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APR 29 2005

Department of Water Resources

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*Attorneys for Idaho Ground Water Appropriators, Inc.*

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

IN THE MATTER OF THE REQUEST FOR  
ADMINISTRATION IN WATER DISTRICT  
120 AND THE REQUEST FOR DELIVERY  
OF WATER TO SENIOR SURFACE  
WATER RIGHTS BY A & B IRRIGATION  
DISTRICT, AMERICAN FALLS  
RESERVOIR DISTRICT #2, BURLEY  
IRRIGATION DISTRICT, MILNER  
IRRIGATION DISTRICT, MINIDOKA  
IRRIGATION DISTRICT, NORTH SIDE  
CANAL COMPANY, and TWIN FALLS  
CANAL COMPANY

**IDAHO GROUND WATER APPROPRIATORS'  
INITIAL PLAN FOR PROVIDING  
REPLACEMENT WATER**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through its counsel Givens Pursley LLP and on behalf of its ground water district members, Aberdeen-American Falls Ground Water District, Magic Valley Ground Water District, Bingham Ground Water District, North Snake Ground Water District, Bonneville-Jefferson Ground Water District, Southwest Irrigation District, and Madison Ground Water District (the "Ground Water Districts"), pursuant to the Director's April 19, 2005 Order ("Order"), hereby files with the Director, Idaho Department of

Water Resources (“Director”) its Plan for Providing Replacement Water (“Replacement Water Plan”).

## INTRODUCTION

This Replacement Water Plan fulfills the requirement in paragraph 9, page 45, of the Director’s April 19, 2004 Order (“Order”) requiring North Snake, Magic Valley, Aberdeen-American Falls, Bingham, and Bonneville-Jefferson Ground Water Districts, all of whom are located in Water Districts 120 and 130 (the “120/130 Districts”) to “file a plan for providing . . . replacement water with the Director, to be received no later than 5:00 pm on April 29, 2005.” The Order specifies that such plan is to provide a minimum of 27,700 acre-feet of replacement water to certain members of the Surface Water Coalition (“SWC”) during the 2005 irrigation season.

On February 8, 2005, the Ground Water Districts filed with the Department the Ground Water Districts Mitigation Plan for the American Falls Reach of the Snake River (the “February 2005 Mitigation Plan”) demonstrating how they would provide mitigation, as or when necessary, to surface water users in the American Falls reach of the Snake River (“AFR”), which is the reach measured by the Near-Blackfoot and Minidoka river gauges. The February 2005 Mitigation Plan is broad enough in scope and substance to satisfy the minimum requirements the Director’s Order imposes on the 120/130 Districts for 2005. This is particularly so with respect to the quantities of water that are expected to be available to the plan participants as replacement water, and the alternative or additional actions that they might undertake.

However, because the Director’s Order contains requirements not contemplated in the February 2005 Mitigation Plan, and because it provides a specific obligation for replacement water in 2005, this Replacement Water Plan is submitted to comply with the Director’s Order.

The Ground Water Districts are not proposing at this time to withdraw or amend the February 2005 Mitigation Plan.

To the extent that this Replacement Water Plan is deemed a mitigation plan under the Department's Conjunctive Management Rules, and due to the extremely short period of time allowed by the Directors' order to submit this document, the Ground Water Districts incorporate herein by reference each provision of the February 2005 Mitigation Plan as may be required by such rules to be included in a mitigation plan under consideration by the Department.

### **REPLACEMENT WATER PLAN**

#### **A. Replacement water to be provided in 2005.**

1. 27,700 acre-feet. Paragraph 5, page 44, of the Order requires the 120/130 Districts to provide at least 27,700 acre-feet of replacement water to certain members of the Surface Water Coalition in 2005 for mitigation (the "2005 Replacement Obligation."). Acting on behalf of the 120/130 Districts, IGWA hereby commits to make available 27,700 acre-feet of replacement water during the 2005 irrigation season to meet the 2005 Replacement Obligation from one or more of the sources shown in Attachment A.<sup>1</sup>

a. Documentation of the 120/130 Districts' entitlement to these volumes of water for use as replacement water for mitigation purposes in 2005 is contained in Attachment B hereto.

b. Unless the Director otherwise requires, IGWA will determine which of these water sources will be provided to meet the 2005 Replacement Obligation, and will, at the appropriate time, notify the Director in writing and authorize him to take

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<sup>1</sup> IGWA assumes that the Order's selection of 27,700 acre-feet in this context is based on a preliminary determination of material injury by the Director, and that this amount might be reduced based on information available to the Director during the course of the irrigation season. If it subsequently is determined that there is no material injury this water delivery will need to be credited back to IGWA.

immediate control of such water and instruct the District 1 Watermaster or other agents or employees to deliver it to fulfill the 2005 Replacement Obligation.

2. Disposition of Additional Water On-Hand During 2005. In addition to meeting the 2005 Replacement Obligation this year, IGWA will, on behalf of the 120/130 Districts, arrange for delivery through the North Side Canal of up to 45,500 acre-feet of water from one or more of the above-described sources.

a. This water is proposed to be used in the discretion of the North Snake Ground Water District and Magic Valley Ground Water District to: 1) provide water to the Sandy Pipeline Ponds to augment the water supply to water right holders in the Billingsley Creek subreach of the Thousand Springs Reach (“TSR”); 2) provide a surface water source for irrigation of lands previously converted from ground water irrigation as part of ongoing, stipulated and Department-approved mitigation actions of these Districts; and 3) potentially undertake small-scale, targeted recharge intended to augment the water supply to water right holders in the TSR.

b. At such time as required by the Director,<sup>2</sup> IGWA may designate additional amounts of any remaining, on-hand water reserved by the Ground Water Districts for the Director to deliver to the account of certain members of the SWC. IGWA contemplates that unless the Director issues a subsequent order finding material injury during the 2005 irrigation season that cannot be satisfied by delivery of the 27,700 acre-feet, and requires additional water from the 120/130 Districts during the 2005 irrigation season, any

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<sup>2</sup> The 120/130 Districts request that the Department take necessary steps to insure that the Districts’ supplies of mitigation water are properly represented in the District 01 storage accounting procedures so as to support the periodic delivery of replacement water at the direction of the 120/130 Districts in accordance with this Plan. Further, the 120/130 Districts request that they be given timely notice from the Department of any changes in their replacement water obligation due to the Director’s ongoing review of potential material injury during the water year, and that they be given timely notice of any pending or potential reassignment of water from their mitigation account associated with end-of-year account closures, finalizations, book-overs or distributions.

additional amounts that the 120/130 Districts may provide to certain members of the SWC as mitigation in 2005 will be quantified and delivered concurrent with completion of the season-end Water District 01 surface water accounting.

**B. Mitigation Credits**

The 120/130 Districts intend to document and take full credit for all reach gains demonstrated by the Department's ESPA model to accrue to the AFR in 2005 and subsequent years from: (a) all mitigation actions the 120/130 Districts undertake in 2005 beyond providing replacement water to satisfy the 2005 Replacement Obligation; and (b) mitigation actions they have undertaken in prior years pursuant to mitigation plans, substitute supply arrangements, or interim agreements that can be applied to any amounts of required mitigation remaining after the 2005 Replacement Obligation is satisfied.<sup>3</sup> To the degree they accrue, these credits will be claimed as follows:

3. Mitigation credits for reach gains attributable to WD 130 mitigation actions. The 120/130 Districts will claim credit for all reach gain benefits that the Department's ESPA model indicates will accrue to the AFR as a result of the actions described in paragraph 2 above.

