

WSB No. _____
 Receipt No. Money received by
 Date/by intra Dept. transfer
 (For Department Use Only) MVB 3/22/12

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

Name of Seller/Lessor State of Idaho, Idaho Water Resource Board, c/o Brian Patton Phone (208) 287-4800
 Mailing address 322 E Front St; PO Box 83720; Boise, ID 83720-0098 Email brian.patton@idwr.idaho.gov

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, check here ☒, list the water right number, and skip to Part B.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>2-10205</u>	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____

Total Amount: _____

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	1/4	1/4	1/4	County

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show total number of acres offered to the bank. **Total Acres** _____

B. OWNERSHIP

- Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
- Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

2-7353; 2-7353 is also offered to the Water Supply Bank

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe. _____

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code. _____

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe. _____

D. REQUIRED ITEMS

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☐.

If lease, for a period from 05/10/2005 to 12/31/2029 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. Show the minimum payment acceptable to the Seller/Lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current Rental Rate _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.



 Signature of Applicant

Brian Patton, IDWR Representative for IWRB

 Printed Name and Title*

1/6/2012

 Date

 Signature of Applicant

 Printed Name and Title*

 Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

RECEIVED

MAR 22 2012

DEPARTMENT OF
WATER RESOURCES
BEFORE THE IDAHO WATER RESOURCE BOARD

SCANNED
JUL - 2006

IN THE MATTER OF THE PURCHASE OF)	
THE BELL RAPIDS MUTUAL IRRIGATION)	
COMPANY WATER RIGHT IN ACCORDANCE)	A RESOLUTION AUTHORIZING
WITH THE TERMS AND CONDITIONS OF)	THE PURCHASE AND
THE ASSET PURCHASE AND SALE)	ACQUISITION OF WATER
AGREEMENT OF MAY 10, 2005)	RIGHTS
_____)	

WHEREAS, the Idaho Water Resource Board (the "Board") is a constitutional agency of the State of Idaho and empowered by Idaho Code § 42-1734 to acquire, purchase, lease or exchange land, rights, water rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

WHEREAS, the First Regular Session of the Fifty-Eighth Idaho Legislature approved House Bill 373 which authorized the Idaho Water Resource Board to fund a water rights acquisition and mitigation program and deemed it to be a water project in the public interest; and

WHEREAS, the First Regular Session of the Fifty-Eighth Idaho Legislature approved House Bill 392 that provided \$24,375,000 to the Board Revolving Development Fund for the purchase of the Bell Rapids Mutual Irrigation Company water rights (the "Bell Rapids' water rights"); and

WHEREAS, on March 9, 2005, a Letter of Intent was signed by the Board and Bell Rapids Mutual Irrigation Company, regarding the purchase of Bell Rapids' water rights by the Board; and

WHEREAS, an Asset Purchase and Sale Agreement was negotiated by the Board, as buyer, and Bell Rapids Mutual Irrigation Company, along with each of its individual shareholders, jointly as seller, with an effective date of May 10, 2005.

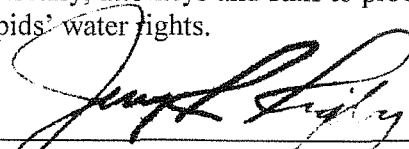
NOW, THEREFORE BE IT RESOLVED, that the Idaho Water Resource Board acknowledges that it previously authorized the Chairman and the Secretary to negotiate and execute the Asset Purchase and Sale Agreement on behalf of the Board; that the Board hereby accepts the covenants, agreements and conditions included in the Asset Purchase and Sale Agreement; that the Board hereby authorizes the Chairman and Secretary to execute any additional documentation needed to consummate the purchase of Bell Rapids' water rights; and that the Board hereby authorizes the Chairman, Secretary, attorneys and staff to proceed with the finalization and closing of the purchase of Bell Rapids' water rights.

DATED this 13th day of June, 2005.

ATTEST:



D. RICHARD WYATT, Secretary


JERRY RIGBY, Chairman

Attachment No. 1, Meeting No. 11-05
Idaho Water Resource Board

DRAFT 8/23/2005
BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF A 30 YEAR LEASE OF)	
BELL RAPIDS WATER RIGHT)	A RESOLUTION AUTHORIZING
NO. 02-10205 TO THE UNITED STATES OF)	THE BOARD CHAIRMAN AND
AMERICA IN ACCORDANCE WITH THE)	SECRETARY TO FINALIZE AND
TERMS AND CONDITIONS OF THE)	SIGN THE WATER RIGHT LEASE
WATER RIGHT LEASE AGREEMENT)	AGREEMENT

WHEREAS, the Idaho Water Resource Board (the "Board") is a constitutional agency of the State of Idaho established and empowered by Idaho Code § 42-1734 to acquire, purchase, lease or exchange land, rights, water rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

WHEREAS, the Fifty-Eighth Idaho Legislature, First Regular Session, approved House Bill 373 which authorized the Idaho Water Resource Board to fund a water rights acquisition and mitigation program and deemed it to be a water project in the public interest; and

WHEREAS, the Fifty-Eighth Idaho Legislature, First Regular Session, approved House Bill 392 that provided \$24,300,000 to the Board Revolving Development Fund for the purchase of the Bell Rapids Mutual Irrigation Company water rights; and

WHEREAS, on March 9, 2005, a Letter of Intent was signed by the Board as buyer and Bell Rapids Mutual Irrigation Company as seller, regarding the purchase of water rights owned by the seller; and

WHEREAS, a final Asset Purchase And Sale Agreement was executed on May 10, 2005, that establishes the mutual covenants, agreements and conditions of the Bell Rapids Water Right acquisition;

WHEREAS, Idaho Code § 42-1763B authorizes the U.S. Bureau of Reclamation to lease or acquire up to 60,000 acre-feet of natural flow water from the mainstem Snake River below Milner Dam and Swan Falls Dam for the purpose of flow augmentation; and

WHEREAS, the U.S. Bureau of Reclamation desires to enter into a 30 year lease through the Idaho Water Supply Bank for the Board's Bell Rapids water right no. 02-10205.

NOW, THEREFORE BE IT RESOLVED, the Idaho Water Resource Board is informed as to the issues related to the Water Right Lease Agreement as presented in draft form at Board meeting 15-05 on August 25, 2005.

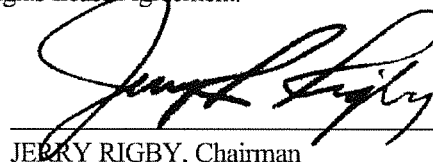
BE IT FURTHER RESOLVED that based upon the Board having been fully informed as to the issues remaining to be settled the Board authorizes the chairman and secretary of the Board to proceed with the finalization and signing of the Water Rights Lease Agreement.

