

(Internet)

Page 1 of 6

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

AMENDED

Transfer No. 11401

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

JUL 07 2004

PART 1

WATER RESOURCES
WESTERN REGION

WESTERN REGION
Name of applicant City of Middleton Phone (208) 585-3133

Post Office address P0 Box 487 Middleton, ID 83644

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 Reflects a combined system and City's municipal groundwater rights. Well No. 1 and 2 will be abandoned and a new well (No. 7) will be incorporated for a total of 4 wells.

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

- | 1. Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|--|------------|--------------------------|------------------------------|----------------------|
| 63-22363 | 10/16/1919 | 4.0 cfs | Municipal | 1/1 to 12/31 |
| 63-3398 | 1/8/1964 | 1.11 cfs | Municipal | 1/1 to 12/31 |
| 63-8310 | 7/21/1976 | 0.67 cfs | Municipal | 1/1 to 12/31 |
| 63-8704 | 4/18/1977 | 5.0 cfs | Municipal | 1/1 to 12/31 |
| 63-9128 | 3/29/1978 | 1.24 cfs | Municipal | 1/1 to 12/31 |
| 2. Total amount of water being transferred | | 12.02 | cubic feet per second and/or | acre-feet per annum. |
| 3. Source of water | | Groundwater tributary to | | |
| 4. Point(s) of Diversion: | | | | |

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
2		NW	NE	5	4N	2W	Canyon	Well No. 4
4		NW	NW	6	4N	2W	Canyon	Well No. 5
		NE	NW	8	4N	2W	Canyon	Well No. 6
		SW	NW	17	4N	2W	Canyon	Well No. 7

5. Lands irrigated or place of use:

[illegible]

Total acres _____

PART 1

6. General Information:

a. Description of diversion system wells, pumps, and mainlines

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? X 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. Well No. 7 is subject to attached lease agreement.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

d. Remarks:

Well No. 7 is subject to attached well lot lease agreement. All other well lots and diversion system is owed in fee or easement agreement. Well No. 1 and 2 are not in service and planned for abandonment.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 19 _____

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 (see attached proof reports)

1. Right 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. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a 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 _____ tributary to _____

4. Date or priority _____

5. Water is used for the following purpose:

amount _____ for _____ purposes from _____ to _____
(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 _____ 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

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-22363 V1

WATER RIGHT NUMBER: 63-22363 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF MIDDLETON 15 N DEWEY AVE PO BOX 487 MIDDLETON, ID 83644 (208)585-3133

Priority Date: 10/16/1919

Basis:

Status:

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	1/01 to 12/31	4.000 CFS	
	<u>Total Diversion:</u>	4.000 CFS	

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 8,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	NW1/4NE1/4	Sec. 7,	Twp 04N,	Rge 02W, B.M. —
CANYON County				
GROUND WATER	L2 (NW1/4NE1/4)	Sec. 5,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	L4 (NW1/4NW1/4)	Sec. 6,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	SW1/4SE1/4	Sec. 6,	Twp 04N,	Rge 02W, B.M. —
CANYON County				

Place of UseConditions of Approval:Remarks:Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-22363 V1

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-3398 V1

WATER RIGHT NUMBER: 63-3398 V1

Owner Type Name and Address
 Current Owner CITY OF MIDDLETON
 15 N DEWEY AVE
 PO BOX 487
 MIDDLETON, ID 83644
 (208)585-3133

Priority Date: 01/08/1964

Basis: License

Status:

Source Tributary
 GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	1/01 to 12/31	1.110 CFS	57.00 AF
<u>Total Diversion:</u>		1.110 CFS	57.00 AF

Location of Point(s) of Diversion

GROUND WATER SW1/4SE1/4 Sec. 6, Twp 04N, Rge 02W, B.M.
 CANYON County

Place of Use

MUNICIPAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02W	5									X	X	X	X					
04N	02W	6		X L 2	X		X L 3		X L 5	X	X L 6	X L 7	X		X	X	X	X	
04N	02W	7	X	X	X	X L 1	X	X L 6	X L 5	X L 3				X L 8		X L 2	X L 9		
04N	02W	8					X	X	X	X		X L 4							
04N	02W	18					X												
04N	03W	1				X									X		X	X	
04N	03W	12	X	X	X	X	X			X L 3					X L 1	X L 2			

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-3398 V1

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Middleton municipal water supply system as provided for under Idaho Law.

