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DEPARTMENT OF
WATER RESOURCES

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Attorneys for North Snake Ground Water District and Magic Valley Ground Water District

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

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHT NOS.
36-02356A, 36-07210 AND 36-07427 (BLUE
LAKES)

and

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHTS NOS 36-
04013A, 36-04013B AND 36-07148 (SNAKE
RIVER FARM); AND TO WATER RIGHTS
NOS. 36-07083 AND 36-07568 (CRYSTAL
SPRINGS FARM)

**NORTH SNAKE GROUND WATER
DISTRICT'S AND MAGIC VALLEY
GROUND WATER DISTRICT'S JOINT
PLAN FOR PROVIDING REPLACEMENT
WATER FOR 2006**

Magic Valley Ground Water District and North Snake Ground Water District

("Districts") through their counsel Givens Pursley LLP, and on behalf of their respective ground water district members and those ground water users who are non-member participants in the Districts' mitigation activities hereby submit this Joint Plan for Providing Replacement Water for 2006 ("2006 Plan") in compliance with the Department's April 29, 2006 Order Approving

IGWA's 2005 Substitute Curtailments (Blue Lakes Delivery Call) ("Blue Lakes Order") and the Department's April 29, 2006 Order Approving IGWA's 2005 Substitute Curtailments (Clear Springs Delivery Call, Snake River Farm) ("Clear Springs Order") in the above-captioned matters.

INTRODUCTION

The Blue Lakes Order and the Clear Springs Order required that:

on or before May 30, 2006, the North Snake Ground Water District and the Magic Valley Ground Water District must submit plans for substitute curtailment to the Director that will provide [20 cfs to Devils Washbowl to Buhl – Blue Lakes Order/16 cfs to Buhl to 1000 Springs – Clear Springs Order] of steady state gain . . . or otherwise provide replacement water as provided in the Director's Order . . . Failure to submit sufficient replacement water or acceptable substitute curtailment plan(s) will result in curtailment of ground water diversions as described in the Director's Order . . .

This 2006 Plan is submitted to respond to the requirements of both the Blue Lakes Order and the Clear Springs Order

This 2006 Plan documents how the Districts will comply with the Department's phased-in requirements intended to increase spring flows in the Devil's Washbowl to Buhl Gage spring reach ("Devils Washbowl Subreach") and the Buhl to Thousand Springs reach ("Buhl Subreach") This will be accomplished through continued deliveries in 2006 of surface water irrigation supplies through the North Side Canal Company ("NSCC") system to converted acres within Water District 130 ("Conversions"), voluntary curtailment of irrigation of certain ground water-irrigated acres by District members within Water District 130 in 2006, and augmentation of ground water sources supplying the Devils Washbowl and Buhl Subreaches by induced losses of storage water acquired by or on behalf of the Districts and diverted into the NSCC system during and subsequent to the irrigation season.

The modeled steady state reach gain to the Devils Washbowl Subreach attributable to the above-described activities is estimated to be at least 31.7 cubic feet per second (“cfs”) ¹ The modeled steady state reach gain to the Buhl Subreach attributable to the above-described activities is estimated to be at least 19.2 cfs. Documentation and analysis of voluntary dry-ups is preliminary and continuing.

REPLACEMENT WATER PLAN

A. Replacement water to be provided in 2006 – Steady State Reach Gains from Surface Water Deliveries to Conversions.

On behalf of its member ground water districts, IGWA has obtained surface water supplies in excess of 67,000 acre-feet (“AF”) to be available in 2006 for direct delivery into the NSCC’s point of diversion at Milner Dam. The quantities and sources of this water are as follows:

Mitigation, Inc. Carryover	37,140 AF ²
FMC Lease Renewal (Palisades storage)	5,000 AF ³
Aberdeen Springfield Storage Lease	20,000 AF ⁴
2006 Rental Pool Storage Lease	5,000 AF ⁵

During the 2006 irrigation season, the Districts propose to have 27,000 AF of surface water available for delivery through the NSCC system to be used to irrigate those lands within the North Snake Ground Water District whose supply source has been converted from ground

¹ These estimates are based on ESPA modeling analysis of continuing to supply surface water to Conversions, voluntary curtailments of ground water irrigated lands, and ground water augmentation efforts of the Districts. Modeling analysis has not yet been completed for all voluntary curtailments; only a portion of these are reflected in this Plan. The Districts intend to provide supplemental documentation and analysis promptly.

² Per 2005 Water Lease Agreement between Mitigation, Inc. and Idaho Ground Water Appropriators, Inc. (Copy attached)

³ Per 2006 renewal of FMC Lease which includes 5000 AF of Palisades storage, and IWRB Water Supply Bank Application to Sell or Lease a Water Right and Application to Rent Water from the Water Supply Bank (Copies attached)

⁴ Per 2006 Agreement with Aberdeen Springfield Canal Company (Copy attached)

⁵ Per 2006 Rental Pool Application (pending)

water to surface water. Deliveries of water to these Conversions commenced in April 2006 through arrangements with the NSCC. For purposes of analysis of reach gain benefits, the 2006 water deliveries to Conversions were assumed to equal the measured 2005 deliveries to those lands. Deliveries to new Conversions were assumed to take place at the average per-acre delivery rate measured in 2005 to Conversions. All water delivered to Conversions was assumed to offset consumption of ground water, with any excess water percolating to the aquifer at the Conversion site. Tabulations of the NSGWD Conversions, their locations, and historical deliveries are contained on the attached Compact Disk, as are all data files used for modeling the effects of these deliveries.

1. Conversions to Surface Water Irrigation – Devils Washbowl Subreach and Buhl Subreach.

The Department's ground water model for the ESPA, Version 1.1 ("ESPA Model") was used to analyze the steady state effects of the Districts' proposed actions. For purposes of steady state modeling, daily aquifer stresses were assumed to occur over a 214-day period.

The ESPA Model indicates that, at steady state, 12.8 cfs of reach gain will accrue to the Devil's Washbowl Subreach as a result of foregone pumping at, and application of surface water to, the Conversion sites in 2006. This includes 9.5 cfs associated with surface water delivery and use at the Conversions and 3.3 cfs of delivery losses from the point of diversion into the NSCC system. The ESPA model indicates that, at steady state, 7.6 cfs of reach gain will accrue to the Buhl Subreach as a result of foregone pumping at, and application of surface water to the Conversion sites in 2006. This includes 6.3 cfs associated with surface water delivery and use at the Conversions and 1.3 cfs of delivery losses from the point of diversion into the NSCC system. Canal seepage amounts were assumed to equal 30% of delivered amounts consistent with NSCC delivery procedures. The supporting data files are contained on the attached Compact Disk.

2. Voluntary Curtailment of Ground Water Irrigation Pumping in 2006.

The Districts have surveyed their members to determine those ground water irrigated acres belonging to their members that are not being irrigated during 2006. A partial tabulation and documentation of these voluntary curtailments occurring within the North Snake Ground Water District is contained on the attached Compact Disk. Additional curtailments for North Snake Ground Water District ("NSGWD") and documentation of voluntary curtailment acres in Magic Valley Ground Water District are being documented and will be analyzed using the ESPA Model. Results of this analysis will be provided as soon as it has been completed. NSGWD has obtained preliminary documentation of 984 acres of voluntary curtailments by its members. Preliminary analysis of these voluntary curtailments in the NSGWD indicate that they will produce steady state reach gains of 0.9 cfs to the Devils Washbowl reach and 0.6 cfs to the Buhl reach. These preliminary numbers are not included in the total steady state reach gains described in the Introduction section above.

Reach gains resulting from these voluntary reductions are additive to the steady state reach gains described above for Conversions.

3. Ground Water Supply Augmentation.

In addition to the above activities, the Districts propose to cooperate with the NSCC to deliver up to 40,000 AF of storage water acquired through the WD 01 Rental Pool, private leases and other means to augment ground water sources supplying the Devils Washbowl and Buhl Subreaches as a result of induced losses of the storage water from Wilson Lake and other NSCC facilities. This program is proposed to be implemented consistent with NSCC facilities and operating constraints throughout the 2006 irrigation season and, as necessary, following reduction or cessation of irrigation diversions into the NSCC system.

This program is proposed to be implemented in lieu of, and as a replacement for, voluntary curtailments of certain ground water diversions for irrigation implemented by District members in 2005, and in lieu of curtailments of ground water diversions for irrigation that were expected to occur in the Districts as a result of a 2006 implementation of CREP. Because curtailment of ground water irrigation results in a net reduction in consumptive use of ground water of approximately 2 acre-feet per acre per year, an addition of two acre-feet of water to the aquifer in any given year has essentially the same effect on the aquifer budget as a voluntary curtailment of one ground water-irrigated acre. From a physical water budget perspective, these two activities are indistinguishable. In other words, augmentation of the aquifer by 10,000 acre-feet has essentially the same effect on the aquifer budget and resulting reach gains as curtailment of 5,000 ground water irrigated acres.

For purposes of analysis, ground water augmentation was assumed to occur in the North Side Main Canal, at Wilson Lake and in selected laterals and spill ponds. The ESPA Model indicates that, at steady state, 18.9 cfs of reach gain will accrue to the Devils Washbowl Subreach from this program, of which 14 cfs is attributable to losses from specified areas within the NSCC system such as Wilson Lake, and selected laterals and spill ponds, and 4.9 cfs is attributable to delivery losses from the point of diversion into the NSCC system. The ESPA Model indicates that this program also will result in an 11.6 cfs steady state accrual to the Buhl Subreach, of which, 9.8 cfs is attributable to losses from specified areas within the NSCC system such as Wilson Lake, and selected laterals and spill ponds, and 1.8 cfs is attributable to delivery losses from the point of diversion into the NSCC system. Mapping and model data files are contained on the attached Compact Disk.