DATED this 25th day of August 2005.

ATTEST:



D. RICHARD WYATT, Secretary



JERRY RIGBY, Chairman

Attachment 1 to Meeting 15-05
Date 8-25-05
Idaho Water Resource Board



IN REPLY REFER TO:
PN-3100
WTR-4.10

United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

SEP 14 2005



RECEIVED

MAR 22 2012

DEPARTMENT OF
WATER RESOURCES

Mr. John Homan
Idaho Department of Water Resources
322 E Front St
Boise ID 83701

Subject: Water Right Lease Agreement

Dear Mr. Homan:

Enclosed are triplicate originals of the Water Right Lease Agreement between the Idaho Water Resources Board (IWRB), Idaho Department of Water Resources, and the Bureau of Reclamation. The originals have been executed by the Bureau of Reclamation.

After you have obtained the signatures of the IWRB and IDWR, please return two originals to me at the above address.

Sincerely,

E. Gail McGarry
Program Manager
Water Rights and Acquisition

Enclosures -1 (In triplicate)

WATER RIGHT LEASE AGREEMENT
(Reclamation Contract No. 1425-05-WL-10-0006)

THIS AGREEMENT is entered into by and between the IDAHO WATER RESOURCE BOARD, an agency of the State of Idaho, ("Board"), and the IDAHO DEPARTMENT OF WATER RESOURCES ("Department"), an agency of the State of Idaho, and THE UNITED STATES OF AMERICA, by and through the Department of Interior, Bureau of Reclamation ("United States"). Collectively the Board, Department, and United States shall be referred to as the "parties."

I. DEFINITIONS

1. "Bell Rapids Water Right" means water right no. 02-10205, a description of which is attached as Exhibit A and incorporated herein by reference.
2. "Leased Water" means that portion of the Bell Rapids Water Right which consists of 60,000 acre-feet per annum as calculated based upon a consumptive use volume of three (3) acre-feet per acre per annum on 20,000 acres within the place of use of the Bell Rapids Water Right.
3. "Murphy Gage" means the Murphy U.S.G.S. gaging station located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35 in Township 1 South, Range 1 West, Boise Meridian, which is approximately 4.2 miles downstream of the Swan Falls Power Plant.

II. RECITALS

1. WHEREAS the United States is authorized to lease or acquire 60,000 acre-feet of natural flow water rights diverted and consumed below Milner Dam and above Swan Falls from the mainstem of the Snake River for flow augmentation purposes pursuant to the Snake River Water Rights Act of 2004, P. L. 108-447, 118 Stat. 3431-41 (Dec. 8, 2004), Idaho Code § 42-1763B, as amended by H.B. 399 (Apr. 14, 2005), and the Mediator's Term Sheet submitted in Snake River Basin Adjudication consolidated subcase nos. 03-10022 and 67-13701 (Apr. 20, 2004);
2. WHEREAS the Bell Rapids Water Right authorizes the diversion of water from the Snake River at a point below Milner Dam and above Swan Falls for irrigation purposes;
3. WHEREAS the Department has determined that consumptive use under the Bell Rapids Water Right has historically averaged three (3) acre-feet per acre per annum and that flows in the Snake River below the point of diversion of the Bell Rapids Water Right will increase by three (3) acre-feet for each acre of land that is idled through the cessation of water diversions made under the Bell Rapids Water Right;

4. WHEREAS the Board has acquired fee simple ownership of the Bell Rapids Water Right, subject only to a limited security interest held by the Bell Rapids Mutual Irrigation Company;
5. WHEREAS no diversions under the Bell Rapids Water Right have occurred during 2005, and whereas the Board intends to place and maintain 60,000 acre-feet per annum of the Bell Rapids Water Right in the Idaho Water Supply Bank for subsequent lease to the United States for flow augmentation purposes for a term of approximately thirty (30) years pursuant to the terms of this Agreement; and
6. WHEREAS the United States desires to lease 60,000 acre-feet per annum of the Bell Rapids Water Right from the Board for flow augmentation purposes for a term of approximately thirty (30) years pursuant to the terms of this Agreement.

III. AGREEMENT

IN CONSIDERATION of the exchange of mutual covenants and promises set forth herein, and in the recitals hereinabove, the parties agree as follows:

1. Lease of Water Right. For the term of this Agreement, the Board will, through the Idaho Water Supply Bank, lease to the United States annually the Leased Water for flow augmentation purposes for a term of approximately thirty (30) years, ending on March 31, 2035.
2. Non-Application of Water to Land. During the term of this Agreement, the Department will monitor and take enforcement action, if necessary, to ensure that the 20,000 acres of land which was previously irrigated by the Leased Water does not receive water under the Bell Rapids Water Right.
3. Right of First Refusal. The Board also grants to the United States a right of first refusal to lease any additional water associated with the Bell Rapids Water Right, which is in excess of the Leased Water, subject to limitations set forth in Idaho law. Upon such time as the Board elects to offer water for lease or sale, the Board shall send the United States notice of such offer. Upon receipt of such notice, the United States shall have 90 days, or such longer period as mutually agreed to by the parties, within which to enter into a lease or decline to exercise its right of first refusal. Any additional water leased under this provision shall be subject to such terms and conditions as mutually agreed to by the parties at the time of any such future lease.
4. Protection of Leased Water. The Department will protect the Leased Water from diversion by others from the point of diversion of the Bell Rapids Water Right to Idaho Power's Hells Canyon Complex located in Washington and Adams counties, Idaho. The Department will take all appropriate action necessary to ensure that flows of Leased Water will be protected at the Murphy Gage such that

the Leased Water will be maintained at the Murphy Gage in addition to any minimum instream flows and any other flows protected under state law at the Murphy Gage. The Department has determined that protection of the Leased Water as set forth above will result in the protection of 48,320 acre-feet during the period of April 10 through August 31 of each year for the term of this Agreement.

