailto:jneilson@pharmereng.com>]  
**Sent:** Monday, October 03, 2011 11:21 AM  
**To:** Music, Vicky  
**Subject:** RE: City of Notus field exam 63-12467

Vicky,

I'm working with the City to gather the required info. Attached is the Agreement signed between the City and the School District to give the School District 0.06 cfs and the City will retain 0.54 cfs (see page 2 of attached in section 4).

Regards,  
**Jesse Neilson, PE**

---

**From:** Music, Vicky [<mailto:Vicky.Music@idwr.idaho.gov>]  
**Sent:** Tuesday, September 27, 2011 2:53 PM  
**To:** Jesse Neilson  
**Subject:** City of Notus field exam 63-12467

Hi Jesse –

First, I see that October 10 is a holiday for me. Can we please schedule the exam for Tuesday, October 11, 2011 at 10 am? If that does not work, how about Monday, October 17 or Tuesday, the 18<sup>th</sup> at 10 am? Please let me know where we can meet you. I will be accompanied by Kelly Christiansen who will assist with the exam.

Re the information IDWR will need to license this permit:

1. Information about the distribution system –

- Schematic of the city distribution system
- Number of hookup OR the population projections
- Flow and pressure measurements of the newest well
- Pump specs and pump curve for the pump associated with this permit

motor specs for the pump motor associated with this permit

2. The storage tank [information not necessary if it is a wastewater tank]–

Volume

Length of time it takes to fill it

3. Other specifics if available – well pump test if done
4. The status of any IDEQ approvals and the public water system IDEQ #.

Please call me if you have questions. Thank you.

Vicky Music  
Sr. Water Resource Agent  
IDWR Western Region  
2735 Airport Way  
Boise, ID 83705  
208.334.2190

From: Brooks Law

208 468 4030

10/03/2011 10:31

#199 P.002/017

## WELL CONVEYANCE AGREEMENT

This Well Conveyance Agreement (the "Agreement") is entered into this \_\_\_\_ day of January, 2011, between the city of Notus, Idaho, an Idaho municipal corporation ("Notus"), and the Notus School District No. 135, an Idaho school district ("School District").

### RECITALS

1. Notus and the School District were opposing parties in a lawsuit, Canyon County No. CV-08-01539. On April 7, 2009, Notus and the School District participated in mediation, and on that day reached an agreement (the "Settlement Agreement"), which is attached hereto as Exhibit A and is incorporated herein by this reference.

2. In general, the Settlement Memorandum provided (a) the lawsuit would be dismissed with prejudice; (b) the School District would convey an approximately one-acre parcel of real property to Notus; (c) Notus would convey to the School District that well known as Well No. 3 (which may be referred to herein as simply, "the Well"); (d) Notus and the School District would split the water right, with the School District retaining enough portion of said water right to irrigate 18 acres; (e) Notus intended to transfer its portion of the water right eventually, but pending final regulatory approval of such transfer, would have the right to use its share of the right at Well No. 3 until the transfer is approved by the Idaho Department of Water Resources; and (f) after the conveyance of the Well and transfer of the water right, the School District agreed that the Well and access to it would be available to Notus for fire suppression purposes.

3. The parties thereafter executed a Mutual Release Agreement.

4. By this Agreement, Notus intends to convey Well No. 3 to the School District pursuant to the Settlement Memorandum and the Mutual Release Agreement.

### AGREEMENT

Now therefore, in consideration of the promises and the mutual covenants and agreements of the parties contained herein, the parties agree as follows:

1. Well conveyance. Notus agrees to convey all right, title, and interest in that well known as Well No. 3, exclusive of any water rights associated with that Well except as otherwise agreed, to the School District. The School District agrees to accept the Well under the terms stated herein.

