

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 31 2025

DEPT. OF WATER RESOURCES
EASTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT

GENERAL INFORMATION AND INSTRUCTIONS

Pursuant to Section 42-222(1), *Idaho Code*, a transfer application may be filed to change the point of diversion, place of use, period of use, or nature of use of all or part of an established water right. Any person proposing to make such a change is required to file a transfer application with the Department. "Such application shall be upon forms furnished by the department and shall describe the [water right] to be changed and the changes which are proposed and shall be accompanied by the statutory filing fee." *Idaho Code* § 42-222(1).

The Department has developed this application form to assist applicants in satisfying the requirements of Section 42-222(1). This application form requests information about the applicant's authority to file (Part 1), information about the current elements of the water right(s) to be changed (Part 2), information about the proposed changes (Part 3), information about the validity of the water right(s) and the effects of the proposed changes (Part 4), and confirmation that the information provided is truthful (Part 5).

The applicant or their representative must provide a response for all applicable questions, any additional information required, and the proper filing fee before this application will be considered complete. If an application is incomplete or more information is required, the Department will notify the applicant or representative and allow time for the application to be completed. An application that remains incomplete will be returned to the applicant and the filing fee will be refunded.

An application for transfer is limited to the changes proposed for a single water distribution system. A proposal to change two or more separate water distribution systems, that will remain separate after the transfer, must be filed as separate applications. Applicants may provide additional pages to supplement their responses to the questions posed on this application form. Supplemental forms for listing additional water rights, points of diversion, or places of use can be found on the Department's website (idwr.idaho.gov). If you need assistance understanding the questions on this form, generating current water right reports, determining legal descriptions, or accessing water measurement records feel free to contact the nearest regional office of the Department.

PART 1 – CONTACT INFORMATION, OWNERSHIP RECORDS, AUTHORITY TO FILE

Name(s) of Applicant(s) City of Lava Hot Springs

Mailing Address 115 West Elm, PO Box 187 Lava Hot Springs, ID, 83246-0187

Email* mayorvickylavahotsprings@gmail.com Phone 208-776-5820

Name of Representative (if any) Matthew Hill

Mailing Address 305 N 3rd Ave, Suite A, Pocatello, ID 83204

Email* mhill@kellerassociates.com Phone 208-238-2146

*If an email address is provided, Department staff will use email as the primary method for corresponding with the applicant and representative about the application.

A. Representative. If the representative is authorized to sign or amend the application on behalf of the applicant, attach documents confirming that authority. Label documents as Attachment 1A.

B. Current Owner. If the applicant is not the current owner of record for all water rights included in this application, attach documents showing that the applicant has the authority to make the proposed changes. Label documents as Attachment 1B.

C. Updating Ownership Records. Applicants needing to update the ownership records for any of the water rights included in this application must attach documents supporting the ownership change. Such documents must trace ownership of the subject water rights or the current place of use for the subject water rights from the current owner of record for the water rights to the applicant. Label documents as Attachment 1C.

D. Business Entities. If the applicant is a business entity (corporation, LLC, partnership, trust, etc.), is the entity currently registered with the Idaho Secretary of State?

☐ Yes. If this application is signed by someone other than a person listed on the most recent annual report filed with the Idaho Secretary of State, attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

☐ No. Attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

E. Approval of Irrigation Delivery Entity. Section 42-108, *Idaho Code*, states that a transfer application proposing to change water rights held by an irrigation company or district requires the consent of the irrigation entity. If this application proposes to change water rights held by an irrigation entity, attach a letter of consent from the entity (labeled as Attachment 1E) or have an authorized representative of the entity co-sign the application.

F. Encumbered Properties. If the current place of use for the water rights included in this application is subject to a lien, deed of trust, mortgage, or contract and the application proposes to change the nature of use of the water rights or to move water rights off the current place of use, attach a statement of consent for the change signed by the lien holder, trustee, mortgagor or contract holder. Label documents as Attachment 1F.

G. Legal Access. If the applicant is not the current owner of the proposed point(s) of diversion, conveyance system, or place(s) of use, provide evidence of legal access to the land or infrastructure not owned by the applicant. Label documents as Attachment 1G. For example, an applicant may provide a letter of consent from the owner of the land or conveyance system or may have the owner co-sign the application. For applications proposing to divert water on or convey water across federal land, an applicant is not required to demonstrate legal access to the federal land prior to approval. Instead, if the transfer application is approved, the applicant must obtain access authorization from the relevant federal agency prior to diverting water under the subject water rights.

PART 2 – WATER RIGHTS BEFORE PROPOSED CHANGES

A. Current Water Rights. For each water right proposed to be changed, attach a current water right report obtained from any Department office or from the Department's website (idwr.idaho.gov). Label water right reports as Attachment 2A.

B. Map of Current System. Attach a map of the current point(s) of diversion and place(s) of use for the water rights to be changed. The map should clearly depict the elements of the water rights to be changed. For example, if the application proposes to change the point of diversion for a water right, the map should display the current location of the point of diversion. For irrigation water rights, the map should also identify the location of the irrigated acres to be changed. Label map as Attachment 2B.

C. Current Location of Irrigated Acres. If this application proposes to change the place of use or nature of use for only a portion of an irrigation water right, use the following table to identify the current location of the irrigated acres to be changed. If additional pages are required, label additional pages as Attachment 2C. If this application proposes to change or rearrange the entire place of use for irrigation water right(s), skip to Part 3.

☒ N/A. This application does not propose to change the place of use or nature or use of an irrigation water right or this application proposes to change the place of use or nature of use for an entire irrigation right.

Current Location of Irrigated Acres to be Changed

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

Total Irrigated Acres to be Changed: _____

PART 3 – DESCRIPTION OF PROPOSED CHANGES

A. Purpose of Transfer. Section 42-222(1), *Idaho Code*, states that transfer applications may only be filed to change the point of diversion, place of use, period of use, or nature of use of an established water right. Section 42-248(3), *Idaho Code*, authorizes water right ownership changes to be described on a transfer application. Identify the changes proposed in this application:

- | | |
|---|---|
| ☐ Change point(s) of diversion | ☒ Change place of use |
| ☒ Add point(s) of diversion | ☐ Change period of use |
| ☐ Change nature of use | ☐ Update water right ownership records |

B. Proposed Changes. Describe the proposed changes in narrative form:

A new well will be added as a POD for all four water rights

The place of use for all of the rights should be the service area of the City of Lava Hot Springs

C. Summary of Proposed Changes.

1. Water Rights. Use the following table to list all water rights, or portions thereof, that are proposed to be changed as they would appear after the proposed changes. In the Amount column, list the volume in acre-feet (af) for storage uses or the rate in cubic feet per second (cfs) for all other uses.