5. Compliance Report. On November 30 of each year, the Department shall send a report to the Board and the United States setting forth the quantities of water that were provided and protected under this Agreement. If the quantities of water provided and protected are less than that required by this Agreement, the Department shall quantify the amount of such deficiency. The report shall be advisory only and shall not be binding on the Board and the United States, who reserve the right to dispute the report and make independent findings either jointly or separately.
6. Payment Terms. The United States agrees to pay the Board \$21,000,000 ("Lease Amount") plus financing costs, if any, actually incurred by the Board for financing its acquisition of the Leased Water under such terms and conditions as set out in this section, which are as follows:
 - (a) Term Financing. The United States shall pay three percent (3%) interest on the Principal Amount of \$16,000,000, declining with the Initial Payment in subsection (b) below and any prepayments pursuant to subsection (c) below from June 29, 2005 to June 30, 2006, or until such time on or before June 30, 2006, the Board replaces its current short term financing of the Principal Amount at three percent (3%) interest per annum with alternative financing as set forth in subsection (d) below.
 - (b) Initial Payment. Within fourteen (14) calendar days of the effective date of this Agreement, the United States shall make an Initial Payment to the Board in the amount of \$5,000,000 toward the Principal Amount.
 - (c) Payment of Accrued Interest. At the time of the Initial Payment and any prepayments to the Principal Amount made on or before May 1, 2006, the United States shall also in addition to such principal payments pay all accrued and unpaid interest on the outstanding Principal Amount at a rate of three percent (3%) per annum.
 - (d) Alternative Financing. After May 1, 2006, but on or before June 30, 2006, the Board shall implement alternative financing in an amount equal to the remaining Principal Amount. The United States shall make annual amortized payments to the Board beginning the day one year following implementation of the alternative financing in an amount sufficient to pay the amount of the alternative financing over a period of not more than ten (10) years at an interest rate per annum of not more than six and five one-hundredths percent (6.05%). On the date the Board implements

alternative financing, the United States shall pay the Board (i) the amount of all outstanding and accrued interest on the remaining Principal Amount at the rate of three percent (3%) per annum, and (ii) the actual financing costs incurred by the Board for the alternative financing, in addition to the interest rate for the alternative financing, which costs shall not exceed two and a half percent (2.5%) of the total amount of alternative financing.

- (e) Remaining Lease Amount Balance. The Remaining Lease Amount Balance is based upon the original Lease Amount of \$21,000,000 less the original Principal Amount of \$16,000,000. Beginning on June 15, 2006, and annually thereafter on June 15 of each year, the United States shall, in addition to making the annual amortized payments under subsection (d), make payment to the Board in the amount of \$1,313,236 as payment toward the Remaining Lease Amount Balance of \$5,000,000. The obligation of the United States to make annual payments under this subsection shall terminate at such time as the United States has paid the entire \$5,000,000.
- (f) Prepayments. The United States may at any time, at its option, without penalty, make prepayments in whole or in part. Prepayments shall first be applied to reduce the Principal Amount; provided however, in the event there are any accrued and outstanding financing costs currently owing to the Board, the prepayment shall be first applied to such costs. In the event the United States should prepay the Remaining Lease Amount Balance under subsection (e), the United States shall be entitled to interest earnings at an annual rate of three percent (3%) for the prepayment period.
- (g) Anti-Deficiency Act. Notwithstanding any other provision of this Agreement, no provision of this Agreement shall be interpreted to constitute a commitment or requirement obligating the United States to pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, and nothing herein shall be construed to obligate the United States to expend money in excess of appropriations authorized by law and administratively allotted and allocated for the purposes contemplated hereunder. Notwithstanding any other provision of this Agreement, the United States shall not be in default and shall not be liable for the failure to pay funds under this Agreement where payment of such funds would violate the Anti-Deficiency Act.

7. Default by Board or Department.

- (a) Default. If, at any time during the term of this Agreement, the Board or Department, respectively, is unable to provide and protect the quantity of Leased Water per annum as provided for in this Agreement, whether or not due to fault of the Board or Department, change in hydrologic conditions, change in law, or any other reason or circumstance whether

foreseeable or unforeseeable, the Board and the Department, respectively, shall be in default.

- (b) Remedy for Default. In the event of default by either the Board or Department, the United States shall be entitled to a credit for each acre-foot of water that was either not provided by the Board or not protected by the Department as required by this Agreement. The amount of the credit shall be calculated by multiplying \$11.67 by the number of acre-feet not provided or protected plus the prorata share of any financing costs incurred by the Board. The credit shall accrue in the favor of the United States on the date of the default. Upon accrual of the credit or anytime thereafter, the United States may send a written demand to the Board directing that the credit be applied, at the sole discretion of the United States, in one or more of the following ways:
- i. The credit, or a specified portion thereof, be applied to reduce the annual payment for the year in which the Board received notice of the written demand and/or any subsequent years;
 - ii. The credit, or a specified portion thereof, be applied to reduce the lease amount and, if applicable, the principal amount retroactively to the date of default; or
 - iii. In the event the United States has paid all amounts owing under this Agreement, the credit, or portion thereof, be refunded to the United States within 120 days following the Board's receipt of notice of the written demand.
- (c) Other Remedies. The United States retains its right to seek any other form of legal or equitable relief or exercise any other remedy available to it, including specific performance, for any default by the Board or the Department or for any other breach of this Agreement.

8. Default by the United States

- (a) Default. Subject to the provisions of Section 6(g) of this Agreement, if the United States fails to timely make an annual payment, it shall be in default.
- (b) Remedy for Default. In the event of default by the United States, the Board retains the right to seek legal or equitable relief or exercise any other remedy available to it for such default or for any other breach of this Agreement. In the event of default or failure to appropriate funds under the provisions of Section 6(g) of this Agreement, the Board retains the right to lease or sell such portion of the Leased Water to other parties to recover sufficient funds equal to the payment obligations otherwise due

from the United States under this Agreement.

9. Assignment. Neither the Board nor Department may assign any interest or obligation owing under this Agreement. The United States, subject to approval by the Board, may sublease the Leased Water.
10. Fees. The Board agrees to pay the fees and costs, if any, required by Idaho law for the lease or rental of water from the Idaho Water Supply Bank to the extent necessary to fulfill the Board's obligation to provide the Leased Water under this Agreement.
11. Effective Date. This agreement shall become effective on the date of the last signature hereto.
12. Term. The term of this agreement shall be from the effective date to March 31, 2035.
13. Indemnification.
 - (a) General. The Board will indemnify, defend, and hold the United States harmless from and against any and all claims, liabilities, losses, damages, costs and expenses arising from or related to claims made by entities or individuals, who claim or have an interest in the Bell Rapids Mutual Irrigation Company, the Bell Rapids Water Right or any land or other property now associated with or previously associated with said water right, related to claims involving damage or liability on account of personal injury or death, property damage, economic loss of any kind or nature, arising from or related to Board's acquisition of the Bell Rapids Water Right or the Board's lease of said water right to the United States.
 - (b) No Third Party Beneficiaries. While the parties recognize that the Board may use monies received from the United States under this Agreement to satisfy contractual obligations the Board owes to Bell Rapids Mutual Irrigation Company, the parties hereby agree that this Agreement does not create, and is not intended to create, any obligations owing Bell Rapids Mutual Irrigation Company or any other individual or entity not a signatory to this Agreement. The Board agrees to indemnify the United States and defend against any claims made by Bell Rapids Mutual Irrigation Company or any other individual or entity not a signatory to this Agreement claiming rights or obligations owed to them under this Agreement.
 - (c) Defense of Water Rights. The Board will, at its own expense, prosecute and, if necessary, defend its claims to, and ownership of, the Bell Rapids Water Right in the Snake River Basin Adjudication (SRBA) or any other judicial or administrative proceeding to the extent necessary for the Board

to satisfy its lease obligation under this Agreement. The United States, at its discretion and expense, may join the Board in any defense of the Bell Rapids Water Right; provided, however, that any joinder by the United States does not relieve the Board of its duties herein.