Remarks:

Comments:

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-8310 V1

WATER RIGHT NUMBER: 63-8310 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF MIDDLETON 15 N DEWEY AVE PO BOX 487 MIDDLETON, ID 83644 (208)585-3133

Priority Date: 07/21/1976

Basis: License

Status:

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	1/01 to 12/31	0.670 CFS	
	<u>Total Diversion:</u>	0.670 CFS	

Location of Point(s) of Diversion

GROUND WATER	L2 (NW1/4NE1/4)	Sec. 5,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	L4 (NW1/4NW1/4)	Sec. 6,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	NW1/4NE1/4	Sec. 7,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	NE1/4NW1/4	Sec. 8,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	SW1/4SE1/4	Sec. 6,	Twp 04N,	Rge 02W, B.M.
CANYON County				

Place of Use

MUNICIPAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02W	5									X	X	X	X					
04N	02W	6		X	X		X		X	X	X	X	X	X	X	X	X	X	
				L 2				L 3		L 5			L 6	L 7					
04N	02W	7	X	X	X	X	X	X	X	X	X			X		X	X		
						L 1			L 6	L 5		L 3		L 8		L 2	L 9		
04N	02W	8					X	X	X	X		X							
												L 4							

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-8310 V1

04N 02W 18						X										
04N 03W 1						X						X		X	X	
04N 03W 12		X	X	X		X		X	X		X	X				
											L 3		L 1	L 2		

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Middleton municipal water supply system as provided for under Idaho Law.

Remarks:Comments:Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-8704 V1

WATER RIGHT NUMBER: 63-8704 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF MIDDLETON 15 N DEWEY AVE PO BOX 487 MIDDLETON, ID 83644 (208)585-3133

Priority Date: 04/18/1977

Basis: License

Status:

<u>Source</u>	<u>Tributary</u>
---------------	------------------

GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	1/01 to 12/31	5.000 CFS	
	<u>Total Diversion:</u>	5.000 CFS	

Location of Point(s) of Diversion

GROUND WATER	L4 (NW1/4NW1/4)	Sec. 6,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	L2 (NW1/4NE1/4)	Sec. 5,	Twp 04N,	Rge 02W, B.M.
CANYON County				

Place of Use

MUNICIPAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02W 5									X	X	X	X					
04N 02W 6		X L 2	X		X L 3		X L 5	X	X	X L 6	X L 7	X	X	X	X	X	
04N 02W 7	X	X	X	X L 1	X	X L 6	X L 5	X	X L 3			X L 8		X L 2	X L 9		
04N 02W 8					X	X	X	X		X L 4							
04N 02W 18					X												
04N 03W 1				X									X		X	X	
04N 03W 12	X	X	X	X	X			X	X L 3				X L 1	X L 2			

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-8704 V1

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Middleton municipal water supply system as provided for under Idaho Law.

Remarks:

Comments:

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-9128 V1

WATER RIGHT NUMBER: 63-9128 V1

Owner Type Name and Address
 Current Owner CITY OF MIDDLETON
 15 N DEWEY AVE
 PO BOX 487
 MIDDLETON, ID 83644
 (208)585-3133

Priority Date: 03/29/1978

Basis: License

Status:

Source Tributary
 GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	1/01 to 12/31	1.240 CFS	
	<u>Total Diversion:</u>	1.240 CFS	

Location of Point(s) of Diversion

GROUND WATER	L2 (NW1/4NE1/4)	Sec. 5,	Twp 04N,	Rge 02W, B.M.
CANYON County				
GROUND WATER	L4 (NW1/4NW1/4)	Sec. 6,	Twp 04N,	Rge 02W, B.M.
CANYON County				

Place of Use

MUNICIPAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 02W 5									X	X	X	X					
04N 02W 6		X	X		X		X	X	X	X	X	X	X	X	X	X	
		L 2			L 3		L 5			L 6	L 7						
04N 02W 7	X	X	X	X	X	X	X	X	X			X		X	X		
				L 1		L 6	L 5		L 3			L 8		L 2	L 9		
04N 02W 8					X	X	X	X		X							
										L 4							
04N 02W 18					X												
04N 03W 1				X									X		X	X	
04N 03W 12	X	X	X	X	X			X	X				X	X			
									L 3				L 1	L 2			

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-9128 V1

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Middleton municipal water supply system as provided for under Idaho Law.

