

NOV 20 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 88666

Department of Water Resources
Eastern Region

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) David N. Hogan and Connie Hogan

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☒ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☒ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☒ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☒ ☐ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☐ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) David N. Hogan and Connie Hogan Phone 801-726-0436
Mailing address 2920 S 925 W, Ogden, UT 84401 Email dhogan@wadman.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☒ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

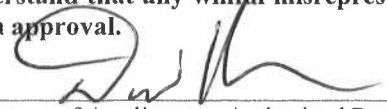
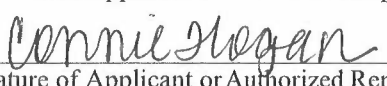
Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Rocky Mountain Environmental Associates, Inc. Phone 208-524-2353
Mailing address 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 Email kristin.rmea@gmail.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). 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 rejection of the application or cancellation of an approval.

 Signature of Applicant or Authorized Representative	<u>David N. Hogan</u> Print Name and Title if applicable	<u>10/30/2023</u> Date
 Signature of Applicant or Authorized Representative	<u>Connie Hogan</u> Print Name and Title if applicable	<u>10/30/2023</u> Date

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. Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
 If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.
3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.
 Applicant is contracted to purchase a portion of proposed ground water rights for irrigation. Existing wells will be used to divert the transferred ground water rights onto two residential lots for irrigation of lawn and landscaping. Ownership will be conveyed to the applicant upon approval of the transfer.

Narrative to Support Application*David N and Connie Hogan*

Water rights 35-14650 and 1-10687 are currently appurtenant to 20 acres of property owned by John Branca III. Rights 35-14650 from ground water and 1-10687 from the Snake River were developed as fully overlapping at the described place of use. These are splits of parent rights 35-7720 and 1-7017, which have previously been sold and transferred to new locations through various transfer applications; the historical use of both the parent rights and the split rights are the same. The ground water right 35-14650 is diverted from two deep ponds that are in direct connection with ground water. Water right 1-10687 was historically diverted directly from the Snake River at the Tomchak B #1 pump, then conveyed through mainline for delivery into the sprinkler system.

Right 1-10687, having a junior priority date of 1978, is seldom available for diversion during the irrigation season. The ground water right 35-14650 has been used as a primary water right historically due to curtailment of 1-10687. It is proposed that the overlapping portion of 1-10687, in amounts described below, be abandoned upon approval of this transfer:

1-10687 for 1.0 acres and 0.0167 cfs

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☐ All or ☒ Part	35-14650	0.02	Irrigation	4/01 to 10/31	Ground Water
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 0.02 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.02 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☒ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Source	Local name or tag #
N	3		NW	SW	7	1N	44E	Bonneville	Groundwater	
N	3		NW	SW	7	1N	44E	Bonneville	Groundwater	

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	44E	7										1							1
												L3							
Total Acres (for irrigation use)																			1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Well to pump to irrigation system. Measuring device and lockable controlling works can be installed upon request. Delivery will be through a domestic sprinkler system.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☒ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

Land now irrigated will be retired from irrigation.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

Existing POD: Water right 35-14649, 35-7744, and 35-7720 share a POD. Existing POU: 1-10687

Proposed POD/POU: Water rights 23-10035 & 23-7097. However, applicant has no claim to ownership of these rights and they will not be used in combination.

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|-------------------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☒ | ☐ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe:

The right is leased to the WSB under contract 1513, and will be released December 31, 2023.

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

8/29/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-14650

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHN C BRANCA III 1625 RIVER DR JACKSON, WY 83001-8850 3077337208
Directors Report Owner	BURLEIGH TOMCHAK 202 BASSETT RD ROBERTS, ID 83444 2082286871
Directors Report Owner	MABEL TOMCHAK 458 BASSETT RD ROBERTS, ID 83444 2082286871

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.4 CFS	
Total Diversion			0.4 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSW Lt 5	Sec. 03	Township 04N	Range 37E	JEFFERSON County
GROUND WATER	NWSE	Sec. 04	Township 04N	Range 37E	JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	37E	3	8	NWNE	12.7	7	SWNE	7.3						

Total Acres: 20

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. E55 USE OF THIS RIGHT WITH RIGHT NO. 01-10687 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 20 ACRES IN A SINGLE IRRIGATION SEASON.
3. E53 USE OF THIS RIGHT WITH ALL OTHER RIGHTS IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 80 AF AT THE FIELD HEADGATE FOR THE LANDS BELOW.

Dates:

Licensed Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 20

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

THIS AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT (this "Agreement") is made and entered to be effective as of the 27 day of September, 2023 (the "Effective Date"), by and between the following entities:

1. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Seller"); and
2. Acting on behalf of Seller, **Keller Williams Realty East Idaho**, an Idaho limited liability limited partnership whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with **D'Wayne Coburn** as Broker and **Reed D. Nord** acting as Agent for the Broker (hereinafter "Broker").
3. **David N. and Connie Hogan**, whose address is 2920 S 925 W Ogden, Utah 84401, (hereinafter "Buyer"); Buyer, Seller, and Broker are individually a "Party" and together the "Parties".

RECITALS:

- A. Seller currently has the legal right and option to a portion of Water Right No. 35-14650 (the "Water Right"), which was decreed on January 12, 2004 in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for irrigation purposes with priority date of April 22, 1979. The current description of the Water Right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Seller desires to sell, and Buyer desires to buy 1.0 acre of the Water Right. Buyer has agreed to purchase 1.0 acres of the Water Right from Seller as set forth in the terms and provisions of this Agreement.

AGREEMENT:

IN CONSIDERATION of the mutual representations, warranties, and covenants contained herein, the Parties, intending to be legally bound hereby, 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, the following-described portion of the Water Right:

Purpose:	Irrigation
Priority:	April 22, 1979
Quantity (Diversion Rate):	<u>0.02</u> cfs of the total authorized <u>0.40</u> cfs
Quantity (Volume):	<u>4.0</u> acre-feet per annum

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: DNH 10/27/23 DATE: 9/27/23 PAGE 1 OF 14

88666

Place of Use (Acreage): 1.0 acres of the 20.00 authorized acres identified on **Exhibit 2**.

The above-described portion of the Water Right is referred to hereafter as the "Purchased Water Right."

2. Property Retained. Other than the Purchased Water Right, Seller reserves and retains unto Seller any other water rights that may be appurtenant to the authorized place of use for the Water Right. No land, easements, or other property interests, other than the Purchased Water Right, are included in this Agreement.
3. Purchase Price. The purchase price for the Purchased Water Right is [REDACTED] (the "Purchase Price") plus a brokerage fee of [REDACTED] (Item 12a).
4. Earnest Money Deposit. Contemporaneous with the execution of this Agreement, Buyer shall deliver to Seller earnest money in the amount of [REDACTED] (the "Earnest Money"). The Earnest Money shall be applied towards the Purchase Price at closing, or otherwise disposed of as provided herein.
5. Transfer Application. Within 30 days after both Parties sign this Agreement, Buyer will file with IDWR an *Application for Transfer of Water Right* (the "Transfer") to amend and move the Purchased Water Right to Buyer's desired location(s). The Parties will cooperate in obtaining IDWR approval of the Transfer and will provide and execute any necessary documents requested by IDWR. Buyer will be responsible for the costs to file the Transfer, including all attorney fees, consultant fees, and filing fees associated with preparation of the Transfer and/or defending against a protest to the Transfer. In the event this Agreement is terminated pursuant to paragraph 6 of this Agreement, Buyer shall at its sole expense take such action as may be required to void or reverse the Transfer in order to return the Purchased Water Right to the condition it existed on the Effective Date, upon completion of which the Earnest Money will be returned by Buyer within 14 days of such completion.
6. Transfer Contingencies.
 - (a) Unstacking of Water Rights. While Water Right No. 1-10684 is stacked with the Purchased Water Right and the historical use should allow IDWR to "unstack" these water rights and abandon the stacked portion of 1-10684, this Agreement shall be null and void and of no further effect if IDWR does not unstack the Purchased Water Right from Water Right No. 1-10684 and abandon the stacked portion of 1-10684.
 - (b) No Protests. If no protests or other objections to the Transfer are filed with IDWR, but the Transfer is (i) denied, (ii) approved by IDWR for less than 1.0 acres, or (iii) approved by IDWR with conditions that materially devalue the Purchased Water Right for Buyer's intended use thereof, then Buyer may terminate this Agreement within 14 days after the date of the IDWR approval notice by providing written notice of termination to Seller. Within 14 days of

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: WV / LRC DATE: 1/27/23 PAGE 2 OF 14

88666

receipt of the notice of termination, Seller shall refund the Earnest Money to Buyer. If Buyer does not terminate this Agreement as provided herein, the Parties shall proceed to Closing as set forth in paragraph 7.