14. Warranties and Covenants

(a) Of the United States. The United States makes the following warranties:

- i. Power and Authority. That the United States has all necessary power and authority to enter into this Agreement so as to consummate the transaction herein contemplated.
- ii. Executing Parties. That the person executing this Agreement on the United States' behalf is an officer of the United States and has full power and authority to bind the United States to the terms hereof.

(b) Of the Board. The Board makes the following warranties:

- i. Power and Authority. That the Board has all necessary power and authority to enter into this Agreement so as to consummate the transaction herein contemplated.
- ii. Executing Parties. That the person executing this Agreement on behalf of the Board is a member of the Board fully authorized to bind the Board to the terms hereof.
- iii. No Adverse Interests, Proceedings, or Claims. Except as expressly provided for elsewhere in this Agreement, the Board is aware of no other (A) existing, proposed or contemplated condemnation or eminent domain proceedings which would affect the water right in any way, (B) litigation, suit, arbitration, claim or proceeding, at law or equity, judicial, municipal or administrative, pending, or threatened, which does or could materially affect the ownership, use or possession of the water right, (C) agreement, contract or liens that would affect the performance of Board hereunder or its use or possession of the water right, (D) disputes, claims or actions involving the ownership of the water right.
- iv. Further Assurances. The Board agrees to execute any additional documents appropriate or necessary to effectuate the lease of the Bell Rapids Water Right as set forth in this Agreement.

- (c) Of the Department. The Department makes the following warranties:
- i. Power and Authority. That the Department has all necessary power and authority to enter into this Agreement so as to consummate the transaction herein contemplated.
 - ii. Executing Parties. That the person executing this Agreement on behalf of the Department is the Director of the Department and is fully authorized to bind the Department to the terms hereof.

15. Miscellaneous Provisions.

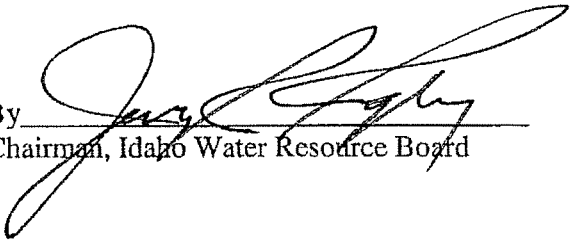
- (a) Governing Laws. This Agreement shall be governed by and construed under the laws of the State of Idaho, except as otherwise required under federal law.
- (b) Paragraph Headings. The captions and paragraph titles used in this Agreement are for reference only and will not be used in the interpretation of this Agreement or any related document.
- (c) Severability. If any provision of this Agreement is determined to be illegal, void or unenforceable, such determination will not affect any other provisions of this Agreement and all such other provisions will remain in full force and effect.
- (d) Officials Not to Benefit. No member of or delegate to Congress or the Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.
- (e) Covenant Against Contingent Fees. The Board warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees and bona fide commercial agencies maintained by the Board for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to revoke this Agreement without liability or in its discretion to require the Board to pay the full amount of such commission, percentage, brokerage, or contingency fee to the United States.
- (f) Incorporation of Prior Agreements. This Agreement contains the entire agreement and understanding of the United States, the Department, and the Board with respect to the subject matter hereof, and no prior written or oral agreement, understanding, or communication pertaining to any such matter shall be effective for any purposes. No provision of this

Agreement may be changed except by written agreement signed by all the parties hereto.

- (g) Amendments. Nothing in this Agreement shall preclude the parties from modifying the terms upon written agreement signed by all the parties.
- (h) Notices. Any notice, demand, or request authorized or required by this Agreement shall be deemed to have been given, when the party providing the notice mails the notice, postage prepaid or delivered to the appropriate parties at the following addresses:
 - i. To the Board: Chairman, Idaho Water Resource Board, 322 East Front Street, P.O. Box 83720, Boise, Idaho 83720-0098.
 - ii. To the Department: Director, Idaho Department of Water Resources, 322 East Front Street, P.O. Box 83720, Boise, Idaho 83720-0098.
 - iii. To the United States: Program Manager, Water Rights and Acquisition, Pacific Northwest Region, 1150 N. Curtis Road, Suite 100, Boise, Idaho 83706-1234.
- (i) Counterpart Originals. This Agreement may be executed in three counterparts, each of which will be an original, but all of which will constitute one contract, binding on the parties.

In WITNESS WHEREOF, the Idaho Water Resource Board, the Idaho Department of Water Resources, and the United States have executed this Agreement on the dates indicated below.

IDAHO WATER RESOURCE BOARD

By 
Chairman, Idaho Water Resource Board

STATE OF IDAHO)
)ss.
County of Ada)

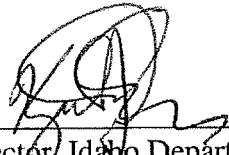
On this 15 day of September 2005, before me the undersigned Notary Public in and for said county and state, personally appeared Jerry R. Rigby known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he/she executed the same.

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



Mandy Davis
Notary Public in and for Idaho
Residing at: Parker Idaho
Commission Expires: 6-24-11

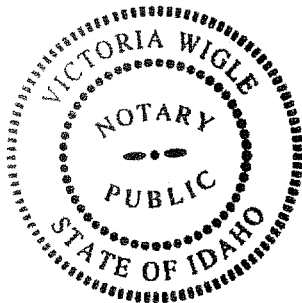
IDAHO DEPARTMENT OF WATER
RESOURCES

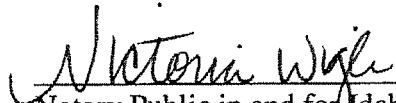
By 
Director, Idaho Department of Water
Resources

STATE OF IDAHO)
)ss.
County of Ada)

On this 15th day of September 2005, before me the undersigned Notary
Public in and for said county and state, personally appeared Karl J. Dreher
known to me to be the person whose name is subscribed to within instrument and
acknowledged to me that he/she executed the same.

