

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1

RECEIVED  
NOV 19 2007  
WATER RESOURCES  
WESTERN REGION

Name of Applicant Mayfield Townsite, LLC Phone (208)388-0189

Post Office address 4487 North Dresden Place, Suite 102, Boise ID 83714

A. PURPOSE OF TRANSFER

1.  Change point of diversion     Add diversion point(s)     Change place of use  
 Change nature of use     Change period of use     Other \_\_\_\_\_

2. Describe the reason for the proposed changes Applicant seeks to divert the ground water for irrigation use. A water company or district will be formed to own and operate the system. The irrigation season of use is also proposed for change to IDWR's current standard period at the new place of use.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>61-12149</u>	<u>2/21/1971</u>	<u>1.91 cfs/584.0 afa</u>	<u>Irrigation</u>	<u>3/15</u> to <u>11/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 1.91 cubic feet per second and/or 584.0 acre-feet per annum.

3. Source of water Ground Water tributary to \_\_\_\_\_

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
		NW	NW	25	1N	4E	Elmore	Proposed Well
		NE	NE	26				" "
		NW	NE	26				" "
		SW	NE	26				" "
		NE	NW	26				" "
		SE	NW	26				" "
		NE	SW	26				" "
		NW	SE	26				" "

WITHDRAWN

SCANNED  
MAR 03 2009

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	4E	12													40			39	79
		13	18															4	22
		14									40	40	40	40					160
		15																40	40
		22	40	40	40	40	40	40	40	40	40	40			40	40			480
		23		40	33		40	40	40	40	40	40	40	40	22	18	40	40	513
		24	39	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	639
		25		40	40	40	40	40	40	40	40	40	40	40		40	40		520
		26	40	40	40	40	40	40	20	40	40				40	40	40	40	500
		27				39									6				45
1N	5E	5	41 Lt 1	41 Lt 2	40	40			40	40	40	40	40	40	40	40	40	40	562
		7									40	41 Lt 3	41 Lt 4	40		40			202
		8	40	40	40	40	40			40	40	40	40	40	40	40	40	40	560
		17	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		18		40			40	41 Lt 1	37 Lt 2	40	40	15 Lt 3	36 Lt 4	40	40	40	40	40	489
		19	40	40	40	40	40	42 Lt 1	42 Lt 2	40	40	42 Lt 3	43 Lt 4	40		40	40		589
		20	40	40	40	40	40			40								240	
		21					40	40										80	

(146 acres irrigation within PPU)

Total Acres. 6,340 PPU

**PART 1**

6. General Information:

a. Description of diversion system We anticipate up to four wells with electric pumps. Eight potential points of diversion are listed to provide flexibility in siting the four anticipated wells.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?  
X Yes \_\_\_\_\_ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:  
Current place of use will be no longer irrigated.

d. Remarks:  
Diversions are proposed in basin 61. Place of use is proposed in basins 61 and 63. Applicant has entered into the attached agreement with Idaho Water Company LLC, to purchase the property.

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**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

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

And the said application is hereby \_\_\_\_\_, subject to the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
For the Director

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 2**

(Attach one copy for each right)

**A. DESCRIPTION OF RIGHT AS RECORDED (See Attached Partial Decree and Water Right Report)**

1. Right as evidenced by:

- a. Decree No. \_\_\_\_\_ Decreed to \_\_\_\_\_  
in case of \_\_\_\_\_ vs. \_\_\_\_\_  
dated \_\_\_\_\_ in \_\_\_\_\_ county of \_\_\_\_\_
- b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources.
- c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources.
- d. Transfer No. \_\_\_\_\_ which produced this right.

2. Attach copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

- Tax Notice                       Warranty Deed                       Other Attached purchase agreement

3. Source of water \_\_\_\_\_ tributary to \_\_\_\_\_

4. Date or priority \_\_\_\_\_

5. Water is used for the following purposes:

- amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)
- amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)
- amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_  
(cfs/ac-ft)

6. Total amount of water under right \_\_\_\_\_ cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

7. Point(s) of Diversion:

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

8. Lands irrigated or place of use:

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

Total Acres \_\_\_\_\_

9. Describe any other water rights used for the same purpose as described above 63-2100, 63-2143, 63-2654, 63-2690, 63-12447, and 63-32499

**PART 2**

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

       No        If yes, describe \_\_\_\_\_

**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED**

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total Acres \_\_\_\_\_

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

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

2. Point(s) of Diversion:

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

3. Lands irrigated or place of use:

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

Total Acres \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 3**

(See attached Aerial Photo maps)

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for the rights described in part 1. Clearly depict the land by section, township and range number.

The form is a large grid used for drawing a map. It consists of a 10x10 grid of sections. The grid is defined by solid lines for the outer boundary and internal section lines. Within this grid, there are dashed lines and dotted lines that further subdivide the sections, likely representing township and range boundaries or specific land parcels. The grid is intended for the applicant to draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for the rights described in part 1.

Scale: 2 inches equal 1 mile. Draw plan in ink.

**PART 3**

**B. CHANGES IN NATURE OF USE**

1.	<u>New Nature of Use</u>	<u>Amount(cfs/af-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

Quantity and quality of return flows and location of discharge: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Describe effects on other water uses resulting from the proposed change:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

*MAYFIELD TOWN SITE, LLC*

By: *Marty Johnson* Member  
 (Signature of Applicant)

Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2007



*Vivian L. Nimmo*  
 (Notary Public)

My commission expires 4/10/2012

**FOR DEPARTMENT USE ONLY**

Transfer contains 7 pages and 6 attachments A-F

Received by DB Date 11-19-07 Protest filed by \_\_\_\_\_

Prelim. Check by 82 Fee \$ 290-

Received by DB / W035992 Date 11-19-07

Published in \_\_\_\_\_ Copies of protest forwarded by \_\_\_\_\_

Pub. Dates \_\_\_\_\_ Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendations requested on \_\_\_\_\_ Recommended for  approval  denial

\_\_\_\_\_ received \_\_\_\_\_ by \_\_\_\_\_

Copy of transfer sent to lien holder \_\_\_\_\_

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  
Case No. 39576 ) I.R.C.P. 54(b) FOR  
                  ) Water Right 61-07081A

NAME AND ADDRESS: DANIEL L WEST  
KIMBERLEE JO WEST  
HC 85 BOX 20-A  
MOUNTAIN HOME, ID 83647

SOURCE: GROUNDWATER

QUANTITY: 4.00 CFS  
1224.00 AFY

PRIORITY DATE: 02/21/1971

POINT OF DIVERSION: T04S R05E S25           WNW           Within Elmore County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	4.00 CFS 1224.00 AFY

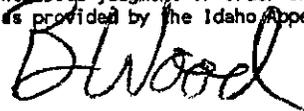
PLACE OF USE:	Irrigation	Within Elmore County	
	T04S R05E S25	NENW 40.0	NWNW 40.0
		SWNW 40.0	SENW 40.0
	S26	NENE 40.0	NWNE 40.0
		SWNE 33.0	SENE 33.0
	306.0 Acres Total		

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).

