

OCT 07 2022

WATER RESOURCES
WESTERN REGION

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Tyler J. Anderson, ISB No. 6632
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Attorneys for Marion Ogle and Legg Ranch, LLC

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 85359 IN THE
NAME OF SALUBRIA HOLDINGS LLC**

AMENDED NOTICES OF PROTEST

Protestants Marion Ogle and Legg Ranch, LLC ("Protestants"), by and through their counsel of record Hawley Troxell Ennis & Hawley LLP, and pursuant to Department Rule of Procedure 303, IDAPA 37.01.01.303, hereby submit in the above-captioned matter, the Amended Notices of Protest attached hereto as Exhibits A and B, respectively, and incorporated herein by this reference. These Amended Notices of Protest are submitted in conformance with sections 1 and 3 of the Settlement Agreement and Stipulation, recorded as Washington County, Idaho Instrument No. 249623, attached hereto as Exhibit C and incorporated herein by this reference, in substitution for these Protestants' prior Notices of Protest filed on July 25, 2022.

SCANNED

JUN 27 2023

Respectfully submitted this 7 day of October, 2022.

Dated: 10-7-2022

HAWLEY TROXELL ENNIS & HAWLEY LLP

By 
Amy M. J. Knight, ISB No. 11226
Attorneys for Marion Ogle and Legg Ranch, LLC

SCANNED

JUN 27 2023

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7 day of October, 2022, I caused to be served the foregoing AMENDED NOTICES OF PROTEST by the pre-paid method (s) indicated below, and addressed to each of the following:

Nick Miller
Manager, Western Region
IDAHO DEPARTMENT OF WATER RESOURCES
2735 Airport Way
Boise, Idaho 83705
Email: nick.miller@idwr.idaho.gov

- ☐ U.S. Mail, Postage Prepaid
- ☒ Hand Delivered
- ☐ Overnight Mail
- ☐ E-mail
- ☐ Facsimile 208-334-2348
- ☐ iCourt

Gary Spackman
Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front St., Ste. 648
Boise, Idaho 83702-7371

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ E-mail
- ☐ Facsimile 208-287-6700
- ☐ iCourt

Michael P. Lawrence
Charlie S. Baser
GIVENS PURSLEY LLP
601 W. Bannock St.
P.O. Box 2720
Boise, Idaho 83701-2720
Email: mpl@givenspursley.com
csb@givenspursley.com

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☒ E-mail
- ☐ Facsimile 208-388-1300
- ☐ iCourt



Amy M. J. Knight, ISB No. 11226

SCANNED

JUN 27 2023

EXHIBIT A – Amended Notice of Protest of Marion Ogle

SCANNED

JUN 27 2023

AMENDED**RECEIVED**

Filing Fee: \$25.00 06-07-2022

**WATER RESOURCES
WESTERN REGION**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AMENDED
NOTICE OF PROTEST

This form may be used to file a protest under Sections 42-203A, 42-203C, 42-211, 42-222 or 42-240, Idaho Code. The Department will also accept a timely protest completed in a different format if it contains the same information requested on this form. Each protestant must provide a separate \$25 filing fee for each application protested. The Department's Rules of Procedure (IDAPA 37.01.01) require the protestant to **send a copy of the protest to the applicant.**

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☒ Transfer ☐ Exchange
No. 85359 in the name of Salubria Holdings LLC
2. Protestant's Name: Marion Ogle
Address: 1039 W Indian Valley Road, Indian Valley, Idaho 83632
Telephone: 208-256-4448 Email: _____
3. Protestant's Representative: Dana L. Hofstetter, Tyler Anderson, Amy Knight
Address: Hawley Troxell, P.O. Box 1617, Boise, Idaho 83701-1617
Telephone: (208) 344-6000 Email: dhofstetter@hawleytroxell.com; tanderson@hawleytroxell.com; aknight@hawleytroxell.com
4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See Instructions for Filing a Notice of Protest for the relevant review criteria.
[see attached page which is incorporated herein as if set forth in full]

(Additional pages may be attached to describe the basis of your protest.)

Identify any review criteria that are not a basis for your protest:

Only the two (2) items listed in response to Question 4 attached are the bases of this Protest.

5. ☒ Check here if Protestant and Representative will accept service of documents by email at the email address(es) listed under Item #2 and #3 above.

I acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter, of which I have been properly notified, the Department may issue a notice of proposed default against me in this matter for failure to appear. **I also verify that I have served a copy of this protest upon the applicant.**

Amy Knight
Protestant's or Representative's Signature

Amy Knight, Hawley Troxell Ennis & Hawley
Printed Name and Title (if applicable)

10-7-2022
Date

FOR DEPARTMENT USE ONLY

\$25.00 fee receipted by _____

Receipt # _____

Date _____

SCANNED

JUN 27 2023

AMENDED NOTICE OF PROTEST TO APPLICATION NO. 85359

PROTESTANT'S NAME: MARION OGLE

ATTACHMENT PAGE FOR ITEM 4. BASIS OF PROTEST.

This protest, based on sections 1 and 3 of the Settlement Agreement and Stipulation, recorded as Washington County, Idaho, Instrument No. 249623 and filed with IDWR (the "Agreement"), involves: 1. Whether any additional portions of Water Right Nos. 67-14643, 67-14645 and/or 67-14647 should be included in Salubria's Application for Transfer No. 85359; and 2. Requiring in any approval of Application for Transfer No. 85359, installation of reasonable, efficient, and cost-appropriate measurement devices, structures and facilities on the Salubria Property of such types historically and customarily used in the area, so that, in accordance with their elements, terms and conditions and Idaho law, Rush Creek Water Right Nos. 67-250, 67-301, 67-14642, 67-14644, and 67-14646 and any non-Rush Creek water arising above Salubria's Pond dam (including without limitation any water that is necessary to fulfill Water Right No. 67-2189) are delivered into the channel immediately below Salubria's Pond dam. It also is requested pursuant to Section 16 of the Agreement that the Agreement is referenced in any approval of Application for Transfer No. 85359 and that the terms in Sections 2, 4 and 8 of the Agreement are incorporated as conditions in any approval of Application for Transfer No. 85359.

SCANNED
JUN 27 2023

EXHIBIT B – Amended Notice of Protest of Legg Ranch, LLC

SCANNED

JUN 27 2023

AMENDED

Rev. 04/2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AMENDED
NOTICE OF PROTEST

Filing Fee: \$25.00

RECEIVED

OCT 07 2022

WATER RESOURCES
WESTERN REGION

This form may be used to file a protest under Sections 42-203A, 42-203C, 42-211, 42-222 or 42-240, Idaho Code. The Department will also accept a timely protest completed in a different format if it contains the same information requested on this form. Each protestant must provide a separate \$25 filing fee for each application protested. The Department's Rules of Procedure (IDAPA 37.01.01) require the protestant to **send a copy of the protest to the applicant.**

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☒ Transfer ☐ Exchange

No. 85359 in the name of Salubria Holdings LLC

2. Protestant's Name: Legg Ranch, LLC

Address: c/o Angela Ogle, 13221 W. Bellflower Drive, Boise, Idaho 83713

Telephone: 208-412-8215

Email: _____

3. Protestant's Representative: Dana L. Hofstetter, Tyler Anderson, Amy Knight

Address: Hawley Troxell, P.O. Box 1617, Boise, Idaho 83701-1617

Telephone: (208) 344-6000

Email: _____

dhofstetter@hawleytroxell.com; tanderson@hawleytroxell.com; aknight@hawleytroxell.com

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See Instructions for Filing a Notice of Protest for the relevant review criteria.

[see attached page which is incorporated herein as if set forth in full]

(Additional pages may be attached to describe the basis of your protest.)

Identify any review criteria that are not a basis for your protest:

Only the two (2) items listed in response to Question 4 attached are the bases of this Protest.

5. ☒ Check here if Protestant and Representative will accept service of documents by email at the email address(es) listed under Item #2 and #3 above.

I acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter, of which I have been properly notified, the Department may issue a notice of proposed default against me in this matter for failure to appear. **I also verify that I have served a copy of this protest upon the applicant.**

Amy Knight
Protestant's or Representative's Signature

Amy Knight, Hawley Troxell Ennis & Hawley
Printed Name and Title (if applicable)

10-7-2022
Date

FOR DEPARTMENT USE ONLY

\$25.00 fee received by _____

Receipt # _____

Date _____

SCANNED

JUN 27 2023

AMENDED NOTICE OF PROTEST TO APPLICATION NO. 85359

PROTESTANT'S NAME: LEGG RANCH, LLC

ATTACHMENT PAGE FOR ITEM 4. BASIS OF PROTEST.