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




Notary Public in and for Idaho
Residing at: Boise
Commission Expires: 5/29/10

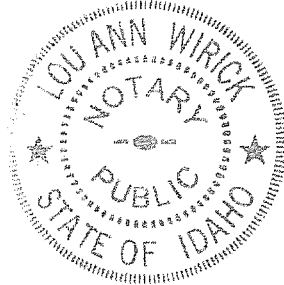
THE UNITED STATES OF AMERICA

By J. William McDonald
Regional Director, Pacific Northwest
Region, Bureau of Reclamation

STATE OF IDAHO)
)ss.
County of Ada)

On this 14th day of September 2005, before me the undersigned Notary Public in and for said county and state, personally appeared J. William McDonald known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he/she executed the same.

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



Lou Ann Wirick
Notary Public in and for Idaho
Residing at: Ada County
Commission Expires: Oct 22, 2008

WATER RIGHT NO. 2-10205
As Modified by Transfer No. 69664

In accordance with the approval of Transfer No. 69664, Water Right No. 2-10205 is now described as follows.

Right Holder: BELL RAPIDS MUTUAL IRRIGATION CO
388 E 5900 N
HAGERMAN ID 83332

Priority Date: December 16, 1963

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15 to 11/15	414.85 CFS	98,046.0 AF
		414.85 CFS	98,046.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L2 (SWSENE) Sec. 16 Twp 07S Rge 13E TWIN FALLS
County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 24,511.5 acres within the boundaries of the Bell Rapids Mutual Irrigation Company in a single irrigation season.
2. Place of use described as Bell Rapids Mutual Irrigation Company service area located within T6S, R11, 12 & 13E; T7S, R12 & 13E; and T8S, R12 & 13E.
3. Use of this right with Right No. 02-7353 is limited to a total combined diversion rate of 414.85 cfs.
4. Place of use does not include federal public lands.
5. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 19 day of June, 20 03


For Chief, Water Allocation Bureau

EXHIBIT A

MICROFILMED

SCANNED

OCT 7 6 2005

OCT 7 6 2005

SCANNED

RECEIVED

SEP 29 2005

BEFORE THE IDAHO WATER RESOURCE BOARD

Department of Water Resources

IN THE MATTER OF A 30 YEAR LEASE OF)
BELL RAPIDS WATER RIGHT) A RESOLUTION AUTHORIZING
NO. 02-10205 TO THE UNITED STATES OF) THE DIRECTOR TO GIVE NOTICE
AMERICA IN ACCORDANCE WITH THE) OF THE INTENDED THIRTY YEAR
TERMS AND CONDITIONS OF THE) RENTAL OF A PORTION OF THE
WATER RIGHT LEASE AGREEMENT) BELL RAPIDS WATER RIGHTS
_____)

WHEREAS, the Idaho Water Resource Board (the "Board") is a constitutional agency of the State of Idaho established and empowered by Idaho Code § 42-1734 to acquire, purchase, lease or exchange land, rights, water rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

WHEREAS, the Fifty-Eighth Idaho Legislature, First Regular Session, approved House Bill 373 which authorized the Idaho Water Resource Board to fund a water rights acquisition and mitigation program and deemed it to be a water project in the public interest; and

WHEREAS, the Fifty-Eighth Idaho Legislature, First Regular Session, approved House Bill 392 that provided \$24,300,000 to the Board Revolving Development Fund for the purchase of the Bell Rapids Mutual Irrigation Company water rights; and

WHEREAS, a final Asset Purchase And Sale Agreement was executed on May 10, 2005, that establishes the mutual covenants, agreements and conditions of the Bell Rapids Water Right acquisition;

WHEREAS, Idaho Code § 42-1763B authorizes the U.S. Bureau of Reclamation to lease or acquire up to 60,000 acre-feet of natural flow water from the mainstem Snake River below Milner Dam and Swan Falls Dam for the purpose of flow augmentation; and

WHEREAS, the U.S. Bureau of Reclamation desires to enter into a 30 year lease through the Idaho Water Supply Bank for the Board's Bell Rapids water right no. 02-10205; and

WHEREAS, the U.S. Bureau of Reclamation, Idaho Department Of Water Resources and the Board approved a Water Right Lease Agreement, Reclamation Contract No. 1425-05-WL-10-0006, on September 15, 2005; and

WHEREAS, Idaho Water Supply Bank rule 30.02 requires the Director to give notice as required in Idaho Code § 42- 222(1) for rentals from the bank for a period of more than five years.

NOW, THEREFORE BE IT RESOLVED, the Idaho Water Resource Board places

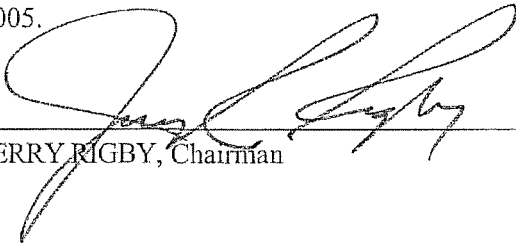
Attachment No. 3, Meeting No. 16-05
Idaho Water Resource Board

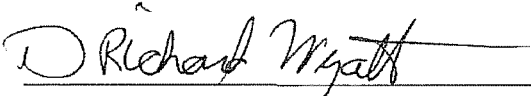
~~60,000 acre feet of the Bell Rapids water right in the Idaho Water Supply Bank.~~

BE IT FURTHER RESOLVED, that the Board authorizes the Director to notice the Boards intent to lease 60,000 acre feet of the Bell Rapids water rights to the U.S Bureau of Reclamation for 30 years and to take any action necessary to complete the lease transaction consistent with Idaho Code § 42-1763B.

DATED this 20th day of September, 2005.

ATTEST:


JERRY RIGBY, Chairman


D. RICHARD WYATT, Secretary

WATER RIGHT LEASE AGREEMENT
(Reclamation Contract No. 1425-05-WL-10-0006)

THIS AGREEMENT is entered into by and between the IDAHO WATER RESOURCE BOARD, an agency of the State of Idaho, ("Board"), and the IDAHO DEPARTMENT OF WATER RESOURCES ("Department"), an agency of the State of Idaho, and THE UNITED STATES OF AMERICA, by and through the Department of Interior, Bureau of Reclamation ("United States"). Collectively the Board, Department, and United States shall be referred to as the "parties."

