



## BURIED PIPELINE AGREEMENT

LEE R. and MARY E. MITCHELL  
Southwest Irrigation District  
North Snake Ground Water District  
Magic Valley Ground Water District

AGREEMENT effective this 4<sup>th</sup> day of November, 2014, between LEE R. MITCHELL and MARY E. MITCHELL, husband and wife, ("MITCHELL"), and Southwest Irrigation District, North Snake Ground Water District and Magic Valley Ground Water District (hereinafter "Districts"), collectively referred to as the "parties."

### RECITALS

A. WHEREAS, MITCHELL, owns certain real property located in Gooding County, Idaho located in NW ¼ SW ¼, Section 5, Township 8 South, Range 14 East, B.M., Gooding County, Idaho ("Property") and;

B. WHEREAS, the Districts desire to acquire from MITCHELL an easement 20' in width as described in Exhibit "A" and Exhibit "B" attached for the purpose of constructing, owning and operating two (2) buried pipelines through the MITCHELL Property to convey water from the Magic Springs water rights; and

C. WHEREAS, MITCHELL is willing to provide the Districts the requested easement for the buried pipelines pursuant to this Agreement.

### AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Installation of Pipelines.** MITCHELL agrees that the Districts may install, at its own expense, two (2) buried pipelines for the conveyance of water from Magic Springs within the easements described in Exhibit "A" and Exhibit "B" attached. The Districts shall install said pipelines within the easements in accordance with standard specifications for pipe, materials, installation, and backfill, as set forth in the Idaho standards for public works construction or the respective projects' construction drawings.

2. **Pipeline Ownership and Maintenance.** The Districts shall own the pipelines and be responsible for their installation, maintenance, repair and replacement.

3. **Easement and Access.** MITCHELL hereby grants to the Districts easements on, over, under and through a portion of the MITCHELL Property, approximately 850' in length, 20' in width as described in Exhibit "A" and approximately 730' in length, 20' in width as described in Exhibit "B" attached hereto, to construct,

operate, maintain and replace as necessary two (2) buried pipelines to insure the proper delivery of water from Magic Springs. It is understood and agreed that the final description of the easements and location of the pipes are subject to amendment by the Districts based upon the final survey and installed pipe locations.

4. **Indemnification.** The Districts agree to indemnify and hold MITCHELL harmless from any and all claims arising out of the construction, operation, maintenance, repair or replacement of the pipelines, or the use of the easement for any purpose.

5. **The Districts' Representative.** The Districts agree to designate one person to represent the Districts in all dealings with MITCHELL and to act as a liaison between the parties. The Districts shall communicate to MITCHELL in writing the name, address and telephone number of such person.

6. **Additional Documents.** The parties will execute such additional deeds, releases and other documents and instruments as may be required to carry out the purpose and intent of the foregoing agreement.

7. **Cooperation.** The parties will cooperate, communicate and act in good faith with each other as may be reasonable and necessary in exercising their rights and performing their responsibilities pursuant to this Agreement.

8. **Default.** In the event any party fails to perform any of the terms, conditions or provisions of this Agreement, and fails to cure such default within thirty (30) days of receipt of written notice of default, the non-defaulting party may elect any one of the following remedies, which are the sole and exclusive remedies available:

- (a) to terminate this Agreement;
- (b) file an action to obtain specific performance of this Agreement; or
- (c) pursue any other remedy to which they may be entitled under the laws of the state of Idaho.

9. **Legal Fees.** In the event legal action is undertaken to enforce this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney fees and costs, in addition to whatever other relief that party may be entitled to.

10. **Binding Effect.** All of the terms, conditions and covenants of this Agreement shall be binding upon the parties and shall inure to the benefits of all successors and assigns of the parties hereto.

11. **Assignment of this Agreement.** The Districts may assign their interest in this Agreement to a third party, subject to the prior written consent of MITCHELL, which consent shall not be unreasonably withheld. Provided, that the Districts may

assign their interest in this Agreement to one or more of their member groundwater districts without the consent of MITCHELL.

12. **Modification or Revocation.** This Agreement may be modified or revoked by a writing executed by all parties.

