



AGENDA

IDAHO WATER RESOURCE BOARD MEETING NO. 13-14

December 24, 2014 at 8:00 am

Idaho Water Center
Conf. Rm 602C

IWRB Members May Participate by Phone
322 East Front St, Boise, ID 83702

C.L. "Butch" Otter
Governor

Roger W. Chase
Chairman
Pocatello
District 4

Peter Van Der Meulen
Vice-Chairman
Hailey
At Large

Bob Graham
Secretary
Bonniers Ferry
District 1

Charles "Chuck"
Cuddy
Orofino
At Large

Vince Alberdi
Kimberly
At Large

Jeff Raybould
St. Anthony
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

-
1. Roll Call
 2. Aqua Life
 3. North Snake and Magic Valley Groundwater Districts Loan Request
 4. Other Items Board Members May Wish to Discuss
 5. Adjourn

Americans with Disabilities

The meeting will be held in facilities that meet the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email Mandi.Pearson@idwr.idaho.gov or by phone at (208) 287-4800.

322 East Front Street, Boise, Idaho 83720 Tel: (208) 287-4800 Fax: (208) 287-6700

MEMO



To: Idaho Water Resource Board
From: Brian Patton
Subject: Aqua Life Lease
Date: December 21, 2014

This memo discusses the proposed lease of the Aqua Life facility to the Idaho Ground Water Appropriators (IGWA) member districts.

BACKGROUND

Pursuant to House Bill 644 adopted by the 2014 Legislature, the Idaho Water Resource Board (Board) acquired the Aqua Life Aquaculture Facility from the Idaho Department of Parks and Recreation (Parks) for the 2011 appraised value of \$1,635,000. The Board's acquisition of the Aqua Life Facility was in furtherance of the State's desire to reduce water use conflicts in the Hagerman Valley. The acquisition included the associated water rights and discharge permit. Through the course of negotiations with IGWA, it became advantageous for the Board to acquire additional lands that include the spring water supply for the facility, which were acquired from Parks for an additional \$250,000, for a total purchase cost of \$1,880,000.

The Aqua Life facility has a spring water supply of about 35 cfs. The facility is in a state of significant deterioration.

PROPOSED USE

The proposal contemplates leasing Aqua Life to IGWA's member districts for a 30-year term. IGWA then proposes to sublet Aqua Life to Seapac of Idaho, in exchange for Seapac providing spring flow from its Magic Springs hatchery to IGWA for delivery to the Rangen Hatchery in order to meet ground water users' mitigation obligations to Rangen. This is a key component of IGWA's "Fourth Mitigation Plan" for Rangen, which was approved by Director Spackman on October 29, 2014. Seapac proposes to substantially rebuild the Aqua Life facility and operate it for commercial fish production.

PROPOSED LEASE

The proposed lease contemplates a base rent amount of \$10,000/yr plus a water usage component of \$1,644/cfs/yr, for an initial rent of \$67,450/yr. The water usage component shall be adjusted annually based on the actual amount of water delivered to the Aqua Life facility, and every 3rd year shall be adjusted based on the Consumer Price Index. An ad-hoc committee of Board members was consulted through the negotiation process as the Board requested at its July meeting in Bonners Ferry.

ATTACHED RESOLUTION

The attached resolution provides authority to the Chairman to execute a 30-year lease of the Aqua Life facility.

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF AQUA LIFE)
AQUACULTURE FACILITY)
_____)
A RESOLUTION

WHEREAS, the Idaho Water Resource Board (Board) is a constitutional agency of the State of Idaho and empowered by Idaho Code 42-1734 to acquire, purchase, lease or exchange land, rights, water rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of water projects; and

WHEREAS, pursuant to House Bill 644, adopted by the Sixty-Second Legislature of the State of Idaho during its Second Regular Session in 2014, the Board acquired the Aqua Life Aquaculture Facility from the Idaho Department of Parks and Recreation (Parks) for the July 11, 2011 appraised value of \$1,635,000; and

WHEREAS, the Board's acquisition of the Aqua Life Facility was in furtherance of the State's desire to reduce water use conflicts in the Hagerman Valley; and

WHEREAS, the Board's acquisition of the Aqua Life facility also included associated water rights 36-4011, 36-2734, 36-2414, 36-15476, and 36-2338 as well as rights under NPDES Permit #IDG-13000; and

WHEREAS, the Board subsequently acquired additional lands from Parks that are adjacent to the Aqua Life Facility and include the spring-source water supply for the Aqua Life Facility for an additional \$250,000; and;

WHEREAS, the Board and the Idaho Ground Water Appropriators (IGWA), on behalf of several ground water districts, have negotiated a 30-year lease of the Aqua Life Facility in furtherance of efforts to reduce water use conflicts in the Hagerman Valley; and

WHEREAS, IGWA proposes to sublet the Aqua Life Facility to Seapac of Idaho in exchange for Seapac providing spring flow from its Magic Springs hatchery to IGWA for delivery to the Rangen Hatchery in order to meet ground water users' mitigation obligations to Rangen. This is a key component of IGWA's "Fourth Mitigation Plan" which was approved by Director Spackman on October 29, 2014; and

NOW THEREFORE BE IT RESOLVED that the Board authorizes the Chairman or his designee to execute a 30-year lease for the Aqua Life Facility with the Idaho Ground Water Appropriators' member districts.

NOW THEREFORE BE IT FURTHER RESOLVED, IGWA shall utilize the Aqua Life Facility in a manner contemplated within IGWA's approved "Fourth Mitigation Plan."

NOW THEREFORE BE IT FURTHER RESOLVED, the annual rent from IGWA to the

Board shall include a base rent amount of \$10,000 plus a water usage component of \$1,644/cfs, for an initial rent of \$67,450. The water usage component shall be adjusted annually based on the actual amount of water delivered to the Aqua Life facility, and every 3rd year shall be adjusted based on the Consumer Price Index; and

DATED this 24th day of December, 2014.

ROGER CHASE, Chairman
Idaho Water Resource Board

ATTEST

BOB GRAHAM, Secretary

LEASE

BETWEEN

**NORTH SNAKE GROUND WATER DISTRICT,
MAGIC VALLEY GROUND WATER DISTRICT**

**AND SOUTHWEST IRRIGATION DISTRICT,
COLLECTIVELY, TENANT**

AND

**STATE OF IDAHO, BY AND THROUGH THE
IDAHO WATER RESOURCE BOARD,
LANDLORD**

TABLE OF CONTENTS

	Page
ARTICLE 1 BASIC PROVISIONS	1
1.1 Tenant	1
1.2 Landlord	1
1.3 Premises	1
1.3.1	1
1.3.2	1
1.3.3	1
1.3.4	1
1.3.5	1
1.4 Permitted Use	1
1.5 Term and Commencement Date.....	2
1.6 Annual Rent.....	2
1.6.1 Calculation of Average Annual CFS	2
1.6.2 Adjustment of Rent Rate.....	2
1.6.3 Rent Payment Date	2
1.7 Services	3
1.8 Personal Property	3
1.9 Confirmation of Terms.....	3
ARTICLE 2 GRANT OF PREMISES, DELIVERY OF POSSESSION, TENANT'S RIGHTS	3
2.1 Grant of Premises	3
2.2 Delivery of Possession	3
2.3 Permits	3
2.4 Lease Water Rights.....	3
2.5 Tenant's Right to Revenue.....	4
2.6 Condition of Premises.....	4
ARTICLE 3 TERM	4
3.1 Term.....	4
3.2 Tenant's Termination Right	4
3.2.1	4
3.2.2	4
3.2.3	4
ARTICLE 4 OPERATION OF PREMISES	4
4.1 Tenant's Use of Premises.....	4
4.2 Tenant's Maintenance Obligations.....	4
4.3 Landlord's Maintenance and Repair Obligations.....	5
4.4 Alterations	5
4.5 Excluded Improvements.....	5
4.6 Utilities	5
4.7 Real and Personal Property Taxes	5
4.8 Covenant Against Liens.....	5
4.9 Landlord's Right of Entry	6

4.10	Control of Access	6
4.11	Environmental Definitions	6
4.12	Hazardous Materials Use by Tenant.....	6
4.13	Environmental Condition of Premises.....	6
ARTICLE 5 CHANGES IN THE PARTIES		7
5.1	Relationship of Parties.....	7
5.2	Successors and Assigns.....	7
5.3	Tenant's Assignment and Subletting.....	7
ARTICLE 6 LOSS AND DAMAGE TO PREMISES		7
6.1	Tenant Insurance Obligations	7
6.2	Condemnation	7
ARTICLE 7 DEFAULT		8
7.1	Tenant's Default.....	8
7.2	Landlord's Remedies Upon Tenant's Default.....	8
7.2.1	.....	8
7.2.2	.....	8
7.2.3	.....	8
7.2.4	.....	8
7.2.5	.....	8
7.3	Landlord's Default.....	8
7.4	Tenant's Remedies Upon Landlord's Default.....	9
7.4.1	.....	9
7.4.2	.....	9
7.4.3	.....	9
7.4.4	.....	9
ARTICLE 8 CLAIMS AND DISPUTES		9
8.1	Rights and Remedies Cumulative.....	9
8.2	Non-waiver of Remedies.....	9
8.3	Indemnification	9
8.4	Remedies Subject to Idaho Tort Claims Act and Appropriations Limits	10
8.5	Dispute Resolution	10
8.6	Attorneys' Fees and Costs	10
ARTICLE 9 TERMINATION OF LEASE		10
9.1	Events of Termination	10
9.2	Surrender of Possession.....	10
ARTICLE 10 GENERAL PROVISIONS.....		10
10.1	Notices	10
10.2	Time is of the Essence	11
10.3	Quiet Enjoyment	11
10.4	First Right of Refusal to Purchase and to Lease.....	12
10.4.1	.....	12
10.4.2	.....	12
10.4.3	.....	12
10.4.4	.....	12
10.4.5	.....	12

10.5	Interpretation	12
10.6	Binding Effect.....	12
10.7	Memorandum.....	12
10.8	Entire Agreement; Amendment	12
10.9	Severability	12
10.10	Cooperation	12

LEASE

This Lease ("**Lease**") is effective this 1st day of January, 2015, between North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District (collectively, "**Tenant**"), and the State of Idaho, by and through the Idaho Water Resource Board ("**Landlord**").

In consideration of the mutual covenants and conditions contained herein, Landlord and Tenant agree as follows:

ARTICLE 1 BASIC PROVISIONS

1.1 Tenant. North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District are collectively the "Tenant." For purposes of this Lease, all correspondence to Tenant should be addressed in care of the Idaho Ground Water Appropriators, Inc. ("IGWA"), P.O. Box 1391, Pocatello, Idaho 83201. Tenant's primary contact is Randall C. Budge.

1.2 Landlord. The State of Idaho, by and through the Idaho Water Resource Board, is the "Landlord." For purposes of this Lease, Tenant's address is 322 East Front Street P.O. Box 83720, Boise, Idaho 83720-0098. Tenant's primary contact is Brian Patton.

1.3 Premises. The "**Premises**" are located at 1110E 2700S Hagerman, ID 83332, Gooding County, Idaho 83355, and include the real and personal property more particularly described as follows:

1.3.1 All real property described in Exhibit "A," attached hereto.

1.3.2 All appurtenant rights to the real property, including the water rights, including, but not limited to, the water rights described in Exhibit "A-2" attached hereto (collectively the "**Lease Water Rights**").

1.3.3 All improvements, structures and permanent fixtures located on the Premises, including fish raceways with quiescent zones, flumes, headworks, diversion structures, effluent settling basins, structures, buildings, equipment and all other improvements.

1.3.4 All personal property that is currently situated upon the Premises and has been customarily used in connection with the rearing of fish ("**Personal Property**").

1.3.5 All easements appurtenant to the Premises and other agreements, licenses or permits necessary for fish-rearing operations, including, but not limited to, easements for access, utilities, and water delivery systems.