All or Part	Right Number	Amount (cfs/af)	Nature of Use	Period of Use	Source
☒ ☐	29-4229	0.178 / 0.12	MUNICIPAL	01/01 to 12/31	GROUND WATER
☒ ☐	29-7346	0.31	MUNICIPAL	01/01 to 12/31	GROUND WATER
☒ ☐	29-8056	0.62	MUNICIPAL	01/01 to 12/31	GROUND WATER
☒ ☐	29-13297	0.25	MUNICIPAL	01/01 to 12/31	GROUND WATER
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

2. Total Amounts. Calculate the total quantity, in cfs or af, of water rights that are proposed to be changed through this application. For an application proposing to only change the place of use for irrigation rights, the total quantity of water is calculated by comparing the current place of use to the proposed place of use, summing the number of acres increased in each legal subdivision, and quantifying the proportional amount of diversion rate for the increased acres. For an application proposing to change or add points of diversion for irrigation or any other beneficial use, the total amount is the total diversion rate for the changed portion of the right.

Total Amount of Water Rights Proposed to be Changed: 1.358 cfs and/or _____ af.

3. Point(s) of Diversion. Use the following table to list all the proposed points of diversion for the water rights to be changed, including any current points of diversion that will continue to be used as part of the proposed water distribution system.

The legal description for the proposed point(s) of diversion must be to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System (PLSS). PLSS information is typically available from USGS topo maps, property deeds, tax bills or various mapping tools on the Department's website.

For points of diversion within platted subdivisions, list the lot and block number in the "Diversion Name/Number" column. An application proposing an injection into a stream and a re-diversion from that stream must list the source for the original diversion as the source for the injection and re-diversion points. If this application proposes construction of a new diversion structure (for example, a new ground water well or a new pump station on a creek), please indicate the status in the appropriate column.

☐ N/A. This application does not propose to add or change any points of diversion.

Proposed Points of Diversion

New?	Twp	Rge	Sec	Lot	1/4	1/4	1/4	County	Source	Diversion Name/Number
N	09S	38E	26		NE	NW	NE	BANNOCK	WELL	Well 1
N	09S	38E	20		SE	SE		BANNOCK	WELL	Well 2
N	09S	38E	21	3	SE	SW		BANNOCK	WELL	Church Well
Y	09S	38E	29	2				BANNOCK	WELL	Well 3

4. Place of Use. The proposed place of use must be described to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System. Government lot numbers can be noted in parenthesis below the approximate quarter-quarter location of the government lot. For water rights held by irrigation districts, municipal providers or irrigation companies, the proposed place of use may be generally described as authorized by Sections 42-202B, 42-219 and 42-222B, *Idaho Code*.

☐ N/A. This application does not propose to change the place of use.

Proposed Place of Use

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

the service area of the City of Lava Hot Springs

Total Irrigated Acres: _____

5. Map of Proposed System. Attach a map showing the location of the points of diversion, reservoirs, dams, canals, ditches, pipelines and other works proposed to divert and convey water. Also show the location of the place of use, including any lands to be irrigated. The map should delineate the legal subdivisions including townships, ranges, sections, quarter-quarters and government lots. Label map as Attachment 3C.

PART 4 – ADDITIONAL INFORMATION

Section 42-222(1), *Idaho Code*, establishes the criteria used to evaluate transfer applications. An applicant bears the burden of demonstrating that the water right to be changed is a valid right, that the proposed use is a beneficial use, and that the proposed changes will not injure other water rights, will not enlarge the use of the original rights, are in the local public interest, and are consistent with the conservation of water resources within the state of Idaho. To satisfy this burden, an applicant must provide sufficient data and information for the

Department to evaluate the effects of the proposed change. The Department may deny an application if the applicant fails to provide sufficient data and information to determine whether the criteria from Section 42-222(1) are satisfied. In addition to the information requested in Parts 1-3 of this application, the following information must be provided for an application to be considered complete. Department staff may request additional information or clarification as the application is processed.

A. Validity of Water Rights

1. If one or more of the water rights proposed to be changed is a statutory claim, established pursuant to Section 42-248, *Idaho Code*, attach evidence supporting the priority date claimed. Label documents as Attachment 4A-1. For statutory claims, the Department may conduct a field inspection as part of the application review process to evaluate the water right elements listed on the statutory claim.

2. Has any portion of the water right(s) proposed to be changed undergone a period of five or more consecutive years of non-use?

☐ Yes. Attach a statement describing the portion of the right(s) that were not used and the length of time of the non-use. In addition, identify any exception or defense to forfeiture and provide a detailed description as to why the water rights have not been lost and forfeited for non-use. Label documents as Attachment 4A-2. Statutory exceptions or defenses to forfeiture are set forth in Section 42-223, *Idaho Code*.

☒ No.

B. Injury to Other Water Rights

1. Identify any other water right(s) diverted at the current point(s) of diversion.

None

2. Identify any other water right(s) diverted at the proposed point(s) of diversion.

None

3. Is the proposed point of diversion within a state water district? ☒ Yes. Water District # 29. ☐ No.

4. If already constructed and in use, are the proposed points of diversion equipped with Department-approved measuring devices? ☒ Yes. ☐ No.

5. If this application proposes to divert a surface water right from a ground water well, attach a technical analysis evaluating the hydraulic connection between the proposed ground water point of diversion and the source of water listed on the right to be changed. Label technical analysis as Attachment 4B-5.

6. If this application proposes changing the point of diversion for a ground water right in the Eastern Snake Plain Aquifer (ESPA), attach a technical analysis of the anticipated depletions to reaches of the Snake River that are hydraulically connected to the ESPA using the Department's current ground water model for the ESPA. The technical analysis must evaluate depletion impacts in a time-series format at transient and steady state time steps. To assist applicants in preparing the required technical analysis, the Department has developed a transfer tool interface for the ESPA model. The transfer tool and user instructions can be downloaded from the Department's website (idwr.idaho.gov). If the proposed and current points of diversion are in the same or adjacent model cells, no technical analysis is required, unless specifically requested by the Department. Label technical analysis as Attachment 4B-6.