This protest, based on sections 1 and 3 of the Settlement Agreement and Stipulation, recorded as Washington County, Idaho, Instrument No. 249623 and filed with IDWR (the "Agreement"), involves: 1. Whether any additional portions of Water Right Nos. 67-14643, 67-14645 and/or 67-14647 should be included in Salubria's Application for Transfer No. 85359; and 2. Requiring in any approval of Application for Transfer No. 85359, installation of reasonable, efficient, and cost-appropriate measurement devices, structures and facilities on the Salubria Property of such types historically and customarily used in the area, so that, in accordance with their elements, terms and conditions and Idaho law, Rush Creek Water Right Nos. 67-250, 67-301, 67-14642, 67-14644, and 67-14646 and any non-Rush Creek water arising above Salubria's Pond dam (including without limitation any water that is necessary to fulfill Water Right No. 67-2189) are delivered into the channel immediately below Salubria's Pond dam. It also is requested pursuant to Section 16 of the Agreement that the Agreement is referenced in any approval of Application for Transfer No. 85359 and that the terms in Sections 2, 4 and 8 of the Agreement are incorporated as conditions in any approval of Application for Transfer No. 85359.

SCANNED

JUN 27 2023

EXHIBIT C – Settlement Agreement and Stipulation

Instrument # 249623

STATE OF IDAHO, COUNTY OF WASHINGTON

9-26-2022 04:26:00 PM No. of Pages: 12

Recorded for : MARION OGLE

DONNA ATWOOD

Fee: 43.00

Ex-Officio Recorder Deputy

Index to: AGREEMENTS

249623

SETTLEMENT AGREEMENT AND STIPULATION

THIS SETTLEMENT AGREEMENT AND STIPULATION (this "Agreement") is made and entered into as of the 26 day of September, 2022 ("Effective Date") by, between and among Marion Ogle ("Marion Ogle") whose address is 1039 W. Indian Valley Road, Indian Valley, Idaho 83632, Legg Ranch, LLC, an Idaho limited liability company ("Legg Ranch") whose address is 13221 W. Bellflower Drive, Boise, Idaho 83713, and Salubria Holdings LLC, an Idaho limited liability company ("Salubria") whose address is 809 N. 3rd Street, McCall, Idaho 83638. Marion Ogle and Legg Ranch are referred to herein collectively as "Ogle." Ogle and Salubria each may be referred to individually as a "Party" or, collectively, as the "Parties."

RECITALS

- A. Salubria owns that certain real property located in Washington County, Idaho, more particularly described on Exhibit A, attached hereto and incorporated herein (the "Salubria Property").
- B. Marion Ogle and Legg Ranch together own that certain real property located in Washington County, Idaho, more particularly described on Exhibit B, attached hereto and incorporated herein (the "Ogle Property").
- C. On or about February 8, 2021, Ogle filed Application for Transfer No. 84698 (the "Ogle Application") with the Idaho Department of Water Resources ("IDWR"), seeking to change the place of use for Water Right Nos. 67-250 and 67-301.
- D. On or about July 2, 2021, Salubria filed a Notice of Protest to the Ogle Application (the "Salubria Protest").
- E. On or about September 27, 2021, Salubria filed with IDWR Application for Transfer No. 85359 and on or about May 26, 2022, Salubria filed with IDWR Amended Application for Transfer No. 85359 (the "Salubria Application" and, together with the Ogle Application, the "Applications"), seeking to change the purpose and place of use for portions of Water Right Nos. 67-14643 and 67-14645 for a pond. On or about July 25, 2022, Marion Ogle and Legg Ranch each filed a Notice of Protest to the Salubria Application.
- F. A hearing on the Ogle Application was set for February 1, 2022, but, to allow time for settlement negotiations, it was postponed to May 16 and 17, 2022, and then it was vacated to allow more time for settlement negotiations.
- G. To avoid the expense, inconvenience, and uncertainties of administrative and judicial proceedings to litigate the Applications, and to enable IDWR's approval of the Applications, the Parties desire to settle on the terms set forth in this Agreement, all claims asserted, or that may be asserted, by the Parties with respect to the Applications.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants set forth below, Ogle and Salubria agree as follows:

1. **Protests.** Upon the full execution of this Agreement and its submission to IDWR consistent with section 16 below, Salubria shall immediately withdraw the Salubria Protest and shall not oppose the approval of the Ogle Application. Upon the withdrawal of the Salubria Protest, Salubria and its managers, agents and employees, and the relatives of its principals shall not protest or intervene in opposition to the Ogle Application or materially support any other party's protest or intervention in opposition to the Ogle Application unless compelled to testify by subpoena. Upon the withdrawal of the Salubria Protest, Marion Ogle and her agents and employees, and Legg Ranch and its managers, agents and employees, shall revise the protests they filed to the Salubria Application consistent with Section 3 below and shall not intervene in opposition to the Salubria Application or materially support any other party's protest or intervention in opposition to the Salubria Application unless compelled to testify by subpoena, subject to Section 3 or a breach of Section 16, below.

2. **Delivery of Water Rights.** Salubria shall deliver Rush Creek Water Right Nos. 67-250 and 67-301 into the channel immediately below the pond that is the subject of the Salubria Application ("Salubria's Pond"), and if agreed by the owners of Water Right Nos. 67-14642, 67-14644 and 67-14646, Salubria also shall deliver Water Right Nos. 67-14642, 67-14644 and 67-14646 into the channel immediately below Salubria's Pond. Salubria also shall deliver into the same channel immediately below Salubria's Pond dam any non-Rush Creek water arising above Salubria's Pond dam, including without limitation any water that is necessary to fulfill Ogle's Water Right No. 67-2189. If operation of Salubria's Pond requires any additional ditches to deliver the water rights listed above, or IDWR requires any additional measuring devices in its approval of the Salubria Application, Salubria shall construct, install, maintain and/or repair any such ditches and measuring devices at its sole expense.

3. **Amendment of Salubria Application.** Salubria's expert, in consultation with Ogle's expert, shall discuss whether it is appropriate to amend the Salubria Application to include additional portions of Water Right Nos. 67-14643, 67-14645 and/or 67-14647 and Salubria may make such amendments if requested by Ogle's expert after such discussion. If Salubria does not make such amendments requested by Ogle's expert, Ogle may continue to protest the Salubria Application and any such protest shall be limited to the issue of whether any additional portions of Water Right Nos. 67-14643, 67-14645 and/or 67-14647 should be included in the Salubria Application. To address potential water delivery issues related to Salubria's Pond, Salubria's expert, in consultation with Ogle's expert, also shall develop and propose reasonable, efficient, and cost-appropriate measurement devices, structures and facilities on the Salubria Property of such types historically and customarily used in the area (such as weirs, headgates, and staff gages), so that, in accordance with their elements, terms and conditions, and Idaho law, Rush Creek Water Right Nos. 67-250, 67-301, 67-14642, 67-14644, and 67-14646, and any non-Rush Creek water arising above Salubria's Pond dam (including without limitation

any water that is necessary to fulfill Water Right No. 67-2189), are delivered into the channel immediately below Salubria's Pond dam (collectively, "**Reasonable Structures and Facilities**"). Salubria shall pay for installation of such Reasonable Structures and Facilities necessary to address potential water delivery issues related to Salubria's Pond at its sole cost and expense and shall install them after IDWR approval of the Salubria Application but prior to the diversion and use of water thereunder. Ogle may continue to protest the Salubria Application if Salubria's and Ogle's experts cannot agree on such Reasonable Structures and Facilities, and any such protest shall be limited to the issue of IDWR requiring installation of such Reasonable Structures and Facilities in any approval of the Salubria Application.

4. **Water Storage in Pond.** Salubria shall only store water in Salubria's Pond approved by IDWR pursuant to the Salubria Application and Salubria shall release all other inflows into Salubria's Pond (from Rush Creek or otherwise) into the channel immediately below Salubria's Pond dam.

5. **Measurement Devices.** Salubria shall install and maintain measurement devices as required by IDWR in any approval of the Salubria Application to the extent such devices were not already agreed to between Salubria's and Ogle's experts.

6. **IDWR Approved Measurement Devices.** Salubria agrees that all measurement devices installed shall adhere to IDWR acceptable standards for measuring devices.

