

RECEIVED

Rev. 06/09

Page

JUL 27 2011

of
Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

77431

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Notch Butte Farms LLC Phone _____Mailing address PO Box 486 Jerome, ID 83338 Email _____

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

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

☐ No RepresentativeName of Representative Greg Sullivan of Brockway Engineering Phone 208-736-8543Mailing address 2016 North Washington Street, Suite 4 Twin Falls Idaho 83301 Email greg.sullivan@brockwayeng.com☐ Send all correspondence for this application to the representative and not to the applicant.

OR

☒ Send original correspondence to the applicant and copies to the representative.☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion
 ☐ Add diversion point(s)
 ☒ Change place of use
 ☐ Change nature of use
 ☐ Change period of use
 ☐ Other _____
- Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. To correctly define the place of use for water rights owned by Notch Butte Farms LLC.

77431

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COMPLETED

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Page _____ of _____

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 ContinuedB. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	34-10895	4.65/804	Irrigation	4/01 to 10/31	Ground Water
☒ ☐	34-12365	1.0/	Irrigation	5/01 to 10/15	Big Lost River/Sinks
☒ ☐	34-490	1.0/	Irrigation	5/01 to 10/15	Big Lost River/Sinks
☒ ☐	34-459	0.16/	Irrigation	5/01 to 10/15	Big Lost River Sinks
☒ ☐	34-374B	1.6/	Irrigation	5/01 to 10/15	Big Lost River Sinks
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 4.6 cfs and/or _____ ac-ft2. Total amount of water proposed to be transferred or changed 4.6 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 #

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	
06N	25E	6	37.1	40.1	40.0	35.5	2.9				17.4	3.4			27.4	24.9		0.3	229

Total Acres (for irrigation use) 229.0

77431

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**SUPERCEDED****APPLICATION FOR TRANSFER OF WATER RIGHT**
PART 1 Continued**B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	34-10895	4.65/804	Irrigation	4/01 to 10/31	Ground Water
☒ ☐	34-12365	1.0/	Irrigation	5/01 to 10/15	Big Lost River/Sinks
☒ ☐	34-490	1.0/	Irrigation	5/01 to 10/15	Big Lost River/Sinks
☒ ☐	34-459	0.16/	Irrigation	5/01 to 10/15	Big Lost River Sinks
☒ ☐	34-374B	1.6/	Irrigation	5/01 to 10/15	Big Lost River Sinks
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 4.6 cfs and/or _____ ac-ft2. Total amount of water proposed to be transferred or changed 4.6 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 #

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	
06N	25E	6	37.1	40.1	41.2	34.3	2.9				17.4	3.4			27.4	24.9		0.3	229

Total Acres (for irrigation use) 229.0

**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: Existing well, pumps and piping

- b. Who owns the property at the point(s) of diversion? Notch Butte Farms LLC

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: _____
N/A

- 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: _____

N/A

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

Yes No

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

If yes, describe: _____

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 34-10895

Current Owner: NOTCH BUTTE FARMS LLC
Priority Date: 8/29/1960
Origin: Water Right
Status: Active
Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DIVERSION TO STORAGE	01/01 to 12/31	0.02 CFS	
RECREATION STORAGE	01/01 to 12/31		2.5 AF
IRRIGATION	04/01 to 10/31	4.58 CFS	801.5 AF
	<u>Total Diversion</u>	4.6 CFS	804 AF

Location of Point(s) of Diversion

GROUND WATER L2(SW1/4NW1/4NE1/4) Sec. 6, Twp 06N, Rge 25E B.M.
CUSTER County

Place of Use

IRRIGATION Within CUSTER County

T06N R25E S6	Lot 1	NENE	41.00	T06N R25E S6	Lot 2	NWNE	40.00
T06N R25E S6		SWNE	39.00	T06N R25E S6		SENE	38.00
T06N R25E S6	Lot 3	NENW	11.00	T06N R25E S6	Lot 5	SWNW	30.00
T06N R25E S6		NESE	15.00	T06N R25E S6		NWSE	15.00

Total Acres: 229

RECREATION STORAGE Within CUSTER County

T06N R25E S6 NWSE

Place of Use: DIVERSION TO STORAGE same as IRRIGATION

Page _____ of _____

Conditions of Approval:

1. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
2. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 34.
3. The reservoir established by the storage of water under this right shall not exceed a total capacity of 2.5 acre feet or a total surface area of .4 acres.
4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. This right authorizes the diversion of an annual total of 2.5 af of water to be used for the initial filling of the reservoir, and for the replacement of losses caused by evaporation from the reservoir.
6. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
7. X35 Rights 34-00374B, 34-00375B, 34-00459, 34-00490, 34-12365 and 34-10895 when combined shall not exceed a total diversion rate of 6.27 cfs and the irrigation of 229 acres.
8. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Decreed Date: 12/14/2001

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 34-12365

Current Owner: NOTCH BUTTE FARMS LLC
Priority Date: 5/31/1884
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

05/01 to 10/15

Total Diversion

Diversion Rate

1 CFS

1 CFS

Annual Volume

Location of Point(s) of Diversion

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

Place of Use

IRRIGATION Within CUSTER County

T06N R25E S6	Lot 1	NENE	38.00	T06N R25E S6	Lot 2	NWNE	37.00
T06N R25E S6		SWNE	40.00	T06N R25E S6		SENE	35.00
T06N R25E S6		NESE	17.00	T06N R25E S6		NWSE	21.00

Total Acres: 188

Page _____ of _____

Conditions of Approval:

1. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
2. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Water delivered through the Sutter ditch.
4. T18 Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
5. WB4 The total instantaneous diversion of water from all points of diversion under Rights 34-374B, 34-459, 34-490 and 34-12365 shall not exceed 3.76 cfs, nor a total combined annual volume of 658 af and the irrigation of 188 acres.
6. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. X27 This right is limited to the irrigation of 50 acres within the place of use described above in a single irrigation season.
8. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
9. Rights 34-374B, 34-459, 34-490, 34-10895 and 34-12365 when combined shall not exceed a total diversion rate of 4.60 cfs, and the irrigation of 229 acres.
10. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.34.
11. S34 The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04/20 and an ending date of 10/31 at the discretion of the Director of the Idaho Department of Water Resources.