C. Enlargement in Use

1. Identify any other water rights used at the current place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

2. Identify any other water rights used at the proposed place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

3. If this application proposes changing the place of use or nature of use for irrigation water rights, will the current place of use, for the portion of the right to be changed, continue to be irrigated?

☐ Yes. Identify the water right(s) to be used for the continued irrigation.

☐ No. The place of use for the portion to be changed will no longer be irrigated.

☒ N/A. The application does not propose to change the place of use for irrigation rights.

4. Unstacking Water Rights for Irrigation. If this application proposes to change the place of use for an irrigation water right that is combined with other irrigation rights at the current place of use but does not propose to change the place of use for all the stacked irrigation rights, attach evidence of the historical consumptive use occurring under all water rights at the current place of use. For irrigation rights, this should include at least five years of diversion data and/or crop data and estimates of evapotranspiration. Label the information as Attachment 4C-4. Evapotranspiration data may be available on the Department's website (<http://et-idwr.idaho.gov>)

5. If the application proposes to change the nature of use for a water right, attach evidence of the historical consumptive use occurring under the portion of the water right to be changed. For irrigation rights, this should include diversion data, crop data and estimates of evapotranspiration. Label the information as Attachment 4C-5. Evapotranspiration data may be available on the Department's website (<http://et-idwr.idaho.gov>)

6. If the application proposes to change the nature of use of a water right to municipal use for reasonably anticipated future needs, complete the form titled "Municipal Water Right Application Checklist" found on the Department's website (idwr.idaho.gov). Label the form as Attachment 4C-6.

7. To your knowledge, are any portions of the water rights proposed to be changed:

Yes	No
☐	☒

currently leased to the Water Supply Bank?

If yes, complete the form titled "Application for Transfer of Water Right Attachment WSB" found on the Department's website (idwr.idaho.gov).

Label the Form as Attachment 4C-7.

☐	☒
☐	☒
☐	☒

currently used in a mitigation plan limiting the use of water under the right?

subject to an agreement not to divert (CREP)?

currently enrolled in a federal set-aside program (CRP)?

D. Local Public Interest

The department must consider whether the proposed changes are in the local public interest as defined in Section 42-202B(3), *Idaho Code*. Some of the local public interest factors that may be considered in conjunction with a transfer application are (1) Recreation, fish, and wildlife impacts, (2) Water quality or contamination concerns, (3) Local and state ordinances, regulations, or policies related to water use, (4) Goals, requirements and limits set forth in the State Water Plan. If you choose to provide information about local public interest factors, label the information as Attachment 4D.

E. Conservation of Water Resources

Describe the diversion works and water delivery system. This may include sizes and dimensions of pumps, pipelines, headgates, ditches, dams, impoundments and irrigation equipment.

A new well will supply municipal drinking water into the City of Lava Hot Springs distribution system.

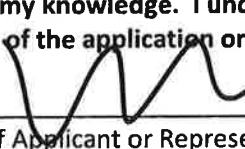
Three existing wells are also a part of the water system.

PART 5 – FILING FEE AND SIGNATURE

A. Filing Fee. Filing fees for transfer applications are set forth in Section 42-221.O, *Idaho Code*. A table summarizing the filing fees for transfer applications is also found on the Department's website (idwr.idaho.gov). Any application proposing to change the nature of use for one or more rights requires an additional filing fee of \$250. Applications proposing to update the ownership records for water rights must also include the appropriate filing fee to update the ownership records. For any application relying on the filing fee set forth in Section 42-221.O.8, *Idaho Code*, attach a statement describing how the application qualifies under Section 42-221.O.8. Label documents as Attachment 5A.

B. Affidavit of Applicant or Representative:

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.

	Vicky Lyon, Mayor	10/20/2025
Signature of Applicant or Representative*	Print Name and Title, if applicable	Date
Signature of Applicant or Representative*	Print Name and Title, if applicable	Date

*If water rights included in this application are owned by multiple people or entities, each owner must sign the application form.

FOR DEPARTMENT USE ONLY

Fee Paid: \$ <u>580.00</u>	Receipt #: <u>E051250</u>	Date: <u>10-30-25</u>	Received by: <u>M. Pettis</u>
Add'l Paid: \$ _____	Receipt #: _____	Date: _____	Received by: _____

Attachment 1G

90156

**GRANT OF ACCESS EASEMENT AND
OPTION TO PURCHASE REAL ESTATE AGREEMENT**

BY THIS AGREEMENT which is made and entered into this 10 ^{October} day of ~~August~~, 2024, by and between Lorraine Grell Lowe, an individual, and Mark J Lowe, an individual (together, the "Lowes"), and the City of Lava Hot Springs ("City"), a municipal corporation located in Bannock County, Idaho, the Lowes and City agree as follows:

WHEREAS, The Lowes are the owners of and have good and marketable title to certain real property located in Bannock County, State of Idaho ("Lowes' Property"), upon which the City desires to locate a municipal well; the potential well site ("Well Site") and related easement are more particularly described in the sketch attached as Exhibit "A"; and

WHEREAS, City desires to drill one or more test wells within an area not to exceed a forty (40) foot radius from the Well Site identified on Exhibit "A"; and

WHEREAS, City requires access across the Lowes' Property to investigate the suitability of the Well Site and to drill test wells for that purpose; and

WHEREAS, City desires an option to purchase ("Option to Purchase") a parcel of land amounting to approximately one quarter acre around the Well Site which may eventually be chosen by the City, and also a permanent easement across the Lowes' Property sufficient to construct a pipeline to convey water from the well, a power line or other utility easement needed to service and operate the pump and motor at the well, and for ingress and egress by the City for all necessary construction of, and maintenance and repair to, the well and pipeline to convey municipal water from the well to the City's water delivery system (collectively, the "Well Property"); and

WHEREAS, The Lowes desire to grant City the necessary permission and access to investigate and drill test wells and further to grant City the Option to Purchase the Well Property; and

WHEREAS, The Lowes and City agree that the sum of \$2,000 is adequate consideration for permission and access to investigate and drill test wells and the sum of \$3,000 is adequate consideration for the Option to Purchase the Well Property; and

WHEREAS, The Lowes and City agree that the purchase price for the Well Property shall be based upon the fair market value established by a third-party appraiser.