Remarks:

Comments:

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

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

(If the entire right is to be changed by the applicant, omit part B and C.)

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

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

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

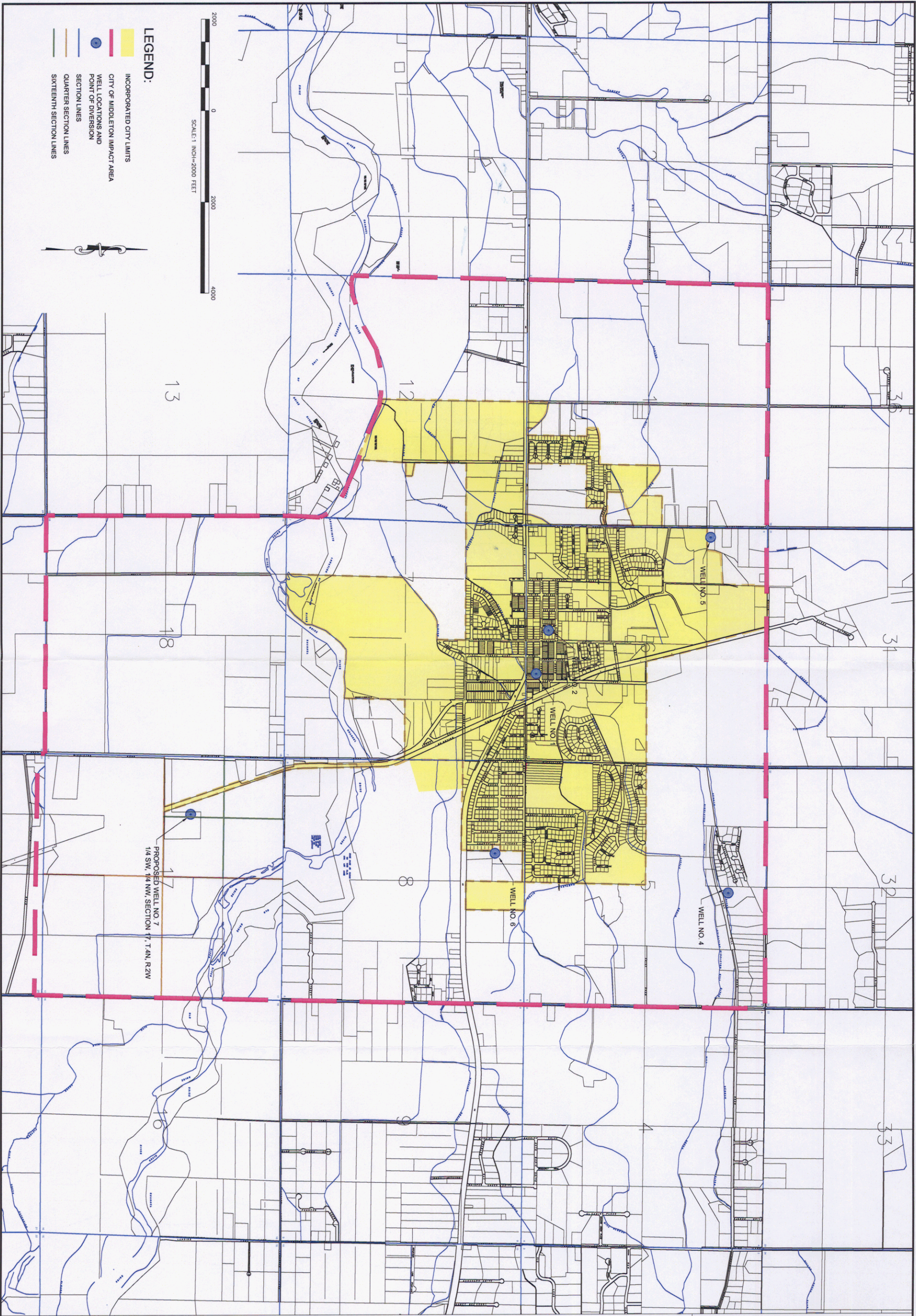
2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____