1.4 Permitted Use. Tenant shall, provided it complies with all pertinent governmental rules and regulations, be entitled to operate its business upon the Premises (i) under that certain National Pollution Discharge Elimination System General Permit for Aquaculture Facilities and Associated Fish Processing Facilities in Idaho issued by the United States Environmental Protection Agency No. IDG-13-0000 ("NPDES Permit"), and (ii) any other permits or approvals issued by the State of Idaho, Gooding County, Idaho, or other governmental authorities that are applicable to the Premises. The Permitted Uses

of the Premises under this Lease shall be for aquaculture and for the purpose of providing replacement water or mitigation for water delivery calls. (collectively the "Permitted Uses").

1.5 Term and Commencement Date. The term of this Lease shall be thirty (30) years ("Term"). The Term shall commence on the effective date shown on page 1 ("Commencement Date") and shall expire on the thirtieth anniversary of the Commencement Date, if not terminated earlier as set forth herein. Landlord and Tenant shall cooperate as is reasonably necessary, to obtain the transfer of the NPDES Permit and the Operating Permits as soon as possible after Landlord has acquired the Premises. The Parties acknowledge that the first year of the Term will be for a partial calendar year. All calculations relevant to any partial calendar year during the Term will be prorated on a per diem basis, based upon a three hundred and sixty (360) day year. All calculations relevant to any partial month during the term will be prorated on a per diem basis, based upon a thirty (30) day month.

1.6 Annual Rent. The rent reserved for each twelve (12) month period of the Lease ("Annual Rent") shall be sixty seven thousand four hundred fifty Dollars (\$67,450). The annual rent shall be calculated by adding the base rent amount of ten thousand dollars (\$10,000) to the water usage component, which is calculated by multiplying one thousand six hundred forty four Dollars (\$1,644) per cubic foot per second (the "Rent Rate") by the average annual water flow ("Average Annual CFS") available to the Premises under the Lease Water Rights during the prior calendar year. Annual Rent will be adjusted annually on the anniversary of the Commencement Date based on the Average Annual CFS for the prior calendar year (pursuant to section 1.6.1 below). In addition, Annual Rent will be adjusted every three years on the anniversary of the Commencement Date based on the Adjustment of Rent Rate (pursuant to section 1.6.2 below).

1.6.1 Calculation of Average Annual CFS. Average Annual CFS is calculated by dividing the total acre-feet of water delivered to the Premises in a calendar year by 724. The total acre-feet delivered to the Premises shall be measured based upon the measuring devices installed at the Premises. Landlord and Tenant shall work with the State of Idaho to ensure that accurate measuring devices are installed, maintained and operated, with all data made available to the Parties and the Idaho Department of Water Resources ("IDWR").

1.6.2 Adjustment of Rent Rate. Beginning on the third anniversary of the Commencement Date, and on every third (3rd) anniversary thereafter ("Adjustment Date"), the Rent Rate shall be adjusted to reflect the cumulative adjustment in the cost of living during the immediately preceding three (3) calendar years as determined by the Consumer Price Index, provided, however, that in no event shall the Rent Rate (a) be increased by more than six percent (6%) on any Adjustment Date, or (b) be decreased below \$1,500 per cubic foot per second. The Consumer Price Index is defined as the Consumer Price Index for all Urban Consumers, All Items, published by the United States Department of Labor, Bureau of Labor Statistics ("Bureau"), Consumer price index, U.S. City Average for all Urban Consumers, Seasonally Adjusted, all items (1982-84 = 100) ("Index"). In the event the Bureau of Labor Statistics ("Bureau") shall cease to publish the Index there shall be substituted for the Index a substitute or successor index published by the Bureau or other governmental agency of the United States.

1.6.3 Rent Payment Date. Annual Rent shall be paid in twelve equal monthly installments, due and payable on the tenth (10th) day of each month during the Term of this Lease. The initial monthly installment of Rent shall be due and payable on the tenth (10th) day after the Commencement Date. In the event that the Commencement Date does not fall on the first day of a month, Tenant shall pay Rent for the fractional month, prorated on a per diem basis, based upon a thirty (30) day month,

until the first day of the succeeding month, and thereafter monthly installments of Rent shall be paid in advance on the tenth (10th) day of each and every month. Tenant shall be obligated to pay a five (5) percent late penalty on all rent unpaid ten (10) days after the due date.

1.7 Services. Landlord shall provide possession of the Premises to Tenant and shall perform such maintenance and repair as is set forth herein. Tenant shall be responsible for all other obligations relating to the use and enjoyment of the Premises, except as hereinafter expressly provided.

1.8 Personal Property. The risk of loss, damage, destruction, theft or other casualty (including losses occasioned by earthquake, flood, and the failure of diversion structures, levees, flumes, ditches, ponds, raceways, and water supplies) to the Personal Property, including trade fixtures and swimming inventory owned or leased by Tenant, and used or stored upon the Premises, shall be solely on Tenant, unless the same results from the negligent or intentional acts or omissions of Landlord, or Landlord's agents, employees, contractors or invitees.

1.9 Confirmation of Terms. The Parties' primary contacts as set forth in Sections 1.1 and 1.2 shall execute and exchange a memorandum (the "**Commencement Memorandum**"), in the form attached hereto as Exhibit "B" confirming (a) the Commencement Date pursuant to Section 1.5; (b) the initial Average Annual CFS pursuant to Section 1.6; and (c) any structures, improvements, or personal property excluded from the Lease.

ARTICLE 2

GRANT OF PREMISES, DELIVERY OF POSSESSION, TENANT'S RIGHTS

2.1 Grant of Premises. Landlord leases to Tenant, and Tenant leases from Landlord the Premises subject to the terms and conditions of this Lease.

2.2 Delivery of Possession. Landlord shall deliver possession of the Premises, in its existing condition (including all rights, privileges, benefits, rights of way and easements now or in the future appurtenant to the Premises), to Tenant on the Commencement Date free and clear of all tenancies and occupancies.

2.3 Permits. It is understood and agreed that Landlord's predecessor, pursuant to applicable rules and regulations, previously operated the fish production facilities on the Premises pursuant to a NPDES General Permit for Idaho. The specific permit number for the Aqualife Facility is IDG130001 and other required applicable permits or approvals including those issued by the State of Idaho or Gooding County, and any other applicable governmental agency (collectively the "**Operating Permits**"), which may be held in the name of Landlord for the benefit of Tenant during the Term of this Lease Idaho including, but not limited to, Gooding County CAFO Permit #G9-017. It shall be the sole responsibility and obligation of Tenant to secure and maintain all Operating Permits for the Term of this Lease, including obtaining the transfer of the Operating Permits to Tenant. To the extent that Landlord's consent, authorization or cooperation is required in securing or transferring of the Operating Permits, such shall not be unreasonably conditioned, withheld, or delayed.

2.4 Lease Water Rights. Notwithstanding the limitations of Section 2.6 below, Landlord warrants and represents that Tenant shall be entitled to use all of the water available pursuant to the Lease Water Rights in connection with Tenant's use and operation of the Premises. Subject to approval by

IDWR, Tenant shall be entitled to use all available water for the purpose of providing replacement water or mitigation for water delivery calls.

2.5 Tenant's Right to Revenue. For the Term of this Lease, Tenant shall have the right to all revenue or fees generated from the Premises.

2.6 Condition of Premises. Tenant has inspected the Premises and finds the Premises acceptable for its purposes and accepts the Premises in its "As Is" condition and without any warranty, implied or express, except for those representations and warranties specifically identified in Sections 2.4 and 10.3 herein, provided no material change in the condition of the Premises occurs between the execution of this Lease and the Commencement Date. Landlord warrants and represents that on the Commencement Date the Premises will be in substantially the same condition as exists on the date of execution of this Lease, with the exception of reasonable wear and tear. Except as expressly set forth in this Lease, Tenant hereby waives all warranties, express or implied, regarding the condition and use of the Premises, including, but not limited to, any warranty of merchantability or fitness for a particular purpose.

ARTICLE 3 TERM

3.1 Term. The Term of this Lease is set forth in Section 1.5.

3.2 Tenant's Termination Right. Notwithstanding anything to the contrary herein contained, Tenant, in its sole discretion, may, in addition to the remedies provided in Section 7.4, terminate this Lease upon written notice to Landlord of at least one (1) year, or any other notice period set forth below, upon the occurrence of the following:

3.2.1 If during the Term of this Lease, the Average Annual CFS declines by fifty percent (50%) or more from the Average Annual CFS for the calendar year immediately preceding the commencement of this Lease ("Termination Threshold"), then Tenant shall have the right in its sole and absolute discretion to terminate this Lease ("Termination Right").

3.2.2 If Tenant determines that the Premises or Lease Water rights are not necessary or will not be used by Tenant for the Permitted Use of aquaculture or for providing replacement water or mitigation for water delivery calls, then Tenant shall have the right in its sole and absolute discretion to terminate this Lease ("Termination Right").

3.2.3 Tenant's right to exercise the Termination Right shall exist in any year that the Termination Threshold occurs, regardless of whether or not the Termination Threshold has previously occurred but Tenant has not elected to exercise its Termination Right.

ARTICLE 4 OPERATION OF PREMISES

4.1 Tenant's Use of Premises. The Premises shall be occupied and used by Tenant, its agents, contractors, employees and invitees for the Permitted Use.

4.2 Tenant's Maintenance Obligations. Tenant shall, at Tenant's sole expense, keep and maintain the Premises in good condition and repair. Tenant shall diligently and timely perform all of its

maintenance and repair obligations. Tenant shall, at Tenant's sole expense, maintain and repair the levee that impounds water in Fisher Lake. Landlord shall support and assist Tenant in securing all permits necessary to operate, maintain and repair the levee and all diversion and delivery structures and facilities. Tenant shall have no obligation to maintain any portion of the Premises that is abandoned and not in use as of the Commencement Date. Tenant shall have the right to defer certain maintenance of the Premises when such maintenance will result in an expense or benefit that is unreasonable in light of the remaining Term of the Lease, provided, however, that Tenant provides notice to Landlord of Tenant's intent to defer such maintenance, and Landlord and Tenant agree that the deferral of such would not damage the Premises nor create a safety hazard.

4.3 Landlord's Maintenance and Repair Obligations. Landlord shall not be obligated to repair and maintain the Premises except for maintenance and repair obligations arising from the negligent or intentional acts or omissions of Landlord, or Landlord's agents, employees, contractors or invitees.

4.4 Alterations. Tenant shall have the right, with Landlord's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed, to construct additional buildings and other improvements on the Premises or to remodel, repair or remove any buildings or improvements on the Premises. Landlord shall have thirty (30) days after Landlord's receipt of notice of Tenant's request to construct, remodel, repair or remove a building or other improvement on the Premises to approve or disapprove Tenant's request. If Landlord does not respond to Tenant's request within thirty days, Tenant's request is deemed approved by Landlord. All fees and costs incurred in connection with such construction, remodeling, repair or removal shall be paid by Tenant. In the event Tenant does not exercise either its Preferential Right to lease the Premises following the termination or expiration of the Lease for any reason other than for a default by Tenant, then Tenant may remove any buildings or improvements added or placed by Tenant during Tenant's occupancy of the Premises, or the Parties may negotiate purchase by Landlord of the buildings or improvements added or placed by Tenant during Tenant's occupancy of the Premises, based on the then fair market value of such buildings or improvements. In the event of Tenant's removal of buildings or improvements, Tenant shall be responsible for returning the location of the removal to its prior condition, with the exception of reasonable wear and tear. If Tenant does not remove Tenant's buildings or improvements within 180 days of the date of expiration or termination of the Lease, such right to remove will be canceled, and the improvements will be deemed property of Landlord.

4.5 Excluded Improvements. The Parties agree that the structures and improvements on the Premises identified in the Commencement Memorandum are subject to the Lease unless specifically excluded from the Parties' obligations in Sections 4.2 and 4.3.