**NOW THEREFORE THE PARTIES TO THIS AGREEMENT HEREBY AGREE AS
FOLLOWS:**

**1. PERMISSION AND ACCESS EASEMENT TO INVESTIGATE AND DRILL TEST
WELLS**

In consideration of the sum of \$2,000, the Lowes grant City permission to investigate and drill test wells near the Well Site for a period of one (1) year from and after the execution of this Agreement together with an access easement over the Lowes' Property as may be necessary to access the test well site and perform necessary operations to conduct testing. The Lowes' Property is more particularly described on Exhibit "B" hereto.

90156

The scope of the easement shall be that which is sufficient to permit ingress and egress of workers, vehicles and equipment reasonably necessary to investigate the suitability of the Well Site and drill test wells nearby, and otherwise determine the suitability of the Well Site for the possible location of a municipal water well. The investigation may be conducted at any time ("Access Permission Periods"). City shall restore to its original condition any disturbance(s) of the ground over which the temporary access easement is located, unless such areas are also to become part of the permanent access easement referenced herein should the City exercise its Option to Purchase the Well Property.

2. OPTION TO PURCHASE REAL ESTATE AND EASEMENT

City shall have, and the Lowes hereby grant to City, an Option to Purchase the Well Property on the following terms and conditions:

- A. In addition to consideration paid for the Lowes' permission to access, investigate and drill test wells described above, City will pay the Lowes \$3,000 as consideration for the grant of this Option to Purchase the Well Property which, if the option is exercised, will be credited against the purchase price.
- B. The period of this Option to Purchase shall run concurrent with permission and access to investigate and drill test wells and may be exercised any time prior to the expiration of said period by City giving written notice to the Lowes that City intends to exercise the Option to Purchase and close the transaction within thirty (30) days.
- C. In the event this Option to Purchase is exercised, the purchase price for the Well Property will be based upon the fair market value established by a third-party appraiser. Payment of the purchase price less the \$3,000 credit for the Option to Purchase consideration shall be paid in cash at closing.

Notwithstanding the foregoing, the Lowes may elect, in lieu of monetary payment for the Well Property, that the City agree to provide one (1) 1-inch unmetered domestic water line for non-commercial and non-agricultural use by a single-family dwelling on the Lowes' Property as long as the water line traverses the property. Said connection will be available for use as soon as the well is hooked to the City distribution system. Said connection will remain unmetered for such time as the Lowes or their direct descendants remain the owners of the Lowes' Property. If the Lowes' Property is transferred to any person who is not a direct descendant of the Lowes, the City may begin metering said connection and charging fees for water.

It is understood and agreed by the parties that any future decisions by the City as to annexation, including approval or disapproval of annexation itself, will be made in compliance with Idaho Code § 50-222, and any future City decisions regarding annexation, including but not limited to decisions as to compatibility with the City's Comprehensive Plan and zoning classifications of any property to be annexed, cannot be dictated by the terms of this Agreement.

- D. The Lowes shall at their expense furnish the City a title insurance policy insuring title to the Well Property, free and clear of all liens and encumbrances, except as may be agreed to by City. If there is a mortgage or other encumbrance on the title, the Lowes shall provide releases of the mortgage or other encumbrances in form acceptable to City and Flying S Title Company so that the title to the property can be conveyed free and clear of all encumbrances. Title insurance will be furnished by Flying S Title Company.
- E. The Well Property is to be conveyed by Warranty Deed. The Well Property to be purchased shall consist of at least one quarter acre around the Well Site, and a permanent twenty (20) foot easement across the Lowes' Property sufficient to construct a pipeline to convey water from the well, a power line, and for ingress and egress by the City for all necessary construction of, operation of, and maintenance and repair to, the well and pipeline to convey municipal water from the well to the City's water delivery system (the twenty (20) foot easement will have water, power and ingress and egress capability). A survey will be completed by a surveyor mutually agreeable to the parties to establish the legal description for the Well Property. The survey cost will be borne equally by the parties.
- F. The Lowes shall grant City a perpetual right and easement across the Lowes' Property for the purpose of the operation of a municipal well, conveyance of water from the well by pipeline and ingress and egress for workers, vehicles and equipment to perform repair, inspection and/or maintenance of a municipal well, pump, pipeline and related appurtenant facilities ("water system"), which water system is intended to provide, carry and convey water for City's municipal water supply. Said easement shall be at least 20 feet in width, will need to accommodate electrical service to the site and shall be sufficient to permit construction and maintenance work as deemed necessary by City. The easement shall be perpetual and shall run with the land.
- G. The exact location of the easement shall be described prior to closing.
- H. City agrees to construct and maintain a fence around the Well Property with a design that is acceptable to each party and in compliance with the rules of IDAPA 58.01.08. The City agrees to grade, seed, mow and maintain the said property to be purchased and the easement as necessary to prevent the growth and intrusion of noxious weeds. The easement will not be fenced off from use as agricultural land and will not be modified so as to be unusable from its current use. Any structure constructed on the property will meet with the reasonable approval of the Lowes so as to not distract from the aesthetics of the rural setting. No dusk to dawn exterior lighting will be allowed on the property.
- I. The Lowes shall pay all of the taxes and assessments on the Well Property up through the date of closing.
- J. If the Lowes title is not merchantable or insurable and cannot be made so within a reasonable time after written notice containing statement of defects is delivered to the Lowes, then either party may terminate the Option to Purchase; but if the Lowes's title is merchantable or insurable and City neglects or refuses to complete or shall fail

80158

to pay according to the terms set forth herein, then the Lowes may terminate this Agreement.

- K. If City elects not to exercise this Option to Purchase, the Lowes may, upon the termination of this Agreement, maintain and operate the Well Site as a domestic well at their own expense and subject to all applicable State and local laws and regulations.

