

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant PEREGRINE SPRINGS, LLC Phone (208) 345-2421Post Office address 2501 BOGUS BASIN RD BOISE, IDAHO 83702

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Applicant has purchased water right and proposes moving right to applicant's lands for irrigation purposes.

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

1. Right Number TBD* Priority Feb 7, 1969 Amount (cfs/ac-ft) 0.08 cfs / 22.5 ac-ft Nature of Use irrigation Period of Use April 1 to Nov 1
*portion of 63-7194 _____ to _____
 _____ to _____

2. Total amount of water being transferred 0.08 cubic feet per second and/or 22.5 acre-feet per annum.

3. Source of water GROUNDWATER tributary to _____

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	NW	SE	SE	12	03N	02E	ADA	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	2E	12																5	5

RECEIVED

Total Acres 5

JUL 22 2005

WATER RESOURCES
WESTERN REGION

PART 1

6. General Information:

- a. Description of diversion system Existing 8 inch well with 1-hp submersible pump.

- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
_____ Yes ☒ 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:
THE LAND WILL BE REMOVED FROM IRRIGATION

- d. Remarks:
Proposed water bearing zone from 64 to 84 feet based on well driller's report for drilling permit No. 63-94-W-0593-000.

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

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. 63-7194 issued by the Idaho Department of Water Resources.
- c. Claim No. _____ 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 _____
3. Source of water GROUNDWATER tributary to _____
4. Date or priority FEB 7, 1969
5. Water is used for the following purposes:
- amount 2.38 cfs/642 ac-ft for IRRIGATION purposes from APR 1 to NOV 1
(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 2.38 cubic feet per second and/or 642 acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
		SW	NE	21	1N	1W	Ada	

8. Lands irrigated or place of use:

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	
1N	1W	21	38*	31.5*	33*	40*													142.5