I. DEFINITIONS

1. "Bell Rapids Water Right" means water right no. 02-10205, a description of which is attached as Exhibit A and incorporated herein by reference.
2. "Leased Water" means that portion of the Bell Rapids Water Right which consists of 60,000 acre-feet per annum as calculated based upon a consumptive use volume of three (3) acre-feet per acre per annum on 20,000 acres within the place of use of the Bell Rapids Water Right.
3. "Murphy Gage" means the Murphy U.S.G.S. gaging station located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35 in Township 1 South, Range 1 West, Boise Meridian, which is approximately 4.2 miles downstream of the Swan Falls Power Plant.

II. RECITALS

1. WHEREAS the United States is authorized to lease or acquire 60,000 acre-feet of natural flow water rights diverted and consumed below Milner Dam and above Swan Falls from the mainstem of the Snake River for flow augmentation purposes pursuant to the Snake River Water Rights Act of 2004, P. L. 108-447, 118 Stat. 3431-41 (Dec. 8, 2004), Idaho Code § 42-1763B, as amended by H.B. 399 (Apr. 14, 2005), and the Mediator's Term Sheet submitted in Snake River Basin Adjudication consolidated subcase nos. 03-10022 and 67-13701 (Apr. 20, 2004);
2. WHEREAS the Bell Rapids Water Right authorizes the diversion of water from the Snake River at a point below Milner Dam and above Swan Falls for irrigation purposes;
3. WHEREAS the Department has determined that consumptive use under the Bell Rapids Water Right has historically averaged three (3) acre-feet per acre per annum and that flows in the Snake River below the point of diversion of the Bell Rapids Water Right will increase by three (3) acre-feet for each acre of land that is idled through the cessation of water diversions made under the Bell Rapids Water Right;

4. WHEREAS the Board has acquired fee simple ownership of the Bell Rapids Water Right, subject only to a limited security interest held by the Bell Rapids Mutual Irrigation Company;
5. WHEREAS no diversions under the Bell Rapids Water Right have occurred during 2005, and whereas the Board intends to place and maintain 60,000 acre-feet per annum of the Bell Rapids Water Right in the Idaho Water Supply Bank for subsequent lease to the United States for flow augmentation purposes for a term of approximately thirty (30) years pursuant to the terms of this Agreement; and
6. WHEREAS the United States desires to lease 60,000 acre-feet per annum of the Bell Rapids Water Right from the Board for flow augmentation purposes for a term of approximately thirty (30) years pursuant to the terms of this Agreement.

III. AGREEMENT

IN CONSIDERATION of the exchange of mutual covenants and promises set forth herein, and in the recitals hereinabove, the parties agree as follows:

1. Lease of Water Right. For the term of this Agreement, the Board will, through the Idaho Water Supply Bank, lease to the United States annually the Leased Water for flow augmentation purposes for a term of approximately thirty (30) years, ending on March 31, 2035.
2. Non-Application of Water to Land. During the term of this Agreement, the Department will monitor and take enforcement action, if necessary, to ensure that the 20,000 acres of land which was previously irrigated by the Leased Water does not receive water under the Bell Rapids Water Right.
3. Right of First Refusal. The Board also grants to the United States a right of first refusal to lease any additional water associated with the Bell Rapids Water Right, which is in excess of the Leased Water, subject to limitations set forth in Idaho law. Upon such time as the Board elects to offer water for lease or sale, the Board shall send the United States notice of such offer. Upon receipt of such notice, the United States shall have 90 days, or such longer period as mutually agreed to by the parties, within which to enter into a lease or decline to exercise its right of first refusal. Any additional water leased under this provision shall be subject to such terms and conditions as mutually agreed to by the parties at the time of any such future lease.
4. Protection of Leased Water. The Department will protect the Leased Water from diversion by others from the point of diversion of the Bell Rapids Water Right to Idaho Power's Hells Canyon Complex located in Washington and Adams counties, Idaho. The Department will take all appropriate action necessary to ensure that flows of Leased Water will be protected at the Murphy Gage such that

the Leased Water will be maintained at the Murphy Gage in addition to any minimum instream flows and any other flows protected under state law at the Murphy Gage. The Department has determined that protection of the Leased Water as set forth above will result in the protection of 48,320 acre-feet during the period of April 10 through August 31 of each year for the term of this Agreement.

5. Compliance Report. On November 30 of each year, the Department shall send a report to the Board and the United States setting forth the quantities of water that were provided and protected under this Agreement. If the quantities of water provided and protected are less than that required by this Agreement, the Department shall quantify the amount of such deficiency. The report shall be advisory only and shall not be binding on the Board and the United States, who reserve the right to dispute the report and make independent findings either jointly or separately.
6. Payment Terms. The United States agrees to pay the Board \$21,000,000 ("Lease Amount") plus financing costs, if any, actually incurred by the Board for financing its acquisition of the Leased Water under such terms and conditions as set out in this section, which are as follows:
 - (a) Term Financing. The United States shall pay three percent (3%) interest on the Principal Amount of \$16,000,000, declining with the Initial Payment in subsection (b) below and any prepayments pursuant to subsection (c) below from June 29, 2005 to June 30, 2006, or until such time on or before June 30, 2006, the Board replaces its current short term financing of the Principal Amount at three percent (3%) interest per annum with alternative financing as set forth in subsection (d) below.
 - (b) Initial Payment. Within fourteen (14) calendar days of the effective date of this Agreement, the United States shall make an Initial Payment to the Board in the amount of \$5,000,000 toward the Principal Amount.
 - (c) Payment of Accrued Interest. At the time of the Initial Payment and any prepayments to the Principal Amount made on or before May 1, 2006, the United States shall also in addition to such principal payments pay all accrued and unpaid interest on the outstanding Principal Amount at a rate of three percent (3%) per annum.
 - (d) Alternative Financing. After May 1, 2006, but on or before June 30, 2006, the Board shall implement alternative financing in an amount equal to the remaining Principal Amount. The United States shall make annual amortized payments to the Board beginning the day one year following implementation of the alternative financing in an amount sufficient to pay the amount of the alternative financing over a period of not more than ten (10) years at an interest rate per annum of not more than six and five one-hundredths percent (6.05%). On the date the Board implements

alternative financing, the United States shall pay the Board (i) the amount of all outstanding and accrued interest on the remaining Principal Amount at the rate of three percent (3%) per annum, and (ii) the actual financing costs incurred by the Board for the alternative financing, in addition to the interest rate for the alternative financing, which costs shall not exceed two and a half percent (2.5%) of the total amount of alternative financing.