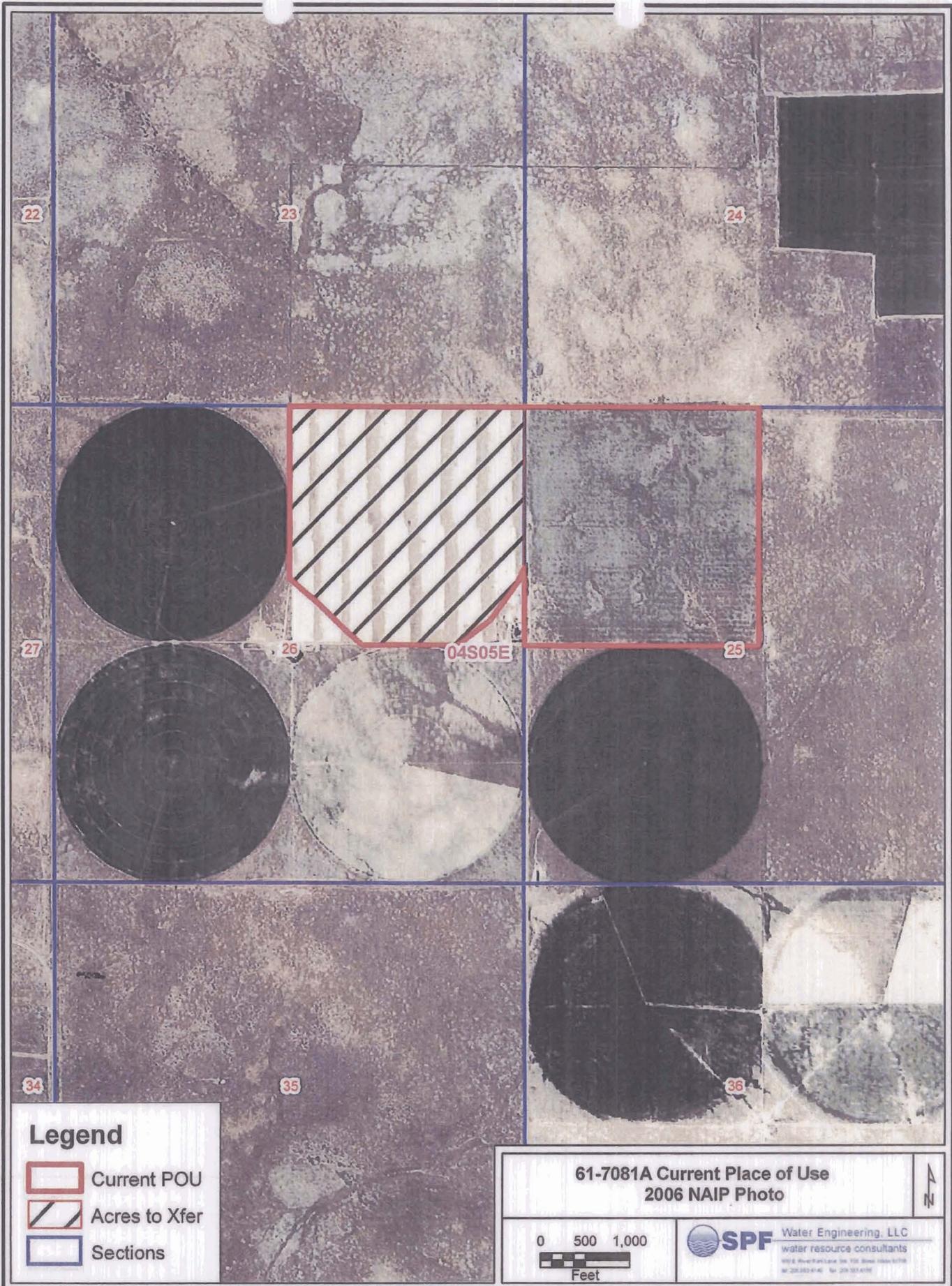
RULE 54(b) CERTIFICATE

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.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.



Barry Wood  
Administrative District Judge  
Presiding Judge of the  
Snake River Basin Adjudication

ATTACHMENT A



**Legend**

-  Current POU
-  Acres to Xfer
-  Sections

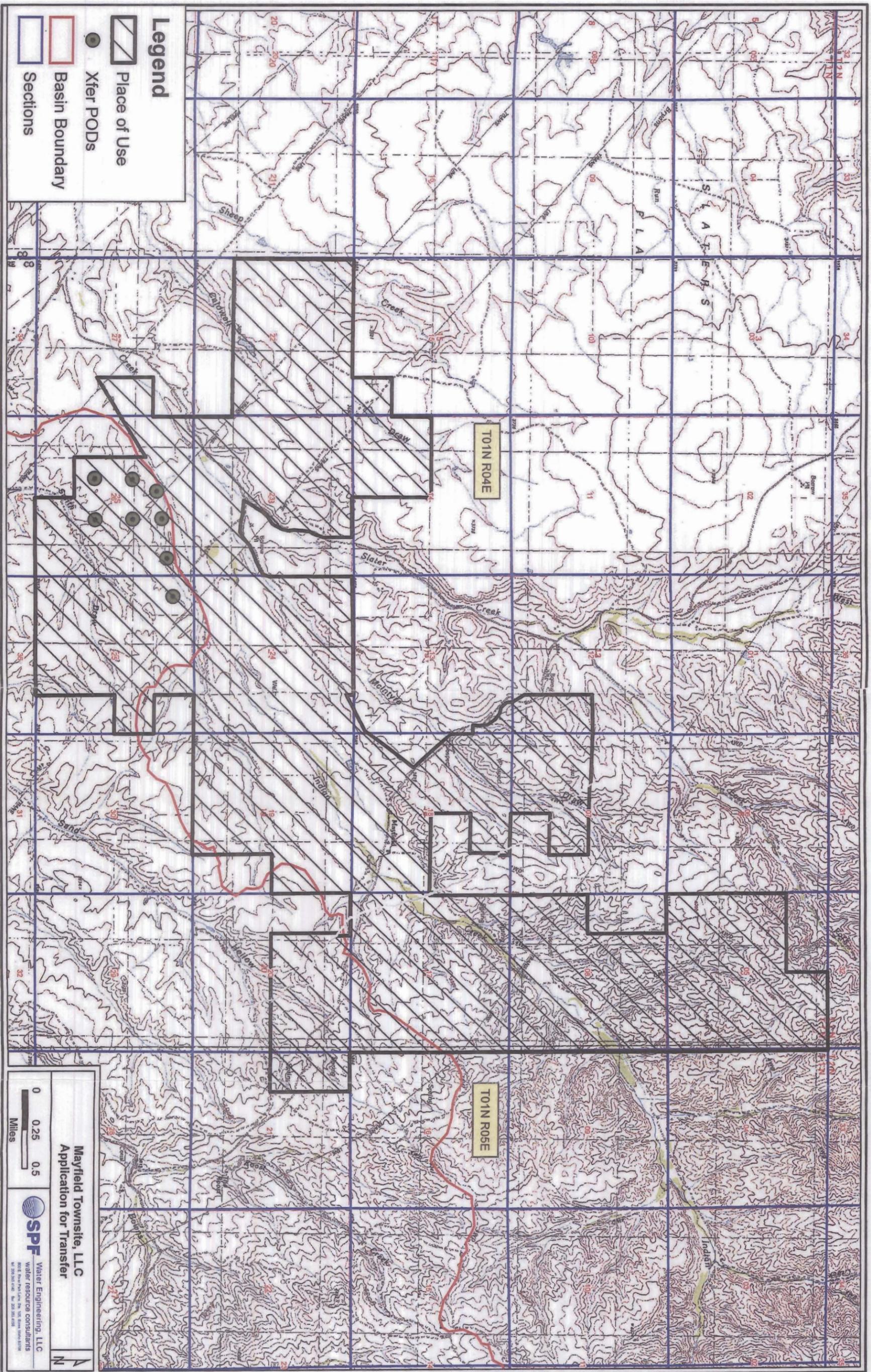
**61-7081A Current Place of Use  
2006 NAIP Photo**



