

Page ____ of ____

Transfer No. 74416

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant: Bill & Shirleane Abbott
Mailing Address: 22 Castle Mountain Drive
Garden Valley, ID 83622

Phone:

E-Mail:

RECEIVED

DEC 13 2007

DEPARTMENT OF
WATER RESOURCES

A. PURPOSE OF TRANSFER

1. ☒ Change Point of Diversion ☒ Change Place of Use

2. Describe the reason for the proposed changes: Purchase and sale of a portion of water right

DEC 18 2007

WATER RESOURCES
WESTERN REGION

B. DESCRIPTION OF WATER RIGHT(S) OR PORTION THEREOF, AFTER THE
REQUESTED CHANGE

1. Right Number Priority Amount (cfs) Nature of Use Period of Use

65-4002X 6/1/1965 0.014 cfs Heating 1/1 - 12/31

2. Total amount of water being transferred 0.014 cfs.

3. Source of water: Springs Tributary to: Warm Springs Creek

4. Point of Diversion:

T.10 N., R.04 E, Sec. 33, SENWSW Boise County Id.

5. Lands irrigated or place of use:

T.10 N., R.04 E, Sec. 33, SW ¼ Lot 28, Warm Springs Estate No. 1 Boise County Id.

6. General information:

- a. a. Description of diversion system: 2 - 4" gravity flow pipelines to place of use.

- 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: None

- d. Remarks: Applicant and seller of water right will install flow meters or other measuring
devices to insure that there is no enlargement of the right.

REJECTED

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:

[illegible]

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

For the Director

Page ____ of ____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right as evidenced by:

- a. Decree entered March 7, 2003, decreed to Earle L. Ward, in the case In Re SRBA, Case No. 39576, in Twin Falls County, State of Idaho.

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 Agreement to Purchase Water Right

3. Source of water: Springs tributary to: Warm Springs Creek

4. Date of priority: June 1, 1965

5. Water is used for the following purposes:

0.02 cfs	irrigation	1/1 – 12/31
0.04 cfs	domestic	1/1 – 12/31
0.45 cfs	heating	1/1 – 12/31

6. Total amount of water under right: 0.45 cfs and 1.20 afy

7. Point of Diversion: T.10 N., R.04 E, Sec. 33, SENWSW Boise County Id

8. Lands irrigated or place of use:

T.10N, R.4E, Sec. 33, NESW, 1.0 AC irrigation
T.10N, R.4E, Sec. 33, NESW, domestic
T.10N, R.4E, Sec. 33, NESW, heating

9. Describe any other water rights used for the same purpose as described above:

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe: _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

1. Amount: 0.014 cfs for heating purposes from 1/1 – 12/31

2. Point of Diversion: T.10 N., R.04 E, Sec. 33, SENWSW Boise County Id

3. Lands irrigated or place of use: T.10 N., R.04 E, Sec. 33, SW ¼, Lot 28, Warm Springs Estate No. 1, Boise County Id.

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Transfer No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3**

- A. DRAW A MAP OR ATTACH A USGS MAP INDICATING THE NEW POINT(S) OF DIVERSION AND/OR THE NEW PLACE OF USE FOR THE RIGHTS DESCRIBED IN PART 1. CLEARLY DEPICT THE LAND BY SECTION, TOWNSHIP AND RANGE NUMBER.**

GEOHERMAL WATERLINE EASEMENT

For Earl Ward

Located in

The SW1/4 of Section 33, T. 10 N., R. 4 E., BM.
Boise County, Idaho

WARM SPRINGS ESTATES No. 1 Sub #85559

Lot 9

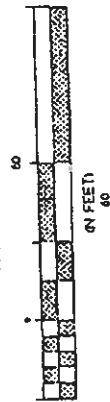
Lot 10

Lot 30

Lot 29

Lot 28

GRAPHIC SCALE



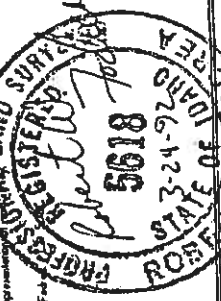
LEGEND

- Existing water property corner
- Surveyed water of easement reference point
- ④ Source of geothermal water

SURVEYOR'S CERTIFICATE

I do hereby certify that I am a Professional Land Surveyor, licensed by the State of Idaho, and that the foregoing survey was made by me or under my direct supervision, and that the same is a true and correct representation of the facts as shown by the survey.