*Acreage distribution based on SRBA recommendation for 63-7194

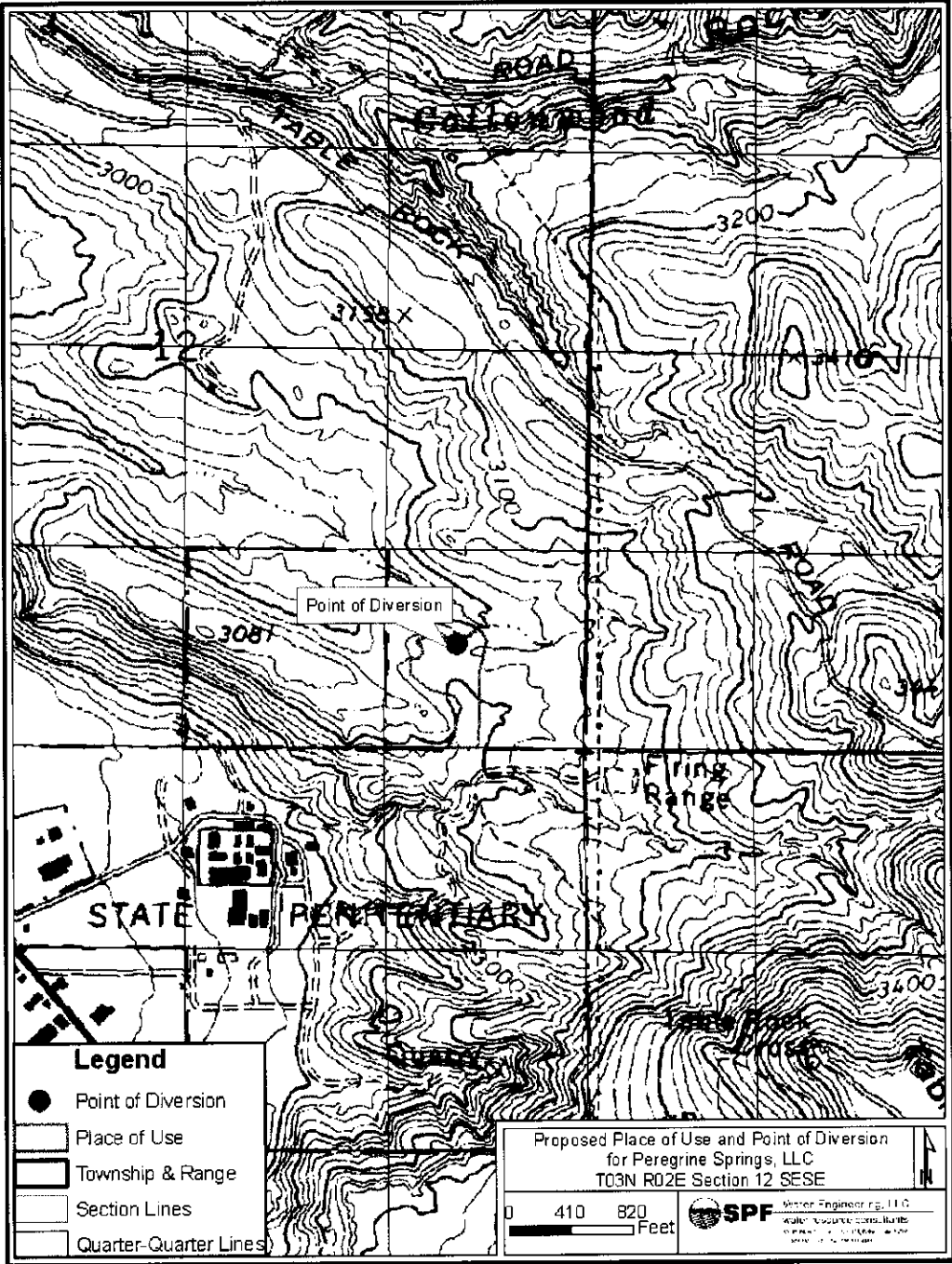
Total Acres 142.5

9. Describe any other water rights used for the same purpose as described above none

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.



PART 3

B. CHANGES IN NATURE OF USE

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.

(Signature of Applicant)

Subscribed and sworn to before me this 12th day of July

Pamela McEwan-Stout

(Notary Public)

My commission expires March 30, 2014

PAMELA MCEWAN-STOUT

20

NOTARY PUBLIC

STATE OF IDAHO

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 6 attachments

Received by Date 07/22/05 Protest filed by

Prelim. Check by Fee \$100

Receipted by

W033203

 Date 7/22/05

Published in THE IDAHO STATESMAN Copies of protest forwarded by

Pub. Dates 1-5412-06 Hearing held by Date

Watermaster recommendations requested on Recommended for ☐ approval ☐ denial

received by

Copy of transfer sent to lien holder

ATTACHMENT A
OWNERSHIP DOCUMENTS FOR TRANSFERRED PORTION
OF 63-7194

ADA COUNTY CONSOLIDATED PROPERTY TAX BILL

ADA COUNTY TREASURER -- TAX COLLECTOR FOR TAXING DISTRICTS OF ADA COUNTY

P.O. BOX 2368, BOISE, ID 83701 PH. # (208) 287-6800

REAL PROPERTY TAX BILL

LEGAL DESCRIPTION:

NE4

SEC 21 1N 1W

DELINQUENT TAXES

PHONE (208)
287-6800 FOR
AMOUNT
INCLUDING
CURRENT LATE
CHARGES AND
INTEREST.

YEAR

PARCEL NUMBER

52221110000

TAX YEAR

CODE AREA

BILL NUMBER

2004

208

863494

Mortgage Company Requesting Your Tax Bill

PROPERTY ADDRESS: W KUNA CAVE RD

This is a listing of the total amount you pay each taxing district, including bonds, overrides, and certifications if applicable. Please individual taxing districts with questions regarding taxes.

% Levy Change	Name of Taxing District	Taxing District Phone Number	Taxing District Total Levy Amount	Tax Amount By Taxing District
-5.63	SCHOOL DIST. 136J	495-1141	0039495	519.13
3.59	SCHOOL #136J BOND	495-1141	0027359	221.06
2.13	ADA COUNTY	287-7000	0028597	231.05
-0.99	KUNA FIRE	922-1144	0069967	80.53
-11.53	KUNA FIRE BOND	922-1144	0001483	11.93
2.08	ADA COUNTY HIGHWA	387-8120	0010324	83.42
0.21	EMERGENCY MEDICAL	287-2950	0001227	9.92
6.23	PEST EXTERMINATION	888 2316	0001107	8.94
Total			.011955882	966.04

Fax # 393-4156

LESS PRE-ADJUSTMENTS

TOTAL PROPERTY TAX BILLED**966.04**

LESS PRE-PAYMENTS

LESS CIRCUIT BREAKER (SENIOR CITIZEN) EXEMPTION

LESS ADDITIONAL PAYMENTS

ADJUSTMENTS - CHARGES

966.04**TOTAL TAXES DUE****0.00**

CURRENT YEAR PROPERTY TAX	PRIOR YEAR PROPERTY TAX	CURRENT YEAR TAXABLE VALUE	PRIOR YEAR TAXABLE VALUE	ASSESSED VALUE	HOMEOWNERS EXEMPTION
966.04	949.84	80,600	78,900	80,800	0

MELLIN PROPERTIES LIMITED PARTNERSHIP
4500 N TUMBLEWEED LN
BOISE ID 83713-2500**DUE DATE: Dec 20, 2004**

A2

Ralph Mellin
 ADA COUNTY RECORDER
 1000 N. HAWKES
 BOISE, ID 83726

2001 NOV 30 PM 4:55

RECORDED-INDEXED OF

FEE

3

DEPT

101126945

101126945

QUITCLAIM DEED

For Value Received the MELLIN FAMILY LIMITED PARTNERSHIP hereby conveys, releases, remises and forever quit claims unto the MELLIN PROPERTIES LIMITED PARTNERSHIP whose address is 4500 North Tumbleweed Lane, Boise, Idaho 83713-2500, the following described premises situated in Ada County, Idaho:

The NE 1/4 of Section 21, Township 1 North, Range 1 West, Boise Meridian, Ada County, Idaho, together with all and singular the tenements, hereditaments, improvements, easements and appurtenances there unto belonging or in any ways appertaining, including all water and water rights, ditches and ditch rights owned or used in connection or appearing on the land, and subject to such rights, easements, covenants, restrictions and zoning regulations as appear of record or based upon the premises.