2. As-is/where-is. Except as provided herein, Notus makes no representations or warranties or guarantees to the School District in connection with Well No. 3. Notus makes no representations or warranties or guarantees to the School District with respect to whether the Well meets applicable electrical, mechanical, environmental, or other health and safety or other regulatory requirements or conditions. The School District

From: Brooks Law

208 468 4030

10/03/2011 10:31

#199 P.003/017

takes the Well as-is and where-is, with all faults and problems, hidden or exposed, and in the condition and in the location as the Well is. The School District represents that no such representations or promises have been made, express, implied, written, verbal, or other, about the well by Notus except for herein provided. No implied statutory or common-law warranty of merchantability or fitness for a particular purpose shall apply.

3. Obligations. All past, present, and future obligations and liabilities, including storage, maintenance, or service charges of any nature whatsoever, arising or existing in connection with the Well shall be the responsibility of, and for the account of, the School District. Additionally, any tax obligation or liability that may accrue in connection with this transaction, or in any way arising in connection with the Well, shall be for the account of the School District. The School District shall transfer any accounts associated with the Well into its name within 10 days after this Agreement is executed.

4. Cooperation. The parties understand that Notus holds a permit for water right no. 63-28218, the point of diversion for which is the Well. Pursuant to the Settlement Agreement, Notus will file change-of-ownership, place-of-use, and point-of-diversion transfer applications with the Idaho Department of Water Resources. The parties have agreed that the School District will retain 0.06 cubic-feet-per-second and Notus will retain 0.54 cfs from the right to be transferred. Pending completion of the transfer applications, Notus may use the Well and the amount of water it will retain for its purposes. The School District agrees to cooperate fully with the Department of Water Resources and Notus with regard to the transfer applications. The School District further agrees to allow Notus to use and access the Well for fire suppression purposes. As such use is expected to be for emergencies only; the School District shall not charge Notus for any use of water in emergencies.

5. Successors and assigns. This Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors and assigns.

6. Governing law. This Agreement shall be construed in accordance with and governed by the law of the state of Idaho.

7. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be considered an original, with the same effect as if the signatures thereto and hereto were upon the same instrument; similarly, facsimile copies shall be given the same effect as originals.

8. Entire agreement; exception. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, and negotiations, written and verbal, express and implied, except that this Agreement is pursuant to, does not invalidate, and shall be construed harmoniously with, the Settlement Agreement.

From: Brooks Law

208 468 4030

10/03/2011 10:32

#199 P.004/017

9. Legal action. In any action to recover on or enforce the terms of this Agreement, the party in whose favor judgment issues shall be entitled to recover its costs and attorney fees for any such action as allowable law.

\*\*\*

City of Notus

Notus School District No. 135

By: Chris CollinsPrinted name: Chris Collins

Its Mayor

Date: 1/26/11

Attest:

By: Ginny LindemannCity Clerk Ginny LindemannDate: 1-26-11By: Barbara SkosbergPrinted Name: Barbara Skosberg

Its Chair, Board of Trustees

Date: 1-11-11  
PKBy: Benjamin MerrillPrinted name: Benjamin Merrill

Its: Superintendent

Date: 1-12-11

From: Brooks Law

208 468 4030

10/03/2011 10:32

#199 P.005/017

### MUTUAL RELEASE AGREEMENT

THIS AGREEMENT is made and entered into by and between Notus School District #135, hereinafter referred to as Plaintiff, and City of Notus, Idaho, hereinafter referred to as Defendant.

#### RECITALS:

Whereas, the parties previously executed and entered into a Settlement Memorandum, which fully settles the claims and defenses of the Parties asserted in that certain case entitled Notus School District No. 135 v. City of Notus, Idaho, filed on February 21, 2008 in the District Court of the Third Judicial District in and for the County of Canyon, as Case No. CV-08-01539; and

Whereas, the Settlement Memorandum provides for the parties to enter into a Mutual Release Agreement; and

Now therefore, the parties enter into this agreement as follows:

#### WITNESSETH:

1. Plaintiff and Defendant participated in mediation proceedings held on the 7th day of April, 2009, at the law offices of Thomas, Williams & Park, LLP, for the purpose of settling a lawsuit heretofore filed by Plaintiff against Defendant arising out of a contractual dispute ("the Dispute") between the parties concerning a contract ("Well Purchase Agreement") dated April 22, 1997. W. Anthony Park conducted the mediation. As a result of the mediation, the parties agreed upon a settlement of their dispute and agreed to submit to the court a stipulation and order for dismissal of the action. Said settlement is referred to herein as the "Settlement Memorandum."

