

Transfer No. 726 46

Name of Applicant City of Franklin Phone (208) 646-2300

Post Office address P.O. Box 69, Franklin, ID 83237

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1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use

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☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes Franklin City has acquired the two (2) listed culinary water right claims from Lewiston City (State of Utah) and desires to change the point of use from the Lewiston City culinary system to the Franklin City culinary system.

1. <u>Right Number</u>	<u>Priority</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>	
<u>13 4062</u>	<u>May 1915</u>	<u>1.0 CFS</u>	<u>Municipal</u>	<u>1/1</u>	<u>to 12/31</u>
<u>13 4063</u>	<u>3/31/1915</u>	<u>2.0 CFS</u>	<u>Municipal</u>	<u>1/1</u>	<u>to 12/31 2070</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>to</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>to</u>

2. Total amount of water being transferred 3.0 cubic feet per second and/or acre-feet per annum.

3. Source of water Flat Canyon Spring/Lowe Spring tributary to Spring Creek

4. Point(s) of Diversion:

[illegible]

5. Lands irrigated or place of use: Franklin City's service area (see attached map)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	40E	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	640
16S	40E	21	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		600
16S	40E	28		x			x	x	x	x	x	x	x						360
16S	40E	29	x	x	x	x	x	x	x	x	x		x	x	x	x	x		600

Total Acres 2200

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PART 1

6. General Information:

- a. Description of diversion system _____
13 4062: Collection box and 6" pipeline and two regulating reservoirs
13 4063: Collection box and one regulating reservoir
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
_____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
This transfer of water right claims will have a negligible affect on the City of
Lewiston because other less expensive sources of culinary water have been acquired
to meet Lewiston's needs.
- d. Remarks:
This transfer would fit nicely with Franklin City's new water treatment plant. One-
third of the flow from Lowe Spring (Claim No. 13 4063) is already part of Franklin's
culinary system.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And the said application is hereby _____, subject to the following conditions:

Witness my hand this _____ day of _____, 20_____.

For the Director

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Department of Water Resources
Eastern Region

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

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Eastern Region

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Eastern Region

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right as evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 13 4062 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☒ Other See attached AGREEMENT OF SALE
3. Source of water Flat Canyon Spring tributary to Spring Creek4. Date or priority May 1915

5. Water is used for the following purposes:

amount 1.0 CFS for Municipal purposes from 1/1 to 12/31
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
	SE	SE		24	16 S	40 E	Franklin	Flat Canyon Spring

8. Lands irrigated or place of use: Franklin City service area (see attached map)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	40E	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	640
16S	40E	21	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		600
16S	40E	28		x			x	x	x	x	x	x	x	x					360
16S	40E	29	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	600

Total Acres 22009. Describe any other water rights used for the same purpose as described above 13 4063

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

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A. DESCRIPTION OF RIGHT AS RECORDED

1. Right as evidenced by:

- a. Decree No. _____ Decreed to _____ Department of Water Resources Eastern Region
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 13 4063 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☒ Other See attached AGREEMENT OF SALE
3. Source of water Lowe Spring tributary to Spring Creek4. Date or priority 3/31/1915

5. Water is used for the following purposes:

amount 2.0 CFS for Municipal purposes from 1/1 to 12/31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 2.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	SE	NE		22	16 S	40 E	Franklin	Lowe Spring

8. Lands irrigated or place of use: Franklin City service area (see attached map)

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	
16S	40E	20	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	640
16S	40E	21	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		600
16S	40E	28		x			x	x	x	x	x	x	x	x					360
16S	40E	29	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	600

Total Acres 22009. Describe any other water rights used for the same purpose as described above 13 4062

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Transfer No. _____

PART 3

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B. CHANGES IN NATURE OF USE

Department of Water Resources
Eastern Region
Hours/days/year

1.	New Nature of Use	Amount(cfs/af-ft)	Hours/days/year	Period of Use
				to _____
				to _____

2. Quantity and quality of return flows and location of discharge: _____

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. 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 voiding its approval.

Robert W. Wilkinson
(Signature of Applicant)

Subscribed and sworn to before me this 2nd day of February, 20 06.

R. Todd Garbett
(Notary Public)

R. TODD GARBETT
NOTARY PUBLIC
STATE OF IDAHO

My commission expires 6/26/06

FOR DEPARTMENT USE ONLY

Transfer contains 5 pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. Check by _____ Fee 190⁰⁰ / 140⁰⁰

Receipted by se Date 3/3/06 E031680 E031681

Published in Preston Citizen Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendations requested on _____ Recommended for ☐ approval ☐ denial

_____ received _____ by _____

Copy of transfer sent to lien holder _____

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Eastern Region

AGREEMENT OF SALE

THIS AGREEMENT made and entered into this 18 day of November 2005, by and between the CITY OF FRANKLIN, a Political Subdivision of the State of Idaho, hereinafter "BUYER", and LEWISTON CITY, a Political Subdivision of the State of Utah, hereinafter "SELLER".