4.6 Utilities. Tenant shall be solely responsible for and shall promptly pay all charges, when due, for water, power, natural gas, telephone, cable, computer, security, and any other utility or service used for, upon or furnished to the Premises. Tenant shall not be responsible for any cost or expense associated with the future extension of any utility service to the Premises unless such utility extension occurs at the request of Tenant. Additionally, unless caused by the negligent or intentional acts or omissions of Landlord, or Landlord's agents, employees, contractors, or invitees, Landlord shall not be liable in damages or otherwise for any failure or interruption of: (i) any utility service being furnished to the Premises, or (ii) the heating, ventilating and air conditioning system, if any, in any building on the Premises. Unless caused by the negligent or intentional acts of Landlord, no such failure or interruption, whether resulting from a casualty or otherwise, shall entitle Tenant to terminate this Lease or to abate any payment Tenant is required to make under this Lease.

4.7 Real and Personal Property Taxes. Tenant agrees to pay, before they become delinquent, all taxes for real and personal property, assessments, or governmental charges lawfully levied or assessed against the Premises ("Taxes").

4.8 Covenant Against Liens. Tenant will not directly or indirectly create or cause to be created or to remain, and will promptly discharge, at Tenant's sole expense, any mechanic's lien or similar lien recorded against the Premises, which Tenant created or caused to be created by Tenant's work on the Premises. Tenant has no authority or power to cause or permit any mechanic's lien or similar lien created by the act of Tenant, by operation of law, or otherwise, to attach to or be placed upon Landlord's title or interest in the Premises. Any lien against Tenant shall attach only to Tenant's leasehold interest in the Premises. Landlord will not directly or indirectly create or cause to be created or to remain, and will promptly discharge, at Landlord's sole expense, any mechanic's lien or similar lien against the Premises, which Landlord created or caused to be created by Landlord's work on the Premises.

4.9 Landlord's Right of Entry. Landlord or Landlord's agents, upon prior reasonable notice to Tenant's agent or employee responsible for the operation of the Premises, may enter upon the Premises at all such times as may be necessary to inspect the general condition and state of repair of the Premises. Landlord's entry shall be supervised by Tenant, and Landlord shall not interfere with, or create a hazard to, Tenant's business operations, except in the event of an emergency arising within the Premises that endangers property or persons.

4.10 Control of Access. Tenant shall not permit the Premises to be generally accessible to the public. Tenant shall control access to the Premises consistent with Tenant's Permitted Use of the Premises.

4.11 Environmental Definitions. As used in this Lease, the term "Hazardous Materials" is defined to include, without limitation: (i) oil hydrocarbons, petroleum, petroleum products, or products containing, or derived from, petroleum; and (ii) any hazardous or toxic waste, substance, material, chemical, gas or particulate matter, as presently defined by, or for purposes of, any Environmental Laws. As used in this Agreement, the term "Environmental Laws" is defined to include, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300f, et seq.; the Clean Air Act, 42 U.S.C. Section 7401, et seq.; the Hazardous Substance Emergency Response Act, Idaho Code Section 39-7101, et seq.; any successor or amendment to those laws (in existence on the date this representation is made or updated); any rules, regulations, ordinances, orders or decrees issued pursuant to those laws; any other applicable federal, state or local environmental, health or safety statute, ordinance, code, rule, regulation, order or decree as may now, or at any later time be in effect, regulating, relating to, or imposing, liability, or standards, concerning, or in connection with, hazardous or toxic wastes, substances, materials, chemicals, gases or particulate matter, or the emission, discharge, dumping, or other release, of any substance to the environment; and any common law theory based on nuisance or strict liability.

4.12 Hazardous Materials Use by Tenant. During the Term, at its sole expense, Tenant shall abide by all Environmental Laws, as defined above. Tenant shall not use, handle, deposit or dispose of any Hazardous Materials, as defined above, except in compliance with all Environmental Laws. Tenant

agrees to indemnify Landlord consistent with the provisions of Section 8.3 if Tenant fails to comply with its obligations during the term of the Lease under this Section.

4.13 Environmental Condition of Premises. Landlord has not been in possession of the Premises prior to its acquisition and has not previously been responsible for the operation of the Premises. Landlord has no knowledge of the use of Hazardous Material on the Premises or any violation of the Environmental Laws as those terms are defined above. Landlord agrees to release Tenant from any claims arising from the presence of Hazardous Materials on the Premises or violations of Environmental Laws in the operation of the Premises (as those terms are defined above), occurring prior to the commencement of the Term of the Lease.

ARTICLE 5 CHANGES IN THE PARTIES

5.1 Relationship of Parties. Nothing contained in this Lease shall be construed as creating the relationship of principal or agent, employment, partnership or joint venture or any relationship between the Parties other than landlord and tenant.

5.2 Successors and Assigns. This Lease shall benefit and bind the successors and permitted assigns of Landlord and Tenant.

5.3 Tenant's Assignment and Subletting. Tenant may not assign this Lease or sublet all or a part of the Premises unless Tenant first obtains the prior written consent of Landlord, which consent shall not be unreasonably conditioned, withheld or delayed.

ARTICLE 6 LOSS AND DAMAGE TO PREMISES

6.1 Tenant Insurance Obligations. Tenant agrees to maintain, in full force and effect throughout the Term of the Lease, comprehensive general liability coverage covering the Premises with limits of liability for each occurrence of not less than \$2,000,000, naming Landlord as an additional insured. Tenant shall also purchase, obtain and maintain a policy of fire and extended coverage insurance or coverage in an amount equal to the full insurable value (from time to time) of all Tenant's personal property, fixtures, equipment and tenant improvements. Promptly upon the effective date of such insurance, or any renewal or replacement thereof, Tenant shall provide Landlord with a copy of a Certificate of Insurance evidencing the coverage required by this paragraph and upon change or termination in insurance coverage Landlord shall be provided not less than thirty (30) days advance written notice thereof. Landlord may maintain such additional insurance as it elects to permit it to perform the same. Landlord shall have no right to the proceeds of business damage or other insurance coverage obtained by Tenant and shall not be named as an insured on such policies obtained by Tenant.

6.2 Condemnation. If any material portion of the Premises affecting the Permitted Use is permanently condemned or taken under any governmental law, ordinance or regulation, by right of eminent domain, by inverse condemnation, or by deed in lieu, then Tenant may, at its option and upon written notice to Landlord, cancel this Lease, effective when the physical taking shall occur. For purposes of this Section, a "material" portion of the Premises means such portion as would render the remaining portion of the Premises insufficient for Tenant's continuing needs and desired operations. Upon receipt of notice of any proposed condemnation, the receiving party shall promptly notify the other party. Tenant shall have

the right to any award of just compensation related to Tenant's operation of the Premises, Tenant's profits and Tenant's leasehold interest.

ARTICLE 7 DEFAULT

7.1 Tenant's Default. The occurrence of any of the following by Tenant shall constitute a default under the terms of this Lease: (a) the abandonment or surrender of the Premises by Tenant prior to the expiration of the Term of this Lease, or (b) failure to perform any obligation as required or conditioned by any of the covenants and agreements contained in this Lease within a reasonable time, but in no event later than thirty (30) days after written notice by Landlord to Tenant specifying wherein Tenant has failed to perform such obligations. Each notice of default required by this subsection shall specify the alleged event of default and the intended remedy. After expiration of the applicable time for curing a particular default, Landlord may on behalf of Tenant, at Landlord's election, make any payment required of Tenant under this Lease, or perform or comply with any covenant or condition imposed on Tenant under this Lease. Any amount so paid or the cost of such performance shall be immediately reimbursed by Tenant upon receipt of a demand therefor from Landlord. No such payment or performance by Landlord shall constitute a waiver of default, nor shall it affect Tenant's liability for any loss or damage resulting from the default.

7.2 Landlord's Remedies Upon Tenant's Default. Upon the occurrence of a default by Tenant, Landlord, at its sole option, in addition to any other rights or remedies provided by law or equity, may:

7.2.1 Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord.

7.2.2 Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

7.2.3 Landlord shall have the right to recover against Tenant any and all damages that are proximately caused by Tenant's default under this Lease.

7.2.4 Landlord shall have the right to take whatever action is necessary to cure Tenant's default, including the incurring of any reasonable expenses, and if Tenant fails to reimburse Landlord for the costs incurred in connection with the curing of Tenant's default, then Tenant shall pay to Landlord the amount of any such expenses together with interest thereon at the rate of six percent (6%) per annum from the date of Landlord's expenditure of such costs until such costs are paid or reimbursed.

7.2.5 Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the State of Idaho. The rights, privileges, elections and remedies of Landlord as set forth in this Lease or allowed by law or equity are cumulative, and the enforcement by Landlord of a specific remedy shall not constitute an election of remedies and/or a waiver of other available remedies.

7.3 Landlord's Default. Landlord shall be in default under this Lease upon Landlord's failure to perform any obligation as required or conditioned by any of the covenants and agreements contained in this Lease within a reasonable time. Each notice of default required by this subsection shall specify the alleged event of default and the intended remedy.

7.4 Tenant's Remedies Upon Landlord's Default. Upon the occurrence of a default by Landlord under this Lease, Tenant shall have the following rights in addition to any other rights and remedies allowed by law or equity, including, but not limited to the following:

7.4.1 Tenant shall have the right to seek a decree or order of specific performance by a court of competent jurisdiction, ordering Landlord to perform its obligations under this Lease.

7.4.2 Subject to restrictions under state law regarding the Landlord's acceptance of liability, Tenant shall have the right to recover against Landlord any and all damages that are proximately caused by Landlord's default under this Lease.

7.4.3 Tenant shall have the right to take whatever action is necessary to cure Landlord's default, including the incurring of any reasonable expenses, and if Landlord fails to reimburse Tenant for the costs it incurred in connection with the curing of Landlord's default, to offset such costs against the rent then due and owing to Landlord until Tenant is fully reimbursed for such costs plus interest thereon at the rate of six percent (6%) per annum from the date of Tenant's expenditure of such costs until such costs are paid or reimbursed.

7.4.4 Pursue any other remedy now or hereafter available to Tenant under the laws or judicial decisions of the state of Idaho. The rights, privileges, elections and remedies of Tenant as set forth in this Lease or allowed by law or equity are cumulative, and the enforcement by Tenant of a specific remedy shall not constitute an election of remedies and/or a waiver of other available remedies.

ARTICLE 8 CLAIMS AND DISPUTES

8.1 Rights and Remedies Cumulative. Except as expressly provided in this Lease, each party's rights and remedies described in this Lease are cumulative and not alternative remedies.

8.2 Non-Waiver of Remedies. A waiver of any condition stated in this Lease shall not be implied by any neglect of a party to enforce any remedy available by reason of the failure to observe or perform the condition. A waiver by a party shall not affect any condition other than the one specified in the waiver, and a waiver shall waive a specified condition only for the time and in the manner specifically stated in the waiver. The acceptance by Landlord of rent or other money from Tenant after termination of the Lease, after termination of Tenant's right of possession, after the occurrence of a default, or after institution of any remedy by Landlord shall not alter, diminish, affect or waive the Lease termination, termination of possession, default or remedy.

8.3 Indemnification. To the extent allowed under Idaho law, Landlord and Tenant agree to indemnify and hold harmless the other party, and the other party's employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of any kind or nature, known or unknown, contingent or otherwise (including reasonable attorneys' fees and costs), arising from any act, omission or negligence of that party, or the officers, contrac-

tors, licensees, agents, servants, employees, guests, invitees, or visitors of that party, in or about the Premises, or arising from any accident, injury, or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Premises; provided that the foregoing provision shall not be construed to make one party responsible for loss, damage, liability or expense resulting from injuries to third parties caused by the negligence of the other party, including any officer, contractor, licensee, agent, servant, employee, guest, invitee of that party.