**SPF** Water Engineering, LLC  
water resource consultants  
1000 E. River Park Lane, Suite 100, Denver, Colorado 80202  
Tel: 303.555.8140 Fax: 303.555.4195



*ATTACHMENT B*



Mayfield Townsite, LLC  
Application for Transfer

SPF Water Engineering, LLC  
water resource consultants  
805 East Park Place, Suite 100, Denver, Colorado 80202  
Phone: 303.733.4300

0 0.25 0.5 Miles

N



August 24, 2007

Mr. Marty Goldsmith  
4487 N Dresden Place, Suite 102  
Boise, ID 83714

and

Mr. Delbert Kohtz  
1135 Valley Road South  
Eden, ID 83325

Dear Mr. Goldsmith and/or Mr. Kohtz,

This is to confirm that Farmers National Bank (the "Bank"), as lienholder with respect to the following described lands in Elmore County, Idaho: NE1/4 of Section 26, T4S, R5E, Boise Meridian, consents to the transfer of point of diversion and place of use of that portion of partially decreed Water Right No. 61-7081A appurtenant to the foregoing property and the filing with the Idaho Department of Water Resources of an application seeking approval of such transfer.

The Bank's lien, as it relates to the portion of the water right sought to be transferred will be released, when the purchase price therefore has been delivered to the Seller upon closing of the purchase and sale of the water right as provided in the Agreement for Option to Purchase West Half Water Right dated June 22, 2007, as amended.

If you have any further questions, feel free to contact myself at (208) 324-3800. Thank you for your business.

Sincerely,

*Para Bolton*  
Para Bolton  
Loan Officer

ATTACHMENT D  
(2 Pgs)

RECEIVED  
NOV 12 2007  
WILSON & McCOLL



FA-16232

# WARRANTY DEED

FOR VALUE RECEIVED

Daniel West and Kimberlee Jo West, husband and wife

Instrument # 389350  
Elmore County, Idaho  
03:10pm Jul 17, 2007  
For: FIRST AMERICAN TITLE COMPAN  
No. of Pages: 1 Fee: \$3.00  
MARSA GRIMMETT, Recorder  
Deputy: DLE

GRANTOR(s) do(es) hereby GRANT, BARGAIN, SELL and CONVEY unto

Idaho Water Company, LLC

GRANTEE(s) whose address is: 1135 Valley Road South, Eden, ID 83325

The following described real property in ELMORE County, Idaho to wit:

Township 4 South, Range 5 East, Boise Meridian, Elmore County, Idaho

Section 26: Northeast ¼ Save and Except the Southeast ¼ Northeast ¼

Subject to: Taxes, easements and restrictions of record.

TO HAVE AND TO HOLD said premises, together with its appurtenances, including all water and water rights, ditch or irrigation company shares unto the said Grantee and to the Grantee's heirs and assigns forever,

EXCEPT THEREFROM Water Right No. 61-7081B for 1 acre Water Right appurtenant to the SE1/4NE/14, Section 26, Township 4 South, Range 5 East, Boise Meridian, Elmore County, Idaho

And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: July 16, 2007

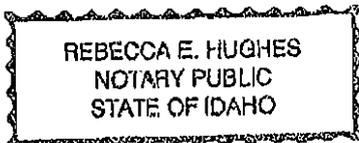
  
Daniel West

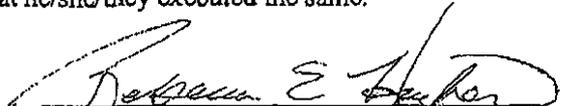
  
Kimberlee Jo West

State of IDAHO  
County of ELMORE

On July 17, 2007 before me, a notary public in and for said State, personally appeared Daniel West, and Kimberlee Jo West, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.



  
Notary Public  
Residing at: Mountain Home, Idaho  
Commission Expires: 1/30/10

ATTACHMENT E  
(2 pgs)

# SPECIAL WARRANTY DEED FOR WATER RIGHTS

Daniel L. West and Kimberlee Jo West, whose address is HC 85, Box 20A, Mountain Home, Idaho 83647 ("Grantor"), does hereby grant, bargain, sell, assign, and convey unto Idaho Water Company LLC, an Idaho limited liability company, whose address is 1135 Valley Road South, Eden, Idaho 83325 ("Grantee"), and to Grantee's heirs, successors, and assigns forever, that portion of the partially deeded Water Right No. 61-7081A that had been appurtenant to 146 acres in the NE1/4 of Section 26, Township 4 South, Range 5 East, Boise Meridian, Elmore County, Idaho ("Water Rights").

Grantor assigns to Grantee any other interest it may have in the Water Rights including any claim, permit, license, or shares of stock evidencing, claiming, or representing such Water Rights.

To the extent the Water Rights, or any of them, are represented by a permit or other property not conveyable by deed, this deed shall be deemed and shall operate as a bill of sale therefore.

Grantor retains no residual or reversionary interest in any of the Water Rights, but is retaining the real property described as the SE1/4 of the NE1/4 of Section 26, Township 4 South, Range 5 East, Boise Meridian, Elmore County, Idaho (the "Retained Parcel") and agrees that the portion of the Water Rights appurtenant to 33 acres in the Retained Parcel, shall be severed therefrom.