DATED this 30 day of November, 2001.

Ralph Mellin
 Ralph Mellin, General Partner
 Mellin Family Limited Partnership

STATE OF Idaho)
)ss.
 County of Ada)

On this 30 day of November 2001 before me, the undersigned, a Notary Public in and for said State, personally appeared RALPH MELLIN, 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.

Vickie Leaph
 NOTARY PUBLIC
 Residence: 602 E. Idaho
 My Commission Expires: all registered



ATTACHMENT B
OWNERSHIP DOCUMENTS FOR NEW PLACE OF USE

Property System Ada County - Microsoft Internet Explorer
 Public Property Tax M01 - {Public Property Master [P12298]}

PARCEL INFORMATION

Year: 2005
 Parcel #: 51012446605

Property Type: Real Status: Active Exemption: 0 Code: 0
 Sub Property Type: Code Area: 015 Appraiser Initials: OSD Details

☐ Urban Renewal
☐ Ownership Change
☐ Dwp H06
☐ Circuit Breaker
☐ Bankruptcy

PHYSICAL LOCATION

Property Address: N TROUTNER WAY
 BOISE ID 83712-0000
 Group Type: SECT Group #: 1012
 Description: 3N 2E 12
 Township/Range/Section: Zoning Code: A
 3N 2E 12 MLS Area: 7.000

Reappraisal Year: 2005 Physical Inspection: 03/22/2005

OWNER INFORMATION

Name: PEREGRINE SPRINGS LTD CO
 Add'l Info:
 Mailing Address: 550 TROUTNER WAY
 BOISE ID 83712-0000

PARCEL VALUES

Assessment Roll	Property Occupancy	State Category Code	Acreage	Assessed Value	Valuation Method	Code Area
Primary	Non-Exempt	10	5.190	7,300	ONE TIME	01.5

Total Parcel Values
 Assessed Amt: 7,300
 Taxable Amt: 7,300

Public Property Description - Display [P12298]

State Parcel #: 83N2E4126605
 Property Description: PAR 86605 OF SE4SE4
 SEC 12 3N 2E
 86600-8 R/S 83822
 897022719
 Total Acreage: 5.190

Ready TITLEONE Y06SVTCF NUM

B2

97022719

THIS FORM FURNISHED COURTESY OF:

ALLIANCE TITLE & ESCROW CORP.

READ & APPROVED BY GRANTEE(S):

ADJ. CLERK
J. DAY, CLERK
BOISE ID

ALLIANCE TITLE

'97 MAR 25 PM 4:30

FEE \$100.00
RECORD \$100.00

SPACE ABOVE THIS LINE FOR RECORDING DATA

QUITCLAIM DEED

FOR VALUE RECEIVED **ROBERT L. DAY and CHARLOTTE L. DAY, husband and wife**
and **KNOLL PROPERTIES, INC., an Idaho corporation**

do(es) hereby **CONVEY, RELEASE, REMISE and FOREVER QUIT CLAIM** unto
SPRINGS LTD. CO., an Idaho limited liability company

GRANTOR(S)
PERBGRINE

GRANTEE(S)

whose current mailing address is: **550 TROUTNER WAY BOISE, ID 83712**

the following described property located in
more particularly described as follows, to wit:

ADA

County, State of Idaho,

As set forth on the attached **EXHIBIT "A"**, which by reference
becomes a part hereof.

together with their appurtenances.

Dated: **March 24, 1997**

KNOLL PROPERTIES, INC., an Idaho corporation

By: Richard A. Pavelek
Richard A. Pavelek, President

Robert L. Day
Robert L. Day

Charlotte L. Day
Charlotte L. Day

B3

STATE OF IDAHO, COUNTY OF ADA, ss.

On this 25 day of March in the year 1997, before me, the undersigned, a Notary Public in and for said State personally appeared Richard A. Pavelek known to me to be the President of the corporation that executed this instrument and the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation

Continued on next page

executed the same.

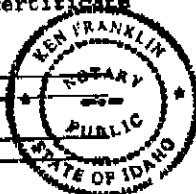
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Signature: [Signature]
Name: _____

(Type or Print)

Residing At: Boise

My Commission expires: 10-5-98



STATE OF IDAHO, County of ADA, ss.