8.4 Remedies Subject to Idaho Tort Claims Act and Appropriation Limits. Tenant acknowledges that Landlord is a state agency and is subject to state law restrictions concerning the actions it may take to accept liability. It is specifically understood that any monetary liability against Landlord pursuant to this provision shall be subject to the provisions of the Idaho Tort Claims Act. Further, nothing in this Lease shall be so construed or interpreted to commit or obligate Landlord to unlawfully expend funds that have not been appropriated or budgeted.

8.5 Dispute Resolution. Notwithstanding anything to the contrary herein, if the Parties disagree regarding the performance of this Lease other than nonpayment of rent, then the Parties agree to engage in direct discussions to settle the dispute. If the disagreement cannot be settled by direct discussions, then the Parties agree to first endeavor to settle the disagreement in an amicable manner by mediation and, if unsuccessful, by arbitration, pursuant the American Arbitration Association's Commercial Mediation Rules, with litigation allowed only for the purpose of enforcing an arbitrator's decision. The foregoing dispute resolution provisions shall not preclude Landlord from bringing legal action to recover non-payment of rent, unlawful detainer and possession of the Premises by reason of Tenant's default in any payment obligation under this Lease, nor shall it preclude Tenant from bringing legal action in conformance with Section 7.4.1 to enforce the rights and remedies available to it thereunder.

8.6 Attorneys' Fees and Costs. If a party is in default under this Lease, then the defaulting party shall pay to the other party reasonable attorneys' fees and costs: (i) incurred by the other party after default and referral to an attorney, and (ii) incurred by the prevailing party in any litigation.

ARTICLE 9 TERMINATION OF LEASE

9.1 Events of Termination. This Lease shall terminate upon the occurrence of one or more of the following events: (i) by mutual written agreement of Landlord and Tenant; (ii) by Landlord pursuant to the express provisions of this Lease; (iii) by Tenant pursuant to the express provisions of this Lease; (iv) upon expiration of the Term; or (v) by reason of condemnation or damage/destruction of the Premises as set forth in Article 6.

9.2 Surrender of Possession. Except as otherwise provided herein, upon termination of this Lease, Tenant will immediately surrender possession of the Premises to Landlord. If possession is not immediately surrendered, Landlord may, in compliance with the laws of the state of Idaho, re-enter and repossess the Premises and remove all persons and property.

ARTICLE 10 GENERAL PROVISIONS

10.1 Notices. All notices under this Lease shall be in writing and shall be deemed to be delivered on the date of delivery if delivered in person or by fax, or on the date of receipt if delivered by U.S.

Mail or express courier. Proof of delivery shall be by affidavit of personal delivery, machine-generated confirmation of fax transmission, or return receipt issued by U.S. Postal Service or express courier. Notices shall be addressed to the address set forth below:

Tenant:

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

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

Southwest Irrigation District
340 S. 400 W.
Burley, Idaho 83318

Idaho Ground Water Appropriators, Inc.
c/o Randall C. Budge
Racine, Olson, Nye, Budge & Bailey
P.O. Box 1391
Pocatello, Idaho 83204-1391
Fax: 208-232-6109

Landlord:

Idaho Water Resource Board
Brian Patton, Administrator
322 East Front Street
P.O. Box 83720
Boise, Idaho 8372-0098
Fax: 208-287-6700

10.2 Time is of the Essence. Time is of the essence with respect to the obligations to be performed under this Lease.

10.3 Quiet Enjoyment. Notwithstanding the limitations of Section 2.6 above, Landlord warrants and represents that on the Commencement Date it shall own fee simple title to the Premises and have the right to enter into this Lease and to let the Premises to Tenant. If Tenant pays the rent and keeps and performs the covenants of this Lease on Tenant's part to be kept and performed according to the provisions and conditions hereof, then Tenant shall peacefully and quietly hold, occupy, and enjoy the Premises during the Term hereof without any hindrance or molestation by Landlord or Landlord's agents, successors or assigns.

10.4 First Right of Refusal to Purchase and to Lease.

10.4.1 Landlord hereby grants Tenant a right of first refusal on the Premises or any portion of the Premises in accordance with the terms below ("Right of First Refusal").

10.4.2 If, at anytime during the term of this Lease, the Seller receives a bona fide written offer from a willing third party to purchase all or part of the Premises which Landlord intends to accept ("Third Party Offer"), Landlord shall give written notice to Tenant at the addresses provided below accompanied by a copy of such Offer at least thirty (30) days before the date of contemplated sale.

10.4.3 If, at anytime for a period of one (1) year following the date of termination of this Lease, the Landlord receives a bonafide written offer from a willing third party to lease all or part of the premises which Landlord intends to accept ("Third Party Offer"), Landlord shall give written notice to Tenant at the addresses provided below accompanied by a copy of such Offer at least thirty (30) days before the date of the contemplated lease.

10.4.4 Within fifteen (15) business days after receipt of the written notice, Tenant shall notify Landlord that it intends to exercise its Right of First Refusal and will purchase the Premises pursuant to a purchase agreement or will lease the Premises pursuant to a lease agreement which matches the terms and conditions of the Third Party Offer.

10.4.5 Notwithstanding the Tenant's Right of First Refusal described herein, the Landlord may enter into an agreement to sell the premises to the Tenant any time after the commencement date of this Lease at such price and terms as the parties may agree.

10.5 Interpretation. This Lease shall be governed by the law of the State of Idaho. The courts in the State of Idaho shall have exclusive jurisdiction.

10.6 Binding Effect. The covenants and conditions contained herein shall apply to and bind the Parties and all heirs, administrators, grantees, successors, sublessees, assigns and successors of the Parties.

10.7 Memorandum. This Lease shall not be recorded. However, a Memorandum of this Lease shall be executed and recorded in the records of Gooding County, Idaho, in the form attached hereto as Exhibit "C".

10.8 Entire Agreement; Amendment. This Lease contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. This Lease may not be modified in any manner whatsoever except by an instrument in writing signed by each of the Parties hereto.

10.9 Severability. Any provisions of this Lease that may be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable any other provision in any other jurisdiction.

10.10 Cooperation Landlord and Tenant shall and do hereby agree to cooperate with each other and to encourage and participate in efforts made by the State of Idaho and other users of the waters of

the State of Idaho to promote the recharging, stabilization and sustaining of the aquifer in area of the Premises.

Landlord:

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD

Dated: _____, 2014

By: _____
Roger Chase
Chairman
Idaho Water Resources Board

Tenant:

NORTH SNAKE GROUND WATER DISTRICT

Dated: _____, 2014

By: _____
Name: Lynn Carlquist
Title: Chairman

MAGIC VALLEY GROUND WATER DISTRICT

By: _____
Name: Dean Stevenson
Title: Chairman

SOUTHWEST IRRIGATION DISTRICT

By: _____
Name: Randy Brown
Title: Chairman

EXHIBIT "A"
LEGAL DESCRIPTION OF PREMISES

PARCEL DESCRIPTION
for

South Parcel - 17.05 Acres

A parcel of land located in part of Government Lot 4 of Section 18 and Government Lot 1 of Section 19, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho and more particularly described as follows:

Commencing at the Southwest corner of said Section 18 from which the South Quarter corner of said Section 18 bears South 89°28'47" East, 2375.79 feet;

THENCE North 00°48'21" East along the westerly boundary of Government Lot 4 for a distance of 78.66 feet to a found ½ rebar with cap and the POINT OF BEGINNING;

THENCE continuing along said line for a distance of 1,238.12 feet to a found ¼ inch rebar with cap and the Northwest corner of Government Lot 4;

THENCE South 89°32'39" East along the northerly boundary of Government Lot 4 for a distance of 98.00 feet;

THENCE South 13°43'19" East for a distance of 170.52 feet;

THENCE South 42°17'05" East for a distance of 130.02 feet;

THENCE South 67°17'05" East for a distance of 190.03 feet to a found ½ inch rebar with cap;

THENCE South 24°59'15" East for a distance of 45.00 feet to a found ½ inch rebar with cap;

THENCE South 14°56'02" East for a distance of 220.18 feet to a found ½ inch rebar with cap;

THENCE South 23°13'21" East for a distance of 124.80 feet to a set ½ rebar with cap;

THENCE South 59°13'21" East for a distance of 49.92 feet to a found ½ inch rebar;

THENCE South 66°47'31" West for a distance of 32.79 feet to a set ½ rebar with cap;

THENCE South 38°05'55" East for a distance of 189.55 feet to a found ¾ rebar;

THENCE North 80°38'05" East for a distance of 20.78 feet to a set ½ rebar with cap;

THENCE South 13°17'20" East for a distance of 447.36 feet to a point on the southerly boundary of said Government Lot 4 and a found ½ inch rebar with cap;

THENCE South 13°40'27" East for a distance of 5.03 feet to a found ½ inch rebar with cap;

THENCE South 13°06'05" East for a distance of 78.87 feet to a set ½ rebar with cap;

THENCE South 44°42'30" East for a distance of 22.60 feet to a found ½ inch rebar with cap;

THENCE South 80°32'39" East for a distance of 49.34 feet to a found ½ inch rebar with cap;

THENCE North 78°05'11" East for a distance of 99.95 feet to a set ½ rebar with cap;

THENCE South 71°24'18" East for a distance of 20.34 feet to a found ½ inch rebar with cap;

THENCE South 22°56'26" West for a distance of 92.81 feet to a found ½ inch rebar with cap;

THENCE South 44°04'43" West for a distance of 170.91 feet to a found ½ inch rebar with cap;

THENCE South 31°21'16" West for a distance of 20.02 feet to a found ½ inch rebar with cap;

THENCE North 58°36'19" West for a distance of 312.76 feet to a found concrete pillar with brass cap;

THENCE North 44°52'49" West for a distance of 127.48 feet;

THENCE westerly 502.89 feet along a non tangent curve to the left having a radius of 1,034.93 feet, a central angle of 27°50'28", and a long chord bearing North 72°30'34" West for a distance of 497.96 feet to the POINT OF BEGINNING.

Said parcel contains 17.05 acres, more or less and subject to other easements, covenants and restrictions of record.

TOGETHER WITH a levee maintenance easement located in part of Government Lot 4 of Section 18, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho and centerline of said easement more particularly described as follows:

Commencing at the Southwest corner of said Section 18 from which the South Quarter corner of said Section 18 bears South 89°28'47" East, 2375.79 feet;

THENCE North 00°48'21" East along the westerly boundary of Government Lot 4 for a distance of 1316.78 feet to a found $\frac{3}{4}$ rebar with cap and the Northwest corner of Government Lot 4;

THENCE South 89°32'39" East along the northerly boundary of Government Lot 4 for a distance of 98.00 feet;

THENCE South 13°43'19" East for a distance of 170.52 feet;

THENCE South 42°17'05" East for a distance of 75.20 feet to the POINT OF BEGINNING of said levee maintenance easement centerline;

THENCE North 08°38'30" East for a distance of 88.16 feet;

THENCE North 25°04'33" East for a distance of 46.24 feet;

THENCE North 31°27'02" East for a distance of 79.53 feet;

THENCE North 38°05'08" East for a distance of 45.73 feet;

THENCE North 20°47'42" East for a distance of 35.69 feet;

THENCE North 13°53'19" East for a distance of 58.24 feet;

THENCE North 23°12'09" East for a distance of 117.72 feet;

THENCE North 28°18'56" East for a distance of 40.79 feet to the POINT OF ENDING of said levee maintenance easement centerline.

Said levee maintenance easement being 25.00 feet in width on the easterly side and a variable width on the westerly side being 25.00 feet beyond the existing levee toe of slope, easement side lines shall prolong or foreshorten to the northeasterly boundary of said 17.05 acres parcel.