WHEREAS, SELLER is the holder of two water right claims with the State of Idaho Department of Water Resources with priority dates of March and May of 1915;

WHEREAS, SELLER has determined by resolution, duly adopted under relevant law, that the water claimed under the two (2) water right claims with the State of Idaho Department of Water Resources is no longer necessary for SELLER's culinary water system;

WHEREAS, BUYER desires to obtain the two (2) water right claims SELLER has with the State of Idaho Department of Water Resources, and to use the claimed water in BUYER's culinary water distribution system;

WHEREAS, the parties desire to enter into agreement whereby SELLER sells to BUYER and BUYER buys from SELLER the water right claims SELLER has made with the State of Idaho Department of Water Resources, as well as all of SELLER's property, both real and personal, associated with the collection, retention, and distribution of the water claimed under the aforementioned water right claims; and

WHEREAS, the parties desire to set forth the terms and conditions of their agreement.

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Department of Water Resources
Eastern Region

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NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do covenant, agree, stipulate, and promise as follows:

1. **PURCHASE OF PROPERTY** SELLER agrees to sell to BUYER, and BUYER agrees to buy from SELLER, on the terms and conditions set forth herein, all of the property, both real and personal, described in Exhibit "A" and attached hereto, hereinafter referred to as "Property", together with all and singular tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining.

2. **PURCHASE PRICE AND TERMS** BUYER shall pay SELLER for the property, a purchase price of \$40,000.00, on or before January 15, 2006.

3. **POSSESSION** Upon payment of the aforementioned purchase price, BUYER shall be granted immediate possession of the property, and shall be entitled to continue in possession thereof so long as BUYER shall not be in default in the performance of any of the terms of this Agreement. Seller shall, in good faith, cooperate in order to place BUYER in possession of the property upon execution of this Agreement.

4. **BILL OF SALE / WARRANTY DEED** Concurrent with the execution of this Agreement, SELLER shall execute a good and sufficient Bill of Sale and/or Warranty

Deed to the property, naming SELLER as Grantor and BUYER as Grantee, free from all encumbrances except those of record. Upon execution of the Bill of Sale and/or Warranty Deed, SELLER shall warrant and defend BUYER's title to the property.

5. **INSPECTION AND WARRANTY** BUYER has thoroughly and carefully inspected the Property and accepts the sale on an "as is" basis so far as the condition thereof is concerned. SELLER has completely disclosed all of the information in SELLER's possession concerning the condition of the Property.

6. **TRANSFER OF CLAIMS** This Agreement is subject to and conditioned upon the successful transfer of SELLER'S water right claims to BUYER. BUYER shall, at BUYER'S expense, make application with the Idaho Department of Water Resources for the transfer of said claims. SELLER shall, in good faith, cooperate with BUYER'S transfer application, and provide any information and/or documentation necessary to assist in BUYER'S application for a change in the point of use as well as the transfer of the claims.

7. **BINDING EFFECT** This Agreement shall extend to and bind the successors and assigns of the parties hereto.

8. **ATTORNEYS FEES** Should either party be required to obtain the services of an attorney to enforce the terms of this Agreement, the prevailing party, with or without

suit, shall be entitled to the payment of a reasonable attorney's fee by the non-prevailing party for said non-prevailing party's breach of the Agreement.

9. **ENTIRE AGREEMENT** This Agreement contains the entire agreement of the parties. Any additions, corrections, or modifications hereto must be done in writing and signed by all parties hereto.

ATTEST:

Leah Robinson
Clerk

CITY OF FRANKLIN

Robert W. Wilkinson
Mayor

ATTEST:

Julia Brown
Clerk

LEWISTON CITY

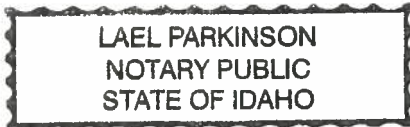
Paul D. Daulton
Mayor

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STATE OF IDAHO)
) ss.
County of Franklin)

On this 18 day of November, 2005, before me, a notary public,
personally appeared Robert H. Wilkinson, known or identified to me to be
Mayor of the **CITY OF FRANKLIN** that executed the said instrument, and
acknowledged to me that such Robert H. Wilkinson executed the same.

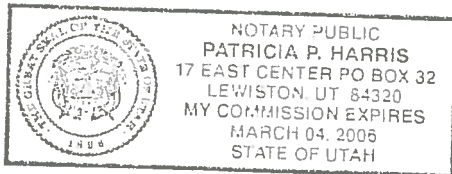


Franklin, Idaho
Commission Expires 9-15-09

Lael Parkinson
NOTARY PUBLIC for the State of Idaho
Residing: Franklin, ID
Comm. Exp.: 9-15-09

STATE OF UTAH)
) ss.
County OF Cache)

On this 18th day of November, 2005, before me, a notary public,
personally appeared Paul Dent, known or identified to me to be
Mayor of **LEWISTON CITY** that executed the said instrument, and acknowledged to me
that such Paul Dent executed the same.