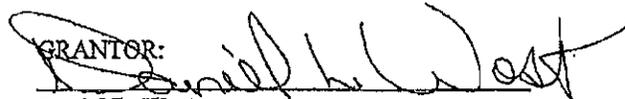
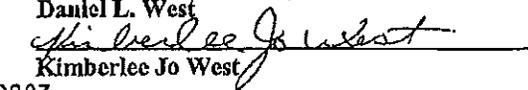
Grantor hereby covenants and warrants to Grantee as follows:

- (A) That Grantor is the owner in fee simple of the Water Rights;
- (B) That Grantor has not conveyed any of the Water Rights to anyone other than Grantee;
- (C) That each of the Water Rights is free from all liens, claims, or encumbrances;
- (D) That Grantor has the authority to convey the Water Rights to Grantee;
- (E) The Grantor has disclosed to Grantee in good faith all relevant information known to Grantor bearing on the validity and extent of the Water Rights.

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

IN WITNESS WHEREOF, the undersigned have caused their names to be hereunto subscribed on the date shown by each name.

Dated: July 16, 2007

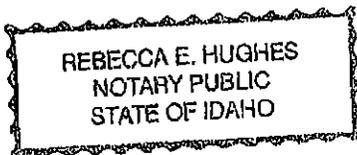
GRANTOR:   
 Daniel L. West  
  
 Kimberlee Jo West

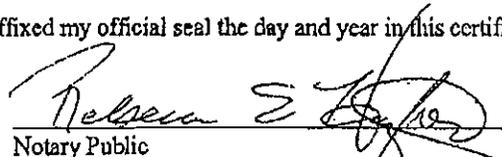
Instrument # 389351  
 Elmore County, Idaho  
 03:11pm Jul 17, 2007  
 For: FIRST AMERICAN TITLE COMPAN  
 No. of Pages: 1 Fee: \$3.00  
 MARSIA GRIMMETT, Recorder  
 Deputy, DLE

State of IDAHO  
County of ELMORE

On July 17, 2007, before me, a Notary Public, in and for said State, personally appeared Daniel L. West and Kimberlee Jo West, personally known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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



  
 Notary Public  
 Residing at: Mountain Home, Idaho  
 Commission Expires: 1/30/10

E2

## AGREEMENT FOR OPTION TO PURCHASE WEST HALF WATER RIGHT

This Agreement for Purchase and Sale of West Half Water Right ("Agreement") is entered into this 22<sup>nd</sup> day of June 2007, by and between Idaho Water Company, L.L.C. (the "Seller") and Marty Goldsmith, a single man (the "Buyer").

### RECITALS

- A. Daniel L. West and Kimberlee Jo West (the "Original Owners") are the owners of that certain partially decreed water right identified as Water Right No. 61-7081A (the "Water Right") licensed from the Idaho Department of Water Resources.
- B. The Water Right has been decreed for the beneficial use of irrigation at a diversion rate of 4 cfs and an annual volume of 1224 acre feet for use on those certain 306 acres located within the NW1/4, T4S, R5E, Section 25, Boise Meridian (East Half - 160 acres) and the NE1/4 of Section 26, T4S, R5E, Boise Meridian (West Half - 146 acres), all in Elmore County, Idaho, as more particularly described within the records of the Idaho Department of Water Resources.
- C. The Original Owners have entered into an option contract (the "Underlying Contract") wherein the Seller has the right to purchase that portion of the Original Owners' real property situated in the NE 1/4 of Section 26, T4S, R5E, Boise Meridian, Elmore County, Idaho, together with the portion of the Water Right appurtenant thereto (the "West Half Water Right"). The maximum diversion rate and annual volume of West Half Water Right corresponds to the proportion of the Water Right associated with the appurtenant 146 acres, that is, 146/306 of the maximum diversion rate and annual volume associated with the Water Right. At the time of execution of this Agreement, the Seller may or may not have exercised that option.
- D. The Seller wishes to sell the West Half Water Right to the Buyer subject to the terms and conditions set forth in this agreement.

### AGREEMENT

NOW, THEREFORE for good and valuable consideration, including the covenants contained herein and the recitals contained above, the parties agree as follows:

ATTACHMENT F  
( 17 Pgs )

1. Recital. The recitals expressed herein are not mere recitals, as the parties acknowledge and agree that they are representations that are a part of this Agreement.

2. Option. The Seller hereby grants to the Buyer the exclusive option to purchase the West Half Water Right pursuant to the terms hereunder.

3. Purchase Price. The Buyer shall pay to the Seller the sum of [REDACTED] 146 acres to which the West Half Water Right is appurtenant, for a total purchase price of [REDACTED] ("Purchase Price"). In the event that IDWR determines by the time of Closing that any of the West Half Water Right has been forfeited or otherwise is not available for transfer, the Purchase Price shall be adjusted downward by applying the per-acre price only to those acres of land to which the appurtenant West Half Water Right has been found to be available for transfer.

4. Underlying Closing. The Seller represents that it is entitled to and shall close on the West Half Water Right, pursuant to the Underlying Contract, acquiring the same from the Original Owners on or before June 30, 2007 ("Underlying Closing"). If Seller fails to complete the Underlying Closing by June 30, 2007, this Agreement shall terminate, in which case the Closing Agent shall terminate the escrow, disburse the Option Money to Buyer, and remit to the Seller all documents and instruments in its possession. Such failure to complete the Underlying Closing shall not constitute a breach of this Agreement.

5. Due Diligence. As soon as practicable but no later than twenty-five (25) days after execution of this Agreement, the Seller shall obtain from the Original Owners and provide the Buyer with any and all documentation reasonably available demonstrating beneficial use of the West Half Water Right, including, without limitation, crop records from any federal, state or county agency, other crop yield records maintained by the Original Owners, electrical power records and the like. The Buyer shall have thirty (30) days from Buyer's receipt of such documentation to conduct an investigation and examination of the historical consumptive use of the West Half Water Right (the "Due Diligence Period"). On or before the expiration of the Due Diligence Period, Buyer shall deliver to the Seller, with a copy to the Closing Agent (defined below) either a notice stating that Buyer is satisfied with its due diligence and is waiving any further due diligence (the "Due Diligence Notice"); or a notice electing to terminate this Agreement ("Termination Notice"). At any time during the Due Diligence Period, if the Seller determines that it cannot fulfill the Non-Forfeiture Warranty defined in section 9, the Seller may deliver a Termination Notice to the Buyer, which shall be effective in the same manner as a Termination Notice delivered by the Buyer and shall preempt any Due Diligence Notice delivered by the Buyer. If no Due Diligence Notice or the Termination Notice is delivered within the thirty day period pursuant to this section, the Buyer shall be deemed to have found the due diligence satisfactory.