TOGETHER WITH a Spring, Intake, and Pipeline Maintenance and Access Easement located in part of Government Lot 4 of Section 18, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho and more particularly described as follows:

Commencing at the Southwest corner of said Section 18 from which the South Quarter corner of said Section 18 bears South 89°28'47" East, 2375.79 feet;

THENCE North 00°48'21" East along the westerly boundary of Government Lot 4 for a distance of 1316.78 feet to a found $\frac{3}{4}$ rebar with cap and the Northwest corner of Government Lot 4;

THENCE South 89°32'39" East along the northerly boundary of Government Lot 4 for a distance of 98.00 feet;

THENCE South 13°43'19" East for a distance of 170.52 feet;
THENCE South 42°17'05" East for a distance of 130.02 feet;
THENCE South 67°17'05" East for a distance of 190.03 feet;
THENCE South 24°59'15" East for a distance of 9.79 feet to the POINT OF BEGINNING of said easement;
THENCE North 67°51'38" East for a distance of 244.55 feet;
THENCE easterly 30.00 feet along a curve to the left having a radius of 50.00 feet, a central angle of 34°22'39", and a long chord bearing North 50°40'19" East for a distance of 29.55 feet;
THENCE North 33°28'59" East for a distance of 46.41 feet;
THENCE North 05°04'27" West for a distance of 56.93 feet;
THENCE North 46°22'07" East for a distance of 70.59 feet;
THENCE South 63°53'52" East for a distance of 117.05 feet;
THENCE South 21°39'28" West for a distance of 54.35 feet;
THENCE South 64°09'12" West for a distance of 54.37 feet;
THENCE South 78°48'40" West for a distance of 41.83 feet;
THENCE South 33°28'59" West for a distance of 45.42 feet;
THENCE westerly 60.00 feet along a curve to the right having a radius of 100.00 feet, a central angle of 34°22'39", and a long chord bearing South 50°40'19" West for a distance of 59.10 feet;
THENCE South 67°51'38" West for a distance of 244.67 feet;
THENCE North 14°56'02" West for a distance of 14.95 feet;
THENCE North 24°59'15" West for a distance of 35.21 feet to the POINT OF BEGINNING of said Spring, Intake, and Pipeline Maintenance and Access Easement.

ALSO SUBJECT TO a public parking easement located in part of Government Lot 1 of Section 19, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho and more particularly described as follows:

Commencing at the Northwest corner of said Section 19 from which the North Quarter corner of said Section 19 bears South 89°28'47" East, 2375.79 feet;

THENCE North 00°48'21" East along the westerly boundary of Government Lot 4 for a distance of 78.66 feet to a found $\frac{3}{4}$ rebar with cap;

THENCE easterly 502.89 feet along a non tangent curve to the right having a radius of 1,034.93 feet, a central angle of 27°50'28", and a long chord bearing South 72°30'34" East for a distance of 497.96 feet;

THENCE South 44°52'49" East for a distance of 127.48 feet to a found concrete pillar with brass cap;

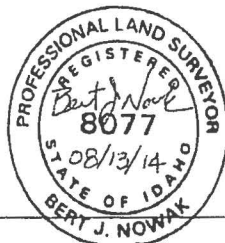
THENCE South 58°36'19" East for a distance of 282.61 feet to the POINT OF BEGINNING of a public parking easement;

THENCE North 54°55'24" West for a distance of 318.27 feet;

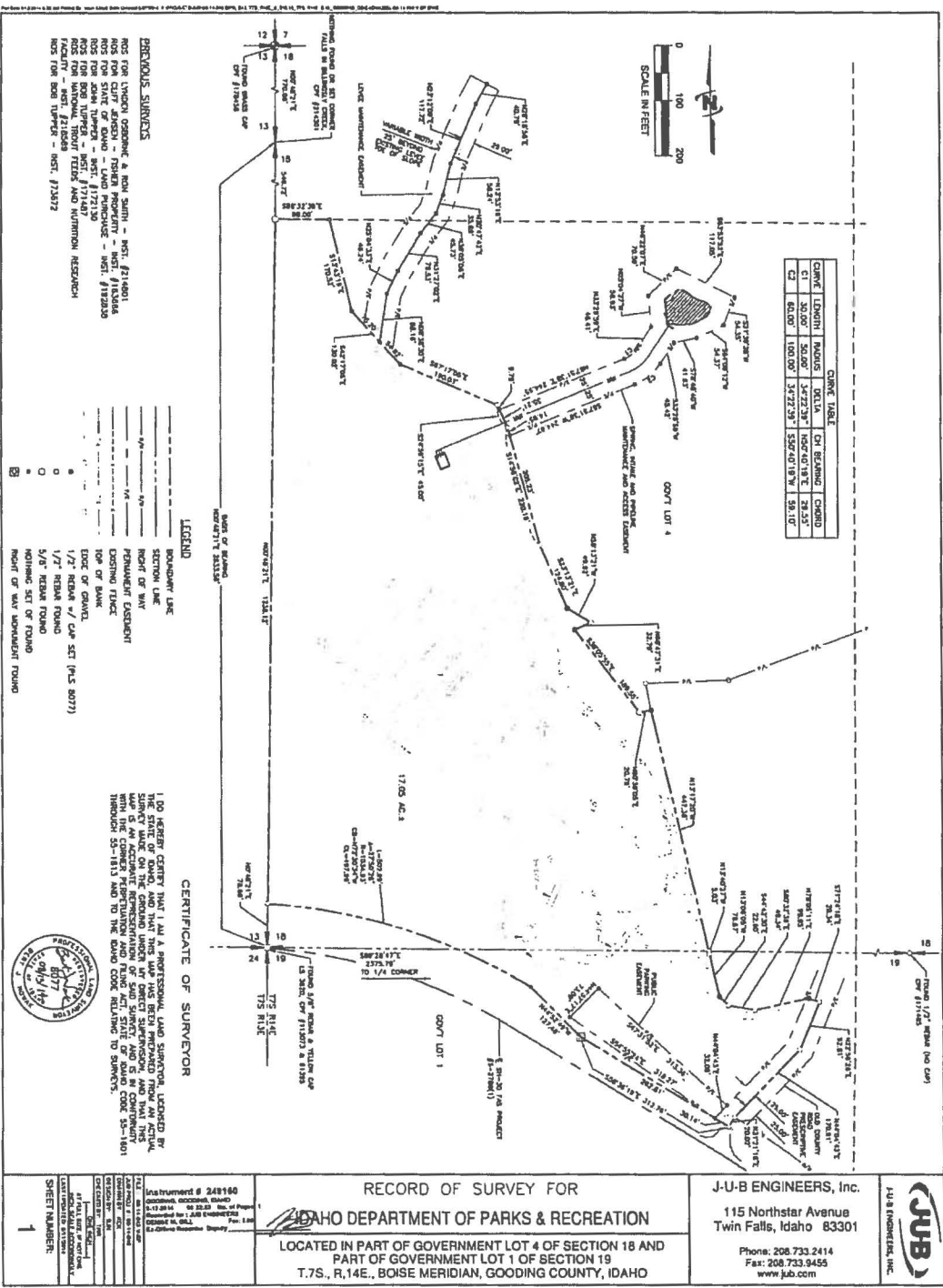
THENCE North 44°57'17" East for a distance of 73.09 feet;

THENCE South 47°31'52" East for a distance of 313.36 feet;

THENCE South 44°04'43" West for a distance of 32.09 feet to the POINT OF BEGINNING.



17.05 Acres



PARCEL DESCRIPTION
for

75.95 Acres

A parcel of land located in part of the Northeast Quarter of Section 13, Township 7 South, Range 13 East, Boise Meridian and Government Lots 2, 3 and 4 and the Southwest Quarter of Section 18, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho and more particularly described as follows:

Commencing at the Southwest corner of said Section 18 from which the South Quarter corner of said Section 18 bears South 89°28'47" East, 2375.79 feet;

THENCE North 00°48'21" East along the westerly boundary of Government Lot 4 for a distance of 1,316.78 feet to found ½ inch rebar with cap and the Northwest corner of Government Lot 4 and being the POINT OF BEGINNING;

THENCE North 00°48'21" East along the westerly boundary of Government Lot 3 for a distance of 1,281.59 feet to a point in the approximate centerline of Billingsley Creek;

THENCE the following courses and distances along said centerline:

South 65°51'53" East for a distance of 85.94 feet;

South 18°44'56" East for a distance of 429.69 feet;

South 34°32'03" West for a distance of 174.98 feet;

South 10°35'25" East for a distance of 21.35 feet;

THENCE South 83°05'23" East leaving said centerline of Billingsley Creek for a distance of 360.92 feet to a found ½ inch rebar;

THENCE North 04°00'47" West for a distance of 164.55 feet;

THENCE North 53°17'07" West for a distance of 146.05 feet to a found ½ inch rebar;

THENCE North 35°38'13" East for a distance of 98.31 feet;

THENCE North 33°55'22" West for a distance of 117.62 feet to a found ½ inch rebar;

THENCE North 07°21'32" East for a distance of 140.25 feet to a found ½ inch rebar;

THENCE North 16°27'32" West for a distance of 92.49 feet to a found ½ inch rebar;

THENCE North 65°29'58" West for a distance of 110.50 feet to a found ½ inch rebar;

THENCE North 08°01'57" East for a distance of 58.17 feet to a found ½ inch rebar;

THENCE North 34°02'06" East for a distance of 433.27 feet to a found ½ inch rebar;

THENCE North 22°50'05" West for a distance of 7.57 feet;

THENCE North 85°57'16" West for a distance of 235.02 feet;

THENCE South 64°52'26" West for a distance of 201.15 feet to a found ½ inch rebar;

THENCE South 65°11'21" West for a distance of 65.68 feet to a point on the easterly boundary of the NE ¼ of said Section 13;

THENCE South 65°11'21" West for a distance of 44.45 feet to a found ½ inch rebar;
 THENCE North 02°04'31" West for a distance of 639.40 feet to a found ½ inch rebar;
 THENCE North 08°45'35" West for a distance of 128.81 feet to a found ½ inch rebar;
 THENCE North 09°46'58" West for a distance of 230.84 feet to a point on the northerly
 boundary of the SE¼ NE¼ of said Section 13;
 THENCE South 88°56'30" East along the northerly boundary of said SE¼ NE¼ for a distance of
 136.04 feet to the northwest corner of Government Lot 2 of said Section 18;
 THENCE South 89°30'20" East along the northerly boundary of said Government Lot 2 for a
 distance of 1,012.66 feet to the northeast corner of said Government Lot 2;
 THENCE South 00°01'42" West along the easterly boundary of said Government Lot 2 for a
 distance of 1,315.29 feet to the northeast corner of Government Lot 3;
 THENCE South 00°02'26" West along the easterly boundary of said Government Lot 3 for a
 distance of 693.90 feet;
 THENCE South 14°43'26" East for a distance of 289.48 feet to a found ½ inch rebar with cap;
 THENCE South 33°52'08" East for a distance of 449.37 feet to a found ½ inch rebar;
 THENCE South 22°26'06" East for a distance of 251.76 feet to a found ½ inch rebar with cap;
 THENCE South 30°26'06" East for a distance of 307.86 feet to a found ½ inch rebar;
 THENCE South 69°44'45" West for a distance of 860.60 feet to a found ½ inch rebar;
 THENCE South 87°42'33" West for a distance of 150.10 feet to a found ½ inch rebar;
 THENCE South 10°42'02" East for a distance of 49.54 feet to a found ½ inch rebar with cap;
 THENCE South 80°38'05" West for a distance of 20.78 feet to a found ½ inch rebar;
 THENCE North 38°05'55" West for a distance of 189.55 feet to a found ½ inch rebar with cap;
 THENCE North 66°47'28" East for a distance of 32.79 feet to a found ½ inch rebar;
 THENCE North 59°13'21" West for a distance of 49.92 feet to a found ½ inch rebar with cap;
 THENCE North 23°13'21" West for a distance of 124.80 feet to a found ½ inch rebar with cap;
 THENCE North 14°56'02" West for a distance of 220.18 feet to a found ½ inch rebar with cap;
 THENCE North 24°59'15" West for a distance of 45.00 feet to a found ½ inch rebar with cap;
 THENCE North 67°17'05" West for a distance of 190.03 feet;
 THENCE North 42°17'05" West for a distance of 130.02 feet;
 THENCE North 13°43'19" West for a distance of 170.52 feet to a point on the northerly
 boundary of Government Lot 4;
 THENCE North 89°32'39" West along the northerly boundary of Government Lot 4 for a
 distance of 98.00 feet to the POINT OF BEGINNING.