HOLLADAY ENGINEERING CO.
ENGINEERS • CONSULTANTS
32 N. MAIN P.O. BOX 235 PAYETTE ID 83661
(208) 642-3304 • FAX# (208) 642-2159
EMAIL: hec@holladayengineering.com

CITY OF MIDDLETON POD AND POU MAP

REUSE OF DOCUMENTS
THIS DOCUMENT AND THE DESIGNS AND DEVICES INCORPORATED THEREIN ARE THE PROPERTY OF HOLLADAY ENGINEERING CO. AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN AUTHORIZATION OF HOLLADAY ENGINEERING CO.

JOB NO. MD 080403
CADD FILE: 6: MD\080403\W080403A1
DATE: 9-25-03
PLOTTER: 12-2-03
DRAWN BY: SHEET MCM
CHECKED BY: CHD

PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
				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:

None

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.

Frank McKeever, Mayor

(Signature of Applicant)

Subscribed and sworn to before me this

4th

day of

December

19 2003

ELLEN M. SMITH
NOTARY PUBLIC
STATE OF IDAHO

(Notary Public)

My commission expires

4-16-08

FOR DEPARTMENT USE ONLYTransfer contains 6 pages and 1 attachmentsReceived by AK Date 3/16/04

Protest filed by _____

Prelim. check by _____ Fee 45000Receipted by AK Date 3/16/04W031384

Published in _____

Copies of protest forwarded by _____

Pub. dates _____

Hearing held by _____ Date _____

Watermaster recommendation requested on _____

Recommended for ☐ approval ☐ denial

rec'd. _____

by _____

Copy of transfer sent to lien holder _____

SITE LEASE AND EASEMENT AGREEMENT

This Site Lease and Easement Agreement (the "Agreement"), dated as of March 3, 2004, by and between Garnet Energy LLC, an Idaho limited liability company (hereinafter, the "Lessor"), as Site Lessor, and the City of Middleton, Canyon County, Idaho, a municipal corporation organized and existing under and by virtue of the laws of the State of Idaho (hereinafter, the "City"), as Site Lessee;

WITNESSETH:

WHEREAS, the Lessor owns a parcel of real property upon which the City intends to construct certain improvements thereto and to operate such real property, as improved (the "Project"), as a well site for the operation and maintenance of a municipal well; and

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

Section 1. Well Site; Easement. The Lessor hereby leases to the City and the City hereby leases from the Lessor, on the terms and conditions hereinafter set forth, certain real property situated in the County of Canyon, State of Idaho, more particularly described in Exhibit "A" attached hereto (the "Well Site"). The Well Site is situated on a parcel of land owned by Lessor and used by Idaho Power Company under a Substation Easement dated May 16, 2003 (Canyon County Recorder Instrument No. 200329530) (the "Substation Parcel"). To facilitate the use of the Well Site, the Lessor hereby grants to the City, its successors and assigns, for the term of this Agreement, a reasonable easement, across adjoining lands owned by the Lessor, to allow for the construction, operation and maintenance of utilities to service the Well Site and to use the Well Site to deliver water throughout the City's domestic water system.

Section 2. Term. The term of this Agreement shall commence on January 1, 2004, and shall terminate on December 31, 2044, unless sooner terminated as provided herein. This Agreement will automatically renew at the end of the Term, so long as an operating well is being maintained by the City on the Well Site.

Section 3. Rental. The City has paid as consideration and rental hereunder the sum of \$1.00 and other good and valuable consideration. The City shall not be obligated to pay any additional rental hereunder.

Section 4. Purpose. The City shall use the Well Site solely for the purpose of operating and maintaining a municipal well. The City's use of the Well Site shall not unreasonably interfere with the present or future use of the Substation Parcel.

Section 5. Construction of Improvements. The City shall be responsible for the construction of the well (including the well building, controls and piping) and any another ancillary well and site components. The City shall also be responsible for the installation of utilities to the

Well Site to operate the well. The City's construction and installation activities on the Well Site shall not unreasonably interfere with the present or future use of the Substation Parcel.

Section 6. Owner in Fee. The Lessor covenants that it is the owner in fee of the Well Site.