B. Accounting.

The Districts will continue to develop and maintain documentation and an accounting of all 2006 Plan activities, this documentation and accounting system will document:

- All surface water acquired and provided as direct replacement water, as a substitute supply to Conversions or as recharge in any given year, and all incidental recharge benefits associated therewith.
- Supplemental deliveries required as, or resulting from, mitigation to senior surface water right holders diverting above Milner, which supplemental deliveries will result in canal seepage and recharge that increases reach gains in the Buhl Reach, including the Devils Washbowl Subreach.
- Locations and extent of curtailments of ground water diversions by District members.
- Locations and extent of ground water irrigation by district members
- Carryover of any credits from implementing strategies that have multi-year water supply benefits, including long-term components of this Plan, including when implemented, CREP
- Allocation of transient and steady state impacts of mitigation actions

C. Monitoring.

The Districts will cooperate with the Department and the Water District 130 Watermaster to verify and monitor compliance with this 2006 Plan. The Districts propose the following monitoring actions:

- The Districts, through District Hydrographers, will continue to measure and report ground water withdrawals within their boundaries
- The Districts, through District Hydrographers, will cooperate with the Water District 130 Watermaster to identify unauthorized uses of ground water within their respective jurisdictions
- The Districts will cooperate with the Water District 130 Watermaster and with NSCC to measure and document all water supplies delivered to actions described in this Plan

- The Districts, through District Hydrographers, will coordinate and compile documentation on an annual basis concerning all ground water-irrigated acres for which ground water diversions are to be curtailed and/or which are enrolled in CREP or other set-aside programs.

D. Adaptive Management.


The Districts have incorporated an adaptive management approach into their long-range water management and/or mitigation planning. The increased level of monitoring, documentation and accounting implemented by the Districts will permit them, in cooperation with the Department, to improve management policies and actions, monitoring and reporting

E. Reservation of Rights.

By submitting this Plan, neither the Districts nor their individual members, concede that the Order's findings and conclusions, including those concerning material injury and required mitigation, accurately determines impacts or injury from ground water pumping or the appropriate obligations of ground water users under Idaho law. The Districts do not concede that to date, any Orders issued in the above-captioned matters comports with applicable legal standards, nor do they waive their right to seek reconsideration, a hearing before the Department, judicial review, or any other available remedies. The Districts have sought reconsideration and hearing with respect to each of such Orders and are submitting this Plan because they have yet to be granted a hearing

RESPECTFULLY SUBMITTED this 30th day of May, 2006.

GIVENS PURSLEY LLP

By: 
 Jeffrey C. Fereday
 Michael C. Creamer
 Brad V. Sneed
*Attorneys for North Snake Ground Water
 District and Magic Valley Ground Water
 District*

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 12.8

 32.6 cfs total
 to Devils
 Washed.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May 2006, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Mr Karl J Dreher
Director
Idaho Department of Water Resources
322 East Front Street
P O Box 83720
Boise, ID 83720-0098

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☐ Overnight Mail
☒ Hand Delivery
☐ E-mail

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Blue Lakes Trout Farm
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Cindy Yenter	<u> X </u>	U S Mail
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Southern Regional Office	<u> </u>	Hand Delivery
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Twin Falls, ID 83301-3380		

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Clear Springs Foods, Inc	<u> </u>	Facsimile
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Jeffrey C. Fereday
Michael C Creamer
Brad V Sneed

2005 WATER LEASE AGREEMENT

THIS AGREEMENT, Made and entered into this 6th day of September, 2005, by and between MITIGATION, INC., an Idaho corporation with its principal place of business located at P.O. Box 250, Rexburg, ID 83440, hereinafter called "MI", and Idaho Ground Water Appropriators, Inc., acting for and on behalf of ABERDEEN-AMERICAN FALLS GROUND WATER DISTRICT, BINGHAM GROUND WATER DISTRICT, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, MAGIC VALLEY UNDERGROUND PUMPERS ASSOCIATION, and NORTH SNAKE GROUND WATER DISTRICT, all Idaho ground water districts or providing services as ground water districts with their principal place of businesses located P.O. Box 2624, Boise, ID 83701-2624, hereinafter called "DISTRICTS",

WITNESSETH:

ARTICLE I: PURPOSE OF AGREEMENT

Sec. 1.1: DISTRICTS' Subject to Order Following Calls

During the year 2005, DISTRICTS were subject to certain orders issued by the Director of the Idaho Department of Water Resources, following water calls made by seven canal companies and irrigation districts located below American Falls Reservoir and acting collectively as "the Surface Water Coalition" (said orders hereinafter referred to as the "Call Orders").

Sec 1.2: DISTRICTS' Acquisition of Leased Water

Pursuant to the Call Orders, the DISTRICTS and other entities are required to supply 27,700 af during the 2005 water year acre-feet of replacement water to Surface Water Coalition members who have claimed senior rights. Because the Call Orders specified the DISTRICTS

would need to meet modeled obligations to the Coalition was 101,000 acre-feet, the DISTRICTS leased approximately 76,400 acre-feet of water qualified for the Call Orders (hereinafter "Leased Water") from certain surface storage space holders as well as certain high lift pumpers located below Milner Dam. For the year 2005 the portion of the Leased Water from the high-lift pumpers located below Milner Dam has been successfully exchanged with the Bureau of Reclamation ("BOR") for certain water acquired by BOR in Palisades Reservoir held in space historically known as "power head".

While the DISTRICTS have not yet determined the amount of the Leased Water in 2005 which will be in excess of the amount the director will ultimately require under his Call Orders, the DISTRICTS anticipate they will have excess water available during the 2005 water year

Sec. 1.3: DISTRICTS' Desire to Utilize Lease Water in 2005. Because the Leased Water must be beneficially used by the DISTRICTS during the 2005 water year, the DISTRICTS desire to enter into an agreement with MI which will allow MI the use of and benefit of the Leased Water during the 2005 water year in exchange for the DISTRICTS' use of certain storage water which may accrue to and be available for MI's uses during the 2006 water year.

Sec. 1.4: MI's Need to Provide Certain Waters pursuant to the Sho-Ban Agreement MI was formed in 1991 for the express purpose of protecting the natural flow water rights of its members from the effects of advancing the Fort Hall Project water rights priority from 1891 to 1867 in the 1990 Fort Hall Indian Water Rights Agreement with the State of Idaho (hereinafter the "Sho-Ban Mitigation") MI holds 99,500 acre-feet of space in Palisades and Ririe Reservoirs which, in most years, is sufficient to fully mitigate the effects of the priority change granted to the Sho-Ban tribes. However, because of prolonged drought, the space held by MI has not

refilled and MI has been required to rent stored water from its members to meet its mitigation obligations. MI believes it to be in its best interest to preserve the small amount of water allocated to MI's storage space and finds it to be in the interest of MI's stockholders to acquire sufficient powerhead water from the Districts to meet MI's 2005 Sho-Ban Mitigation obligation. The Watermaster of Water District 01 estimates that the MI obligation will be approximately 38,000 acre-feet in 2005.

Because the directors of MI believe MI will not be able to meet its 2005 Sho-Ban Mitigation obligations from its accrued space, the MI board of directors has authorized the following exchange agreement with the DISTRICTS.

Sec. 1.5: Statement of Purpose

Therefore, it is the intent of this Agreement that all storage currently held by the DISTRICTS (Leased Water) in reservoirs that are under the jurisdiction of State Water District 1 and in excess of amounts required to meet the Call Orders is hereby assigned and transferred to MI for the 2005 water year. In exchange and in consideration of the above assignment and transfer, MI agrees to assign and transfer the equivalent amount of storage space, measured in acre feet for use by the DISTRICTS in 2006 (subject to the limitations described below).

It is understood and agreed that such determination of amount of 2005 Leased Water utilized by MI shall be made by the Watermaster of Water District 01. The exchange reflected by this agreement shall be accomplished pursuant to the following TERMS OF AGREEMENT.

ARTICLE II: TERMS OF AGREEMENT

Sec. 2.1: Terms and Conditions

A. DISTRICTS shall determine prior to the end of 2005 the amount of Power

Head storage it has available to assign or sub-lease to MI.

B. Should it be beneficial or necessary, this agreement may be deemed to be a 2005 temporary exchange agreement for purposes of Idaho Code 42-222A drought emergency. If necessary, an application shall be submitted to the Idaho Department of Water Resources Eastern Region for review and approval as a 2005 temporary exchange agreement. It is also understood that this Agreement must comply with the water bank procedures, private lease and any exchange provisions. It is understood by the DISTRICTS that once the Snake River Watermaster computes the amount of the DISTRICTS' available stored water that was not obligated to meet Call Orders in 2005, any such Leased Water up to the amount needed to meet the 2005 Sho-Ban Mitigation shall be available to MI for the express purpose of meeting that obligation.

C. MI, in consideration of the transfer or sub-lease of stored water for credit it actually receives on its' Sho-Ban Mitigation obligations, does hereby covenant and agree that in 2006, it shall lease without charge to the DISTRICTS sufficient space of the total space it holds in Palisades and Ririe reservoirs to provide the amount of stored water transferred to the benefit of MI stockholders from the DISTRICTS in 2005, subject to the following limitations:

(1) Should the total space held by MI not accrue sufficient water to replace the storage provided by the DISTRICTS for MI's use in 2005, then MI will make available to the DISTRICTS in 2006, 11,000 acre-feet or the amount accrued in MI space which ever is greater, minus evaporation and other identified losses.

(2) MI's 18,500 acre-feet of storage space in Palisades fills under a 1939 priority. The 80,000 acre-feet of space held in Ririe Reservoir fills under

a water right priority of 1967. Any calculation of storage for any purpose under this agreement shall only involve the above described storage and not any storage held by individual members of MI.

(3) The obligation of MI to provide stored water to the DISTRICTS in 2006 is first priority, but fully dependent upon and limited to MI's 2005 storage carry over and its 2006 accrual as determined by the Water Master of Water District 01 using the established Water District 1 water accounting processes and procedures.