Decreed Date: 2/13/2002

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 34-490

Current Owner: NOTCH BUTTE FARMS LLC

Priority Date: 5/6/1899

Origin: Water Right

Status: Active

Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

05/01 to 10/15

Total Diversion

Diversion Rate

1 CFS

1 CFS

Annual Volume

Location of Point(s) of Diversion

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

Place of Use

IRRIGATION Within CUSTER County

T06N R25E S6	Lot 1	NENE	38.00	T06N R25E S6	Lot 2	NWNE	37.00
T06N R25E S6		SWNE	40.00	T06N R25E S6		SENE	35.00
T06N R25E S6		NESE	17.00	T06N R25E S6		NWSE	21.00

Total Acres: 188

Page _____ of _____

Conditions of Approval:

1. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
2. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.34.
3. Water delivered through the Sutter ditch.
4. T18 Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
5. That portion of Right 34-490 described as a diversion rate of 0.60 cfs for irrigation use, and all of Right 34-375B have been relinquished through approval of Transfer 71233.
6. Rights 34-374B, 34-459, 34-490, 34-10895 and 34-12365 when combined shall not exceed a total diversion rate of 4.60 cfs, and the irrigation of 229 acres.
7. WB4 The total instantaneous diversion of water from all points of diversion under Rights 34-374B, 34-459, 34-490 and 34-12365 shall not exceed 3.76 cfs, a total combined annual volume of 658 af and the irrigation of 188 acres.
8. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
9. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. S34 The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04/20 and an ending date of 10/31 at the discretion of the Director of the Idaho Department of Water Resources.
11. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Decreed Date: 2/7/2002

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 34-459

Current Owner: NOTCH BUTTE FARMS LLC
Priority Date: 10/12/1884
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

05/01 to 10/15

Total Diversion

Diversion Rate

0.16 CFS

0.16 CFS

Annual Volume

Location of Point(s) of Diversion

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

Place of Use

IRRIGATION Within CUSTER County

T06N R25E S6	Lot 1	NENE	38.00	T06N R25E S6	Lot 2	NWNE	37.00
T06N R25E S6		SWNE	40.00	T06N R25E S6		SENE	35.00
T06N R25E S6		NESE	17.00	T06N R25E S6		NWSE	21.00

Total Acres: 188

Page _____ of _____

Conditions of Approval:

1. T18 Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
2. X27 This right is limited to the irrigation of 8 acres within the place of use described above in a single irrigation season.
3. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.34.
4. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
5. Water delivered through the Sutter ditch.
6. S34 The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04/20 and an ending date of 10/31 at the discretion of the Director of the Idaho Department of Water Resources.
7. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. WB4 The total instantaneous diversion of water from all points of diversion under Rights 34-374B, 34-459, 34-490 and 34-12365 shall not exceed 3.76 cfs, nor a total combined annual volume of 658 af and the irrigation of 188 acres.
9. Rights 34-374B, 34-459, 34-490, 34-10895 and 34-12365 when combined shall not exceed a total diversion rate of 4.60 cfs, and the irrigation of 229 acres.
10. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Decreed Date: 1/30/2002

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**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 34-374b

Current Owner: NOTCH BUTTE FARMS LLC
Priority Date: 4/28/1898
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

05/01 to 10/15

Total Diversion

Diversion Rate

1.6 CFS

1.6 CFS

Annual Volume

Location of Point(s) of Diversion

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SE1/4

Sec. 6, Twp 06N, Rge 25E B.M.

Place of Use

IRRIGATION Within CUSTER County

T06N R25E S6	Lot 1	NENE	38.00	T06N R25E S6	Lot 2	NWNE	37.00
T06N R25E S6		SWNE	40.00	T06N R25E S6		SENE	35.00
T06N R25E S6		NESE	17.00	T06N R25E S6		NWSE	21.00

Total Acres: 188

Page _____ of _____

Conditions of Approval:

1. S34 The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04/20 and an ending date of 10/31 at the discretion of the Director of the Idaho Department of Water Resources.
2. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
3. X27 This right is limited to the irrigation of 80 acres within the place of use described above in a single irrigation season.
4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Water delivered through the Sutter ditch.
6. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
7. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.34.
8. T18 Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
9. WB4 The total instantaneous diversion of water from all points of diversion under Rights 34-374B, 34-459, 34-490 and 34-12365 shall not exceed 3.76 cfs, nor a total combined annual volume of 658 af and the irrigation of 188 acres.
10. Rights 34-374B, 34-459, 34-490, 34-10895 and 34-12365 when combined shall not exceed a total diversion rate of 4.60 cfs, and the irrigation of 229 acres.
11. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Decreed Date: 1/30/2002

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

☐ 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.

☐ 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**.