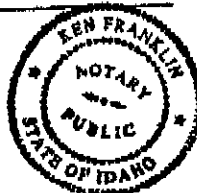
On this 26 day of March in the year of 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert L. Day and Charlotte L. Day known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Signature: [Signature]
Name: _____

(Type or Print)

Residing At: Boise

My Commission expires: 10-5-98



B4

**TEALEY'S LAND
SURVEYING**100 South 4th Street Boise, Idaho 83702
(208) 388-0888
Fax (208) 385-0888

172700145H

Project No.: 438
Date: May 10, 1994
Revised: May 13, 1994**EXHIBIT "A"****REVISED
DESCRIPTION
FOR
DAY REALTY PROPERTY
REVISED PARCEL 2****PART OF ORIGINAL TOO LIGHT
FOR GOOD REPRODUCTION**

A parcel of land situated in the Southeast 1/4 of Section 12, T.2N., R.2E., Boise Meridian, Ada County, Idaho, more particularly described as follows:

BEGINNING at the Southeast corner of said Section 12, a point marked by a brass cap; thence along the East line of said Section 12 North 1°02'07" East 1111.35 feet to a 1/16 corner marked by a 5/8 inch iron pin; thence leaving said Section line and along a line which extended would intersect at the center East 1/16 corner of said Section 12

North 41°15'41" West 1464.84 feet to a point marked by a 5/8 inch iron pin; thence leaving said line South 8°01'28" West 110.21 feet to a point marked by a 5/8 inch iron pin; thence

North 8°48'32" West 281.00 feet to a point on the West line of the Northeast 1/4, Southeast 1/4 of said Section 12, also being the East line of Northridge Subdivision No. 3 and No. 2 extended; thence along said West line

South 0°01'28" West 424.73 feet to a point marked by a 5/8 inch iron pin, said point the Southeast corner of Lot 3, Block 3 of said Northridge Subdivision No. 2; thence along the Southerly boundary of Northridge No. 2

South 54°14'31" West 292.26 feet, (formerly South 55°00'00" West 291.24 feet), to a point marked by a 5/8 inch iron pin; thence leaving said Southerly boundary

South 23°44'34" East 354.14 feet to a point on the South line of the Northwest 1/4, Southeast 1/4 of said Section 12; thence along said South line

South 89°30'19" East 100.00 feet to the Southeast 1/16 of said Section 12, marked by a stone monument; thence along the West line of the Southeast 1/4, Southeast 1/4 of said Section 12

South 0°02'44" East 1320.38 feet to a 1/16 corner marked by a stone monument, said 1/16 corner being on the South line of said Section 12; thence along said South line of Section 12

South 89°57'48" West 1205.16 feet to **THE POINT OF BEGINNING**.

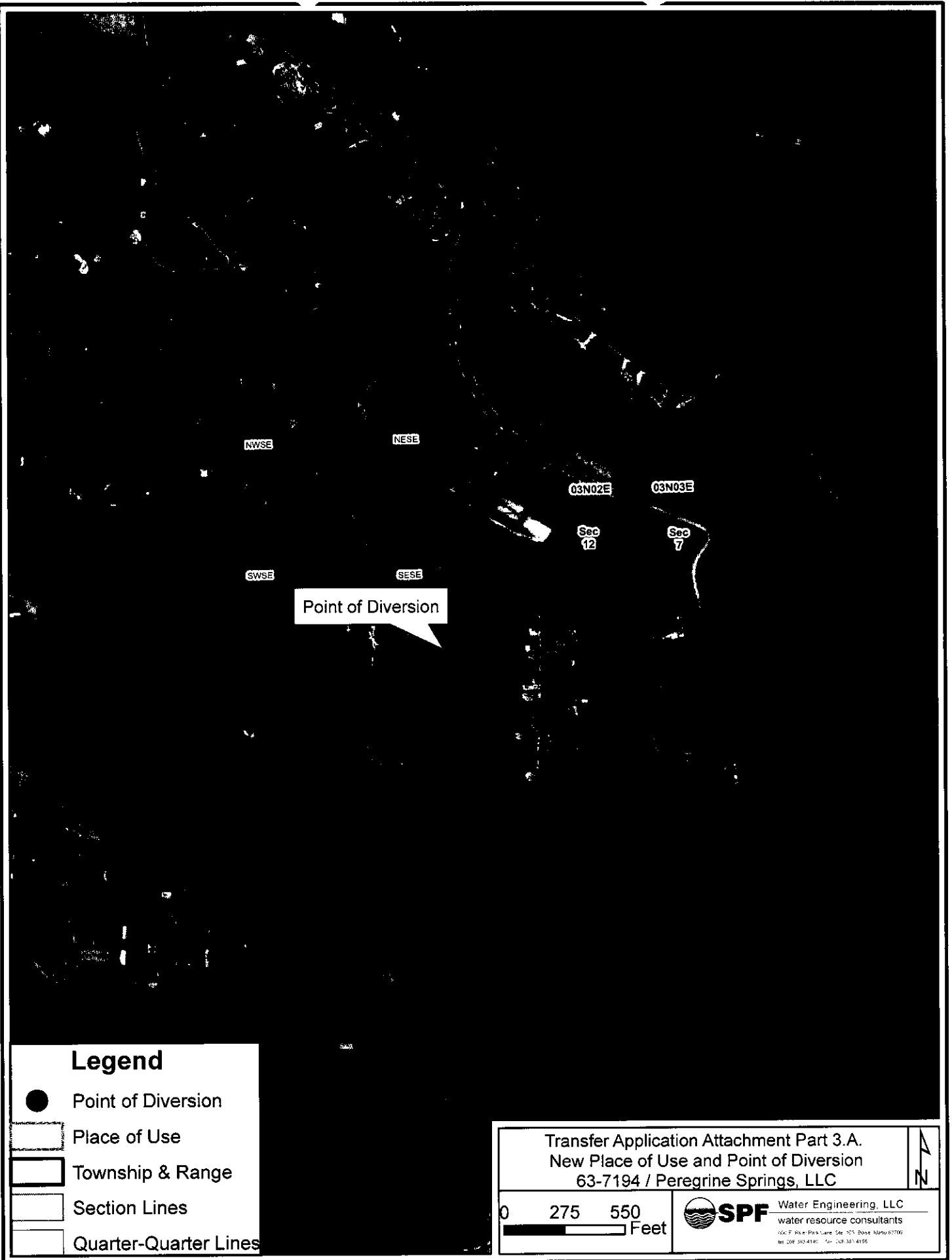
Said parcel contains 59.11 acres, more or less.



