



April 16, 2009

Idaho Department of Water Resources  
The Idaho Water Center  
322 E Front St  
Boise, ID 83720-0098

**RECEIVED**  
**APR 20 2009**  
DEPARTMENT OF  
WATER RESOURCES

Attention: Aaron Marshall / Idaho Water Supply Bank

*Subject: Applications to Lease Water to, and Rent Water from, the Water Supply Bank*

Dear Mr. Marshall,

Enclosed please find three applications to the Water Supply Bank. The first two applications seek to lease portions of two DeVries' water rights to the Bank for 2009. These portions include a 0.30 cfs / 19 acre / 88.5 acre-foot portion of water right no. 63-03478, and a 1.01 cfs / 63.7 acre / 286.7 acre-foot portion of water right no. 63-07753B. Please note the arrangement agreed to by the parties and documented in the remarks section.

The third is an application to rent water from the water supply bank. This application seeks 0.90 cfs for irrigation of 54.4 acres in the 2009 irrigation season. It is filed by Action AG, LLC, and signed by owner Tom Floyd. Two existing water rights provide for an additional 75.6 acres of irrigation; a total of 130 acres is planned for irrigation in 2009. The other two water rights include:

1. Water right no. 63-33097 in the name of Mellin Properties, LP
2. Water right no. 63-33100 in the name of Scot Halladay. This water right is a result of transfer 74580, which moved water off the Mellin Properties, LP place of use. This transfer, which was approved in November 2008, has not been accomplished and will be rescinded and the water right returned to its original location. A copy of the request to rescind transfer is included with this application.

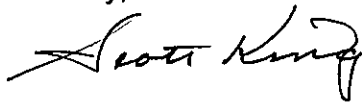
It is vitally important to the farming operation that the application to rent water be approved as soon as possible. This is one reason for the applications to lease water are included with this package. It appears that the rights offered for lease are excellent candidates to meet the request for rent for two reasons: 1) they are primary

ground water rights with points of diversion located just over one mile from the rental point of diversion, and 2) all parties involved (Action AG/Tom Floyd, DeVries, and Mellin Properties) have already agreed to and support the lease/rental arrangement.

Application for permit 63-33142 seeks a new appropriation providing a permanent source of supply for the irrigated property. The applicants understand that there is risk that the permit application may ultimately not be approved, and that irrigation may need to cease or other water rights acquired and transferred to the property.

Please contact me if you have any questions regarding these applications.

Sincerely,



Scott N. King, P.E.  
Supervising Engineer

cc: Ralph Mellin / Mellin Properties, LP  
Tom Floyd / Action AG, LLC  
Abraham and Hermina DeVries

File: 393.0010



**SPF WATER**  
ENGINEERING

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April 15, 2009

Idaho Department of Water Resources  
Western Regional Office  
2735 Airport Way  
Boise, ID 83705-5082

Attention: John Westra

*Subject: Mellin Properties and Scot Halladay Request to Rescind Transfer No. 74580*

Dear John,

On behalf of our client, Mellin Properties, enclosed is a request to rescind Transfer No. 74580. The request is signed by both Ralph Mellin for Mellin Properties, and Scot Halladay, the transfer applicant. I believe the documents are self-explanatory, but if you have any questions, please let me know.

Sincerely,

Scott N. King, P.E.  
Supervising Engineer

cc: Ralph Mellin / Mellin Properties  
Scot Halladay

File: 393.0100

Saressa Gilliland  
Notary Public in and for said County and State

April 2, 2009

STATE OF IDAHO )  
 ) ss  
COUNTY OF ADA )

On this 10<sup>th</sup> day of April, 2009 before me, a Notary Public, personally appeared Scot Halladay, to me known to be the person named in and who attested to the foregoing letter and acknowledged that he attested to the same as his voluntary act and deed.



My Commission expires 25 June 2014

Laressa Gilleard  
Notary Public in and for said County and State

March 25, 2009

Ralph Mellon

Mellon Properties Limited Partnership

4500 North Tumbleweed Ln.

Boise, ID 83713-2500

Telephone: (208) 322-7500

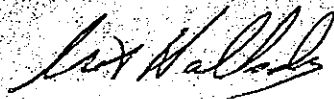
Contract for Sale of Water Right dated June 27, 2007 for 5 Acres

Ralph,

I received the approval from the Idaho Department of Water Resources several months ago in regards to the successful transfer of the water rights. Actually, I have been expecting a phone call from you; I assumed they would have notified you at the same time the water rights transfer was approved. The past several months I have been attempting to put together the funds needed to close the transaction. Unfortunately, I have not been able to obtain the funds as my business has literally drained all of my available funds and then some. I was hoping the past several months I would be able to work something out so that I could put together the money needed, unfortunately that has not happened. I understand as per the contract if the remaining amount is not paid to you the water rights would need to be transferred back to you. I don't know if it is a possibility for me to retain one of the five acres as I have paid the \$7,500 deposit at the beginning of the contract and the housing value used to track the cost per acre has gone down considerably from the \$7,500 per acre.