☐ 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.:

[illegible]

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Prelim. Check by _____ Date _____

Fee Paid 820.00 Date _____ Received by B/ale Receipt # E036846

Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 77431

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

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

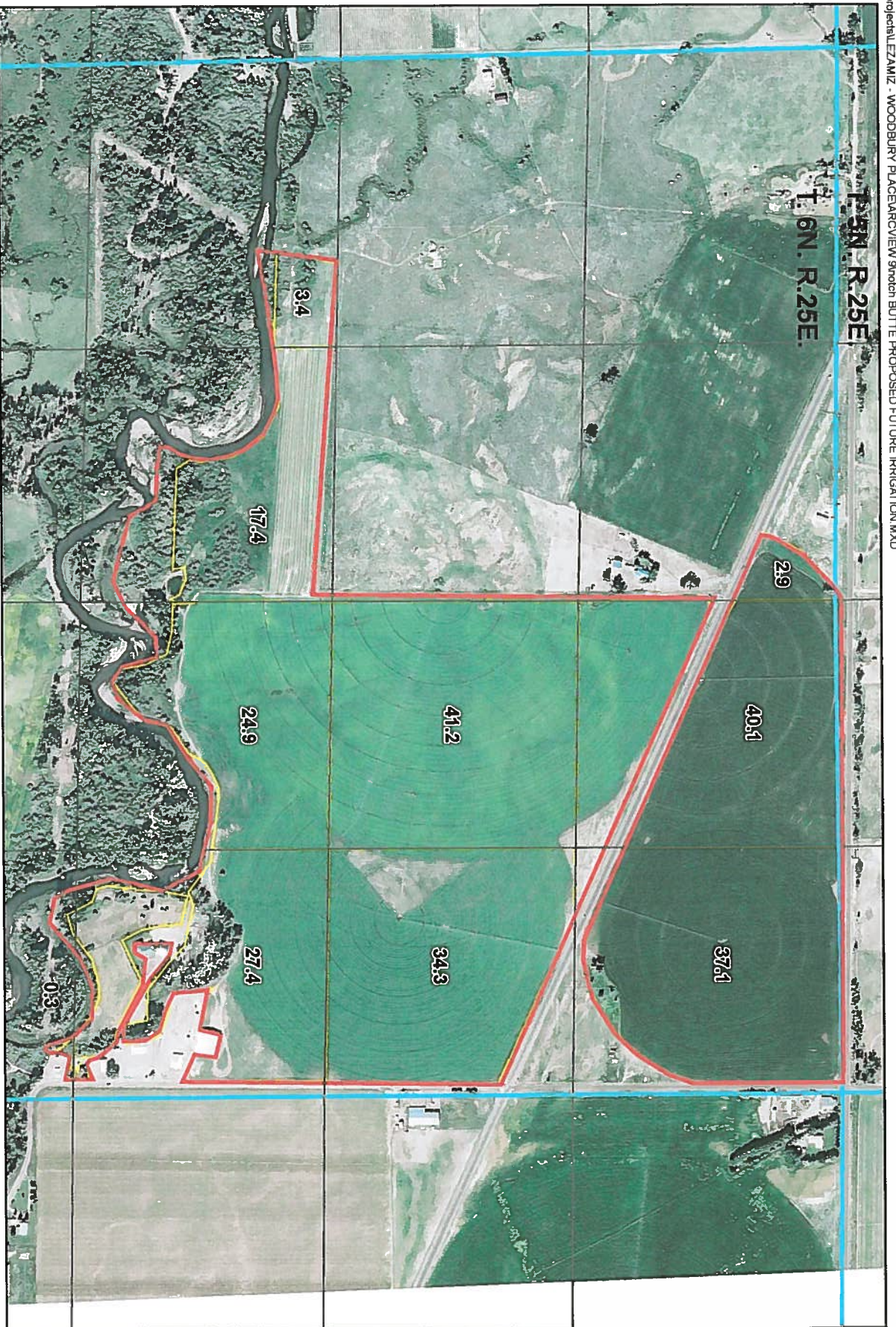
Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☐ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☒ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☒ ☐ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☐ ☐ #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/water/rights/>.
- ☐ ☒ #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: _____



**LEZAMIZ, J. - NOTCH BUTTE MACKAY
PROPOSED PLACE OF USE
NAIP 2009 AERIAL PHOTO**

LEGEND

- Proposed PPU NBM
- Section Lines
- QQ lines
- NBM_PROPOSED_IRR = 229 ac.



No. W 10629	Due no later than Dec 31, 2010 Annual Report Form		2. Registered Agent and Address (NO PO BOX)
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. NOTCH BUTTE FARMS, LLC PO BOX 486 JEROME ID 83338		ROBERT SHILLINGTON 136 BRIDON WAY JEROME ID 83338
			3. <u>New</u> Registered Agent Signature:*
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.			
Office Held	Name	Street or PO Address	City State Country Postal Code
MEMBER	JOHN LEZAMIZ	PO BOX 389	TWIN FALLS ID USA 83303-0389
MEMBER	ROBERT SHILLINGTON	136 BRIDON WAY	JEROME ID USA 83338
5. Organized Under the Laws of: ID W 10629		6. Annual Report must be signed.* Signature: Robert Shillington Date: 12/02/2010 Name (type or print): Robert Shillington Title: Owner	
Processed 12/02/2010		* Electronically provided signatures are accepted as original signatures.	

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF WATER RIGHT)
NOS. 34-374B, 34-459, 34-490, 34-10895,)
34-12365 FOR IRRIGATION.)

AFFIDAVIT OF
JACK SCHAFFER

COMES NOW, Jack Schaffer, and hereby being first duly sworn, deposes and states as follows:

1. I am the current owner of Lot 1B of Cottonwood Vista Subdivision in Custer Counter near Mackay, Idaho.

2. When I purchased the above lot, the purchase was without any irrigation water. I have never used water rights 34-374B, 34-459, 34-490, 34-10895, and 34-12365 to irrigate my property, and I have no legal interest in water rights 34-374B, 34-459, 34-490, 34-10895, and 34-12365 that are owned by Notch Butte Farms, LLC.