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

- (a) **Mediation.** The parties shall designate a mediator and appear before the mediator and attempt to mediate a settlement of the dispute.
- (b) **Arbitration.** In the event the dispute between the parties cannot be settled as a result of mediation as above described, the dispute shall be arbitrated in accordance with the Uniform Arbitration Act, Title 7, Chapter 9, Idaho Code. The parties shall elect 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.
- (c) **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 decision resulting from arbitration.
- (d) **Injunctive Relief.** Either party may request a Court to issue such temporary or interim relief (including temporary restraining orders and preliminary injunctions) as may be appropriate, either before or after mediation or arbitration is commenced. The temporary or interim relief shall remain in effect pending the outcome of the mediation or arbitration. No such request shall be a waiver of the right to submit any dispute to mediation or arbitration.
- (e) **Arbitration and Mediation Costs.** The parties shall share equally in all expenses and costs and fees of the mediator and arbitrator. Each party shall be responsible for its own costs, attorney fees and witness fees, if any. However, the arbitrator may award reasonable attorney fees to the prevailing party.
- (f) **Choice of Law.** This Agreement and the validity, interpretation and performance thereof shall be governed by and construed in accordance with the laws of the State of Idaho.

14. **Notices.** All notices required to be given pursuant to this Agreement shall be served upon the parties by certified mail, return receipt requested, at the following addresses:

Mr. & Mrs. Lee R. Mitchell  
1400 Nova Lane  
Meridian, ID 83642

Southwest Irrigation District  
P.O. Box 910  
Burley, Idaho 83318

North Snake Ground Water District  
152 E. Main St.  
Jerome, Idaho 83338

Magic Valley Ground Water District  
P.O. Box 430  
Paul, Idaho 83347

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date recited above.

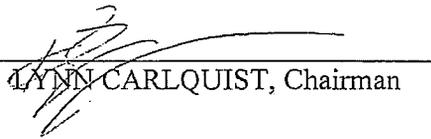
By   
LEE R. MITCHELL

By   
MARY E. MITCHELL

**SOUTHWEST IRRIGATION  
DISTRICT**

By   
RANDY BROWN, Chairman

**NORTH SNAKE IRRIGATION  
DISTRICT**

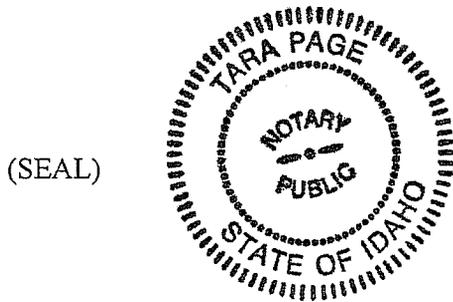
By   
LYNN CARLQUIST, Chairman

**MAGIC VALLEY GROUND WATER  
DISTRICT**

By   
DEAN STEVENSON, Chairman

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

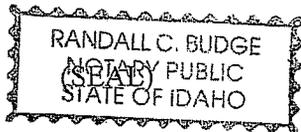
On this 12<sup>th</sup> day of November, 2014, before me, a Notary Public for the State of Idaho, personally appeared LEE R. MITCHELL and MARY E. MITCHELL, husband and wife, known or identified to me to be the persons whose names subscribed to the within instrument, and acknowledged to me that they executed the same.



Tara Page  
NOTARY PUBLIC FOR IDAHO  
Residing at: Mendonian 1cc v  
My Commission Expires: May 30, 2020

STATE OF IDAHO )  
 ) : ss.  
County of Cassia )

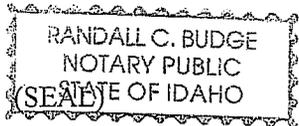
On this 4<sup>th</sup> day of November, 2014, before me, a Notary Public for the State of Idaho, personally appeared RANDY BROWN, known or identified to me to be the Chairman, of SOUTHWEST IRRIGATION DISTRICT, that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Randall C. Budge  
NOTARY PUBLIC FOR IDAHO  
Residing at: Pocatello, ID.  
My Commission Expires: 10/11/16

STATE OF IDAHO )  
 : ss.  
County of Cassia )

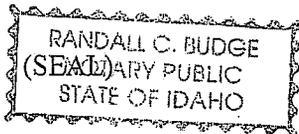
On this 4<sup>th</sup> day of November, 2014, before me, a Notary Public for the State of Idaho, personally appeared LYNN CARLQUIST, known or identified to me to be the Chairman, of NORTH SNAKE GROUND WATER DISTRICT, that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Randall C. Budge  
NOTARY PUBLIC FOR IDAHO  
Residing at: Pocatello, ID.  
My Commission Expires: 10/11/16