From: Brooks Law

208 468 4030

10/03/2011 10:32

#199 P.006/017

2. The terms and conditions of settlement are as follows:

A. Plaintiff owns approximately one acre of unimproved real property at the intersection of Wagner Road and State Highway 20/26 in Canyon County, Idaho ("the Real Property"), which property is described in Exhibit A, attached hereto and incorporated herein by this reference. Said property is unencumbered by any lien, judgment, or mortgage. Defendant owns a water well and related equipment ("the Well") located on Notus School District property in Canyon County, Idaho. Plaintiff agrees to convey to Defendant all its right, title and interest in the Real Property in return for a conveyance from Defendant to Plaintiff of all its right, title and interest in the Well. Defendant agrees to make such conveyance. Such conveyance shall be as-is. The parties shall execute conveyance documents, with the conveyance documents for the Real Property to be prepared by Plaintiff and the conveyance documents for the Well to be prepared by Defendant.

B. The parties agree to divide the water right to the existing Well in such proportions as are necessary to satisfy the Plaintiff's need for irrigation water. The parties shall determine in cubic feet per second (cfs) how much flow will be required to irrigate 18 acres of ground. Whatever cfs is needed to irrigate that 18 acres shall be transferred to the Plaintiff. That amount has been determined and agreed to by the parties as follows:

The City will retain: 0.54 cfs. Initial: BB BM C.C.

The School District will retain 0.06 cfs. Initial: BB BM C.C.

From: Brooks Law

208 468 4030

10/03/2011 10:32

#199 P.007/017

Such division of the water right shall occur upon execution of the deed to the Real Property, and Plaintiff agrees to cooperate fully with Defendant and not to object to any application for division and transfer of the water right.

C. The Settlement Memorandum provided that the parties shall have 30 days from the date of said Settlement Memorandum to confer with the Idaho Department of Water Resources ("IDWR") to ascertain, to their mutual satisfaction, that the transfer set forth in subparagraph B above is in compliance with existing laws and regulations and likely to be approved by IDWR. The Agreement also provided that the Parties shall use good faith in attempting to satisfy the terms and conditions identified herein, and that if either party determined the proposed transfer was not practicable, the agreement shall be void upon notice to the other party and neither party shall be obligated to perform any of the conditions therein. The Parties have satisfied themselves that the transfer as set forth in subparagraph B may be accomplished.

D. Pending transfer of the portion of the water right to it under subparagraph B above, Plaintiff will have the right to use the Well and water for its ordinary and necessary irrigation purposes.

E. Defendant intends to transfer the water right it retains to a new point of diversion on other real property owned by Defendant. Pending such move, Defendant shall have the right to keep its share of the water right indefinitely until such time as the transfer is approved by IDWR or the new diversion works are completed, whichever occurs first. Upon such time that Defendant decides to transfer the point of diversion, Plaintiff agrees not to object to such application for a change in point of diversion and will cooperate with the City in its efforts to transfer the water right.

From: Brooks Law

208 468 4030

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#199 P.008/017

F. The Plaintiff will maintain the Well and its equipment pending the transfer of the water right and pending Defendant's transfer of its portion of the water right to a new point of diversion.

G. Plaintiff agrees that the Well and access to the Well will be available to Defendant for fire suppression purposes.

3. This agreement shall not become final until approved by Plaintiff's Board of Trustees and Defendant's City Council.

4. Plaintiff agrees to remain on Defendant's domestic municipal water system governed by a metering system and agrees that the provisions in the Well Purchase Agreement are void.

#### **MUTUAL RELEASE OF CLAIMS AND INDEMNIFICATION**

1. **PARTY RELEASED.** This Release is effective in regard to and for the benefit of the City of Notus, employees, former employees and representatives, legal successors, agents, officers, directors and shareholders, hereinafter collectively referred to as "Releasees."