(4) MI is not in any way restricted from fully utilizing its 2005 MI Storage should the DISTRICTS be unable to provide sufficient water to meet the 2005 Sho-Ban Mitigation obligation of MI. Furthermore, this agreement is fully dependent upon the Watermaster confirming that the water made available to MI by the Districts can be applied to meet the obligations MI has under the 1990 Fort Hall agreement.

(5) It is understood by MI and the DISTRICTS that should MI's 2005 carry over and 2006 accrual (MI Storage) be insufficient to fully replace the amount of storage the DISTRICTS made available to MI in 2005, beyond making all of its space available to the DISTRICTS for their use in 2006 MI has no further obligation to the DISTRICTS in 2006 or in subsequent years.

(6) Should the DISTRICTS fail to fully utilize their assigned portion of MI Storage in 2006, any 2007 carry-over shall revert back to MI.

D. Should it be determined by the Watermaster at the end of the irrigation season for 2005, that the DISTRICTS' Lease Water is not available to assign or sub-lease to MI or should MI be unable to use the Leased Water as credit for its Sho-Ban Mitigation, then MI's obligation to lease water to the DISTRICTS in 2006 shall be voided and this agreement shall be deemed automatically terminated at the end of the 2005 water year with neither party having any further obligation to the other under its terms. Any obligations under this agreement shall begin upon execution of the parties but the full obligation of MI shall be determined based upon the amount of storage actually credited to the benefit of MI against the 2005 Sho-Ban Mitigation obligation by the Watermaster of Water District 01.

E. The parties' obligations under this agreement are for the years set forth in this Agreement only. Neither party shall be obligated to provide any water to the other for any other year or purpose without further negotiation and agreement.

Sec. 2.2: Agreement to Comply with Rental Pool Procedures

It is understood and agreed that this agreement by and between the parties is fully intended to comply with the present Water District 1 Rental Pool Procedures.

Sec. 2.3: Parties to Cooperate with Intent of Agreement.

All parties hereto understand and agree that they will fully cooperate with the intent of this agreement and execute any and all documents and applications required to fulfill the terms of this agreement.

ARTICLE III: EVENTS OF DEFAULT

The failure of any party hereto to perform any term or condition required hereunder, or under any of the other transactions described hereunder, shall constitute an event of default under

this agreement, provided that the non-defaulting party gives notice in writing to the defaulting party, specifying the matters in which such default has occurred and the default is not cured within the notice time hereinafter set forth. Such notice shall be served upon the defaulting party by depositing the same in any United States Post Office, addressed to the defaulting party, certified mail, postage prepaid, and such notice shall be deemed served on its deposit in the post office as aforesaid. If the defaulting party shall fail to cure each and all of such defaults within thirty (30) days after service of the notice, then the non-defaulting party may treat the same as an event of default, and may use or exercise any of the default remedies provided under the laws of the State of Idaho, including reasonable attorney fees and costs.

All notices to the respective parties shall be sent to the following addresses:

DISTRICTS: C/O Lynn Tominaga, P.O. Box 2624, Boise, ID 83701-2624

MI: C/O Ray W. Rigby, P.O. Box 250, Rexburg, ID 83440

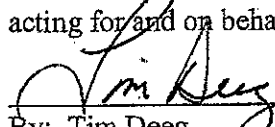
and at such further address as shall be given in writing by the parties hereto.

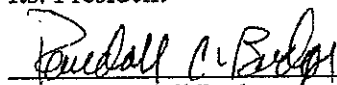
ARTICLE IV: BINDING EFFECT

This agreement is not only binding upon the parties hereto, but upon their respective successors, heirs, administrators and assigns.

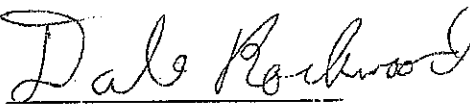
"DISTRICTS"

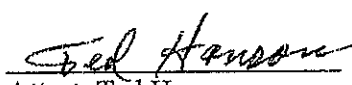
Idaho Ground Water Appropriators, Inc.,
acting for and on behalf of the DISTRICTS


By: Tim Deeg
Its: President


Attest: Randall Budge
Its: Secretary

"MI"


By: Dale Rockwood
Its: President

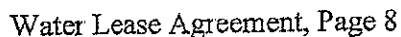

Attest: Ted Hanson
Its: Secretary

SS.

Wendy J. Murphy
Notary Public for Idaho
Residing at: Rexburg, Idaho Idaho Falls
My Commission Expires: 6/23/06

SS..

Notary Public for Idaho
Residing at: Forest Hills, Idaho
My Commission Expires: 8/18/2006



LEASE OF WATER RIGHTS

Lease Agreement made and entered into May 22nd, 2002, between FMC IDAHO, L.L.C., whose address is P.O. Box 4111, Pocatello, Idaho 83202 (hereinafter "Lessor") and AMERICAN FALLS-ABERDEEN AREA GROUND WATER DISTRICT, BINGHAM GROUND WATER DISTRICT, and BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, whose address is in care of Timothy P. Deeg, P.O. Box 70, American Falls, Idaho 83211 (hereinafter "Lessee"):

1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor certain water rights identified by the records of the Idaho Department of Water Resource ("IDWR") as follows:

Water Right No.	Priority	Quantity	Purpose
A29-02284	3/02/49	4.5 cfs	Industrial
A29-2301	4/24/51	3.82 cfs*	Industrial
A29-11342	7/24/52	<u>1.10 cfs</u>	Municipal
		9.42 cfs	

(*FMC retaining 0.18 cfs for continuing plant needs.)

Together with 5000 AF of Palisades Storage pursuant to U.S. Department of Interior, Bureau of Reclamation, Contract No. 14-06-100-1836, Palisades Water Users, Inc. - A01-10214.

2. **Term.** The term of this Lease shall be for a term of one (1) year, commencing April 15, 2002, and terminating on April 14, 2003. Thereafter, this Lease will be automatically renewed and extended for successive additional one-year terms, unless and until terminated by either party as hereafter provided.

Either party may terminate this Lease at the end of any lease term upon not less than ninety (90) days advance written notice.

3. **Rent.** For the use of the lease property Lessee shall pay to Lessor on or before April 15 of each year rent in the amount of \$2.95 per acre foot for ground water and \$3.45 per acre foot for Palisades Storage. The rent shall be due upon approval of the lease by IDWR allowing the use of the water by Lessee for mitigation purposes.

3.1 The calculated amount of ground water pursuant to this Lease is 18.68 AF per day or 6,819.87 AF per year based upon the historic year-round use of these rights. This amount is subject to adjustment to the actual amount which IDWR will credit Lessee for mitigation purposes.

3.2 Lessor has retained all of Water Right No. A29-02255E and A29-2255C, plus 0.18 cfs of Water Right No. A29-2301 to meet continuing water needs at Lessor's Pocatello plant for culinary purposes, irrigation of

landscaping, dust control and other industrial purposes calculated by Lessor to be necessary for such purposes.

4. Non-Use by Lessor. Lessor covenants that it will not divert or utilize the described water right during the term of this Lease.

5. Use by Lessee. During the term of this Lease and during any extension, Lessee shall place to beneficial use each year, all waters approved for use under the water rights and shall comply with all applicable federal, state and local laws and all rules and regulations of any agency, including IDWR applicable to such water rights, together with all state and federal environmental and water quality laws.

6. Representations by Lessor. Lessor covenants and represents that it is the true and lawful owners of the water rights and the land to which they are appurtenant, that these water rights have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described water rights.

7. Transfer Application. The parties acknowledge and agree that it will be necessary to submit this Lease and obtain IDWR approval of the use of said water rights by Lessee for mitigation purposes.

7.1 Lessee and Lessor will jointly seek approval of this Lease from IDWR and will cooperate with each other in securing such approval.

7.2 Lessee shall be responsible for all costs associated with accomplishing the approval of this lease and, including but not limited to, paying all applicable Water Bank and other administrative fees owing to IDWR.

7.3 This Lease is conditioned upon IDWR's approval of the use of the water by Lessee for mitigation purposes, and acknowledgment by IDWR that Lessee's use of the water under the Lease and/or placement of the water in the state water bank constitutes beneficial use of the water and will not subject any of the rights to forfeiture. In the event the approval is not obtained, the Lease may be terminated by either party.

8. Indemnification of Lessor. Lessee agrees to indemnify and hold harmless Lessor from any and all claims and demands, including legal attorney fees and costs, which may arise directly or indirectly as a result of this lease or the transfer or use of the water rights by Lessee pursuant to this Lease.

9. Breach. In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect to terminate this Lease and recover any damages or pursue any other remedy available under Idaho law by reason of such breach.

10. Assignment. This Agreement may not be assigned by Lessee without the express written consent of Lessor.

11. Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

12. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

LESSOR:

FMC IDAHO, L.L.C.

By Rob J. Hartman
Rob J. Hartman
Vice President

Date: May 22, 2002

LESSEE:

AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT

By _____
KEVIN MICHAELSON, President
Date:

BINGHAM GROUND WATER
DISTRICT

By _____
CRAIG EVANS, President
Date:

BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT

By _____
WILLIAM TAYLOR,
President
Date:

LESSOR:

FMC IDAHO, L.L.C.

By _____
Rob J. Hartman
Vice President

Date:

LESSEE:

**AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT**

By *Kevin Michaelson*
KEVIN MICHAELSON, President
Date: 5-22-02

**BINGHAM GROUND WATER
DISTRICT**

By *Craig Evans*
CRAIG EVANS, President
Date: May 22, 2002

**BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT**

By *William H. Taylor*
WILLIAM TAYLOR,
President
Date: May 22, 2002

LEASE SUMMARY:

Lease No. 2006-1

Lessor: Aberdeen-Springfield Canal Company

Contract Nos. 14-06-W-24, 14-06-W-24S, 5-07-10-W0557

5-07-10-W0555, 5-07-10-W1080

Quantity: _____ CFS _____ AF, Acres _____

WATER RIGHTS LEASE AGREEMENT

Lease Agreement made and entered into between the undersigned Lessor, and IDAHO GROUND WATER APPROPRIATORS, INC. ("IGWA"), acting for and on behalf of American Falls-Aberdeen, Bingham, Bonneville, Jefferson, Magic Valley, and North Snake Ground Water Districts, whose address is P.O. Box 1391, Pocatello, Idaho 83204 (hereinafter "Lessee"):

1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor certain storage water rights identified by the records of the Idaho Department of Water Resource ("IDWR") as follows:

Storage Water Contract No. (Bureau of Reclamation)	Quantity CFS/AF
14-06-W-24, 14-06-W-24S, 5-07-10-W0557, 5-07-10-W0555, 5-07-10-W1080	20,000 AF

The foregoing water rights will hereafter be referred to as the "leased water".