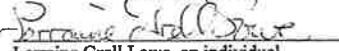
3. Except for the matters specifically referred to herein as requiring further agreement, this is a fully integrated contract and there are no verbal or other agreements which modify or affect this Agreement.
4. In the event of default by either party in their performance of the terms of this Agreement, the defaulting party agrees to pay all attorney fees and costs incurred by the non-defaulting party.
5. Time is of the essence for performance of the terms of this Agreement. Neither party's rights herein are assignable without the express written consent of the other party.
6. NOTICES. All notices provided in this Agreement shall be given by first class or certified mail to the following addresses unless otherwise advised in writing:

Lorraine Grell Lowe and Mark J Lowe:
PO Box 591
Lava Hot Springs, ID 83246

City:
LAVA HOT SPRINGS MAYOR
115 W Elm St
PO Box 187
Lava Hot Springs, Idaho 83246

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LORRAINE GRELL LOWE


Lorraine Grell Lowe, an individual

STATE OF IDAHO)

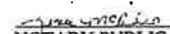
:ss

County of Bannock)

On this 31st day of October, 2024, before me, the undersigned Notary Public in and for said county and state, personally appeared Lorraine Grell Lowe, 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.

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




NOTARY PUBLIC FOR IDAHO

Residing at: Lava Hot Springs Id

Commission Expires: May 31, 2030

MARK J LOWE


Mark J Lowe, an individual

STATE OF IDAHO)

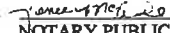
:ss

County of Bannock)

On this 31st day of October, 2024, before me, the undersigned Notary Public in and for said county and state, personally appeared Mark J Lowe, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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




NOTARY PUBLIC FOR IDAHO

Residing at: Lava Hot Springs Id

Commission Expires: May 31, 2030

RECESS AND OPTION TO PURCHASE REAL ESTATE AGREEMENT

Page | 5

90156

90156

CITY OF LAVA HOT SPRINGS

By: [Signature]
Vicky Lyon, Mayor

STATE OF IDAHO)
 :ss
County of Bannock)

On this 5th day of November, 2024, before me, the undersigned Notary Public in and for said county and state, personally appeared Vicky Lyon, the Mayor of the City of Lava Hot Springs, 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 on behalf of the City of Lava Hot Springs.

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



[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at: Lava Hot Springs
Commission Expires: May 31, 2030

Exhibit A
Sketch of Well Site

The follow sketch of the proposed Well Site and access easement is approximate and subject to change with the approval of both Parties:

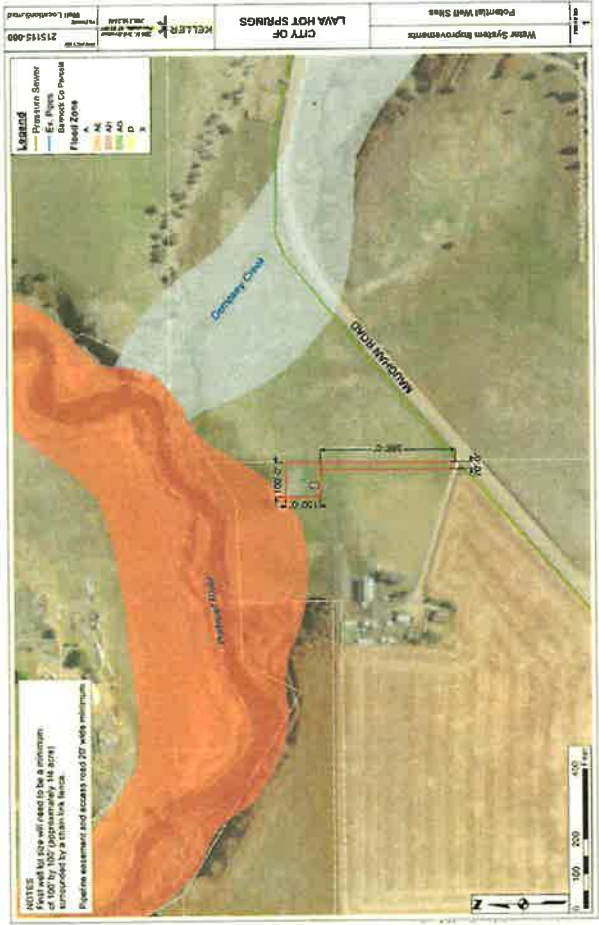


Exhibit B
Legal Description

The Lowes' Property is more particularly described as follows:

LOT 2, SECTION 29, TOWNSHIP 9 SOUTH, RANGE 38 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO.

EXCEPTING THEREFROM:

A PARCEL OF LAND IN LOT 2 OF SECTION 29, TOWNSHIP 9 SOUTH, RANGE 38 EAST OF THE BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 29, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID LOT 2 AND IS MARKED WITH A 3" BRASS CAP MONUMENT; THENCE NORTH 89°58'14" EAST, ALONG THE NORTH LINE OF SAID SECTION AND LOT 2, A DISTANCE OF 92.36 FEET TO A 3" BRASS CAP MONUMENT, SAID POINT BEING ON THE LEFT BANK OF THE PORTNEUF RIVER, SAID LEFT BANK OR MEANDER LINE WAS SURVEYED BY THE GLO IN 1986;

THENCE SOUTH 59°45'00" EAST, ALONG SAID MEANDER LINE, 666.60 FEET; THENCE NORTH 26°45'00" EAST, CONTINUING ALONG SAID MEANDER LINE, 184.00 FEET; THENCE NORTH 88°45'00" EAST, CONTINUING ALONG SAID MEANDER LINE, 172.77 FEET TO A POINT ON THE EAST BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN WARRANTY DEED INSTRUMENT NO. 355561;

THENCE SOUTH 00°05'15" EAST, LEAVING SAID MEANDER LINE AND ALONG SAID EAST BOUNDARY LINE, 262.70 FEET TO A 1/2" REBAR AND PLASTIC CAP STAMPED PLS 843 IN AN EXISTING FENCE LINE; THENCE NORTH 89°54'56" WEST, ALONG SAID FENCE LINE, 924.00 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 29, SAID POINT BEING MARKED WITH A 1/2" REBAR AND PLASTIC CAP STAMPED PLS 843; THENCE NORTH 00°00'59" WEST, ALONG SAID WEST LINE, 429.03 FEET TO THE POINT OF BEGINNING.