EXCEPTING THE RIGHT-OF-WAY DEEDED TO ADA COUNTY HIGHWAY DISTRICT RECORDED NOV. 4, 1993 AS INST. NO. 9397877 and FEB 1, 1994 INST. NO. 94009293.

S/HK4

ATTACHMENT C
MAP DEPICTING PROPOSED PLACE OF USE
AND POINT OF DIVERSION



Legend

- Point of Diversion
- Place of Use
- Township & Range
- Section Lines
- Quarter-Quarter Lines

Transfer Application Attachment Part 3.A.
New Place of Use and Point of Diversion
63-7194 / Peregrine Springs, LLC

0 275 550
Feet



Water Engineering, LLC
water resource consultants
404 E. Pine Street, Suite 100, Boise, Idaho 83701
PH: 208.380.4140 Fax: 208.380.4155



ATTACHMENT D
MAP DEPICTING TRANSFERRED PORTION

T1N R1W

Sec 16

Sec 21

Sec 21

Sec 22

-  Peregrine Springs Transferred Portion
-  Township & Range
-  sections
-  t01n01w
-  63-7194 Rec POU

5.0 acres of 63-7194 purchased by
Peregrine Springs for Transfer

0 250 500 Feet

June 29, 2005



SPF

Water Engineering, LLC
water resource consultants

600 E. River Park Lane Ste 100 Boise Idaho 83706
tel: 208 363 4140 fax: 208 363 4150



ATTACHMENT E
CONTRACT FOR SALE OF A WATER RIGHT

CONTRACT FOR SALE OF A WATER RIGHT

THIS CONTRACT FOR SALE OF A WATER RIGHT ("Agreement") is made by and between MELLIN PROPERTIES LIMITED PARTNERSHIP ("Seller"), an Idaho limited partnership, and PEREGRINE SPRINGS LTD. CO. ("Buyer"), an Idaho limited liability corporation. Buyer and Seller may be referred to hereinafter as a "Party" or collectively as "Parties."

RECITALS

A. Seller owns a ground water right ("Water Right"), represented by license number 63-7194 in the records of the Idaho Department of Water Resources ("IDWR"), appropriated and used for irrigation purposes with a February 7, 1969 priority date. A copy of the Water Right license is attached hereto as Exhibit A. The Water Right authorizes a diversion rate of 2.38 cubic feet per second (cfs) and 642 acre-feet per year (afa). The Water Right is appurtenant to and has been beneficially used to irrigate 142.5 acres on Seller's property, also identified under the Water Right as the authorized place of use.

B. Seller desires to sell and Buyer desires to buy a portion of the Water Right that is appurtenant to 5.0 acres of the irrigated lands within the Water Right's authorized place of use, identified by Seller pursuant to Section 1 below.

COVENANTS

NOW THEREFORE, in consideration of the recitals, the mutual covenants, representations and warranties contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Property Purchased. Seller hereby agrees to sell to Buyer, and Buyer agrees to buy from Seller, on the terms and conditions herein specified, a portion of Water Right #63-7194 appurtenant to 5.0 acres within the Water Right's authorized place of use described as follows (hereinafter referred to as the "Purchased Right"):

<u>Quantity:</u>	<u>Acres / Place of Use:</u>
(0.08 cfs / 22.5 afa)	5.0 acres (in the SW1/4NE1/4 of Section 21, Township 1 North, Range 1 West, B.M., Ada County, Idaho)

2. Property Retained. Seller expressly reserves and retains, and is not conveying any part of the remaining portion of Water Right #63-7194 that will remain appurtenant to the 137.5 acres within the Water Right's authorized place of use owned by Seller, described as follows:

<u>Quantity:</u>	<u>Acres / Place of Use:</u>
(2.30 cfs / 619.5 afa)	137.5 acres (in the NE1/4NE1/4, NW1/4NE1/4, SW1/4NE1/4, SE1/4NE1/4 of Section 21, Township 1 North, Range 1 West, B.M., Ada County, Idaho)

CONTRACT FOR SALE OF A WATER RIGHT

Page 1 of 9

Buyer's Initials: PS

Seller's Initials: KW

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3. Purchase Price. The Purchase Price for the Purchased Right identified above (.08 cfs / 22.5 afa / 5.0 acres) shall be _____, payable as follows:

a. Down Payment. A down payment of _____ dollars (_____ which equals 20% of the purchase price, shall be delivered by Buyer upon execution of this Agreement in current, certified funds, to the escrow agent, Transnation Title & Escrow Inc., 1750 Front Street #120, Boise, Idaho, attention: Nancy Boslau (telephone no. 342-2222) ("Escrow Agent") for deposit in an interest bearing account. This down payment shall be credited against the purchase price at Closing. The down payment shall be refunded to Buyer in the event the Idaho Department of Water Resources (IDWR) denies the transfer contemplated in Section 5.

b. Balance of Purchase Price. _____ dollars (_____), being the Purchase Price less the down payment, shall be due and payable to Seller at Closing.

4. Closing.

a. Closing Date. Within thirty (30) days after the later of the expiration or conclusion of all administrative and judicial periods for legal appeal of IDWR's final approval of the transfer application, Buyer shall provide to Escrow Agent (with a copy to Seller) a letter either accepting or rejecting in its sole discretion the terms and conditions of such final approval of the transfer application. If Buyer's letter accepts the terms and conditions of the final transfer approval, the Parties shall conclude and finalize the purchase and sale of the Purchased Right ("Closing") within seven (7) days of the date of Buyer's letter. The Closing shall take place at the office of Escrow Agent (also referred to herein as "Closing Agent") on a date mutually convenient for Buyer and Seller. Buyer and Seller shall work expeditiously to conclude the Closing.

b. Documents to be Delivered at Closing. Buyer and Seller shall execute (with acknowledgement, if needed) and deposit into escrow with Closing Agent all instruments, documents and the remaining balance (_____ in current, certified funds) necessary to complete the purchase and sale in accordance with this Agreement, or reasonably requested by the Closing Agent. The documents that Seller shall deliver to Buyer at Closing shall include, but not be limited to: (i) a Water Right Special Warranty Deed in the form of the specimen attached to this Agreement as Exhibit B; (ii) a Notice of Change of Water Right Ownership confirming Buyer's ownership of the Purchased Right and the assignment of the appropriate portion of the Snake River Basin Adjudication Claim for the Purchased Right, and (iii) any other documents reasonably requested to confirm the conveyance of the Purchased Right.

c. Actions of Closing Agent. The Closing Agent shall close the transaction as soon as it has received all instruments, documents and monies necessary to complete the purchase and sale of the Purchased Right in accordance with this Agreement, including receipt of Buyer's letter accepting the final transfer approval by IDWR. Upon Closing, the Closing Agent shall record the Water Right Special Warranty Deed, disburse the

Buyer's Initials: BP
Seller's Initials: DM

funds owing to Seller (including any accrued interest), and provide all instruments and documents to the Party entitled thereto.

d. Fees and Costs of Closing. The cost of the Escrow and Closing Agent's fees and recording relating to the transaction contemplated herein shall be paid by Buyer. All other expenses not specifically referenced in this Agreement and incurred by Seller or Buyer with respect to this transaction shall be borne and paid exclusively by the Party incurring the same, without reimbursement.

e. Section 1031 Exchange. Seller and Buyer acknowledge that either Party may wish to structure this transaction as a tax deferred exchange of like-kind property within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended. Each Party agrees to reasonably cooperate with the other Party to effect such an exchange; provided, however, that (i) the cooperating Party shall not be required to acquire or take title to any exchange property, (ii) the cooperating Party shall not be required to incur any cost, expense or liability whatsoever in connection with the exchange, including, without limitation, any obligation for the payment of any escrow, title, brokerage or other costs incurred with respect to the exchange, (iii) no substitution of the effectuating Party shall release said Party from any of its obligations, warranties or representations set forth in this Agreement, or from liability for any prior or subsequent default under this Agreement by the effectuating Party, its successors or assigns, which obligations shall continue as the obligations of a principal and not of a surety or guarantor, (iv) the effectuating Party shall be responsible for preparing all additional agreements, documents and escrow instructions (collectively, the "**Exchange Documents**") required by the exchange, at its sole cost and expense, and (v) the effectuating Party shall be responsible for making all determinations as to the legal sufficiency, tax considerations and other considerations relating to the proposed exchange, the Exchange Documents and the transactions contemplated thereby, and the cooperating Party shall in no event be responsible for, or in any way be deemed to warrant or represent any tax or other consequences of the exchange transaction arising by reason of the cooperating Party's performance of the acts required hereby.