- (c) Protest Filed. If a protest or other objection to the Transfer is filed with IDWR, then Buyer may terminate this Agreement within 180 days after the protest is filed with IDWR. If Buyer does elect to terminate this Agreement, Seller shall refund the Earnest Money to Buyer within 14 days of receipt of the notice of termination.
- (d) Option Agreement. If Seller is unable to obtain title to the Water Right through the exercise of Seller's option to purchase the Water Right because of a breach by the other party to the Option Agreement, Seller may elect to terminate this Agreement within 180 days of the breach. In such event, Closing on this Agreement shall be stayed for said 180 days pending resolution of the dispute over the Option Agreement or termination by Seller.

7. Closing.

- (a) Closing Date. If (1) the Water Right is unstacked as provided in paragraph 6(a); and (2) no protest to the Transfer is filed with IDWR; or (3) IDWR issues a transfer approval acceptable to Buyer without the conditions of paragraph 6(c) present, then Closing on the Purchased Water Right shall occur within 30 days after the date all the above items are satisfied. If a protest or other objection to the Transfer is filed with IDWR, or there is a dispute over the Option Agreement, and Buyer does not elect to terminate the Agreement as set forth in paragraph 6(d) of this Agreement, the Closing shall occur within 14 days after the 180-day termination period expires. Notwithstanding the above, the Parties may mutually agree to another date for the Closing.
- (b) Closing Location. The Closing shall occur at the offices of Pioneer Title Co., 1655 Elk Creek Dr. #100, Idaho Falls, ID 83401, or another location mutually agreed by the Parties.
- (c) Documents to be delivered at Closing.
 - (1) At Closing, Buyer shall deliver the Purchase Price plus Buyer's Premium less the Earnest Money [REDACTED]
 - (2) At Closing, Seller shall deliver to Buyer the Special Warranty Deed (the "Deed") substantially in the form attached to this Agreement as **Exhibit 3** for the Purchased Water Right, and any lien release or other documents reasonably requested to confirm the conveyance of the Purchased Water Right free and clear of encumbrances.
- (d) Fees and Costs of Closing. The fees and costs of processing the closing including recording the deed after closing and preparation and fee for Change of Ownership

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: *KB* *LR* DATE: *9/27/23* PAGE 3 OF 14

88666

application shall be paid by Buyer. All other expenses not specifically referenced in this Agreement but related to the Transfer 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.

8. Default. In addition to either Party's failure to perform any material term or condition of this Agreement or a Party's breach of any of such Party's representations or warranties (in which event the non-defaulting party may pursue any available remedy, including equitable relief), Buyer shall be deemed in default hereof if Buyer files a petition in bankruptcy or is adjudicated bankrupt or insolvent, Buyer makes an assignment for the benefit of its creditors, or consents to the appointment of a receiver of itself or of its property, or institutes proceedings for its reorganization, in which case, in addition to any other remedies or rights Seller might have, Seller shall have the power and authority to notify the Department that the Application for Transfer has been withdrawn.
9. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer, as of the Effective Date and again as of the Closing as follows:
 - (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Agreement, and will obtain good marketable title to the Purchased Water Right in fee simple, and Seller (at its expense) shall remove, or shall exercise commercially reasonable efforts to cause to be removed, all liens, claims, or encumbrances, whether of record or not, upon or affecting the Purchased Water Right on or before Closing. If, after exercising commercially reasonable efforts, the liens, claims, or encumbrances are not removed by Closing, Seller may terminate this Agreement.
 - (b) Conveyance. Seller shall then convey the Purchased Water Right free and clear of all liens, encumbrances and restrictions, except such restrictions on the use of water as may appear on the Water Right Report contained at **Exhibit 1**.
 - (c) Appurtenance. The Purchased Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
 - (d) Not Forfeited. No portion of the Purchased Water Right has been forfeited or abandoned in whole or in part.
 - (e) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.
10. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as of the Effective Date and again as of the Closing for the Purchased Water Right, as follows:
 - (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: *[Handwritten initials]* DATE: 9/27/23 PAGE 4 OF 14

88666

- (b) Buyer's Due Diligence. Buyer and Buyer's consultants and counsel have had a full opportunity to review all documents, records and other information made available to Buyer by Seller and/or otherwise reasonably available to Buyer through public or other sources, related to the nature and extent of the Purchased Water Right, the laws and rules affecting their transfer and use by Buyer, and the suitability or fitness of the Purchased Water Right for Buyer's intended purposes.
11. Warranties to Survive Closing. All representations and warranties made by the Parties herein are also covenants, and each Party shall take all such actions as may be required to satisfy said covenants and to cause the representations and warranties to be true on and as of the Closing. The Parties' respective obligations to close and consummate the transaction contemplated herein are contingent upon the representations, warranties and covenants contained in this Agreement being true, valid and satisfied on and as of the Closing. All such representations and warranties shall survive the Closing.
12. Broker.
- (a) The Broker represents Buyer under this Agreement and Buyer shall pay Broker a fee of _____
- (b) Consent To Limited Dual Representation And Assigned Agency. The undersigned Buyer has received, read and understand the Agency Disclosure Brochure (prepared by the Idaho Real Estate Commission). The undersigned Buyer understands that the brokerage involved in this transaction may be providing agency representation to both the Buyer and the Seller. The undersigned Buyer understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and cannot legally disclose to either client certain confidential client information concerning price negotiations, terms, or factors motivating the Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations, and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by § 54-2085, Idaho Code. The undersigned Buyer understands that a limited dual agent does not have a duty of undivided loyalty to either client. The undersigned Buyer further acknowledges that, to the extent the brokerage firm offers assigned agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in § 54-2087, Idaho Code. In an assigned agency situation, the designated Broker (the broker who supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: _____

1/18/23

DATE: _____

9/5/23

PAGE 5 OF 14

88666

- (c) Buyer Notification and Consent to Release from Conflicting Agency Duties. Buyer acknowledges that Broker as named above has disclosed the fact that at times Broker acts as agent(s) for other buyers and for sellers in the sale of the property. Buyer has been advised and understands that it may create a conflict of interest for Broker to introduce Buyer to a Seller client's property because Broker could not satisfy all of its client duties to both Buyer client and Seller client in connection with such a showing or any transaction which resulted. **Based on the understandings acknowledged, Buyer makes the following election.** (Make one election only.)

_____/_____
Initials

Limited Dual Agency and / or
Assigned Agency

Buyer DOES want to be introduced to Seller client's property and hereby agrees to relieve Broker of conflicting agency duties, including the duty to disclose confidential information known to the Broker at the time and the duty of loyalty to either party. Relieved of all conflicting agency duties, Broker will act in an unbiased manner to assist the Buyer and Seller in the introduction of Buyer to such Seller client's property and in the preparation of any contract of sale which may result. Buyer authorizes Broker to act in a limited dual agency capacity. Further, Buyer agrees that Broker may offer, but is not obligated to offer, assigned agency representation, and if offered by the Broker, Buyer authorizes Broker to act in such capacity.

OR

_____/_____
Initials

Single Agency

Buyer DOES NOT want to be introduced to Seller client's property and hereby releases Broker from any responsibility or duty under the agency agreement. Broker shall be under no obligation or duty to introduce the Buyer to any Seller client's property.

13. Miscellaneous.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.
- (b) 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:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

<u>Seller</u>	<u>Buyer</u>
Rocky Mountain Water Exchange, LLC	David N. and Connie Hogan
482 Constitution Way Ste 303	2920 S 925 W
Idaho Falls, ID 83402	Ogden, UT 84401
Email: rog.rmea@gmail.com	dhogan@wadman.com
 <u>Seller's Representative</u>	 <u>Buyer's Representative</u>
Reed Nord	
3525 Merlin Dr.	
Idaho Falls, ID 83404	
Email: rgnord@ida.net	

- (c) Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties hereto regarding the Purchased Water Right. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.
- (d) Remedies Cumulative. Upon any breach, any and all rights and remedies which either Party may have under this Agreement or by operation of law or equity, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other. No such right or remedy, whether exercised by said Party or not, shall be deemed to be in exclusion of any other right or remedy, any two or more of all such rights and remedies may be exercised at the same time or separately as desired.
- (e) Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.
- (f) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.
- (g) Counterparts. This Agreement may be executed in any number of counterparts for all 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.
- (h) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.