STATE OF IDAHO )  
 : ss.  
County of Cassia )

On this 4<sup>th</sup> day of November, 2014, before me, a Notary Public for the State of Idaho, personally appeared DEAN STEVENSON, known or identified to me to be the Chairman, of MAGIC VALLEY IRRIGATION DISTRICT, that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Randall C. Budge  
NOTARY PUBLIC FOR IDAHO  
Residing at: Pocatello, ID.  
My Commission Expires: 10/11/16

October 28, 2014



**EXHIBIT A  
MAGIC SPRING PROJECT  
BURIED PIPELINE EASMENT DESCRIPTION  
MITCHELL EASEMENT**

A 20 foot wide easement across a portion of a parcel of land described in a deed recorded on October 5, 1999 as Instrument Number 182760, records of Gooding County, Idaho, said easement being situated in a portion of the NW ¼ of the SW ¼ of Section 5 in Township 8 South, Range 14 East, Boise Meridian, Gooding County, Idaho. Said easement being more particularly described as follows:

Commencing at the South 1/16<sup>th</sup> Corner common to said Section 5 and Section 6, Township 8 South, Range 14 East being marked by a U.S. Fish and Wildlife brass cap monument dated 1949, said monument being the southwest corner of said parcel of land (Instrument Number 182760) and the **POINT OF BEGINNING**, thence continuing along the section line common to said Sections 5 and 6

North 0°53'45" East 857.05 feet to the southerly right-of-way of a county road, thence along said southerly right-of-way

South 49°24'52" East 25.99 feet, thence leaving said southerly right-of-way

South 0°53'45" West 840.24 feet to the south line of said parcel, being the south line of said NW1/4 of the SW1/4 of Section 5, thence along said south line

North 89° 44' 17" West 20.00 feet to the **POINT OF BEGINNING**.

Said easement contains 16,972 square feet or 0.390 acres, more or less.



October 28, 2014



**EXHIBIT B  
MAGIC SPRING PROJECT  
BURIED PIPELINE EASMENT DESCRIPTION  
MITCHELL EASEMENT**

A 20 foot wide easement across a portion of a parcel of land described in a deed recorded on October 5, 1999, as Instrument Number 182760, records of Gooding County, Idaho, said easement being situated in a portion of the NW ¼ of the SW ¼ of Section 5 in Township 8 South, Range 14 East, Boise Meridian, Gooding County, Idaho. Said easement being more particularly described as follows:

Commencing at the southwest corner of said NW ¼ of the SW ¼ of said Section 5, being marked by a U.S. Fish and Wildlife brass cap monument dated 1949, said monument also being the southwest corner of said parcel of land (Instrument Number 182760), thence along the south line of said parcel South 89° 44' 17" East 118.47 feet to the **POINT OF BEGINNING**, thence leaving said south line,

North 70° 10' 11" East 20.01 feet, to a point of curvature, thence

5.67 feet along a curve to the left, said curve having a radius of 90.00 feet, a delta angle of 3° 36' 33" and a chord bearing and distance North 68° 21' 55" East 5.67 feet, thence

North 66° 33' 38" East 186.98 feet, thence  
North 75° 03' 05" East 169.11 feet, thence  
North 90° 00' 00" East 309.73 feet to a point of curvature, thence

60.59 feet along a curve to the left, said curve having a radius of 90.00 feet, a delta angle of 38° 34' 17" and a chord bearing and distance of North 70° 42' 51" East 59.45 feet to a point on the southerly right-of-way of a county road, thence along said southerly right-of-way

South 49° 24' 52" East 20.30 feet, thence leaving said southerly right-of-way

77.87 feet along a non-tangent curve to the right, said curve having a radius of 110.00 feet, a delta angle of 40° 33' 38" and a chord bearing and distance of South 69° 43' 11" West 76.25 feet, thence

South 90° 00' 00" West 307.11 feet, thence  
South 75° 03' 05" West 165.00 feet, thence  
South 66° 33' 38" West 162.29 feet to a point on the south line of said parcel (Instrument Number 182760), thence along said south line  
North 89° 44' 17" West 53.33 feet to the **POINT OF BEGINNING**.

Said easement contains 14,625 square feet or 0.336 acres, more or less.