5. Transfer of Purchased Right.

a. Application to IDWR. It is understood and agreed, by and between the Parties, that Buyer intends to immediately file an application for transfer with IDWR to move the point of diversion and place of use of the Purchased Right to the SE1/4SE1/4 of Section 12, Township 3 North, Range 2 East, Boise Meridian, Ada County, Idaho. The Buyer shall have the right to file an application for transfer of the Purchased Right with IDWR. The application for transfer may entail a change to the place of use, nature of use, time of use, and point and means of diversion as Buyer determines; in the alternative, it may entail an application for a new water right permit in which the retirement or other approved use of the Purchased Right will be used for mitigation, or a similar purpose.

b. Cooperation with Transfer Efforts. Seller hereby grants to Buyer permission to make said transfer and agrees to sign any documentation to that effect required by IDWR, pertaining to said transfer. At Buyer's request, Seller shall cooperate with Buyer in Buyer's pursuit of any such transfer, and shall provide Buyer with any information that Seller has concerning the Water Right that Buyer may reasonably request in pursuit of the transfer. All matters pertaining to said transfer, including preparation of the application and all costs associated with the transfer proceeding, shall be the responsibility of Buyer. Buyer shall reimburse Seller for any reasonable attorney or consultant fees Seller incurs as a result of responding to such requests; however, Seller shall be entitled to receive such reimbursement only if Seller provides written demand for it within thirty (30) days after such expenses are billed to Seller from such attorney or consultant. Buyer shall pay such fees within thirty (30) days after receiving a timely demand.

c. IDWR Approval or Denial of Transfer. Buyer shall request that IDWR provide notices of preliminary approval of the transfer to both Buyer and Seller. If IDWR's preliminary approval reduces the quantity of the Purchased Right it would allow to be transferred, then the Purchase Price shall be reduced at a rate proportional to the amount of acres or portions thereof reduced by the transfer approval pro rata at an amount of \$ _____ per acre. Provided IDWR does not reduce the amount of acres that can be transferred below 1 acre, and Buyer chooses not to accept said reduction and declines to continue with the transfer, for whatever reason, the Seller shall be entitled to retain the Down Payment (_____) referenced in Section 3.a. If IDWR's preliminary approval notice indicates IDWR will deny said transfer, for any reason, the Parties shall not be obligated to close the sale pursuant to Section 4 of this Agreement.

d. Failure to Close After IDWR Final Approval. If Buyer's letter rejects IDWR's final approval of the transfer application, Buyer hereby authorizes Seller to request IDWR to rescind the transfer. In that event, Buyer also agrees that this Agreement and the transfer is null and void. Buyer further agrees that Seller's presentation of a duly signed and executed copy of this Agreement to IDWR, along with Buyer's letter rejecting IDWR's final approval shall constitute irrefutable evidence of Buyer's decision not to close the transaction contemplated herein.

6. Protection of Purchased Right / 2005 Irrigation Season and Thereafter. Until final approval of the transfer by IDWR, Seller may continue to use the Purchased Right on the Water Right's authorized place of use for irrigation purposes during the 2005 irrigation season and any subsequent irrigation seasons or portions thereof throughout the pendency of the transfer application, unless Buyer and Seller agree to Buyer's lease of the Purchased Right during all or a portion of this time period. Notwithstanding Seller's discretion to continue to use the Purchased Right throughout the pendency of the transfer, Seller agrees to use the Purchased Right on the Water Right's authorized place of use for irrigation purposes during the 2005 irrigation season, unless Buyer and Seller agree to Buyer's lease of the Purchased Right during a portion of the 2005 irrigation season. However, if IDWR finally approves the transfer during the 2005 irrigation season or at any time thereafter and Buyer accepts such final transfer approval, Seller shall immediately comply with all conditions of the transfer approval, and permanently shall cease to divert the Purchased Right.

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Buyer's Initials: RP
Seller's Initials: [Signature]

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7. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the effective date of this Agreement and again as of the Closing for the Purchased Right, as follows:

- a. Authority. Seller owns the Purchased Right in fee simple. Seller and Seller's representative executing this Agreement on behalf of Seller has the full legal right, power and authority to enter into and perform this Agreement and already has obtained any necessary consents and approvals to do so.
- b. Good Title. Seller has good and marketable title to the Purchased Right, and Seller shall remove, or cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Purchased Right on or before Closing.
- c. Appurtenance. The Purchased Right is appurtenant to and has been beneficially used as the sole water source to irrigate the authorized place of use on Seller's property.
- d. Not Forfeited. To the best of Seller's knowledge, the Purchased Right has not been forfeited or abandoned in whole or in part, has been placed to continual beneficial use on the Seller's property, and has never been subject to a continuous five-year period of non-use except as such non-use occurred while the Purchased Right was in an appropriate water bank, the Purchased Right was claimed in the Snake River Basin Adjudication, or the appurtenant place of use was enrolled in a government annual grain base or long-term crop land set-aside program, or except as such non-use occurred by reason of any other applicable defense set forth in Idaho Code § 42-223 that protected the Purchased Right from forfeiture.
- e. Snake River Basin Adjudication Status. The Seller filed a water right claim covering the Purchased Right in the Snake River Basin Adjudication (SRBA), but makes no representations or warranties regarding the outcome of that proceeding as it might affect the Purchased Right. A review of IDWR's electronic records presently reveals that IDWR will recommend to the SRBA District Court that the Water Right should be decreed as claimed by Seller. See Exhibit C. IDWR's formal recommendation of the Water Right, however, may change when it is ultimately forwarded to the Court.
- f. Broker. Seller has not engaged or dealt with any broker or finder in connection with the sale of the Purchased Right.
- g. No Other Warranty. Seller makes no other guarantees or warranties as to the Purchased Right, its yield upon transfer, or its transferability. Seller further disclaims any warranty as to the Purchased Right's availability in times of shortage, including any curtailment that may be ordered by IDWR to satisfy other senior ground or surface water rights.

8. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller that Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder and has not engaged any broker or finder in connection with the purchase of the Purchased Right.

9. Termination / Remedies

a. IDWR's Failure to Approve Transfer. In the event IDWR does not approve Buyer's transfer application within eighteen (18) months from the effective date of this Agreement as defined in Section 17, for whatever reason, Buyer shall have the right either to close on the sale of the Purchased Right as set forth in Section 4, within ten (10) days from that date (eighteen months after effective date) or to extend the closing date another 6 months upon payment of \$_____ to Seller. Buyer may continue to further extend the closing date a second 6 month increment during the pendency of the transfer application upon the payment to Seller of another \$_____ within 10 days after such extended closing date. If Buyer elects not to close on the sale of the Purchased Right or to extend the closing date within ten (10) days of such closing deadlines, Seller shall have the right either to immediately terminate the Agreement or further extend this Agreement if Buyer consents in writing to such extension. Except as provided for in Paragraphs 5.c. and 9.c., upon termination of this Agreement for any reason other than Buyer's default, the down payment and any interest accrued shall be refunded to Buyer.

b. Buyer's Termination for Default. Buyer may terminate this Agreement for material default by Seller. In the event of such default, Buyer shall provide a written demand to Seller and provide Seller with thirty (30) days to cure. If Seller fails to cure, Buyer may terminate this Agreement and receive a full refund of the down payment upon written notice to Seller.

c. Buyer's Remedy on Default. If Seller breaches this Agreement, Buyer's remedy for Seller's default, other than any default resulting from IDWR's reduction or rejection of the transfer application, shall be limited to, at Buyer's selection in its sole discretion: 1) twenty percent (20%) of the total Purchase Price which equals _____ dollars (_____) plus return of the down payment (_____) identified in Section 3.a; or 2.) specific performance.

d. Seller's Termination for Default. Seller may terminate this Agreement for material default by Buyer. In the event of such default, Seller shall provide a written demand to Buyer and provide Buyer with thirty (30) days to cure.

e. Seller's Remedy on Default. If Buyer materially breaches this Agreement, Seller's remedy for Buyer's default, other than any default resulting from IDWR's reduction or rejection of the transfer application, shall be limited to, at Seller's selection in its sole discretion: 1) the right to request IDWR to rescind the transfer; and 2) the retention of the down payment (_____) identified in Section 3.a; or 3) specific performance.

10. Attorneys' Fees. In any suit, action or appeal therefrom, to enforce this Agreement or any term or provision hereof, or to interpret this Agreement, the prevailing Party shall be entitled to recover all its costs reasonably incurred therein (and on appeal), including reasonable attorneys' fees.

11. Notices. Any notice under this Agreement shall be in writing and be delivered in person, by U.S. Mail, by private courier, or by facsimile. Notice shall be provided to the following:

Seller

Ralph Mellin
c/o Mellin Properties L.P.
4500 North Tumbleweed
Boise, Idaho 83713
Telephone: (208) 322-7500

Buyer

Richard Pavelek
2501 Bogus Basin Road
Boise, Idaho 83702

Telephone: (208) 345-2421

Seller's Attorney

Travis L. Thompson
Barker Rosholt & Simpson LLP
113 Main Ave. West, Ste. 303
P.O. Box 485
Twin, Falls, Idaho 83303-485
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

Buyer's Attorney

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

12. Entire Agreement. This is the entire agreement of Buyer and Seller with respect to matters covered hereby and supercedes all prior agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller.

13. Counterparts. This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

14. Idaho Law. This Agreement shall be governed by the laws of the State of Idaho.

15. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof.

16. Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the Parties hereto.

17. Effective Date. The Effective Date of this Agreement shall be the date on which both Buyer and Seller executed this Agreement, if executed on the same day, or the later date, if executed on different days.

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Buyer's Initials: RP
Seller's Initials: RM

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