7. **Water Accounting.** Ogle and Salubria shall have their respective experts work with IDWR to develop an appropriate water accounting procedure to use for the distribution and delivery of water pursuant to Water Right Nos. 67-250, 67-301, 67-2189, 67-14642, 67-14643, 67-14644, 67-14645, 67-14646 and 67-14647.

8. **Watermaster Access.** Salubria shall allow the Water District 67 Watermaster access to the ditches, Salubria's Pond, and measurement devices and any other facilities on the Salubria Property related to the distribution and delivery of Rush Creek water.

9. **Ogle Easement.** Salubria hereby grants to Ogle, as the owners of the Ogle Property, and their successors and assigns, for the benefit of the Ogle Property, a non-exclusive easement over, on, across and through the Salubria Property to divert and convey water from a spring on the Salubria Property within the SW1/4SE1/4NE1/4 of Section 35, Township 15 North, Range 3 West, B.M., Washington County, Idaho, more precisely located by Global Positioning System coordinates at 44.593122 latitude, -116.659851 longitude, pursuant to Water Right No. 67-15162, and for access thereto for operation and maintenance of this diversion and conveyance works, subject to the provisions of Sections 12 and 13, below. Salubria shall provide keys to the Water District 67 Watermaster to gates and other facilities and structures for access and for administering such water rights on the Salubria Property.

10. **Cooperation.** The Parties recognize that it is best for all Parties to divert and use their Rush Creek water rights to the maximum extent. Accordingly, the Parties agree to

cooperate in good faith to promote the maximum diversion and beneficial use by the Parties of water diverted from Rush Creek.

11. **Ogle Devices.** If not already required by IDWR in approval of the Salubria Application, Ogle (at Ogle's sole expense) may install devices on the Salubria Property, including without limitation controlling works and headgates, to split and/or measure the water delivered pursuant to Water Right Nos. 67-250, 67-301, 67-14642, 67-14644, and 67-14646, subject to Salubria's prior approval for any such devices to be located above Salubria's Pond dam, which approval shall not be unreasonably withheld.

12. **Ogle Spring.** One of the spring sources (authorized to be diverted within the SW1/4SE1/4NE1/4 of Section 35, T15N, R3W, as more particularly located in Section 9, above) under Ogle's Water Right No. 67-15162 is close to the property line between the Ogle and Salubria properties. To the extent Ogle needs to enter the Salubria Property to operate or to perform maintenance or repairs associated with this spring source, Ogle shall not remove or cut any boundary fences without prior notice to Salubria, and thereafter Ogle shall ensure that any boundary fences that must be removed or cut to access the spring are promptly repaired and any brush or other waste materials are promptly removed to leave the Salubria Property in the same condition as prior to the performance of Ogle maintenance or repair work on the spring, all at Ogle's sole expense.

13. **Indemnity.** Ogle shall indemnify and hold the owner of the Salubria Property, its trustees, employees, agents, affiliates, representatives, successors, assigns, and lessees, harmless from any losses, damages, costs, claims, and expenses of any nature, including attorneys' fees at all levels, and from liability to any person, arising from (1) the conduct of Ogle and any and all of Ogle's agents on the Salubria Property, and (2) any work authorized by Ogle in connection with Section 12 herein, including any mechanic's liens. Ogle, at its sole expense, will repair any and all damage to the Salubria Property arising out of its access to the Salubria Property and will restore the Salubria Property to as good a condition as existed on the date immediately preceding the date of the damage. Ogle shall ensure that any such access, maintenance, and repair is subject to and consistent with the Deed of Conservation Easement, recorded as Washington County, Idaho Instrument No. 207839.

14. **Payment.** Upon IDWR's approval of the Ogle Application and the Salubria Application, Salubria shall pay Ogle Five Thousand Dollars (\$5,000).

15. **Spring Source.** Salubria, on behalf of itself and its successors and assigns, agrees not to challenge in any way Ogle's use of the source or point of diversion for Ogle's Water Right No. 67-15162 authorized to be diverted within the SW1/4SE1/4NE1/4 of Section 35, Township 15 North, Range 3 West, B.M., Washington County, Idaho located on the Salubria Property, as more particularly located in Section 9, above.