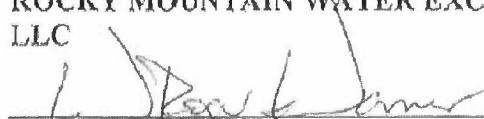
AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

- (i) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.
- (j) Essence of Time. Time is of the essence in this Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

"SELLER"

ROCKY MOUNTAIN WATER EXCHANGE,
LLC


By: W. Roger Warner
Its: Manager

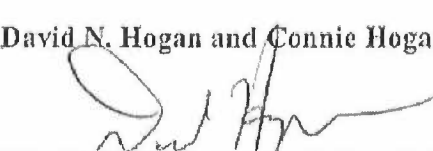
"BROKER"

KELLER WILLIAMS EAST IDAHO


D'Wayne Coburn
By: Reed D. Nord, Agent for Broker

"BUYER"

David N. Hogan and Connie Hogan


David N. Hogan


Connie Hogan

\\RMEASERVER\Projects\2017\17-0142_WR_WaterRightSales\Water Right Buyer\Gory Chapman

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

88666

Exhibit 1
The "Water Right"

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

8/29/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-14650

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHN C BRANCA III 1625 RIVER DR JACKSON, WY 83001-8850 3077337208
Directors Report Owner	BURLEIGH TOMCHAK 202 BASSETT RD ROBERTS, ID 83444 2082286871
Directors Report Owner	MABEL TOMCHAK 458 BASSETT RD ROBERTS, ID 83444 2082286871

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.4 CFS	
Total Diversion			0.4 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSW Lt 5	Sec. 03	Township 04N	Range 37E	JEFFERSON County
GROUND WATER	NWSE	Sec. 04	Township 04N	Range 37E	JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: DATE: 9/7/23 PAGE 9 OF 14
88666

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	37E	3	8	NWNE	12.7	7	SWNE	7.3						

Total Acres: 20

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. E55 USE OF THIS RIGHT WITH RIGHT NO. 01-10687 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 20 ACRES IN A SINGLE IRRIGATION SEASON.
3. E53 USE OF THIS RIGHT WITH ALL OTHER RIGHTS IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 80 AF AT THE FIELD HEADGATE FOR THE LANDS BELOW.

Dates:

Licensed Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 20

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS:



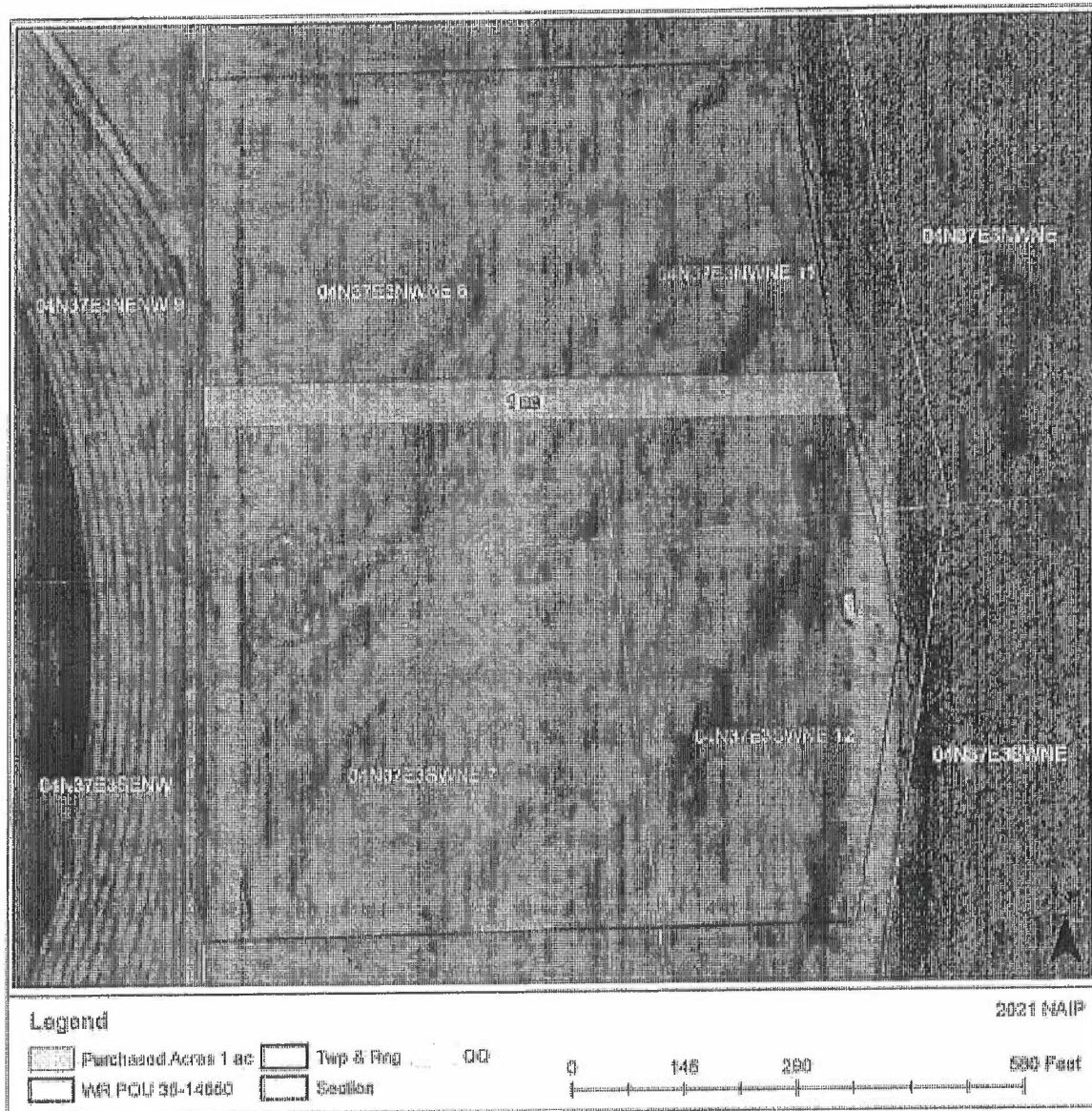
DATE:

9/27/23

PAGE 10 OF 14

88666

Exhibit 2
Map of 1.0 Acre—the “Purchased Water Right”



AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

RIVER AND SELLER'S INITIALS: *[Signature]* DATE: 9/27/23 PAGE 11 OF 14

88666

**Exhibit 3
Form of the Deed**

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Kristin Moore
Rocky Mountain Environmental Associates, Inc.
482 Constitution Way, Suite 303
Idaho Falls, ID 83402

(Space Above for Recorder's Use)

SPECIAL WARRANTY DEED FOR WATER RIGHTS

John Branca, also known as John Branca III or John C. Branca III, a single man, whose address is 1625 River Dr., Jackson, Wyoming 83001-8850, (hereinafter collectively "Grantor") does hereby grant, bargain, sell, assign, and convey unto **Dave N. Hogan and Connie Hogan**, husband and wife, whose address is 2920 S 925 W Ogden, Utah 84401, (hereinafter "Grantee") and to Grantee's heirs and assigns forever, all of Grantor's right, title, and interest in water right described on Exhibit A attached hereto (hereinafter the "Water Right").

Grantor hereby covenants and warrants to Grantee as follows:

- (A) Grantor is the owner of the Water Right;
- (B) Grantor has not conveyed any of the Water Right to anyone other than Grantee;
- (C) The Water Right is free from all liens, claims, or encumbrances; and
- (D) Grantor has the authority to convey the Water Right to Grantee.

Grantor makes no other covenants or warranties as to the Water Right.

IN WITNESS WHEREOF, the undersigned authorized officer of Grantor, acting on behalf of Grantor, has caused his name to be hereunto subscribed.

DATED this _____ day of _____, 20____.

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS:

[Handwritten initials]
88666

DATE:

2/27/23

PAGE 12 OF 14

"GRANTOR"

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____,
2023, by _____.

Notary Public for Idaho
My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____,
2023, by _____.