- 1.1 Either party may reduce the quantity of leased water to as low as 10,000 AF by providing the other party written notice of the amount of the reduction down to the minimum no later than May 1.

2. **Term.** The term of this Lease shall be for a term of one (1) year, commencing February 1, 2006, and terminating on January 31, 2007. Thereafter, this Lease will be automatically renewed and extended for successive additional one (1) year terms, unless and until terminated by either party upon written notice provided on or before February 1.

3. **Rent.** For the use of the leased water rights Lessee shall pay to Lessor rent annually in an amount equal to the per-acre foot District One Rental Pool Lease price in effect each year, plus \$1 per AF. The rent shall be paid one-half on May 1 and one-half on November 1.

3.1 Lessee shall pay all Water Bank transfer and administration fees.

4. **Non-Use by Lessor.** Lessor covenants that it will not divert or utilize the leased water right during the term of this Lease.

5. **Use by Lessee.** During the term of this Lease, Lessee will not divert or utilize the leased water rights except for mitigation purposes. Lessee will have no responsibility for the operation, maintenance, use or any damages related to or caused by lands idled pursuant to this Lease Agreement.

6. **Representations by Lessor.** Lessor covenants and represents that it is the true and lawful owner of the water rights and the land to which they are appurtenant, that these water rights have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described water rights.

7. **Indemnification of Lessee.** Lessor agrees to indemnify and hold harmless Lessee, its officers, agent and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind for injury to or death of a person; or for loss of or damage to any property resulting from any act or omission of Lessor, its employees, agents or contractors, relating to or arising out of this Lease Agreement.

8. **Breach.** In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect any or all of the following cumulative remedies:

- (a) To terminate this Lease Agreement;
- (b) To seek specific performance of this Lease Agreement;
- (c) To recover any damages arising out of the breach;
- (d) To pursue any and all other remedies under Idaho law by reason of such breach.

9. **Assignment.** This Agreement may not be assigned by Lessee without the express written consent of Lessor.

10. **Choice of Law.** The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Idaho. Any required mediation and arbitration shall occur in Bannock County Idaho. Jurisdiction and venue for any litigation shall be in the District Court of the State of Idaho in Bannock County.

11. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

- 11.1 Mediation. The parties shall designate a single mediator and appear before the mediator and attempt to mediate a settlement of the dispute. In the event the parties cannot agree to a mediator, then each party shall designate a representative and they will appoint a single mediator who shall serve as the mediator for the parties.
- 11.2 Arbitration. In the event the dispute between the parties cannot be settled as a result of mediation as described in paragraph 13.1 above, the dispute shall be arbitrated in accordance with the Uniform Arbitration Act, Title 7, Chapter 9, Idaho Code. The parties shall select a mutually agreeable arbitrator and the dispute shall be submitted to that arbitrator for decision. The arbitrator shall be authorized to enter a decision to resolve the dispute that is binding on the parties. The arbitrator's decision shall be non-appealable.
- 11.3 Litigation. Litigation is allowed between the parties only for the purpose of enforcing a settlement agreement entered into between the parties as a result of mediation, or an arbitrator's tor.

12. Attorney Fees. In the event of any arbitration or litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

13. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

DATED this 17 day of May, 2006.

LESSEE:

IDAHO GROUND WATER
APPROPRIATORS, INC.

By: _____
Tim Deeg, President

Attest: _____

LESSOR:

ABERDEEN-SPRINGFIELD
CANAL COMPANY

By: [Signature]
~~Bob Kershner, President~~
Steven T. Hovsater, General Manager

Attest: [Signature]

- 11.1 Mediation. The parties shall designate a single mediator and appear before the mediator and attempt to mediate a settlement of the dispute. In the event the parties cannot agree to a mediator, then each party shall designate a representative and they will appoint a single mediator who shall serve as the mediator for the parties.
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- 11.3 Litigation. Litigation is allowed between the parties only for the purpose of enforcing a settlement agreement entered into between the parties as a result of mediation, or an arbitrator's tor.

12. Attorney Fees. In the event of any arbitration or litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

13. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

DATED this 19th day of MAY, 2006.

LESSEE:

IDAHO GROUND WATER
APPROPRIATORS, INC.

By: Tim Deeg

Tim Deeg, President

Attest: _____

LESSOR:

ABERDEEN-SPRINGFIELD
CANAL COMPANY

By: _____

Bob Knudson, President

Attest: _____

GIVENS PURSLEY LLP

LAW OFFICES

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Martin C. Hendrickson
Steven J. Hippler
Debora K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle

Franklin G. Lee
David R. Lombardi
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Mellillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson
W. Hugh O'Riordan LL.M.
Bradley V. Sneed
H. Barton Thomas LL.M.

J. Will Varin
Conley E. Ward
Robert B. White

Kenneth L. Pursley
RETIRED

Raymond D. Givens
RETIRED

James A. McClure
RETIRED

Via Facsimile & U.S. Mail

May 30, 2006

Lyle Swank
Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Dr.
Idaho Falls, ID 83402-6105

Re: Aberdeen Springfield Canal Company 2006 Lease

Dear Mr. Swank:

I am writing on behalf of Idaho Ground Water Appropriators, Inc. ("IGWA") to advise you that IGWA, on behalf of its ground water district members, has entered into a private lease of water rights from the Aberdeen Springfield Canal Company for 2006 ("Lease"), and wishes to arrange for 20,000 acre-feet of storage water under the referenced storage contracts be delivered by Water District 01 for mitigation purposes in 2006 as directed by IGWA. A copy of the Lease is enclosed.

Arrangements have been made with the North Side Canal Company, and the Districts intend that this water will be made available, for delivery into North Side's system as may be necessary to provide irrigation water for lands in Water District 130 converted from ground water to surface water supplies and/or for other mitigation actions.

IGWA agrees to pay the appropriate rental pool costs for this storage water.

Please direct any questions you may have concerning this request and concerning payment of the rental pool fees to IGWA's Executive Director, Mr. Lynn Tominaga.

Sincerely,



Michael C. Creamer

Enclosure

cc: Craig Evans
Lynn Tominaga

Tim Deeg
Lynn Carlquist Orlo Maughan

William Taylor Randy Budge

MCC:kdt S:\CLIENTS\3915\78\MCC Letter to Lyle Swank re Aberdeen Springfield Lease DOC

LEASE SUMMARY:

Lease No. 2006-1

Lessor: Aberdeen-Springfield Canal Company

Contract Nos. 14-06-W-24, 14-06-W-24S, 5-07-10-W0557

5-07-10-W0555, 5-07-10-W1080

Quantity: _____ CFS _____ AF, Acres _____

WATER RIGHTS LEASE AGREEMENT

Lease Agreement made and entered into between the undersigned Lessor, and IDAHO GROUND WATER APPROPRIATORS, INC. ("IGWA"), acting for and on behalf of American Falls-Aberdeen, Bingham, Bonneville, Jefferson, Magic Valley, and North Snake Ground Water Districts, whose address is P.O. Box 1391, Pocatello, Idaho 83204 (hereinafter "Lessee"):

1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor certain storage water rights identified by the records of the Idaho Department of Water Resource ("IDWR") as follows:

Storage Water Contract No. (Bureau of Reclamation)	Quantity CFS/AF
14-06-W-24, 14-06-W-24S, 5-07-10-W0557, 5-07-10-W0555, 5-07-10-W1080	20,000 AF

The foregoing water rights will hereafter be referred to as the "leased water".

1.1 Either party may reduce the quantity of leased water to as low as 10,000 AF by providing the other party written notice of the amount of the reduction down to the minimum no later than May 1.

2. **Term.** The term of this Lease shall be for a term of one (1) year, commencing February 1, 2006, and terminating on January 31, 2007. Thereafter, this Lease will be automatically renewed and extended for successive additional one (1) year terms, unless and until terminated by either party upon written notice provided on or before February 1.

3. **Rent.** For the use of the leased water rights Lessee shall pay to Lessor rent annually in an amount equal to the per-acre foot District One Rental Pool Lease price in effect each year, plus \$1 per AF. The rent shall be paid one-half on May 1 and one-half on November 1.

3.1 Lessee shall pay all Water Bank transfer and administration fees.

4. **Non-Use by Lessor.** Lessor covenants that it will not divert or utilize the leased water right during the term of this Lease.

5. **Use by Lessee.** During the term of this Lease, Lessee will not divert or utilize the leased water rights except for mitigation purposes. Lessee will have no responsibility for the operation, maintenance, use or any damages related to or caused by lands idled pursuant to this Lease Agreement.

6. **Representations by Lessor.** Lessor covenants and represents that it is the true and lawful owner of the water rights and the land to which they are appurtenant, that these water rights have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described water rights.

7. **Indemnification of Lessee.** Lessor agrees to indemnify and hold harmless Lessee, its officers, agent and employees, from and against any and all claims, demands, losses, damages, causes of action, suits, and liabilities of every kind for injury to or death of a person, or for loss of or damage to any property resulting from any act or omission of Lessor, its employees, agents or contractors, relating to or arising out of this Lease Agreement.

8. **Breach.** In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect any or all of the following cumulative remedies:

- (a) To terminate this Lease Agreement;
- (b) To seek specific performance of this Lease Agreement;
- (c) To recover any damages arising out of the breach;
- (d) To pursue any and all other remedies under Idaho law by reason of such breach.