Said parcel contains 78.03 acres, more or less and subject to other easements, covenants and restrictions of record.

EXCEPT a parcel of land located in part of Government Lot 2 of Section 18, Township 7 South, Range 14 East and part of the Southeast Quarter of the Northeast Quarter of Section 13, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho and more particularly described as follows:

Commencing at the Southwest corner of said Section 18 from which the South Quarter corner of said Section 18 bears South 89°28' 47" East, 2375.79 feet;

THENCE North 00°48'21" East along the westerly boundary of said Section 18 for a distance of 3519.16 feet to the POINT OF BEGINNING;

THENCE North 89°56'52" East for a distance of 307.00 feet;

THENCE South 24°30'17" East for a distance of 272.96 feet;

THENCE South 87°29'52" West for a distance of 374.00 feet;

THENCE North 14°10'08" West for a distance of 272.70 feet to a found ½ inch rebar;

THENCE North 89°56'52" East for a distance of 20.18 feet to the POINT OF BEGINNING.

Said parcel contains 2.08 acres, more or less.

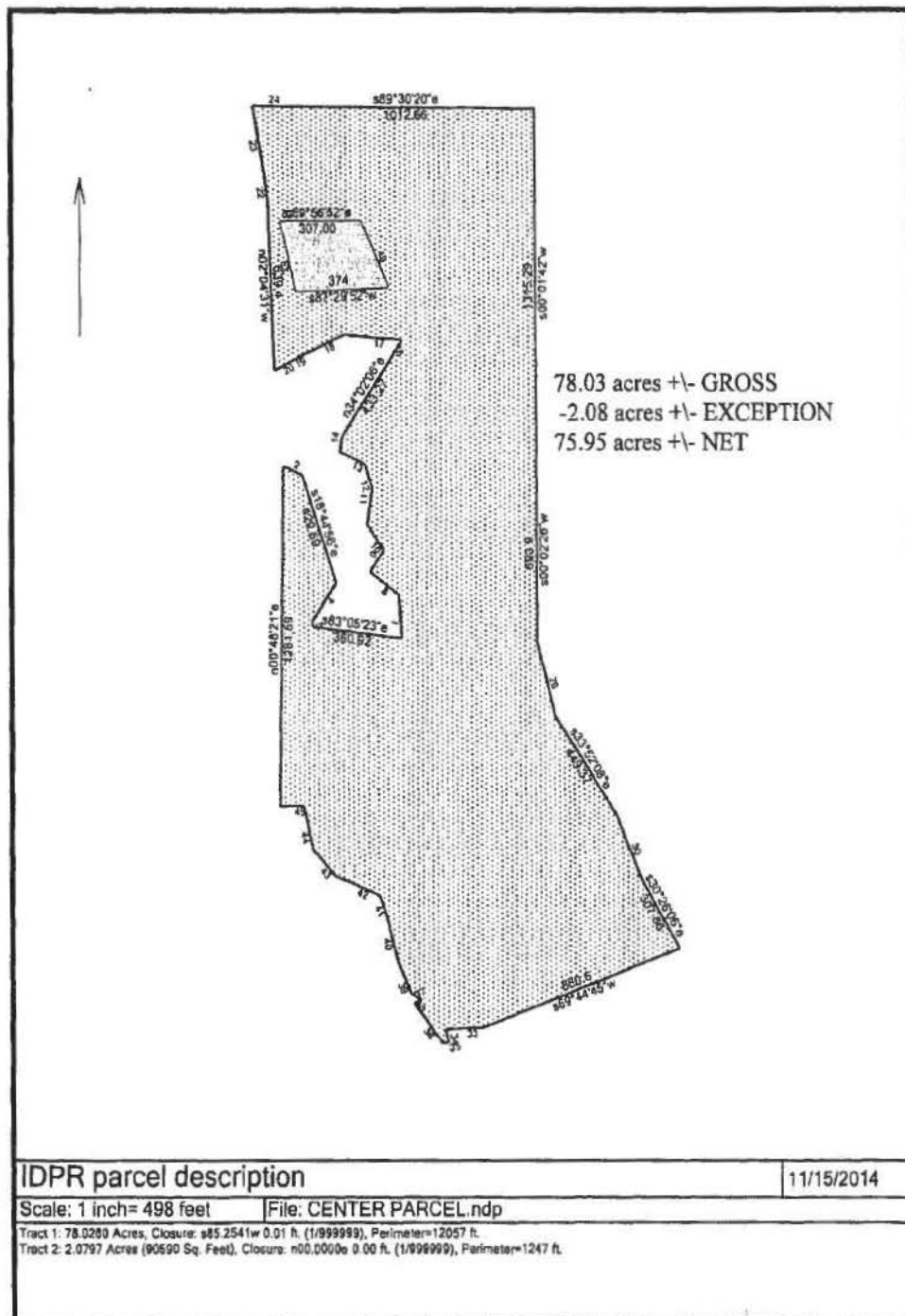


EXHIBIT "A-2"

LEASE WATER RIGHTS

WATER SOURCE	WATER RIGHT NO.	PRIORITY DATE
SPRING FLOW TRIBUTARY TO BILLINGSLEY CREEK	36-2338	8/5/1954
UNNAMED STREAM TRIBUTARY TO BILLINGLEY CREEK	36-2414	12/21/1959
BILLINGSLEY CREEK	36-2734	10/5/1965
BILLINGSLEY CREEK	36-4011	12/1/1965
SPRING	36-15476	6/1/1954

EXHIBIT "B"
COMMENCEMENT MEMORANDUM

COMMENCEMENT MEMORANDUM

Pursuant to Section 1.9 of the Lease ("**Lease**") effective 1st day of January, 2015, between the State of Idaho, by and through the Idaho Water Resource Board(collectively, "**Landlord**"), and North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District ("**Tenant**"). Landlord and Tenant through their primary contacts do hereby memorialize the following upon the commencement of the Lease:

1. The Commencement Date pursuant to Section 1.5 of the Lease is January 1, 2015.
2. The initial Average Annual CFS for the **Tenant's** use pursuant to Section 1.6 of the Lease is ____ cfs.
3. The following structures or improvements on the Premises shall be excluded from the Parties' obligations in Sections 4.2 and 4.3 of the Lease: No Exclusions

IDAHO WATER RESOURCES BOARD

Landlord:

Dated: _____, 2014

By _____
Roger Chase
Chairman
Idaho Water Resources Board

Tenant:

NORTH SNAKE GROUND WATER DISTRICT

Dated: _____, 2014

By: _____

Name: Lynn Carlquist

Title: Chairman

MAGIC VALLEY GROUND WATER DISTRICT

By: _____

Name: Dean Stevenson

Title: Chairman

SOUTHWEST IRRIGATION DISTRICT

By: _____

Name: Randy Brown

Title: Chairman

EXHIBIT "C"
MEMORANDUM OF LEASE

Recording Requested By and
When Recorded Return to:

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("**Memorandum**") is made as of the 1st day of January, 2015, between North Snake Ground Water District, Magic Valley Ground Water District and Southwest Irrigation District (collectively, "**Tenant**"), and the State of Idaho by and through the Idaho Water Resource Board. ("**Landlord**").

1. Landlord and Tenant have entered into a lease dated as of January 1,, 2015 (the "**Lease**") for a term of thirty (30) years regarding certain real property and water rights described in Exhibit A and A-2, attached hereto and incorporated herein.
2. The Lease is made in consideration for rent paid by Tenant and includes options to lease and a right of first refusal in favor of Tenant.
3. This Memorandum summarizes the provisions of the Lease pursuant to Idaho Code § 55-818, and incorporates by reference all of the terms and provisions of the Memorandum.
4. The terms, conditions and provisions of the Lease shall extend to and be binding upon the heirs, executors, administrators, grantees, successors and assigns of the Parties hereto.
5. In the event of any conflict between the Lease and this Memorandum, the Lease shall control.
6. Capitalized terms set forth in this Memorandum shall have the same meanings ascribed for such capitalized terms in the Lease.

SIGNATURES ON FOLLOWING PAGES

IDAHO WATER RESOURCES BOARD

Landlord:

Dated: _____, 2014

By _____
Roger Chase
Chairman, Idaho Water Resources Board

STATE OF IDAHO)
)ss.
County of Ada)

On this ____ day of _____, 2014, before me the undersigned Notary Public in and for said county and state, personally appeared _____ known to me to be the person whose name is subscribed to within instrument and acknowledged to me that he/she 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 written.

Notary Public in and for Idaho
Residing at: _____
Commission Expires: _____

Tenant:

NORTH SNAKE GROUND WATER DISTRICT

Dated: _____, 2014

By: _____

Name: Lynn Carlquist

Title: Chairman

MAGIC VALLEY GROUND WATER DISTRICT

By: _____

Name: Dean Stevenson

Title: Chairman

SOUTHWEST IRRIGATION DISTRICT

By: _____

Name: Randy Brown

Title: Chairman

STATE OF IDAHO)
) ss.
County of _____)

On this _____ day of _____, 2014, before me, Randall C. Budge, the undersigned notary public in and for said county and state, personally appeared Lynn Carlquist, known or identified to me to be the Chairman of North Snake Ground Water District, Dean Stevenson, known or identified to me to be the Chairman of Magic Valley Ground Water District and Randy Brown, known or identified to me to be the Chairman of Southwest Irrigation District, that executed the within instrument, and known to me to be the person that executed the within instrument on behalf of said Ground Water Districts and Irrigation District, and acknowledged to me that such Ground Water Districts and Irrigation District executed the same for the purposes herein contained.

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

Notary Public for Idaho
Residing at Pocatello, Idaho
Commission Expires 10/11/2016.

MEMO



To: Idaho Water Resource Board
From: Stuart VanGreuningen
Brian Patton
Subject: Magic Valley & North Snake Ground Water Districts – Magic Springs Project
Date: December 21, 2014

The North Snake and Magic Valley Groundwater Districts are requesting a short term loan of \$2.75 million to build a pumping plant and pipeline in conformance with the approved "Fourth Mitigation Plan" for Rangen. For various reasons, the loan would be limited to \$1.26 million.

BACKGROUND & PROJECT

On January 29, 2014 the IDWR Director issued an order regarding Rangen's petition for delivery call curtailing ESPA groundwater rights junior to 1962, unless mitigation is provided to Rangen on or before January 19, 2015. The Magic Valley and North Snake Ground Water Districts are proposing to use the funds on a short-term basis to finance the construction of the Magic Spring Project, which consists of a pumping station and a 1.6-mile long pipeline to deliver 10 cfs of springflow from Seapac's Magic Springs Hatchery to the Rangen Hatchery to meet the ground water users mitigation obligations to Rangen. The Magic Springs Project is a key component of the Idaho Ground Water Appropriator's (IGWA's) "Fourth Mitigation Plan" for Rangen, which was approved by Director Spackman on October 29, 2014. IGWA submitted the "Fourth Mitigation Plan" on behalf of the Districts, which are members of IGWA. The project is approximately 60% complete with the goal to meet the January 19, 2015 deadline.

LOAN AMOUNT & TERM

The Districts have requested \$2.75 million; however, the loan needs to be limited to \$1.26 million until additional borrowing authority is granted. On October 13, 2011, the Districts together with other ground water districts, jointly received authority through judicial examination to incur indebtedness of up to \$35 million for the purpose of undertaking mitigation projects. This authority was used to borrow money using revenue bonds issued by the IWRB, the proceeds from which were used to acquire several commercial fish hatcheries. Of the \$35 million authorized through the judicial examination process, \$33.2 million was used, leaving \$1.8 million remaining. The Magic Valley and North Snake Ground Water Districts together comprised 70% of the authority granted through the judicial examination process, resulting in \$1.26 million of borrowing authority remaining for the Magic Valley and North Snake and Ground Water Districts until additional borrowing authority is granted. This short-term loan would be repaid no later than September 30, 2015, which is the end of the Districts fiscal year.