4. Mitigation credits for reach gains attributable to voluntary curtailments of ground water withdrawals in 2005. The 120/130 Districts will claim credit for all reach gain benefits that the Department's ESPA model indicates will accrue to the AFR as a result of any other actions they undertake that increase such reach gains, including, but not limited to, dry-year leasing of ground water-irrigated acres, cropland set-asides, District-wide percentage reductions

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<sup>3</sup> To the extent that any 2005 mitigation obligation is carried over to subsequent years or additional mitigation obligations accrue in subsequent years, the Districts will continue to document, obtain and apply to any remaining mitigation obligation set forth in the Director's Order beyond the 2005 Replacement Obligation, mitigation credits from all residual reach gain benefits to the AFR resulting from 2005 and prior and subsequent years' mitigation actions.

or individual reductions of irrigated acres under ground water rights of certain of the 120/130 Districts' members.

5. Mitigation credits for reach gains attributable to previous years' mitigation actions. The 120/130 Districts will claim credit for all reach gain benefits that the Department's ESPA model indicates will accrue to the AFR as a result of specific mitigation actions implemented before April 2005 pursuant to mitigation plans, substitute supply arrangements, or interim agreements. Documented and estimated reach gains attributable to these prior year actions for which the 120/130 Districts currently seek credit are set forth in Attachment C.

6. Recognition of mitigation credits for separate mitigation plans. IGWA understands that certain mitigation plans, substitute supply arrangements, agreements, or entitlements already are in place in WD 120 and/or 130, and that additional mitigation plans may be submitted for the Director's approval. Specifically, those wells within the Aberdeen-Springfield Canal Company service area identified in Attachment D hereto operate under approved mitigation pursuant to an agreement previously entered into by the Department, a copy of which agreement is contained in Attachment E hereto (the "Aberdeen-Springfield Canal Company Agreement"). By this Replacement Water Plan, IGWA and the WD 120 Ground Water Districts provide notice to the Department that the water rights listed in Attachment D, including those with priority dates of February 27, 1979 and later who have been served curtailment notices by the Department, are being mitigated pursuant to the 2002 Aberdeen-Springfield Canal Company Agreement. Once the Department determines the mitigation attributable to those wells for 2005, the 120/130 Districts will seek mitigation credit.

7. Additional accounting for mitigation at season's end.

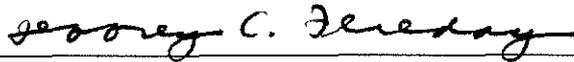
After the 2005 irrigation season, IGWA will provide the Director with transient and steady state modeling results for all 2005 mitigation actions. This will allow all appropriate mitigation credits to be applied toward any 2005 mitigation obligation that might remain after accounting for all replacement water delivered in 2005 and/or any subsequent year mitigation requirement. If there is no such remaining obligation, then such credits will apply toward any potential obligation that may arise in subsequent years.

**NON-WAIVER OF RIGHTS**

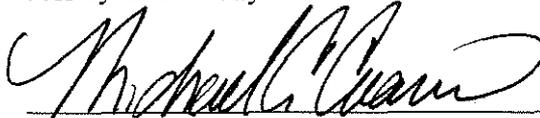
By filing this Plan for Replacement Water and providing replacement or mitigation water IGWA and its members do not concede that ground water pumping from the ESPA has caused material injury to any surface water right and do not waive their right to challenge the Director's Order, to seek its reconsideration or clarification, or to file other motions or pleadings concerning it or the delivery call giving rise to it.

RESPECTFULLY SUBMITTED this 29<sup>th</sup> day of April 2005.

GIVENS PURSLEY LLP



Jeffrey C. Fereday



Michael C. Creamer

*Attorneys for Idaho Ground Water Appropriators, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of April 2005, 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                  | <input type="checkbox"/>            | U.S. Mail      |
| Director                            | <input type="checkbox"/>            | Facsimile      |
| Idaho Department of Water Resources | <input type="checkbox"/>            | Overnight Mail |
| 322 East Front Street               | <input checked="" type="checkbox"/> | Hand Delivery  |
| P.O. Box 83720                      | <input type="checkbox"/>            | E-mail         |
| Boise, ID 83720-0098                |                                     |                |
|                                     |                                     |                |
| C. Tom Arkoosh, Esq.                | <input checked="" type="checkbox"/> | U.S. Mail      |
| Arkoosh Law Offices, Chtd.          | <input type="checkbox"/>            | Facsimile      |
| 301 Main Street                     | <input type="checkbox"/>            | Overnight Mail |
| P.O. Box 32                         | <input type="checkbox"/>            | Hand Delivery  |
| Gooding, ID 83330                   | <input checked="" type="checkbox"/> | E-mail         |
|                                     |                                     |                |
| W. Kent Fletcher, Esq.              | <input checked="" type="checkbox"/> | U.S. Mail      |
| Fletcher Law Office                 | <input type="checkbox"/>            | Facsimile      |
| P.O. Box 248                        | <input type="checkbox"/>            | Overnight Mail |
| Burley, ID 83318-0248               | <input type="checkbox"/>            | Hand Delivery  |
|                                     | <input checked="" type="checkbox"/> | E-mail         |
|                                     |                                     |                |
| Roger D. Ling, Esq.                 | <input checked="" type="checkbox"/> | U.S. Mail      |
| Ling, Robinson & Walker             | <input checked="" type="checkbox"/> | Facsimile      |
| 615 H St.                           | <input type="checkbox"/>            | Overnight Mail |
| P.O. Box 396                        | <input type="checkbox"/>            | Hand Delivery  |
| Rupert, ID 83350-0396               | <input type="checkbox"/>            | E-mail         |
|                                     |                                     |                |
| John A. Rosholt, Esq.               | <input checked="" type="checkbox"/> | U.S. Mail      |
| John K. Simpson, Esq.               | <input type="checkbox"/>            | Facsimile      |
| Travis L. Thompson, Esq.            | <input type="checkbox"/>            | Overnight Mail |
| Barker, Rosholt & Simpson           | <input type="checkbox"/>            | Hand Delivery  |
| 113 Main Avenue West, Ste. 303      | <input checked="" type="checkbox"/> | E-mail         |
| Twin Falls, ID 83301-6167           |                                     |                |
|                                     |                                     |                |
| Kathleen Marion Carr, Esq.          | <input checked="" type="checkbox"/> | U.S. Mail      |
| Office of the Field Solicitor       | <input checked="" type="checkbox"/> | Facsimile      |
| U.S. Department of the Interior     | <input type="checkbox"/>            | Overnight Mail |
| 550 West Fort Street, MSC 020       | <input type="checkbox"/>            | Hand Delivery  |
| Boise, ID 83724-0020                | <input checked="" type="checkbox"/> | E-mail         |

|                             |               |                |
|-----------------------------|---------------|----------------|
| E. Gail McGarry, P.E.       | <u>  X  </u>  | U.S. Mail      |
| Program Manager             | <u>      </u> | Facsimile      |
| Water Rights & Acquisitions | <u>      </u> | Overnight Mail |
| PN-3100                     | <u>      </u> | Hand Delivery  |
| U.S. Bureau of Reclamation  | <u>  X  </u>  | E-mail         |
| Pacific Northwest Region    |               |                |
| 1150 N. Curtis Road         |               |                |
| Boise, ID 83706-1234        |               |                |

|   |               |                |
|---|---------------|----------------|
| Scott L. Campbell, Esq.                     | <u>  X  </u>  | U.S. Mail      |
| Moffatt Thomas Barrett Rock & Fields, Chtd. | <u>      </u> | Facsimile      |
| 101 S. Capitol Blvd., 10th Floor            | <u>      </u> | Overnight Mail |
| P.O. Box 829                                | <u>      </u> | Hand Delivery  |
| Boise, ID 83701-0829                        | <u>  X  </u>  | E-mail         |

|                                |               |                |
|--------------------------------|---------------|----------------|
| Michael S. Gilmore, Esq.       | <u>  X  </u>  | U.S. Mail      |
| Deputy Attorney General        | <u>      </u> | Facsimile      |
| Civil Litigation Division      | <u>      </u> | Overnight Mail |
| Office of the Attorney General | <u>      </u> | Hand Delivery  |
| P.O. Box 83720                 | <u>  X  </u>  | E-mail         |
| Boise, ID 83720-0010           |               |                |