- (e) Remaining Lease Amount Balance. The Remaining Lease Amount Balance is based upon the original Lease Amount of \$21,000,000 less the original Principal Amount of \$16,000,000. Beginning on June 15, 2006, and annually thereafter on June 15 of each year, the United States shall, in addition to making the annual amortized payments under subsection (d), make payment to the Board in the amount of \$1,313,236 as payment toward the Remaining Lease Amount Balance of \$5,000,000. The obligation of the United States to make annual payments under this subsection shall terminate at such time as the United States has paid the entire \$5,000,000.
- (f) Prepayments. The United States may at any time, at its option, without penalty, make prepayments in whole or in part. Prepayments shall first be applied to reduce the Principal Amount; provided however, in the event there are any accrued and outstanding financing costs currently owing to the Board, the prepayment shall be first applied to such costs. In the event the United States should prepay the Remaining Lease Amount Balance under subsection (e), the United States shall be entitled to interest earnings at an annual rate of three percent (3%) for the prepayment period.
- (g) Anti-Deficiency Act. Notwithstanding any other provision of this Agreement, no provision of this Agreement shall be interpreted to constitute a commitment or requirement obligating the United States to pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, and nothing herein shall be construed to obligate the United States to expend money in excess of appropriations authorized by law and administratively allotted and allocated for the purposes contemplated hereunder. Notwithstanding any other provision of this Agreement, the United States shall not be in default and shall not be liable for the failure to pay funds under this Agreement where payment of such funds would violate the Anti-Deficiency Act.

7. Default by Board or Department.

- (a) Default. If, at any time during the term of this Agreement, the Board or Department, respectively, is unable to provide and protect the quantity of Leased Water per annum as provided for in this Agreement, whether or not due to fault of the Board or Department, change in hydrologic conditions, change in law, or any other reason or circumstance whether

foreseeable or unforeseeable, the Board and the Department, respectively, shall be in default.

- (b) Remedy for Default. In the event of default by either the Board or Department, the United States shall be entitled to a credit for each acre-foot of water that was either not provided by the Board or not protected by the Department as required by this Agreement. The amount of the credit shall be calculated by multiplying \$11.67 by the number of acre-feet not provided or protected plus the prorata share of any financing costs incurred by the Board. The credit shall accrue in the favor of the United States on the date of the default. Upon accrual of the credit or anytime thereafter, the United States may send a written demand to the Board directing that the credit be applied, at the sole discretion of the United States, in one or more of the following ways:
- i. The credit, or a specified portion thereof, be applied to reduce the annual payment for the year in which the Board received notice of the written demand and/or any subsequent years;
 - ii. The credit, or a specified portion thereof, be applied to reduce the lease amount and, if applicable, the principal amount retroactively to the date of default; or
 - iii. In the event the United States has paid all amounts owing under this Agreement, the credit, or portion thereof, be refunded to the United States within 120 days following the Board's receipt of notice of the written demand.
- (c) Other Remedies. The United States retains its right to seek any other form of legal or equitable relief or exercise any other remedy available to it, including specific performance, for any default by the Board or the Department or for any other breach of this Agreement.

8. Default by the United States

- (a) Default. Subject to the provisions of Section 6(g) of this Agreement, if the United States fails to timely make an annual payment, it shall be in default.
- (b) Remedy for Default. In the event of default by the United States, the Board retains the right to seek legal or equitable relief or exercise any other remedy available to it for such default or for any other breach of this Agreement. In the event of default or failure to appropriate funds under the provisions of Section 6(g) of this Agreement, the Board retains the right to lease or sell such portion of the Leased Water to other parties to recover sufficient funds equal to the payment obligations otherwise due

from the United States under this Agreement.

9. Assignment. Neither the Board nor Department may assign any interest or obligation owing under this Agreement. The United States, subject to approval by the Board, may sublease the Leased Water.
10. Fees. The Board agrees to pay the fees and costs, if any, required by Idaho law for the lease or rental of water from the Idaho Water Supply Bank to the extent necessary to fulfill the Board's obligation to provide the Leased Water under this Agreement.
11. Effective Date. This agreement shall become effective on the date of the last signature hereto.
12. Term. The term of this agreement shall be from the effective date to March 31, 2035.
13. Indemnification.
 - (a) General. The Board will indemnify, defend, and hold the United States harmless from and against any and all claims, liabilities, losses, damages, costs and expenses arising from or related to claims made by entities or individuals, who claim or have an interest in the Bell Rapids Mutual Irrigation Company, the Bell Rapids Water Right or any land or other property now associated with or previously associated with said water right, related to claims involving damage or liability on account of personal injury or death, property damage, economic loss of any kind or nature, arising from or related to Board's acquisition of the Bell Rapids Water Right or the Board's lease of said water right to the United States.
 - (b) No Third Party Beneficiaries. While the parties recognize that the Board may use monies received from the United States under this Agreement to satisfy contractual obligations the Board owes to Bell Rapids Mutual Irrigation Company, the parties hereby agree that this Agreement does not create, and is not intended to create, any obligations owing Bell Rapids Mutual Irrigation Company or any other individual or entity not a signatory to this Agreement. The Board agrees to indemnify the United States and defend against any claims made by Bell Rapids Mutual Irrigation Company or any other individual or entity not a signatory to this Agreement claiming rights or obligations owed to them under this Agreement.
 - (c) Defense of Water Rights. The Board will, at its own expense, prosecute and, if necessary, defend its claims to, and ownership of, the Bell Rapids Water Right in the Snake River Basin Adjudication (SRBA) or any other judicial or administrative proceeding to the extent necessary for the Board

to satisfy its lease obligation under this Agreement. The United States, at its discretion and expense, may join the Board in any defense of the Bell Rapids Water Right; provided, however, that any joinder by the United States does not relieve the Board of its duties herein.

14. Warranties and Covenants

(a) Of the United States. The United States makes the following warranties:

- i. Power and Authority. That the United States has all necessary power and authority to enter into this Agreement so as to consummate the transaction herein contemplated.
- ii. Executing Parties. That the person executing this Agreement on the United States' behalf is an officer of the United States and has full power and authority to bind the United States to the terms hereof.