9. **Assignment.** This Agreement may not be assigned by Lessee without the express written consent of Lessor.

10. **Choice of Law.** The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Idaho. Any required mediation and arbitration shall occur in Bannock County Idaho. Jurisdiction and venue for any litigation shall be in the District Court of the State of Idaho in Bannock County.

11. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

- 11.1 Mediation. The parties shall designate a single mediator and appear before the mediator and attempt to mediate a settlement of the dispute. In the event the parties cannot agree to a mediator, then each party shall designate a representative and they will appoint a single mediator who shall serve as the mediator for the parties.
- 11.2 Arbitration. In the event the dispute between the parties cannot be settled as a result of mediation as described in paragraph 13.1 above, the dispute shall be arbitrated in accordance with the Uniform Arbitration Act, Title 7, Chapter 9, Idaho Code. The parties shall select a mutually agreeable arbitrator and the dispute shall be submitted to that arbitrator for decision. The arbitrator shall be authorized to enter a decision to resolve the dispute that is binding on the parties. The arbitrator's decision shall be non-appealable.
- 11.3 Litigation. Litigation is allowed between the parties only for the purpose of enforcing a settlement agreement entered into between the parties as a result of mediation, or an arbitrator's tor.

12. Attorney Fees. In the event of any arbitration or litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

13. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

DATED this 17 day of May, 2006.

LESSEE:

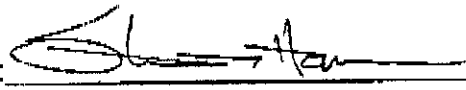
IDAHO GROUND WATER
APPROPRIATORS, INC.

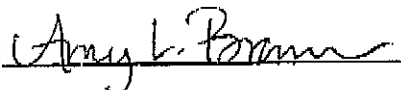
By: _____
Tim Deeg, President

Attest: _____

LESSOR:

ABERDEEN-SPRINGFIELD
CANAL COMPANY

By: 
~~Bob Knudson, President~~
Steven T. Howser, General Manager

Attest: 

- 11.1 Mediation. The parties shall designate a single mediator and appear before the mediator and attempt to mediate a settlement of the dispute. In the event the parties cannot agree to a mediator, then each party shall designate a representative and they will appoint a single mediator who shall serve as the mediator for the parties.
- 11.2 Arbitration. In the event the dispute between the parties cannot be settled as a result of mediation as described in paragraph 13.1 above, the dispute shall be arbitrated in accordance with the Uniform Arbitration Act, Title 7, Chapter 9, Idaho Code. The parties shall select a mutually agreeable arbitrator and the dispute shall be submitted to that arbitrator for decision. The arbitrator shall be authorized to enter a decision to resolve the dispute that is binding on the parties. The arbitrator's decision shall be non-appealable.
- 11.3 Litigation. Litigation is allowed between the parties only for the purpose of enforcing a settlement agreement entered into between the parties as a result of mediation, or an arbitrator's tor.


12. Attorney Fees. In the event of any arbitration or litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

13. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

DATED this 19th day of MAY, 2006.

LESSEE:

IDAHO GROUND WATER
APPROPRIATORS, INC.

By: 
Tim Deeg, President

Attest: _____

LESSOR:

ABERDEEN-SPRINGFIELD
CANAL COMPANY

By: _____
Bob Knudson, President

Attest: _____

GIVENS PURSLEY LLP

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J. Will Varin
Conley E. Ward
Robert B. White

Kenneth L. Pursley
RETIRED

Raymond D. Givens
RETIRED

James A. McClure
RETIRED

Via Facsimile & U.S. Mail

May 30, 2006

Lyle Swank
Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Dr
Idaho Falls, ID 83402-6105

Re: FMC, Idaho L.L.C. 2006 Lease

Dear Mr. Swank:

I am writing on behalf of the American Falls, Bingham and Bonneville-Jefferson Ground Water Districts ("Districts") to advise you that they have renewed a private lease of water rights from FMC, Idaho L.L.C. for 2006, and wish to arrange for the 5,000 acre-feet of Palisades storage included in the lease to be delivered by Water District 01 for mitigation purposes in 2006 as directed by the Districts. A copy of the FMC Lease is enclosed.

Arrangements have been made with the North Side Canal Company, and the Districts intend that this water will be made available, for delivery into North Side's system as may be necessary to provide irrigation water for lands in Water District 130 converted from ground water to surface water supplies and/or for other mitigation actions.

The Districts agree to pay the appropriate rental pool costs for this storage water.

Please direct any questions you may have concerning this request and concerning payment of the rental pool fees to Mr. Lynn Tominaga, Executive Director of Idaho Ground Water Appropriators, Inc. ("IGWA").

Sincerely,



Michael C. Creamer

Enclosure

cc: Craig Evans
Lynn Tominaga

Tim Deeg
Lynn Carlquist

William Taylor
Orlo Maughan

Randy Budge

MCC:kdt S:\CLIENTS\3915\78\MCC Letter to Lyle Swank re FMC Storage Rental DOC

LEASE OF WATER RIGHTS

Lease Agreement made and entered into May 22nd, 2002, between FMC IDAHO, L.L.C., whose address is P.O. Box 4111, Pocatello, Idaho 83202 (hereinafter "Lessor") and AMERICAN FALLS-ABERDEEN AREA GROUND WATER DISTRICT, BINGHAM GROUND WATER DISTRICT, and BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, whose address is in care of Timothy P. Deeg, P.O. Box 70, American Falls, Idaho 83211 (hereinafter "Lessee"):

1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor certain water rights identified by the records of the Idaho Department of Water Resource ("IDWR") as follows:

Water Right No.	Priority	Quantity	Purpose
A29-02284	3/02/49	4.5 cfs	Industrial
A29-2301	4/24/51	3.82 cfs*	Industrial
A29-11342	7/24/52	<u>1.10 cfs</u>	Municipal
		9.42 cfs	

(*FMC retaining 0.18 cfs for continuing plant needs.)

Together with 5000 AF of Palisades Storage pursuant to U.S. Department of Interior, Bureau of Reclamation, Contract No. 14-06-100-1836, Palisades Water Users, Inc. - A01-10214.

2. **Term.** The term of this Lease shall be for a term of one (1) year, commencing April 15, 2002, and terminating on April 14, 2003. Thereafter, this Lease will be automatically renewed and extended for successive additional one-year terms, unless and until terminated by either party as hereafter provided.

Either party may terminate this Lease at the end of any lease term upon not less than ninety (90) days advance written notice.

3. **Rent.** For the use of the lease property Lessee shall pay to Lessor on or before April 15 of each year rent in the amount of \$2.95 per acre foot for ground water and \$3.45 per acre foot for Palisades Storage. The rent shall be due upon approval of the lease by IDWR allowing the use of the water by Lessee for mitigation purposes.

3.1 The calculated amount of ground water pursuant to this Lease is 18.68 AF per day or 6,819.87 AF per year based upon the historic year-round use of these rights. This amount is subject to adjustment to the actual amount which IDWR will credit Lessee for mitigation purposes.

3.2 Lessor has retained all of Water Right No. A29-02255E and A29-2255C, plus 0.18 cfs of Water Right No. A29-2301 to meet continuing water needs at Lessor's Pocatello plant for culinary purposes, irrigation of

landscaping, dust control and other industrial purposes calculated by Lessor to be necessary for such purposes.

4. Non-Use by Lessor. Lessor covenants that it will not divert or utilize the described water right during the term of this Lease.

5. Use by Lessee. During the term of this Lease and during any extension, Lessee shall place to beneficial use each year, all waters approved for use under the water rights and shall comply with all applicable federal, state and local laws and all rules and regulations of any agency, including IDWR applicable to such water rights, together with all state and federal environmental and water quality laws.

6. Representations by Lessor. Lessor covenants and represents that it is the true and lawful owners of the water rights and the land to which they are appurtenant, that these water rights have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described water rights.

7. Transfer Application. The parties acknowledge and agree that it will be necessary to submit this Lease and obtain IDWR approval of the use of said water rights by Lessee for mitigation purposes.

7.1 Lessee and Lessor will jointly seek approval of this Lease from IDWR and will cooperate with each other in securing such approval.

7.2 Lessee shall be responsible for all costs associated with accomplishing the approval of this lease and, including but not limited to, paying all applicable Water Bank and other administrative fees owing to IDWR.

7.3 This Lease is conditioned upon IDWR's approval of the use of the water by Lessee for mitigation purposes, and acknowledgment by IDWR that Lessee's use of the water under the Lease and/or placement of the water in the state water bank constitutes beneficial use of the water and will not subject any of the rights to forfeiture. In the event the approval is not obtained, the Lease may be terminated by either party.

8. Indemnification of Lessor. Lessee agrees to indemnify and hold harmless Lessor from any and all claims and demands, including legal attorney fees and costs, which may arise directly or indirectly as a result of this lease or the transfer or use of the water rights by Lessee pursuant to this Lease

9. Breach. In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect to terminate this Lease and recover any damages or pursue any other remedy available under Idaho law by reason of such breach.

10. Assignment. This Agreement may not be assigned by Lessee without the express written consent of Lessor.

11. Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

12. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

LESSOR:

FMC IDAHO, L.L.C.

By Rob J. Hartman
Rob J. Hartman
Vice President

Date: May 22, 2002

LESSEE:

AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT

By _____
KEVIN MICHAELSON, President
Date:

BINGHAM GROUND WATER
DISTRICT

By _____
CRAIG EVANS, President
Date:

BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT

By _____
WILLIAM TAYLOR,
President
Date:

LESSOR:

FMC IDAHO, L.L.C.