Notary Public for Idaho
My Commission Expires: _____

EXHIBIT A
WATER RIGHT DESCRIPTION
(TO BE COMPLETED AFTER APPROVED TRANSFER)

AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHT

BUYER AND SELLER'S INITIALS: *W 1/2* **DATE:** *9/22/23* **PAGE 14 OF 14**

88666

**ROCKY MOUNTAIN WATER EXCHANGE, LLC
NET WATER RIGHT LISTING CONTRACT
WITH EXCLUSIVE RIGHT TO SELL**

THIS NET WATER RIGHT LISTING CONTRACT WITH EXCLUSIVE RIGHT TO SELL (this "Agreement") is made and entered to be effective as of the 17th day of OCTOBER 2022 (the "Effective Date"), by and between the following parties:

1. **John Branca (also known as John Branca III)**, a single man, 1625 Rover Dr., Jackson, WY 83001-8850, whose address is 1625 Rover Dr., Jackson, WY 83001-8850 (hereinafter "Seller"); and
2. **Rocky Mountain Water Exchange, LLC**, an Idaho limited liability company, whose address is 482 Constitution Way, Suite 303, Idaho Falls, Idaho 83402 (hereinafter "Exchange"); and
3. **Keller Williams Realty East Idaho**, an Idaho limited liability partnership acting on behalf of Exchange, whose address is 3525 Merlin Dr., Idaho Falls, Idaho 83404, with D'Wayne Coburn as broker and Reed D. Nord acting as agent for the broker (hereinafter the "Broker").

Seller, Exchange, and Broker are individually a "Party" and together the "Parties".

RECITALS:

- A. Seller owns Water Right Nos. 1-10684 and 35-14650, which was decreed on September 14, 2007 and January 12, 2004 (respectively) in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of Idaho for Irrigation purposes with a priority date of March 14, 1978 and April 22, 1979 (respectively). The current description of the above-identified water right is more fully set forth in the report obtained from the Idaho Department of Water Resources ("IDWR" or the "Department") attached hereto as **Exhibit 1**.
- B. Seller desires to sell the ☒ entire above-identified water right or ☐ a _____-acre portion of the water right. If a portion is designated for sale, such portion is described on **Exhibit 2** attached hereto and the specific acres of the water right portion Seller desires to sell are depicted on the map attached as **Exhibit 3**. Whether the entire above-described water right or a portion thereof is designated for sale, either is referred to hereinafter in this Agreement simply as the "Water Right".¹

¹ If a portion of the water right identified in Recital A is designated for sale under this Agreement, Seller reserves and retains unto Seller all remaining portions of said water right and any other water rights and/or water entitlements (i.e., shares in a canal company or irrigation district acres) that may be appurtenant to the authorized place of use for the Water Right. No land, easements, or other property interests are included in this Agreement.

- C. Seller [X] HAS NOT historically used any other water entitlements or other supply (such as water from a canal company or irrigation district) to irrigate the place of use or any portion thereof of the place of use described on the Water Right or [] HAS historically used another water supply to irrigate the place of use or any portion thereof of the place of use described on the Water Right, with such other water supply described as follows:
-
- D. A legally necessary step associated with the sale of Idaho water rights to others for use on their property or properties is to change one or more certain elements of such water rights² pursuant to Idaho Code § 42-222 and its associated IDWR memoranda and other binding authority. The administrative process to amend water rights in Idaho is called a "transfer."
- E. Water right transfers are complicated because they are subject to consistently changing policies and procedures of the Department.³ Water right transfers are also uncertain because transfer applications are advertised to allow for protests against the application. A protest triggers a contested case proceeding before a hearing officer of the Department.
- F. Transfers of the point(s) of diversion of ground water rights within or close to the Eastern Snake Plain Aquifer (the "ESPA") also require "an attachment with the application that sets forth the time series of calculated depletions (transient to steady-state) to reaches of the Snake River that are hydraulically-connected to the ESPA using or based on the department's current ground water model for the ESPA, or other equivalent analysis acceptable to the department." *Administrator's Memorandum, Transfer Processing No. 24., Transfer Processing Policies and Procedures*, December 21, 2009, at 12 (hereinafter the "Transfer Memo"). The Excel[®] spreadsheet-based interface that runs IDWR's most recent iteration of its ground water model (ETRAN) is called the "Transfer Tool."⁴
- G. Because of the complexity associated with water right transfers, Exchange is engaged in the business of matching sellers of water rights with interested buyers of water rights where the water rights are capable of being transferred to a buyer's place of use or for a buyer's desired purposes. Under the provisions of this Agreement, Seller desires to designate a minimum purchase price it desires to receive for the Water Right, and to authorize Exchange to market the Water Right and perform other necessary work for potential buyers to enter into a contract to purchase the Water Right.

² These elements are point of diversion, place of use, period of use, and nature of use.

³ IDWR describes these policies and procedures in various written memoranda which are subject to amendment and updating. See, e.g., *Administrator's Memorandum, Transfer Processing No. 24., Transfer Processing Policies and Procedures*, December 21, 2009, available at <http://www.idwr.idaho.gov/files/water-rights/transfer-process-24-transfer-processing-policies-and-procedures.pdf> (last visited October 11, 2018).

⁴ In the event a model run using the Transfer Tool results in increased impacts to any reach of the Snake River less than 10% of the evaluated water right's historical impact to any one of the Snake River reaches (during either the transient or steady-state time periods), or if the impacts are more than 10% of historical impact but less than or equal to two acre-feet per trimester in magnitude (again during either the transient or steady-state time periods), the transfer will continue to be processed by the Department. Conversely, if either one of these parameters is not satisfied through use of the Transfer Tool, IDWR will not process the transfer application unless full mitigation of these impacts (generally through drying up acres and giving up water rights or water right portions) is proposed in the transfer application.

H. Accordingly, the Parties hereby agree as follows.

AGREEMENTS:

1. EXCLUSIVE RIGHT TO SELL.

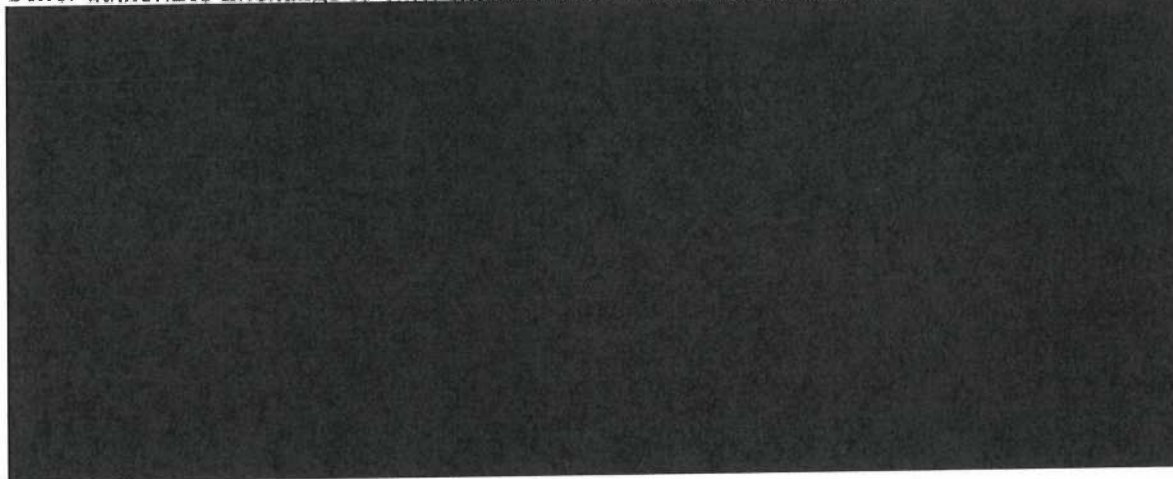
Seller hereby authorizes Exchange to sell the Water Right upon the terms and conditions set forth in this Agreement and grants Exchange the exclusive right to sell the Water Right during the term identified in paragraph 2 herein. Seller agrees to conduct all negotiations to sell the Water Right through Exchange, and to refer to Exchange all inquiries or leads received in any form from real estate brokers, salespersons, prospective buyers, or any other source, during the Term.

2. TERM OF AGREEMENT.

The term of this Agreement shall commence on October 1, 2022 and shall expire at 11:59 p.m. on October 1, 2023 (the "Term") unless renewed or extended by the Parties in writing. Provided, however, that the Term shall automatically extend if the Water Right, or a portion thereof, is subject to an existing purchase and sale agreement and/or there is a filed transfer or transfers of the Water Right or any portion thereof. This automatic extension does not apply to any portion of the Water Right that is not subject to an existing purchase and sale agreement and/or there is a filed transfer or transfers of the Water Right or any portion thereof.