(b) Of the Board. The Board makes the following warranties:

- i. Power and Authority. That the Board has all necessary power and authority to enter into this Agreement so as to consummate the transaction herein contemplated.
- ii. Executing Parties. That the person executing this Agreement on behalf of the Board is a member of the Board fully authorized to bind the Board to the terms hereof.
- iii. No Adverse Interests, Proceedings, or Claims. Except as expressly provided for elsewhere in this Agreement, the Board is aware of no other (A) existing, proposed or contemplated condemnation or eminent domain proceedings which would affect the water right in any way, (B) litigation, suit, arbitration, claim or proceeding, at law or equity, judicial, municipal or administrative, pending, or threatened, which does or could materially affect the ownership, use or possession of the water right, (C) agreement, contract or liens that would affect the performance of Board hereunder or its use or possession of the water right, (D) disputes, claims or actions involving the ownership of the water right.
- iv. Further Assurances. The Board agrees to execute any additional documents appropriate or necessary to effectuate the lease of the Bell Rapids Water Right as set forth in this Agreement.

- (c) Of the Department. The Department makes the following warranties:
 - i. Power and Authority. That the Department has all necessary power and authority to enter into this Agreement so as to consummate the transaction herein contemplated.
 - ii. Executing Parties. That the person executing this Agreement on behalf of the Department is the Director of the Department and is fully authorized to bind the Department to the terms hereof.

15. Miscellaneous Provisions.

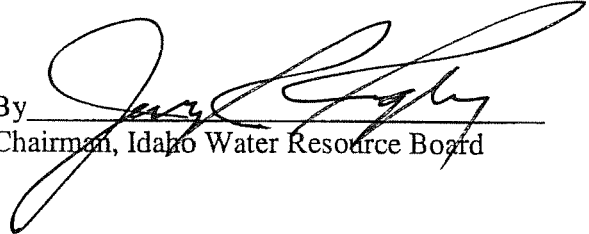
- (a) Governing Laws. This Agreement shall be governed by and construed under the laws of the State of Idaho, except as otherwise required under federal law.
- (b) Paragraph Headings. The captions and paragraph titles used in this Agreement are for reference only and will not be used in the interpretation of this Agreement or any related document.
- (c) Severability. If any provision of this Agreement is determined to be illegal, void or unenforceable, such determination will not affect any other provisions of this Agreement and all such other provisions will remain in full force and effect.
- (d) Officials Not to Benefit. No member of or delegate to Congress or the Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.
- (e) Covenant Against Contingent Fees. The Board warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees and bona fide commercial agencies maintained by the Board for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to revoke this Agreement without liability or in its discretion to require the Board to pay the full amount of such commission, percentage, brokerage, or contingency fee to the United States.
- (f) Incorporation of Prior Agreements. This Agreement contains the entire agreement and understanding of the United States, the Department, and the Board with respect to the subject matter hereof, and no prior written or oral agreement, understanding, or communication pertaining to any such matter shall be effective for any purposes. No provision of this

Agreement may be changed except by written agreement signed by all the parties hereto.

- (g) Amendments. Nothing in this Agreement shall preclude the parties from modifying the terms upon written agreement signed by all the parties.
- (h) Notices. Any notice, demand, or request authorized or required by this Agreement shall be deemed to have been given, when the party providing the notice mails the notice, postage prepaid or delivered to the appropriate parties at the following addresses:
 - i. To the Board: Chairman, Idaho Water Resource Board, 322 East Front Street, P.O. Box 83720, Boise, Idaho 83720-0098.
 - ii. To the Department: Director, Idaho Department of Water Resources, 322 East Front Street, P.O. Box 83720, Boise, Idaho 83720-0098.
 - iii. To the United States: Program Manager, Water Rights and Acquisition, Pacific Northwest Region, 1150 N. Curtis Road, Suite 100, Boise, Idaho 83706-1234.
- (i) Counterpart Originals. This Agreement may be executed in three counterparts, each of which will be an original, but all of which will constitute one contract, binding on the parties.

In WITNESS WHEREOF, the Idaho Water Resource Board, the Idaho Department of Water Resources, and the United States have executed this Agreement on the dates indicated below.

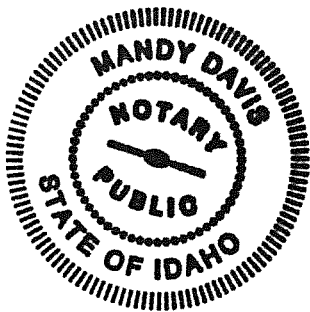
IDAHO WATER RESOURCE BOARD

By 
Chairman, Idaho Water Resource Board

STATE OF IDAHO)
)ss.
County of Ada)

On this 15 day of September 2005, before me the undersigned Notary Public in and for said county and state, personally appeared Jerry R. Rigby known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he/she executed the same.

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



Mandy Davis
Notary Public in and for Idaho
Residing at: Parker Idaho
Commission Expires: 6-24-11

By
Director, Idaho Department of Water
Resources

Notary Public in and for Idaho
 Residing at: Boise
 Commission Expires: 5/29/10

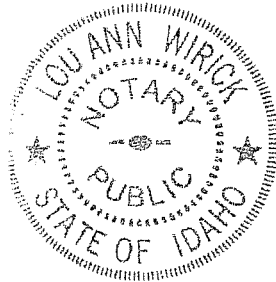
THE UNITED STATES OF AMERICA

By J. William McDonald
Regional Director, Pacific Northwest
Region, Bureau of Reclamation

STATE OF IDAHO)
)ss.
County of Ada)

On this 14th day of September 2005, before me the undersigned Notary Public in and for said county and state, personally appeared J. William McDonald known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he/she executed the same.

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



Lou Ann Wirick
Notary Public in and for Idaho
Residing at: Ada County
Commission Expires: Oct 22, 2008

WATER RIGHT NO. 2-10205
As Modified by Transfer No. 69664

In accordance with the approval of Transfer No. 69664, Water Right No. 2-10205 is now described as follows.

Right Holder: BELL RAPIDS MUTUAL IRRIGATION CO
388 E 5900 N
HAGERMAN ID 83332

Priority Date: December 16, 1963

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	414.85 CFS	98,046.0 AF
			414.85 CFS	98,046.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L2 (SWSENE) Sec. 16 Twp 07S Rge 13E TWIN FALLS
County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 24,511.5 acres within the boundaries of the Bell Rapids Mutual Irrigation Company in a single irrigation season.
2. Place of use described as Bell Rapids Mutual Irrigation Company service area located within T6S, R11, 12 & 13E; T7S, R12 & 13E; and T8S, R12 & 13E.
3. Use of this right with Right No. 02-7353 is limited to a total combined diversion rate of 414.85 cfs.
4. Place of use does not include federal public lands.
5. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 19 day of June, 20 03


For Chief, Water Allocation Bureau

EXHIBIT A

MICROFILMED

1993