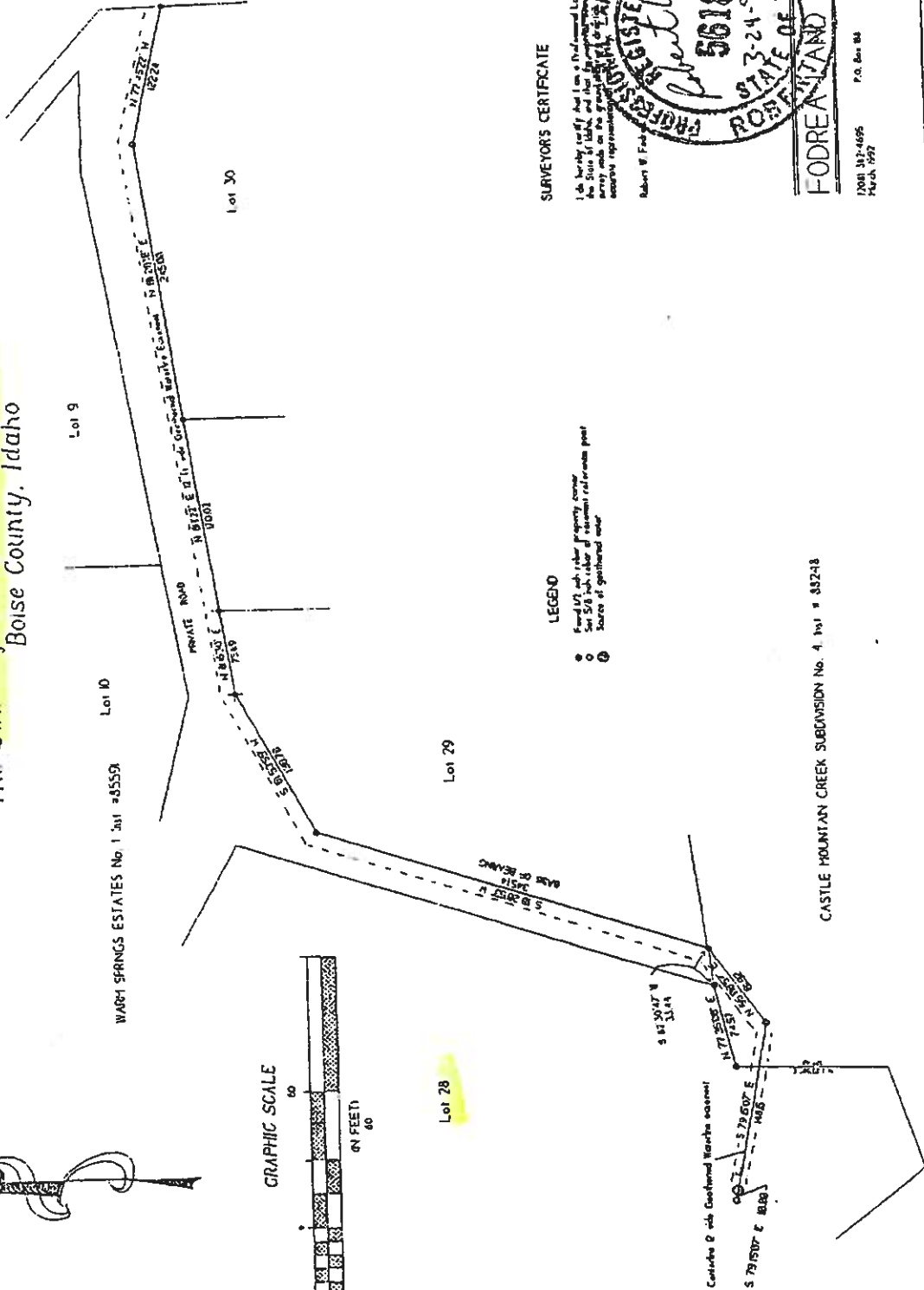
Robert W. Fodrean



FODREAN LAND SURVEYS

12081 317-4696 P.O. Box 84 Cascade, Idaho 83201
March 1997

CASTLE MOUNTAIN CREEK SUBDIVISION No. 4, Sub # 85248



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Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

B.CHANGES IN NATURE OF USE: Not applicable.