3. DESIGNATION OF PURCHASE PRICE.

Seller authorizes Exchange to enter into contracts to sell the Water Right provided that Seller



4. SELLER REPRESENTATIONS AND WARRANTIES.

Seller hereby represents and warrants to Buyer, as of the Effective Date and again as of the Closing as follows:

- (a) Authority. Seller has the full legal right, power and authority to enter into and perform this Agreement and has good marketable title to the Water Right in fee simple or discloses that the Water Right is subject to the following liens, encumbrances, or other title defects: (list each lien holder's name, address and account number, if known: *(write NONE if there are no liens or encumbrances and initial on right side of contract:* _____)
- _____
- _____
- _____
- (b) Removal of Liens and Encumbrances. Seller (at its expense) shall remove all liens, claims, or encumbrances, whether of record or not, upon or affecting the Water Right on or before Closing. Additionally, Seller authorizes Exchange to request the above lien holder(s) to release information to Exchange concerning the above lien(s). Seller agrees to indemnify and hold Exchange harmless in the event of any legal action because of any undisclosed liens, encumbrances, or title defects.
- (c) Conveyance. At Closing, Seller shall then convey the Water Right free and clear of all liens, encumbrances and restrictions, except such restrictions on the use of water as may appear on the Water Right Report contained at **Exhibit 1**. Accordingly, Seller agrees to obtain a partial release of mortgage from any lien holder(s) prior to Closing.
- (d) Appurtenance. The Water Right is appurtenant to and has been beneficially used as the water source to irrigate its place of use and/or been properly preserved for future use consistent with Idaho law.
- (e) Not Forfeited. No portion of the Water Right has been forfeited through five years of nonuse or abandoned in whole or in part, unless the Water Right has been protected through an acceptable method under Idaho law and/ IDWR standards.
- (f) Entity Representation. If Seller is a corporation, limited liability company, partnership, or other form of entity other than an individual, the undersigned represents and warrants that it is an agent of Seller and is authorized and empowered by the Seller to execute this Agreement on behalf of the Seller.
- (g) No Representation or Warranty Concerning Suitability for Buyer's Intended Use. Seller has not made, and hereby makes, no representation or warranty to Buyer except as expressly contained in this Agreement.

5. EXCHANGE REPRESENTATIONS AND WARRANTIES.

- (a) Authority. Buyer has the legal power, right and authority to enter into this Agreement and to perform buyer's obligations hereunder. The undersigned represents and warrants that it is an agent of Exchange and is authorized and empowered by Exchange to execute this Agreement on behalf of Exchange.

- (b) Exchange's Due Diligence. Exchange and Exchange's consultants have had a full opportunity to review all documents, records and other information made available to Exchange by Seller and/or otherwise reasonably available to Exchange through public or other sources, related to the nature and extent of the Water Right, the laws and rules affecting their transfer and use by Exchange and/or a potential buyer, and the suitability or fitness of the Water Right for Exchange's intended purposes
- (c) Escrow Account. Exchange is authorized to accept, give receipt for, and hold all funds paid or deposited. Deposits will be held in an escrow account of Pioneer Title Company. In the event of any escrow deposit dispute, and Exchange is in doubt as to the disbursement of escrow funds, Exchange shall have the right to release the money to a Court of competent jurisdiction, which shall determine the rights of the parties involved in the dispute, but in no case will the action waive the Seller's responsibility of the payment of Exchange's compensation to Exchange.

6. WARRANTIES TO SURVE CLOSING.

All representations and warranties made by the Parties herein are also covenants, and each Party shall take all such actions as may be required to satisfy said covenants and to cause the representations and warranties to be true on and as of the Closing. The Parties' respective obligations to close and consummate the transaction contemplated herein are contingent upon the representations, warranties and covenants contained in this Agreement being true, valid, and satisfied on and as of the Closing. All such representations and warranties shall survive the Closing.

7. CLOSING.

- (a) Multiple Closings. Seller understands and acknowledges that Exchange may contract to sell portions of the Water Right to buyers, and as a result, there may be multiple closings under this Agreement. The provisions set forth below apply to all closings associated with the Water Right or portions thereof.
- (b) Closing Date. Once IDWR issues a transfer approval associated with the Water Right or any portion thereof (that Exchange has under contract to purchase the Water Right or any portion thereof) that is acceptable to a buyer, then closing on the Water Right with Seller (the "Closing") shall occur within 28 days after the date of the transfer approval at a date and time agreed to by the parties, but if no date and time can be agreed upon, then Closing shall occur at 10:00 a.m. 28 days after the transfer approval. Notwithstanding the above, the Parties may mutually agree to another date for the Closing.
- (c) Closing Location. The Closing shall occur at the offices of Pioneer Title Company, or at another location mutually agreed by the Parties.
- (d) Documents to be Delivered at Closing.

- (1) At Closing, Exchange shall deliver the Purchase Price.

- (2) At Closing, Seller shall deliver to Exchange, or, if a simultaneous closing is preferred by Exchange, to the buyer of the Water Right or any portion thereof, the Special Warranty Deed (the "Deed") substantially in the form attached to this Agreement as **Exhibit 4** for the Water Right, and any lien release or other documents reasonably requested to confirm the conveyance of the Water Right free and clear of encumbrances.

- (e) Fees and Costs of Closing. The cost of preparing and recording the Deed shall be paid by Buyer. All other closing fees shall be paid by Exchange and/or a buyer of the Water Right or portion thereof. All other expenses not specifically referenced in this Agreement but related to the transfer or transfers 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.

8. DEFAULT.

Upon any breach, any and all rights and remedies which either Party may have under this Agreement or by operation of law or equity, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other. No such right or remedy, whether exercised by said Party or not, shall be deemed to be in exclusion of any other right or remedy, any two or more of all such rights and remedies may be exercised at the same time or separately as desired.

9. INQUIRIES.

Seller agrees to refer to Exchange all inquiries from brokers or others interested in the Water Right. Seller gives Exchange the sole and exclusive control of the sale of the Water Right from this date and further binds himself not to interfere in the sale of the Water Right during the term of this contract, and any extensions hereof.

10. MARKETING EFFORTS.

Exchange does not guarantee the sale of the Water Right, or any portion thereof. Exchange will engage in commercially reasonable efforts to market the Water Right for sale to potential buyers.

11. MISCELLANEOUS.

- (a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages because of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the

other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.

- (b) Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties hereto regarding the Water Right. Neither Buyer nor Seller shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.
- (c) Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.
- (d) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.
- (e) Counterparts. This Agreement may be executed in any number of counterparts for all 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.
- (f) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.
- (g) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.
- (h) Essence of Time. Time is of the essence in this Agreement.

12. REPRESENTATION CONFIRMATION.

Check one (1) box in Section 1 and one (1) box in Section 2 below to confirm that in this transaction, the Broker/Exchange involved had the following relationship(s) with the BUYER(S) and SELLER(S).

Section 1:

- ☐ A. The brokerage working with the BUYER(S) is acting as an AGENT for the BUYER(S).
- ☐ B. The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S), without an ASSIGNED AGENT.
- ☐ C. The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S) and has an ASSIGNED AGENT acting solely on behalf of the BUYER(S).

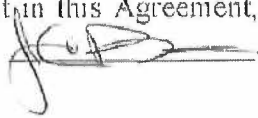
- ☐ D. The brokerage working with the BUYER(S) is acting as a NONAGENT for the BUYER(S).

Section 2:

- ☐ A. The brokerage working with the SELLER(S) is acting as an AGENT for the SELLER(S).
- ☐ B. The brokerage working with the SELLER (S) is acting as a LIMITED DUAL AGENT for the SELLER (s), without an ASSIGNED AGENT.
- ☐ C. The brokerage working with the SELLER (S) is acting as a LIMITED DUAL AGENT for the SELLER (S) and has an ASSIGNED AGENT acting solely on behalf of the SELLER (S).
- ☒ D. The brokerage working with the SELLER (S) is acting as a NONAGENT for the SELLER (S).

Each party signing this document confirms that he has received, read and understood the Agency Disclosure Brochure adopted or approved by the Idaho real estate commission and has consented to the relationship confirmed above. In addition, each party confirms that the brokerage's agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKERAGE UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

13. **STATEMENT OF UNDERSTANDING.**

If you do not understand any statement in this Agreement, do not sign below. If you understand this Agreement, initial here: 

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement on Effective Date.