|                           |               |                |
|---------------------------|---------------|----------------|
| Josephine P. Beeman, Esq. | <u>  X  </u>  | U.S. Mail      |
| Beeman & Associates PC    | <u>      </u> | Facsimile      |
| 409 West Jefferson        | <u>      </u> | Overnight Mail |
| Boise, ID 83702-6049      | <u>      </u> | Hand Delivery  |
|                           | <u>  X  </u>  | E-mail         |

|                            |               |                |
|----------------------------|---------------|----------------|
| Sarah A. Klahn, Esq.       | <u>  X  </u>  | U.S. Mail      |
| White & Jankowski, LLP     | <u>      </u> | Facsimile      |
| 511 16th Street, Suite 500 | <u>      </u> | Overnight Mail |
| Denver, CO 80202           | <u>      </u> | Hand Delivery  |
|                            | <u>  X  </u>  | E-mail         |

|                                     |               |                |
|-------------------------------------|---------------|----------------|
| Idaho Department of Water Resources | <u>  X  </u>  | U.S. Mail      |
| Eastern Regional Office             | <u>      </u> | Facsimile      |
| 900 North Skyline Dr.               | <u>      </u> | Overnight Mail |
| Idaho Falls, ID 83402-6105          | <u>      </u> | Hand Delivery  |
|                                     | <u>      </u> | E-mail         |

Idaho Department of Water Resources  
Southern Regional Office  
1341 Fillmore St., Ste. 200  
Twin Falls, ID 83301-3033

U.S. Mail  
 Facsimile  
 Overnight Mail  
 Hand Delivery  
 E-mail

  
\_\_\_\_\_  
Michael C. Creamer

# ATTACHMENT A

**Attachment A**  
2005 Replacement Water Sources

| <u>Source</u>                                 | <u>Acre-Feet</u> |
|---|------------------|
| FMC Lease                                     | 6,820            |
| New Sweden Irr. Dist.                         | 15,000           |
| Peoples Canal Co.                             | 3,000            |
| Snake River Valley Irr. Dist.                 | 2,000            |
| Grindstone-Butte, et al. (High-lift exchange) | 47,970*          |
| United Water Idaho (High-lift exchange)       | 9,833**          |
| <b>Subtotal – Surface water supplies</b>      | <b>84,623</b>    |
| WD 120 Dry-Year Leasing                       | 2,522***         |
| <b>Subtotal – Above Milner water</b>          | <b>87,145</b>    |

\* Based on total 2005 lease of 58,500 AF at 82% exchange credit from USBOR. Letter of Intent has been executed between Ground Water Districts and Lessors. Exchange Agreement with USBOR is pending.

\*\* Based on total 2005 lease of 11,992 AF at 82% exchange credit from USBOR. Execution of lease agreement with Lessor and exchange agreement with USBOR are pending.

\*\*\* Eight separate dry-year lease agreements affecting 1,261 total acres in Bingham and Power Counties have been executed. Total associated consumptive use foregone in 2005 is 6,828 AF. First year reach gain increase in Blackfoot to Milner reach is 520 AF. Second year reach gain increase is 344 AF.

# LEASE PROGRAM OFFERS

## Groundwater Leases

|   | NAME  | W.R. #              | LOCATION    | POD                      | TOTAL ACRES | CFS         |
|---|---|---------------------|-------------|--------------------------|-------------|-------------|
| 3 | KBC Farms LLC<br>3062 S. Frontage Rd Am.<br>Falls, ID 83211<br>226-2773, 221-1317 | 35-2426             | Bingham Co. | T=03S,<br>R=31E,<br>S=33 | 291         | 3.4         |
| 4 | J. Henry Olsen<br>1005 W, Hwy 26<br>Blackfoot, ID<br>684-5584, 526-0946, 680-9178 | 35-2384<br>35-7092  | Bingham Co. | T=01S,<br>R=33E,<br>S=35 | 296         | 4.5<br>1.07 |
| 5 | Foster Land and Cattle<br>P.O. Box 308<br>Rigby, ID<br>745-6170, 589-6170         | 35-12933 & 35-02653 | Bingham Co. | T=01N,<br>R=33E,<br>S=27 | 250         | 9           |
|   | Foster Land and Cattle<br>P.O. Box 308<br>Rigby, ID<br>745-6170, 589-6170         | 35-2503A            | Bingham Co. | T=01N,<br>R=33E,<br>S=26 | 200         | 3.63        |
| 6 | Howard & Joyce Klempel<br>3080 W 1550 S Aberdeen,<br>ID<br>397-6328, 221-4236     | 35-2550             | Bingham Co. | T=05S,<br>R=30E,<br>S=13 | 95          | 2.7         |
| 8 | William Toevs<br>2841 W 1800 S<br>Aberdeen ID<br>604-2599                         | 35-8626             | Power Co.   | T=06S,<br>R=29E,<br>S=09 | 129         | 1.88        |

|             |           |
|-------------|-----------|
| 1261.00     | 26.18     |
| Total Acres | Total CFS |

# ATTACHMENT B

Page 2 of 2

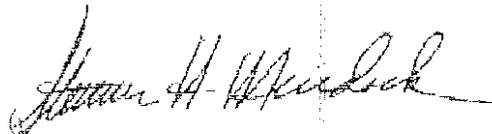
**Peoples Canal & Irrigation Co.**  
**1050 West Hwy 39**  
**Blackfoot, Idaho 83221**  
**208-684-3105**

April 28, 2005

To whom it may concern:

The Peoples Canal & Irrigation Co. has agreed to lease 3,000 A/F of water to the ground water users, represented by Lynn Tominaga. The water will be available upon receipt of payment for the water as agreed.

Thank you,



Steven H. Murdock—Sec.  
Peoples Canal & Irrigation Co.



**SNAKE RIVER VALLEY IRRIGATION DISTRICT**  
**221 So. Emerson - Shelley, Idaho 83274**  
**Phone (208) 357-3420 Fax (208) 357-0450**

April 28, 2005

Dear Lynn Tominaga;

This letter is to confirm the agreement with Snake River Valley Irrigation District to lease water. The District agrees to lease 2000 af of water for the 2005 irrigation season. If you have any questions please feel free to call the District office at 209-357-3420.

Sincerely,

Snake River Valley Irrigation Board of Directors  
Carlos S. Nielson  
Blaine Hillman  
Larry Jacobsen



PRIVATE LEASE AGREEMENT  
FOR 2005

WHEREAS, no water has been assigned to the Water District Rental Pool, and

WHEREAS, Bonneville/Jefferson and Bingham and American Falls/American  
Ground Water Districts need mitigation water for the 2005 irrigation season, and

WHEREAS, New Sweden Irrigation Dist. has agreed to provide 15,000 acre-feet of  
storage for the 2005 season under the following terms and conditions:

At the start of \$ 18.70 per acre-foot, \$9250 to be paid to the supplier. Water District 1 to  
be paid \$0.80 per acre-foot for administration. The Idaho Water Resource Board to be  
paid \$0.90 per acre-foot (1.0% of supplier fee, payable to Water District 1)

NOW THEREFORE, upon the payment of the appropriate Rental Pool Fee, and the  
approval of the Watermaster, the parties of this lease agreement agree and request that the  
Watermaster change the point of delivery for 15,000 acre feet of storage from New  
Sweden Irrigation to the Ground Water Districts, for the year ending October 1, 2005.