6. Option Money. Upon the Seller's execution of this Agreement, the Seller shall remit to Buyer a copy of a commitment for title insurance covering the underlying 146 acres of real property to which the West Half Water Right is appurtenant ("Commitment"), issued in

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connection with the pending Underlying Closing. The Seller may redact from the Commitment the premium amount, the amount of title insurance, or any other reference to the purchase price that the Seller is paying to acquire the underlying real property. The Buyer shall deposit the sum of Eighty Thousand Three Hundred Twenty Five Dollars (\$80,325.00) (the "**Option Money**") with First American Title Company, 190 N. 3<sup>rd</sup> E., Mountain Home, Idaho 83647, telephone: 208-587-8428 ("**Closing Agent**") upon the Buyer's receipt and a satisfactory review of the Commitment and Buyer's execution of this Agreement. The Closing Agent is hereby instructed to return the Option Money to the Buyer upon the timely receipt of a Termination Notice as provided in section 5. If the Buyer has delivered a Due Diligence Notice or has not delivered a Termination Notice by the end of the Due Diligence Period, the Closing Agent is instructed to disburse the Option Money to the Seller immediately following the First Underlying Closing provided the Seller deposits with the Closing Agent (i) the original of a deed recorded in the Elmore County recorder's office (or copy thereof) executed by the Original Owners conveying the West Half Water Right to the Seller ("**First Deed**"), (ii) the original of a deed executed by the Seller conveying marketable title to the West Half Water Right to the Buyer ("**Second Deed**"), in the form attached hereto as **Exhibit A**, (iii) a complete Notice of Change in Water Right Ownership Form executed by the Seller showing that the ownership has been changed from the Original Owners to the Seller sufficient to comply with the requirements of Section 42-248 and 42-1409(6) Idaho Code ("**Change in Ownership Document**") (or a copy of such notice showing that it has been properly filed), and (iv) a written consent ("**Consent**") to an Application for Transfer of Water Right, which application is to be prepared by the Buyer requesting the transfer of the West Half Water Right to certain real property under option of the Buyer in the vicinity of Mayfield, Elmore County, Idaho, changing the point of diversion, place of use, and nature of use (the "**Application**"). Upon receipt of the First Deed, Second Deed, Change in Ownership Document and the Consent, the Closing Agent shall hold in escrow the Second Deed and disburse the same only in accordance with the provisions of this Agreement. The First Deed (or copy thereof), the Change in Ownership Document, and the Consent, however, shall immediately be released by the Closing Agent to the Buyer.

7. Transfer Application. As soon as practicable following the delivery of the Due Diligence Notice or the expiration of the Due Diligence Period, the Buyer shall initiate the Application with the Idaho Department of Water Resources ("**IDWR**"). The Buyer shall pursue and seek approval of the Application and bear all costs associated with the processing of the Application (including any judicial appeal thereof). The Buyer shall provide the Seller a copy of the Application, as well as any amendment thereto, or other dispositive filing or order.

8. Cooperation with Transfer. The Seller shall cooperate fully with the Buyer throughout the processing of the Application and any judicial review thereof. At the Buyer's request and direction, the Seller shall take whatever steps are reasonable and appropriate to support and assist in securing the approval of the Application, including signing and notarizing applications, authorizations, documents relating to the Snake River Basin Adjudication, and other documents consistent with the Buyer's rights under this Agreement. Any costs incurred by the Seller in this regard, if pre-approved by Buyer in writing, shall be reimbursed by the Buyer. Such approval by Buyer shall not be unreasonably withheld.

9. Seller's Warranties. The Seller represents and warrants to the Buyer that the West Half Water Right has been beneficially used to irrigate crops on the 146 acres to which it is appurtenant in accordance with the Water Right license and partial decree and has not been forfeited in whole or in part (the "**Non-Forfeiture Warranty**"), and is transferable to Buyer's property as described herein. The Seller further represents and warrants that upon Closing neither the Original Owners nor the Seller shall retain any right to irrigate any of the 146 acres to which the West Half Water Right is appurtenant and such land shall forever be dried up unless irrigated or watered with another water right. The Seller makes no representation or warranty as to the quantification of the transferable consumptive use or diversion rate of the West Half Water Right upon transfer; or what conditions or limitations (including mitigation requirements) may be imposed by IDWR or a reviewing court on the water right transfer. The representations and warranties in this section are subject to the following proviso: In the event of a determination by IDWR of partial forfeiture or other partial unavailability for transfer, the Seller shall be in breach of the Non-Forfeiture Warranty, only if the quantity of land to which the appurtenant West Half Water Right is deemed forfeited or otherwise unavailable for transfer exceeds 20 acres. At Buyer's option, Buyer may elect to waive any breach of representation or warranty and proceed to Closing.

10. Termination. In the event (a) IDWR or a reviewing court finally denies the Application, (b) IDWR or a reviewing court fails to finally approve the Application on or before the fourth year anniversary of this Agreement (unless the Buyer elects to proceed to Closing nonetheless), (c) IDWR or a reviewing court finally approves the Application subject to terms, conditions, or limitations unacceptable to the Buyer, or (d) the Buyer elects to withdraw the Application, this Agreement shall terminate without Closing. In the event the Buyer determines that terms of approval of the Application are unacceptable, the Buyer shall so notify the Seller no later than ten (10) days following the approval becoming final; otherwise the Buyer shall be deemed to have found the terms of approval acceptable. In the event the Buyer withdraws its Application, it shall so notify the Seller within ten (10) days thereof. In the event of termination for any of the reasons listed in this section, (1) the Buyer shall take all necessary action, at the Buyer's sole expense, to reverse the water rights transfer and return the Seller to its prior position with respect to the West Half Water Right, and (2) the Closing Agent shall terminate the escrow and remit to the Seller all documents and instruments in its possession including the Second Deed. In the event of any such termination, the Seller shall retain the Option Money, unless the Seller is in breach of the representations and warranties as set out in section 9. In the event the Seller is in breach of the representations and warranties as set out in section 9, the Seller shall return the Option Money to Buyer within 30 days of such denial, which payment shall constitute Seller's sole remedy and damages for the breach. Seller's conditional obligation to return the Option Money to the Buyer shall be personally guaranteed by Delbert G. Kohtz in the form and manner attached hereto as **Exhibit B**. If the Seller is obligated to return the Option Money to Buyer within 30 days of such denial and fails to do so, Buyer shall be entitled to all legal and equitable remedies for such breach.

11. Closing. Upon the final approval of the Application by the IDWR or a reviewing court on terms acceptable to the Buyer or upon Buyer's election to close prior to such final approval, the Buyer shall schedule a closing (the "**Closing**") with the Closing Agent. At such

Closing, the Buyer shall pay to the Seller the balance of the Purchase Price, after credit for the Option Money, provided the Seller can convey marketable title to the West Half Water Right in accordance with the warranties contained in the Second Deed. Upon Closing, the Closing Agent shall record the Second Deed and deliver the recorded Second Deed to the Buyer.

12. Notice. All notices required or permitted hereunder shall be in writing and shall be served on the Buyer at: 4487 N. Dresden Pl., Ste. 102, Boise, Idaho 83712; fax: 208-376-2041, and the Seller at: 1135 Valley Rd. So., Eden, Idaho 83325; fax: 208-825-5063. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by telefax, in which case notice shall be deemed delivered upon transmission of such notice, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided, however, that no notice of change of address shall be effective until actual receipt of such notice.