3. I further state that I do not oppose the water transfer application being proposed for the above-stated water rights.

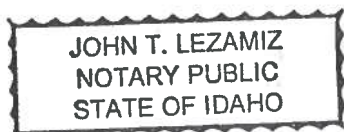
DATED this 10 day of October, 2010.


JACK SCHAFFER

STATE OF IDAHO)
) ss.
County of Custer)

On this 10th day of October, 2010, before me, the undersigned, a notary public in and for said county and state, personally appeared Jack Schaffer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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




NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls, ID
My Commission Expires: 1/6/12

IN THE MATTER OF WATER RIGHT) AFFIDAVIT OF
NOS. 34-374B, 34-459, 34-490, 34-10895,) GARY KIMBALL
34-12365 FOR IRRIGATION.)

No. W 10629	Due no later than Dec 31, 2009 Annual Report Form		2. Registered Agent and Address (NO PO BOX)																			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE			1. Mailing Address: Correct in this box if needed. NOTCH BUTTE FARMS, LLC PO BOX 486 JEROME ID 83338		ROBERT SHILLINGTON 136 BRIDON WAY JEROME ID 83338																	
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.				3. <u>New</u> Registered Agent Signature:*																		
<table border="1"> <thead> <tr> <th>Office Held</th><th>Name</th><th>Street or PO Address</th><th>City</th><th>State</th><th>Country</th><th>Postal Code</th></tr> </thead> <tbody> <tr> <td>MEMBER</td><td>JOHN LEZAMIZ</td><td>PO BOX 389</td><td>TWIN FALLS</td><td>ID</td><td>USA</td><td>83303-0389</td></tr> <tr> <td>MEMBER</td><td>ROBERT SHILLINGTON</td><td>136 BRIDON WAY</td><td>JEROME</td><td>ID</td><td>USA</td><td>83338</td></tr> </tbody> </table>		Office Held	Name	Street or PO Address	City	State	Country	Postal Code	MEMBER	JOHN LEZAMIZ	PO BOX 389	TWIN FALLS	ID	USA	83303-0389	MEMBER	ROBERT SHILLINGTON	136 BRIDON WAY	JEROME	ID	USA	83338
Office Held	Name	Street or PO Address	City	State	Country	Postal Code																
MEMBER	JOHN LEZAMIZ	PO BOX 389	TWIN FALLS	ID	USA	83303-0389																
MEMBER	ROBERT SHILLINGTON	136 BRIDON WAY	JEROME	ID	USA	83338																
5. Organized Under the Laws of: ID W 10629		6. Annual Report must be signed.* Signature: Robert Shillington Name (type or print): Robert Shillington Date: 10/22/2009 Title: Member																				
Processed 10/22/2009		* Electronically provided signatures are accepted as original signatures.																				



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

July 8, 2011

RECEIVED
JUL 11 2011
~~HAEMMERLE~~

Fritz X. Haemmerle
HAEMMERLE & HAEMMERLE PLLC
P.O. Box 1800
Hailey, ID 83333

Re: Lezamiz Transfer (34-10895)

Dear Fritz,

Thank you for your letter of June 30, 2011. Based on the Department's review of the deeds submitted with your letter, the Department concurs that Keith Clark did not own the SWNW when the original SRBA claim for 34-10895 was filed. As no objection to the claim was filed, it appears that water right no. 34-10895 was decreed as separate and apart from the ownership of the underlying land.

Now that the question regarding property ownership has been answered, the Department is prepared to move forward with the transfer application. Please resubmit the transfer application to James Cefalo at the Department's Eastern Regional office. Mr. Cefalo will be able to inform you of the appropriate fee associated with the transfer application.

Thank you for your assistance in this matter. If you have any further questions, please feel free to contact me at (208) 287-4811.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Baxter".

Garrick L. Baxter
Deputy Attorney General
Idaho Department of Water Resources

cc: James Cefalo, Eastern Region

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

July 30, 2011

Idaho Department of Water Resources
c/o Garrick Baxter
P.O. Box 83720
Boise, ID 83720-0098
Via e-mail: garrick.baxter@idwr. Idaho.gov

Re: *Lezamiz Transfer (34-10895)*

Dear Garrick:

The purpose of this letter is to respond to your letter dated June 23, 2011, rearding the aforementioned transfer.

As I stated in my letter, the law provides that the ownership of land may be separate from ownership of water rights because both are distinct and separate real property rights. Idaho Code Section 55-101; *Beecher v. Cassia Creek Irr. Com.*, 66 Idaho 1, 154 P.2d 507 (1944). "A water right is real property and may be sold as any other property." *Id.* at 7. "When one has legally acquired a water right, he has as a property right therein that cannot be taken from him for a public or private use except by due process of law and upon just compensation being paid thereof." *Clear Springs Foods, Inc., v. Spackman*, -- P.3d --, 2011 WL 907115 (Idaho). See also, *Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984).

The issue, as I see it, is to trace the claim for water right 34-10895 to the current date. On February 26, 1990, Keith W. Clark filed a claim in the SRBA to water right 34-10895. The claim included 30 acres in the SWNW. On or about May 25, 1994, a Standard Form 3 was executed substituting in Anthony O. Alosi as the claimant for the water rights held by Keith Clark, including water right 34-10895. Thereafter, on January 15, 1998, the SRBA Court issued a partial decree for 34-10895 to Alosi, which included 30 acres in the SWNW.