Signed this 15<sup>th</sup> day of April, 2005



Lessee

The proposed change is Approved/ Denied this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Ronald D. Caldera  
Watermaster

## IDAHO GROUND WATER APPROPRIATORS, INC.

### Officers:

Tim Deeg, President  
American Falls, Idaho 83211  
208-226-2562

Richard Smith Vice President  
P.O. Box 8  
Rexburg, Idaho 83440  
208-356-4912

Randall C. Budge, Secretary  
P. O. Box 1391  
Pocatello, Idaho 83204-1391  
208-232-6101

Lynn Tominaga, Executive Director  
IGWA  
P.O. Box 2624  
Boise, Idaho 83701  
208-381-0294

### Members:

American Falls-Aberdeen GW District  
Bingham GW District  
Bonneville-Jefferson GW District  
Madison GW District  
Magic Valley GW District  
North Snake GW District  
Southwest Irrigation District  
Busch Agricultural Resources, Inc.  
Jerome Cheese  
United Water Idaho, Inc.  
City of American Falls  
City of Blackfoot  
City of Chubbuck  
City of Heyburn  
City of Jerome  
City of Paul  
City of Post Falls  
City of Rupert

### LETTER OF INTENT

This Letter of Intent is to set forth the Parties desires and intentions to act with due diligence and negotiate in good faith to enter into a binding and enforceable Lease Agreement ("Lease") and Option to Purchase ("Option") with respect to certain surfacewater rights in the Snake River. The basic terms of the proposed Lease and Option are set forth below.

#### **(1) The Parties.**

The parties to this Letter of Intent are various entities and individuals that own certain water rights in the Snake River below Milner dam, consisting of three groups of owners known as the Glens Ferry, Murphy and Mountain Home Groups, (collectively "the Owners") and the Idaho Groundwater Appropriators, Inc (IGWA), acting for and on behalf of its groundwater district members, American Falls-Aberdeen, Bingham, Bonneville-Jefferson, Magic Valley, North Snake and Southwest Irrigation Groundwater Districts ("the Districts").

#### **(2) The Purpose.**

The purpose is to acquire water rights by lease and/or purchase to facilitate a Water Exchange Agreement with the Bureau of Reclamation ("Reclamation"). Pursuant to the Exchange Agreement the acquired water rights will be exchanged for water in the Upper Snake River Basin in order to augment Snake River flows above Milner Dam during the irrigation season to mitigate for ground water pumping in the East Snake Plain Aquifer ("ESPA").

**REDACTED**

**(3) Lease Agreement.**

A Lease Agreement will be entered into pursuant to which the Owners will lease to the Districts 58,500AF (water rights in the Snake River appurtenant to approximately 19,500 acres) for the 2005 irrigation season based upon a minimum of 3AFA. The rent will be \_\_\_\_\_ for 46,500AF subject to the Purchase Option ("Option") described below, and \_\_\_\_\_ for 12,000AF not subject to the Option, a total rent of \_\_\_\_\_. The rent will be adjusted based on the actual acres and water rights available and qualifying for exchange and mitigation.

**(4) Purchase Option.**

The Owners grant to the Districts an irrevocable and exclusive Option to purchase approximately 53,100 AF (all water rights appurtenant to 15,500 acres subject to the Lease Agreement and an additional 2,200 acres not subject to the Lease Agreement). The agreed price is \_\_\_\_\_ (\_\_\_\_\_ per acre) for a total purchase price of \_\_\_\_\_, based upon the following terms:

(a) Payment of an Option payment of \_\_\_\_\_ AF, a total of \_\_\_\_\_ payable upon the simultaneous execution of the Lease and Option Agreements and credited to the purchase price at closing. In addition \_\_\_\_\_ AFA of the \_\_\_\_\_ AFA lease payment will be credited to the purchase price at closing.

(b) The Option must be exercised by written notice to the Owners within 30 days of the qualified electors of the Districts approval of indebtedness to secure funds for the purchase of the water rights, no later than August 10<sup>th</sup>, 2005. The Districts will seek approval at the earliest available date an election can be scheduled.

(c) Upon exercise of the Option, the Districts must pay to the Owners a non-refundable earnest money deposit of \_\_\_\_\_ per acre, a total of \_\_\_\_\_ which sum will be credited to the purchase price at closing.

(d) The balance of the purchase price shall be due and payable on or before September 30, 2005.

(e) At closing the Owners will deliver to the Districts free and clear title to the water rights purchased.

(f) The total Option payments and purchase price is based upon the estimated acreage of 17,700 and 3AFA of water qualifying for exchange and mitigation and is subject to adjustment up or down at the per acre rates set forth above should the actual water qualifying for exchange and mitigation be different.

**(5) Additional Terms and Conditions.**

The following additional terms and conditions shall apply:

(a) It will be necessary for IDWR to evaluate the Owners' water rights and determine eligible acres following the criteria set forth in IDWR's December 7, 2004 Snake River Basin Water Rights Acquisition Program, the terms and conditions of which are incorporated by reference.

(b) The Districts will have no responsibility for the operation or maintenance of the idled lands or any damages related to use of the idled lands. The Owners agree to a standard form indemnity provision to the Districts as a part of the Lease.

(c) It will be necessary for the Districts to obtain financing and secure authorization to incur indebtedness as required by Title 42, Chapter 5, Idaho Code.

**Dated: April 1, 2005**

**IGWA for and on behalf  
of the Ground Water Districts:**

By:   
Tim Deeg - President

**For and on behalf of the  
Glenns Ferry, Murphy, Mountain  
Home Owner Groups:**

By: \_\_\_\_\_  
Craig Castagneto

By: \_\_\_\_\_  
Mark Noble

(SEE SIGNATURES OF ALL DISTRICTS AND OWNERS TO BE ATTACHED)

AMERICAN FALLS - ABERDEEN GROUND WATER DISTRICT

By: Kevin Michaelson  
Kevin Michaelson, Chairman  
2590 Quigley  
American Falls, ID 83211

BINGHAM GROUND WATER DISTRICT

By: \_\_\_\_\_  
Craig Evans, Chairman  
1523 W. 300 N.  
Blackfoot, Idaho 83221

SOUTHWEST IRRIGATION DISTRICT

By: \_\_\_\_\_  
Mike Cranney, Chairman  
Rt. 1, Box 40D  
Oakley, Idaho 83346

BONNEVILLE JEFFERSON GROUND WATER DISTRICT

By: William Taylor  
William Taylor, Chairman  
P.O. Box 51121  
Idaho Falls, Idaho 83405-1121

MAGIC VALLEY UNDERGROUND PUMPERS ASSOCIATION

By: \_\_\_\_\_  
Orlo Maughan, Chairman  
453 W. 90 N.  
Rupert, ID 83350

NORTH SNAKE GROUND WATER DISTRICT

By: \_\_\_\_\_  
Mike Faulkner, Chairman  
1989 S. 1875 E.  
Gooding, ID 83330

AMERICAN FALLS - ABERDEEN GROUND WATER DISTRICT

By: \_\_\_\_\_

Kevin Michaelson, Chairman  
2590 Quigley  
American Falls, ID 83211

BINGHAM GROUND WATER DISTRICT

By: \_\_\_\_\_

Craig Evans, Chairman  
1523 W. 300 N.  
Blackfoot, Idaho 83221

SOUTHWEST IRRIGATION DISTRICT

By: \_\_\_\_\_

Mike Cranney, Chairman  
Rt. 1, Box 40D  
Oakley, Idaho 83346

BONNEVILLE JEFFERSON GROUND WATER DISTRICT

By: \_\_\_\_\_

William Taylor, Chairman  
P.O. Box 51121  
Idaho Falls, Idaho 83405-1121

MAGIC VALLEY UNDERGROUND PUMPERS ASSOCIATION

By: Orlo A. Maughan

Orlo Maughan, Chairman  
453 W. 90 N.  
Rupert, ID 83350

NORTH SNAKE GROUND WATER DISTRICT

By: \_\_\_\_\_

Mike Faulkner, Chairman  
1989 S. 1875 E.  
Gooding, ID 83330

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Kevin Michaelson, Chairman  
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Blackfoot, Idaho 83221

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AMERICAN FALLS - ABERDEEN GROUND WATER DISTRICT

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BINGHAM GROUND WATER DISTRICT

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1523 W. 300 N.  
Blackfoot, Idaho 83221