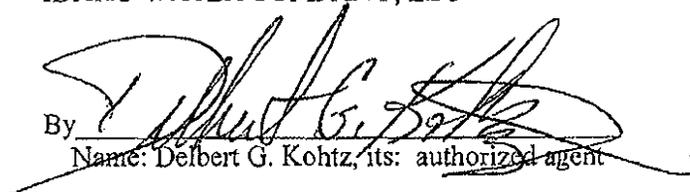
13. Interim Irrigation. Prior to Closing, the Seller is entitled to continue to use the West Half Water Right for irrigation or to place such water right into the Idaho Water Supply Bank making it available for rental in increments not to exceed one irrigation season. If the Closing occurs during an irrigation season, the Seller (or any person renting or leasing the water through the Seller) shall be entitled to continue such use through that irrigation season.

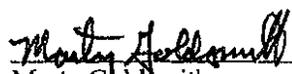
14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of both of the parties, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Purchase and Sale of Water Right to be executed the day and year first above written.

IDAHO WATER COMPANY, LLC

By

  
Name: Delbert G. Kohtz, its: authorized agent

  
Marty Goldsmith

## Exhibit A – Form of Water Rights Deed

Notes:

This form of deed should not be executed at the time the Agreement is executed. Instead, a deed should be drafted based on this form and executed at and held in escrow in accordance with paragraph 6 of the Agreement.

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When Recorded Return To:

[name & address of Buyer]

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### SPECIAL WARRANTY DEED FOR WATER RIGHTS

Idaho Water Company LLC, an Idaho limited liability company, whose address is 1135 Valley Road S., Eden, Idaho 83325 ("Grantor"), does hereby grant, bargain, sell, assign, and convey unto Marty Goldsmith, whose address is 4487 N. Dresden Pl., Ste. 102, Boise, Idaho 83714 ("Grantee"), and to Grantee's heirs, successors, and assigns forever, that portion of the partially decreed Water Right No. 61-7081A that had been appurtenant to the Elmore County, State of Idaho, real property described as the NE1/4 of Section 26, Township 4 South, Range 5 East, Boise, Meridian ("Water Rights") and subsequently severed therefrom.

Grantor assigns to Grantee any other interest it may have in the Water Rights including any claim, permit, license, or shares of stock evidencing, claiming, or representing such Water Rights.

To the extent the Water Rights, or any of them, are represented by a permit or other property not conveyable by deed, this deed shall be deemed and shall operate as a bill of sale therefore.

Grantor retains no residual or reversionary interest in any of the Water Rights.

Grantor hereby covenants and warrants to Grantee as follows:

- (A) that Grantor is the owner in fee simple of the Water Rights;
- (B) that Grantor has not conveyed any of the Water Rights to anyone other than Grantee;
- (C) that each of the Water Rights is free from all liens, claims, or encumbrances;
- (D) that Grantor has the authority to convey the Water Rights to Grantee;

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(E) the Grantor has disclosed to Grantee in good faith all relevant information known to Grantor bearing on the validity and extent of the Water Rights.

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

IN WITNESS WHEREOF, the undersigned authorized officers of Grantor, acting on behalf of Grantor, have caused their names to be hereunto subscribed on the date shown by each name.

Grantor: IDAHO WATER COMPANY, LLC

Dated: \_\_\_\_\_ By: /This is a form document, do not sign/  
Name: Delbert G. Kohtz  
Title: Member

STATE OF IDAHO, )  
: ss.  
County of Ada. )

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Delbert G. Kohtz, known and identified to me to be a Member of Idaho Water Company, LLC, an Idaho liability company, that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

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

(SEAL) \_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_, Idaho  
Commission expires: \_\_\_\_\_

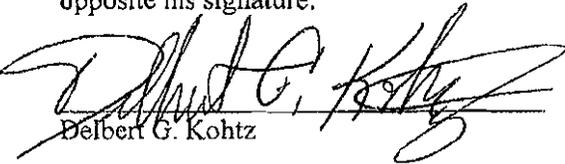
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**EXHIBIT B - Form of Guaranty**

**GUARANTY**

In consideration of Marty Goldsmith entering into that certain Agreement for Option to Purchase West Half of Water Right (as "Buyer" therein), with the Idaho Water Company, LLC (the "Seller" therein), and as a condition to the Buyer's obligations thereunder, Delbert G. Kohtz (the "Guarantor") does hereby unconditionally guaranty to said Buyer the Seller's conditional obligation to return certain option money to the Buyer, all as more particularly set forth in section 9 of the Agreement. The undersigned acknowledge that the obligation of the Guarantor is independent of the obligations of the Seller and a separate action and/or actions may be brought and prosecuted against the Guarantor whether action is brought against the Seller. The Guarantor authorizes the Seller, without notice or demand, and without affecting Guarantor's liability hereunder, from time to time, to compromise, extend or otherwise relax the terms of the Agreement or any indebtedness or obligations thereunder. The Guarantor waives any right to require the Buyer to first proceed against the Seller. The Guarantor agrees to pay reasonable attorney fees and all other costs and expenses which may be incurred by the Buyer in the enforcement of this Guaranty, should it be necessary.

IN WITNESS WHEREOF, the Guarantor signs this instrument the day and year set opposite his signature.

  
Delbert G. Kohtz

6/11/07  
Date

WHEN RECORDED RETURN TO:

Brian F. McColl  
Wilson & McColl  
P.O. Box 1544  
Boise, Idaho 83701-1544  
Telephone: 208-345-9100

Instrument # 391580  
Elmore County, Idaho  
09:41am Oct. 01, 2007  
For: WILSON & MCCOLL  
No. of Pages: 1 Fee: \$3.00  
MARSA GRIMMETT, Recorder  
Deputy: DLE

AMENDED MEMORANDUM OF OPTION

This Amended Memorandum of Option amends that certain Memorandum of Option recorded as Instrument No. 390721, records Elmore County, Idaho, on August 30, 2007, wherein the undersigned gave notice of his option to purchase a portion of the Water Right No. 61-7081A, decreed by the Idaho Department of Water Resources and appurtenant to the NE ¼ of Section 26, Township 4 S, Range 5 E, Boise Meridian Elmore County, save and except the SE ¼ of the NE ¼ thereof (hereinafter the "Subject Real Property"). The purpose of this Amendment is to provide notice that the owner of the Subject Real Property has agreed not to encumber or permit to be encumbered the Subject Real Property and/or the referenced water right during the term of the option.

DATED this 26<sup>th</sup> day of September 2007.

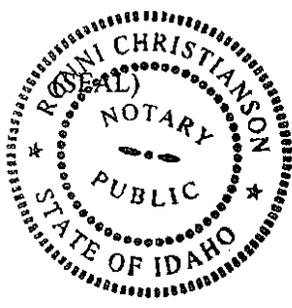
Marty Goldsmith  
Marty Goldsmith

STATE OF IDAHO, )  
                          ) ss.  
County of Ada . )

On this 26<sup>th</sup> day of September 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Marty Goldsmith, known and identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

Ronni Christenson  
Notary Public for Idaho  
Residing at Bowl, Idaho  
Commission expires: 6-30-2010



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**ADDENDUM TO**  
**AGREEMENT FOR OPTION TO PURCHASE WEST HALF WATER RIGHT**

This Addendum to Agreement for Purchase and Sale of West Half Water Right (this "Addendum") is made effective the 30<sup>th</sup> day of June 2007, by and between Idaho Water Company, LLC (the "Seller") and Marty Goldsmith, a single man (the "Buyer"). Buyer and Seller may be referred to herein collectively as the "Parties." Unless otherwise specifically defined in this Addendum, all terms appearing initially capitalized herein shall have the same meaning given to them in the Agreement (defined below).