By _____

Rob J. Hartman
Vice President

Date:

LESSEE:

**AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT**

By *Kevin Michaelson*
KEVIN MICHAELSON, President
Date: 5-22-02

**BINGHAM GROUND WATER
DISTRICT**

By *Craig Evans*
CRAIG EVANS, President
Date: May 22, 2002

**BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT**

By *William H. Taylor*
WILLIAM TAYLOR,
President
Date: May 22, 2002

Water Supply Bank No _____

Water Right No _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

Name of Seller/Lessor American Falls-Aberdeen GWD, Bingham
GWD, Bonneville-Jefferson GWD Phone 208-890-4014
Post office address c/o Lynn Tominaga, Idaho Ground Water Appropriators, Inc.
P O. Box 2624, Boise, Idaho 83701-2624

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No _____ Decreed to _____
(Name)
in case of _____ vs _____
dated _____ in _____ county of _____
(Name of court)
- b. License No 29-2284; 29-2301; 29-11342 issued by the Idaho Department of Water
Resources
- c. Permit No _____ issued by the Idaho Department of Water
Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,

show 'all' on line a below and skip the remainder of part 2)

- a. Amount of water under right: All cubic feet per second &/or
_____ acre-fee per annum
- b. Point of diversion: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____ Range
_____, B.M. in _____ County
Additional points _____

c. Place of use: See attached partial decrees and claim

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank

Total number of acres _____

3 ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation

See attached.

- b. Describe the frequency of water user under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years.)

These water rights have been leased on an annual basis pursuant to the attached lease for use under Department approved mitigation plans. 2005 credit for mitigation was 6,024 acre-feet annually.

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

The attached lease includes up to 5000 AF of FMC storage in Palisades Reservoir, subject to fill.
IGWA will rent this storage for mitigation purposes through the Water District 01 Rental Pool.

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe

Per the attached lease, FMC has agreed not to divert water under the leased rights. No other water rights are known to be used for the same purpose as the leased water.

- e. If the water right is a permit, describe the work accomplished toward developing the right
N/A

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached. N/A

4. REMARKS:

The lease authorizes the Ground Water Districts to arrange for lease/rental of these water rights through the Water Supply Bank for mitigation purposes. The Ground Water Districts as Lessees under a private lease are placing the leased natural flow from reach gains in the IWRB Water Bank for mitigation purposes to the extent that the Director determines that mitigation may be required during 2006. The 5,000 AF of storage water will be leased through the Water District 01 Rental Pool, per attached letter. Delivery of water for mitigation is contingent upon further instruction from the Ground Water Districts and concurrence by the Director.

5 SALE/LEASE AGREEMENT

- 1 The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

X For lease for a period from April 15, 2006 to April 14, 2007
(Day month year) (Day month year)

(The lease period may be shown as "indefinite," if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho

- 2 Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate."

See attached Private Lease.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities to off this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires
4. While a water right is in the bank, forfeiture provisions are stayed
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right

Date

5/30/06


Signature, On Behalf of Applicant Ground Water Districts

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial _____ by _____

GIVENS PURSLEY LLP

LAW OFFICES
601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Kristen A. Atwood
Kelly T. Barbour
Christopher J. Beeson
William C. Cole
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jeffrey C. Fereday
Martin C. Hendrickson
Steven J. Hippler
Debora K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle

Franklin G. Lee
David R. Lombardi
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
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J. Will Varin
Conley E. Ward
Robert B. White

Kenneth L. Pursley
RETIRED

Raymond D. Givens
RETIRED

James A. McClure
RETIRED

Via Facsimile & U.S. Mail

May 30, 2006

Lyle Swank
Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Dr.
Idaho Falls, ID 83402-6105

Re: FMC, Idaho L.L.C. 2006 Lease

Dear Mr. Swank:

I am writing on behalf of the American Falls, Bingham and Bonneville-Jefferson Ground Water Districts ("Districts") to advise you that they have renewed a private lease of water rights from FMC, Idaho L.L.C. for 2006, and wish to arrange for the 5,000 acre-feet of Palisades storage included in the lease to be delivered by Water District 01 for mitigation purposes in 2006 as directed by the Districts. A copy of the FMC Lease is enclosed.

Arrangements have been made with the North Side Canal Company, and the Districts intend that this water will be made available, for delivery into North Side's system as may be necessary to provide irrigation water for lands in Water District 130 converted from ground water to surface water supplies and/or for other mitigation actions.

The Districts agree to pay the appropriate rental pool costs for this storage water.

Please direct any questions you may have concerning this request and concerning payment of the rental pool fees to Mr. Lynn Tominaga, Executive Director of Idaho Ground Water Appropriators, Inc. ("IGWA").

Sincerely,



Michael C. Creamer

Enclosure

cc: Craig Evans Tim Deeg William Taylor Randy Budge
Lynn Tominaga Lynn Carlquist Orlo Maughan

MCC:kdt S:\CLIENTS\3915\78\MCC Letter to Lyle Swank re FMC Storage Rental.DOC

LEASE OF WATER RIGHTS

Lease Agreement made and entered into May 22nd, 2002, between FMC IDAHO, L.L.C., whose address is P.O. Box 4111, Pocatello, Idaho 83202 (hereinafter "Lessor") and AMERICAN FALLS-ABERDEEN AREA GROUND WATER DISTRICT, BINGHAM GROUND WATER DISTRICT, and BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, whose address is in care of Timothy P. Deeg, P.O. Box 70, American Falls, Idaho 83211 (hereinafter "Lessee"):

1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor certain water rights identified by the records of the Idaho Department of Water Resource ("IDWR") as follows:

Water Right No.	Priority	Quantity	Purpose
A29-02284	3/02/49	4.5 cfs	Industrial
A29-2301	4/24/51	3.82 cfs*	Industrial
A29-11342	7/24/52	<u>1.10 cfs</u>	Municipal
		9.42 cfs	

(*FMC retaining 0.18 cfs for continuing plant needs.)

Together with 5000 AF of Palisades Storage pursuant to U.S. Department of Interior, Bureau of Reclamation, Contract No. 14-06-100-1836, Palisades Water Users, Inc. - A01-10214.

2. **Term.** The term of this Lease shall be for a term of one (1) year, commencing April 15, 2002, and terminating on April 14, 2003. Thereafter, this Lease will be automatically renewed and extended for successive additional one-year terms, unless and until terminated by either party as hereafter provided.

Either party may terminate this Lease at the end of any lease term upon not less than ninety (90) days advance written notice.

3. **Rent.** For the use of the lease property Lessee shall pay to Lessor on or before April 15 of each year rent in the amount of \$2.95 per acre foot for ground water and \$3.45 per acre foot for Palisades Storage. The rent shall be due upon approval of the lease by IDWR allowing the use of the water by Lessee for mitigation purposes.

3.1 The calculated amount of ground water pursuant to this Lease is 18.68 AF per day or 6,819.87 AF per year based upon the historic year-round use of these rights. This amount is subject to adjustment to the actual amount which IDWR will credit Lessee for mitigation purposes.

3.2 Lessor has retained all of Water Right No. A29-02255E and A29-2255C, plus 0.18 cfs of Water Right No. A29-2301 to meet continuing water needs at Lessor's Pocatello plant for culinary purposes, irrigation of

landscaping, dust control and other industrial purposes calculated by Lessor to be necessary for such purposes.

4. Non-Use by Lessor. Lessor covenants that it will not divert or utilize the described water right during the term of this Lease.

5. Use by Lessee. During the term of this Lease and during any extension, Lessee shall place to beneficial use each year, all waters approved for use under the water rights and shall comply with all applicable federal, state and local laws and all rules and regulations of any agency, including IDWR applicable to such water rights, together with all state and federal environmental and water quality laws.

6. Representations by Lessor. Lessor covenants and represents that it is the true and lawful owners of the water rights and the land to which they are appurtenant, that these water rights have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described water rights.

7. Transfer Application. The parties acknowledge and agree that it will be necessary to submit this Lease and obtain IDWR approval of the use of said water rights by Lessee for mitigation purposes.

7.1 Lessee and Lessor will jointly seek approval of this Lease from IDWR and will cooperate with each other in securing such approval.

7.2 Lessee shall be responsible for all costs associated with accomplishing the approval of this lease and, including but not limited to, paying all applicable Water Bank and other administrative fees owing to IDWR.

7.3 This Lease is conditioned upon IDWR's approval of the use of the water by Lessee for mitigation purposes, and acknowledgment by IDWR that Lessee's use of the water under the Lease and/or placement of the water in the state water bank constitutes beneficial use of the water and will not subject any of the rights to forfeiture. In the event the approval is not obtained, the Lease may be terminated by either party.

8. Indemnification of Lessor. Lessee agrees to indemnify and hold harmless Lessor from any and all claims and demands, including legal attorney fees and costs, which may arise directly or indirectly as a result of this lease or the transfer or use of the water rights by Lessee pursuant to this Lease.

9. **Breach.** In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect to terminate this Lease and recover any damages or pursue any other remedy available under Idaho law by reason of such breach.

10. **Assignment.** This Agreement may not be assigned by Lessee without the express written consent of Lessor.

11. **Attorney Fees.** In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

12. **Binding Effect.** This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

LESSOR:

FMC IDAHO, L.L.C.

By Rob J. Hartman
Rob J. Hartman
Vice President

Date: May 22, 2002

LESSEE:

AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT

By _____
KEVIN MICHAELSON, President
Date:

BINGHAM GROUND WATER
DISTRICT

By _____
CRAIG EVANS, President
Date:

BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT

By _____
WILLIAM TAYLOR,
President
Date:

LESSOR:

FMC IDAHO, L.L.C.

By _____

Rob J. Hartman
Vice President

Date:

LESSEE:

**AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT**

By *Kevin Michaelson*
KEVIN MICHAELSON, President
Date: 5-22-02

**BINGHAM GROUND WATER
DISTRICT**

By *Craig Evans*
CRAIG EVANS, President
Date: May 22, 2002

**BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT**

By *William H. Taylor*
WILLIAM TAYLOR,
President
Date: May 22, 2002

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

NAME AND ADDRESS: F M C CORP
PO BOX 4111
POCAHELLO ID 83202

PLACE OF USE:	Industrial		Within Power County
	1065 RT3E S12	SWSW	SESW
		SWSE	SESE
	S11	NENE	NWNE
		SWNE	SENE
		NENW	NWNW
		SWNW	SENW
		NSEE	NWSE

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WAIVER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE I C SECTION 42.1412(6).