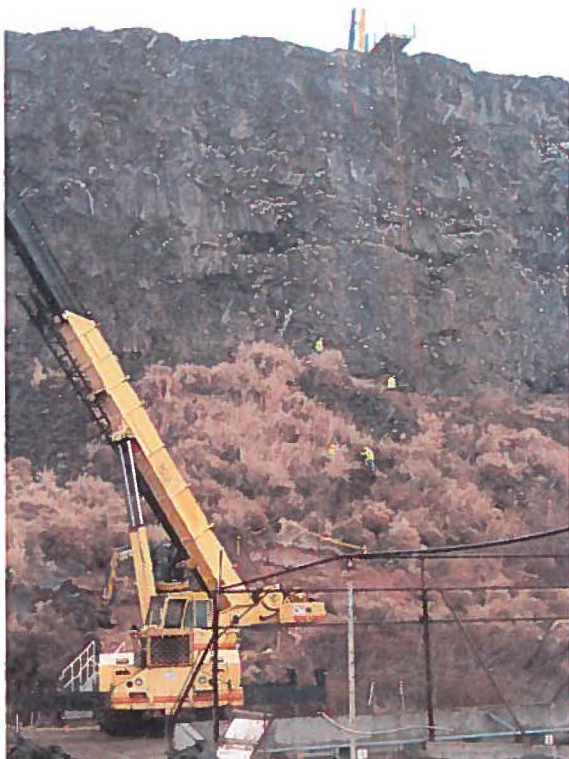
The Districts are in the process of preparing, and will shortly be filing, a Petition for Judicial Examination for authority to incur up to \$5 million in additional long-term debt to 1) repay this short-term loan for the Magic Springs Project, and 2) finance additional mitigation project costs which are part of the global settlement efforts for the Hagerman Valley area. The plan is for this additional \$5 million to be in the form of revenue bonds issued by the IWRB, similar to previous financing for hatchery purchases by the ground water districts.

ATTACHED RESOLUTION

The attached resolution would approve a short-term loan of \$1.26 million for the Magic Springs Project and give the Chairman authority to enter into agreements with the Districts.



Magic Springs Pipeline route from the Magic Springs hatchery to the Rangen Hatchery



Looking up canyon wall from pump plant location



Looking down from canyon rim at pump plant location



Pipeline under construction



Pipeline under construction at Rangen

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE MAGIC VALLEY) A RESOLUTION
GROUND WATER DISTRICT AND THE NORTH)
SNAKE GROUND WATER DISTRICT)
_____)

WHEREAS, a Letter of Request from the Magic Valley Ground Water District and the North Snake Ground Water District (Districts) has been submitted to the Idaho Water Resource Board (IWRB) requesting a loan in the amount of \$2,750,000; and

WHEREAS, the Districts are proposing to use the funds on a short-term basis to finance the construction of the Magic Spring Project, which consists of a pumping station and a 1.6-mile long pipeline to deliver water from the Magic Springs Hatchery to the Rangen Hatchery to meet the ground water users mitigation obligations to Rangen; and

WHEREAS, the Magic Springs Project is a key component of the Idaho Ground Water Appropriator's (IGWA's) "Fourth Mitigation Plan" for Rangen, which was approved by Director Spackman on October 29, 2014. IGWA submitted the "Fourth Mitigation Plan" on behalf of the Districts, which are members of IGWA; and

WHEREAS, the Districts are Ground Water Districts formed under Title 42, Chapter 52, Idaho Code, with the power to construct and operate mitigation projects, such as the Magic Springs Project, on behalf of the ground water users within their respective District; and

WHEREAS, the Magic Valley Ground Water District is comprised of 127,626 acres of groundwater-supplied lands in Blaine, Cassia, Jerome, Minidoka, and Lincoln Counties; and

WHEREAS, the North Snake Ground Water District is comprised of 106,600 acres of groundwater-supplied lands in Jerome, Minidoka, and Lincoln Counties; and

WHEREAS, on October 13, 2011, the Districts together with other ground water districts, jointly received authority through judicial examination, Power County Case No. CV-2011-208, to incur indebtedness of up to \$35 million for the purpose of undertaking mitigation projects. This authority was used to borrow money using revenue bonds issued by the IWRB, the proceeds from which were used to acquire several commercial fish hatcheries; and

WHEREAS, of the \$35 million authorized through the judicial examination process, \$33.2 million was used, leaving \$1.8 million remaining. The Magic Valley and North Snake Ground Water Districts together comprised 70% of the authority granted through the judicial examination process, resulting in \$1.26 million of borrowing authority remaining for the Magic Valley and North Snake and Ground Water Districts unless additional borrowing authority is granted; and

WHEREAS, the Districts are in the process of preparing and will be filing a Petition for Judicial Examination for authority to incur up to \$5 million in additional long-term debt to repay the requested short-term loan for the Magic Springs Project, and to finance additional mitigation project

costs which are part of the global settlement efforts for the Hagerman Valley area.

NOW THEREFORE BE IT RESOLVED that the IWRB approves a loan not to exceed \$1,260,000 from the Secondary Aquifer Planning, Management, and Implementation Fund at 3.5% interest to be repaid no later than September 30, 2015, which is the end of the Districts fiscal year, and provides authority to the Chairman or his designee to enter into contracts with the Districts on behalf of the IWRB.

DATED this 24th day of December, 2014.

ROGER CHASE, Chairman
Idaho Water Resource Board

ATTEST

BOB GRAHAM, Secretary



201 E. Center St.
P.O. Box 1391
Pocatello, ID 83204
O 208.232.6101
F 208.232.6109
racinelaw.net

RANDALL C. BUDGE
rcb@racinelaw.net

RECEIVED

DEC 12 2014

DEPARTMENT OF
WATER RESOURCES

December 11, 2014

Idaho Water Resource Board
Roger Chase, Chairman
Brian Patton, Secretary
322 East Front Street
State House Mail
Boise, Idaho 83720

Sent by U.S. Mail and Email

Re: Amended Loan Application – Magic Springs Project/Hagerman Settlements

Dear Roger, Brian and Board:

Attached please find the following amended loan applications and additional supporting documents submitted on behalf of North Snake Ground Water District ("North Snake") and Magic Valley Ground Water District ("Magic") (collectively "Districts") to the Idaho Water Resource Board ("Board"):

- (1) Amended Loan Application Document of North Snake;
- (2) Amended Loan Application Document of Magic Valley;
- (3) Financial Statements for the fiscal years ending September 30, 2012 and 2013 for North Snake;
- (4) Financial Statements for the fiscal years ending September 30, 2012 and 2013 for Magic;
- (5) Judgment and Decree Approving Petition for Judicial Examination, Power County Case No. CV-2011-208 ("Judgment").
- (6) Board Resolutions Authorizing Loans of North Snake and Magic. (signed copies will be substituted)

A short-term loan request in the amount of \$2.75 million to fund approximately two-thirds of the estimated cost of constructing the Magic Springs Project, costs pertaining to recent settlements of three of the new 2014 delivery calls in the Hagerman Valley and initial costs pertaining to the Billingsley Creek – Sandy Pond/Pipe projects which are part of the ongoing Hagerman Global Settlement efforts.

The short-term loan will be refinanced by long-term financing prior to the end of the Districts' fiscal year September 30, 2015. The Districts are in the process of preparing and will be filing in the near future a Petition for Judicial Confirmation for a \$5 million long-term loan to

provide funds necessary to repay the short-term \$2.75 million loan, as well as additional mitigation projects costs which are part of the global settlement efforts in the Hagerman area.

At the time the initial Loan Application was submitted with my December 1, 2014 letter, it was anticipated that other Ground Water Districts in the Upper Snake may soon decide to participate in Hagerman mitigation efforts and borrowing due to the Court's recent decision eliminating of the trim-line exposing all junior groundwater users to curtailment throughout the aquifer. However, it now appears uncertain if, when or to what extent other groundwater districts will participate because the no trim-line decision is on remand to the Director for further proceedings and also is expected to be appealed. Time constraints pertaining to the January 18, 2015 deadline to complete the Magic Springs Project as well as the funding additional settlements pertaining to 2014 delivery calls in the Hagerman area render it necessary for North Snake and Magic to move forward now with Judicial Confirmation proceedings for a larger long-term loan to refinance the short term loan.

The requested short-term loan may already be authorized in full or in part by the enclosed Judgment . The Judgment authorized the five Ground Water Districts to incur indebtedness of up to \$35 million and to execute loan documents as necessary. While that Judgment was primarily to complete the purchase of fish hatcheries, of the authorized amount \$32.2 million was actually borrowed leaving \$1.8 million unused. At the time, North Snake and Magic acquired ownership of 70% of the hatcheries and were responsible for 70% of the indebtedness pursuant to a Joint Powers Agreement between the districts. Accordingly, of the \$1.8 million un-borrowed spending authority, \$1.26 million would represent the authorized but unused debt authority of North Snake and Magic. If the full loan amount cannot be approved, the Districts' request a loan for at least this smaller amount.

The enclosed Board Resolutions were passed to authorize the proposed loans from the Board. There are several statutes dealing with ground water districts' authority to incur debt. Idaho Code §42-5233 indicates that debt can be incurred for mitigation plans and "may" issue warrants without any election or judicial confirmation being required. Idaho Code §42-5234 allows contract indebtedness to be incurred via an election process. Idaho Code §42-5234 allows the board of a ground water district to pass a resolution to incur debt without holding an election unless "within 15 days after the passage of such resolution or referendum petition signed by qualified electors of the District whose ground water rights equal not less than 10%... requesting that an election upon the issuance of the contract indebtedness be held and conducted under the provisions of this section." Here the Districts each passed resolutions authorizing debt to be incurred for purposes of this short-term loan and the members did not request a referendum.

It is noteworthy that Idaho Code §42-5238 provides that "any restrictions, limitations or regulations relative to the execution of such contracts pursuant to the authority herein contained...shall be liberally construed to affect the purposes of these chapter. That loan requested is clearly within the powers and duties of the District's Board under Idaho Code §42-5224 "to develop, maintain, operate and implement mitigation plans designed to mitigate any

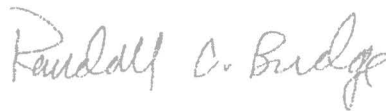
material injury caused by ground water use within the District upon senior water uses within, and/or without the District." Finally, Idaho Code §42-5235 provides that debt can be incurred by Judicial Confirmation. Read together, these statutes seem to be somewhat conflicting and confusing and there is no case law providing clear guidance. While Judicial Confirmation was secured for purposes of the \$35 million loan to purchase the hatcheries, this was done as a safeguard because of the amount involved was large and the loan was long-term. A few years prior the Board did not require Judicial Confirmation when the Districts borrowed \$11 million to purchase a portion of the Pristine Springs water right on a 10 year term for mitigation purposes.

In sum, the Districts respectfully request that the Board approve the short-term loan for several reasons. First, the loan will be adequately secured because the Districts are funding approximately one-third of the cost for the Magic Springs Project from their existing reserves. Second, the Districts will provide the Board with a security interest in the Magic Springs pipeline and pump facilities. Third, the Districts will proceed promptly with Judicial Confirmation to obtain authority for a larger long-loan to enable this short-term loan to be paid off before the end of their fiscal year of September 30, 2015. Fourth, there is unused authorized borrowing power and authority arising out of the 2011 Judicial Confirmation.

The District would greatly appreciate it if the Board could promptly convene a special meeting to act upon approval of this loan request and also the lease of the Aqualife property. Both are key components necessary to complete the Magic Springs project timely.