On December 21, 2007, water right 34-10895, along with the other water rights originally claimed by Keith Clark and certain real property were conveyed by Alosi to my client, Notch Butte Farms, LLC. The warranty deed specifically and expressly conveyed water right 34-10895. It does not appear from the warranty deed that the 30 acres in the SWNW was included in the land description on the deed. Accordingly, it appears that water right 34-10895 was conveyed as a specific property interest, separate and apart from the land. To summarize, the chain of title for water right 34-10895 shows a clear chain from the claimant, Keith Clark, to my client, Notch Butte Farms, LLC.

Garrick Baxter
July 1, 2011
Page 2

Conversely, the next issue is whether the chain of title for water right 34-10895 ever included the Landons. There is a warranty deed to Cleon and Theresa Landon dated November 6, 1964. The warranty deed is silent as to any specific water rights. Cleon Landon died on January 31, 1992. There is an Affidavit of Heirship that was executed on May 18, 2000, to Theresa Landon. It would appear from this chain that the Landons were in possession of the SWNW at the time the SRBA claim was made for water right 34-10895 and at the time the water right was decreed in 1998. However, and most importantly, it does not appear that the Landons ever objected to the issuance of water right 34-10895 to my client's predecessors in interest. Furthermore, it does not appear that the Landons had any interest in water right 34-10895 from the time the SRBA claim was made to the current date. Simply stated, the Landons never had a recognizable interest in the water right, even they own the underlying 30 acres in the SWNW.

Another relevant issue is that my client filed for a Change of Ownership on the Alosi rights, and the Change in Ownership was approved on January 11, 2008. Whether by accident or design, IDWR, from the date the SRBA claim was filed to the current date has never raised the lack of ownership of the land for the 30 acres in the SWNW as being an impediment to my client's ownership for all of water right 34-10895.

The bottom line is that my client's predecessors in interest claimed the water on the 30 acres in the SWNW, even though they never owned the underlying property. At no time during the SRBA did anyone object to the claim. Specifically, the Landons never objected to the claim. Thereafter, the water right was decreed to my client's predecessor in interest. The water right was then expressly and legally conveyed to my client. This is a clear situation where the ownership of the water right is separate from the ownership of the underlying land. The law in Idaho expressly allows this situation to occur because ownership of the land and ownership of water are separate and distinct real property rights. As I stated in my prior letter, IDWR cannot allow a stranger in title to control what my client wishes to do with its own real property interest. Stated another way, Landon's permission is not required for my client to transfer the water from the 30 acres in the SWNW.

In evaluating this issue, I have attached all the relevant deeds. Exhibit 1 are the Notch Butte Deeds. Exhibit 2 are the deeds for the 30 acres in the SWNW. All the matters relevant to the claim for water right 34-10895 are in the "Adjudication File" for the right and are available for your review.

Finally, I will ask Brockway's Office to review the problem you identified with respect to the 8.9 acres to be transferred from the NESW of Section 6. It seems that if there are no acres in that part of 34-10895 to be transferred, it is our job to review that part of the claim to see if a mistake occurred.

I would ask that IDWR allow the transfer for water right 34-10895 to proceed. I look forward to your response.

Garrick Baxter
July 1, 2011
Page 3

Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

A handwritten signature in black ink, appearing to read 'Fritz X. Haemmerle', with a long horizontal flourish extending to the right.

Fritz X. Haemmerle

FXH: fxh
cc: client

EXHIBIT 1

04/01/2008 17:29 LAND TITLE - JEROME - 7343735

NO. 962 07092

WARRANTY DEED

NCL-993

For Value Received

Anthony O. Alosi and Pamela S. Lumley, as Trustees of the ANTHONY O. ALOSI and
PAMELA S. LUMLEY 1998 FAMILY TRUST, dated October 6, 1998

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

NOTCH BUTTE FARMS, L.L.C., an Idaho Limited Liability Company
Address: P.O. Box 466 Jerome, Id 83338

Hereinafter called the Grantee, the following described premises situated in Custer County, Idaho, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO:

SUBJECT TO:

All reservations in patents or deeds in the chain of title.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto including but not limited to Idaho Department of Water Resources Water Right No's 34-374R; 34-459; 34-490; 34-10057; 34-10895; and 34-12365

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: December 31, 2007

ANTHONY O. ALOSI AND PAMELA S. LUMLEY
1998 FAMILY TRUST, DATED OCTOBER 6, 1998

Anthony O. Alosi, Trustee

Pamela S. Lumley, Trustee

238044

Custer County Clerk
Land Title & Escrow Inc.
Time 11:30 AM Date 12/31/07
Bernard G. Smadove, Clerk
Denise [Signature] 3:10

STATE OF IDAHO)

) ss.

COUNTY OF JEROME)

On this 31st day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared ANTHONY O. ALOSI AND PAMELA S. LUMLEY, known or identified to me to be the Trustees of the Anthony O. Alosi and Pamela S. Lumley 1998 Family Trust, dated October 6, 1998, and the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same as such Trustees of Family Trust.

Notary Public

Residing at:

My Commission expires: 7-30-09

RICK BERNSSEN
NOTARY PUBLIC
STATE OF IDAHO

04/01/2008 17:29 LAND TITLE - JEROME - 7343735

NO. 962 0883

2.35044

Exhibit "A"
Legal Description

TRACT 1:

Lots 1 and 2 lying South of US Highway 93, The South Half of the Northeast Quarter lying South of US Highway 94, the North Half of the Southeast Quarter, and the Northeast Quarter of the Southwest Quarter, all in Section 6, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho.