**RECITALS**

A. WHEREAS, the Parties entered into that certain Agreement for Purchase and Sale of the West Half Water Right, a true and correct copy of which is attached hereto as Exhibit A (the "Agreement"), wherein Seller has agreed to sell to Buyer the West Half Water Right after Seller purchases the West Half Water Right from the Original Owners;

B. WHEREAS, Section 4 of the Agreement provides that Seller will close on the purchase of the West Half Water Right from the Original Owners (the "Underlying Closing") on or before June 30, 2007, or, without constituting a breach of the Agreement, the Agreement will terminate and the Option Money will be returned to Buyer;

C. WHEREAS, Seller has obtained from the Original Owners an extension to close on the West Half Water Right to on or before July 16, 2007 (the "Extended Closing Date"), the Parties agreed on June 29, 2007, to amend Section 4 of the Agreement to allow Seller to consummate the Underlying Closing on or before the Extended Closing Date, and the Parties now desire to memorialize their agreement regarding the Extended Closing Date; and

D. WHEREAS, the option contract between the Original Owners and the Seller contemplates the Seller acquiring the portion of the Water Right appurtenant to 146 acres in the NE1/4 of Section 26, T4S, R5E, Boise Meridian, Elmore County, Idaho, as depicted on Exhibit B attached hereto, that includes 33 water right acres in the SE1/4 of the NE1/4 of said Section 26; however the Seller is not acquiring, and the Original Owners are retaining, all of the real property consisting of the SE1/4 of the NE1/4 of said Section 26.

**AGREEMENT**

NOW THEREFORE, in consideration of the above recitals, which the Parties agree are true and correct, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. **Amendment of Section 4 of the Agreement.** Section 4 of the Agreement is hereby amended to give Seller until on or before the Extended Closing Date to consummate the Underlying Closing and to acquire the West Half Water Right from the Original Owners.

**ADDENDUM - 1**

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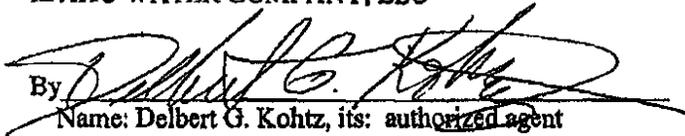
2. **First Deed.** The Seller agrees that the First Deed in which the Original Owners will convey to the Seller the West Half Water Right will be in the form attached hereto as Exhibit C.

3. **General.** In the event of a conflict between the provisions of the Agreement and those of this Addendum, the provisions of this Addendum shall control. No other terms and conditions of the Agreement are changed or modified by this Addendum. The Agreement shall remain in full force and effect modified only by the terms and conditions of this Addendum, which terms and conditions are expressly ratified and confirmed by the Parties hereto. This Addendum may be executed in any number of counterparts and once so executed by all parties thereto, each such counterpart shall be deemed to be an original instrument but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to Agreement for Purchase and Sale of West Half Water Right to be executed the 12<sup>th</sup> day of July 2007.

**SELLER:**

IDAHO WATER COMPANY, LLC

By   
Name: Delbert G. Kohtz, its: authorized agent

**BUYER:**

  
Marty Goldsmith by Brian F. McColl, his attorney-in-fact

**ADDENDUM - 2**

S:\ronnidoc\Goldsmith\Mayfield\Water Right\Final Addendum to Water Right Agreement.071207.DOC

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**SECOND ADDENDUM TO**  
**AGREEMENT FOR PURCHASE AND SALE OF WEST HALF WATER RIGHT**

This Second Addendum to Agreement for Purchase and Sale of West Half Water Right (this "Second Addendum") is made effective the 17<sup>th</sup> day of August, 2007, by and between Idaho Water Company, LLC (the "Seller") and Marty Goldsmith, a single man (the "Buyer"). Buyer and Seller may be referred to herein collectively as the "Parties." Unless otherwise specifically defined in this Second Addendum, all terms appearing initially capitalized herein shall have the same meaning given to them in the Agreement (defined below).

**RECITALS**

A. WHEREAS, the Parties entered into that certain Agreement for Purchase and Sale of West Half Water Right, as amended by that certain Addendum to Agreement for Purchase West Half Water Right, true and correct copies of which are attached hereto as Exhibits A and B (collectively the "Agreement"), wherein Seller has agreed to sell to Buyer the West Half Water Right after Seller purchases the West Half Water Right from the Original Owners;

B. WHEREAS, Section 5 of the Agreement provides that Buyer shall have a Due Diligence Period of thirty (30) days from Buyer's receipt of certain due diligence documents to conduct an investigation and examination of the historical consumptive use of the West Half Water Right;

C. WHEREAS, Seller provided due diligence documents to Buyer on or around July 12, 2007, which began the Due Diligence Period;

D. WHEREAS, on August 9, 2007, Buyer determined that the due diligence documents provided were inadequate for his purposes and delivered to Seller a Termination Notice wherein Buyer elected to terminate the Agreement but provided that Buyer will rescind the Termination Notice if Seller extends the Due Diligence Period (the "Termination Notice"); and

E. WHEREAS, the Parties desire to extend the Due Diligence Period to Friday, August 17, 2007.

**AGREEMENT**

NOW THEREFORE, in consideration of the above recitals, which the Parties agree are true and correct, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. **Amendment of Section 5 of Agreement and Rescission of Termination Notice.** Section 5 of the Agreement is hereby amended to extend the Due Diligence Period until Friday, August ~~17~~, 2007, and the Termination Notice is hereby rescinded.

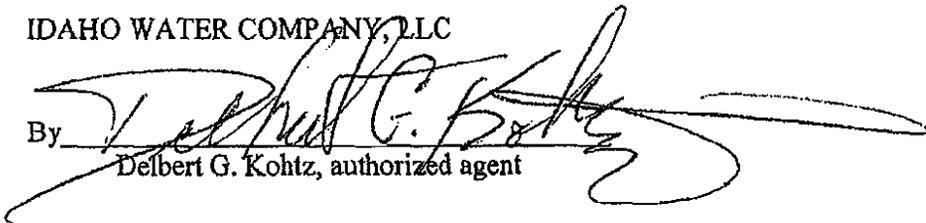
2. **General.** In the event of a conflict between the provisions of the Agreement and those of this Second Addendum, the provisions of this Second Addendum shall control. No other terms and conditions of the Agreement are changed or modified by this Second Addendum. The Agreement shall remain in full force and effect modified only by the terms and conditions of this Second Addendum, which terms and conditions are expressly ratified and confirmed by the Parties hereto. This Second Addendum may be executed in any number of counterparts and once so executed by all parties thereto, each such counterpart shall be deemed to be an original instrument but all such counterparts together shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Purchase and Sale of Water Right to be executed effective the day and year first above written.