2. **CONSIDERATION.** This Release is executed in consideration of the promises in this Agreement.

3. **CLAIMS RELEASED.** The parties hereby release, acquit and forever discharge each other from any and all claims of every kind whether known or unknown, actions (whether in contract, tort or equity) causes of action, and damages of every kind and nature, whether past, present or future, arising out of the lawsuit, styled Notus School District No. 135, Plaintiff, v. City of Notus, Defendant, in the District Court of Canyon County, Idaho; bearing Case No. CV 08-01539.

From: Brooks Law

208 468 4030

10/03/2011 10:33

#199 P.009/017

4. EFFECT OF RELEASE. This Release is intended as and shall constitute a full and final general Release of any and all claims arising or which have arisen prior to the date of this Release, with regard, in connection with or arising out of the 1997 Well Agreement between the parties executed on April 22, 1997.

5. INDEMNIFICATION. The parties agree to indemnify each other from any and all loss, damage, judgment, settlement or liability that they may suffer by reason of any matters or claims released in this Release. The parties further agree to hold each other harmless and defend each other from any and all claims by such persons and/or entities.

6. WARRANTY. The parties represent and warrant that no other person or entity has any right or interest in the parties' claims; that the parties have not sold, assigned, transferred or in any other way disposed of his claims; and that the parties have the sole right and authority to execute this Release.

7. NO ADMISSION OF LIABILITY. The parties acknowledge that this Release is made as part of a settlement of a contested lawsuit and this Release and the settlement of the lawsuit do not constitute an admission of any kind by either party; the parties further acknowledge and agree that the settlement of the lawsuit is a compromise of disputed claims and that the parties intend merely to avoid litigation and buy their peace.

8. ENTIRE DOCUMENT. The parties acknowledge that no promise, inducement or agreement, except those stated in this Release, has been made to induce them to make or sign this Release; that this Release constitutes the entire understanding

From: Brooks Law

208 468 4030

10/03/2011 10:33

#199 P.010/017

between the parties, and that the terms of this Release are contractual and not mere recitals.

9. GOVERNING LAW. This Release shall be governed by Idaho law.

10. ACKNOWLEDGEMENT THAT THE PARTIES HAVE READ AND UNDERSTAND THIS RELEASE. The parties represent that, in entering into this Release, they have relied upon the legal advice of their attorneys; that the parties have fully read the terms of this Release; that the terms of this Release have been explained to them by their attorney; and that the parties fully understand and voluntarily accept the terms of this Release.

11. FREE AND VOLUNTARY ASSENT. The parties acknowledges that they are entering into and signing this Release voluntarily and of their own free will because of the consideration given in return.

12. DISMISSAL OF LAWSUIT. The Plaintiff, Notus School District No. 135, specifically authorizes and directs its attorney, Steven J. Meade, to execute a dismissal with prejudice of the Complaint in the legal action referred to in paragraph 4, and to deliver to Dodge Law Offices, PLLC, attorney for the Defendant, the City of Notus, contemporaneous with the execution of this Release an executed Dismissal of the lawsuit. The parties acknowledge and agree that each party to the lawsuit shall bear its own attorney fees and costs. The Parties also agreed to share the mediator's fee equally; the parties agree that the mediator's bill has been paid.

13. SUCCESSORS. This Release shall be binding upon the parties' successors, assigns, heirs, executors, representatives, administrators, agents and designees. The parties acknowledge that this Release will inure to the benefit of the

From: Brooks Law

208 468 4030

10/03/2011 10:33

#199 P.011/017

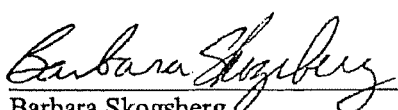
parties and their respective successors, assigns, heirs, executors, representatives, administrators, agents, designees, and, if applicable, upon their respective partners, associates, shareholders, directors, officers, and employees.

14. CONFIDENTIALITY. The parties agree to keep the terms of this Release and the settlement of the lawsuit referred to in paragraph 4 of this Release confidential. The parties further acknowledge and agree that a breach of this provision would be regarded as a material breach of this Release.