I wanted to write this letter as to give you a chance to think about this and then we can discuss in a few days as to what needs to be done to transfer the water rights back to you. I have no intention of trying to make this transition back to you difficult in any way and will cooperate completely in the process. I was just hoping that by focusing on my business the past few months I would have been able to secure funds needed to purchase the water rights. Unfortunately that has not happened.

Sincerely,



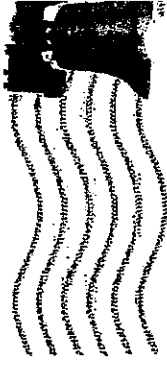
Scot Halladay

870-3884

Hellway  
9246 W. Rockstone Ct  
Kuna ID 83634

BOISE ID 837

26 MAR 2009 PM 3 T

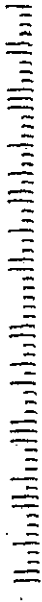


Boise ID 837  
Rockstone

Ralph Mellon  
4500 North Tumbleweed Ln.  
Boise ID 83713-2500

NOTIFY SENDER OF NEW ADDRESS  
MELLON, RALPH  
10070 LOS ANCHITOS DR  
BOISE ID 83709-0949  
EC: 83709094970 \*1536-03894-26-

83713\*2500  
837090949



**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**TRANSFER OF WATER RIGHT**  
**TRANSFER NO. 74580**

This is to certify that: SCOT HALLADAY  
 9246 W ROCKSTONE CT  
 KUNA ID 83634  
 (208)562-8416

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

**Summary of Water Rights Before the Proposed Change**

| <u>Right</u> | <u>Origin/Basis</u> | <u>Priority</u> | <u>Rate</u> | <u>Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>Source</u> |
|--------------|---------------------|-----------------|-------------|---------------|-------------------|--------------------|---------------|
| 63-33100     | WR/Decreed          | 02/07/1969      | 0.08 cfs    | 22.5 af       | N/A               | 5.0                | GROUND WATER  |

**Purpose of Transfer (Changes Proposed)**

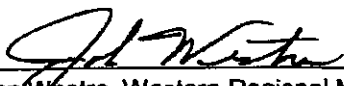
| <u>Current Number</u> | <u>Split</u> | <u>POD</u> | <u>POU</u> | <u>Add POD</u> | <u>Period of Use</u> | <u>Nature of Use</u> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 63-33100              | NO           | YES        | YES        | NO             | NO                   | NO                   |

**Summary of Water Rights After the Approved Change**

| <u>Existing Right</u> | <u>New No. (changed portion)</u> | <u>Transfer Rate</u> | <u>Transfer Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>New No. (remaining portion)</u> | <u>Remaining Rate</u> | <u>Remaining Volume</u> | <u>Remaining Acre Limit</u> | <u>Remaining Total Acres</u> |
|-----------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 63-33100              | 63-33100                         | 0.08 cfs             | 22.5 af                | 5.0               | 10.0               |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED</b>       |                                  |                      |                        |                   |                    |                                    |                       |                         |                             |                              |
| <b>TOTALS</b>         |                                  | <b>0.08 cfs</b>      | <b>22.5 af</b>         | <b>5.0</b>        | <b>10.0</b>        |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

Detailed Water Right Description(s) attached

Dated this 4<sup>th</sup> day of November, 20 08

  
 John Westra, Western Regional Manager

**WATER RIGHT NO. 63-33100**  
**As Modified by Transfer No. 74580**

In accordance with the approval of Transfer No. 74580, Water Right No. 63-33100 is now described as follows.

**Right Holder:** SCOT HALLADAY  
 9246 W ROCKSTONE CT  
 KUNA ID 83634

**Priority Date:** February 07, 1969

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u>    | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|----------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/01 to 11/01 |           | 0.08 CFS              | 22.5 AF       |
|                       |                |           | 0.08 CFS              | 22.5 AF       |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER      SENE      Sec. 26 Twp 02N   Rge 01E   ADA County

**PLACE OF USE:**    IRRIGATION

| Twp | Rge | Sec | NE  |    |    |     | NW |    |    |    | SW |    |    |    | SE |    |    |    |        |
|-----|-----|-----|-----|----|----|-----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE  | NW | SW | SE  | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 02N | 01E | 26  | 6.0 |    |    | 4.0 |    |    |    |    |    |    |    |    |    |    |    |    | 10.0   |

Total Acres: 10

**CONDITIONS OF APPROVAL**

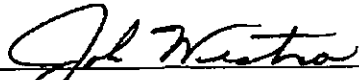
1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho 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.
4. This right is limited to the irrigation of 5 acres within the place of use described above in a single irrigation season.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/16/2008.

**WATER RIGHT NO. 63-33100**  
**As Modified by Transfer No. 74580**

6. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

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 4<sup>th</sup> day of November, 2008

  
John Westra, Western Regional Manager