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 misrepresentation made in this application may result in voiding its approval.

Shirleane Abbott
(Signature of Applicant)

Shirleane Abbott
Print Name

Subscribed and sworn to before me this 11th day of December, 2007.



Suzanne Estes
(Notary Public)

My commission expires 6/1/2012

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by S.O. Date 12-13-07 Protest filed by _____

Prelim. Check by JA Fee 100⁰⁰

Received by KAW Date 12/14/07 C085517

Published in _____ 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 _____

DE

RECEIVED
AUG 28 2007
WATER RESOURCES
WESTERN REGION

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
PO 3-03 65-4002X	65-4002X	Yes			

2. The following **REQUIRED** information must be submitted with this form:

A. The appropriate **FILING FEE**. See instructions for fee amounts. \$25

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

OR

D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Leigh Ward, Jan Ward
126 Warm Springs Rd. Garden Valley, Id. 83622

4. New Owner/Claimant(s) Bill and Shirlean Abbott
Name Connector (Check one): ☒ and, ☐ or, ☐ and/or

New Mailing Address PO Box 8386

City, State and ZIP Code Boise ID 83707

New Telephone Number (208) 703-3555

5. Date you acquired the property

N/A

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number <u>65-4002X</u>		
Irrigation		
Stock		
Domestic		
Other <u>Heating</u>	<u>.014 CFS</u>	<u>Single Family Residence</u>
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. Signature(s) of New Owner(s) or Claimant(s)

Shirlean Abbott

(title if applicable)

Bill Abbott

(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by DBDate 8-28-07Receipt Amt. \$100-Received by DBDate 8-28-07Receipt No. W035782

Processed by _____ AJ

Date _____

WR _____ Date _____

AGREEMENT TO PURCHASE WATER RIGHT

This Agreement to Purchase Water Right ("Agreement") is made and entered into as of this 27th day of August, 2007, in Boise County, State of Idaho, by and between Leigh and Jan Ward, Husband and Wife, ("Seller"), and Bill and Shirleane Abbott, Husband and Wife ("Buyer"). This Agreement replaces all previous agreements between the parties concurring this water right.

RECITALS

WHEREAS, Seller owns a decreed Water Right No. 65-4002X, said right partially decreed in the SRBA on February 13, 2003, as No. 61-07412, a copy of which is hereby attached as Exhibit "A"; and

WHEREAS, Water Right No. 65-40024 has three separate beneficial uses: Irrigation (0.02 cfs), heating (0.45 cfs) and Domestic (0.04 cfs).

WHEREAS, Water Right No. 65-4002X is from a geothermal source of sufficient temperature that it is capable of use for heating.

WHEREAS, Buyer desires to purchase a part of Seller's entitlement to said geothermal heating water totaling (0.014 cfs), Seller desires to sell to Buyer, and Seller has agreed to transfer said water at closing, upon approval by the Idaho Department of Water Resources ("IDWR").

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the parties hereby agree as follows.

1. Seller hereby warrants and represents that Seller has good and marketable title to the water right; that Seller has the exclusive authority to sell it; that upon recording of this Agreement from Seller conveying the equitable title Buyer will acquire good and marketable title to the water right free and clear of liens and encumbrances. Seller represents that water right No. 65-4002X has been put to beneficial use. Seller agrees to assist Buyer in the transfer of said water right before IDWR.

2. Buyer agrees to purchase 0.014 cfs of water right for heating beneficial use of Seller's ownership, presently appurtenant to lands within Section 33, Township 10 North Range 04 East, Boise Meridian, Boise County, Idaho, for Ten Thousand Dollars (\$10,000), payable upon execution of this Agreement.

3. Buyer shall file with the Department of Water Resources for a split and transfer of place of use of 0.014 cfs to be used for heating to Lot 28, Warm Springs Estate No. 1, SW1/4 of Section 33, Township 10 North, Range 04 East, Boise Meridian, Boise County, Idaho.

4. Buyer shall be entitled to continue to use the existing point of diversion of water right No. 65-4002X.

5. Buyer shall have the right to convey this water to Buyer's Place of Use by way of Sellers' existing easement and using Seller's existing pipe. Buyer may also put a bifurcation in the existing pipe to deliver Buyer's water to Buyer's place of use. Buyer may be required to obtain an additional easement from the Castle Mountain Creek Homeowners Association (HOA) to deliver water to the Buyer's Place of Use.