Thank you for your consideration. Please contact me if you have any questions.

Sincerely,



RANDALL C. BUDGE

RCB:ts
Enclosures

Cc: North Snake Ground Water District
Magic Valley Ground Water District
Idaho Ground Water Appropriators, Inc.



IDAHO WATER RESOURCE BOARD

322 East Front Street, Statehouse Mail

Boise, Idaho 83720

Tel: (208) 287-4800

FAX: (208) 287-6700



APPLICATION FOR FINANCIAL ASSISTANCE FOR NON-POTABLE WATER SYSTEM CONSTRUCTION PROJECT

Answer the following questions and provide the requested material as directed. All pertinent information provided. Additional information may be requested by the Idaho Water Resource Board (IWRB) depending on the scope of the project and amount of funding requested. For larger funding amounts an L.I.D. may be required.

Incomplete documents will be returned and no further action taken will be taken by IWRB staff. All paperwork must be in twenty eight (28) working days prior to the next bi-monthly Board meeting.

Board meeting agendas can be found at: <http://www.idwr.idaho.gov/waterboard/>

I. Prepare and attach a "Loan Application Document".

The Loan Application Document requirements are outlined in the Water Project Loan Program Guidelines. The guidelines can be found at:

<http://www.idwr.idaho.gov/waterboard/Financial%20program/financial.htm>.

You can also obtain a copy by contacting IWRB staff.

II. General Information:

A. Type of organization: (Check box)

☐ Irrigation District

☐ Canal/Irrigation Company

☐ Lateral Association

☐ Flood Control District

☐ Homeowners Association

☐ Water User's Association

☐ Municipality

☐ Reservoir Company

☒ Other

Explain: Ground Water District

Magic Valley Ground Water District

Organization name

P.O. Box 430

PO Box/Street Address

Paul, Idaho 83347

City, County, State, Zip Code

Dean Stevenson, Chairman

Name and title of Contact Person

208-431-0924

Contact telephone number

desteve@pmt.org

e-mail address

Project location legal description Magic Springs Project - Gooding County. See attached mitigation plan.

B. Is your organization registered with the Idaho Secretary of State's office? Yes ☐ No ☒

C. Purpose of this loan application.

- ☒ New Project
☐ Rehabilitation or replacement of existing facility
☐ DEQ requirement
☐ Other: _____

D. Briefly describe the project:

Pump and pipe project to delivery water from Magic Springs to Rangen. See attached engineering plans and IDWR approval order.

III. WATER SYSTEM:

A. Source of water:

- ☒ Stream ☐ Groundwater
☐ Reservoir ☐ Other

B. Water Right Numbers:

Water Right	Stage	Priority Date	Source	Amount
36-7072*	Decree	9-5-1969		up to 10 cfs
36-8356*	Decree	5-9-1988	Magic Springs	up to 10 cfs
*Owned by SeaPac of Idaho, Inc				

Note: Stage refers to how the water right was issued. (License, Decree, or Permit)

C. If irrigation/lateral system:

Number of acres served: 128,172
Number of shareholders served 217
Water provided annually (acre-feet) _____

D. If flood control system, drainage system, groundwater recharge, or other type of system:

Number of acres within District or service area: _____
Number of people within District or service area: _____

E. If an Association/Municipality the number of residences served by the system:

Number of residences served: _____
Number of hookups possible: _____

IV. USER RATES:

A. How des your organization charge users rates?

- ☒ Per acre ☐ Per hook up
☐ Per share ☒ Tax assessment

Explain what a share is: _____

- ☒ Other, explain Assessed on all district groundwater rights on a per cfs basis which varies based on nature of use.

B. Current rate? \$ 14.00 per acre
(Share, hook-up, month, year, etc.)

C. When was the last rate change? June 2012 (month/year)

D. Does your organization measure water use? Yes ☒ No ☐

If yes, explain how: Watermaster for district measures all wells annually.

E. Does your organization have a regular assessment for a reserve fund? Yes ☒ No ☐

If yes, explain how it is assessed:

Included as a part of mitigation and general assessments

F. Does your organization have an assessment for some future special need? Yes ☒ No ☐

If yes, explain for what purpose and how it is assessed:

Ongoing mitigation projects, including recharge, CREP, conversions and other mitigation programs in WD 120 and 130.

V. PROPOSED METHOD FOR REVENUE FOR REPAYMENT OF LOAN

How will you plan to assess for the annual loan payments?

Check revenue sources below:

☒ Tax Levies

☐ Capital Improvement Reserve Account or Sinking Fund

☐ User Fees and Tap/Hookup Fees

☐ Other (explain) _____

Will an increase in assessment be required? Yes ☐ No ☒

When will new assessments start and how long will they last?

Increase is included in new 2015 assessments to cover this mitigation project and loan request.

VI. SECUREMENT OF LOAN

List all land, buildings, waterworks, reserve funds, and equipment with estimated value that will be used as collateral for the loan:

Property

Estimated Value

Magic Springs Pump and Pipe Project assets

\$3.75 construction cost

For property Securement, attach a legal description of the property being offered along with a map referencing the property.

VII. FINANCIAL INFORMATION:

A. Attach a copy of each of the last 3 year's financial statement. **(Copies must be attached)**

B. Reserve fund (current) _____

C. Cash on hand \$2,815,285.38

D. Outstanding indebtedness:

To Whom	Annual Payment	Amt. Outstanding	Years Left
<u>IWRB Revenue Bond Loan</u>	<u>1,009,291.88</u>	<u>9,511,500.00</u>	<u>18</u>
<u>Pristine Loan</u>	<u>358,003.52</u>	<u>3,373,999.43</u>	<u>13</u>

E. What other sources of funding have been explored to fund the project? (example: NRCS, USDA Rural Development, Banks, Local Government, etc.)

None

VIII. ORGANIZATION APPROVAL:

Is a vote of the shareholders, members, etc. required for loan acquisition? Yes ☐ No ☒

If yes, a record of the vote must be attached.

Amount of funds requested: \$2,750,000.00

By signing this document you verify that all information provided is correct and the document is filled out to the best of your ability.

Authorized signature& date: _____



IDAHO WATER RESOURCE BOARD

322 East Front Street, Statehouse Mail

Boise, Idaho 83720

Tel: (208) 287-4800

FAX: (208) 287-6700



**APPLICATION FOR FINANCIAL ASSISTANCE FOR NON-POTABLE WATER SYSTEM
CONSTRUCTION PROJECT**

Answer the following questions and provide the requested material as directed. All pertinent information provided. Additional information may be requested by the Idaho Water Resource Board (IWRB) depending on the scope of the project and amount of funding requested. For larger funding amounts an L.I.D. may be required.

Incomplete documents will be returned and no further action taken will be taken by IWRB staff. All paperwork must be in twenty eight (28) working days prior to the next bi-monthly Board meeting.

Board meeting agendas can be found at: <http://www.idwr.idaho.gov/waterboard/>

I. Prepare and attach a "Loan Application Document".

The Loan Application Document requirements are outlined in the Water Project Loan Program Guidelines. The guidelines can be found at:

<http://www.idwr.idaho.gov/waterboard/Financial%20program/financial.htm>.

You can also obtain a copy by contacting IWRB staff.

II. General Information:

A. Type of organization: (Check box)

☐ Irrigation District

☐ Canal/Irrigation Company

☐ Lateral Association

☐ Flood Control District

☐ Homeowners Association

☐ Water User's Association

☐ Municipality

☐ Reservoir Company

☒ Other

Explain: Groundwater District

North Snake Groundwater District

Organization name

152 E. Main Street

PO Box/Street Address

Jerome, ID. 83338

City, County, State, Zip Code

Lynn Carlquist, Chairman

Name and title of Contact Person

208-731-5827

Contact telephone number

carlquil@yahoo.com

e-mail address

Project location legal description

Magic Springs Project - Gooding County. See attached mitigation plan.

B. Is your organization registered with the Idaho Secretary of State's office? Yes ☐ No ☒

C. Purpose of this loan application.

- ☒ New Project
☐ Rehabilitation or replacement of existing facility
☐ DEQ requirement
☐ Other: _____

D. Briefly describe the project:

Pump and pipe project to delivery water from Magic Springs to Rangen. See attached engineering plans and IDWR approval order.

III. WATER SYSTEM:

A. Source of water:

- ☒ Stream ☐ Groundwater
☐ Reservoir ☐ Other

B. Water Right Numbers:

Water Right	Stage	Priority Date	Source	Amount
36-7072*	Decree	9-5-1969		up to 10 cfs
36-8356*	Decree	5-9-1988	Magic Springs	up to 10 cfs
*Owned by SeaPac of Idaho, Inc				

Note: Stage refers to how the water right was issued. (License, Decree, or Permit)

C. If irrigation/lateral system:

Number of acres served: _____
Number of shareholders served _____
Water provided annually (acre-feet) _____

D. If flood control system, drainage system, groundwater recharge, or other type of system:

Number of acres within District or service area: 97,000
Number of people within District or service area: 1614 members

E. If an Association/Municipality the number of residences served by the system:

Number of residences served: _____
Number of hookups possible: _____

IV. USER RATES:

A. How des your organization charge users rates?

- ☐ Per acre ☐ Per hook up
☐ Per share ☒ Tax assessment

Explain what a share is: _____

- ☒ Other, explain Assessed on all district groundwater rights on a per cfs basis which varies based on nature of use.

B. Current rate? \$ \$1,000 up to \$3143 for mitigation per CFS (new 2015)
(Share, hook-up, month, year, etc.)

C. When was the last rate change? 11/2014 raised for 2015 (month/year)

D. Does your organization measure water use? Yes ☒ No ☐
If yes, explain how: Watermaster for district measures all wells annually.

E. Does your organization have a regular assessment for a reserve fund? Yes ☒ No ☐
If yes, explain how it is assessed:
Included as a part of mitigation and general assessments

F. Does your organization have an assessment for some future special need? Yes ☒ No ☐
If yes, explain for what purpose and how it is assessed:
Ongoing mitigation projects, including recharge, CREP, conversions and other mitigation programs in WD 120 and 130.

V. PROPOSED METHOD FOR REVENUE FOR REPAYMENT OF LOAN

How will you plan to assess for the annual loan payments?

Check revenue sources below:

- ☒ Tax Levies
☐ Capital Improvement Reserve Account or Sinking Fund
☐ User Fees and Tap/Hookup Fees
☐ Other (explain) _____

Will an increase in assessment be required? Yes ☐ No ☒

When will new assessments start and how long will they last?

Increase is included in new 2015 assessments to cover this mitigation project and loan request.

VI. SECUREMENT OF LOAN

List all land, buildings, waterworks, reserve funds, and equipment with estimated value that will be used as collateral for the loan:

Property	Estimated Value
<u>Magic Springs Pump and Pipe Project assets</u>	<u>\$3.75 construction cost</u>

For property Securement, attach a legal description of the property being offered along with a map referencing the property.

VII. FINANCIAL INFORMATION:

A. Attach a copy of each of the last 3 year's financial statement. **(Copies must be attached)**

B. Reserve fund (current) \$1,011,655.31

C. Cash on hand \$29,196.99

D. Outstanding indebtedness:

To Whom	Annual Payment	Amt. Outstanding	Years Left
<u>IWRB Revenue Bond Loan</u>	<u>1,345,722.49</u>	<u>24,208,066.19</u>	<u>18</u>
<u>Pristine Loan</u>	<u>358,003.52</u>	<u>3,373,525.79</u>	<u>14</u>

E. What other sources of funding have been explored to fund the project? (example: NRCS, USDA Rural Development, Banks, Local Government, etc.)

None

VIII. ORGANIZATION APPROVAL:

Is a vote of the shareholders, members, etc. required for loan acquisition? Yes ☐ No ☒

If yes, a record of the vote must be attached.

Amount of funds requested: \$2,750,000.00

By signing this document you verify that all information provided is correct and the document is filled out to the best of your ability.

Authorized signature& date: _____