16. **Implementation of Settlement.** Upon full execution of this Agreement, the Parties shall stipulate to IDWR to vacate all deadlines in the matter of the Ogle Application, and shall request that a status conference be scheduled. Except as may be provided for herein, each

Party agrees not to materially modify or amend the Ogle Application or the Salubria Application. Application amendments IDWR requires to facilitate processing and that would not impact the water deliveries of the other Party hereunder are specifically allowed. This Agreement shall be filed with IDWR and referenced in any approval of the Ogle Application and/or Salubria Application, and any Party may request that IDWR incorporate the terms in Sections 2, 4, and 8 herein as conditions in any approval of the Salubria Application.

17. **Remedies.** All remedies in law and in equity, including without limitation specific performance, shall be available for breach of this Agreement, including without limitation that in the event that a Party breaches the terms of Section 1 above, the non-breaching Party shall be entitled to a court order rescinding this Agreement and shall be entitled to protest, intervene, or otherwise oppose the application of the breaching Party if applicable deadlines allow. Except as provided in Section 3 above or in this Section, if Ogle, Delbert Ogle, Kameron Ogle, Angela Ogle, or Gary Kushlan (i) file a protest to the Salubria Application, or (ii) materially support any protest to the Salubria Application, on their own behalf or otherwise (unless compelled to testify by subpoena), Salubria shall be entitled to a court order rescinding and invalidating this Agreement and shall be entitled to protest, intervene, or otherwise oppose the Ogle Application, if applicable deadlines allow. A breaching Party shall pay the reasonable attorney fees and costs incurred by a prevailing Party in accordance with Section 20, below.

18. **Entire Agreement.** All oral and written representations, covenants, agreements, and contracts discussed or entered into by the Parties hereto or their representatives prior to this Agreement relating directly or indirectly to the matters set forth in this Agreement are merged into and superseded by this Agreement, and this Agreement constitutes the sole and the entire agreement between the Parties relating to the matters set forth herein.

19. **Advice of Counsel.** The Parties hereby acknowledge and agree that they are, have been, or had the opportunity to be, represented by counsel of their own choosing during any and all negotiations that have led to this Agreement, and that they have been fully advised to the extent they deemed necessary concerning the effect of this Agreement, the terms of the settlement, and their obligations contained in this Agreement. The Parties have asked all questions deemed necessary or desirable by them or their legal counsel in order to evaluate the terms hereof to their complete satisfaction. The Parties have read this Agreement, fully understand its contents, and voluntarily accept the terms of this Agreement. In executing this Agreement, each Party has relied entirely upon their own judgment and knowledge, and the knowledge, judgment and advice of their attorneys.

20. **Attorney Fees and Costs.** The Party hereto who is the prevailing Party in any administrative or judicial proceeding brought to enforce any of the provisions of this Agreement shall recover from the non-prevailing Party its reasonable costs and attorney fees incurred in such proceedings. Each Party shall bear its own costs and expenses, including attorney fees, related to the administrative proceedings involved with the Applications and to the preparation and execution of this Agreement.

21. **All Modifications to Be Written.** The Parties may modify the terms, conditions, rights, and obligations of this Agreement. However, no modification of any kind or nature, of any term, condition, right, or obligation herein, and no waiver of any term, condition, right, or obligation herein, shall be of any force or effect unless the same is in writing and signed by the Parties hereto.

22. **Compromise.** It is understood and agreed that this Agreement is made in compromise of contested claims, particularly claims arising or that may arise from the Salubria Application and the Ogle Application, and is entered solely for the purpose of avoiding the expense, inconvenience, and uncertainty of contested administrative proceedings and litigation. Nothing contained herein shall be interpreted or construed as an admission or acknowledgment by any of the Parties hereto of any wrongdoing, liability, debt, or fault, of any nature whatsoever.

23. **Binding Effect.** This Agreement shall be recorded in the official records of Washington County, Idaho. This Agreement, its covenants and the easements granted herein shall burden, inure to the benefit of and shall be binding on the respective Parties and their heirs, successors, administrators, executors and assigns and shall run respectively with the Salubria Property, the Ogle Property and Water Right Nos. 67-250, 67-301, 67-2189, 67-15162, 67-14643, 67-14645, and 67-14647.

24. **Water Right Numbers.** Any reference to specific water right numbers herein shall also apply to subsequently renumbered water rights deriving or split from the water rights referenced by number herein.

25. **Headings.** The headings used herein, and the order of the sections, are for convenience only, are not a part of this Agreement, and shall not be used in interpreting it.