SOUTHWEST IRRIGATION DISTRICT

By: \_\_\_\_\_  
Mike Cranney, Chairman  
Rt. 1, Box 40D  
Oakley, Idaho 83346

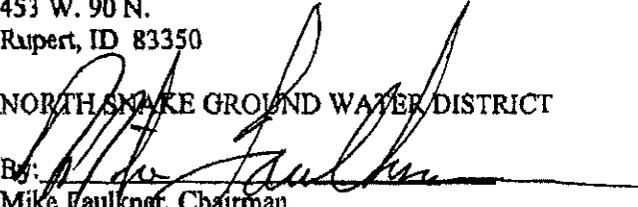
BONNEVILLE JEFFERSON GROUND WATER DISTRICT

By: \_\_\_\_\_  
William Taylor, Chairman  
P.O. Box 51121  
Idaho Falls, Idaho 83405-1121

MAGIC VALLEY UNDERGROUND PUMPERS ASSOCIATION

By: \_\_\_\_\_  
Orlo Maughan, Chairman  
453 W. 90 N.  
Rupert, ID 83350

NORTH SNAKE GROUND WATER DISTRICT

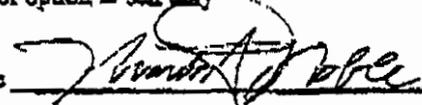
By:   
Mike Faulkner, Chairman  
1989 S. 1875 E.  
Gooding, ID 83330

**Glenns Ferry, Murphy, Mountain Home Groups (Owners)  
Acres as of 21 April 2005 by Water Right Numbers**

| <u>Name</u>  | <u>Water<br/>Right<br/>No.</u> | <u>For<br/>Lease/<br/>Option</u> | <u>For<br/>Lease<br/>Only</u> | <u>For<br/>Purchase<br/>Only</u> |
|--|--------------------------------|----------------------------------|-------------------------------|----------------------------------|
| <u>Grindstone Butte Mutual Canal Company</u>                     | 2-2314                         | 492                              | 0                             | 0                                |
|  | 2-2262                         | 6751                             | 0                             | 1306                             |
| <u>Farm Development Corp.<br/>dba Sailor Creek Water Company</u> | 2-2213                         |                                  |                               |                                  |
|  | 2-2214                         | 112                              | 0                             | 145                              |
| <u>G. Patrick Morris</u>   | 2-10240                        |                                  |                               |                                  |
|  | 2-2206                         |                                  |                               |                                  |
|  | 2-2215                         | 812.7                            | 0                             | 160                              |
| <u>Enes Alacano</u>  | 2-10034                        |                                  |                               |                                  |
|  | 2-10248                        | 406.3                            | 0                             | 640                              |
| <u>Falcon Butte Farms, Inc.</u>                                  |                                |                                  |                               |                                  |
| ▪ Murphy Flats Water Co. Inc.                                    | 2-7001                         |                                  |                               |                                  |
| ▪ Murphy Flats Water Co. Inc.                                    | 2-2251                         |                                  |                               |                                  |
| ▪ Jay Hulet  | 2-10017                        | 4900                             | 0                             | 300                              |
| <u>Don Hartley</u>   |                                |                                  |                               |                                  |
| ▪ Murphy Flats Water Co. Inc.                                    | 2-7001                         | 0                                | 580                           | 0                                |
| <u>Blaine Hulet</u>  |                                |                                  |                               |                                  |
| ▪ Murphy Flats Water Co. Inc.                                    | 2-7001                         | 600                              | 0                             | 0                                |
| <u>South Elmore Irrigation Co.</u>                               |                                |                                  |                               |                                  |
|  | 2-02269                        |                                  |                               |                                  |
|  | 2-02367                        | 0                                | 3342                          | 0                                |
|  | 2-02210                        | 0                                | 226                           | 0                                |
| <u>Cloverhollow LLC</u>  |                                |                                  |                               |                                  |
|  | 2-02387                        |                                  |                               |                                  |
|  | 2-02386                        |                                  |                               |                                  |
|  | 2-07148                        |                                  |                               |                                  |
|  | 2-02388                        | 0                                | 2452                          | 0                                |
| <b>Total Acres</b>   |                                | <b>14,174</b>                    | <b>6,600</b>                  | <b>2,551</b>                     |

Grindstone Butte Mutual Canal Company (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

- 02-2314 - 492
- 02-2262 - 6751 For 2005 Lease/Option to Sell
- \_\_\_\_\_ For 2005 Lease only
- 02-2262 - 1306 For option to sell only

Signature  President  
 Date April 21, 05

The undersigned agrees to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

112 For 2005 Lease/Option to Sell

\_\_\_\_\_ For 2005 Lease only

145 For option to sell only

FARM Development Corp.  
Water Right Holder dba SAILOR CREEK WATER COMPANY

Signature Allen Noble, Pres

Date April 21, 2005

The undersigned agrees to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

912.7 A. For 2005 Lease/Option to Sell

\_\_\_\_\_ For 2005 Lease only

160. A. For option to sell only

Water Right Holder L Patrick Morris

Signature J Muekey Morris formerly signed as Janita M. Morris

Date 4/18/05

A. = acres

FROM : SAM

PHONE NO. : 6193468333

Apr. 19 2005 09:04PM P1

Apr 19 05 08:56p

C & L CASTAGNETO

2084675946

p.1

The undersigned agrees to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

ck  
SA. (~~400.0~~)  
(640.0)

406.3 Ac For 2005 Lease/Option to Sell

~~400.0~~ Ac For 2005 Lease only

640.0 Ac For option to sell only

Water Right Holder ALACANO FAMILY L.L.C.

EVES "SAM" ALACANO

Signature *[Handwritten Signature]*

Kathleen M. Alacano

Date 4/20/05

Falcon Butte Farms Inc. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

4900 For 2005 Lease/Option to Sell

4300 For 2005 Lease only

\_\_\_\_\_ For option to sell only

Total For lease 2005 5200 acres

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

\_\_\_\_\_ For 2005 Lease/Option to Sell

\_\_\_\_\_ For 2005 Lease only

\_\_\_\_\_ For option to sell only

Signature Falcon Butte by J. Stewart

Date 4/18/05

Murphy Flats Water Company, Inc. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

\_\_\_\_\_ For 2005 Lease/Option to Sell

580 For 2005 Lease only

\_\_\_\_\_ For option to sell only

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

\_\_\_\_\_ For 2005 Lease/Option to Sell

580 For 2005 Lease only

\_\_\_\_\_ For option to sell only

Signature Don Hartley

Date 4-21-05

Murphy Flats Water Company, Inc. (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

- 600 Acres For 2005 Lease/Option to Sell
- \_\_\_\_\_ For 2005 Lease only
- \_\_\_\_\_ For option to sell only

The undersigned <sup>NEW</sup> shareholder <sup>who holds water rights</sup> in the Water Company agrees that his portion of the Water Company's obligation described above is as follows: P.L.S.

- 600 Acres For 2005 Lease/Option to Sell
- \_\_\_\_\_ For 2005 Lease only
- \_\_\_\_\_ For option to sell only

Signature Don Hartley / B. Lane Helo  
President

Date 4-20-05

South Elmore Irrigation Co.(the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

\_\_\_\_\_ For 2005 Lease/Option to Sell

3568 For 2005 Lease only

\_\_\_\_\_ For option to sell only

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

\_\_\_\_\_ For 2005 Lease/Option to Sell

3568 For 2005 Lease only

\_\_\_\_\_ For option to sell only

Signature *[Handwritten Signature]* President, South Elmore Irrig. Co.  
Inc.

Date 4-13-05

Signature *[Handwritten Signature]* Sec. Treas.

Date 4/13/05

Clover Hollow LLC (the "Water Company") has agreed to submit the following acres in accordance with the attached Idaho Ground Water Appropriators, Inc. "Letter of Intent" dated April 1, 2005.