6. If the Department of Water Resources fails to approve the split and transfer of this water right or if the HOA does not approve the necessary easement, Seller shall, at Buyer's election, refund the purchase price of Ten Thousand Dollars (\$10,000) in full and Buyer shall reconvey the water right to Seller.

7. Seller agrees to cooperate to the extent necessary in seeking approval of the transfer application by IDWR. Seller's obligation to cooperate shall survive closing. Buyer shall be responsible for all costs related to the processing of the transfer application with IDWR.

8. Any required notice shall be given to the parties hereto in writing, and shall be mailed postage prepaid to the parties at the following addresses, which may be changed from time to time:

Seller: Leigh & Jan Ward
126 Warm Springs Road
Garden Valley, Idaho 83622

Buyer: Bill and Shirleane Abbott
22 Castle Mountain Drive
Garden Valley, Idaho 83622

9. This Agreement shall be binding upon the parties hereto and their heirs, successors, administrators, personal representatives, and assigns. Upon approval of the transfer by the IDWR the water shall become appurtenant to Buyers property.

10. In the event of any dispute between the parties involving this water right or easement, the court or arbitrator in any legal proceeding shall award the prevailing party their reasonable costs and attorneys' fees.

IN WITNESS WHEREOF, the parties have hereunto set their hands:

SELLER:

Date: 8-27-07

Leigh Ward
Leigh Ward

Date: 8/27/07

Jan Ward
Jan Ward

BUYER:

Date: 8/23/07

Bill D. Abbott
Bill Abbott

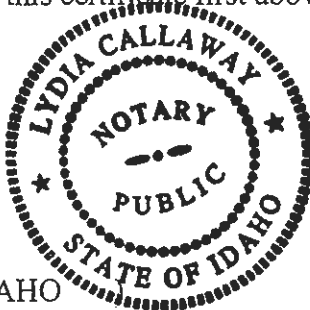
Date: 8/23/07

Shirleane Abbott
Shirleane Abbott

STATE OF IDAHO)
) ss.
County of)

On this 27 day of August, 2007, before me, a Notary Public for the State of Idaho, appeared **Leigh Ward**, known or identified 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.

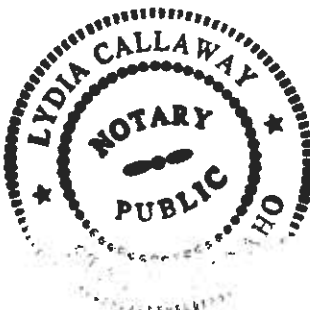


Lydia Callaway
NOTARY PUBLIC FOR IDAHO
Residing at: Garden Valley
My Commission Expires: 12-24-10

STATE OF IDAHO)
) ss.
County of)

On this 27 day of August, 2007, before me, a Notary Public for the State of Idaho, appeared **Jan Ward**, known or identified 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.

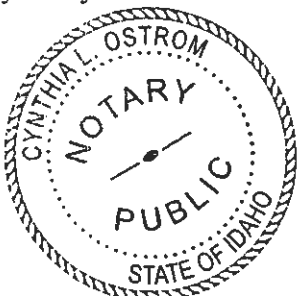


Lydia Callaway
NOTARY PUBLIC FOR IDAHO
Residing at: Garden Valley
My Commission Expires: 12-24-10

STATE OF IDAHO)
) ss.
County of Ada)

On this 23 day of August, 2007, before me, a Notary Public for the State of Idaho, appeared **Bill Abbott**, known or identified 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.

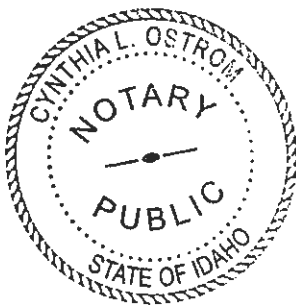


Cynthia L. Ostrom
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My Commission Expires: 10/8/2010

STATE OF IDAHO)
) ss.
County of Ada)

On this 23 day of August, 2007, before me, a Notary Public for the State of Idaho, appeared **Shirlean Abbott**, known or identified 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.



Cynthia L. Ostrom
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My Commission Expires: 10/8/2010