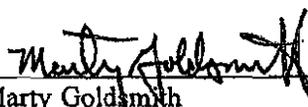
**SELLER:**

IDAHO WATER COMPANY, LLC

By

  
Delbert G. Kohtz, authorized agent

**BUYER:**

  
Marty Goldsmith

**THIRD ADDENDUM TO  
AGREEMENT FOR OPTION TO PURCHASE WEST HALF WATER RIGHT  
AND ESCROW INSTRUCTIONS**

This Third Addendum to Agreement for Option to Purchase West Half Water Right (this "Third Addendum") is made effective the 24<sup>th</sup> day of August 2007, by and between Idaho Water Company, LLC (the "Seller") and Marty Goldsmith, a single man (the "Buyer"). Buyer and Seller may be referred to herein collectively as the "Parties." Unless otherwise specifically defined in this Third Addendum, all terms appearing initially capitalized herein shall have the same meaning given to them in the Agreement (defined below).

**RECITALS**

A. WHEREAS, the Parties entered into that certain Agreement for Option to Purchase West Half Water Right, as amended by that certain Addendum to Agreement for Option to Purchase West Half Water Right, and that certain Second Amendment to Agreement for Purchase and Sale of West Half Water Right (collectively the "Agreement"), wherein Seller has agreed to sell to Buyer the West Half Water Right after Seller purchases the West Half Water Right from the Original Owners; and

B. WHEREAS, the Seller has acquired from the Original Owners the West Half Water Right pursuant to that certain Special Warranty Deed for Water Rights executed by the Original Owners and recorded as Instrument No. 389351 in the recorder's office of Elmore County, Idaho; and

C. WHEREAS, pursuant to the Agreement, the Seller shall execute and deliver to the Closing Agent the Second Deed to be held by the Closing Agent in escrow pursuant to the terms of the Agreement; and

D. WHEREAS, at the Underlying Closing, the Seller encumbered the real property, together with the West Half Water Right appurtenant thereto, acquired by the Seller at the Underlying Closing; and

E. WHEREAS, the parties wish to memorialize the completion of the due diligence period so that Buyer may proceed with Buyer's Application, all in accordance with the Agreement as further modified hereunder.

**AGREEMENT**

NOW THEREFORE, in consideration of the above recitals, which the Parties agree are true and correct, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. **Conditional Satisfaction of Due Diligence.** The parties ratify that, pursuant to the Second Addendum, the Due Diligence Period was extended through Friday, August 24,

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2007, and the Buyer agrees herein that this Third Addendum shall constitute Buyer's notice that Buyer is conditionally satisfied with its due diligence, and the Closing Agent is instructed to disburse the Option Money to Seller, subject however to the following conditions:

- (a) The Seller shall have executed the Second Deed and delivered the same to the Closing Agent to be held in escrow in accordance with the Agreement;
- (b) The Closing Agent has sufficient, immediately available funds in hand on Seller's account, including as may be necessary, the Option Money, to satisfy, release and remove any and all current monetary liens (other than current real property taxes), including that certain deed of trust wherein Daniel West and Kimberly Jo West are the beneficiaries recorded as Instrument No. 389352, which deed of trust Buyer agrees may be replaced with a deed of trust or other lien in favor of Farmers National Bank (the "FNB Lien") from the underlying real property particularly described as the NE1/4 of Section 26, T4S, R5E, Boise Meridian, Elmore County, Idaho, to which the West Half Water Right is appurtenant thereto;

2. **Lien Free Status.** The Seller agrees that the Seller shall not encumber or permit to be encumbered the underlying real property and/or the West Half Water Right, and shall keep the same free from all liens, claims or encumbrances (the "Lien Free Obligation") during the term of this Agreement, excepting however the FNB Lien, which Seller agrees to pay in full at Closing. Any breach of the Lien Free Obligation shall further obligate the Seller, upon notice from Buyer, to return the Option Money to the Seller. If the Seller fails to return the Option Money to Buyer within thirty (30) days of such notice, Buyer shall be entitled to all legal and equitable remedies for such breach.

3. **Memorandum of Option and Release of Memorandum of Option.** Buyer is authorized to execute and record a Memorandum of Option in the form attached hereto as Exhibit A upon disbursement of the Option Money to Seller. The Buyer agrees that the executed original Release of Memorandum of Option, a copy of which is attached hereto as Exhibit b, shall be held by the Closing Agent for disbursement to the Seller in the event of the termination of the parties' Agreement, all in accordance with Section 10 thereof.

4. **General.** In the event of a conflict between the provisions of the Agreement and those of this Third Addendum, the provisions of this Third Addendum shall control. No other terms and conditions of the Agreement are changed or modified by this Third Addendum. The Agreement shall remain in full force and effect modified only by the terms and conditions of this Third Addendum, which terms and conditions are expressly ratified and confirmed by the Parties hereto. This Third Addendum may be executed in any number of counterparts and once so executed by all parties thereto, each such counterpart shall be deemed to be an original instrument but all such counterparts together shall constitute but one agreement.

5. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same Agreement.

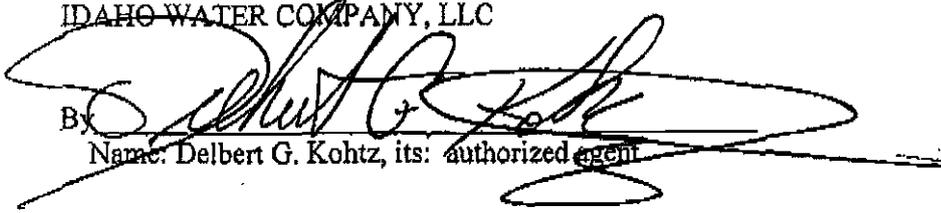
ADDENDUM - 2

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IN WITNESS WHEREOF, the parties hereto have caused this Addendum to Agreement for Purchase and Sale of West Half Water Right to be executed the 24<sup>th</sup> day of August 2007.

**SELLER:**

IDAHO WATER COMPANY, LLC

By 

Name: Delbert G. Kohtz, its: authorized agent

**BUYER:**

\_\_\_\_\_  
Marty Goldsmith by Brian F. McColl, his attorney-in-fact

5. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to Agreement for Purchase and Sale of West Half Water Right to be executed the 29<sup>th</sup> day of August 2007.

**SELLER:**

IDAHO WATER COMPANY, LLC

By \_\_\_\_\_  
Name: Delbert G. Kohtz, its: authorized agent

**BUYER:**

*Marty Goldsmith by Brian F. McColl*  
Marty Goldsmith by Brian F. McColl his attorney-in-fact