\_\_\_\_\_ For 2005 Lease/Option to Sell

2452 For 2005 Lease only

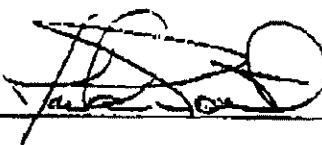
\_\_\_\_\_ For option to sell only

The undersigned shareholder in the Water Company agrees that his portion of the Water Company's obligation described above is as follows:

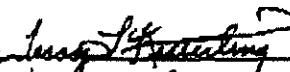
\_\_\_\_\_ For 2005 Lease/Option to Sell

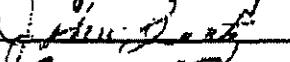
2452 For 2005 Lease only

\_\_\_\_\_ For option to sell only

Signature 

Date 4-13-05

Signature  Date 4/13/05

Signature  Date 4/14/05

Signature BERCH Farms LLC Date 4/14/05  
by David I. Bugh

# ATTACHMENT C

**Summary of Historical Mitigation Activity in 130**

| Mitigation Activity       | Year Undertaken | Gross Amount of Water Involved (AF) |
|---------------------------|-----------------|-------------------------------------|
| Sandy Pipeline deliveries | 2003            | 9,000                               |
|                           | 2004            | 12,814                              |
|                           | 2005*           | 12,814                              |
| Pumping Reductions        | 2002            | 30,277                              |
| Conversions               | 2002            | 19,963                              |
|                           | 2003            | 27,000                              |
|                           | 2004            | 31,137                              |
|                           | 2005*           | 31,137                              |
| Curtailment               | 2004            | 3000 acres                          |
|                           | 2005*           | 10%                                 |
| Targeted recharge         | 2005*           | 1,600                               |

\* Projected values for 2005

**Summary of 2005 Reach Gain Benefits, Blackfoot-Milner**

|   |              |
|---|--------------|
| Pre-2005 Sandy Pipeline, Pumping Reductions, and Conversions in 130 | 1,297        |
| 2005 Sandy Pipeline and Conversions in 130                          | 2            |
| 2005 Curtailment of 10% in 130                                      | -65          |
| 2005 Targeted recharge of 1600 af in 130                            | 3            |
| <b>Total</b>  | <b>1,407</b> |

# ATTACHMENT D

**LIST OF ABERDEEN-SPRINGFIELD CANAL COMPANY SHAREHOLDERS  
 DIVERTING FROM WELLS GROUND WATER RESULTING FROM IRRIGATION  
 UNDER THE IRRIGATION WORKS OF ABERDEEN-SPRINGFIELD CANAL COMPANY  
 FOR USE ON LANDS TO WHICH THE WATER RIGHTS  
 OF ABERDEEN-SPRINGFIELD CANAL COMPANY ARE APPURTENANT**

| NAME, LAST                          | NAME, FIRST        | PARCEL NO. | SHARES | GROUNDWATER<br>RIGHT NO. | GROUNDWATER<br>RIGHT NO. | GROUNDWATER<br>RIGHT NO. |
|-------------------------------------|--------------------|------------|--------|--------------------------|--------------------------|--------------------------|
| Aberdeen<br>Cemetary<br>Maint. Dist |                    | 468        | 20.3   | 35-10542                 |                          |                          |
| Anderson                            | H. Homer           | 33         | 120    | 35-07450                 |                          |                          |
| Anderson                            | H. Homer           | 410        | 25     | 35-07450                 |                          |                          |
| Barclay                             | Earl H.            | 292        | 80     | 35-02525                 | 35-12248                 |                          |
| Barclay                             | Earl H.            | 248        | 80     | 35-02525                 | 35-12248                 |                          |
| Behrend                             | Paul W.            | 535        | 150    | 35-08597                 | 35-02712                 |                          |
| Behrend Farms                       |                    | 496        | 180    | 35-02116                 |                          |                          |
| Bethke                              | David R.           | 572        | 160    | 35-07267A & B            | 35-08079                 |                          |
| Bohrer                              | Herbert            | 164        | 30     | 35-07146                 |                          |                          |
| Bowler Ranches<br>Inc               |                    | 577        | 320    | 35-04093                 |                          |                          |
| Bowler Ranches<br>Inc               |                    | 582        | 73.4   | 35-02172                 | 35-04093                 |                          |
| Burusco                             | Juan               | 450        | 263.5  | 35-07756                 | 35-02498                 | 35-4095                  |
| Christensen                         | Claude L.          | 476        | 60     | 35-08663                 |                          |                          |
| Claunch                             | R. Harold/Ethel P. | 251        | 39     | 35-07680                 |                          |                          |
| Clement                             | Arlen/Patricia     | 131        | 23     | 35-09017                 |                          |                          |
| Corbridge                           | Dorothy            | 517        | 80     | 35-08878                 |                          |                          |
| CWT Farm                            |                    | 481        | 80     | 35-02347                 | 35-13264                 |                          |

List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the  
 Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

**EXHIBIT "A"**

| NAME, LAST     | NAME, FIRST     | PARCEL NO. | SHARES | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. |
|----------------|-----------------|------------|--------|-----------------------|-----------------------|-----------------------|
| Dance          | David P.        | 28         | 160    | 35-07957              |                       |                       |
| Dance          | David P.        | 26         | 160    | 35-07422              |                       |                       |
| Deeg           | Diane J.        | 140        | 160    | 35-07865              |                       |                       |
| DeGiullo       | Alan            | 1266       | 40     | 35-07722              |                       |                       |
| Driscoll       | Thayne          | 223        | 40     | 35-00038F             | 35-07820              |                       |
| Driscoll Bros. |                 | 298        | 65     | 35-08665              |                       |                       |
| Droghel Trust  | Frank & Shirley | 56         | 100    | A35-02824             |                       |                       |
| Duffin         | Byron           | 312        | 40     | 35-07728              |                       |                       |
| Duffin         | Eric/Melanie    | 310        | 160    | 35-07728              |                       |                       |
| Duffin         | Eric/Melanie    | 342        | 155    | 35-07164A             |                       |                       |
| Duffin         | John R.         | 205        | 120    | 35-07729              | 35-7728               |                       |
| Duffin         | Raymond K.      | 541        | 150    | 35-07353              |                       |                       |
| Dvorak         | Judith          | 483        | 160    | 35-08805              | A35-02236             |                       |
| Edwards        | Theron T.       | 125        | 174.1  | A35-07721             | A35-07286             |                       |
| Feld           | Jeffery D.      | 507        | 40     | A35-08820             |                       |                       |
| Feld           | Jeffery D.      | 506        | 140    | A35-08820             | A35-07732             |                       |
| Feld           | O. E.           | 321        | 120    | 35-07102              | 35-12088              | 35-7732               |
| Funk           | Bill            | 534        | 100    | 35-07762              | 35-07647              |                       |
| Funk           | Bill            | 511        | 130    | 35-04034 A & B        | 35-7762               | 35-02154              |
| Funk           | H. Alan         | 548        | 100    | 35-07894              |                       |                       |
| Funk           | H. Alan         | 528        | 489    | 35-02066A & B         |                       |                       |
| Funk           | Raymond/Betty   | 505        | 160    | 35-08791              | 35-02072              | 35-2470               |
| Funk           | Raymond/Betty   | 509        | 160    | 35-08197              | 35-07760              |                       |