15. LEGAL ACTION. If any legal action or proceeding is brought for the enforcement of this Release, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Release, the successful or prevailing party shall be entitled to recover reasonable attorneys fees and other costs incurred in the legal action or proceeding.

DATED this \_\_\_\_ day of January, 2011.

NOTUS SCHOOL DISTRICT #135,  
Plaintiff

 1-11-11 <sup>sk</sup>  
Barbara Skogsberg Date  
Chairman, Board of Trustees

 1-12-11  
Benjamin Merrill Date  
Superintendent of Schools

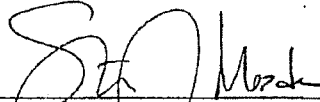
From: Brooks Law

208 468 4030

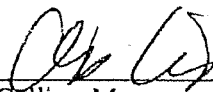
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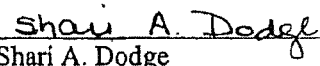
TROUT♦JONES♦GLEDHILL♦FUHRMAN  
♦GOURLEY, P.A.

  
\_\_\_\_\_  
Steven J. Meade  
Attorney for Plaintiff

CITY OF NOTUS, Defendant

 11/26/11  
\_\_\_\_\_  
Chris Collins, Mayor Date

DODGE LAW OFFICES, PLLC

  
\_\_\_\_\_  
Shari A. Dodge Date  
Attorney for Defendant

From: Brooks Law

208 468 4030

10/03/2011 10:34

#199 P.013/017

## EXHIBIT A

The West Half of the West Half of the Southeast Quarter of the Southeast Quarter and the East Half of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter and the West Half of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 27, Township 5 North, Range 4 West of the Boise Meridian, Canyon County, Idaho,

## EXCEPTING THEREFROM:

The ditch right of way along the West line of the said West Half of the West Half of the Southeast Quarter of the Southeast Quarter of said Section,

## ALSO EXCEPTING THEREFROM:

Beginning at the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 27, Township 5 North, Range 4 West of the Boise Meridian; thence East along the South boundary line of said Southeast Quarter of the Southeast Quarter, a distance of 330 feet; thence North at right angles a distance of 271 feet; thence West at right angles a distance of 330 feet to the West boundary line of said Southeast Quarter of the Southeast Quarter; thence South at right angles a distance of 271 feet to the point of beginning.

From: Brooks Law

208 468 4030

10/03/2011 10:34

#199 P.014/017

## EXHIBIT A

### SETTLEMENT MEMORANDUM

THIS AGREEMENT is made and entered into by and between Notus School District #135, herein after referred to as Plaintiff, and City of Notus, Idaho, hereinafter referred to as Defendant.

#### WITNESSETH:

1. Plaintiff and Defendant participated in mediation proceedings held on the 7<sup>th</sup> day of April, 2009, at the law offices of Thomas, Williams & Park, LLP, for the purpose of settling a lawsuit heretofore filed by Plaintiff against Defendant arising out of a contractual dispute ("the Dispute") between the parties concerning a contract ("Well Purchase Agreement") dated April 22, 1997. W. Anthony Park conducted the mediation. As a result of the mediation, the parties agreed upon a settlement of their dispute and agreed to submit to the court a stipulation and order for dismissal of the action.

2. The terms and conditions of settlement are as follows:

A. Plaintiff owns a triangular piece of property which is approximately 1.03 acres. It sits on the corner of Highway 20/06 and Wagner Road in Canyon County, Idaho ("the Real Property"). Defendant owns a water well and related equipment ("the Well") located on Notus School District property in Canyon County, Idaho. Plaintiff agrees to convey to Defendant all its right, title and interest in the Real Property in return for a conveyance from Defendant to Plaintiff of all its right, title and interest in the Well. Defendant agrees to make such conveyance.

B. The parties agree to divide the water right to the existing well in such proportions necessary to satisfy the Plaintiff's need for irrigation water. The parties

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shall determine in cubic feet per second (cfs) how much flow will be required to irrigate 18 acres of ground. Whatever cfs is needed to irrigate that 18 acres shall be transferred to the Plaintiff.