Section 7. Assignment. The City may not assign its rights under this Agreement without the written consent of the Lessor, which may not be unreasonably withheld. The Lessor may transfer its title to the Well Site to Idaho Power Company or any other third party at any time and for any reason without prior notice to or consent by the City, subject to the terms of this Agreement.

Section 8. [Reserved]

Section 9. Right of Entry. The Lessor reserves the right for any of its duly authorized representatives to enter upon the Well Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

Section 10. Termination. The City agrees, upon the termination of this Agreement, to quit and surrender the Well Site in the same good order and condition as the Well Site was in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and all improvements and personal property owned by the Lessor and situated upon the Well Site at the time of termination of this Agreement shall remain thereon, and title thereto shall vest in the Lessor.

Section 11. Default. In the event that the City shall be in default in the performance of any obligation on its part to be performed under the terms of this Agreement, which default continues for thirty (30) days following notice and demand for correction thereof to the City, the Lessor may exercise any and all remedies granted by law. Notwithstanding the foregoing, the Lessor shall have no power to terminate this Agreement by reason of any default on the part of the City or its assigns.

Section 12. Quiet Enjoyment. The City shall, at all times during the term of this Agreement, peaceably and quietly have, hold and enjoy all of the Well Site.

Section 13. Waiver of Personal Liability. The City shall have no liability under this Agreement, either in its individual or its fiduciary capacity, and the Lessor hereby releases each and every officer of the City of and from any personal or individual liability under this Agreement. No officer of the City shall at any time or under any circumstances be individually or personally liable under this Agreement for anything done or omitted to be done by the City hereunder.

Section 14. Taxes. The Lessor covenants and agrees to pay any and all assessments or fees of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Well Site (excluding any improvements placed upon the Well Site and owned by the City).

Section 15. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Agreement shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Agreement shall be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 16. Notices. Unless otherwise notified in writing, all notices, requests and demands shall be in writing and shall be personally delivered to or mailed by United States certified mail, postage prepaid and return receipt requested, as follows:

For the City:

Mayor Frank McKeever
City of Middleton
P.O. Box 176
Middleton, Idaho 83644

For Lessor:

Mr. Randy Hill
President and CEO
Ida-West Energy Company
P.O. Box 7867
Boise, Idaho 83707

Section 17. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 18. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Agreement.

Section 19. Recording. This Agreement shall be recorded upon execution in the office of the county recorded for Canyon County.

Section 20. Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

Section 21. Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement. This Agreement does not alter the meanings of previous written agreements entered into by these parties.

IN WITNESS WHEREOF, the Lessor and the City have caused this Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

City of Middleton, Canyon County, Idaho

By: Frank McKeever
Frank McKeever, Mayor

ATTEST:

By: Ellen Smith
Ellen Smith
Clerk

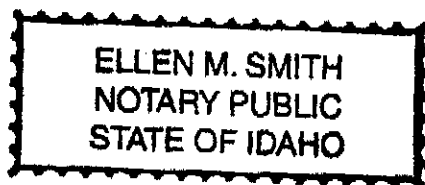
Garnet Energy LLC

By: Randy Hill
Randy Hill, President of Garnet Power
Company, the sole member and manager of
Garnet Energy LLC

STATE OF IDAHO)
COUNTY OF CANYON)

ss.

On this 3 day of March, 2004, before me, the undersigned notary public in and for said state, personally appeared Frank McKeever, who, being first duly sworn, did say that he is the Mayor of the City of Middleton, Canyon County, Idaho, a body corporate and politic existing under the laws of the State of Idaho, and acknowledged that the foregoing instrument was signed on behalf of said City and acknowledged said instrument to be its voluntary act and deed.

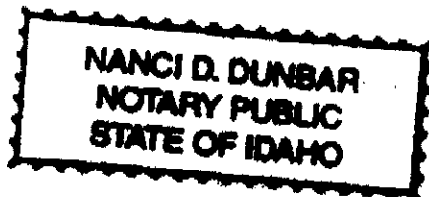


Ellen M. Smith
Notary Public for the State of Idaho
My Commission Expires: 4-16-08

STATE OF IDAHO)
COUNTY OF ADA)

ss.