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No 29576)
PARTIAL DECREE PURSUANT TO
I R C P 54(b) FOR
Water Right 29-02301

NAME AND ADDRESS: P M C CORP
PO BOX 4111
POCATELLO ID 83202

SOURCE: GROUND WATER

QUANTITY: 4.00 CFS
2895 90 APY

PRIORITY DATE: 04/24/1991

POINT OF DIVERSION: 1068 R33E S13 NNNNN Within Power County
NNNNNN

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Industrial	01-01 TO 12-31	4.00 CFS 2895 90 APY

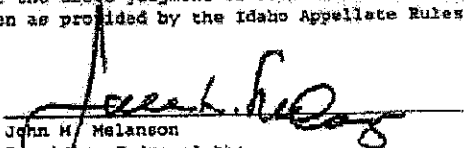
PLACE OF USE:	Industrial		Within Power County
	1069 R33E S12	SWSW	SESW
		SWSE	SESE
	S13	NENE	NWNE
		SNNE	SENE
		NENN	NWNW
		SWNW	SENW
		NSSS	NWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 I C SECTION 43-1412(6)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I R C P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules


John H. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Form No. 42-1409 (2) x 1/88 (Internet)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number

Date Received

Receipt Number

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) FMC Corporation Phone (208) 236-8216
Mailing Address P.O. Box 4111, Pocatello, ID Zip 83205

2. Date of Priority (Only one (1) per claim) September 1, 1953

3. Source of water supply (a) groundwater
which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 06S Range 33E Section 12
1/4 of NE 1/4 of SE 1/4, Govt. Lot, B.M., County of Power

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, 1/4 of 1/4 of 1/4 of

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, 1/4 of 1/4 of
1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

1 well (#11), pumps, pipes

6. Water is claimed for the following purposes: (both dates are inclusive) (cfs) (acre-feet)
- For Commercial purposes from 1/01 to 12/31 amount 1.100 or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
7. Total quantity claimed (a) 1.100 (cfs) and/or (b) _____ (acre feet)
8. Total consumptive use claimed is _____ acre feet per annum.
9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____
10. Description of place of use:
- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
68	33E	12				C													

Total number of acres irrigated 8, Commercial use

11. In which county (ies) are lands listed above as place of use located? Power
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above _____ or None ()
14. Remarks: _____

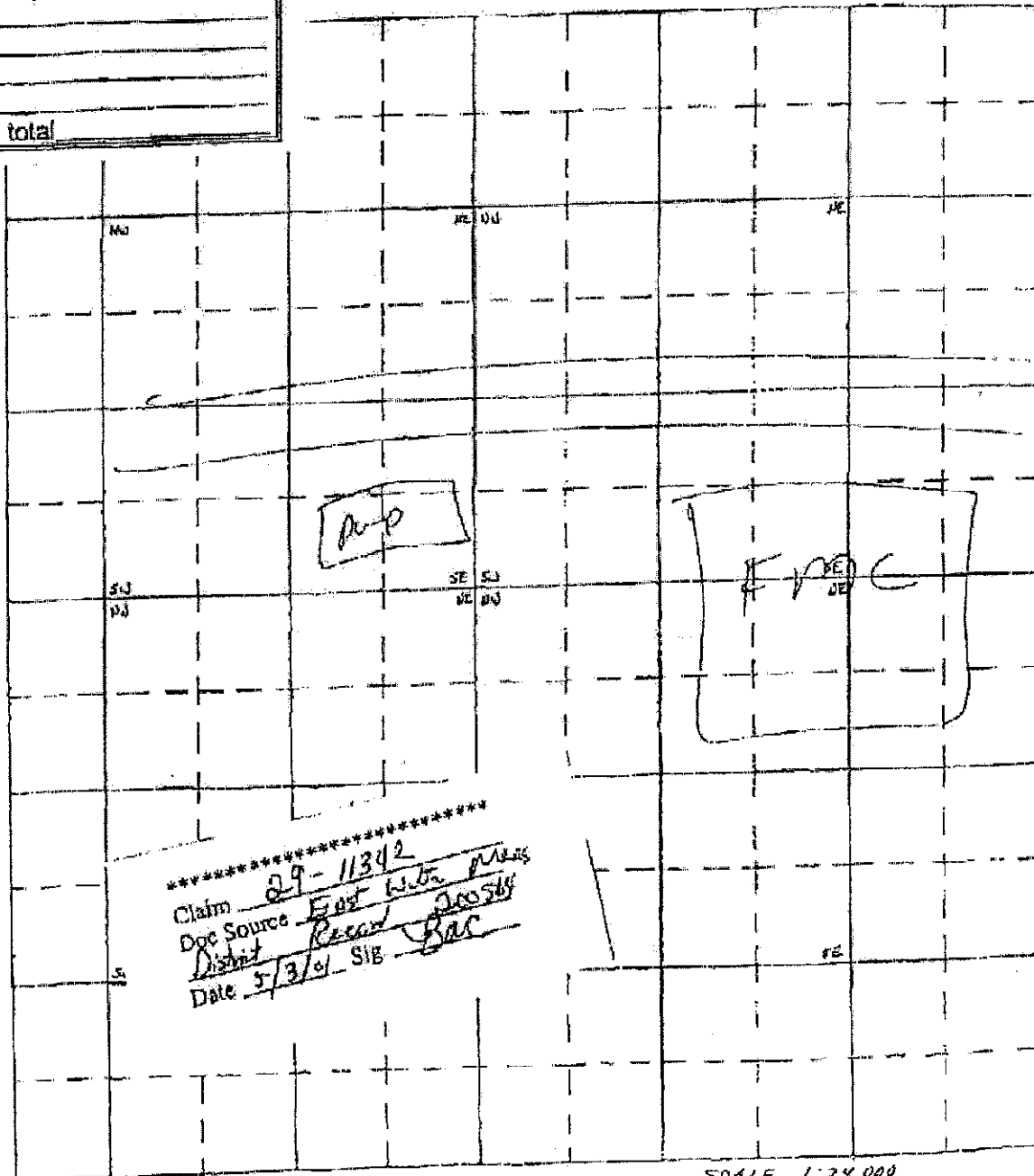
Last Name _____ Ident No. _____

EASTERN WATER MEASUREMENT DISTRICT

SUPPLEMENTAL DATA FORM A

SKETCH OF IRRIGATED LANDS AND MAJOR COMPONENTS OF DELIVERY SYSTEM/S

crop	acres
1	
2	
3	
4	
total	



15 Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License ☒ Permit G24451
Decree _____

If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct

Signature of Claimant (s) _____ Date _____

For Organizations: I do solemnly swear or affirm that I am Vice President
Title _____

of FMC Idaho LLC that I have signed the foregoing
Organization _____

document in the space below as Vice President of FMC Idaho LLC
Title _____ Organization _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Rob J. Hartman

Title and Organization Vice President, FMC Idaho LLC Date May 9, 2005

State of Idaho/or _____ } SS.

County of Bannock }

Subscribed and sworn to before me this _____ day of _____, 2005

Notary Public Paul N...

Residing at Bannock County

My Commission Expires 6/16/09

Please Print Name

17. Notice of Appearance
Notice is hereby given that I, Shelley M. Davis will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature S. M. Davis

Address Barker Boshell, Smyser, LLP, P.O. Box 2139, 205 N. 10th St., Ste 520
Boise, ID 83701-2139

Date 5/9/05

Last Name _____ Ident. Number _____

Before the Idaho Water Resource Board

APPLICATION TO RENT WATER FROM THE WATER SUPPLY BANK

Applicant Idaho Ground Water Appropriators, Inc. Phone 208-890-4014Address c/o Lynn Tominaga, P.O. Box 2624City Boise State ID Zip Code 83701-2624**A. DESCRIPTION OF WATER SOUGHT TO RENT**

1. Source of water Ground water – See attached Private Lease
tributary to _____.
2. Maximum volume of water 6820 AF.
3. Maximum rate of diversion _____ cfs.

B. DESCRIPTION OF USE PROPOSED

1. Nature of intended use 2006 Mitigation
2. Location of point of diversion ¼ ¼, Section _____,
Township _____, Range _____, B.M. _____ County _____.
3. Season of use: From _____ to _____.
4. Description of diverting works:
Pump HP _____ Lift _____ Pump type _____.
Canal name, if appropriate _____.
5. Place of use:
a. If water is for irrigation, describe the number of acres to be irrigated by
40-acre tract, section, township and range.
See attached partial decrees and claim.

b. If water is not for irrigation, describe the nature of the intended use and the place of use.

2006 Mitigation

6. Describe any other water rights used for the same purposes as rental water sought under this application.

See attached partial decrees and claim.

7. Who owns the property at the point of diversion?

N/A

8. Who own the property at the point of use?

N/A

9. Are you seeking a rental for more than one (1) year? No (yes or no)

If yes, for how many years? _____

10. Remarks:

Ground Water Districts renting through IWRB Water Bank for potential 2006 mitigation.

5/30/06
Date


Signature of Applicant
Executive Director, IGWA

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Time _____

Published in _____ Pub. Dates _____

Protests filed by _____

Hearing held by _____

Action recommended _____

GIVENS PURSLEY LLP

LAW OFFICES
601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
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James A. McClure
RETIRED

Via Facsimile & U.S. Mail

May 30, 2006

Lyle Swank
Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Dr.
Idaho Falls, ID 83402-6105

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Sincerely,



Michael C. Creamer

Enclosure

cc: Craig Evans
Lynn Tominaga

Tim Deeg
Lynn Carlquist

William Taylor
Orlo Maughan

Randy Budge

MCC:kdt SAClientSV3915V78\MCC Letter to Lyle Swank re FMC Storage Rental.DOC

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1. **Leased Property.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor certain water rights identified by the records of the Idaho Department of Water Resource ("IDWR") as follows:

Water Right No.	Priority	Quantity	Purpose
A29-02284	3/02/49	4.5 cfs	Industrial
A29-2301	4/24/51	3.82 cfs*	Industrial
A29-11342	7/24/52	<u>1.10 cfs</u>	Municipal
		9.42 cfs	

(*FMC retaining 0.18 cfs for continuing plant needs.)