C. The parties shall have 30 days from the date of this agreement to confer with the State of Idaho regulatory authorities and ascertain, to their mutual satisfaction, that the transfer set forth in subparagraph B above is doable and will be approved by such authorities. The parties shall use good faith in attempting to make this agreement succeed. If either party determines the proposed transfer is not practicable, this agreement shall be void upon notice to the other party and neither party shall be obligated to perform any of the conditions herein.

D. Pending transfer of the portion of the water right to it under subparagraph B above, Plaintiff will have the right to use the Well and water for its ordinary and necessary irrigation purposes.

E. Defendant intends to move the water right it retains to a new point of diversion on other real property owned by Defendant. Pending such move, Defendant shall have the right to keep its share of the water right indefinitely until it is prepared to move it.

F. The Plaintiff will maintain the Well and its equipment pending the transfer of the water right and pending Defendant's move of its portion of the water right to a new point of diversion.

G. Plaintiff agrees that the Well and access to the Well will be available to Defendant for fire suppression purposes.

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3. This agreement shall not become final until approved by Plaintiff's Board of Trustees and Defendant's City Council.

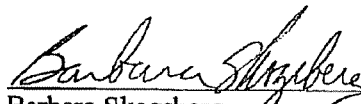
4. Plaintiff agrees to remain on Defendant's domestic municipal water system governed by a metering system and agrees that the provisions in the Well Purchase Agreement relating to domestic water charges are null and void.

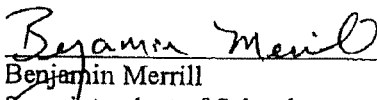
5. Defendant's attorney will prepare a Mutual Release Agreement and submit it to Plaintiff's attorney for approval. Such agreement will contain the provisions agreed to herein, and will also provide mutual releases from each party to the other.

6. Following the execution of the Mutual Release Agreement, Plaintiff and Defendant will cause to be filed with the Third Judicial District Court in and for the County of Canyon, a Stipulation for Dismissal With Prejudice of the action now pending, with each party to bear his, her or its attorneys fees and costs incurred in this action.

7. Plaintiff and Defendant agree to share the mediator's fees equally.

NOTUS SCHOOL DISTRICT #135  
Plaintiff

 1-11-11  
Barbara Skogsberg Date  
Chairman, Board of Trustees

 1-12-11  
Benjamin Merrill Date  
Superintendent of Schools

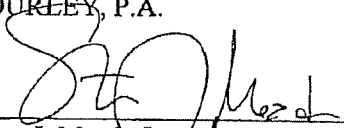
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#199 P.017/017

TROUT♦JONES♦GLEDHILL♦FUHRMAN  
♦GOURLEY, P.A.

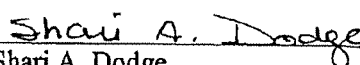
  
Steven J. Meade  
Attorney for Plaintiff

CITY OF NOTUS, Defendant

  
Chris Collins, Mayor

1/26/11  
Date

DODGE LAW OFFICES, PLLC

  
Shari A. Dodge  
Attorney for Defendant

1-26-11  
Date

RECEIVED

Rev. 10/09

MAR 01 2010

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 76372**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. Part 2B forms are available on the Department's website at: [http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/PDFs\\_09/WaterRight\\_TransferApp\\_Part2B.pdf](http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/PDFs_09/WaterRight_TransferApp_Part2B.pdf).
- ☒ \* 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.
- ☐ ☒ #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).
- ☐ ☒ #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/wrt\\_default.htm](http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/wrt_default.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.)
- ☐ ☒ #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: Original 1<sup>st</sup> is lost as to when 1<sup>st</sup> received/receipted

Original 1<sup>st</sup> is lost as to when 1<sup>st</sup> received/receipted

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments.

Received by Jah Date 3-1-10 Prelim. Check by VLM Date 9-22-11

Fee Paid 450. Date 3-1-10 Received by Jah Receipt # W038163

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