Patricia P. Harris
NOTARY PUBLIC for the State of Utah
Residing: Lewiston, Utah
Comm. Exp.: 03/04/06

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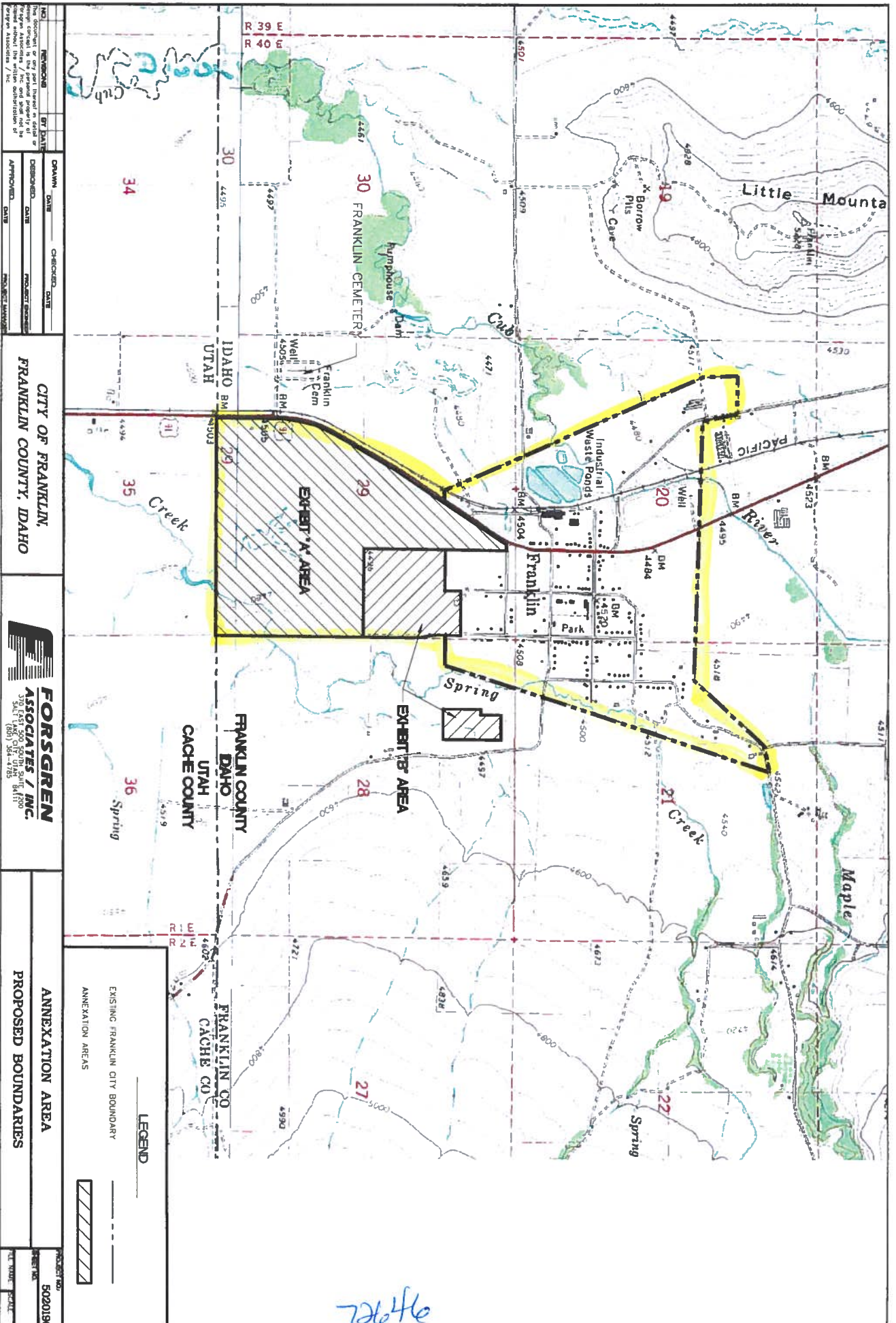
EXHIBIT "A"

1. All of SELLER's right, title and interest to Claim No. 13-4062 with the State of Idaho Department of Water Resources.
2. All of SELLER's right, title and interest to Claim No. 13-4063 with the State of Idaho Department of Water Resources.
3. Collection devices, storage tanks, and transmission lines located in the State of Idaho used in conjunction with water right Claim Nos. 13-4062 and 13-4063 with the State of Idaho Department of Water Resources.
4. Any and all easements associated with the collection, retention, transmission, and/or distribution in the State of Idaho of the water associated with water right Claim Nos. 13-4062 and 13-4063 with the State of Idaho Department of Water Resources.

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