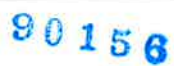
ALSO EXCEPTING THEREFROM:

BEGINNING AT THE SOUTHEAST CORNER OF THE NW¼NW¼ OF SECTION 29, TOWNSHIP 9 SOUTH, RANGE 38 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO; THENCE NORTH ALONG THE WEST 1/16 LINE OF SAID SECTION A DISTANCE OF 509 FEET; THENCE SOUTH 49°10' WEST ALONG THE CENTER LINE OF AN EXISTING ROAD 255 FEET; THENCE CONTINUING ALONG THE CENTER LINE OF SAID ROAD SOUTH 49°20' WEST 526 FEET, MORE OR LESS, TO THE NORTH 1/16 LINE OF SAID SECTION; THENCE NORTH 89°57' EAST 592 FEET, MORE OR LESS, TO THE POINT OF BEGINNING

ACCESS AND OPTION TO PURCHASE REAL ESTATE AGREEMENT

Page | 8

90158



Attachment 2A

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 29-4229

Current Owner: CITY OF LAVA HOT SPRINGS
Priority Date: 8/6/1951
Origin: Water Right
Status: Active
Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	01/01 to 12/31	0.178 CFS	
	<u>Total Diversion</u>	0.178 CFS	0.12 AF

Location of Point(s) of Diversion

GROUND WATER
BANNOCK County

NE1/4NW1/4NE1/4 Sec. 26, Twp 09S, Rge 38E B.M.

Place of Use

MUNICIPAL Within BANNOCK County

T09S R38E S21	SENW	T09S R38E S21	Lot 6	NESW
T09S R38E S21	SWSW	T09S R38E S21	Lot 3	SESW
T09S R38E S21 Lot 8	NESE	T09S R38E S21	Lot 7	NWSE
T09S R38E S21 Lot 2	SWSE	T09S R38E S21	Lot 1	SESE
T09S R38E S22 Lot 9	NESW	T09S R38E S22	Lot 10	NWSW
T09S R38E S22 Lot 6	SWSW	T09S R38E S22	Lot 5	SESW
T09S R38E S22 Lot 4	NWSE	T09S R38E S28		NWNE
T09S R38E S28	NENW			

Conditions of Approval:

1. G04 WATER DIVERTED UNDER THIS RIGHT IS USED WITH 29-04230 FOR MUNICIPAL USE.
2. 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.
3. J03 Place of use is within the city of LAVA HOT SPRINGS.

Decreed Date: 3/22/2004

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 29-7346

Current Owner: CITY OF LAVA HOT SPRINGS
Priority Date: 9/28/1976
Origin: Water Right
Status: Active
Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MUNICIPAL	1/01 to 12/31	0.31 CFS	
	<u>Total Diversion</u>	0.31 CFS	

Location of Point(s) of Diversion

GROUND WATER L3(SE1/4SW1/4) Sec. 21, Twp 09S, Rge 38E B.M.
BANNOCK County

Place of Use

MUNICIPAL Within BANNOCK County

T09S R38E S21	SENW	T09S R38E S21	Lot 6	NESW
T09S R38E S21	SWSW	T09S R38E S21	Lot 3	SESW
T09S R38E S21 Lot 8	NESE	T09S R38E S21	Lot 7	NWSE
T09S R38E S21 Lot 2	SWSE	T09S R38E S21	Lot 1	SESE
T09S R38E S22 Lot 9	NESW	T09S R38E S22	Lot 10	NWSW
T09S R38E S22 Lot 6	SWSW	T09S R38E S22	Lot 5	SESW
T09S R38E S22 Lot 4	NWSE	T09S R38E S28		NWNE
T09S R38E S28	NENW			

Conditions of Approval:

1. 124 Place of use is within the service area of the City of Lava Hot Springs municipal water supply system as provided for under Idaho Law.
2. 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.
3. 135 The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Page _____ of _____

Decreed Date: 6/1/2004

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 29-8056

Current Owner: CITY OF LAVA HOT SPRINGS

Priority Date: 2/27/1991

Origin: Water Right

Status: Active

Basis: License

Source

Tributary

GROUND WATER

Beneficial Use

From To

Diversion Rate

Annual Volume

MUNICIPAL

1/01 to 12/31

0.62 CFS

Total Diversion

0.62 CFS

Location of Point(s) of Diversion

GROUND WATER

SE1/4SE1/4

Sec. 20, Twp 09S, Rge 38E B.M.

BANNOCK County

Place of Use

Place of Use: MUNICIPAL same as

Conditions of Approval:

1. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. 049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
3. Place of use is located within the city limits of Lava Hot Springs.

Licensed Date: 4/9/1998

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 29-13297

Current Owner: CITY OF LAVA HOT SPRINGS
Priority Date: 2/26/2002
Origin: Water Right
Status: Active
Basis: License

Source

GROUND WATER

Beneficial Use

MUNICIPAL

From To

01/01 to 12/31

Total Diversion

Tributary

Diversion Rate

0.25 CFS

0.25 CFS

Annual Volume

Location of Point(s) of Diversion

GROUND WATER

BANNOCK County

L3(SE1/4SW1/4)

Sec. 21, Twp 09S, Rge 38E B.M.