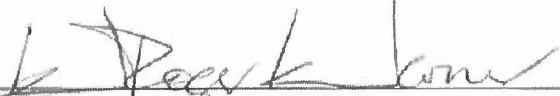
"SELLER"



John Branca, a.k.a John Branca III

"BUYER"

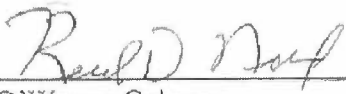
**ROCKY MOUNTAIN WATER EXCHANGE,
LLC**



By: W. Roger Warner
Its: Partner

"BROKER"

KELLER WILLIAMS EAST IDAHO



D'Wayne Coburn
By: Reed D. Nord, Agent for Broker

EXHIBIT I
WATER RIGHT REPORT
IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

8/29/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 1-10687

Owner Type Name and Address

Current Owner JOHN C BRANCA III
1625 RIVER DR
JACKSON, WY 83001-3850
3077337208

Original Owner BURLEIGH TOMCHAK

Original Owner MABEL TOMCHAK
202 BASSETT RD
ROBERTS, ID 83444
2082286871

Priority Date: 03/14/1978

Basis: Decreed

Status: Active

Source Tributary

SNAKE RIVER COLUMBIA RIVER

Beneficial Use | From | To Diversion Rate | Volume

IRRIGATION 4/01 10/31 0.34 CFS

Total Diversion 0.34 CFS

Location of Point(s) of Diversion:

SNAKE RIVER NWNWSE Lt 13 Sec. 03 Township 04N Range 37E JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	37E	3	8	NWNE	6.5	11	NWNE	4	7	SWNE	6	12	SWNE	3.5

Total Acres: 20

Conditions of Approval:

1. 001 A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
2. 005 Use of water under this right is subject to control by the watermaster of State Water District No. 1, Snake River.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. R18 The right holder must obtain adequate supplemental water for the irrigation season that natural flow is not available.
5. F01 Water is delivered through Tomchak B #1 pump.
6. E55 Right Nos. 1-10687 and 35-14650 are limited to the irrigation of a combined total of 20 acres in a single irrigation season.

Dates:

Licensed Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 20

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

8/29/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 35-14650

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHN C. BRANCA III 1625 RIVER DR JACKSON, WY 83001-8850 3077337208
Directors Report Owner	BURLEIGH TOMCHAK 202 BASSETT RD ROBERTS, ID 83444 2082286871
Directors Report Owner	MABEL TOMCHAK 458 BASSETT RD ROBERTS, ID 83444 2082286871

Priority Date: 04/22/1979

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.4 CFS	
Total Diversion			0.4 CFS	

Location of Point(s) of Diversion:

GROUND WATER | SWSW Lt 5 Sec. 03 Township 04N Range 37E JEFFERSON County

GROUND WATER | NWSE Sec. 04 Township 04N Range 37E JEFFERSON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	37E	3	8	NWNE 12.7	7	SWNE 7.3								

Total Acres: 20

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. E55 USE OF THIS RIGHT WITH RIGHT NO. 01-10687 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 20 ACRES IN A SINGLE IRRIGATION SEASON.
3. E53 USE OF THIS RIGHT WITH ALL OTHER RIGHTS IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 80 AF AT THE FIELD HEADGATE FOR THE LANDS BELOW.

Dates:

Licensed Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 20

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

EXHIBIT 4

SPECIAL WARRANTY DEED FOR WATER RIGHT

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Rocky Mountain Water Exchange LLC
482 Constitution Way Ste 305
Idaho Falls, ID 83402

(Space Above for Recorder's Use)

SPECIAL WARRANTY DEED FOR WATER RIGHTS

_____[NAME OF SELLER], _____[TYPE OF
ENTITY], whose address is _____[ADDRESS]
(hereinafter collectively "Grantor") does hereby grant, bargain, sell, assign, and convey unto
_____[NAME OF BUYER], _____
[TYPE OF ENTITY], whose address is _____[ADDRESS], (hereinafter "Grantee")
and to Grantee's heirs and assigns forever, all of Grantor's right, title, and interest in water right
described on Exhibit A attached hereto (hereinafter the "Water Right").

Grantor hereby covenants and warrants to Grantee as follows:

- (A) Grantor is the owner of the Water Right;
- (B) Grantor has not conveyed any of the Water Right to anyone other than Grantee;
- (C) The Water Right is free from all liens, claims, or encumbrances; and
- (D) Grantor has the authority to convey the Water Right to Grantee.

Grantor makes no other covenants or warranties as to the Water Right.

IN WITNESS WHEREOF, the undersigned authorized officer of Grantor, acting on behalf of Grantor, has caused his name to be hereunto subscribed.



DATED this _____ day of _____, 20____.

"GRANTOR"

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____, 20__, by _____.

Notary Public for Idaho

My Commission Expires: _____

STATE OF IDAHO)
)ss.
County of _____)

This record was acknowledged before me on the _____ day of _____, 20__, by _____.

Notary Public for Idaho

My Commission Expires: _____

EXHIBIT A

WATER RIGHT DESCRIPTION
(TO BE COMPLETED AFTER APPROVED TRANSFER)

Eastern Snake Plain Aquifer Modeling Analysis and Narrative

Branca – David & Connie Hogan Transfer App. of WR# 35-14650

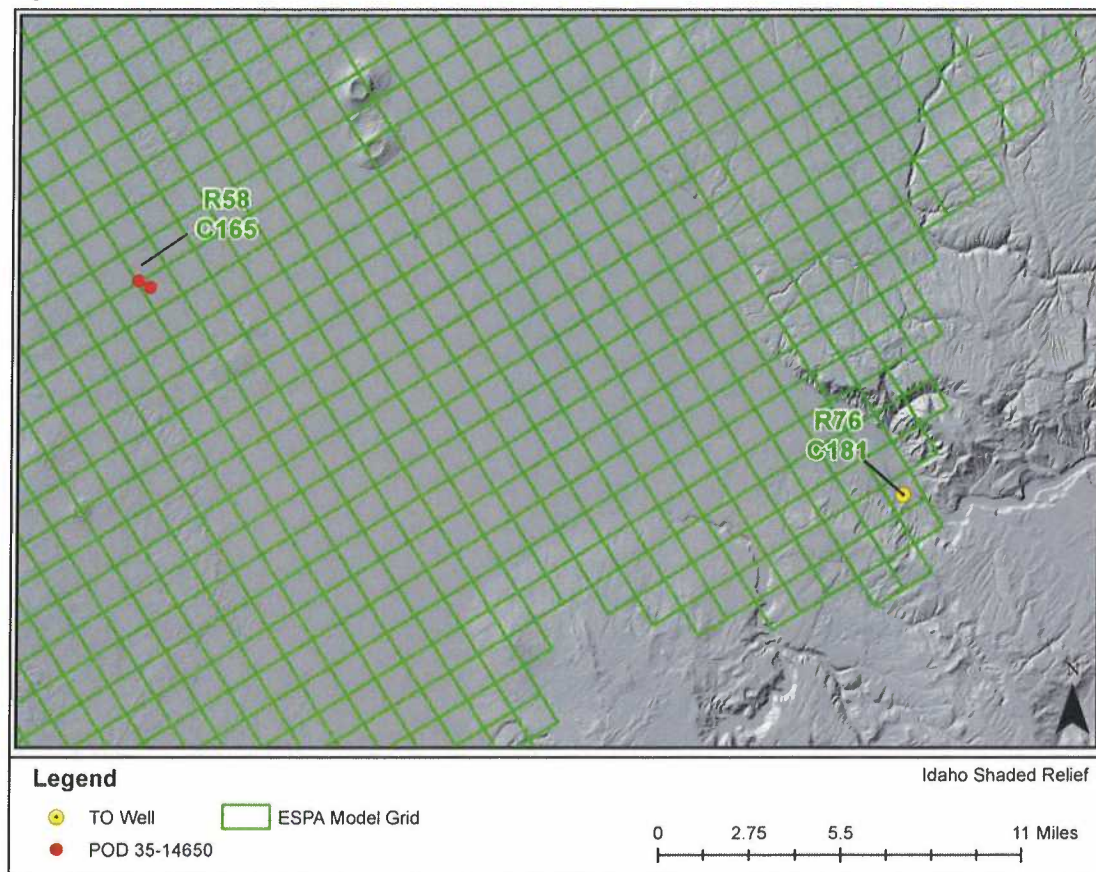
The Applicant requires 1 acre at the proposed place of use for landscape irrigation. This application proposes to transfer water from water right no. 35-14650 that will cover the acres required.