List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

**EXHIBIT 'A'**

| NAME, LAST              | NAME, FIRST     | PARCEL NO. | SHARES | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. |
|-------------------------|-----------------|------------|--------|-----------------------|-----------------------|-----------------------|
| Hansen                  | Lynn E.         | 367        | 107    | 35-02370              |                       |                       |
| Harker                  | Layne           | 171        | 40     | 35-04032              |                       |                       |
| Horsch                  | Albert          | 412        | 105    | 35-07191              |                       |                       |
| Horsch                  | Dwight W.       | 378        | 112    | 35-08083              |                       |                       |
| Horsch                  | Dwight W.       | 474        | 60     | 35-08680              |                       |                       |
| Horsch                  | Dwight W.       | 475        | 144    | 35-07530              |                       |                       |
| Horsch                  | Kenneth/Marilyn | 471        | 154    | 35-07393              |                       |                       |
| Irigoyen                | Juan            | 451        | 80     | A35-07618             |                       |                       |
| Irigoyen                | Juan            | 464        | 116.8  | A35-07621             | 35-7618               |                       |
| Isaak                   | Harold          | 370        | 122.3  | 35-13073              |                       |                       |
| Jackson                 | George          | 124        | 75.3   | 35-07453, A & B       | 35-07592              |                       |
| Johnson                 | Lewis D.        | 334        | 80     | 35-08330              |                       |                       |
| Jones                   | Arthur J.       | 143        | 40     | 35-08954              | 35-02100              |                       |
| Judge                   | Gary            | 147        | 120    | A35-08602             |                       |                       |
| Judge                   | Leota           | 149        | 270.4  | 35-02226              |                       |                       |
| Klassen                 | Charles         | 384        | 10     | 35-02347              | 35-18264              |                       |
| Klassen                 | Otto            | 387        | 40     | 35-07061              |                       |                       |
| Klassen                 | Ralph D.        | 379        | 66     | A35-10318             |                       |                       |
| Klassen                 | Ralph D.        | 373        | 184    | A35-10318             |                       |                       |
| Klassen                 | Ralph D.        | 363        | 150    | A35-10318             |                       |                       |
| Knudsen Poor Farms Inc. |                 | 538        | 225.3  | 35-07890              |                       |                       |
| Koompin                 | Richard         | 220        | 140    | 35-11666              |                       |                       |
| Kramer                  | Donald          | 579        | 80     | A35-04183             |                       |                       |

List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

EXHIBIT 'A'

| NAME, LAST          | NAME, FIRST    | PARCEL NO. | SHARES | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. |
|---------------------|----------------|------------|--------|-----------------------|-----------------------|-----------------------|
| LDS Real Est Div    |                | 617        | 50     | 35-07903A & B         |                       |                       |
| LDS Real Est Div    |                | 480        | 32     | 35-07022              |                       |                       |
| LDS Real Est Div.   |                | 177        | 36     | 35-07231              | 35-4229               | 35-7022               |
| Lehman              | James          | 498        | 160    | 35-02315              | 35-10859              | 35-10860              |
| Lehman              | Robert         | 499        | 155    | 35-10843              |                       |                       |
| Lehman Farms        |                | 501        | 257    | 35-02049              |                       |                       |
| Leisy               | Deaun O.       | 503        | 130    | 35-11542              |                       |                       |
| Line                | Regina         | 183        | 120    | 35-08952              |                       |                       |
| Line View Farms Inc |                | 182        | 618.3  | 35-02406              |                       |                       |
| Mann                | Robert E.      | 333        | 200    | 35-07627              |                       |                       |
| Murdock             | Dale           | 87         | 100    | 35-08590              | 35-02670D             |                       |
| Murdock             | Ronald/Steven  | 80         | 70     | 35-08962              | 35-02670B & C         |                       |
| Phillips            | Leonard        | 383        | 80     | 35-07494              |                       |                       |
| Pierce Revoc Trust  |                | 126        | 120    | A35-02504A            |                       |                       |
| Poulson             | Jackman G. Jr. | 462        | 92     | 35-08835              |                       |                       |
| Poulson             | Jackman G. Jr. | 381        | 76     | 35-07945              |                       |                       |
| Poulson             | Neil           | 603        | 131    | 35-02917B             |                       |                       |
| Poulson             | Neil           | 561        | 80     | 35-02917A             |                       |                       |
| Poulson             | Neil           | 606        | 80     | 35-02917B             |                       |                       |
| Poulson             | Scott E.       | 316        | 40     | 35-07948              |                       |                       |
| Poulson             | Scott E.       | 315        | 80     | 35-07948              |                       |                       |
| Povey               | Wade           | 567        | 113    | Permit # 79           |                       |                       |

**EXHIBIT 'A'**

List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

[4]

| NAME, LAST              | NAME, FIRST      | PARCEL NO. | SHARES | GROUNDWATER RIGHT NO.     | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. |
|-------------------------|------------------|------------|--------|---------------------------|-----------------------|-----------------------|
| Rossi                   | Charles          | 57         | 30     | 35-02308A                 |                       |                       |
| Saintz Ltd. Ptrshp      |                  | 158        | 484    | 35-07790                  |                       |                       |
| Saintz Ltd. Ptrshp      |                  | 158        | 484    | 35-04113                  | 35-7790               |                       |
| Katherine Schroeder Est |                  | 550        | 388.8  | 35-02187B, D, E, F<br>all |                       |                       |
| Katherine Schroeder Est |                  | 597        | 263.5  | 35-12805                  |                       |                       |
| Schroeder               | Clarence         | 610        | 59.8   | 35-07145                  |                       |                       |
| Schroeder               | Robert           | 556        | 80     | 35-02271                  |                       |                       |
| Shackelford             | Charles J.       | 351        | 523    | 35-07896                  | 35-04060              | 353-02387A            |
| Shackelford             | Charles J.       | 348        | 145    | 35-07896                  | 35-04060, 35-2073     | 35-02387A             |
| Shroeder                | Clarence         | 72         | 14     | 35-12805                  |                       |                       |
| Smith                   | Edgar/Carröldine | 429        | 8      | 35-11829                  |                       |                       |
| Smith                   | Sherman N.       | 434        | 175    | 35-07737                  | 35-07507              | 35-04240              |
| Stroschein Ranches Inc. |                  | 277        | 113.7  | 35-02359                  | 35-07519              |                       |
| Stroschein Ranches Inc. |                  | 286        | 153.5  | 35-02359                  | 35-07519              |                       |
| Stroschein              | Ronald W.        | 232        | 160    | 35-08054                  |                       |                       |
| University of Idaho     |                  | 420        | 160    | 35-08172                  |                       |                       |
| University of Idaho     |                  | 461        | 246.8  | 35-07643A & B             | 35-4221               |                       |
| University of Idaho     |                  | 457        | 99     | 35-08880                  |                       |                       |

List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

| NAME, LAST          | NAME, FIRST | PARCEL NO. | SHARES | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. | GROUNDWATER RIGHT NO. |
|---------------------|-------------|------------|--------|-----------------------|-----------------------|-----------------------|
| University of Idaho |             | 377        | 2      | 35-07846              |                       |                       |
| Valentine           | Julia       | 15         | 120    | 35-02127              | 35-13018              |                       |
| Vollmer             | George      | 576        | 113    | 35-04164              |                       |                       |
| Warner              | Lorin S.    | 335        | 80     | 35-08836              |                       |                       |
| Watt                | Larry E.    | 31         | 5      | 35-07012B             | 35-07599              |                       |
| Wood                | Everett     | 269        | 120    | 35-02298              | 35-2339               |                       |
| Wood                | Everett     | 369        | 160    | 35-02298              |                       |                       |
| Woods               | Paul T.     | 144        | 70.6   | 35-02339              | 35-10653              |                       |
| Yowell              | George      | 208        | 40     | 35-12902              |                       |                       |
|                     |             |            |        |                       |                       |                       |
|                     |             |            |        |                       |                       |                       |

**XHIBIT 'A'**

List of ASCC Shareholders Diverting From Wells Ground Water Resulting From Irrigation Under the Irrigation Works of ASCC for Use on Lands to Which the Water Rights of ASCC are Appurtenant

# ATTACHMENT E

**SETTLEMENT AGREEMENT REGARDING  
ABERDEEN-SPRINGFIELD CANAL COMPANY'S BASIN 01 SURFACE  
WATER RIGHTS and CONSOLIDATED SRBA SUBCASE NO. 35-2315**

**DESCRIPTIVE SUMMARY**

This Settlement Agreement ("Agreement") is made by the State of Idaho, the Aberdeen-Springfield Canal Company, and the Idaho Department of Water Resources and is made in reference to the following facts.