Lot 6 of Section 6, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho,
EXCEPTING THEREFROM the following described tract:

Beginning at the Northwest corner of said Lot 6, thence approximately 1000 feet East along the North boundary of said Lot 6 to a fence line, thence in a Southerly direction along said fence line to the bank of the Big Lost River; thence in a Southwesterly direction to a point on the South boundary line of said Lot 6, approximately 400 feet East of the Southwest corner thereof, thence West along the South boundary line of said Lot 6 to the Southwest corner thereof, thence North along the West boundary line of said Lot 6 to the place of beginning.

subject TO Highway 93 and County Road right-of-way.

TRACT 2:

All of the Cottonwood Vista Subdivision, Custer County, Idaho, as per the plat recorded July 17, 1997, as Instrument No. 213800. LESS AND EXCEPTING therefrom Lots 1 and 17 of the Cottonwood Vista Subdivision, Custer County, Idaho, as per the plat recorded July 17, 1997, as Instrument No. 213800

End of Exhibit "A"

30787044510.0

0205753

206309 - same!

NOTICE OF SALE

NOTICE IS HEREBY GIVEN that the following described real property has been sold subject to the terms and conditions of an unrecorded Sale Agreement, dated January 15th, 1994.

DESCRIPTION OF REAL PROPERTY:

SEE EXHIBIT "A," ATTACHED HERETO AND MADE A PART HEREOF.

TOGETHER WITH all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of Grantor.

SELLERS: Z FACTOR, INC., A NEVADA CORPORATION, AND KEITH W. CLARK and STEPHANIE L. CLARK, husband and wife, hereinafter referred to as "Sellers"
(666 W. Baker, Suite 331, Costa Mesa, CA 95037)

BUYERS: ANTHONY A. ALOSI, a single man, hereinafter referred to as "Buyer"
(2040 San Pedro, Morgan Hill, CA 92626)

POSSESSION:

Under the terms of said Sale Agreement, Buyer is entitled to possession, use and occupancy of said property from this date forward, so long as each and every covenant of said contract shall be faithfully performed by Buyer.

TITLE:

1

205753
Custer County Reg. of
Custer County, Title

Time 10:50 A.M.

1-31-1994
Ethel M. Peck, Clerk

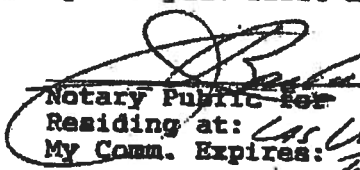
15th
Deputy

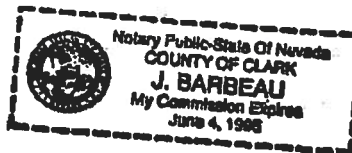
205755

STATE OF *Nevada*)
County of *Clark*) ss.

On this 15 day of January, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared KEITH W. CLARK and STEPHANNE L. CLARK, known to me to be the President and Secretary of the corporation that executed this instrument or the persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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


Notary Public for
Residing at: LAS VEGAS, NV
My Comm. Expires: JUNE 04, 1995



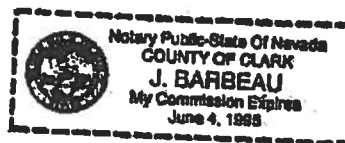
205753

STATE OF *Nevada*)
) ss.
County of *Clark*)

On this 15 day of January, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared KEITH W. CLARK and STEPHANIE L. CLARK, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

[Signature]
Notary Public for
Residing at: *Las Vegas, NV*
My Comm. Expires: *June 04, 1995*



STATE OF *Idaho*)
) ss.
County of *CUSTER*)

On this 11 day of January, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared ANTHONY O. ALOSI, a single man, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

[Signature]
Notary Public for
Residing at: *Challis, Id.*
My Comm. Expires: *2/12/98*

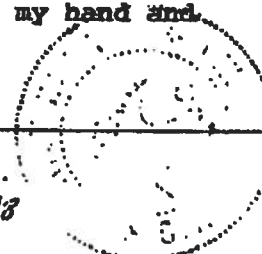


EXHIBIT "A"

205122

Lot 1, Lot 2, the South Half of the Northeast Quarter, the North Half of the Southeast Quarter, and the Northeast Quarter of the Southwest Quarter, all in Section 6, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho, excepting therefrom those portions deeded for railroad and highway purposes.

ALSO, A tract of land described as follows:

Beginning at point of intersection of the North boundary line of the railroad right-of-way of Oregon Short Line Railroad with the North boundary line of Lot 3, Section 6, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho; thence Southwesterly along the North boundary line of said railroad right-of-way 989 feet to the point at which said railroad right-of-way boundary line intersects the East boundary line of said Lot 3; thence North 459 feet to the Northeast corner of said Lot 3; thence West 950 feet along the North line of said Lot 3 to the Point of Beginning; said tract being all that part of said Lot 3, Section 6, Township 6 North, Range 25 East, Boise Meridian, North and East of said Railroad right-of-way.

ALSO, All of Lot 6 of Section 6, Township 6 North, Range 25 East, Boise Meridian, EXCEPTING THEREFROM the following described tract:

Beginning at the Northwest corner of the said Lot 6; thence approximately 1000 feet East along the North boundary line of said Lot 6 to the fence line; thence in a Southerly direction along said fence line to the bank of Big Lost River; thence in a Southwesterly direction to a point on the South boundary line of said Lot 6, approximately 400 feet East of the Southwest corner thereof; thence West along the South boundary line of said Lot 6 to the Southwest corner thereof; thence North along the West boundary line of said Lot 6 to the Place of Beginning.