Data Input Values

The TO Well location is one point of diversion that will be created after the approval of the transfer. Since the proposed POU is outside of the ESPAM grid, the closest model cell that contains the Snake River flowing out of Swan Valley was used which is identified as R76 C181.

The FROM Well location is two points of diversion located within model cells R58 C165 and R59 C165. The model cell is identified as R58 C165, which is the farthest away for a more conservative analysis. Figure 1 shows the locations of the points of diversion used in the modeling scenario.

Figure 1. ESPAM Grid Cells



The total volume used for the modeling simulation is based upon the standard consumptive use value for the FROM location of 3.0 afa/acre. Therefore, the data input reflects 3 AFA or 1.0 AF/trimester (1.0 acres x 3.0 afa/ac = 3.0 AFA) from the original point of diversion to the proposed point of diversion. This is an overestimate of the volume that will actually be used at the TO location, since evapotranspiration values will be less at the proposed location.

The net affects do not exceed the threshold of 2.0 af/trimester. **No mitigation is required.**

Figures 2-5 include excerpts from the ESPAM 2.1 simulation and Mitigation Analysis Tool.

Figure 2. Data Entry

ENHANCED GROUND-WATER RIGHTS TRANS
UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE IDAHO DEPA

Cells this color are set up for user entries

ENTER STARTING DATE FOR SIMULATION. THEN PUSH "UPDATE DATES" BUTTO

TRANSFER NO: 35-14650

YEAR: 1979

SEASON: SPRING

TRANSFER NAME: Hogan

UPDATE DATES

RUN MODEL

GET OUTPUT

CALCULATE EFFECTS

ENTER CELL LOCATIONS:

	'TO' CELL	'FROM1' CELL	'FROM2' CELL	'FROM3' CELL
ROW	76	58	0	0
COLUMN	181	165	0	0

TRIMESTER OF ACTIVITY	TO WELL Projected Use AF/TRIMESTER	FROM1 WELL		FROM2 WELL		FROM3 WELL	
		With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER
SPR 1979	0.00	1.00	1.00	0.00	0.00	0.00	0.00
SUM 1979	0.00	1.00	1.00	0.00	0.00	0.00	0.00
WIN 1979	0.00	1.00	1.00	0.00	0.00	0.00	0.00
SUM 2022	0.00	1.00	1.00	0.00	0.00	0.00	0.00
WIN 2022	0.00	1.00	1.00	0.00	0.00	0.00	0.00
SPR 2023	0.00	1.00	1.00	0.00	0.00	0.00	0.00
SUM 2023	0.00	1.00	1.00	0.00	0.00	0.00	0.00
WIN 2023	0.00	1.00	1.00	0.00	0.00	0.00	0.00
SPR 2024	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SUM 2024	1.00	0.00	1.00	0.00	0.00	0.00	0.00
WIN 2024	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SPR 2025	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SUM 2025	1.00	0.00	1.00	0.00	0.00	0.00	0.00
WIN 2025	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SPR 2026	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SUM 2026	1.00	0.00	1.00	0.00	0.00	0.00	0.00
WIN 2026	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SPR 2027	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SUM 2027	1.00	0.00	1.00	0.00	0.00	0.00	0.00
WIN 2027	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SUM 2127	1.00	0.00	1.00	0.00	0.00	0.00	0.00
WIN 2127	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SPR 2128	1.00	0.00	1.00	0.00	0.00	0.00	0.00
SUM 2128	1.00	0.00	1.00	0.00	0.00	0.00	0.00
WIN 2128	1.00	0.00	1.00	0.00	0.00	0.00	0.00

Figure 3. Net Transfer Graphs

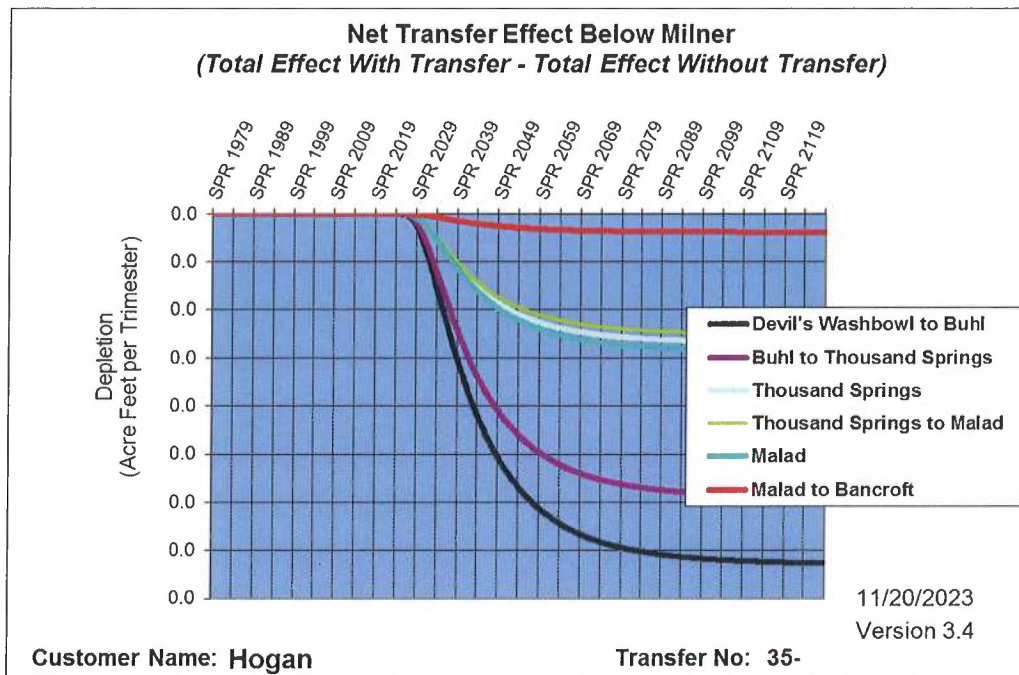
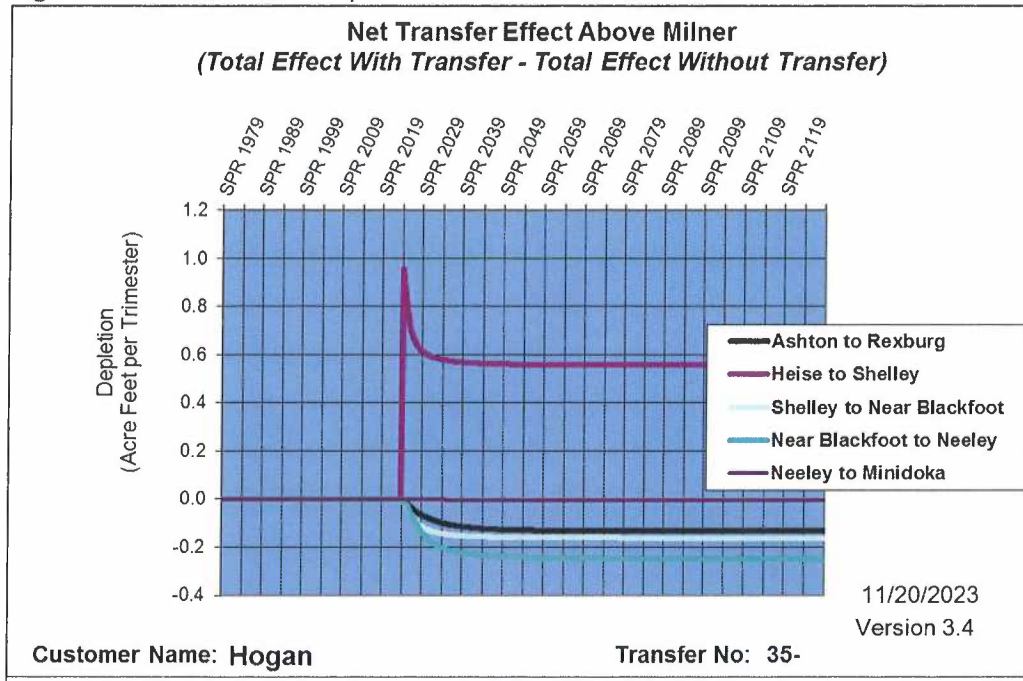


Figure 4. Calculated Effects.