Together with 5000 AF of Palisades Storage pursuant to U.S. Department of Interior, Bureau of Reclamation, Contract No. 14-06-100-1836, Palisades Water Users, Inc. - A01-10214.

2. **Term.** The term of this Lease shall be for a term of one (1) year, commencing April 15, 2002, and terminating on April 14, 2003. Thereafter, this Lease will be automatically renewed and extended for successive additional one-year terms, unless and until terminated by either party as hereafter provided.

Either party may terminate this Lease at the end of any lease term upon not less than ninety (90) days advance written notice.

3. **Rent.** For the use of the lease property Lessee shall pay to Lessor on or before April 15 of each year rent in the amount of \$2.95 per acre foot for ground water and \$3.45 per acre foot for Palisades Storage. The rent shall be due upon approval of the lease by IDWR allowing the use of the water by Lessee for mitigation purposes.

3.1 The calculated amount of ground water pursuant to this Lease is 18.68 AF per day or 6,819.87 AF per year based upon the historic year-round use of these rights. This amount is subject to adjustment to the actual amount which IDWR will credit Lessee for mitigation purposes.

3.2 Lessor has retained all of Water Right No. A29-02255E and A29-2255C, plus 0.18 cfs of Water Right No. A29-2301 to meet continuing water needs at Lessor's Pocatello plant for culinary purposes, irrigation of

landscaping, dust control and other industrial purposes calculated by Lessor to be necessary for such purposes.

4. Non-Use by Lessor. Lessor covenants that it will not divert or utilize the described water right during the term of this Lease.

5. Use by Lessee. During the term of this Lease and during any extension, Lessee shall place to beneficial use each year, all waters approved for use under the water rights and shall comply with all applicable federal, state and local laws and all rules and regulations of any agency, including IDWR applicable to such water rights, together with all state and federal environmental and water quality laws.

6. Representations by Lessor. Lessor covenants and represents that it is the true and lawful owners of the water rights and the land to which they are appurtenant, that these water rights have not lapsed, been abandoned, or forfeited, either in whole or in part and that nothing restricts or precludes Lessor from entering into this Lease and Lessee utilizing the described water rights.

7. Transfer Application. The parties acknowledge and agree that it will be necessary to submit this Lease and obtain IDWR approval of the use of said water rights by Lessee for mitigation purposes.

7.1 Lessee and Lessor will jointly seek approval of this Lease from IDWR and will cooperate with each other in securing such approval.

7.2 Lessee shall be responsible for all costs associated with accomplishing the approval of this lease and, including but not limited to, paying all applicable Water Bank and other administrative fees owing to IDWR.

7.3 This Lease is conditioned upon IDWR's approval of the use of the water by Lessee for mitigation purposes, and acknowledgment by IDWR that Lessee's use of the water under the Lease and/or placement of the water in the state water bank constitutes beneficial use of the water and will not subject any of the rights to forfeiture. In the event the approval is not obtained, the Lease may be terminated by either party.

8. Indemnification of Lessor. Lessee agrees to indemnify and hold harmless Lessor from any and all claims and demands, including legal attorney fees and costs, which may arise directly or indirectly as a result of this lease or the transfer or use of the water rights by Lessee pursuant to this Lease.

9. Breach. In the event either party breaches this Lease and such defaults are not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at their option, may elect to terminate this Lease and recover any damages or pursue any other remedy available under Idaho law by reason of such breach.

10. Assignment. This Agreement may not be assigned by Lessee without the express written consent of Lessor.

11. Attorney Fees. In the event of any litigation over this Lease the prevailing party shall be entitled to recover reasonable attorney fees and costs.

12. Binding Effect. This Agreement shall be binding upon the respective heirs, successors and assigns of the parties.

LESSOR:

FMC IDAHO, L.L.C.

By Rob J. Hartman
Rob J. Hartman
Vice President

Date: May 22, 2002

LESSEE:

AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT

By _____
KEVIN MICHAELSON, President
Date:

BINGHAM GROUND WATER
DISTRICT

By _____
CRAIG EVANS, President
Date:

BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT

By _____
WILLIAM TAYLOR,
President
Date:

LESSOR:

FMC IDAHO, L.L.C.

By _____

Rob J. Hartman
Vice President

Date:

LESSEE:

**AMERICAN FALLS-ABERDEEN
AREA GROUND WATER DISTRICT**

By *Kevin Michaelson*
KEVIN MICHAELSON, President
Date: *5-22-02*

**BINGHAM GROUND WATER
DISTRICT**

By *Craig Evans*
CRAIG EVANS, President
Date: *May 22, 2002*

**BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT**

By *William H. Taylor*
WILLIAM TAYLOR,
President
Date: *May 22, 2002*

2004 MAR 22 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 19574)
) Water Right 29-02284

NAME AND ADDRESS: F M C CORP
PO BOX 1111
BOCAHELLO ID 83202

SOURCE: GROUND WATER

QUANTITY: 4.50 CFS
3257.90 APY

PRIORITY DATE: 01/02/1949

POINT OF DIVERSION: 106S R33E S12 S13 SSESW Within Power County
NENWNW

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Industrial	01-01 TO 12-31	4.50 CFS 3257.90 APY

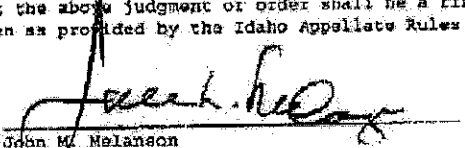
PLACE OF USE:	Industrial		Within Power County
	106S R33E S12	SWSW	SESW
		SWSE	SESE
	S13	NENE	NWNE
		SWNE	SENE
		NENW	NWNW
		SWNW	SENW
		NENE	NWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 I.C. SECTION 42 1412(5).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

2004 MAR 22 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO, IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.F. 54(b) FOR
Water Right 29-02301

NAME AND ADDRESS: P M C CORP
PO BOX #111
POCATELLO ID 83202

SOURCE: GROUND WATER

QUANTITY: 4.00 CFS
2895 90 AFY

PRIORITY DATE: 04/24/1991

POINT OF DIVERSION: 1065 R33E S13 NNNNN Within Power County
NNNNN

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Industrial	01-01 TO 12-31	4.00 CFS 2895 90 AFY

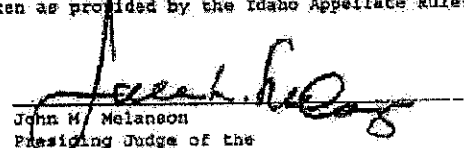
PLACE OF USE:	Industrial		Within Power County
	1065 R33E S12	SWSW	SESW
		SWSE	SESE
	S13	NENE	NWSE
		SWNE	SENE
		NNNW	NWNW
		SWNW	SENW
		NHSE	NWSE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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 I.C. SECTION 42-1412(6)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.F., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Form No. 42-1408 (2) - 1/88 (Internet)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number

Date Received

Receipt Number

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) FMC Corporation Phone (208) 236-8216Mailing Address P.O. Box 4111, Pocatello, ID Zip 832052. Date of Priority (Only one (1) per claim) September 1, 19533. Source of water supply (a) groundwater
which is tributary to (b) _____4. a. Location of existing point of diversion is: Township 06S Range 33E Section 12,
1/4 of NE 1/4 of SE 1/4, Govt. Lot, _____ B.M., County of Power

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____1/4, Govt. Lot _____ B.M., County of _____5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.1 well (#11), pumps, pipes

6. Water is claimed for the following purposes: (both dates are inclusive) (cfs) (acre feet)
- For Commercial purposes from 1/01 to 12/31 amount 1.100 or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
7. Total quantity claimed (a) 1.100 (cfs) and/or (b) _____ (acre feet)
8. Total consumptive use claimed is _____ acre feet per annum.
9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				EW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
68	33E	12				D													

Total number of acres irrigated 1, Commercial use

11. In which county (ies) are lands listed above as place of use located? Power
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None ()
14. Remarks: _____

Last Name _____ Ident No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit G24451
 Decree _____
 If applicable provide IDWR Water Right Number _____
 Court _____ Case Number _____ Decree Date _____
 Plaintiff vs Defendant _____

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
 "How you will receive notice in the Snake River Basin Adjudication" (b) I/We do _____ do not _____
 wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
 and correct.

Signature of Claimant (s) _____

Date _____

Date _____

For Organizations: I do solemnly swear or affirm that I am Vice President
 of FMC Idaho LLC that I have signed the foregoing
 Organization
 document in the space below as Vice President of FMC Idaho LLC
 Title Organization
 and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Rob J. HartmanTitle and Organization Vice President, FMC Idaho LLC Date May 9, 2005

State of Idaho/or _____

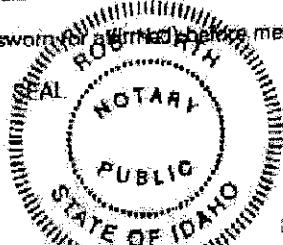
SS

County of Bannock

Subscribed and sworn to and affirmed before me this _____

9th

day of

May2005Notary Public Rob J. HartmanResiding at Bannock CountyMy Commission Expires 6/16/09

Please Print Name

17. Notice of Appearance

Notice is hereby given that I, Shelley M. Davis will be acting as attorney at law on behalf
 of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
 should be mailed to me at the address listed below.

Signature Shelley M. DavisAddress Barker Rusk H. Senger, LLP, P.O. Box 2139, 205 N. 10th St., No 520
Boise, ID 83701-2139Date 5/9/05

Last Name _____

Ident. Number _____