ALSO EXCEPTING THEREFROM that portion of Lot 2, Section 6, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho, described as:

Commencing at a point common to Sections 31 and 32, in Township 7 North, and Sections 6 and 5, Township 6 North, all in Range 25 East, of the Boise Meridian; thence West along the Section line common to Section 31, Township 7 North and Section 6, Township 6 North, Range 25 East, Boise Meridian, to the Quarter Corner common to both said Sections; thence South along the Quarter Section line of said Section 6, a distance of 667 feet, more or less, to the South boundary of the highway right-of-way and the beginning point of this description; thence South along said Quarter Section line a distance of 114 feet, more or less; thence East a distance of 100 feet; more or less; thence North a distance of 71 feet, more or less, to the highway right-of-way; thence North 66°8' West, a distance of 109 feet, more or less, to the Point of Beginning.

EXHIBIT 2

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

WITNESSED, SEALED AND DELIVERED IN THE PRESENCE OF

Wendell Robinson (Seal)

STATE OF IDAHO)
County of Butte) ss.

On this 16th day of March in the year 1964, before me the undersigned, a Notary Public in and for said state, personally appeared WENDELL ROBINSON known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

H. P. Kester
Notary Public for the State of Idaho,
Residing at _____, Idaho.

Seal)
STATE OF IDAHO)
County of Custer) ss.

I hereby certify that this instrument was filed for record at request of Custer County Title, Inc. at 11:00 o'clock A. M., this 6th day of November, A. D. 1964 in my office, and duly recorded in Book 35 of records at page 337.

Eva Mann
Ex-Officio Recorder

ees, \$1.80

By Margaret Kester Deputy

16.50 in Revenue Stamps
attached & Cancelled.

No. 119417 ✓

WARRANTY DEED

THIS INSTRUMENT, made this _____ day of October in the year of our Lord, One Thousand Nine Hundred and Sixty-Four, between C. W. SIMPSON and GLADYS M. SIMPSON, husband and wife of Pocatello, County of Blaine, State of Idaho the parties of the first part, and CLEON LONDON and THERESA LONDON, husband and wife of Idaho Falls, County of Bonneville, State of Idaho the parties of the second part:

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of TEN AND 1/100 AND OTHER VALUABLE CONSIDERATION DOLLARS, lawful money of the United States of America, to them in and paid by the said parties of the second part, the receipt whereof is hereby acknowledged do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said parties of the second part, and to their heirs and assigns forever: All those certain lots, pieces or parcels of land situate, lying and being in the County of Custer, State of Idaho, bounded and more particularly described as follows, to-wit:

The land situated in the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4), Section 6, Township 6 North, Range 25, E.B.M., Idaho, to wit:

Beginning at the Northwest corner of the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of said Section 6, Township 6 North, Range 25, EBM, thence approximately 1,000 feet East along the North boundary line of said Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of said Section 6, to fence line; thence in a Southerly direction along said fence line to the bank of the Big Lost River; thence in a Southwesterly direction to a point on the South boundary line of said Northwest Quarter of the Southwest Quarter (NW1/4SW1/4), said Section 6, approximately 400 feet East of the Southwest corner thereof; thence West along the South boundary line of said Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of said Section 6, approximately 400 feet to the Southwest corner thereof; thence North along the West boundary line of said Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of said Section 6, to the place of beginning.

Also, Lots Three (3), Four (4) and Five (5) and the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4), less railroad and highway right of ways and 4.6 acres lying East of the Oregon Short Line Railway, 1 in Section 6, Township 6 North, Range 25, E.B.M., containing 166.31 acres, more or less.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

0221013

AFFIDAVIT OF HEIRSHIP

STATE OF IDAHO)

:ss

County of Butte)

Thresa Landon, being first dully sworn, deposes and states:

1. That Cleon G. Landon died on January 31, 1992.
2. That a true copy of his death certificate is attached to this affidavit.
3. That no probate was initiated for the estate of Cleon G. Landon, and more than three years have elapsed since his death.
4. That at the time of his death, he was survived by his wife, Thresa Landon.
5. That at the time of his death there had been no divorce between Thresa and himself.
6. That during his marriage with Thresa Landon, they acquired an interest in property located in Custer County, Idaho, with the following legal description:

Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho.

Section 6: Lots 3, 4 and 5 and the SE $\frac{1}{4}$ NW $\frac{1}{4}$, less railroad and highway rights-of-way, and also excepting that portion of said Lot 3 lying North and East of the Oregon Short Line Railroad right-of-way.

ALSO EXCEPTING a parcel of land located in Lot 3 of Section 6, Township 6 North, Range 25 East, Boise Meridian, Custer County, Idaho, described as:

Commencing at a half inch rebar marking the Northwest corner of said Section 6; thence along the Northerly boundary of said Section 6, South 89° 57' East, 1482.15 feet to a point on the Southwesterly right-of-way boundary of U.S. Highway 93; thence along said Highway right-of-way boundary South 66° 05' East, 1613.85 feet; (Highway right-of-way boundary being 33 feet from the centerline of said Highway); thence South 2° 11' East, 335.08 feet to the REAL POINT OF BEGINNING; thence South 2° 11' East, 423.64; thence South 87° 49' West, 216.80 feet; thence North 1° 49' East, 509.36 feet; thence South 67° 12' East, 200 feet to the REAL POINT OF BEGINNING.