Place of Use

MUNICIPAL Within BANNOCK County

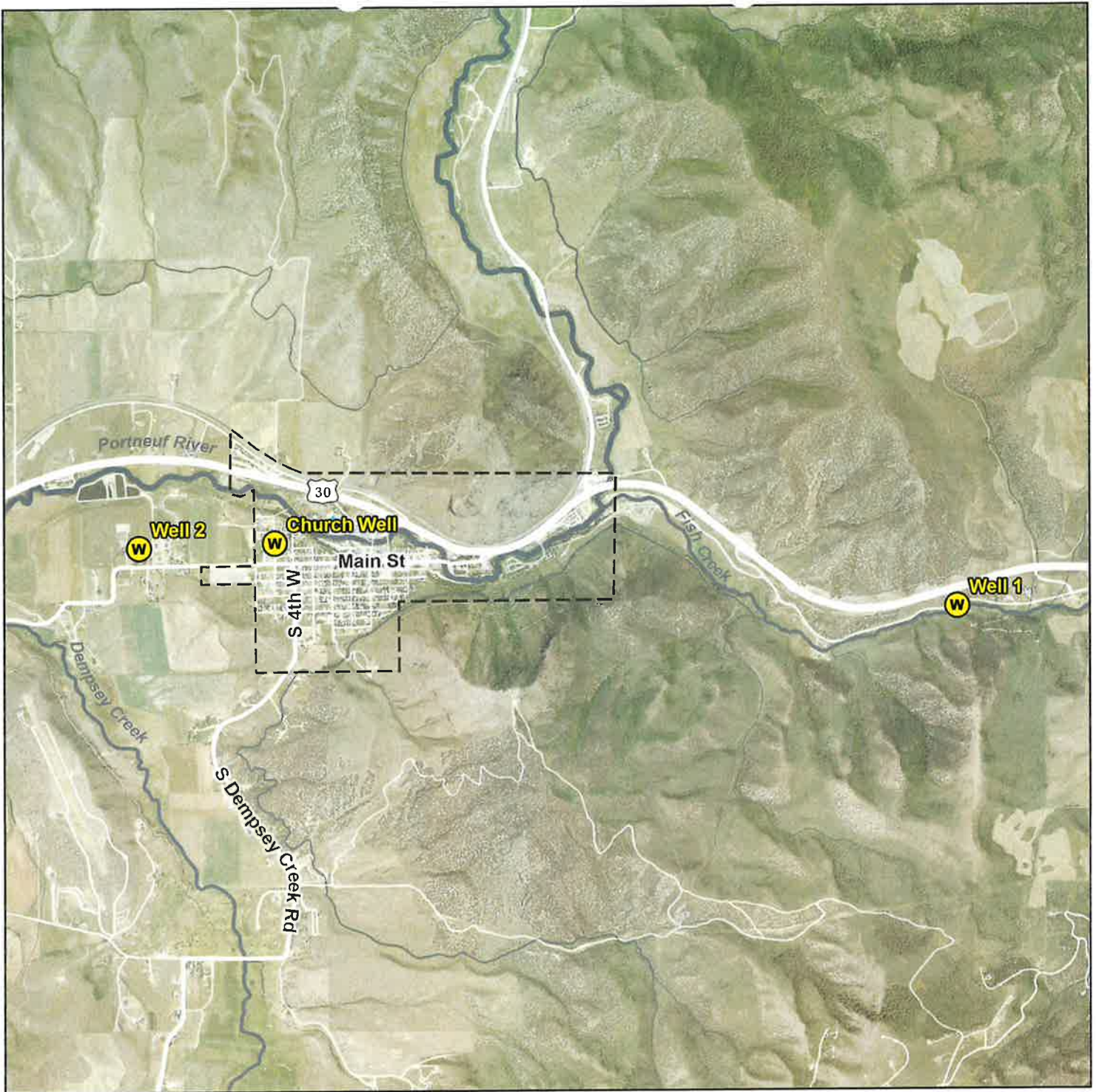
T09S R38E S21 Lot 3 SESW

Conditions of Approval:

1. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
3. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. 075 Developing new large irrigation projects such as parks, golf courses, or sports activities fields is not authorized under this right.
5. 102 The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.
6. 022 The daily diversion volume for non-domestic uses under this municipal right shall not exceed 2,500 gallons per use and the daily diversion volume for domestic uses under this right shall not exceed 13,000 gallons per dwelling in accordance with Section 42-111, Idaho Code.
7. 004 The issuance of this right does not grant any right-of-way or easement across the land of another.

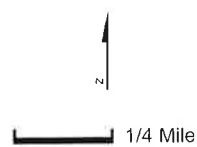
Licensed Date: 8/9/2012

Attachment 2B



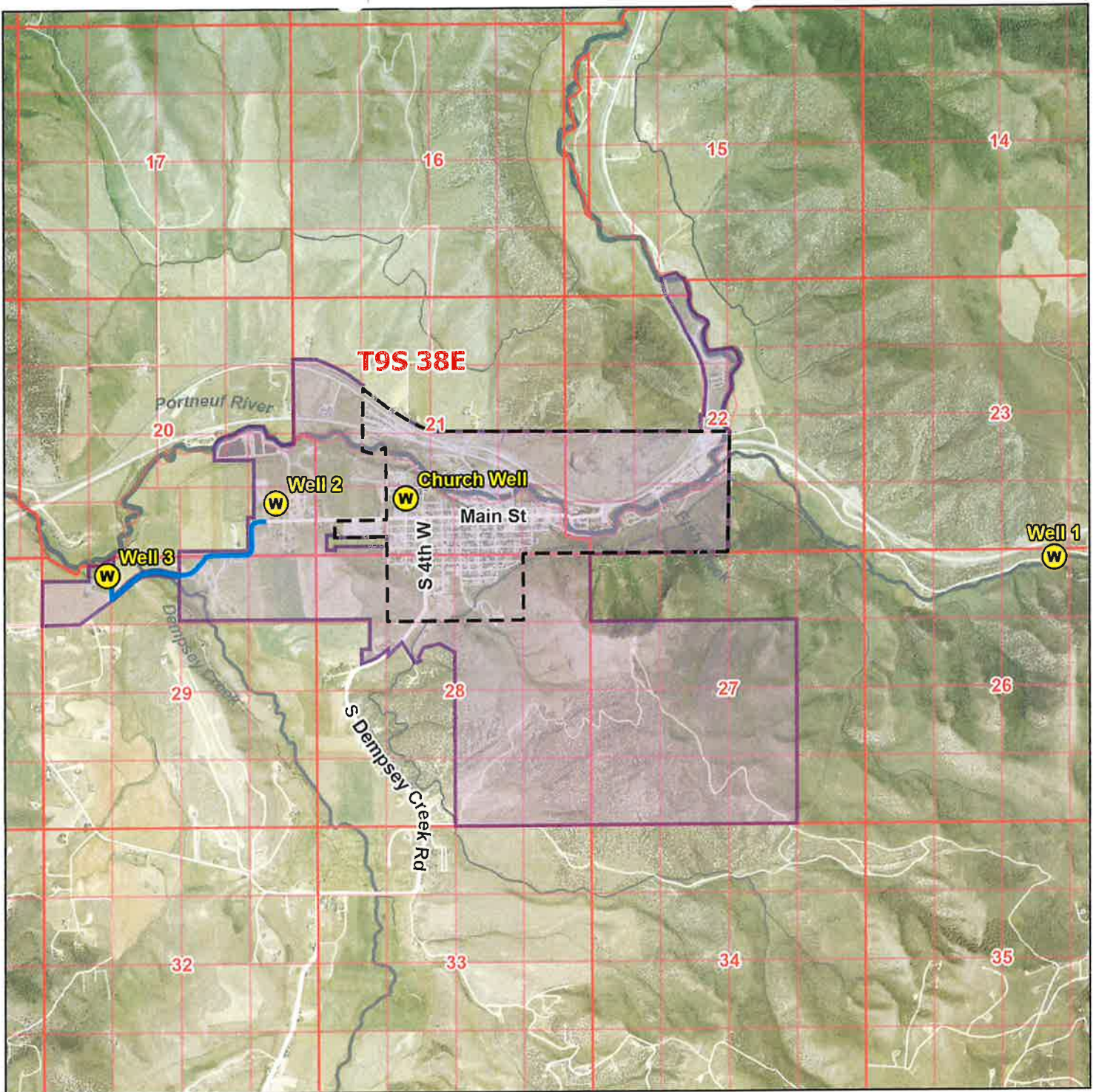
Attachment 2B
Current System Map
 Lava Hot Springs, Idaho