**RECITALS OF FACT**

- A. The Aberdeen-Springfield Canal Company objected to over one hundred recommendations for ground water rights in Basin 35 submitted to the Snake River Basin Adjudication ("SRBA") District Court by the Idaho Department of Water Resources (Consolidated Subcase No. 35-2315). The consolidated subcase is currently pending before the SRBA District Court and a trial is scheduled for April 22, 2002.
- B. This Agreement addresses the future recommendations of the Idaho Department of Water Resources to the SRBA District Court regarding the surface water rights of the Aberdeen-Springfield Canal Company in Basin 01 and the issues in Consolidated Subcase No. 35-2315.
- C. The issues in Consolidated Subcase No. 35-2315 relate to Aberdeen-Springfield Canal Company's surface water rights in Basin 01. In order to fully implement this Agreement and to resolve the issues in Consolidated Subcase No. 35-2315, the Idaho Department of Water Resources must file with the SRBA District Court its recommendations for the surface water rights in Basin 01. Since the Idaho Department of Water Resources is not scheduled to report its

recommendations for the water rights in Basin 01 until late 2002, a stay of proceedings under Consolidated Subcase No. 35-02315 is needed.

In consideration of the promises stated in this Agreement, the parties agree as follows:

**1. Definitions**

A. The term "Canal Company" means Aberdeen-Springfield Canal Company, P.O. Box Y, Aberdeen, Idaho, 83210.

B. The term "IDWR" means the Idaho Department of Water Resources, 1301 N. Orchard St, Boise, Idaho, 83706.

**2. Recommendations of the Director**

A. In the Director's Report for Basin 01, IDWR will recommend the place of use for the Canal Company's surface water rights from the Snake River to include both lands that were irrigated with the Canal Company's surface water rights, as of 1987, as well as lands that were originally irrigated with the Canal Company's surface water rights but as of 1987 were irrigated solely by ground water, so long as the Canal Company's water rights remained appurtenant to lands irrigated by ground water and such lands continued to pay assessments to the Canal Company. IDWR will recommend all of the acreage for lands to which the Canal Company's surface water rights are appurtenant and irrigated by shareholders using either surface water or ground water, as of 1987, as being authorized to divert and use surface water under the Canal Company's water rights.

B. In the Director's Report for Basin 01, IDWR will recommend "irrigation" and "recharge for irrigation" as the purposes of use for the Canal Company's Basin 01 surface water rights. IDWR will recommend "recharge for irrigation" as a change in purpose of use under the accomplished transfer provision of Idaho Code § 42-1425. IDWR will consider use of stored water for "recharge for irrigation" as being a valid irrigation use under the existing licenses and subsequent decreed right of the U. S. Bureau of Reclamation.

C. In the Director's Report for Basin 01, IDWR will recommend that the place of use pursuant to (A) be subdivided into two parts as follows. (1) the acreage irrigated directly by surface water (including acreage with supplemental ground water irrigation) as of 1987; and (2) the acreage originally irrigated by surface water for which authorization to divert surface water for direct irrigation continues but for which the additional purpose of use "recharge for irrigation" has been added as an accomplished transfer. IDWR will recommend the acreage from (1) as the minimum place of use authorized for direct irrigation using surface water and the sum of (1) and (2) as the maximum place of use authorized for direct irrigation using surface water. The acreage from (2) will be recommended as the place of use eligible for the mitigation credits described in paragraph E below. IDWR will recommend the place of use for the accomplished change to "recharge for irrigation" as consisting of the entire service area of the Canal Company.

D. In the Director's Report for Basin 01, IDWR will recommend the maximum quantity of water (diversion rate) historically diverted and beneficially used for the combined use of "irrigation" and "recharge for irrigation," as of 1987. IDWR will recommend the diversion rate in three components: (1) the minimum diversion rate for direct surface water irrigation will be the diversion rate associated with acreage directly irrigated with surface water as of 1987

(including acreage with supplemental ground water rights) and will be determined as the total recommended diversion rate multiplied by the acreage directly irrigated with surface water as of 1987 divided by the total acreage originally irrigated with surface water; (2) the maximum diversion rate for direct surface water irrigation will be equal to the total recommended diversion rate; and (3) the maximum diversion rate for "recharge for irrigation" will be equal to the diversion rate from (1) subtracted from the total recommended diversion rate. The intent of this calculation together with (C) is to maximize the acreage authorized for direct surface water irrigation while fixing the maximum quantity of surface water that can be used for "recharge for irrigation" as an accomplished transfer.

E. Existing ground water rights used for irrigation within the service area of the Canal Company on lands paying assessments to the Canal Company and to which the Canal Company's surface water rights have remained appurtenant will be given mitigation credit for the amount of water recharged against ground water depletions arising from the authorized diversion and use of ground water. The volume of water credited for mitigation in each year must be determined from measurements and accounting. Depletions resulting from ground water diversions eligible for mitigation credits, as described above, will be considered to have been mitigated in any year to the extent to which the recharge documented through measurements and accounting equals or exceeds ground water depletions in the same year. Mitigation credits will accrue only to the extent that surface water is diverted for recharge in a given year and will not carry over to future years. The amount credited for mitigation will be calculated as: (1) the amount of surface water diverted; (2) less the measured returns to the Snake River through wasteways or drains; (3) less 0.02 cfs multiplied by the number of acres irrigated with surface water (including those acres using supplemental ground water), multiplied by 1.98 acre

feet/cfs/day, multiplied by 214 days (the irrigation season), and multiplied by an appropriate factor (less than 1) to account for the Canal Company not constantly diverting the maximum amount needed for surface water irrigation throughout the entire irrigation season.

### **3. Duties of the Canal Companies**

A. Upon execution of this Agreement, the Canal Company shall request a stay from the SRBA District Court in Consolidated Subcase No. 35-2315. The State of Idaho and IDWR will support this request and provide the SRBA District Court with the appropriate level of explanation, as needed.

B. Once IDWR has filed its recommendations for the Canal Company's Basin 01 water rights as set forth in section 2 above and the SRBA District Court has issued partial decrees consistent with this Agreement, the Canal Company will withdraw all objections associated with the Consolidated Subcase No. 35-2315.

### **4. Action by the District Court**

The parties acknowledge that the execution of this Agreement will not automatically result in approval by the SRBA District Court of IDWR's recommendation for the Canal Company's Basin 01 water rights and that a further hearing may be necessary.

### **5. Governing Law**

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

#### **6. Entire Agreement**

A. This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties, and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written, between them other than are herein set forth.

B. This Agreement has been reached in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding.

#### **7. Successors**

This Agreement shall bind and inure to the benefit of the respective successors of the parties.

#### **8. Effect of Section Headings**

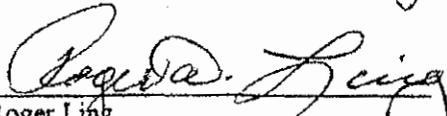
The section headings appearing in this Agreement are not to be construed as interpretations of the text but are inserted for convenience and reference only.

#### **9. Duplicate Originals**

This Agreement is executed in duplicate. Each of the two Agreements with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this Agreement on the date following  
their respective signatures.

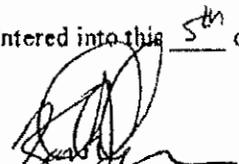
Entered into this 31<sup>st</sup> day of May, 2002.

  
\_\_\_\_\_  
Roger Ling  
Attorney for Aberdeen-Springfield Canal Company

Entered into this 7<sup>th</sup> day of June, 2002.

  
\_\_\_\_\_  
Clive J. Strong  
Deputy Attorney General  
Chief, Natural Resource Division  
Attorney for the State of Idaho

Entered into this 5<sup>th</sup> day of June, 2002.

  
\_\_\_\_\_  
Karl W. Dreher  
Director, Idaho Department of Water Resources