AFFIDAVIT OF HEIRSHIP —1

ORIGINAL

INCLUDING:

A portion of Lot 6 being described as:

Beginning at the Northwest corner of said lot 6; thence approximately 1,000 feet East along the North Boundary line of said Lot 6 to a fence line; thence in a Southerly direction along said fence line to the bank of the Big Lost River; thence in a Southwesterly direction to a point on the South boundary line of said Lot 6, approximately 400 feet East of the Southwest corner thereof; thence West along the South boundary line of said lot 6 approximately 400 feet to the Southwest corner thereof; thence North along the West boundary line of said Lot 6 to the Place of Beginning.

EXCEPTING a portion of Lot 6, Section 6, Township 6 North, Range 25 East of the Boise Meridian, Custer County, Idaho, more particularly described as follows:

Commencing at the Northwest corner of Section 6; thence South $0^{\circ} 58' 29''$ East along the West boundary of said Section 6 a distance of 4,058.03 feet to the Southwest corner of said Lot 6, Section 6, said corner being the Point of Beginning; thence South $86^{\circ} 15' 09''$ East along the South boundary of Lot 6, Section 6 a distance of 400 feet, thence North $33^{\circ} 29' 40''$ East a distance of 1,095.49 feet to the center line of the Big Lost River; thence along the center line of the Big Lost River, the following courses and distances:

North $80^{\circ} 55' 41''$ West, 440.70 feet;

North $51^{\circ} 26' 20''$ West, 200.73 feet;

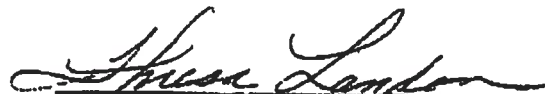
North $70^{\circ} 13' 15''$ West, 103.75 feet;

South $35^{\circ} 43' 02''$ West, 192.51 feet;

North $69^{\circ} 48' 32''$ West, 233.62 feet to the West boundary of said Lot 6 a distance of 1,041.64 feet to the point of beginning.

7. That this property was owned as community property.
8. That there are no community debts or obligations encumbering this community property.
9. That Thresa Landon is the sole surviving spouse and that there are no other heirs entitled to the property either by Will or by operation of law.
10. That Thresa Landon as the sole surviving spouse of Cleon G. Landon is entitled to the entire portion or interest in the property owned by Cleon G. Landon.

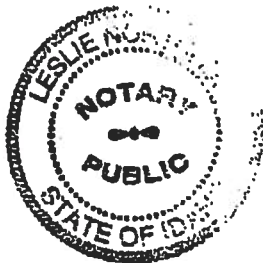
Dated: 5/18/00


Thresa Landon

AFFIDAVIT OF HEIRSHIP --2

ACKNOWLEDGMENT

On this 16th day of May, 2000, before me a notary public, in and for the State of Idaho, appeared Thresa Landon and acknowledged to me that she executed the above document and that the statements herein are true and correct.



Leslie A. [unclear]
Notary Public
Residing at: More, ID
My Commission Expires: 9/29/2005

Thresa Landon
Time 10:10 A.M. Date 5-19-2000
Ethel M. [unclear]
Deputy

AFFIDAVIT OF HEIRSHIP —3

STATE OF IDAHO

DEPARTMENT OF HEALTH AND WELFARE



COOPERATIVE CENTER FOR
HEALTH STATISTICS - VITAL
STATISTICS

450 W. STATE ST.
BOISE, IDAHO 83720

CERTIFICATE OF DEATH

DATE FILED: FEBRUARY 13, 1992

STATE FILE NUMBER: 92-00745

DECEDENT: CLEON GILMORE LANDON

DATE OF DEATH: JAN. 31, 1992

PLACE OF DEATH: IDAHO FALLS, IDAHO

DATE OF BIRTH: MAY 12, 1918

PLACE OF BIRTH: IDAHO

AGE: 73 YEARS

SEX: MALE

VETERAN? YES

MARITAL STATUS: MARRIED

SPOUSE (MAIDEN) : THERESA BELLE MONTGOMERY

SOCIAL SECURITY NUMBER: 519-12-2284 RESIDENCE: MACKAY, IDAHO

FATHER: JAMES DANIEL LANDON

FATHER'S BIRTHPLACE: UTAH

MOTHER (MAIDEN): AMANDA MYRTLE SORENSON

MOTHER'S BIRTHPLACE: IDAHO

MORTUARY: MARVEL MEMORIAL CHAPEL

MORTICIAN: C. W. MARVEL

ARCO, IDAHO

DISPOSITION: BURIAL

CERTIFYING PHYSICIAN: THOMAS E. RICHTSMEIER, MD

AUTOPSY: NO

1. CAUSE OF DEATH, UNDERLYING CAUSE LAST:

INTERVAL

CARDIOGENIC SHOCK

20 MINUTES

ACUTE MYOCARDIAL INFARCTION

5 DAYS

CORONARY ARTERY ATHEROSCLEROSIS

> 3 MONTHS

HYPERTENSION, HYPERCHOLESTEROLEMIA

> 20 YEARS

2. OTHER CONDITIONS CONTRIBUTING TO DEATH BUT UNRELATED TO ABOVE CAUSES:

HYPERTENSION, HYPERCHOLESTEROLEMIA

AMENDED: 03/04/92

DATE ISSUED: MARCH 04, 1992

*This is to certify that this is a true and correct reproduction or abstract of the official record
filed with the Idaho Department of Health & Welfare, Boise, Idaho.*

Richard W. Blair

RICHARD W. BLAIR, State Registrar

DO NOT ACCEPT UNLESS ON SECURITY PAPER WITH EMBOSSED SEAL OF IDAHO
DEPT. OF HEALTH & WELFARE CLEARLY AFFIXED.

Section 39-273, Idaho Code

HWM0139

DEPARTMENT OF HEALTH AND WELFARE

268012