- W Wells
- City Limits



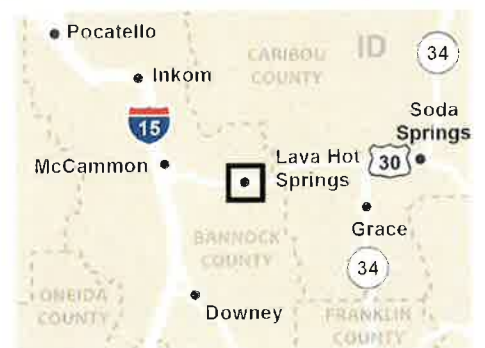
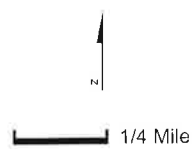
90150

Attachment 3C



Attachment 3C
Proposed System Map
 Lava Hot Springs, Idaho

- | | |
|---------------|--------------------------|
| Wells | Sections |
| Proposed Pipe | Quarter-Quarter Sections |
| City Limits | Place of Use (POU) |





IDAHO DEPARTMENT OF
WATER RESOURCES

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

November 6, 2025

CITY OF LAVA HOT SPRINGS
115 W ELM ST
PO BOX 187
LAVA HOT SPRINGS, ID 83246-0187

RE: Transfer No. 90156
Water Right No(s). 29-13297, 29-4229, 29-7346, 29-8056

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 IDAHO STATE JOURNAL on 11/12/2025 and 11/19/2025. 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:
KELLER ASSOCIATES
C/O MATTHEW HILL
305 N 3RD W STE A
POCATELLO, ID 83204

Henman, Christina

From: Henman, Christina
Sent: Thursday, November 6, 2025 9:03 AM
To: legalnotices@postregister.com
Subject: Legal Notice for Idaho State Journal
Attachments: 90156 Idaho State Journal.docx

LEGAL NOTICE DEPARTMENT
IDAHO STATE JOURNAL
PO BOX 431
POCATELLO, ID 83204-0431

RE: Transfer No. 90156
Water Right No(s). 29-13297, 29-4229, 29-7346, 29-8056

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 12/1/2025. 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. 90156**

CITY OF LAVA HOT SPRINGS, 115 W ELM ST, PO BOX 187, LAVA HOT SPRINGS, ID 83246-0187 has filed Application No. 90156 for changes to the following water rights within BANNOCK County(s): Right No(s). 29-13297, 29-4229, 29-7346, 29-8056; 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: add points of diversion and change place of use. Proposed points of diversion are in SESE Sec 20, Lot 3 (SESW) Sec 21, NENWNE Sec 26, and Lot 2 (NWNW) (new well) Sec 29, T09S R38E for 1.358 cfs from Ground Water. Proposed place of use is within the service area of the City of Lava Hot Springs, located in Sec 15, 20, 21, 22, 27, 28, and 29, T09S R38E. 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 12/1/2025. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

Published on 11/12/2025 and 11/19/2025

Holliday, Michael

From: Matthew Hill <mhill@Kellerassociates.com>
Sent: Wednesday, November 5, 2025 3:03 PM
To: Holliday, Michael
Subject: RE: Lava Water Right Transfer

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

You bet. I want to keep this moving as quickly as possible so we can get underway.

Thanks for the prompt review as well.

MATTHEW B HILL, PE
Keller Associates, Inc.
DIRECT 208-648-4215 | CELL 208-497-9552 | OFFICE 208-238-2146

From: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>
Sent: Wednesday, November 5, 2025 3:01 PM
To: Matthew Hill <mhill@Kellerassociates.com>
Subject: RE: Lava Water Right Transfer

Matthew,

That looks good. I will switch those 2 pages out. Thanks for the quick turnaround.

Michael

From: Matthew Hill <mhill@Kellerassociates.com>
Sent: Wednesday, November 5, 2025 2:31 PM
To: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>
Subject: RE: Lava Water Right Transfer

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Michael,

Please see the attached revisions to the application as discussed below. Let me know if those seem to be what you were looking for.

Thanks,

MATTHEW B HILL, PE
Keller Associates, Inc.
DIRECT 208-648-4215 | CELL 208-497-9552 | OFFICE 208-238-2146

From: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>
Sent: Wednesday, November 5, 2025 2:19 PM
To: Matthew Hill <mhill@Kellerassociates.com>
Subject: RE: Lava Water Right Transfer

Matthew,

While looking over this application in preparation for advertising, I discovered that the place of use for rights 29-8056 and 29-13297 is currently not described as a municipal "service area," which is the current standard for describing places of use for municipal purposes. In fact, right 29-13297 is currently limited to just one government lot. Therefore, the place of use of these two rights needs to be changed to a service area.

The easiest way to bring these rights up to current standards is to amend page 3 (Part 3.A and 3.B) and page 5 (Part 3.C.4) of the transfer application. You don't need to list all the legal descriptions on Part 3.C.4. You can just write "the service area of the City of Lava Hot Springs" in the proposed place of use section. We will automatically generate the land list using the POU shape file you provided. There will be no additional fees for this amendment.

Please feel free to call if you have any questions or want to discuss.

Thanks,
Michael

From: Matthew Hill <mhill@Kellerassociates.com>
Sent: Friday, October 31, 2025 10:15 AM
To: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>
Subject: Lava Water Right Transfer

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Michael,

Thanks for the call. Here is the application materials with the applicant name updated and all of the figures in color. I will get with the City on gathering the daily diversion records for their three existing wells.

I also attached the shapefile associated with Attachment 3C showing the City's updated impact area.



MATTHEW B HILL, PE
Project Manager
DIRECT 208-648-4215 | CELL 208-497-9552 | OFFICE 208-238-2146
305 North 3rd Avenue, Suite A, Pocatello, ID 83201
kellerassociates.com