26. **Recitals.** All recitals contained in this Agreement are true, correct, material, and are hereby incorporated herein as if set forth in full.

27. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same document. The signature pages may be detached from each counterpart and combined into one document. This Agreement may be signed and delivered by facsimile or via email in PDF or other similar format, each of which shall be effective as an original.

28. **Severability.** If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law and in equity.

29. **Waiver.** The failure of any of the parties to this Agreement to insist on the strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any

subsequent default of the same, nor shall it affect the Parties' rights to claim strict performance of any other portions of this Agreement.

30. **Authority.** The undersigned represent and warrant that the undersigned have the sole right and exclusive authority to execute this Agreement on behalf of the persons or entities that are parties to this Agreement. Unless this Agreement is terminated, the Parties agree and understand that all promises, representations, and covenants made herein shall survive and remain fully operative after all consideration to be received under this Agreement has been received and after all documents necessary to finally settle this matter have been fully and duly signed and executed.

[Remainder of page intentionally blank; signature page follows]

IN WITNESS WHEREOF, the undersigned, being duly authorized, have executed this Agreement as of the Effective Date set forth above.

Marion Ogle
Marion Ogle

Legg Ranch, LLC,
an Idaho limited liability company

By: Angela Ogle
Angela Ogle, Manager

By: Gary Kushlan
Gary Kushlan, Manager

Salubria Holdings LLC,
an Idaho limited liability company

By: Richard R. Fereday
Richard R. Fereday, Manager

STATE OF IDAHO)
 Payette) ss.
 COUNTY OF Ada)

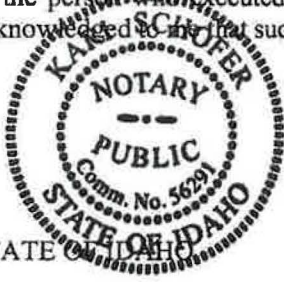
On this 21st day of September, 2022, before me, a notary public for the State of Idaho, personally appeared before me Marion Ogle, who is personally known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



Shyla King
 Notary Public for Idaho
 Residing in: Idaho
 My Commission Expires: June 8th 2028

STATE OF IDAHO)
) ss.
 COUNTY OF Ada)

On this 23rd day of September, 2022, before me, a notary public for the State of Idaho, personally appeared before me Angela Ogle, who is personally known or identified to me to be a manager of Legg Ranch, LLC, the limited liability company that executed the within instrument or the person who executed the within instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.



Kari Schofer
 Notary Public for Idaho
 Residing in: Boise, Idaho
 My Commission Expires: 6-13-2028

STATE OF IDAHO)
) ss.
 COUNTY OF Ada)

On this 23rd day of September, 2022, before me, a notary public for the State of Idaho, personally appeared before me Gary Kushlan, who is personally known or identified to me to be a manager of Legg Ranch, LLC, the limited liability company that executed the within instrument or the person who executed the within instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.



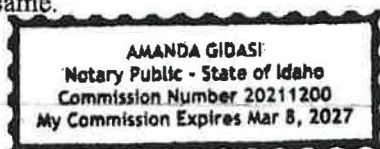
Kari Schofer
 Notary Public for Idaho
 Residing in: Boise, Idaho
 My Commission Expires: 6-13-2028

STATE OF IDAHO)

) ss.

COUNTY OF Valley)

On this 2nd day of September, 2022, before me, a notary public for the State of Idaho, personally appeared before me Richard R. Fereday, who is (or are) personally known or identified to me to be the manager of Salubria Holdings LLC, the limited liability company that executed the within instrument or the person who executed the within instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.



Amanda Gidasi
Notary Public for _____
Residing in: McCall, ID
My Commission Expires: 3/8/2027

EXHIBIT A
Salubria Property Legal Description

In Township 15 North, Range 3 West of the Boise Meridian, Washington County, Idaho;

Section 25: S $\frac{1}{2}$ SW $\frac{1}{4}$;
Section 26: SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Section 34: SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Section 35: N $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Section 36: N $\frac{1}{4}$.

EXHIBIT B
Ogle Property Legal Description

In Township 14 North, Range 3 West, Boise Meridian: Section 2:
Lots 1 and 2

In Township 15 North, Range 3 West, Boise Meridian:
Section 35: SW1/4NE1/4, SE1/4