On this 2nd day of March, 2004, before me, the undersigned notary public in and for said state, personally appeared Randy Hill, who, being first duly sworn, did say that he is the President of Garnet Power Company, the sole member and manager of Garnet Energy LLC, an Idaho limited liability company, and acknowledged that the foregoing instrument was signed on behalf of Garnet Energy LLC, and acknowledged said instrument to be its voluntary act and deed.



Nanci D. Dunbar
Notary Public for the State of Idaho
My Commission Expires: 12/31/2004

EXHIBIT A
WELL SITE DESCRIPTION
HECO JOB NO.: MD080403

A parcel of land located in the SW1/4NW1/4 of section 17, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho. Said parcel being a part of that property described by Instrument number 543823, records of Canyon County, and is more particularly described as follows, being based on a particular record of survey by Sharp & Smith, Inc. for Ida-West Energy laying out Option Parcels A-1 and A-2:

Commencing at the northwest corner of said Section 17, thence S.01°21'34"W. 2624.72 feet to the southwest corner of the NW1/4 of said Section 17;

thence S.89°31'22"E. 1218.43 feet along the south line of said NW1/4 to the easterly right-of-way line of the Idaho Northern Branch of the Oregon Short Line Railroad, as recorded on railroad drawing No. 18670 dated May 25, 1914;

thence N.18°48'07"W. 175.62 feet along said easterly right-of-way line and a portion of aforementioned Option Parcel A-1;

thence S.89°09'02"E. 62.74 feet along the west line of said Option Parcel A-1;

thence N.00°00'00"W. 642.50 feet along said west line to the northwest corner of said Option Parcel A-1, and the **TRUE POINT OF BEGINNING**;

thence S.89°09'02"E. 100.00 feet along the north line of Option Parcel A-1;

thence S.00°00'00"E. 100.00 feet parallel with the west line of Option Parcel A-1;

thence N.89°09'02"W. 100.00 feet parallel with the said north line to the said west line;

thence N.00°00'00"W. 100.00 feet along said west line to the **TRUE POINT OF BEGINNING**.

Containing 0.23 acres, more or less.

Prepared by:
HOLLADAY ENGINEERING COMPANY
Dean J. Coon, PLS, EIT

EXHIBIT B
UTILITY EASEMENT
HECO JOB NO.: MD080403

An easement, 20 feet in width, for the construction and maintenance of utilities; located in the SW1/4NW1/4 of section 17, Township 4 North, Range 2 West, Boise Meridian, Canyon County, Idaho; being a part of that property described by Instrument number 543823, records of Canyon County. The southerly and easterly sideline being parallel with and 20 feet distant from the following described northerly and westerly sideline; based on a particular record of survey by Sharp & Smith, Inc. for Ida-West Energy laying out Option Parcels A-1 and A-2:

Commencing at the northwest corner of said Section 17, thence S.01°21'34"W. 2624.72 feet to the southwest corner of the NW1/4 of said Section 17;

thence S.89°31'22"E. 57.44 feet along the south line of said NW1/4 to the easterly right-of-way line of Middleton Road;

thence N.1°46'14"E. 162.07 feet along said right-of-way line to the northwest corner of said Option Parcel A-1 and the **TRUE POINT OF BEGINNING**:

thence S.89°44'46"E. 993.37 feet along the north line of said Option Parcel A-1 to the westerly right-of-way line of the Idaho Northern Branch of the Oregon Short Line Railroad, as recorded on railroad drawing No. 18670 dated May 25, 1914; the southerly parallel sideline of this course being lengthened or shortened to terminate at the aforementioned Middleton road right-of-way line at its west end and at the said railroad right-of-way line at its east end;

thence S.89°26'46"E. 105.99 feet to the easterly right-of-way line said railroad; the southerly parallel sideline of this course being lengthened or shortened to terminate at the said railroad easterly and westerly right-of-way lines;

thence S89°09'02"E. 62.74 feet to an angle point in the west line of aforementioned Option Parcel A-1;

thence N.00°00'00"W. 542.50 feet along the west line of said Option Parcel A-1 to the south line of the well site described by Exhibit A, contained herein; and the **POINT OF TERMINUS**; the easterly parallel sideline of this course being lengthened or shortened to terminate at the said south line.

Prepared by:
HOLLADAY ENGINEERING COMPANY
Dean J. Coon, PLS, EIT