	Net Transfer Effect (AF/four months)										
	Ashton to	Heise to	Shelley to	Nr Bickft	Neeley to	Dev. Wbl.	Buhl to	Kspr	Kspr to	Malad	Malad to
	Rexburg	Shelley	Nr Bickft	Neeley	Minidoka	Buhl	Kspr		Malad		Bancroft
SPR 1979	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1979	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1979	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1980	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1980	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2024	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2024	0.0	0.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2024	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2025	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2025	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2025	0.0	0.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2026	0.0	0.7	-0.1	-0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2026	0.0	0.7	-0.1	-0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2026	0.0	0.7	-0.1	-0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2027	0.0	0.7	-0.1	-0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2027	0.0	0.6	-0.1	-0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2027	-0.1	0.6	-0.1	-0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2126	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2127	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2127	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2127	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2128	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2128	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2128	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0

The Step of Transfer: SPR 2024												
Match:	136	Match:	456									
	AtR	HtS	StNB	NBtN	NtM	DWtB	BtTS	TS	TSIM	M	MtB	Total
SS (Last Time Step):	0.13	0.44	0.16	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.00
p. @ Last Time Step:	0.00	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.00
Max Value Timestep):	0.13	0.44	0.16	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.00
of Dep. After Transfer:	0.13	1.40	0.16	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.95
Steady State Change:	-0.13	0.56	-0.16	-0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Transient State Change:	0.00	0.95	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Figure 5. Excerpt of MAT

			Impact by Reach (AF/Trimester)										
POD Location	Dedicated Vol. AFA/ AFT	Model Node	Ashton to Rexburg	Heise to Shelley	Shelley to Nr Bickft	Nr Bickft To Neeley	Neeley to Minidoka	Dev. Wbl. To Buhl	Buhl to Kspr	Kspr	Kspr to Malad	Malad	Malad to Bancroft
Following Transfer													
ts following Transfer			Pre-SS	0.13	0.44	0.16	0.25	0.00	0.00	0.00	0.00	0.00	0.00
			Post-SS	0.00	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
			Pre-TS	0.13	0.44	0.16	0.25	0.00	0.00	0.00	0.00	0.00	0.00
			Post-TS	0.13	1.40	0.16	0.25	0.00	0.00	0.00	0.00	0.00	0.00
Steady State Analysis			Mitigation Check 1 - >10% of Historical:	-99.9%	126.1%	-99.8%	-99.8%	-99.6%	-99.3%	-99.3%	-99.3%	-99.3%	-99.2%
			Mitigation Check 2: > 2 AF/T:	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0
			Mitigation Check 3 - >10% of Total:	0.0%	99.9%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
			Mitigation Required?:	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
			Mitigation Vol. Req'd (ac-ft):	-0.1	0.6	-0.2	-0.2	0.0	0.0	0.0	0.0	0.0	0.0
Transient State Analysis			Mitigation Check 1 - >10% of Historical:	-2.2%	216.0%	-1.5%	-1.2%	-4.6%	-8.0%	-8.0%	-8.0%	-8.1%	-9.2%
			Mitigation Check 2: > 2.01 AF/T:	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
			Mitigation Required?:	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
			Mitigation Vol. Req'd (ac-ft):	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

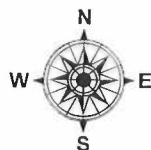


A horizontal number line with tick marks at 0, 250, and 500 US Feet.

2021 NAIP

Legend

-  Proposed PODs  Twp & Rng
 Proposed POU  Section
 Property Boundary  QQ



Attachment #7a Proposed Location

David N and Connie Hogan

Project #: 23-0103

Drawn by: BC

Date: 9/28/2023



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

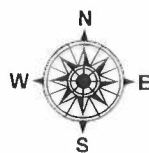


0 1,250 2,500 US Feet

2021 NAIP

Legend

- POU 31-14650 etal
- POD 35-14650 etal
- Purchased Acres
- Twp & Rng
- Section
- QQ



Attachment #7b Existing Location

David N and Connie Hogan

Project #: 23-0103

Drawn by: BC

Date: 9/28/2023



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

APPLICATION FOR TRANSFER OF WATER RIGHT

ATTACHMENT WSB:

TRANSFERRING WATER RIGHTS LEASED TO THE WATER SUPPLY BANK

Approval of a transfer application will not impact the terms of a Water Supply Bank Lease Contract. Any transferred water right or portion of a water right that is leased to the Water Supply Bank (Bank) shall remain unused while the lease is active.

If the transfer proposes to relocate the place of use of an irrigation water right, and the relocated acres include land currently idled due to a Bank lease contract, the applicant is required to identify the areas that will be idled at the new place of use for the duration of the lease contract. The acres to be idled should be clearly identified on the map created for Attachment 7B of the transfer application. The applicant should confirm the map is attached when completing the table below. If the leased portion of the place of use is not proposed to be relocated, a map is not required.

A Bank lease contract shall remain in effect until it expires, a new lease proposal is processed to replace it, or the water right is released from the Bank through written confirmation issued by the Water Resource Board. If the proposed transfer is approved, the water right owner will be provided sufficient time to allow the lease contract to expire before beneficial use of water at the new place of use will be expected. Meanwhile, water rights leased to the Bank are protected from forfeiture for the duration of the lease contract.

Water right owners who would like to adjust the terms of their lease contracts can either submit a new lease proposal on an [Application to Lease a Water Right to the Water Supply Bank](#) form, or they can request early termination of their lease contracts by completing a [Request to Release a Water Right from the Water Supply Bank](#) form. If a water right is leased to the Bank, and it is currently being rented from the Bank, the lease cannot be reduced or terminated until the rental agreement concludes. A request to release a water right or to submit a new lease application should be sent to the Department's state office. To find out if there are any rentals associated with a leased water right, please call a Bank representative at the Department at 208-287-4800.

In the table below, please provide the requested information for any water right that is both proposed for transfer and leased to the Bank. The information needed to complete this table can be found in your Bank lease contract. A copy of your lease contract can be obtained using the 'Search Water Rights' option on the Department's internet page at www.idwr.idaho.gov or by contacting any Department office.

Water Right Number	Lease Contract Expiration Date	Water Right Quantities Leased to the Bank			Map Attachment 7B Clearly Identifies Idled Place of Use at New Location
		Rate (cfs)	Volume (AF)	Acres	
35-14650	12/31/2023	0.40	NA	20	Attached? ☐ or No Change ☒
1-10687	12/31/2023	0.34	NA	20	Attached? ☐ or No Change ☒
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐
					Attached? ☐ or No Change ☐

Is the ownership of the water right(s) leased to the Bank being changed? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
- ☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).

Additional Information:

Applicant does not require the use of the Leased Water Right in the 2023 season. Since the right will be released from the Bank this year, no changes are proposed to the WSB lease contract.

Agency Use Only: Personnel processing transfer applications should forward a copy of this attachment, the original Lessor Designation form and/or IRS Form W-9, if received, to the State Office.



Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

December 20, 2023

DAVID N HOGAN
CONNIE HOGAN
2920 S 925 W
OGDEN, UT 84401

RE: Transfer No. 88666
Water Right No(s). 35-14650

Dear Applicant:

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the JEFFERSON STAR on 12/27/2023 and 1/3/2024. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Christina Henman
Administrative Assistant

CC:
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS, ID 83402-3552

Henman, Christina

From: Henman, Christina
Sent: Wednesday, December 20, 2023 2:08 PM
To: info@jeffersonstarnews.com
Subject: Legal Notice for Jefferson Star
Attachments: 88666, 88667 Jefferson Star.docx

LEGAL NOTICE DEPARTMENT
JEFFERSON STAR
PO BOX 37
RIGBY, ID 83442

RE: Transfer No. 88666, 88667
Water Right No(s). 35-14650, 35-14650

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 1/16/2024. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 88666**

DAVID N HOGAN and CONNIE HOGAN, 2920 S 925 W, OGDEN, UT 84401 has filed Application No. 88666 for changes to the following water rights within JEFFERSON County(s): Right No(s). 35-14650; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change points of diversion and place of use. Proposed points of diversion (2 wells) are in Lot 3 (NWSW) Sec 7 T01N R44E for 0.02 cfs from ground water. Proposed place of use is in Lot 3 (NWSW) Sec 7 T01N R44E for 1 acre.

TRANSFER NO. 88667

TRIPLE H FARMS, LLC, 2920 S 925 W, OGDEN, UT 84401 has filed Application No. 88667 for changes to the following water rights within JEFFERSON County(s): Right No(s). 35-14650; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion and place of use. Proposed point of diversion is in NENE Sec 10 T01N R44E for 0.06 cfs from ground water. Proposed place of use is in NENE Sec 10 T01N R44E for 3 acres.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 1/16/2024. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

Published on 12/27/2023 and 1/3/2024